



Peace Movement Aotearoa

PO Box 9314, Wellington 6141, Aotearoa New Zealand. Tel +64 4 382 8129

Email pma@xtra.co.nz Web site www.converge.org.nz/pma

NGO Submission on Draft General Comment No. 36, Article 6 of the International Covenant on Civil and Political Rights: Right to Life

1. Thank you for this opportunity to provide input into the second Human Rights Committee (the Committee) consultation on Draft General Comment No. 36, Article 6 of the International Covenant on Civil and Political Rights (ICCPR): Right to Life.

2. We provided a submission for the half day of general discussion in 2015, which outlined six key issues that we considered could usefully be included in the draft General Comment (the draft GC). This submission begins with a brief description of Peace Movement, and provides updated information or comment on six of those issues:

- B. Nuclear weapons,**
- C. Unmanned weapons systems,**
- D. Lethal autonomous weapons systems,**
- E. Militarisation and the right to life,**
- F. Indigenous peoples' rights, and**
- G. Economic, social and cultural rights.**

A. About Peace movement Aotearoa

3. Peace Movement Aotearoa is the national networking peace organisation, registered as an incorporated society in 1982. Our purpose is networking, research, and providing information, analysis and educational resources on peace, disarmament, social justice and human rights issues.

4. Promoting the realisation of human rights is an essential aspect of our work because of the crucial role this has in creating and maintaining peaceful societies. In the context of Aotearoa New Zealand, the Treaty of Waitangi, domestic human rights legislation, and the international human rights treaties to which New Zealand is a state party, and the linkages among these, are a key focus of our work; and any breach or violation of them is of particular concern to us. We regularly provide information on these matters to human rights treaty monitoring bodies, including the Human Rights Committee (the Committee), as well as to Special Procedures and mechanisms of the Human Rights Council¹.

5. The other key focus of our work - peaceful resolution of conflict and humanitarian disarmament - is also relevant to this submission as the right to life applies to both international human rights and humanitarian law, and underpins disarmament treaties.

B. Nuclear weapons

6. We note with interest the wording of paragraph 13 with regard to nuclear weapons, and recommend that a reference to the Treaty on the Prohibition of Nuclear Weapons² - which was adopted on 7 July 2017 and opened for signature on 20 September 2017 - be included in this paragraph.

7. With regard to the bracketed text in paragraph 13, we strongly recommend that the text be retained because both a prohibition on the threat of use of nuclear weapons, and the necessity of reparation for victims of nuclear weapons testing and use, are included in the Treaty on the Prohibition of Nuclear Weapons³.

C. Unmanned weapons systems

8. We note that the draft GC includes a reference in footnote 251 to the practice “of targeted killings in extraterritorial counter-terrorism operations using unmanned aerial vehicles”. As the Committee is aware, the use of unmanned weapons systems (including unmanned aerial vehicles, UAV) has significantly lowered the threshold for the extraterritorial use of armed force in particular, and has resulted in serious violations of Article 6 and other provisions of the ICCPR⁴. We therefore urge that a specific reference to the development, deployment and use of unmanned weapons systems within the text of the draft GC would be useful to strengthen state parties’ awareness of their obligations with regard to such weapons systems.

9. In connection with this, as we pointed out in our 2015 submission, it would be useful for the draft GC to include a comment on the wider obligations of state parties to the ICCPR and the Second Optional Protocol who do not themselves possess or deploy unmanned weapons systems, including the requirement not to support the extrajudicial execution of their citizens (and others) by the use of such systems. The impetus for this point comes from the experience of the New Zealand Prime Minister publicly supporting the extrajudicial execution of at least one New Zealand citizen by way of a U.S. UAV attack, stating support for such attacks more generally - for example: “*for the most part drone strikes have been an effective way of prosecuting people that are legitimate targets*”⁵ - and refusing to rule out the possibility of New Zealand security intelligence agencies providing information that may be used to select targets for UAV strikes⁶.

10. In addition, there is increasing concern about the development, deployment and use of unmanned systems by law enforcement officials, for example in riot control⁷, and it would be helpful if the draft GC could also include recommendations about this aspect.

D. Lethal autonomous weapons systems

11. Similarly, there is increasing concern in relation to Article 6 and other provisions of the ICCPR about the development, deployment and use of autonomous weapons systems - robotic weapons with the ability to select and fire on targets on their own, without any human involvement. These range from non-lethal autonomous weapons systems such as those designed for law enforcement agencies, including armoured robotic platforms and launchers to disperse demonstrators with teargas or rubber bullets, or to inflict powerful electrical shocks from the air⁸; through lethal autonomous systems for law enforcement that deploy firearms⁹; to lethal autonomous weapons systems designed for military use or border control¹⁰.

