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NGO Submission for the General Discussion on Article 6 of the International Covenant on Civil and Political Rights: Right to Life

Introduction

1. 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 resources on peace, disarmament, social justice and human rights issues.

2. 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. 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.

3. We appreciate this opportunity to provide input to the Committee's General Discussion on Draft General Comment No. 36, Article 6 of the International Covenant on Civil and Political Rights (the Covenant): Right to Life. Due to time constraints, our submission is in the form of brief comments on five issues that we consider could usefully be included in the Draft General Comment:

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

A. Unmanned and autonomous weapons systems

4. **Unmanned weapons systems:** As the Committee is aware, the development, deployment and use of unmanned weapons systems - including Unmanned Aerial Vehicles (UAVs) - 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 Covenant². We therefore anticipate the Draft General Comment will include recommendations on state parties' obligations with regard to such weapons systems.

5. In connection with this, it would be useful for the Draft General Comment to include a comment on the wider obligations of state parties to the Covenant 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 recent 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*”³ - and refusing to rule out the possibility of New Zealand security intelligence agencies providing information that may be used to select targets for UAV strikes⁴.

6. In addition, there is increasing concern about the development, deployment and use of unmanned systems by law enforcement officials, for example in riot control⁵, and we anticipate the Draft General Comment will also include recommendations about this aspect.

7. **Autonomous weapons systems:** Similarly, there is increasing concern in relation to Article 6 and other provisions of the Covenant about the development, deployment and use of autonomous weapons systems - robotic weapons with the ability to choose and fire on targets on their own, without any human intervention. 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 air⁶; through lethal autonomous systems for law enforcement that deploy firearms⁷; to lethal autonomous weapons systems designed for military use or border control⁸.

8. 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*”.⁹ 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.

B. Nuclear weapons

9. We note that both of the Committee’s previous General Comments on Article 6 (General Comment No. 6, 1982, and No. 14, 1984) refer to the particular threats posed by nuclear weapons, and the need for urgent steps, unilaterally and by agreement, to rid the world of this menace. We anticipate that the Draft General Comment will also address this matter, which remains unresolved.

C. Militarisation and the right to life

10. 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 General Comment 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.

11. Firstly, there is the matter of excessive military expenditure - last year, globally military expenditure was estimated to be \$1,776 billion (USD)¹⁰, in large part the result of states maintaining armed forces in a state of combat readiness, regardless of whether they are deployed or not. 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 future¹¹, maintains combat ready armed forces at an annual cost of more than \$3 billion (NZD), plus the cost of any overseas deployments, and will spend a forecast \$16 billion (NZD) over the next 15 years on new military equipment¹². Clearly, on the global and national scale, general military expenditure absorbs financial resources that could otherwise be used for vital economic and social purposes.

12. 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.

13. We therefore hope that in addition to including issues around specific weapons systems such as those outlined in sections A and B above, the Draft General Comment will include recommendations about the wider implications of militarisation in relation to the right to life.

D. Economic, social and cultural rights

14. We note that the document listing the issues for consideration during the General Discussion includes "*Relationship to other international human rights instruments, e.g., article 12 of the International Covenant on Economic, Social and Cultural Rights*" with reference to Article 6.1 of the Covenant. It is our view that the right to life underpins a range of economic, social and cultural rights, and that the significant overlap between economic, social and cultural rights and civil and political rights should be reflected in the Draft General Comment.

15. Furthermore, inclusion of the right to health alone would not adequately reflect the overlap between and among the rights articulated in the International Covenant on Economic, Social and Cultural Rights and the right to life, as a recent example from New Zealand illustrates in relation to the rights to health, to housing and to an adequate standard of living. Earlier this month, the Findings of a Coronial Enquiry into the death of a two year old girl in August 2014¹³ were released, which included a number of comments about the cold, damp and leaky conditions of the state house in which the girl and her family were living during the winter months, the provision of a heater by Housing New Zealand that the family could not afford to run despite their need, and their request for a transfer to a better house, which had not at the time been addressed. Among other things, the Coroner concluded: "*It is entirely possible the condition of the house contributed to the pneumonia-like illness that Emma-Lite was suffering at the time of her death*", and that the cold living conditions of the house "*cannot be excluded*" as a contributing factor to the circumstances of her death.¹⁴ The following week, the death of a 37 year old man (also in August 2014) who had heart and lung problems, as well as pneumonia, was linked to the damp conditions of the state house he and his family were living in, and the failure of Housing New Zealand to move them despite his doctors and the District Health Board making numerous requests to that effect.¹⁵

16. Due to time constraints when preparing this submission, we are not in a position to provide detailed analysis with regard to the inclusion of economic, social and cultural rights in the Draft General Comment. However, we have read the General Discussion Joint Submission by ESCR-Net, the Social Rights Advocacy Centre and the Global Initiative for Economic, Social and Cultural Rights with careful attention and support the recommendations detailed in that submission¹⁶.

E. Indigenous peoples' rights

17. We note 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 trust that there will be specific references to indigenous peoples in the Draft General Comment; and that the United Nations Declaration on the Rights of Indigenous Peoples will be included as a relevant international human rights instrument during the General Discussion, and referenced in the Draft General Comment.

18. Thank you for your consideration of our submission.

26 June 2015

References

¹ Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in 2005; Committee on the Elimination of Racial Discrimination in 2007 and 2013; Human Rights Committee in 2009, 2010, 2012, and 2014; Committee on the Rights of the Child in 2010 and 2011; Committee on Economic, Social and Cultural Rights in 2011 and 2012; 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 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

³ See, for example, 'Drone strikes justified - Key', Fairfax New Zealand, 20 May 2014

⁴ 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

⁵ 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

⁶ '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

⁷ As at note above

⁸ 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>

⁹ As at note 5, p 6

¹⁰ Factsheet: Trends in World Military Expenditure 2014, Stockholm International Peace Research Institute, April 2015

¹¹ See, for example, Defence Capability Plan, New Zealand Government, June 2014, p 15, and Defence Assessment 2014, Ministry of Defence, May 2015, p 25

¹² References for these figures are available in 'Public consultation: Defence White Paper 2015', Peace Movement Aotearoa, June 2015, at <http://www.converge.org.nz/pma/afrev15.pdf>

¹³ An enquiry into the death of Emma-Lite Pepe Quintanella Bourne in the Coroners Court at Whangarei: Findings of Coroner H. B. Shortland, 25 February 2015, CSU-2014-AUK-000963, <http://static.stuff.co.nz/files/Coronersreport.pdf>

¹⁴ As at note above, paras 61 and 73 respectively

¹⁵ See, for example, 'Another death linked to damp state house', Fairfax New Zealand, 9 June 2015, and 'Housing NZ apologises for second state house death', TV3 News, 9 June 2015

¹⁶ Recognizing the Interdependence and Indivisibility of the Right to Life with ESC Rights, Written Submission for the General Discussion on the Preparation for a General Comment on Article 6 (Right to Life), Submitted by ESCR-Net jointly with the Social Rights Advocacy Centre and the Global Initiative for Economic, Social and Cultural Rights, 12 June 2015, p 12