

Iceland's nuclear weapons policies and the Right to Life

(Article 6 of the International Covenant on Civil and Political Rights)

List of Issues Submission to the United Nations Human Rights
Committee During its Periodic Review of Iceland

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Summary

The civil society organizations making this submission contend that the position and actions of the government of Iceland with regard to its reliance on the policy and practice of nuclear deterrence are not in conformity with the ICCPR right to life as interpreted by the Committee in General Comment 36 of October 30, 2018.

This includes national policy and practice, as well Iceland's membership of the North Atlantic Treaty Organization (NATO) and their support of, and adherence to, NATO policy and practice regarding nuclear deterrence.

In this, Iceland is not alone. However, the fact that every other NATO member state is also acting in violation of the ICCPR with respect to their nuclear weapons policies does not relieve Iceland of its responsibilities. The civil society organizations making this submission are making similar submissions with regard to other NATO member countries.

There are some recent policy moves of the government of Iceland in the right direction that could be expanded in order for the government to conform to the right to life with respect to protection of this right from the threat or use of nuclear weapons.

List of Issues Submission to the United Nations Human Rights Committee during its Periodic Review of Iceland

1. Nuclear weapons and the Right to Life

In paragraph 66 of General Comment No. 36 on the right to life set out in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), the United Nations Human Rights Committee stated:

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.

This paragraph complements and updates *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*, adopted by the Human Rights Committee on 9 November 1984.¹

Under the ICCPR, Article 4(2), the right to life is non-derogable, to be observed in all circumstances, even in the event of a “*public emergency which threatens the life of the nation.*” Iceland is a state party to the ICCPR and as a result is obligated to implement its provisions in good faith according to Article 26 of the 1969 Vienna Convention on the Law of Treaties (*pacta sunt servanda*). Even if the General Comment is not legally binding as such, it is considered the Committee’s authentic interpretation of Article 6 and the relevant practice thereto.

2. National policy and practice

The government of Iceland demonstrates its continuing support for nuclear weapons through a) membership of NATO and adherence to NATO nuclear policy (see Section 4 below), b) national policy legislation and statements, and c) statements and votes in international bodies including the United Nations.

2.1 National policy legislation and statements – extended nuclear deterrence

National policy is set by the Defence Act No 34/2008, amendments and policy statements on this act by parliament and the National Security Council. Of primary relevance here is the *Parliamentary*

¹ See *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*. Adopted at the Twenty-third Session of the Human Rights Committee on 9 November 1984. <https://www.refworld.org/docid/453883f911.html>

resolution on a national security policy for Iceland adopted on April 13, 2016.² In this resolution, the Althingi (Iceland Parliament) affirms that:

“That membership of the North Atlantic Treaty Alliance shall continue to be a key pillar in Iceland’s defence and the principal forum of Western collaboration in which Iceland participates on a civil basis in order to promote its own security and that of other NATO member states.”

“That the 1951 Defence Agreement between Iceland and the United States of America continue to guarantee the defence of Iceland and that work will continue to develop collaboration on the basis of the agreement, taking account of military threats and also other risk factors in which mutual defence and security interests play a substantial role.”

NATO membership explicitly includes support for nuclear deterrence (see below). The 1951 Defence Agreement³ does not explicitly refer to nuclear deterrence. However, the USA has made it clear that their plans and preparations to defend allies include the threat of use of nuclear weapons and the option to deploy and use nuclear weapons in defence of their allies. This is the policy of ‘extended nuclear deterrence.’ Iceland has not issued any formal statement contradicting this.

The continued support by the government and parliament of Iceland for extended nuclear deterrence is a violation of Iceland’s responsibilities under the ICCPR to protect the right to life.

2.2 Votes in the United Nations

The government of Iceland demonstrates its support for the threat or use of nuclear weapons by either abstaining or voting against a number of UN General resolutions aimed at preventing any use of nuclear weapons. In 2020, these included Resolution A/75/399 DRI entitled *Humanitarian consequences of nuclear weapons*,⁴ Resolution A/75/400 DRII entitled *Convention on the Prohibition of the Use of Nuclear Weapons*⁵ and Resolution A/75/399 DR XXIX entitled *Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons*.⁶

The continued support of Iceland in the United Nations for the threat of use and possible use of nuclear weapons is a violation of Iceland’s responsibilities under the ICCPR to protect the right to life.

3. Policy and practice as a member of NATO

Iceland is a full member of NATO, subscribes to NATO nuclear policy and takes part in the planning and preparation for the threat and use of nuclear weapons through its membership of NATO’s nuclear planning group.

² *Parliamentary resolution on a national security policy for Iceland*. Adopted in the 145th Legislative Session, 2015-2016. Parliamentary document 1166 – 327th matter. No. 26/145. <https://www.government.is/library/01-Ministries/Prime-Ministrers-Office/Parl-Res-Nat-Sec-Council-25-145-2016-tr-br-prot-SKIL-310817-.pdf>

³ Act giving legal effect to the Defence Agreement between Iceland and the United States and on the legal status of US Forces and properties. No. 110/1951, 19 December, 1951. <https://www.government.is/lisalib/getfile.aspx?itemid=1419e84c-c33a-11e9-9446-005056bc530c>

⁴ A/75/399 DRI: *Humanitarian consequences of nuclear weapons*. Text at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/resolutions/L5.pdf>. Voting record at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/votes-ga/399DRI.pdf>.