12. As we pointed out in our 2015 submission:

“Lethal autonomous weapons systems clearly pose an unprecedented threat to humanity and the right to life, as expressed, for example, by the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions: “Machines cannot fathom the importance of life, and the significance of the threshold that is crossed when a life is taken”.¹¹ In the absence of a specific legally binding instrument that prohibits the development, production, deployment and use of lethal autonomous weapons systems, it is crucially important that international human rights bodies, as well as humanitarian and disarmament fora, make every effort to highlight the serious implications of their deployment and use, and to actively discourage states from both. We therefore anticipate the Draft General Comment will include recommendations on these systems and a prohibition on their use.”

13. As the Committee will be aware, in the two years since the half day of discussion on the draft GC, there has been no progress in any international fora towards a pre-emptive ban on the development, production, deployment and use of lethal autonomous weapons systems, even as their development continues and concerns increase.

14. The increased level of concern and urgent need for action is evident, for example, in the August 2017 Open Letter from founders and CEOs of leading robotics and AI companies around the world, which entreated the High Contracting Parties to the Convention on Certain Conventional Weapons and the UN system *“to work hard at finding means to prevent an arms race in these weapons, to protect civilians from their misuse, and to avoid the destabilizing effects of these technologies”*.¹²

15. The Open Letter is the first time that AI and robotics companies have taken a joint stance formally calling for a ban on lethal autonomous weapons, and concluded with the statement:

“Lethal autonomous weapons threaten to become the third revolution in warfare. Once developed, they will permit armed conflict to be fought at a scale greater than ever, and at timescales faster than humans can comprehend. These can be weapons of terror, weapons that despots and terrorists use against innocent populations, and weapons hacked to behave in undesirable ways. We do not have long to act. Once this Pandora’s box is opened, it will be hard to close. We therefore implore the High Contracting Parties to find a way to protect us all from these dangers.”¹³

16. We therefore urge the Committee to include all of the bracketed text relating to lethal autonomous weapons systems in paragraph 12, and indeed to go further and recommend a pre-emptive ban.

E. Militarisation and the right to life

17. In both General Comment No. 6 and No. 14, the Committee has pointed out that it is the supreme duty of states to prevent wars and expressed concern about the toll of human life taken by conventional weapons in times of armed conflict; and in General Comment No. 14, pointed out that the development and proliferation of weapons of mass destruction absorb resources that could otherwise be used for vital economic and social purposes. We suggest that the draft GC could usefully extend the latter point in particular to cover the implications of militarisation more generally in relation to the right to life. There are several aspects to this, and we briefly summarise two of the key issues below.

18. Firstly, there is the matter of excessive military expenditure - last year, globally military expenditure was estimated to be \$1,686 billion (USD)¹⁴, in large part the result of states maintaining armed forces in a state of combat readiness, regardless of whether they are deployed or not. At the same time, on average more than 16,000 children under the age of five died every day around the

world from mainly preventable causes - lack of access to adequate food, clean water and basic medicines. That is one of the prices paid, the collateral damage that is seldom talked about, for maintaining armed forces in a state of combat readiness around the world.¹⁵

19. Even New Zealand, which successive governments have said for many years does not face any immediate military threat nor is likely to in the foreseeable future¹⁶, maintains combat ready armed forces at an annual cost in excess of \$3.6 billion (NZD)¹⁷, plus the cost of any overseas deployments, and in June 2016 allocated an additional \$20 billion (NZD) over the next 15 years for new military equipment¹⁸. This public spending choice has been made a time of rapidly increasing socio-economic inequality here, with 28% of children now living in a family with an income below the poverty line; and the level of homelessness has increased dramatically over the past decade to the extent that one in 100 New Zealanders are now homeless.¹⁹ Clearly, on both the global and national scale, military expenditure is taking substantial financial resources away from essential social spending which has a significant impact on state parties' obligations under Article 6.

20. Secondly, military activities - whether in training exercises or combat deployments - have a negative impact on the environment and are a major contributor to climate change, both of which have serious implications for the right to life. The environmental impacts in times of armed conflict are obvious, but military training exercises also include extensive live firing of the full range of land, sea, under-sea and air-based weapons and weapons systems, and together with the operation of military vehicles, vessels and aircraft on land, in marine and coastal environments, in the air and in space, cause widespread - and in some cases permanent - damage to the environment, pollution and toxic contamination of ecosystems, and increase the risk of life-threatening hazards such as unexploded ordnance. Globally, armed forces are a major contributor to climate change: in part because armed forces are a massive consumer of non-renewable resources - including fossil fuels used by military vehicles, vessels and aircraft - and a major source of greenhouse gas emissions; and partly because the excessive amount of global military expenditure, and levels of military research and development, divert resources away from the development of sustainable energy sources and other initiatives to slow the pace, and reduce the impact, of climate change.

21. We therefore hope that in addition to including issues around specific weapons systems such as those outlined in sections B, C and D above, the draft GC will include an explicit recommendation on the urgent need to re-allocate military expenditure to meeting social needs, as well as comment on the wider implications of militarisation in relation to the right to life.

