

LIFE - RIGHT TO - GENERAL

II. GENERAL COMMENTS AND RECOMMENDATIONS

- ICCPR General Comment 6 (Sixteenth session, 1982): Article 6: The Right to Life, A/37/40 (1982) 93 at paras. 1-7.

1. The right to life enunciated in article 6 of the Covenant has been dealt with in all State reports. It is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation (art. 4). However, the Committee has noted that quite often the information given concerning article 6 was limited to only one or other aspect of this right. It is a right which should not be interpreted narrowly.

2. The Committee observes that war and other acts of mass violence continue to be a scourge of humanity and take the lives of thousands of innocent human beings every year. Under the Charter of the United Nations the threat or use of force by any State against another State, except in exercise of the inherent right of self-defence, is already prohibited. The Committee considers that States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life. Every effort they make to avert the danger of war, especially thermonuclear war, and to strengthen international peace and security would constitute the most important condition and guarantee for the safeguarding of the right to life. In this respect, the Committee notes, in particular, a connection between article 6 and article 20, which states that the law shall prohibit any propaganda for war (para. 1) or incitement to violence (para. 2) as therein described.

3. The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.

4. States parties should also take specific and effective measures to prevent the disappearance of individuals, something which unfortunately has become all too frequent and leads too often to arbitrary deprivation of life. Furthermore, States should establish effective facilities and procedures to investigate thoroughly cases of missing and disappeared persons in circumstances which may involve a violation of the right to life.

5. Moreover, the Committee has noted that the right to life has been too often narrowly interpreted. The expression "inherent right to life" cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive

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measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.

6. While it follows from article 6 (2) to (6) that States parties are not obliged to abolish the death penalty totally they are obliged to limit its use and, in particular, to abolish it for other than the "most serious crimes". Accordingly, they ought to consider reviewing their criminal laws in this light and, in any event, are obliged to restrict the application of the death penalty to the "most serious crimes". The article also refers generally to abolition in terms which strongly suggest (paras. 2 (2) and (6)) that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life within the meaning of article 40, and should as such be reported to the Committee. The Committee notes that a number of States have already abolished the death penalty or suspended its application. Nevertheless, States' reports show that progress made towards abolishing or limiting the application of the death penalty is quite inadequate.

7. The Committee is of the opinion that the expression "most serious crimes" must be read restrictively to mean that the death penalty should be a quite exceptional measure. It also follows from the express terms of article 6 that it can only be imposed in accordance with the law in force at the time of the commission of the crime and not contrary to the Covenant. The procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal. These rights are applicable in addition to the particular right to seek pardon or commutation of the sentence.

- ICCPR General Comment 14 (Twenty-third session, 1984): Article 6: Nuclear Weapons and the Right to Life, A/40/40 (1985) 162 at paras. 1-7.

1. In its General Comment 6 [16] adopted at its 378th meeting on 27 July 1982, the Human Rights Committee observed that the right to life enunciated in the first paragraph of article 6 of the International Covenant on Civil and Political Rights is the supreme right from which no derogation is permitted even in time of public emergency. The same right to life is enshrined in article 3 of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948. It is basic to all human rights.

2. In its previous General Comment, the Committee also observed that it is the supreme duty of States to prevent wars. War and other acts of mass violence continue to be a scourge of humanity and take the lives of thousands of innocent human beings every year.

3. While remaining deeply concerned by the toll of human life taken by conventional

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weapons in armed conflicts, the Committee has noted that, during successive sessions of the General Assembly, representatives from all geographical regions have expressed their growing concern at the development and proliferation of increasingly awesome weapons of mass destruction, which not only threaten human life but also absorb resources that could otherwise be used for vital economic and social purposes, particularly for the benefit of developing countries, and thereby for promoting and securing the enjoyment of human rights for all.

4. The Committee associates itself with this concern. It is evident that the designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront mankind today. This threat is compounded by the danger that the actual use of such weapons may be brought about, not only in the event of war, but even through human or mechanical error or failure.

5. Furthermore, the very existence and gravity of this threat generates a climate of suspicion and fear between States, which is in itself antagonistic to the promotion of universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter of the United Nations and the International Covenants on Human Rights.

6. The production, testing, possession, deployment and use of nuclear weapons should be prohibited and recognized as crimes against humanity.

7. The Committee accordingly, in the interest of mankind, calls upon all States, whether Parties to the Covenant or not, to take urgent steps, unilaterally and by agreement, to rid the world of this menace.

- CEDAW General Recommendation 19 (Eleventh session, 1992): Violence Against Women, A/47/38 (1992) 5 at para. 7(a).

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7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

(a) The right to life...