⁵ A/75/400 DRII: *Convention on the Prohibition of the Use of Nuclear Weapons*, Text at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/resolutions/L36.pdf>. Voting at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/votes-ga/400DRII.pdf>

⁶ A/75/399 DR XXIX entitled *Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons*. Text at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/resolutions/L55.pdf>. Voting at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/votes-ga/399DRXXIX.pdf>.

3.1. NATO's nuclear policy

NATO is a nuclear weapons alliance that relies for its security on the threat of using nuclear weapons and on planning and preparing for the potential use of nuclear weapons in 'defence' of NATO member countries. This is outlined in the NATO Strategic Concept and in NATO summit declarations.

"Deterrence, based on an appropriate mix of nuclear and conventional capabilities, remains a core element of our overall strategy. The circumstances in which any use of nuclear weapons might have to be contemplated are extremely remote. As long as nuclear weapons exist, NATO will remain a nuclear alliance... The supreme guarantee of the security of the Allies is provided by the strategic nuclear forces of the Alliance, particularly those of the United States; the independent strategic nuclear forces of the United Kingdom and France, which have a deterrent role of their own, contribute to the overall deterrence and security of the Allies."

NATO Strategic Concept, November 2010.⁷

"Allies' goal is to continue to bolster deterrence as a core element of our collective defence and to contribute to the indivisible security of the Alliance. Following changes in the security environment, NATO has taken steps to ensure its nuclear deterrent capabilities remain safe, secure, and effective. As long as nuclear weapons exist, NATO will remain a nuclear alliance."

Brussels Summit Declaration, July 2018⁸

The policy is operationalized through: a) NATO's Nuclear Planning Group, b) production and deployment of nuclear weapons by three of the NATO members (France, UK and USA), c) individual security agreements between the USA and NATO member countries involving extended nuclear deterrence, and d) some of NATO countries participating in nuclear-sharing arrangements where-by they host USA nuclear weapons and develop military capacity and preparations for their potential use.

NATO policy for use of nuclear weapons is based on the doctrine and practice of 'flexible response'. This includes maintaining an option to use nuclear weapons in a range of security situations, including the **first-use of nuclear weapons** in response to a conventional attack or imminent attack, threat of attack from nuclear weapons or threat of attack with other weapons of mass destruction.

NATO has accepted the NPT Article VI obligation to achieve the global elimination of nuclear weapons, and has committed to 'the goal of creating the conditions for a world without nuclear weapons' but has done little to implement this obligation.

3.2. Iceland's participation in NATO nuclear policy and practice

As a full member of NATO, Iceland supports and subscribes to NATO's nuclear policy including endorsement of NATO Strategic Concept and NATO Summit declarations.

In addition, Iceland is a member of NATO's Nuclear Planning Group, in which it participates in NATO plans and operations to threaten the use of nuclear weapons and to prepare for their possible use.

"The Nuclear Planning Group acts as the senior body on nuclear matters in the Alliance and discusses specific policy issues associated with nuclear forces. (...) Irrespective of whether or not they have nuclear weapons, all Allies are members of the NPG with the exception of France, which has decided not to participate."

NATO Nuclear Planning Group⁹

⁷ NATO Strategic Concept, Adopted by Heads of State and Government at the NATO Summit in Lisbon 19-20 November 2010 <https://www.nato.int/strategic-concept/Index.html>

⁸ Brussels Summit Declaration, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Brussels, https://www.nato.int/cps/en/natohq/official_texts_156624.htm

⁹ Nuclear Planning Group, NATO, https://www.nato.int/cps/en/natolive/topics_50069.htm

Iceland's support for and participation in NATO policy and practice of threat to use nuclear weapons, and in preparations by NATO to potentially use nuclear weapons, are violations of Iceland's responsibilities under the ICCPR to protect the right to life.

4. Iceland's positive policy moves

Notwithstanding their support and participating in the threat of use of nuclear weapons, the government and parliament of Iceland have made some positive steps to prevent the actual use of nuclear weapons and contribute to the achievement of a nuclear-weapon-free world. This has included hosting the historic Reykjavik Summit between U.S. president Ronald Reagan and General Secretary of the Communist Party of the Soviet Union Mikhail Gorbachev in October 1986¹⁰, and the declaration by the Iceland Parliament in 2016 that Iceland and its Exclusive Economic Zone are a nuclear-weapon-free zone.¹¹

"We had said that a nuclear war cannot be won and must never be fought, we could not tolerate the situation that we had, we needed to deal with those mountains of weapons, to get rid of nuclear weapons."

