

Universal Periodical Review

Third Cycle

ANTIGUA AND BARBUDA



Right to Life and Right to peace Related Human Rights Issues

March 25 2021

*“From the politics of taking life to the politics of affirming it”
“From the politics of paying for war to the politics of offering peace”*

**We understand the right to life as being
the full enjoyment of Life,
as being the right not to be killed,
and as being everyone's responsibility not to kill or let others die.**

**We understand the right to peace as being
the full enjoyment of Peace,
the right to be free from violence and want,
as being everyone's responsibility to assure peace to each and all
and as the right to refuse to serve war in any way,
be it physically, mentally or economically.**

Submitting organisations

The Center for Global Nonkilling (CGNK) has a unique mission that is both inspirational for individuals and transformative for societies: *"To promote change toward the measurable goal of a killing-free world by means open to infinite human creativity in reverence for life"*. It was founded in 2008 by Glenn Paige (1929-2017), political science Professor and author of the book "Nonkilling Political Science"¹. CGNK is a worldwide congregation of individuals, scholars and others, working at creating societies that do not kill. CGNK has ECOSOC consultative status since 2014.

The purpose of Conscience and Peace Tax International (CPTI) is the end of all wars and the full recognition of the right of conscience to refuse to participate in war, war preparation and armaments of all sorts, including the right of conscience to pay tax money into peace funds and to refuse to pay for military budgets.

CPTI was founded in 1994 and has ECOSOC consultative status since 1999.

Regarding the right to life, this submission focuses on the major legal aspects of the right life, though leaving aside without addressing them practical aspects of the right to life such as homicides, suicides, traffic related deaths and injuries or any numerous other issues related to life and its fulfilment, well-being. These aspects must whatever may be nevertheless progress.

Regarding the right to peace, this submission intends to provide a more comprehensive approach.

Human rights

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise out of our fundamental human nature and our conscience and are expressed themselves by our knowledge, feelings and values. They grow, within ourselves as shared, and remain through awareness, practice and kindness. They are needed to build lasting and prosperous, thriving and humane societies, on a sustainable planet, enabling everyone to lead a fulfilling life, in solidarity, leaving no one behind.

Center for Global Nonkilling | Christophe Barbey | Main representative in Geneva
C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
+41 79 524 35 74 | cb@apred.ch

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As universal legal basis, fundamental rights form the infrastructure of our civilisation, as needed for it to flourish in dignity, through present time and in future History. We, humanity, support and implement human, universal and fundamental rights by using universal and fundamental, peaceful methods such as education and exemplarity, the cultures of peace and non-violence, cooperation and consensus, prevention and precaution, peaceful settlements of disputes. These methods are essential for the full respect and the common enjoyment, for the achievement of all human rights as for the existence and continuity of societies and cultures.

The right to life

Compared to other human rights, the right to life has four specific features:

a. Dignity can be said as being the paramount right present when each and all human rights are fulfilled. Similarly, the right to life is present in all human rights, at their base. The right to life precedes all other human rights and is needed to fulfill all human rights: if life is taken, all human rights are cancelled².

Conversely, joyfully living and celebrating life gives a solid and happy ground to the existence of life for each and all. Further, life and the quality of life, in equality are the conditions needed for the peaceful progress and the fulfillment, for the completion of all human rights.

b. There are no possible restrictions to the right to life: one is either alive or not. Issues pertaining to the beginning and the end of life such as reproductive rights, abortion, suicides and euthanasia, as well as prenatal and genetic engineering shall be dealt with dignity, in a preventive, human and humane sustainable manner, for each and all.

c. Only full and effective prevention can guarantee respect and reverence for life and the right to life. Once a life is lost, compensation may be due, but there are no possible reparations.

d. The right to life is also the *absolute duty not to kill*. So forth, the right to life is a fully reciprocal right, granted by all to all.

The Center for Global Nonkilling encourages all persons and institutions to refuse the recognition of any *right* to kill. Killing is never admissible, henceforth, cannot be a right or granted as a right.

Yet so far, three *powers* to kill have sometimes been legally granted, always under very strict and exceptional circumstances. We do not approve or condone to these powers to kill. They shall be considered unwanted remnants of the past and be terminated as soon as may be.

