

COMPLAINT BY POPULATION BALANCE AND FAIR START MOVEMENT, ON BEHALF OF THE LISTED PERSONS, TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL REGARDING VIOLATIONS OF ARTICLE 16 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND RELATED PROVISIONS OF THE INTERNATIONAL BILL OF HUMAN RIGHTS PROTECTING THE RIGHT TO FOUND A FAMILY

1. This complaint is hereby submitted to Complaint Procedure Unit, Human Rights Council Branch, Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva, CH-1211 Geneva 10, Switzerland, Fax: (41 22) 917 90 11, E-mail: CP@ohchr.org.
2. The complaint is submitted by the [Fair Start Movement](#) and [Population Balance](#) on behalf of the two complainants, Cassie and Emilia, listed below. Together these two organization, which have organized several large coalitions around [family planning reform](#) and the [protection of women from coerced reproduction](#), oppose pronatalism and coerced reproduction, and advocate for a universal child-centric model of family planning designed to ensure each child an eco-social Fair Start in life.
3. Article 16 states: “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.”
4. Accordingly, as the Human Rights Committee pronounced, “[t]he right to found a family implies, in principle, the possibility to procreate and live together.”¹ This is a narrowing and binding interpretation, which correctly leaves room for competing interests and rights, like the rights of future children, communities, and environmental and development rights.
5. The United Nations (UN) was obligated, since the inception of the Declaration and International Bill of Human Rights, to interpret and implement the right in ways that protected past, present and future generations equally, as well as consistent with other and specific [human rights obligations to future children like those under the Children’s Rights Convention \(CRC\)](#). In other words, it should have protected the right to found a family for those in 1960 and 2060, or 2160 for that matter, equally.

¹ U.N. Human Rights Committee, General Comment No. 19, art. 23 (Thirty-ninth session 1990) in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, at 107, U.N. Doc. HR1/GEN/1/REV. 4 (2000)

6. The CRC is a universal norm. Compliance with it, by states as well as prospective parents, is morally and legally obligated, and made practically feasible, by [distributing wealth, including via international climate reparations, as entitlements/incentives for birth equity, delayed fertility, smaller families, and family planning-based geographic relocation.](#)
7. That obligation is highlighted by the [UN Human Rights Council's recent recognition of a human right to a healthy and clean environment,](#) which qualifies the permissible interpretation of any right to have children in ways that would ensure future generations such an environment. Why? Family planning has a disproportionate impact on the environment, [with twenty or greater times the long-term climate emissions impact relative to other human behaviors.](#) This disproportion - existential in nature - carries [across to other ecological and social impacts.](#)
8. Allowing unsustainable family planning in the past to create short term economic growth to benefit the wealthiest elite in member states with disregard to long ecological term impacts, and in ways that would limit future generations' right to safely and healthily found a family consistent with [obligations like the Children's Rights Convention,](#) would have been strictly prohibited under principles of international human rights. It would constitute a violation of future generations' right to found a family.
9. Regardless of all of this, relevant bodies within the UN [have historically interpreted the right to have children under Article 16,](#) and specifically [without any protections for the right to be enjoyed by future generations.](#)
10. Cassie King, a young national of the United States, grew up wanting to have children. The emergence of the climate crisis, as well as other ecological crises, has stymied this desire. She is deeply concerned about the impacts on any child she would have, detailed below. Moreover, in addition to concerns about health in pregnancy and for any child she would have, because of poor and unsustainable family planning, she feels morally compelled to consider fostering and adoption. She is unable to exercise her right to safely and healthily found a family as she should, consistent with her obligations to the children she would have.
11. Emilia Kosonen, a young national of the United States, is currently choosing to forgo having children because of the population-driven climate and related ecological crises. She is concerned about all of the risks explained in detail below, and specifically finds it hard to plan to safely and healthily found a family while considering the impact of the climate crisis on her choice of viable places to settle. That and other factors, all impacted by the climate crises, are interfering with her freedom to found a family in a safe and healthy way, consistent with her rights and her obligations to her community and to future generations.

