

The Catholic Union of Great Britain

Submission to the UN Human Rights Committee

on

the revised draft General Comment on Article 6 of the International Covenant on Civil and Political Rights (the right to life)

Introductory remarks

1. The political events of the last year or so have revealed that there are powerful and effective voices which would do away, in whole or in part, with the international human rights system. They have revealed that electorates in democratic countries do not accept the importance, never mind the fundamental nature, of human rights instruments.
2. This reality imposes upon those, including the Catholic Union, who would defend that system very great obligations to restore and maintain faith in the integrity, impartiality and intellectual coherence of this area of international and domestic law.
3. It is essential that bodies such as the Human Rights Committee guard against the temptation to accede to the wishes of one lobby group or another to interpret rights so that they descend from truly fundamental and universal principles to, in effect, ordinary legislation (but without the democratic mandate) that change with social mores and the relative strengths of those with privileged access to the workings of the international system.
4. The political events of the last year or so have also revealed that, at least in the United States, the issue of abortion can determine the outcome of an election. This single issue can cause large numbers of people to vote for someone whose character and other stated positions are inconsistent with their beliefs or rules of life. The potential consequences of this 'effect' for human rights generally are there to be seen.

Position in summary

5. It follows from the above, that the Committee has a very grave and pressing obligation to address the issue of abortion in the context of Article 6 extremely carefully.
6. There would seem to be two possible approaches to this issue if the Committee were to deal with it appropriately:
 - (a) The Committee would say that the myriad of difficult and conflicting issues and positions that this topic involves, along with the strength of feeling in democratic countries, mean that it is not the proper body to lay down a definitive position. Under this approach, the Committee would say that the proper fora for resolving the issues are national parliaments that can consider and debate all of them having regard to the views of their

electorates and then the courts that can consider the resulting legislation in the light of real facts and after hearing full argument; alternatively,

- (b) The Committee would analyse all the competing rights and interests that are involved and attempt a properly reasoned conclusion as to how these rights and interests be reconciled.

The Revised Draft General Comment

7. Abortion is dealt with in paragraph 9 of the revised draft. However, that paragraph does not do either (a), or (b), above.
8. After setting out the fundamental nature of Article 6 and before, later (at paragraph 24), requiring States parties to enact effective criminal prohibitions against infanticide, it is entirely silent as to the application of Article 6 to a human foetus.
9. There is a diversity of views as to what rights a human foetus should have in law. However, the very fact that it is a human foetus requires its relationship to the right recognised by Article 6 to be properly addressed. Even were this to be something to be determined by a 'majority view', it would appear that a position which would argue that a human foetus has no rights at any stage of its development does not command any wide-spread support.
10. Paragraph 9 of the revised draft is therefore one-sided. It sets out the rights of pregnant women under Article 6. However, it does not address, never mind attempt a coherent balance, of the potentially conflicting position of the Article 6 rights of the human foetus.
11. The Committee is reminded that an important function of the human rights system is to protect the most vulnerable. A report that addresses the fundamental and non-derogable right recognised by Article 6 that is silent, for example, on the position of a female foetus that has passed the number of weeks gestation after which it would be viable outside the womb, but which is sought to be aborted on the ground that it is not a male foetus, is very far from fulfilling this essential function.
12. Of course, the Catholic position on abortion is well known and is based on the inherent dignity and equality of all human beings whatever their stage of life or health. The Catholic position on the related issue of sexual ethics is also well known. However, this submission addresses the report as drafted and points out a fundamental flaw in its approach. It points out that all friends of a human rights system should be concerned, in the present times, by a document that contains these weaknesses.

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