These three legal powers to kill are:

1) Use of *legitimate self-defence*. Legally and presently, it requires a proportionate reaction, in response to a direct, severe and imminent threat that cannot be addressed otherwise.

The circumstances where self-defence may be needed are most always a failure of prevention. A failure that should be thoroughly analysed to extract lessons learned and design more accurate policies, best practices. If self-defence circumstances nevertheless occur, using nonviolent and nonkilling means, they are no possible proportionate reactions and the threat can be addressed otherwise. Whatever the ends and means used, the result of legitimate self-defence shall always be reviewed by an independent mechanism.

Because it highly impacts on the rights to life, personal integrity, security and as self-defence is often used to justify it, *use of force* by officials or anyone shall always be avoided, or highly limited³.

Center for Global Nonkilling | Christophe Barbey | Main representative in Geneva
C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
+41 79 524 35 74 | cb@apred.ch

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States have a duty of exemplarity and a legal duty regarding fundamental rights and values, a duty to act non-violently – force is not violence! – to avoid maiming or worse. Utmost attention shall be given to prevent situations which may result in use of force or further, in loss of lives. Security forces must be trained in prevention and non-violent techniques, report, debrief and practice lessons learned and best practices to avoid recurrence of the use of force.

Again, any official use of force should be monitored by a totally independent mechanism.

2) *Death penalty*, if ever permissible, is a major and definitive breach of the right to life and of numerous other human rights, including those of other related persons. It is considered an inhumane, cruel and degrading treatment⁴. It is the worst example of non-respect for the right to life a State can give. Preventive effects being undemonstrated, death penalty is unworthy and lacks the necessary dignity and legitimacy, the moral standards and exemplarity required of any authoritative power. Death penalty is not either compatible with the Sustainable Development Goals (SDG): these grant universal development and their main assertion and goal is to “leave no one behind”. Killing someone is worse than leaving this person behind, it is depriving them of their share of human destiny and of their right to amend themselves. The SDG’s were unanimously adopted by all Members of the United Nations and thus grant a right to development and to rehabilitation for all. The SDG’s also require “significant reduction of violence and related killings (SDG 16.1)”. This surely includes killings by the State.

3) *Powers of war*, conceded by humanitarian law, dare an exception to the right to life, as permitting under strict circumstances and given due precautions only the taking of the life of soldiers. This is morally unacceptable and profoundly backward. Seeing that peace and respect of life prevail – always – and nullifying this exception to the right to life is one of the objectives of the Center for Global Nonkilling. It shall be a goal for all humanity, for the sake of life in peace. Said simply, “peace and peace only”!

The right to peace

Peace originates in our human nature, is supported by human thoughts, feelings and knowledge, continues through prevention and is assured by non-violent institutions and practices, peaceful methods and peaceful settlements of disputes.

No life would be possible without a sufficient attainment of peace, and dignity can only be achieved when peace and human rights prevail. Peace is a right, but it is also a method, universal, needed for the completion of all other human rights.

Peace is fully present (if not worded) in article 28 of the Universal Declaration of Human Rights: “*Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized*”. Such an order is a peaceful order.

The links between *human rights and peace* are being widely developed⁵.

We salute with great respect the vote by Antigua and Barbuda in favour of the Declaration on the Right to Peace at the General Assembly of the United Nations in 2016⁶. It is time to implement it⁷.

Peace and peaceful methods provide means to prevent and solve conflicts without aggravating them (including between competing human rights) and, as may be, to the advantage of all concerned persons and parties, in a constructive or reconstructive way. Conflicts solved

peacefully alleviate feelings with respect, make it possible to draw lessons learned from difficult situations and favour the design of preventive policies for the future.

Other related human rights

All human rights are needed to fulfil a safe and happy life.

However, some of them may be of more direct influence for the full realisation of the rights to life and peace, or to avoid their breach.

The *right to participate in the decision-making*, fully, including for women, youth, persons with disabilities and all vulnerable persons and social groups is highly important as it creates inclusive and humane societies, where responsibilities are equally shared for and towards the well-being of all. The more people participate in the decision-making process and the more people work by consensus, the more people will respect the consequences of their decisions, the easier it will be to achieve SDG 16: safe and inclusive societies.

The right to *accurate standards of living*, including the rights to food, water and sanitation, clothing and housing, the rights to work and to social security deserve full attention, in all circumstances.