12. Cassie and Emilia can be contacted via FairStartMovement.org, which is submitting on their behalf, at the contact information below.
13. Cassie and Emilia's rationale and decision making are reasonable given the weight of scientific evidence, and given [the correct interpretation of the rights and responsibilities - including to one's community and future generations - that surround having children.](#)
14. A recent study has confirmed that higher temperatures associated with the climate crisis are likely to cause [a significant increase in congenital birth defects in children.](#) A second study has confirmed that having fewer children has [an exponentially greater mitigating impact](#) on the climate crisis than alternative behavior changes, like switching to an electric car. A third, an in-depth article, found that despite the first two studies, [political, media, and cultural pronatalism – or pressure on women to have kids – was on the rise.](#) Despite the harm, we tolerate governments pushing women to have lots of kids and the unsustainable population growth it causes. Indeed, U.S. tax policy [appears to have recently pivoted in this direction.](#) All of this occurs, and is enabled, under the UN's current reading of Article 16. And the problems [are getting worse.](#)
15. Growth-focused economists and politicians, some compounded with nationalistic agendas, are pressuring women to have more children by actively preventing access to family planning education, contraception and abortion services, in addition to offering baby-bonuses. Some examples of countries employing such alarmism to promote births include [China, Iran, Russia, India, Turkey, Hungary, Greece, the US, and Poland.](#) In addition to violating reproductive rights, such pronatalist pressures view babies as commodities without much regard for their welfare needs.
16. The violation of the right flows fundamentally and directly from the United States and the UN's misinterpretation of Article 16 (both under the UDHR and all relevant provisions of the International Bill of Human Rights), which favored past short term growth over the sustainable enjoyment of rights for all, and especially for young persons today. The United States violated Cassie's right, and the rights of the persons described below, through directly [promoting unsustainable family planning via pronatalists incentives that continue today, despite the climate crisis.](#) The United States is complicit in [a variety of other ways](#) of ensuring unsustainable family planning that violates Cassie's and others rights.

17. Currently, countless [young persons - like Cassie - are forgoing their right to found a family in a socially and ecologically sustainable way](#),² and [consistent with the Children's Rights Convention](#). Moreover, women who were pushed to have children under the growth paradigm enabled by the UN's interpretation - and to have children despite the risks of the [population-driven Covid-19 pandemic](#) and related risks - [are now dying in massively disproportionate numbers](#).
18. Young persons' right to found a family under Article 16 have not been protected, but instead subverted to past unsustainable economic growth models, implemented by member states.
19. The UN was first [advised of this problem several years ago](#), and in [leading academic work as early as 2007](#). Instead of ensuring a norm that [would incentivize SDG-compliant family planning and the CRC or higher \(moving towards equity\) children deserve](#), wealth went to the top of the economic ladder.
20. Relatively impoverished or otherwise oppressed women do not enjoy autonomy because for decades the UN has interpreted Article 16 in a hands off way that abandoned women to their oppressors, and to pronatalism. This was done in ways that evaded giving generations of women a fair start in life, and the fostering of inclusive/participatory democracies, and instead opted for patriarchal growth on the back of those women. Had the UN read Article 16 more narrowly to protect future generations' right to found a family, and fair starts in life for all, women would have been more empowered by now. Instead, autonomy, unleashed in a world of vast power differentials, seems to have merely licensed exploitation.
21. Had the UN bifurcated the right to have children from the right to not have children, treated the latter as based on autonomy [but the former as based on child-centric Fair Start](#), women would have been protected.
22. That move would have ensured women would meet CRC or much higher standards, from the first child on. Of course, that would have necessitated wealth transfers, and instead that money went to help ensure the wealth gap we see today.
23. Indeed, prior UN interpretations of Article 16 seem to have conveniently evaded states' collective obligations to distribute wealth (from those concentrations of wealth who influence policies the most) in ways that would have furthered autonomy for all by funding better family planning that would have balanced women's, children's, and our collective autonomy from

² See also

<https://thehill.com/changing-america/sustainability/climate-change/572140-poll-finds-huge-percentage-fear-having>

things like the climate crisis and Covid-19. In fact, under the correct reading of Article 16 discussed below, transfers of wealth under those obligations would have been mandatory.

24. Prior generations could have misread their human rights obligations – and failed future generations' right to found any family by enabling unsustainable family planning in the past - in order to maintain a patriarchal, inequitable and unsustainable system of economic growth, or what [one Nobel laureate referred to as Ponzi scheme](#). If the United Nations were complicit, it would have been subverting human rights and democracy at the most fundamental level. The shopping malls of an economy must be regulated by the town halls of a democracy. Unless we reject the past 400 years of political evolution, this is not debatable. But there's a tension here. The former push in the opposite existential direction relative to the latter, urging lots of people with lower levels of cooperativeness, development, and no baseline for equity amongst themselves. Democracy (promised under the Declaration and International Bill of Human Rights), on the other hand, necessitates smaller populations where participation is not diluted by explosive population growth to nothingness, and where persons are inclined to cooperate with one another, in part because of their level of development and the assurance of an equitable baseline that gives them "equal opportunities in life." To promote the economic gearing for the creation of persons is thus to subvert human rights and democracy at the most fundamental level – an existential one.³

25. Such a reading would have constituted a violation of Article 16 of the UDHR and relevant provisions of the International Bill of Human Rights, and the [weight of expert opinions on its best interpretations](#), all of which respect intergenerational equity in the practice of Article 16.⁴ Article 16 is unique, and especially in its relation to Articles 1 and 21 of the UDHR and relevant provisions of the International bill of rights, which guarantee the right of self-determination and to governance derived from the people. This relation gives a correct and eco-socially sustainable interpretation of Article 16 a uniquely fundamental and peremptory role. The authority of government derives from people, who derive from their creation and development. Hence, a fair and just creation norm is supreme, and the first and overriding human right, dominant over the state-created property rights that protect concentrations of wealth and prevent fair starts in life.

