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**Response to the Consultation on the General Comment No 36 on Article 6 of the International Covenant on Civil and Political Rights (ICCPR) , on the Right to Life .**

The Catholic Medical Association (UK) represents Catholic doctors, nurses, pharmacists, hospital chaplains and other healthcare professionals within the UK. It celebrated its centenary in 2011. The CMA has its own charity, the Catholic Medical Missionary Society, to support medical projects in the Developing World.

The CMA (UK) welcomes this opportunity to respond to the consultation of the Human Rights Committee of the United Nations with respect to Article 6 of the ICCPR on the Right to life.

**Introduction.**

After the Second World War the United Nations was formed on the basis of a Charter which committed Member States under Article 55 to promote the “*universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”* This brought human rights within the domain of international law. Human rights, including the rights of the child, must be interpreted in the light of the Charter of the United Nations, the Universal Declaration of Human Rights 1948 (UDHR) (1948),[[1]](#footnote-1) the Convention on the Prevention and Punishment of the Crime of Genocide (1948),[[2]](#footnote-2) the Declaration of the Rights of the Child (DRC) 1959 and the International Covenant on Civil and Political Rights 1966 (ICCPR).

The Convention of the Rights of the Child (CRC) was adopted by the General Assembly of the United Nations on 20th November 1989. In the Preamble[[3]](#footnote-3), the CRC whilst bearing in mind the Declaration of the Rights of the Child (1959) states *“the child, by reason of his physical and medical immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”* The rights of the child, before as well as after birth, must also be viewed in the broader context of the UDHR (1948), the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and ICCPR (1966) and are part of the *jus cogens* of international law.[[4]](#footnote-4) However, at the time these Treaties were formed, most Member States held abortion to be illegal under domestic law, so that the protection of the rights of the child before birth was generally accepted. Abortion as a means of genocide was recognised in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) where it was described as “a*n odious scourge” w*hich included “*killing members of the group*” and “*imposing measures intended to prevent births within the group.”* Article II of the Convention defines genocide as acts which are committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.... (a) Killing members of the group [and] (d) Imposing measures intended to prevent births within the group.”

The Preamble to the UDHR (1948) recognises “*that the foundation of freedom, justice, and peace in the World”* is the “*recognition of the inherent dignity and equal and inalienable right of all members of the human family.”* The Declaration recognises, in order, the right to life, then freedom [liberty] and finally security of person. The right to life is logically the basis for the enjoyment of all other rights and freedoms. Everyone has the right to life as a “*member of the human family.”[[5]](#footnote-5)*

The Economic and Social Council, acting under Articles 62 and 6 of the Charter of the United Nations, established a Commission of eighteen members under the name of the Commission on Human Rights. The purposes of the Commission were to prepare a draft international covenant for the application of such rights and freedoms as well as to study measures for implementing both these documents.[[6]](#footnote-6)

**Fundamental and inalienable right to life of all human beings**

The human embryo, formed at conception, is “*a genetically human, discrete, and alive unit, organically single and individual, with a self-contained power to organise his or her own growth, multiplication and differentiation in a way that ordinarily leads to a human adult.”[[7]](#footnote-7)* With the advent of three dimensional ultrasound in obstetrics, there can be no doubt that unborn children are part of the human family. *In utero* photographs and videos are often the first images to appear in the family album and allow very early bonding.

The UN Declaration does not make a distinction between human beings, who are members of the human family and human persons. The definition of some human beings as “non-persons” is deeply problematic but has been a means of excluding individuals from Society often with a view to their elimination. There are numerous historical examples of human beings who have been regarded as non-persons, who could then be eliminated, including: American Indians, Slaves,[[8]](#footnote-8) Aborigines and Jews.[[9]](#footnote-9)

**Current consultation**

The United Nations Human Rights Committee (UNHRC) has put forward a draft document (General Comment 36) for consultation on Article 6 of the International Covenant on Civil and Political Rights (ICCPR) in relation to the fundamental human right to life. Article 6 recognises the right to life of all human beings and acknowledges the right to life of all human beings without distinction of any kind. Article 6 (1) states: “*Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”* The General Comment 36 (21.07.17), revised by the Rapporteur, would undermine this fundamental principle by supporting abortion, assisted suicide and euthanasia.

**General Remarks.**

There is a fundamental and inalienable right to life of all human beings which forms the basis for the enjoyment of all other rights.