The *right to health* is an essential right for the fulfilment of the right to life and of the subsequent right to longevity. It is needed as well to achieve societies in which *human rights are all equally shared*.

The *human right to a sustainable natural environment*, thus sustaining humanity and life on Earth, deserves accurate protection and full attention as well.

The *right to happiness* and fulfilment of life in reverence for life should always be mentioned:

“Happy people breed a happy world”

Universal Periodic Review of Antigua and Barbuda

The right to life

The right to life in the national and international human rights constitutions

Living happily

The following international legal obligations: the Convention on the prevention and punishment of the crime of *genocide*; the Covenant on *civil and political rights* and its Optional protocol aiming at the *abolition of the death penalty*, and the Convention on *enforced disappearances* are the ones mostly concerned by the direct application of the right to life. They are minimum standards needed for any country to internationally recognize and show full legal respect for life and the right to life.

National constitutions shall similarly reflect this stand in favor of life.

Prohibition of the death penalty

To respect life is to value all lives, without exceptions, distinctions or discriminations.

It is also living being an example of this valuation of life.

The act of killing is the same, be it official or a crime: a killing. States have the duty to stand as examples of respect for life and for the right to life. We recall that the right to life granted to all is also the responsibility vested in all to refuse to kill. Accepting that one could be killed and accepting to kill one is accepting the act of killing in itself. As such, regardless of who is killed by whom or of how one or many are killed or why, a killing is always a destruction of the right to life.

Is Antigua and Barbuda a retentionist State regarding death penalty? No execution has taken place in decades and death row is empty⁸. Regarding death penalty, it is at present a nonkilling country.

States have a duty of exemplarity and to progress regarding fundamental values and respect of human rights, specifically here progress of the right to life and the duty not to kill.

Death penalty is still present in the Constitution of Antigua and Barbuda⁹

I. We strongly encourage the People and the Authorities to abolish death penalty, to change the constitution accordingly.

Worse, the constitution largely permits the taking of life in cases of arrest, escape, riot, insurrection, mutiny and to prevent the commitment of criminal offences (article 4)¹⁰.

The use of force, preferably of nonkilling, non-maiming and non-violent force shall always be avoided, or highly limited in all circumstances and shall be enshrined as such in the constitution¹¹. Instead of being permitted and an exception to the right life, so to say a “permit to kill”, in all occurring cases the use of force should be strictly restricted and limited and be subject to a totally independent control.

The constitution of Antigua and Barbuda is too wide and sends a wrong message about the fulfillment of the right to life and about the imperative protection of life. It shall be changed as soon as possible¹².

Center for Global Nonkilling | Christophe Barbey | Main representative in Geneva
C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
+41 79 524 35 74 | cb@apred.ch

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II. We recommend and urgently call upon the people of Antigua and Barbuda and upon their authorities to engage in a participative process to amend their Constitution and to value life therein.

III. Thereafter, recommend the swift ratification of the Second Protocol of the Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

Illegality of enforced disappearances

To be granted a life is also receiving a right to a presence, to a public presence before the law and to a private presence and acknowledgeable presence with and for one's kin.

As such enforced disappearances violate numerous human rights, be them in law or in *jus cogens*. Gladly, there is as known of today no cases of enforced disappearances listed by the working group on enforced disappearances in Antigua and Barbuda¹³.

Yet, the convention has universal effects and contains provisions regarding cases beyond the national territory¹⁴.

IV. Henceforth, we recommend to the State of the Antigua and Barbuda to ratify the Enforced Disappearances Convention.

The Right to peace

Peace is proactive, it needs to be build and protected. Peace policies are the constrictive side of peace, repelling violence of all sorts is the protective side of it. The support and enhancement of peace improves the realization of human rights and is fully part of Sustainable goal 16.

V. Under SDG 16, peaceful and inclusive societies, we recommend to Antigua and Barbuda the adoption of a national and comprehensive public peace policies plan.

The national peace constitution

Except for the power of the Parliament to make laws regarding peace – which we encourage him to do – the right of peaceful assembly and justice of peace, peace is not mentioned in the *Constitution of Antigua and Barbuda*. It could be mentioned, as concrete examples as a duty of the State, as basic human right, as an educational duty (SDG 4.7), as a participative tool of governance, as a means to limit the use of force or as a mechanism to solve conflicts peacefully.