Mikhael Gorbachev speaking about the Reykjavik Summit.¹²

"That Iceland and its economic zone be declared a nuclear-free zone, taking account of international obligations, with a view to contributing to disarmament and peace."

Parliamentary resolution on a national security policy for Iceland, Adopted by the Althingi (Iceland Parliament), 13 April 2016

The parliamentary declaration also affirmed that:

*"The Icelandic government's national security policy is to be based on the obligations set out in the United Nations Charter, its guiding principles being the fundamental values of the nation, democracy and respect for law as the basis of the state, international law, humanitarian considerations and **the protection of human rights**, universal equality and sustainable development, disarmament and the peaceful solution of disputes."*

5. Questions to Iceland

- What measures will be taken by Iceland to bring its policy into conformity with the right to life?
- What additional measures will be taken by Iceland to prevent and prohibit the use of nuclear weapons and to advance good faith negotiations for the elimination of nuclear weapons under strict and effective international control?

6. Recommendations

We recommend that Iceland:

- Propose to the next NATO Summit that NATO adopts a policy of *No-First-Use of nuclear weapons* and a goal for NATO to eliminate nuclear deterrence from its security policy within 10 years;
- Reaffirm the Reagan-Gorbachev dictum that '*a nuclear war cannot be won and must never be fought*', and propose that the 2021 Review Conference of States Parties to the Non-

¹⁰ The Summit was an instrumental process in developing détente between the USA/NATO and the Soviet Union and paved the way for the adoption of the Inter-mediate Nuclear Forces (INF) Treaty.

¹¹ *Parliamentary resolution on a national security policy for Iceland*. Adopted in the 145th Legislative Session, 2015-2016. Parliamentary document 1166 – 327th matter. No. 26/145. Operative paragraph 10. <https://www.government.is/library/01-Ministries/Prime-Ministrers-Office/Parl-Res-Nat-Sec-Council-25-145-2016-tr-br-prot-SKIL-310817-.pdf>

¹² Gorbachev on Reykjavik and Nuclear Weapons Today, CTBTO, September 4, 2012.

ftp://ftp.ctbto.org/Reykjavik_Press_Kit/AUDIO/Shotsheet_Gorbachev_Audio_soundbites_final.pdf

Proliferation Treaty (NPT) also adopt this dictum along with supportive policy measures, such as No-First-Use and a commitment to achieve the global prohibition and elimination of nuclear weapons no later than 2045, the 75th anniversary of the NPT;

- In its 5-yearly national security policy review, explore additional measures to advance the objectives of Iceland as a nuclear-weapon-free zone, and the goal of a nuclear-weapon-free world.

About the submitting organizations:

Aotearoa Lawyers for Peace:

Aotearoa Lawyers for Peace (ALP) is an organization of lawyers and law students from Aotearoa (New Zealand) working to abolish nuclear weapons, increase respect for international law and abolish war. ALP is the New Zealand affiliate of the International Association of Lawyers Against Nuclear Arms, and is a founding partner of UNFOLD ZERO, which promotes United Nations initiatives for nuclear disarmament.

www.facebook.com/nzpeaceclaw

www.ialana.info

www.unfoldzero.org

Basel Peace Office:

Basel Peace Office is a coalition established by five Swiss and four international organizations to advance the peace and security of a nuclear-weapon-free world. Basel Peace Office makes connections between inter-related issues - including peace, the climate, nuclear disarmament, human rights and sustainable development - and builds cooperation amongst key constituencies including mayors, parliamentarians, religious leaders, academics, youth/students, women, lawyers, medical professionals, government officials and UN entities.

Basel Peace Office is a member of the EU Non-proliferation Consortium. The partner organizations are the Basel-Stadt Canton (a member of Mayors for Peace), Global Security Institute, International Physicians for the Prevention of Nuclear War Switzerland, Middle Powers Initiative, Parliamentarians for Nuclear Non-proliferation and Disarmament, Schweizer Anwälte für Nukleare Abrüstung (the Association of Swiss Lawyers for Nuclear Disarmament), Swisspeace, University of Basel Sociology Seminary of the Department of Social Sciences and the World Future Council.

www.baselpeaceoffice.org

www.facebook.com/BaselPeaceOffice

World Future Council

The World Future Council (WFC) was established to promote effective policies to ensure a peaceful and sustainable future. WFC consists of 50 eminent global change-makers from governments, parliaments, civil society, academia, the arts and business who have already successfully created change. They are supported by a staff of experts that work with the concillors to identify, develop, highlight and spreading effective, future-just solutions for current challenges humanity is facing.

www.worldfuturecouncil.org

www.facebook.com/wfc.goodpolicies

Youth Fusion

Youth Fusion is a world-wide networking platform for young individuals and organizations in the field of nuclear disarmament, risk-reduction and non-proliferation. Youth Fusion focuses on youth action and intergenerational dialogue, building on the links between disarmament, peace, climate action, human rights, sustainable development and building back better from the pandemic. Youth Fusion serves as the youth section of Abolition 2000, the global civil society network to eliminate nuclear weapons.

www.youth-fusion.org

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