“*Article 6 recognizes and protects the right to life of all human beings. It is the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies. The right to life has crucial importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights”.* [[10]](#footnote-10)

The fundamental human right to life which underlines the inherent dignity, worth and inalienable rights of all human beings and must be protected by law. [[11]](#footnote-11) [[12]](#footnote-12) [[13]](#footnote-13) [[14]](#footnote-14) [[15]](#footnote-15) [[16]](#footnote-16)

The rights of children are also recognised, especially in the light of their physical and mental immaturity and vulnerability, both before and after birth.[[17]](#footnote-17)

The right to life extends to all human beings:

“T*he right to life is a right which should not be interpreted narrowly. It concerns the entitlement of individuals to be free from acts and omissions intended or expected to cause their unnatural or premature death, as well as to enjoy a life with dignity. Article 6 guarantees this right for all human beings, without distinction of any kind, including for persons suspected or convicted of even the most serious crimes.”[[18]](#footnote-18)*

Paragraph 64, states that the right to life must be respected without distinction and apply to all individuals without discrimination in law or in fact:

*“The right to life must be respected and ensured without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or any other status, including caste, sexual orientation and gender identity, disability, albinism and age. Legal protections for the right to life must apply equally to all individuals and provide them with effective guarantees against all forms of discrimination. Any deprivation of life based on discrimination in law or fact is ipso facto arbitrary in nature”.*

The right to life is to be protected by law:

“*Paragraph 1 of Article 6 of the Covenant provides that no one shall be arbitrarily deprived of his life and that the right shall be protected by law. It lays the foundation for the obligation of States parties to respect and to ensure the right to life, to give effect to it through legislative and other measures, and to provide effective remedies and reparation to all victims of violations of the right to life.”[[19]](#footnote-19)*

The term deprivation of life includes a deliberate or otherwise foreseeable and preventable life-terminating harm or injury by act or omission.[[20]](#footnote-20) The obligation of States to respect the right to life extends to all threats that can result in loss of life.[[21]](#footnote-21)Therefore, every child has rights, both before and after birth, including: the inherent right to life;[[22]](#footnote-22) [[23]](#footnote-23) the right to be free from discrimination[[24]](#footnote-24) and the right to be free from inhuman and degrading treatment.[[25]](#footnote-25)

The death penalty has been abolished in the United Kingdom and in the European convention on Human Rights by Protocol 6 (1983) except in time of war but later in all circumstances including war by Protocol 13 (2002).

It is important that the threat or use of weapons of mass destruction is recognised as illegal in International law. “*The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and can destroy human life on a catastrophic scale is incompatible with respect for the right to life and may amount to a crime under international law.*”[[26]](#footnote-26)

The rights of the unborn will be increasingly important with the development of intrauterine therapies, including interventions and surgery to correct abnormalities before birth.

**The duty to protect life.**

Paragraph 1 of Article 6 states that no one shall be arbitrarily deprived of his life and that the right shall be protected by law. It lays the foundation for the obligation of States parties to respect and to ensure the right to life, and to give effect to it through legislation.

*“States parties must establish a legal framework to ensure the full enjoyment of the right to life by all individuals” a*nd that “*the duty to protect the right to life by law also includes an obligation for States parties to take appropriate legal measures in order to protect life from all foreseeable threats, including from threats, emanating from private parties and entities.”[[27]](#footnote-27)*

*“The duty to protect by law the right to life entails that any substantive ground for deprivation of life must be prescribed by law, and defined with sufficient precision to avoid overly broad or arbitrary interpretation or application.”[[28]](#footnote-28)*

Therefore, it follows that “s*ince deprivation of life by the authorities of the State is a matter of the utmost gravity, the law must strictly control and limit the circumstances in which a person may be deprived of his life by any such authorities and the States parties must ensure full compliance with all of the relevant provisions.”[[29]](#footnote-29)*On the other hand, the State has a duty to take positive measures to protect the right to life which derives from the rights recognized in the Covenant in Article 2 paragraph 1 when read in conjunction with article 6.[[30]](#footnote-30)Persons with disabilities are entitled to special protection *“so as to ensure their effective enjoyment of the right to life on an equal basis with others.”[[31]](#footnote-31)*

An important aspect of the right to life is the obligation to investigate and where necessary prosecute cases in which there has been a deprivation of life by State authorities or by private individuals.[[32]](#footnote-32)

Notwithstanding the above considerations regarding the right to life of all human beings, this fundamental principle is breached in the case of abortion, foeticide, infanticide, assisted suicide and euthanasia.