There is a very good example in article 6 of the local constitution of the Canton of Vaud in Switzerland: “In all its activities, it [the State] shall: (...) c) see that justice and peace prevail. It supports conflict prevention”¹⁵.

VI. We recommend and call upon the people of Antigua and Barbuda and upon their authorities to engage in a participative process to amend their Constitution and to value peace therein.

As gender and environmental issues, peace is a crosscutting matter that should be set as a goal for the State, to see Justice and Peace prevail in all State and State overviewed activities.

VII. Therefore, we recommend to the people and to the authorities of Antigua and Barbuda the opening of a participative process to enshrine a living peace in the National Constitution and in the practices of all institutions and people.

To this end, we recommend granting the people Antigua and Barbuda with extensive right of participation, by:

VIII. Instituting a cooperative dialogue between the people and all their institutions.

- a. **Granting a systematic right of referendum on constitutional changes.**
- b. **Granting, if called for by enough citizens, a right of referendum for all adopted laws and treaties.**
- c. **Consulting all stakeholders before adopting new laws.**
- d. **Regularly consulting the population regarding planning.**
- e. **Consulting owners when affected by constructions or public projects.**
- f. **Establishing a prospective and evaluation body in the system of government¹⁶.**

To give to the people a sentiment of ownership and inclusivity, as well as possibilities to instill the progresses of peace; to implement the General Assembly's declaration on the right to peace as endorsed by Antigua and Barbuda and to make individuals and social groups rights holders and the State as a duty bearer:

IX. Inscribe the right to peace in the constitution.

To assure that the progress of peace is made through all generations, existing and upcoming, and through all spheres of society:

X. Teach peace and non-violent methods, at all levels and stages of the curricula, as prescribed by SDG 4.7.

To assure prevention and avoid aggravation of conflicts:

XI. Guarantee to all the people a right of access to peaceful settlements of disputes.

XII. Provide widely available training and decent salaries for mediators.

XIII. Create a nationwide, and local complete coverage with peace zones and local peaceful settlements of dispute locations and institutions.

XIV. Assure that all decisions taken by these peace-making institutions, as well as by the judiciary contain recommendations for non-recurrence, addressed to all organs of society and all concerned persons.

Prevention of violence is a peace building mechanism and should be a State Policy present in the Constitution.

XV. We recommend to the authorities of Antigua and Barbuda the adoption of a general violence prevention plan and of specific prevention plans and laws for groups and situations at risks.

Antigua and Barbuda has most likely the smallest army in the world, performing mainly police duties. Surrendering a very relative power of war and joining the various and numerous countries the have chose not to have, or renounced having military forces, including in the Caribbean region seems in this situation a reasonable and un-risky thing to do.

XVI. Abolish the army and reintegrate its functions and duties, its personal and means into the police and inscribe the absence of an army in the Constitution.

We congratulate Antigua and Barbuda for the right of conscientious objection granted by the constitution¹⁷, and as provided for by international law¹⁸.

Until we – Humanity! – reach a sufficient degree of peace, use of force must, if ever needed, be refrained and learn to be non-violent, non-maiming and nonkilling!

If force is used, it must be used in a humane and exemplary way¹⁹.

XVII. Train police officers and other agents of the State to use non-violent force and equip them with non-lethal weapons.

XVIII. Grant police officers, when brought to circumstances in which they may commit human rights violations with a right of conscientious objection.

As even in most democratic States, judiciary control over police activities has too often proven insufficient and to work towards the end of police brutality,

XIX. Create an independent body, exerting full control over any official use of force, drawing lessons learned and implementing best practices. This institution shall include victims, citizens and civil society representatives.

To finance peace:

XX. Recognize a right of conscientious objection to paying taxes for the military budget.

XXI. Create a mechanism allowing people who do not want to pay for war, war personnel and war means, for armaments to reallocate their public contributions to peaceful and non-violent state activities.

XXII. Or create therefore a peace fund exclusively dedicated to nonkilling and non-violent, non-aggravating peacebuilding.

