



TO THE COMMITTEE ON HUMAN RIGHTS. UNITED NATIONS ORGANIZATION. GENEVA.

Subject: Draft general observations (No 36) on Art. 6 of the International Covenant on Civil and Political Rights with regard to the right to life (Article 6 of the Covenant)

1. a necessary preliminary application

The European Federation "One of us, for the life and dignity of man" fully shares what is written in the project at no. 1-2-3 according to which the right to life is a "*supreme law*" of "*huge importance*" whose recognition "*is the indispensable condition for the enjoyment of all other human rights*" so that "*the right to life is a right that must not be interpreted in the narrow way*" "*without distinction of any kind.*"

But these solemn statements contrast with what was written at no. 9 where paradoxically it is stated that the right to life includes the right to kill. Indeed, it is recommended that states do not set limits on voluntary abortion freely decided by women.

We ask that the reflection on human life not yet born is carried out in an opposite logic that we consider as the starting point the dignity and right to life of every human being even at the beginning of his life. It is not about to claim penalties for any voluntary abortion, nor to ignore the reality of the anguish of many women in the face of a difficult pregnancy or even not to consider that the main defense of the child's life lies in the mind and heart of mother. It is, however, to answer the fundamental question: the child in the initial phase of its existence in the womb is a human being or a thing? And if it is a human being in the modern human rights culture, do not even apply the principle of equality in his regard and introduce a principle of discrimination between human beings? In the history many times have been subjected to discrimination between humans: thinking about slavery, the alleged difference between slaves and blacks, the condition of woman and children, the treatment of handicapped people. But the culture of human rights no longer allows any kind of discrimination, until - commendably - to demand the abolition of the death penalty (as also asked the project commented here) in the name of human dignity, also in guilty of the most heinous crimes and "*progressive realization of human rights*". Therefore it is against the reason that in the interpretation of Art. 6 of the International Covenant on Civil and Political Rights is not precluded the question first: the human embryo is a human being or a thing?

2. the answer of science

The answer of modern science is unambiguous: from conception development is continuous, there are no moments that distinguish one stage of development from another, genetic heritage is defined by the time of fertilization; the development is driven by a precise finalism driven by the same embryo, to which the maternal body provides only heat and food. These data are so confident that they are also confirmed in documents justifying the destruction of embryos. For example, it reads in the Admission Commission of R Warmock of 1984, appointed by the British government for guidance on how to regulate medically assisted procreation, no. 19 of 11 understood "once the process is started is not a particular part of the development that is more important than another, all are parts of a continuous process and, if not every stage normally takes place, at the right time, in right sequence, any further



development ceases. For this reason, biologically, in the development of the embryo one cannot identify a single stage beyond which the in vitro embryo should not be kept alive. However, we have agreed in considering this an area in which some definite decisions should be taken to calm the widespread anxiety in the public opinion"

In essence, biological reality overlaps with a conventional criterion. But in this way we introduce discrimination on the human being, which in reality is always a continuum: each of us began to exist at the time of conception; so even the unborn child is one of us. Embryo, fetus, newborn, boy, young, adult, elder are different names of a single human reality.

3. bioethical and legal confirmations: a) the European Court of Justice

Of course we cannot ignore that this statement is opposed by those who want the free choice of women on abortion and embryo-free hands on science and artificial procreation experimentation. But here it is sufficient to prove the reasonableness of the thesis according to which even before the birth moment of fertilization there is a human being. Again, we can make some authoritative citations. In the judgment of the European Court of Justice on 18/10/2011 (Brüstle- Greenpeace) reads "*The embryo has always a human dignity from the moment of fertilization, so that it is impossible to distinguish different stages of development such as to justify a lower protection of the embryo in the early stages of its existence.*" That judgment was upheld by the same motivation by the decision of the same Court ruled on 18 December 2014 (International Stem Cell Corporation v Comptroller General of Patents, Designs and Trade Marks).

b) European Court of Human Rights

Also worth mentioning the judgment of the Grand Chamber of the European Court of Human Rights 27 August 2015 in the case Parrillo against Italy. The decision rejected the appeal of the Italian woman who had generated 5 em frozen embryos for years and remained without parental project, asking to be allowed to "donate them to science" for experimental purposes. The Court dismissed the appeal because "the embryos are not things." In the same line you were pronounced two recent Italian constitutional judgments, no. 229 of 2015 and No. 84, 2016. In both states that the embryo "*whichever is more or less wide recognizable degree of subjectivity related to the genesis of life, it is certainly not reducible to mere biological material. The weak point in the protection of " embryo (even) sick, that would result from its suppression tamquam res, not justified"*

c) Italian National Bioethics Committee

The National Committee of Italian bioethics, called to express an opinion on the identity of the embryo, in the document 06/22/1996 It concluded: "*The Committee reached unanimously to recognize a moral duty to treat the human embryo, from fertilization, according to criteria of respect and protection which must be taken in respect of human individuals who are commonly attributed the characteristic of people*". To this end the Committee reached after detecting that the embryo "*is not a thing*" "*since his own material and biological nature places him among*



beings belonging to the human species," nor can it be placed on a lower step compared to the already born, because this argument "reintroduces, in fact, surreptitiously, the legitimacy of discrimination between human beings on the basis of the possession of certain features or functions," while "the mere possession of human nature implies for every individual the being a person ". The conclusion above is confirmed and specified by the recognition that "the embryo has the right to be treated as a person, that is the way we agree should be treated individuals of our species whose nature of people there is no doubt."

This opinion was confirmed on April 11, 2003, about one of the most burning and current issues related to the embryo that of the rightful use (destructive) of the conceived to induce stem cells.