F. Indigenous peoples' rights

22. We noted in our 2015 submission that one of the issues for consideration during the General Discussion is "*Special protection afforded to certain individuals and populations, including detainees, minorities, women, children, older persons, migrants, and persons with disabilities*", and recommended that the United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) be referenced within the draft GC, and that specific references to indigenous peoples be included.

23. With regard to our first recommendation, we are particularly concerned that there is still no reference to the UN Declaration in the draft CG, although other human rights instruments in addition to the ICCPR are referenced, and urge that it be added.

24. With regard to specific references to indigenous peoples in relation to the right to life, we note that indigenous peoples are included in paragraph 27 in a list of persons in situations of vulnerability but do not consider this to be sufficient. We have read the submission by the Expert

Mechanism on the Rights of Indigenous Peoples²⁰ with careful attention and urge the Committee to give full consideration their recommendations.

G. Economic, social and cultural rights

25. In our 2015 submission, we noted that the right to life underpins a range of economic, social and cultural rights, and recommended that the significant overlap between economic, social and cultural rights and civil and political rights should be reflected in the draft GC.

26. Due to time constraints when preparing this submission, we are not in a position to provide further comment on this topic, but reiterate our view that the crucial importance of economic, social and cultural rights to the right to life be included as comprehensively as possible in the draft GC.

27. Thank you for your consideration of our submission.

6 October 2017

References

¹ For example, to the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in 2005; to the Committee on the Elimination of Racial Discrimination in 2007, 2013 and 2017; to the Human Rights Committee in 2009, 2010, 2014 and 2016; to the Committee on the Rights of the Child in 2010, 2011 and 2016; to the Committee on Economic, Social and Cultural Rights in 2011, 2012 and 2016; to the Committee Against Torture in 2015; to the Human Rights Committee for the General Discussion on Article 6 of the International Covenant on Civil and Political Rights in 2015; to the Committee on the Rights of the Child on the Draft General Comment on Article 4 of the Convention (Public Spending) in 2015; and jointly with the Aotearoa Indigenous Rights Trust and others, to the Human Rights Council for the Universal Periodic Review of New Zealand in 2008, 2009 and 2014.

² Treaty on the Prohibition of Nuclear Weapons, A/CONF.229/2017/8 , 7 July 2017

³ As at note above, in Article 1.d and Article 6 respectively

⁴ As outlined, for example, in Concluding Observations on the Fourth Periodic Report of the United States of America, Human Rights Committee, 23 April 2014, CCPR/C/USA/CO/4, para 9

⁵ See, for example, 'Drone strikes justified - Key', Fairfax New Zealand, 20 May 2014

⁶ See, for example, Questions for oral answer: 10. Intelligence Agencies - Information Sharing and Drone Strikes, House of Representatives, Hansard Volume 699, p 18086, 20 May 2014

⁷ See, for example, Comments by Christof Heyns, United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to the Informal Meeting of Experts on Lethal Autonomous Weapons: Convention on Conventional Weapons, 16 April 2015

⁸ 'Autonomous weapons systems and human rights law', Presentation made at the informal expert meeting organized by the state parties to the Convention on Certain Conventional Weapons 13 - 16 May 2014, Christof Heyns, p 3

⁹ As at note above

¹⁰ As detailed, for example, in the Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns, 9 April 2013, A/HRC/23/47, and referred to in the Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns, 1 April 2014, A/HRC/26/36. Information about the civil society Campaign to Stop Killer Robots is at <http://www.stopkillerrobots.org>

¹¹ As at note 5, p 6

¹² An Open Letter to the United Nations Convention on Certain Conventional Weapons, 20 August 2017- the Open Letter is at <https://futureoflife.org/autonomous-weapons-open-letter-2017> and the associated media release is at <https://futureoflife.org/2017/08/20/killer-robots-worlds-top-ai-robotics-companies-urge-united-nations-ban-lethal-autonomous-weapons>

¹³ As at note above

¹⁴ Trends in world military expenditure 2016, Stockholm International Peace Research Institute, 24 April 2017

¹⁵ See, for example, Global military spending increases again, : Peace Movement Aotearoa , 24 April 2017, 11:48 am
Press Release: Peace Movement Aotearoa <http://www.scoop.co.nz/stories/PO1704/S00256/global-military-spending-increases-again.htm>

¹⁶ See, for example, Defence Capability Plan, New Zealand Government, June 2014, p 15, and Defence Assessment 2014, Ministry of Defence, May 2015, p 25

¹⁷ \$3.67 billion (NZD) in the 2017 Budget, NZ military spending figures are available at <http://www.converge.org.nz/pma/gdams.htm>

¹⁸ As at note above

¹⁹ The most recent official figures from the 2013 census set the number of homeless at 41,705 - which equates to one in one hundred New Zealanders. That was an increase of 19% since the 2006 census, and it is still rising.

²⁰ Comments by the Expert Mechanism on the Rights of Indigenous Peoples, <http://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/EMRIP.docx>