26. These facts are indisputable, and [supported by recent statements by Nobel Laureate Steven Chu](#): Those who designed our family planning systems 1) created something unsustainable, that 2) benefitted those in power and 3) hurt the most vulnerable. Moreover, those systems ignored the inevitable peremptory nature of a properly constructed Article 16, and the way it would override property entitlements to equitably and sustainably invest in children, as discussed below.

³ See <https://fairstartmovement.org/reframing-population-and-family-planning-to-focus-on-justice/>

⁴ See also <https://global.oup.com/academic/product/one-child-9780190203436?cc=us&lang=en&>

27. What would have evaded this generationally inequitable reading of Art. 16? [Child-centric Fair Star family planning](#) is designed to create a foundation of equity that can be applied in perpetuity.⁵ It accounts for the interests of the majority of persons – those that will live in the future.
28. Political legitimacy derives from people, and people derive from their creation. Thus a just creation norm is the first and overriding human right, or grundnorm, overriding all competing obligations, including property rights.⁶ This radical fact, and the need for redistribution of wealth and other forms of power, may explain why prior interpretations of Article were off-base - treating an act that is inherently interpersonal as instead personal in nature, thus muting key obligations to one's community and future generations. Not having children is an act of autonomy, from the children one would have and the obligations one would incur. Having children can never be an act of autonomy, and is instead [based on interpersonal values that involve inevitable responsibilities, first with regard to the state, and secondly with regard to the parent.](#)
29. The costs of the UN's intergenerational prejudice and misinterpretation are astronomical, and constitute the [greatest single and multi-faceted driver of the climate crisis, turmoil in the development of emergency population measures, creating the background conditions that ensured the transmission and disastrous impact of Covid-19, and ensuring chaos in climate related migration.](#) The climate crisis, the threat of pandemics, and rising inequity all represent a sea change in circumstances relative to those past periods of time in which Article 16 was interpreted without regard to how population growth and its consequences would impact the right of future generations to found families. The prior interpretations, and applications, have been inherently inequitable and unsustainable, 1) creating benefits for past generations while imposing costs on future generations⁷, 2) ensuring volatility in future population projections that range in the billions of people, and 3) proving inherently undemocratic and contrary to the rule of law because they ignored the interests of the majority of persons – those that will exist in the future.
30. While this complaint seeks a determination from the Human Rights Council, we note that the Secretary General is authorized to make informal statements that can begin the process of revisiting interpretations and applications of Article 16, [in light of changed circumstances.](#) More specifically, the Secretary General can recognize 1) the central role of birth equity, both between existing socioeconomic classes and intergenerationally, and 2) the efficacy of substantial family planning incentives/entitlements structured around birth equity, which can significantly lessen the gap between rich and poor and offset the harm past and current policies

⁵ See <https://bolognalawreview.unibo.it/article/view/13299>

⁶ Id.

⁷ We note that the benefits were/are not experienced equitably by those in the past/current generations, and that many have suffered and continue to suffer either because of patriarchal pressures or because of environmental impacts.

are imposing on future ones, and 3) expedite population stabilization within an optimal range.⁸ Such a statement could be highly influential in critical and volatile policy contexts, like the current struggles in India and China for a sustainable population policy.⁹ An example of the statement [can be found here](#).

31. Domestic remedies have not been exhausted on grounds that their application would be ineffective or unreasonably prolonged because of the international collective action nature of the problem, including the climate crisis population growth is driving. Any domestic changes would be overshadowed by international impacts. In order to effectively protect Cassie's and others' rights, a universal solution is required.

32. This complaint has not been submitted to any other human rights body.

33. The United Nations has been criticized for failing to intervene to protect human rights in other contexts. Given the climate and other ecological crises, failure here could result in worse consequences, and for many more people.

34. This complaint is being submitted on behalf of the complainants, Cassie and Emilia, by Population Balance and the Fair Start Movement, and correspondence with the complainants may be submitted to the Fair Start Movement, Inc., 5451 N Waterfield Dr., Tucson, AZ 85750, 415-483-2316, with copies to Population Balance, Inc., PO Box 14175 Saint Paul, MN 55114, U.S.A. | Ph: 612.869.1640.

⁸ See <https://www.weforum.org/agenda/2019/09/christopher-tucker-planet-of-3-billion-book-extract-climate-change/>.

⁹ See

<https://www.scmp.com/week-asia/politics/article/3114852/population-control-india-eyeing-chinas-one-child-policy-some-see>