

15<sup>th</sup> November 2010 -Day of General Discussion of the Committee on Economic, Social and Cultural Rights (CESCR) on the right to Sexual and Reproductive Health.

Oral statement by the Associazione Comunità Papa Giovanni XXIII (Special Consultative Status with ECOSOC)

Thank You, Mr. President.

The Associazione Comunità Papa Giovanni XXIII welcomes this Day of General Discussion of the Committee on Economic, Social and Cultural Rights on this important, delicate and controversial theme of the right to Sexual and Reproductive Health.

We would like to draw the attention of the distinguished delegates of the Member States and the distinguished panellists to the following issues and concerns:

1. The only definition in international law of sexual and reproductive health is given in the [Program of Action of the International Conference on Population and Development](#) (ICPD) which was held in [Cairo](#), Egypt, in 1994. It defines 'Reproductive health' as: *“a state of complete physical, mental and social well-being and...not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed [about] and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of birth control which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.”*

Such a definition is not even legally binding. Moreover, it does not mention abortion and/or refer to a right to abortion. During and after the ICPD, some interested parties attempted to interpret the term 'reproductive health' in the sense that it implies abortion as a means of family planning or, indeed, a right to abortion. These interpretations, however, do not reflect the consensus reached at the Conference.

2. Art .12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, that has instituted the CESCR) states:

1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*
2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*
  - a. *The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*
  - b. *The improvement of all aspects of environmental and industrial hygiene;*
  - c. *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
  - d. *The creation of conditions which would assure to all medical service and medical attention in the event of sickness.*

*There is no “right to sexual and reproductive health” found in the plain text of the relevant portions of the ICESCR. Such a “right” is therefore not part of the negotiated language of the treaty and CESCR should not elaborate a general comment on new terms that were not agreed to by the States Parties at the time the text of the treaty was finalized, nor call upon States Parties to abide by such “fabricated” language. Accordingly, any general comment regarding the “right to sexual and reproductive health” would be lacking in legitimacy.*

3. *The Convention on the Rights of the Child extends protection of life from its conception. In fact, in its preamble at the 9<sup>th</sup> paragraph, the Convention states "Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "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". Furthermore, the convention states the child's right to life in Art. 6 and the child's right to have pre-natal care delivered to his or her mother, under Art. 24.*

*Nowadays, thanks to the new and advanced technology (like the tri-dimensional scan), science gives evidence more and more that life begins at conception.*

Since human rights are universal, indivisible, inalienable and interdependent, the international United Nations "family" should find ways of promoting and protecting the rights of women without violating the rights of children. Each right, in fact, cannot be separated from other rights. The debate on sexual and reproductive health should be tackled in a holistic context and weighed with other rights and the rights of other rights holders. Given the seriousness of the conflicts of interests and rights that can occur between the child and the mother or father during the pre-natal period, States should take numerous measures to reduce the number of unintended conceptions from occurring by preventing sexual violence and exploitation of women, human trafficking and rape, by promoting equality between men and women in the family, by educating on the meaning of love and sexuality.

4. A general comment on sexual and reproductive health, if made, should be comprehensive of all the aspects of reproductive health, giving attention to maternal health in terms of safe conditions for delivery, pre-natal and post-natal health care for the mother and child, quality of services and trained and qualified personnel. It should address also prevention of cancer of the breast and cervix and the health of the reproductive system of men and boys (e.g. prevention, detection and treatment of cancer of the prostate gland).

Finally, the Associazione Comunità Papa Giovanni XXIII fully supports the right of conscientious objection of doctors and health professionals that is repeatedly confirmed by laws, national and international resolutions and is a symbol of freedom and democracy. The Association welcomes the decision taken last October by the Council of Europe to reaffirm such a right.