Nuclear weapons violate the Right to Life

Using UN Human Rights Committee General Comment 36 in grassroots actions and campaigns

BACKGROUND

On October 24, 2018, the UN Human Rights Committee adopted General Comment 36 on the Right to Life, a right codified in Article 6 of the International Covenant on Civil and Political Rights (ICCPR).

General Comment 36 affirmed that the threat or use of nuclear weapons '*is incompatible with respect for the Right to Life and may amount to a crime under international law*,' and that States Parties to the Covenant have an obligation to end the production of WMD, destroy existing stockpiles and provide adequate reparation to victims of their testing or use.

The committee held that member states '*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.*'

The significance of this development is that it:

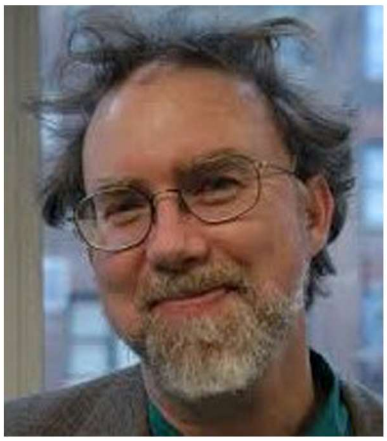
a) applies directly to the nuclear-armed States all of whom are States Parties of the ICCPR (except China which has signed but not yet ratified the Covenant);

b) clearly and comprehensively affirms the illegality of the threat or use of nuclear weapons;

c) notes the potential criminal responsibility of individuals for the threat and use of nuclear weapons;

d) applies human rights law and engages human rights constituencies.

In addition the Committee affirmed that the Right to Life is '*the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies which threaten the life of the nation.*'



"Reflecting the times, the 1984 General Comment is a clarion call to recognize and eliminate the incredible dangers posed by nuclear weapons. Building on legal developments since 1984, the 2018 General Comment is a sober legal assessment, beginning with the unambiguous statement that the threat or use of nuclear weapons is incompatible with the right to life."

– **Dr John Burroughs,** Director, UN Office of International Association of Lawyers Against Nuclear Arms

Grass roots activists can now use this development to supplement their campaign arguments against any threat or use of nuclear weapons, as well as against the production and modernization of nuclear weapons and for their complete elimination.

This can be particularly useful in countries which do not ratify the *Treaty on the Prohibition of Nuclear Weapons* and so are not bound by this treaty, but are bound by the ICCPR.

This information flyer is produced by the Abolition 2000 working group on nuclear weapons and international law.
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How to use General Comment 36

Some ways that campaigners can use UN Human Rights Committee General Comment 36

- APPEALS AND STATEMENTS

General comment 36 can be mentioned in statements, appeals, petitions, speeches, press releases, parliamentary resolutions etc, to highlight that the threat or use of nuclear weapons violates the Right to Life. This human rights approach to nuclear disarmament provides greater capacity to interest public and the media, and to engage parliamentarians and other policy makers.

- HIGHLIGHTING INDIVIDUAL RESPONSIBILITY AND CRIMINALITY

Those in positions of responsibility regarding nuclear weapons should be informed that, according to General Comment 36, the threat or use of nuclear weapons could constitute a crime under international law under which they would be liable. This could include anyone in the nuclear weapons chain of command, from the heads of state of nuclear armed states down to armed forces personnel involved in the deployment and potential use of nuclear weapons.

General Comment 36 also gives support to the Mexican proposal to amend the Rome Statute for the International Criminal Court to specifically include the employment of nuclear weapons as a war crime. Campaigners can follow-up by calling on their government to support the Mexican proposal.

- ENGAGING IN UN HUMAN RIGHTS FORUMS

There are a number of UN Human Rights forums that are involved in the application or implementation of the Right to Life.

These include the Human Rights Committee, Human Rights Council, UN Forum on Business and Human Rights, Universal Periodic Review (of each member State's human rights record), UN Committee on the Rights of the Child and UN Permanent Forum on Indigenous Issues.

General Comment 36 opens the door to campaigners raising the nuclear weapons issue in these bodies and challenging the representatives of the nuclear-armed States to report on progress they are making on prohibition of nuclear weapons in order to protect and implement the Right to Life.

- BUILDING COOPERATION WITH HUMAN RIGHTS ACTIVISTS AND COMMUNITIES

There are huge networks of individuals and organizations working to protect human rights, but who have been relatively inactive on nuclear disarmament. General Comment 36 provides an opening to engage these activists and organizations.

Engaging in UN Human Rights Forums

"The bridge between arms control and human rights should now be used by civil society in its efforts against nuclear weapons before the Human Rights Committee. The Human Rights Committee, however, is only one UN body dealing with human rights within a large machinery covering very different rights and areas.

NGOs fighting for a world without nuclear weapons and the rights of victims of those weapons should now use other fora, e.g. those dealing with rights of women, children or indigenous peoples, all particularly vulnerable to nuclear weapons, in order to make their voices heard."

– **Dr Daniel Rietiker,** President of the Association of Swiss Lawyers for Nuclear Disarmament

- REPARATIONS AND REMEDIATION

The use of nuclear weapons (against Hiroshima and Nagasaki) as well as the production and testing of these weapons has created considerable health and environmental impact which will continue for many generations. The nuclear armed states are failing to address their responsibilities to make reparations to those impacted and to make adequate environmental remediation.

General Comment 36 can be used by campaigners to increase the legal and political pressure on the nuclear armed states to implement their responsibilities in this regard.