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- CRC General Comment 3 (Thirty-second session, 2003): HIV/AIDS and the Rights of the Child, A/59/41 (2004) 89 at paras. 11 and 16.

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11. Children have the right not to have their lives arbitrarily taken, as well as to benefit from economic and social policies that will allow them to survive into adulthood and develop in the broadest sense of the word. State obligation to realize the right to life, survival and development also highlights the need to give careful attention to sexuality as well as to the behaviours and lifestyles of children, even if they do not conform with what society determines to be acceptable under prevailing cultural norms for a particular age group. In this regard, the female child is often subject to harmful traditional practices, such as early and/or forced marriage, which violate her rights and make her more vulnerable to HIV infection, including because such practices often interrupt access to education and information. Effective prevention programmes are only those that acknowledge the realities of the lives of adolescents, while addressing sexuality by ensuring equal access to appropriate information, life skills, and to preventive measures.

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16. Consistent with the obligations of States parties in relation to the rights to health and information (arts. 24, 13 and 17), children should have the right to access adequate information related to HIV/AIDS prevention and care, through formal channels (e.g. through educational opportunities and child-targeted media) as well as informal channels (e.g. those targeting street children, institutionalized children or children living in difficult circumstances). States parties are reminded that children require relevant, appropriate and timely information which recognizes the differences in levels of understanding among them, is tailored appropriately to age level and capacity and enables them to deal positively and responsibly with their sexuality in order to protect themselves from HIV infection. The Committee wishes to emphasize that effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and that, consistent with their obligations to ensure the right to life, survival and development of the child (art. 6), States parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.

- CRC General Comment 4 (Thirty-third session, 2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, A/59/41 (2004) 102 at paras. 4, 24 and 39(g).

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4. The Committee understands the concepts of “health and development” more broadly than

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being strictly limited to the provisions defined in articles 6 (right to life, survival and development) and 24 (right to health) of the Convention. One of the aims of this general comment is precisely to identify the main human rights that need to be promoted and protected in order to ensure that adolescents do enjoy the highest attainable standard of health, develop in a well-balanced manner, and are adequately prepared to enter adulthood and assume a constructive role in their communities and in society at large. This general comment should be read in conjunction with the Convention and its two Optional Protocols on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, as well as other relevant international human rights norms and standards.^{1/}

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24. In light of articles 3, 6, 12, 19 and 24 (3) of the Convention, States parties should take all effective measures to eliminate all acts and activities which threaten the right to life of adolescents, including honour killings. The Committee strongly urges States parties to develop and implement awareness-raising campaigns, education programmes and legislation aimed at changing prevailing attitudes, and address gender roles and stereotypes that contribute to harmful traditional practices. Further, States parties should facilitate the establishment of multidisciplinary information and advice centres regarding the harmful aspects of some traditional practices, including early marriage and female genital mutilation.

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39. In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

...

(g) To protect adolescents from all harmful traditional practices, such as early marriages, honour killings and female genital mutilation;

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Notes

^{1/} These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Elimination of All Forms of Discrimination Against Women.

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- CRC General Comment 5 (Thirty-fourth session, 2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), A/59/41 (2004) 114 at para. 12.

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12. The development of a children’s rights perspective throughout Government, parliament and the judiciary is required for effective implementation of the whole Convention and, in particular, in the light of the following articles in the Convention identified by the Committee as general principles:

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Article 6: the child’s inherent right to life and States parties’ obligation to ensure to the maximum extent possible the survival and development of the child. The Committee expects States to interpret “development” in its broadest sense as a holistic concept, embracing the child’s physical, mental, spiritual, moral, psychological and social development. Implementation measures should be aimed at achieving the optimal development for all children.
- CERD General recommendation XXXI (Sixty-seventh session, 2005): The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, A/60/18 (2005) 98 at para. 14. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 24 (Fifty-second session, 1994): Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols Thereto, or in Relation to Declarations under Article 41 of the Covenant, A/50/40 (1995) 119 at paras. 8, 10 and 15. For text of General Comment, see **RESERVATIONS AND DECLARATIONS**.
- ICCPR General Comment 28 (Sixty-eighth session, 2000): Article 3: Equality of Rights Between Men and Women, A/55/40 vol. I (2000) 133 at paras. 10 and 20. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General**.
- ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from Provisions of the Covenant During a State of Emergency, A/56/40 vol. I (2001) 202 at paras. 7 and 11. For text of General Comment, see **DEROGATIONS**.

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- ICCPR General Comment 31 (Eightieth Session, 2004): Article 2: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, A/59/40 (2004) 175 at paras. 12 and 18. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENERAL**.
- ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at paras. 1-3 and 11. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at paras. 23, 24, 27, 28, 52, 58 and 82. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.