

Joint Submission by:

**Just Planet
Center for International Environmental Law
Amnesty International
Greenpeace International
Earthjustice
Human Rights Consortium (U London)
David Suzuki Foundation
Ecojustice**

**To: UN Human Rights Committee regarding
draft General Comment No. 36
on article 6 of the International Covenant on Civil and Political Rights
(right to life)**

October 6, 2017

Just Planet: Just Planet is an international human rights organization with headquarters in Geneva, Switzerland. Just Planet advances human rights, recognizing the indivisibility of all human rights across past, present, and future generations, as well as the interdependence of humanity and the planet. Our work is guided by international human rights law, international criminal law, and international humanitarian law.

Center for International Environmental Law: Since 1989, the Center for International Environmental Law (CIEL) has used the power of law to protect the environment, promote human rights, and ensure a just and sustainable society. CIEL seeks a world where the law reflects the interconnection between humans and the environment, respects the limits of the planet, protects the dignity and equality of each person, and encourages all of earth's inhabitants to live in balance with each other.

Amnesty International: Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

Greenpeace International: Greenpeace is an independent global campaigning organization that acts to change attitudes and behaviour in ways designed to protect and conserve the environment and to promote peace. Greenpeace International, based in Amsterdam, The Netherlands, is a coordinating and enabling body for the network of independent national or regional organizations that maintain a presence in almost 50 countries worldwide.

Earthjustice: Earthjustice is the largest nonprofit environmental law organization in the United States. Earthjustice holds those who break environmental laws accountable for their actions. It represents every one of its clients free of charge. Earthjustice's International Program works with organizations and communities around the world to establish, strengthen, and enforce national and international legal protections for the environment and public health.

Human Rights Consortium: The Human Rights Consortium of the School of Advanced Study, University of London, was established in 2009 to facilitate and promote inter-disciplinary research in human rights in the UK and internationally.

David Suzuki Foundation: The David Suzuki Foundation is a Canadian NGO whose mission is to protect the diversity of nature and quality of human life, now and for the future. Through a combination of sound science and active public outreach, the David Suzuki Foundation, founded in 1990, motivates Canadians to understand and take action on the environmental challenges we collectively face. Canadians consistently name the David Suzuki Foundation as the most credible and reliable source of science-based environmental information in Canada. They also rank the Foundation above all other Canadian environmental organizations in working cooperatively with business to resolve critical issues.

Ecojustice: As Canada's largest environmental law charity, Ecojustice leads the legal fight for a brighter environmental future. We fight to strengthen environmental laws and go to court on behalf of community groups, non-profits, Indigenous communities, and individuals to enforce existing laws in precedent-setting lawsuits. For more than 25 years, Ecojustice lawyers and scientists have used the power of the law to protect Canadians' right to live in a healthy environment, defend nature, and slow climate change.

The current statement is jointly submitted under the urgent need to prioritize environmental protection as a fundamental component of international human rights obligations.

We welcome this opportunity to comment on draft General Comment No. 36 on Article 6 (right to life) of the International Covenant on Civil and Political Rights.

We are pleased to see the Committee's articulation of States' obligations to protect the environment as a component of the right to life in paragraphs 30 and 65. The Committee's recognition of environmental protection as part of the normative content of the right to life is critically important and consistent with a broader consensus within the United Nations that environmental protection is urgently needed to avoid a global human rights catastrophe. There has been no other time in history when the need for environmental protection has been greater; climate change poses a foreseeable, urgent and grave threat to peace, dignity, life and the survival of the human species.

It is well-established in international human rights law that the realization of human rights is dependent upon a safe, clean, healthy, and sustainable environment.¹ The right to life, which should be interpreted broadly,² must protect against environmental threats to life caused by acts or omissions of States parties and non-state actors, especially threats that are foreseeable and preventable. The right must also address the disproportionate harms that environmental degradation, loss of biodiversity, and climate change cause to indigenous peoples, groups who face discrimination and situations of vulnerability, and future generations.

Paragraph 65

We wish to endorse and reinforce the Committee's addition of paragraph 65 into the current draft of General Comment No. 36. We strongly urge the Committee to retain and enhance this paragraph in the final document.