**Abortion**

The proposal of the Human Rights Committee states that “*States parties may adopt measures designed to regulate terminations of pregnancy”* but then stresses that such measures *“must not result in violation of the right to life of a pregnant woman or her other rights under the Covenant, including the prohibition against cruel, inhuman and degrading treatment or punishment.”[[33]](#footnote-33)*

The Human Rights Committee goes on to propose that*:*

*“States parties must provide safe access to abortion to protect the life and health of pregnant women, and in situations in which carrying a pregnancy to term would cause the woman substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or when the foetus suffers from fatal impairment. States parties may not regulate pregnancy or abortion in a matter that runs contrary to their duty to ensure that women do not have to undertake unsafe abortions. [For example, they should not take measures such as criminalizing pregnancies by unmarried women or applying criminal sanctions against women undergoing abortion or against physicians assisting them in doing so, when taking such measures is expected to significantly increase resort to unsafe abortions.]” [[34]](#footnote-34)*

The American Convention on Human Rights (1969) (Adopted 22.11.1969; entry into force 18.07.1978[[35]](#footnote-35)), defines “person” as “every human being.” Article 4(1) makes it unambiguously clear that the right to life starts from conception: *“Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life”.* Article 32 recognises the link between duties and rights:

 *1. Every person has responsibilities to his family, his community, and mankind.*

 *2. The rights of each person are limited by the rights of others, by the security of all, and by the just demands of the general welfare, in a democratic society.*

The Oviedo Convention for the Protection of Human Rights and Dignity of the Human Being (1997)[[36]](#footnote-36) is an internationally legally binding instrument for the protection of human rights in the biomedical field. It draws on the principles established in the European Convention on Human Rights in relation to Medicine. The Explanatory note explains the use of the terms “human being” and “human dignity”: “The Convention also uses the expression "human being" to state the necessity to protect the dignity and identity of all human beings. It was acknowledged that it was a generally accepted principle that human dignity and the identity of the human being had to be respected as soon as life began.”[[37]](#footnote-37) Article 2 of the Convention affirms the primacy of the human being over the interests of Science or Society.[[38]](#footnote-38) Indeed, “*The whole Convention, the aim of which is to protect human rights and dignity, is inspired by the principle of the primacy of the human being, and all its articles must be interpreted in this light.”[[39]](#footnote-39)*

The Convention on the Rights of the Child also gives legal recognition before birth. The Preamble of this Convention states:

*“The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”*

Indeed, Paragraph 5 of Article 6 of the ICCPR prohibits the death penalty for pregnant women. The reason for this was that the innocent should not be punished alongside the guilty. However, there was also consideration for the view that “*the normal development of the unborn child might be affected if the mother were to live in constant fear that, after the birth of her child, the death sentence would be carried out*.” [[40]](#footnote-40) A prohibition on the death sentence in the case of pregnant women was also the case in Australia and England before the abolition of the death sentence.[[41]](#footnote-41)

**Reversal of previous approach to abortion by the Human Rights Committee**

The United Nations Charter is predicated on the right to life of human beings by virtue of the fact that they are members of the human family. The unborn are persons in so far as they are living human beings. In modern obstetrical practice, mothers will recognise their children for the first time when seen on ultrasound. The identity of the unborn is not only a subjective fact but is also objectively known to modern embryology. *“The body of a human being, from the very first stages of its existence, can never be reduced merely to a group of cells. The embryonic human body develops progressively according to a well-defined program with its proper finality.”* [[42]](#footnote-42) It is possible by the use of reason to discern “*a personal presence at the moment of the first appearance of a human life; how could a human individual not be a human person?”[[43]](#footnote-43)* The continuity of embryonic development “*does not allow us to posit either a change in nature or a gradation in moral value.”* [[44]](#footnote-44) There is no change in essential human nature or gradation in moral value as life is continuous from conception to natural death. From the first moment of existence human beings demand the unconditional respect that is due to their bodily and moral totality. Therefore, from the moment of conception, the human embryo has the dignity proper to a person and the rights of every human person must be recognised. The most fundamental human right upon which all others are based is the right to life itself.

Paragraph 9 proposes widespread access to abortion services almost as of right for pregnant women. “*States parties must provide safe access to abortion to protect the life and health of pregnant women.....nor should States parties introduce humiliating or unreasonably burdensome requirements on women seeking to undergo abortion.”* Abortion would become a new exception to the right to life. “Safe access to abortion” would replace the State’s obligations to provide proper antenatal care for mothers and their unborn children. Abortion deprives unborn children of their right to life and attacks the most defenceless human beings.

