

Report of Working Group on International Law
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Lawyers Committee on Nuclear Policy and other affiliates of the International Association of Lawyers Against Nuclear Arms, as well as Nuclear Age Peace Foundation, work on the application of international law to nuclear weapons.

In the past few months, we have focused on a major development in international human rights law. On 30 October 2018, the United Nations Human Rights Committee adopted a [General Comment](#) on the right to life set out in the International Covenant on Civil and Political Rights. Paragraph 66 of the comment begins: “The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale is incompatible with respect for the right to life and may amount to a crime under international law.” It also declares that states parties must respect their obligation “to pursue in good faith negotiations in order to achieve the aim of nuclear disarmament under strict and effective international control.”

The Human Rights Committee is a body established by the [International Covenant on Civil and Political Rights](#). It is composed of independent experts, including several from states possessing nuclear weapons. The Covenant is a major treaty with broad participation. All nuclear-armed states except China are states parties, and China has signed. Its Article 6 guarantees the right to life, the most fundamental human right, from which no derogation is possible, not even in time of war or public emergency.

Together with the adoption in 2017 of the Treaty on the Prohibition of Nuclear Weapons, the comment of the Human Rights Committee represents real progress in the decades-long process of articulation of norms against nuclear arms:

- The comment finds that nuclear threat as well as use is contrary to the right to life, cutting against menacing language like references to infliction of “fire and fury”.
- It reflects the unanimous 1996 holding of the International Court of Justice that there is an obligation to pursue and conclude negotiations on nuclear disarmament.
- It is human-centered and victim-centered, not state-centered, in line with the opening of the UN Charter, “We the *peoples* of the United Nations”.
- And like the TPNW the human rights approach carries the potential for extending the demand for abolition of nuclear arms beyond the sphere of so-called “national security” and the narrow discourse of non-proliferation. It can link up with demands for progress on protection of the environment and on sustainable development.

We urge abolitionists to make the incompatibility of nuclear arms with the right to life part of their advocacy. That will help with outreach to groups and movements working

on other issues, and publics as well. Possibly it is a means of engaging with groups and publics in Russia, China and other non-Western nuclear powers.

The working group will also be alert to opportunities to raise the human rights critique of nuclear weapons in international institutions such as the Human Rights Council and perhaps in courts as well.

The full text of paragraph 66 of General Comment no. 36 on the right to life is as follows (footnote references omitted).

The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale is incompatible with respect for the right to life and may amount to a crime under international law. States parties must take all necessary measures to stop the proliferation of weapons of mass destruction, including measures to prevent their acquisition by non-state actors, to refrain from developing, producing, testing, acquiring, stockpiling, selling, transferring and using them, to destroy existing stockpiles, and to take adequate measures of protection against accidental use, all in accordance with their international obligations. They must also respect their international obligations to pursue in good faith negotiations in order to achieve the aim of nuclear disarmament under strict and effective international control and to afford adequate reparation to victims whose right to life has been or is being adversely affected by the testing or use of weapons of mass destruction, in accordance with principles of international responsibility.

For more about paragraph 66 and its significance, see the [remarks](#) of Professor Roger Clark and other speakers' remarks and video from a December 10, 2018 event organized by Lawyers Committee on Nuclear Policy, all at www.lcnp.org.