We welcome the language expressed in paragraph 65, which addresses the scale and scope of environmental threats to the right to life as one of the "most pressing and serious threats to the ability of present and future generations to enjoy the right to life." The reference to future generations is critically important because of the time lag between the acts and omissions causing environmental harms and their human rights impacts. In the case of climate change, the adverse human rights consequences of current greenhouse gas emissions may take decades, or even centuries, to unfold.

¹ A/HRC/RES/19/10; A/HRC/RES/25/21; A/HRC/RES/28/11; A/HRC/RES/7/23; A/HRC/RES/18/22; A/HRC/RES/26/27; A/HRC/RES/29/15; A/HRC/22/43; A/HRC/31/52.

² UN Human Rights Committee (HRC), CCPR General Comment No. 6: Article 6 (Right to Life), 30 April 1982; African Commission on Human and Peoples' Rights, General Comment No. 3 on The African Charter on Human and Peoples' Rights: The Right to Life (Article 4), para. 3; Inter-American Court of Human Rights, *Sawhoyamaya Indigenous Community v. Paraguay* (2006), para. 150; European Court of Human Rights, *Öneryıldız v. Turkey* (2004).

We believe the Committee should strengthen paragraph 65 by:

1. Adding a statement referring to the disproportionate negative impact that environmental harms, especially those associated with climate change and loss of biodiversity, have on women, indigenous peoples, and other groups who face discrimination and situations of vulnerability. This additional statement would highlight States' obligations of non-discrimination under Art. 2;
2. Citing the UN Special Rapporteur on human rights and the environment's Mapping Report (A/HRC/25/53) because it is more relevant than many of the other sources, because it pulls together a wide range of support for the statements in the paragraph, and because it is consistent with the HRC policy of citing special rapporteur reports where appropriate;
3. Referring to Principle 10 in the list of references to the Rio Declaration at footnote 249, specifically to the importance of providing for public access to information, decision-making, and remedies in environmental matters, which echoes many other provisions of the ICCPR; and
4. Including a statement, consistent with the 2016 recommendations of the Special Rapporteur on the situation of human rights defenders, regarding States' obligations to "urgently and publicly adopt a zero-tolerance approach to killings and violent acts against environmental human rights defenders and immediately implement policies and mechanisms to empower and protect them."³

Paragraph 30

We are pleased that paragraph 30 articulates States' duties to protect the right to life against pollution of the environment as part of the core content of the right to life in Section III of the draft General Comment. We are concerned, however, that the critical importance of this reference to protection against environmental threats to the right is obscured by its placement within a long list of general conditions in society that may eventually give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity.

Given the scale and scope of global ecological crisis that threatens the right to life (as the Committee notes in paragraph 65), we believe the General Comment would be significantly strengthened by foregrounding the duty to protect life from environmental harms in a stand-alone paragraph; such prominent placement of this State obligation is warranted in light of the exigencies of climate change and global ecological crisis. Moreover, this proposed stand-alone paragraph would offer a more coherent and contemporary articulation of the environmental content of the duty to protect.

³ 2016 Report highlighting the situation of environmental human rights defenders, A/71/281.

Below we suggest a formulation for a stand-alone paragraph:

States parties must take all appropriate measures to protect life from pollution and degradation of the environment that gives rise to direct and indirect threats to life or prevents enjoyment of the right to life with dignity. States parties must take specific and effective measures to prevent and mitigate to the greatest extent possible the (foreseeable) harms of climate change and environmental pollution, including from the impacts of activities of private actors. These measures include adequate and enforceable environmental regulation, including through ensuring that these regulations are not constrained by trade and investment agreements,⁴ strengthening the regulation of private actors,⁵ and improving international cooperation. States parties must also develop, when necessary, contingency plans and disaster management plans designed to increase preparedness and address natural and man-made disasters and slow onset events, which may adversely affect enjoyment of the right to life, such as hurricanes, tsunamis, earthquakes, heatwaves, radio-active accidents, and environmental contamination, among others. All measures must take into account the specific, disproportionate harmful impacts of environmental degradation and climate change on indigenous peoples, groups who face discrimination and other situations of vulnerability, and future generations.

⁴ UN experts voice concern over adverse impact of free trade and investment agreements on human rights (2 June 2015) <[ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID= 16031&LangID=E](http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E)>

⁵ UN Guiding Principles on Business and Human rights.

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