Decriminalisation would remove criminal sanctions against abortions for social reasons. There would be no criminal sanction against the deliberate destruction of unborn life. Foeticide, gender selective abortion, pregnancy reductions and “eugenic” abortions would no longer be crimes. There would be less protection for women against coercive abortions in situations of domestic abuse, ethnic cleansing or genocide.

A denial of the rights of the unborn would pave the way for the use of human embryos as experimental subjects, for the development of gene editing[[45]](#footnote-45) and germline therapies and commercial exploitation of embryo research. On 8th March 2005, the UN General Assembly approved a declaration calling on Member States to ban all forms of human cloning, including therapeutic cloning, as being *“incompatible with human dignity and the protection of human life.”[[46]](#footnote-46)*

The moral and legal prohibition on germ line therapy demonstrates an understanding and recognition of the inalienable value and dignity of every human being which must form the foundation of the basic rights upon which human society is founded. It remains the responsibility of international and domestic law to protect the vulnerable, especially in the earliest stages of life and to promote an ever more human civilization.

**Assisted suicide and euthanasia.**

Paragraph 10 which rightly states that “*States should take adequate measures, without violating other Covenant obligations, to prevent suicides, especially among individuals in particularly vulnerable situations”.* This is immediately contradicted by the next sentence: “*At the same time, States parties must [may allow][should not prevent] medical professionals to provide medical treatment or the medical means in order to facilitate the termination of life of [catastrophically] afflicted adults, such as the mortally wounded or terminally ill, who experience severe physical or mental pain and suffering and who wish to die with dignity.”*

Paragraph 10 is therefore an endorsement for assisted suicide and euthanasia provided that States ensure “*the existence of robust legal and institutional safeguards to verify that medical professionals are complying with the free, informed, explicit and, unambiguous decision of their patients, with a view to protecting patients from pressure and abuse”*.

The prohibition on “assisted dying” is concisely stated in the Hippocratic Oath “*I will give no deadly drug to anyone, nor will I counsel such*.” Society must protect basic human rights, the most fundamental of which is the right to life itself and without which all the others would be meaningless.

Legislation allowing physician assisted suicide and euthanasia has led to both an increase in the number of deaths over time and a widening of the range of conditions that can be ended through “assisted dying”.

Examination of “assisted dying” in Holland, Belgium and Oregon shows how there has been significant underreporting, a lack of judicial scrutiny and changing attitudes to palliative care and practice. Conscientious objection is threatened when the autonomous decision of patients takes precedence over the rights of doctors not to be involved in the deliberate taking of life.[[47]](#footnote-47)

On 11th September 2015 the British Parliament overwhelmingly rejected moves towards assisted dying by 330 to 118 votes, thereby protecting patients and maintaining the integrity of the medical profession for the service of patients.

**Overall Conclusion**

René Cassin, one of the principal drafters of the Universal Declaration, declared that the UDHR was based on “*the fundamental principle of the unity of the human race.” [[48]](#footnote-48)* All human beings are members of the human family and as such are human persons and the subjects of rights for which Society has corresponding obligations.  *“The child is not a generic, anonymous foetus. We can identify the child's father, and whether the child is a son or a daughter. We can ascertain long before birth that the child is a unique member of the human family, biologically, genetically, and genealogically.”[[49]](#footnote-49)*

The draft General Comment No 36 fails to fully recognise unborn children as having human rights as human beings, members of the human family and as human persons. Unborn children must not be reclassified as individuals who are less than human and therefore expendable in favour of the rights of others, Science or Society. The right to life must remain central to our understanding of human rights and international law. Medicalised killing in the form of abortion, assisted suicide and euthanasia are logically inconsistent with the fundamental principles and philosophy of the UN Declaration and Covenants and the Hippocratic tradition.

The six underlying foundational principles within the Declaration of Human Rights and subsequent Conventions are inclusion, inherency, equality, inalienability, indivisibility and universality.[[50]](#footnote-50)

Inclusivity means that the rights refer to “everyone” and “every person” without discrimination. The rights are inherent to all living human beings by virtue of their humanity and membership of the human family. They are not conferred rights that are granted by external government. Inalienability refers to rights that cannot be removed, destroyed, transferred or renounced even by the individuals themselves, their parents or Society. Equality means that no human beings are “more equal” than others but that everyone has equal rights as members of the human family. *“The notion of equality springs from the oneness of the human family and is linked to the essential dignity of the individual.*”[[51]](#footnote-51) Human rights cannot be predicated on the view that certain individuals are either superior or inferior to others nor are they premised on the child being born. The act of being born does not confer rights, but rather the fact of being human. The rights are indivisible and cannot be sacrificed or denied in order to enhance the rights of others. Finally, human rights are universal to be upheld everywhere and at all times irrespective of culture.