In the new opinion states that *"human embryos are human lives in its own right" and that "there is therefore a moral duty to always respect them and always protect them in their right to life regardless of how they have been procreated, and regardless of the fact that some of them can be qualified - with a questionable expression because it lacks ontological valence - supernumerary "*.

These views were further confirmed July 15, 2005 in the document concerning the ' "ootide", in that of 18 November 2005 on' "Adoption for the birth of cryopreserved and residual embryos resulting from medically assisted procreation" and finally that of 16 December 2005 on " Help for pregnant women and depression Postpartum "

This opinion may, of course, be considered untrue, but it cannot be denied that it has significant authority.

d) Article 5 of the International Covenant on Civil and Political Rights

To return to the international dimension it is worth noting that no. 5 of that paragraph. 6 of the Covenant object of general observations after imposing appropriate precautions to states that still retain the death penalty stipulates that *"a sentence cannot be carried out against pregnant women."* The reason for the rule is, of course, respect for the nascent life, which cannot be condemned to death with his mother, and therefore exists with his dignity and with his right to life.

e) Treaty on the Rights of the Child

Remember also the preamble of the 1989 Convention on the Rights of the Child, where, in step 9, it is called the previous 1959 Statement at the point that is repeated in 1989. *"the boy because of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection, before as well as after birth "*. So the conceptus is qualified "child" even before birth.



(f) Expert witnesses

This embryo's human identity has been the subject of a significant testimony of more than 10,000 physicians and European experts on 12 May 2017, on the occasion of "Europe Day" celebrated a few days before (May 9) were delivered to the President of the European Parliament an appeal to the effect that *"it is true that the human embryo is one of us: in fact, since the embryo state unicellular - embryo to a cell - that is, from conception - is a living individual belonging to the human species."* Consequently, the 10,000 European experts supported the first initiative of European citizens (a new participatory democracy institute introduced in the European order by the Lisbon Treaty of 2009), with nearly two million citizens across the European Union asking for the ' European Union does not provide cheap contributions to the destruction of human embryos.

g) Convention on bioethics

Recall that the Convention for the protection of human rights and human dignity to the application of biology and medicine signed within the Council of Europe to Oviedo April 14, 1997 establishes the general principle that interests and rights of the human being must prevail over the interests of society and the state and, 18, in the area of embryo experimentation, after having banned the generation of embryos for research purposes, shall, however, even when in some state embryo research is permitted, it is only right for them to provide *"adequate protection."* In order to better define the criteria for adequacy, a special Commission (Steering Committee in Bioethics: The Protection of the Human In vitro Embryo) was formed, which in 2003, without reaching a unanimous judgment, decided to put the various positions in writing, declaring, however, that "even if they are different positions on the status of the embryo in vitro, there is a general agreement on the need for protection" (n. 7 lett. c). The various theses are summarized, the first of which considers conceived as a human being, carrying an "inviolable value" (like any other human being) and thus entitled to the right to life.

4. the precautionary principle

The existence of different opinions, including the one that recognizes the existence of a human being from conception, requires that in practical choices is applied the precautionary principle, so strongly invoked in the context of environmental protection and public health. In the case of uncertainties about the harmful events that may arise from certain actions, it requires an attitude of caution and even abstinence from the interventions that might determine them. In the field of ecology, the precautionary principle implies an inversion of the burden of proof: any innovation that manipulates nature must not be done unless there is certainty that it will not have any negative effect, either for the environment or for future generations

When is in play directly and immediately human life, the more strictly must be applied the principle of precaution. In the case of a shipwreck or an earthquake, the search for dispersed people continues as long as there is still a doubt about their lives. The decision whether to continue or suspend research cannot be taken on the basis of a single person's opinion: as long as there is still a question of whether or not a living is alive, the community must continue rescue



operations. So, according to the precautionary principle, the doubt about the full humanity of the conceived is not a good reason to deny the dignity and cause death.

In the draft general comments on art. 6 of the Covenant on Civil and Political Rights states (No 3) that the interpretation of the right to life must be wide without any distinction. This principle is then applied in detail with regard to the death penalty so that even in those states where this capital punishment continues to exist, life is respected in the highest degree. The doubt is taken into account at no. 52. Paragraph 5 of art. 6 of the Covenant prohibits the execution of the death penalty against which at the time of the crime offense he was under 18 years of age. It reads: "*in the absence of elements that proved that the person concerned had no less than 18 years of age when the crime was committed, he is entitled to the benefit of the doubt and the death penalty it cannot be imposed.*" "In dubio pro vita" is a similar principle to that for which no one can be convicted if he remains a doubt about his guilt: "in dubio pro guilty". It is an application of the precautionary principle. In the contrast between opposing opinions about the human identity of the conception, what should be the practical decision also in case of doubt by the authorities that have the power to legislate? "In dubio pro will ta".

5. Conclusion

In conclusion, we ask that the point 9 is completely changed, or - at least - omitted.

Preliminarily, the right to life of the unborn child must be recognized.

Consequently the State should be urged to take all the social and economic measures to help women overcome the difficulties of a difficult and unwanted pregnancy.

A right to abortion must be excluded. The decriminalization if any, should be understood as a possible measure of tolerance in view of the particular of pregnancy condition in which a human being lives inside another human being. Maternal courage should be strengthened, not favouring the elimination of children.

At least, states should be left free to make decisions involving abortion because of the diversity of their history, their political and social status, and the prevailing national ethical evaluations.

In extreme hypotheses, the contradiction of abortion with the right to life could recommend the elimination of whole n. 9.

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