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| Human Rights Committe |  |
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| General Discussion on the preparation for a General Comment on Article 6 (Right to Life) of the International Covenant on Civil and Political Rights  Written contribution submitted by Dr Evelyne Schmid of Basel Law School, at the University of Basel, Switzerland | |
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**Introduction and scope of this submission**

1. This submission focuses on Article 6, paragraph 1 and the nature and scope of State obligations in respect of ‘the inherent right to life’ and its protection by law. In summary, it is suggested here that the new General Comment should recognise that the right to life requires States to *respect, protect and fulfil* the right, including by taking positive measures to ensure access to food, water, sanitation, health, housing and other social, economic and cultural rights. In addition, it is suggested that the Committee recognises the possibility of legal overlap between violations of the right to life, socio-economic and cultural deprivations and international crimes.
2. Given the fundamental importance of the right to life in the International Bill of Human Rights, it is not surprising that the right to life is interrelated to a range of obligations that are also relevant for other human rights instruments. Various supervisory organs have, therefore, recognised the significant complementarily of obligations codified in various treaties. In particular, obligations in relation to the right to life frequently overlap with obligations that are simultaneously relevant for a wide range of economic, social and cultural rights.

For instance, it is uncontroversial that starving a detainee can be both – a violation of the right to life as well as a violation of the right to freedom of hunger.

1. Such overlap between the right to life and economic, social and cultural rights aspects is of keen importance in relation to all three dimensions of States’ obligations. In reassessing and updating the scope of protections afforded by the right to life in article 6, I believe that the Human Rights Committee should reaffirm and emphasise the relevance of the tripartite typology of State obligations to respect, protect and fulfil the right to life as well as the interdependence and indivisibility of civil and political with economic, social and cultural rights.
2. The ordinary wording of Art. 6 of the Covenant, as well as its object and purpose and the context of the provision placed in a key human rights instrument support the interpretation that the full range of potential dangers to human life must be taken into account.
3. As this Committee has pointed out in General Comment nr. 6 (para. 5), the protection of the right to life requires that States adopt positive measures. Indeed, the right to life can be endangered by States’ failures to *respect* the right (such as when State agents engage in extrajudicial killings), States’ failures to *protect* people from abuses by third-parties (such as when a State fails to regulate domestic violence, dangerous industrial or other activities etc) as well as States’ failures to *fulfil* the right, e.g. because they fail to take appropriate measures to tackle poverty or do not ensure non-discriminatory access to appropriate health, housing, food, social security and other socio-economic conditions required to avoid increases in the risk of deprivations of life. Around the world, there is much empirical evidence on the relationships between, for instance, discriminatory access to economic, social and cultural rights, maternal mortality and other gendered threats to the right to life. Building upon the Committee’s recognition that the protection of the right to life requires positive measures, the new General Comment affords the Committee an opportunity to explore this key point in greater depth.
4. Recent research moreover shows that violations of the right to life not only overlap with many economic, social and cultural rights aspects but also with international crimes such as war crimes or crimes against humanity. The strong connection between the right to life and economic, social and cultural rights can be illustrated by recent findings of UN Commissions of Inquiry. To provide just one example, I would invite the Committee to consider the recent UN report on Syria (A/HRC/28/69), especially para. 264, in which the Commission deplores the instrumentalisation ‘of the basic needs of civilians, including access to medical care and food, as part of a military strategy to erode civilian support in areas under non-State armed group control and punish those perceived to be affiliated with armed groups. By refusing to permit humanitarian delivery of medical supplies to the civilian population, the lives of women, men and children are put at grave risk. Civilians are indiscriminately targeted by a systematic policy to prevent access to medical assistance.’ As a consequence of the failure of the State to protect civilians, the Commission concludes that ‘war crimes and crimes against humanity have been committed on a massive scale’ (para. 47).
5. The possibility of legal relationships between violations of the right to life, socio-economic and cultural deprivations and the ‘most serious crimes of concern to the international community as a whole’ would deserve to be acknowledged by the Committee. Such overlap between the right to life, economic, social and cultural rights and international criminal law is of particular relevance in the field of transitional justice.
6. Finally, Art. 6 must be read and interpreted in conjunction with Art. 2, para. 3, of the Covenant. When a violation of the right to life takes place, States parties must ensure that victims and their relatives have access to effective remedies. In accordance with general international law on the responsibility of States for internationally wrongful acts, any non-compliance with an international obligation (in the absence of circumstances precluding wrongfulness) amounts to a violation of international law – irrespective of what type or dimension of the obligation is at stake in a concrete case. Because a State can violate the right to life by failing to respect, protect or to fulfil the right, it would, I believe, be useful to emphasise that violations of any of these dimensions of State obligations triggers the relevance of the obligation to provide effective remedies.

Thank you for taking the time to consider my submission.

Yours faithfully,

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Dr. Evelyne Schmid