The inalienable rights of all human beings, both before and after birth, must continue to be respected by the United Nations and Article 6 of the International Covenant on Civil and Political Rights. These fundamental human rights are inherent and derive from our human nature and membership of the human family and must be recognised and protected through the rule of law.

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1. Hence, on 22.05.68 the Declaration of Teheran of the International conference on Human Rights (U.N.Doc.A/CONF. 32/41) states: “*The Universal Declaration of Human Rights states a common understanding of the peoples of the World concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community.”* [↑](#footnote-ref-1)
2. Article 2 defines genocide *“any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group … ”*, including: *(a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group (e) Forcibly transferring children of the group to another group.* [↑](#footnote-ref-2)
3. The Preamble is part of the Treaty itself see: Vienna Convention on the Law of Treaties 1969, Article 2(1)(a) and 31(2). In contrast the *travaux preparatoires* are a supplementary means of interpretation – Vienna Convention on the Law of Treaties, Article 32 [↑](#footnote-ref-3)
4. Hence, derogation is not permitted and the Treaty can only be modified by a subsequent norm of international law with the same character. See: Vienna Convention on the Law of Treaties, Article 53. [↑](#footnote-ref-4)
5. Universal Declaration of Human Rights 1948, G.A. res 217A (III), UN Doc A/810 at 71 (1948) Preamble. [↑](#footnote-ref-5)
6. Third Session. Draft International Declaration of Human Rights. Report of the Third Committee. 07.12.1948. [↑](#footnote-ref-6)
7. Anthony Fisher in “*IVF: The Critical Issues”.* (Melbourne: Dollins Dove, 1989), 133. [↑](#footnote-ref-7)
8. Chief Justice Taney in the US Supreme Court, excluded Dred Scott (a Black Slave) from personhood in Dred Scott v Sandford (1857). [↑](#footnote-ref-8)
9. See: R N Procter, *Racial Hygiene: Medicine Under the Nazis (*Cambridge, MA: Harvard Press 1988) [↑](#footnote-ref-9)
10. 1. General Remarks. Paragraph 2. [↑](#footnote-ref-10)
11. *“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”* (Preamble to the Universal Declaration on Human Rights) [↑](#footnote-ref-11)
12. *"Everyone has the right to life, liberty and security of person."* (Universal Declaration, Article 3) [↑](#footnote-ref-12)
13. *"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."* (ICCPR, Article 6-1) [↑](#footnote-ref-13)
14. *“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”(*Universal Declaration Article 2, ICCPR Article 2 (1) CRC Article 2.1) [↑](#footnote-ref-14)
15. Everyone has the right to recognition everywhere as a person before the law. Universal Declaration Article 6, ICCPR Article 16 [↑](#footnote-ref-15)
16. *“All are equal before the law and are entitled without any discrimination to equal protection of the law.”* (Universal Declaration Article 7, ICCPR Article 26) [↑](#footnote-ref-16)
17. “*The child, by reason of his physical and mental immaturity, needs special safeguards and care,*

*including appropriate legal protection, before as well as after birth*” Declaration on the Rights of the Child, General Assembly resolution 1386(xiv), 20 Nov 1959 [↑](#footnote-ref-17)
18. General Comment No 36. Paragraph 3. [↑](#footnote-ref-18)
19. General Comment No 36. Paragraph 6. [↑](#footnote-ref-19)
20. General Comment No 36. Paragraph 6. [↑](#footnote-ref-20)
21. General Comment No 36. Paragraph 7. [↑](#footnote-ref-21)
22. “*States Parties recognize that every child has the inherent right to life.”* (CRC Preamble CRC Article 6.1 ICCPR Article