Regarding the progress of world peace and disarmament, we congratulate Antigua and Barbuda for ratifying the Treaty prohibiting nuclear weapons and note with appreciation that Antigua and Barbuda fares well on these issues: most disarmament treaties are ratified.

XXIII. We still recommend the ratification of the following peace and disarmament treaties or conventions:

To accept reciprocal automatic jurisdiction of the International Court of Justice²⁰

The optional protocol n° 3 of the 1949 Geneva Conventions.

The three Hague conventions on the protection of cultural property.

The Enmod convention on the prohibition of military or any other hostile use of environmental modification techniques.

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C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
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The amended protocol II and V of the Convention of conventional weapons.

*Wishing a beneficial Universal Periodic Review
to Antigua and Barbuda and its people and
hoping to welcome your to Geneva, the city of peace,
we send our best regards.*

¹ <http://nonkilling.org/center/publications-media/books-translations>

² The Human Rights Committee, in its general comment 36 on the right to life describes it this way: “It is the supreme right from which no derogation is permitted (...). The right to life has profound importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right whose effective protection is the prerequisite for the enjoyment of all other human rights (...)”.

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

³ The constitution of the Swiss local State of the Canton of Geneva states it clearly (§ 184.3): “Conflictive situations are treated in priority so as to rule out, or limit the use of force. Concerned persons have a duty to concur”. Unofficial translation from French.

<https://www.admin.ch/opc/fr/classified-compilation/20132788/index.html#a184>

⁴ See i.e. the 9th meeting of the 34th session of the Human Rights Council.

⁵ See 3rd meeting of the 34th session of the Human Rights Council on mainstreaming human rights on the contribution of human rights to peacebuilding, but also resolutions 2250 on youth and peace of the Security Council, the common resolution of the General Assembly and the Security Council (2282) on Sustaining peace. Or the 13th of June 2016 appeal by Switzerland and 70 States, <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-62152.html>.

> United Nations General Assembly’s Declaration on the Right to Peace A/RES/71/189,

<http://www.undocs.org/A/RES/71/189>.

> Florence Foster: “Sustaining Peace: how can human rights help?”, QUNO-OHCHR, February 2021, available here:

https://quno.org/sites/default/files/timeline/files/2021/2021_QUNO-OHCHRSustainingPeace-HowCanHumanRightsHelp.pdf

⁶ <http://www.undocs.org/A/RES/71/189>

⁷ They are possibilities described here: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/31

We add peaceful settlement of disputes for internal disputes as for international ones.

⁸ <https://www.deathpenaltyproject.org/antigua-empties-death-row>

⁹ https://www.constituteproject.org/constitution/Antigua_and_Barbuda_1981?lang=en

¹⁰ Same

¹¹ See as an example, article 184.3 of the Constitution of the Canton of Geneva. Available here:

<https://www.admin.ch/opc/fr/classified-compilation/20132788/index.html#a184> in French. Translated: “In conflictive situations use of force shall be avoided or limited. Concerned persons must concur”.

¹² List of countries with a similar clause: Antigua and Barbuda, Bahamas, Barbados, Belize, Botswana, Cyprus, Dominica, Gambia (incl. draft 2019), Ghana, Grenada, Kiribati, Mauritius, Nauru, Papua-New Guinea, St-Kitts and Nevis, St-Lucia, St-Vincent and the Grenadines, Samoa, Sierra Leone, Solomon Islands, Swaziland, Tuvalu and Zambia.

¹³ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/40

¹⁴ A strong measure that will prevent the occurrence of enforced disappearances will be to include in law, in the criminal code or the criminal procedure code a disposition by which any person arrested has the right to make his arrest know, within 48 hours of his arrest, to a person or an institution of his choice or one designed therefore. A public roster of arrested persons shall be available to persons making a legitimate demand and prolongation of the 48 hours delay may only be authorized, for investigative purposes, for a very short time and non-renewable period.

¹⁵ <https://www.admin.ch/opc/fr/classified-compilation/20030172/index.html#a6>. Our translation from French.

¹⁶ It is not in the role of the national planning commission: <https://www.npc.gov.np/en>

¹⁷ Article 6, https://www.constituteproject.org/constitution/Antigua_and_Barbuda_1981?lang=en

¹⁸ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/23

¹⁹ See foot note 4^o.

²⁰ <https://www.icj-cij.org/en/declarations>