6.1&6.5) [↑](#footnote-ref-22)
23. “*The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth*” ( Declaration on the Rights of the Child, General Assembly resolution 1386(xiv), (20 Nov 1959) also quoted in CRC preamble, ICCPR Article 6.5, forbidding execution of a pregnant woman, ICESCR Article.10.(2). [↑](#footnote-ref-23)
24. Universal Declaration Article 2, ICCPR Article 2.1, ICESCR Article 2.1, CRC Preamble & Article 2.2 [↑](#footnote-ref-24)
25. Universal Declaration Article 5, ICCPR Article 7, CRC Preamble & Article 37 [↑](#footnote-ref-25)
26. General Comment No 36. Paragraph 13. [↑](#footnote-ref-26)
27. General Comment No 36. Paragraph 22. [↑](#footnote-ref-27)
28. General Comment No 36. Paragraph 23. [↑](#footnote-ref-28)
29. General Comment No 36. Paragraph 23. [↑](#footnote-ref-29)
30. General Comment No 36. Paragraph 25. [↑](#footnote-ref-30)
31. General Comment No 36. Paragraph 28. Also, Convention on the Rights of Persons with Disabilities, Article 10. [↑](#footnote-ref-31)
32. General comment No 36. Paragraph 31. [↑](#footnote-ref-32)
33. General Comment No 36. Paragraph 9. [↑](#footnote-ref-33)
34. General Comment No 36. Paragraph 9. [↑](#footnote-ref-34)
35. The American convention on Human Rights. Adopted 22.11.1969; entry into force 18.07.1978. [↑](#footnote-ref-35)
36. Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine. 04/04/1997 - Treaty open for signature by the member States, the non-member States which have participated in its elaboration and by the European Union, and for accession by other non-member States Treaty No. 164. [↑](#footnote-ref-36)
37. Explanatory Report – ETS 164 – Human Rights and Biomedicine (Convention). Chapter 1. General Provisions. Paragraph 19. Available at: https://rm.coe.int/16800ccde5 [↑](#footnote-ref-37)
38. Explanatory Report – ETS 164- Human Rights and Biomedicine (convention). Paragraph 21. [↑](#footnote-ref-38)
39. Explanatory Report – ETS 164- Human Rights and Biomedicine (convention). Paragraph 22. [↑](#footnote-ref-39)
40. Commission on Human Rights, 12th Session (1957) [↑](#footnote-ref-40)
41. See for example, *R v. Wycherley (1838)* 173 ER 486, where the accused declared that she was pregnant when asked whether she had anything to say to stay her execution. Her execution was delayed in order to determine that she was not, in fact, pregnant. [↑](#footnote-ref-41)
42. Dignitas personae § 4. Congregation for the Doctrine of the Faith. 2008. Instruction Dignitas personae on Certain Bioethical Questions. Available at: http://www.vatican.va/roman\_curia/congregations/cfaith/documents/rc\_con\_cfaith\_doc\_20081208\_ dignitas-personae\_en.html. [↑](#footnote-ref-42)
43. Instruction on respect for human life in its origin and on the dignity of procreation. Replies to certain questions of the day. Donum vitae. Congregation for the Doctrine of the Faith. Rome. 1987. [↑](#footnote-ref-43)
44. Instruction Dignitas Personae on certain bioethical questions. Dignitas Personae § 5. Congregation for the Doctrine of the Faith. Rome. 2008. [↑](#footnote-ref-44)
45. For example gene editing using CRISPR-Cas9 [↑](#footnote-ref-45)
46. United Nations Declaration on Human Cloning. Resolution adopted by the General Assembly. 8th March 2005. [↑](#footnote-ref-46)
47. Submission of the Catholic Medical Association (UK) to the Health Committee of the New Zealand Parliament on Euthanasia and Physician Assisted Suicide. Dr Philip Howard MA MD MA LLM FRCP. President of the CMA (UK). Available at: http://www.cmq.org.uk/Submissions/New-Zealand-Health-Select-Committee-euthanasia.pdf [↑](#footnote-ref-47)
48. Quoted from Johannes Morsink In: The Universal Declaration: Origins, Drafting and Intent, Philadelphia: University of Pennsylvania Press, 1999, p.39 [↑](#footnote-ref-48)
49. By what Right? Are they not human beings? Loving Every Child: Defying Eugenics Conference Auckland, August 4th 2012. Rita Joseph. Available at: http://www.savingdownsyndrome.org/wp-content/uploads/2012/09/By-what-right-Rita-Joseph.pdf [↑](#footnote-ref-49)
50. By what right? Are they not humans? Rita Joseph. Auckland . August 4th 2012. [↑](#footnote-ref-50)
51. Inter-American Court of Human Rights. Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica, Advisory Opinion OC-4/84 of January 19, 1984, Series A, No. 4, p. 104, para. 55. [↑](#footnote-ref-51)