

Universal Periodical Review

Forth Cycle

INDONESIA



Right to Life Related Human Rights Issues

March 31st 2022

“From the politics of taking life to the politics of affirming it”

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

The Center for Global Nonkilling has a unique mission,
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”.*

Introduction

The Center for Global Nonkilling (CGNK) was founded by Glenn Paige (1929-2017), Professor of political science, author of the book “Nonkilling Political Science”¹, widely translated and available in Bahasa². CGNK is a worldwide congregation of persons, scholars and others, working at creating societies that do not kill and enabling individuals not to do so. Valuing life in all its dimensions is a necessary and fulfilling mission for everyone. Do please yourself: become a Nonkilling Centre by celebrating, enhancing and protecting life everywhere³. The Center has ECOSOC special consultative status since 2014. At each session of the Universal Periodic Review, we make two types of submissions providing the International Community with either an in-depth report on all aspects of life and the right to life in the State under review and submissions to every State still in need of ratifying the Convention on the prevention and the punishment of the crime of genocide.

Human rights

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise from our human nature, bear their truth and endeavours in our conscience, express themselves through our cultures, knowledge, feelings and values. They stand in our achievements, now as for future generations. Awareness of human rights grows worldwide as within ourselves through their understanding and their peaceful practice. They are needed to build lasting and prosperous, thriving and humane societies, on a sustainable planet, thus enabling everyone to lead a fulfilling life in universal solidarity, leaving no one behind.

Human rights are the future we want and the legal infrastructure giving meaning and worth to our human civilisation as needed for it to flourish in dignity, through present time as for future History. “Human, universal and fundamental rights” are best implemented using preventive and peaceful methods. These “fundamental methods” form the necessary complement to our “fundamental rights”. Education and exemplarity, cultures of peace and non-violence, cooperation and consensus, prevention and precaution, universal peaceful settlements of disputes and if need be, to protect and restore peace and human rights, a use of force that is concerted and controlled, nonkilling, non-maiming and non-violent, and thereafter rehabilitation, reconciliation and reconstruction. These peaceful methods are essential for the common enjoyment and achievement of all human rights, for the existence, the continuity and the improvement of our societies and cultures, for our very existence.

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Nonkilling through 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: it is present when each and all human rights are fulfilled. Similarly, the right to life is present in all human rights. It can be said to *precede* all human rights and it is needed to fulfill them all: if life is taken, all human rights are cancelled⁴. Conversely, joyfully living and celebration of life gives a solid and happy ground to the existence of each and all. Further, life and the quality of life are needed for the peaceful progress, for the fulfillment and 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 in 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, for 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*. The right to life is a fully reciprocal right, granted by all to all.

Nonkilling as a right

The Center for Global Nonkilling encourages all persons and institutions to refuse the recognition of any *right* to kill. Killing is never admissible.

Because of the dignity of the law and because of the fundamental nature of human rights, killing can never be granted as a *right*: it would be unworthy of law.

History has sometimes, for reasons in need of overcoming, granted through law three *powers* to kill (not rights)⁵. These powers have progressively been restricted, much still needs to be done. They shall be used only under strict and impartial control and in exceptional circumstances.

CGNK does not approve or condone to any these killing powers. They are unwanted inhumane remnants of the past and shall be terminated to achieve the future we want.

These three legal powers to kill are:

- 1) *Self-defence*. Legitimate self-defence requires a proportionate reaction in response to a direct, severe and imminent threat, that cannot be addressed otherwise.
 - a) Circumstances needing self-defence are almost always a failure of education and prevention. Such failures shall be thoroughly analysed to design and implement improved policies enabling in similar circumstances respect for life and integrity.
 - b) If nevertheless prevention fails and a need for self-defence occurs, nonviolent, non-maiming and nonkilling means are most appropriate, proportionate means to react to the threat or the aggression. So often, these means are the most efficient, the less damaging course of action. Much more still needs to be done through education, cooperation, prevention and non-violent practices to empower people, culture and institutions to achieve reactions to violence that do not resort to imitating the aggressor's violence and reply from higher moral grounds and more peaceful means⁶.
 - c) Whatever means are used, the results of legitimate self-defence, if maiming or killing happens, shall always be reviewed and monitored by a totally independent, impartial mechanism, encompassing victims and civil society⁷.
 - d) Self-defence warrants any *use of force*. Force may highly impact on the rights to life, personal integrity and security. Use of force shall always be prevented, avoided or highly limited⁸. States have an ethic and legal duty of exemplarity regarding respect of fundamental rights.

As such, they have a duty to act non-violently – force is not violence! – and to enable themselves to avoid maiming or worse. Security forces must be trained in prevention and non-violent techniques and are due to report, debrief, practice lessons learned; to uphold policy changes towards less violence and to avoid recurrences of any use of force or situation that may result in use of force. Again, any official use of force should be monitored by a totally independent mechanism.

2) Death penalty is a major and definitive breach of the right to life and a denial of numerous other human rights, including those of other related persons. It is a inhumane, cruel and degrading treatment⁹ and preventive effects are not demonstrated¹⁰. It severely lacks the necessary dignity, legitimacy and exemplarity required of any authoritative power. It is double standard as it is impossible for a State to show full respect for life and the right to life if the State itself is practicing killing, thus legitimating it.

Death penalty is not compatible with the Sustainable Development Goals (SDG) which entail universal development by “leaving no one behind”. Killing someone is worse than left behind; it deprives of the share of our common human destiny; of the right to amend and of the possibly, if it may be, of repairing wrongdoings. Unanimously adopted, the SDG’s imply the possibility of development and rehabilitation. Further, they require “significant reduction of violence and related killings (SDG 16.1)”, reduction which surely includes killings by the State.

3) Powers of war, as conceded in very limited circumstances, by the United Nations Charter and humanitarian law, dare an exception to the right to life permitting under strict circumstances and given due precautions, the taking of the life of soldiers.

War is morally and legally unacceptable, profoundly backward: it is time to put an end to it¹¹.

Seeing respect for life prevail – always – and nullifying these three exceptions to the right to life are objectives of the Centre for Global Nonkilling for our human community,.

The right to peace

Peace originates in and enhances our human nature. It is the greatest expression of dignity.

It is supported by intents, thoughts, feelings and knowledge. Peace grows through care and prevention and is assured by non-violent institutions and people, practices. It builds on peaceful relations and humane methods. The responsibility, the guarantee of peace rests in each and every one of us. No life would be possible without a sufficient attainment of peace. Peace will be achieved when all human rights, including the right to peace, cooperatively prevail.

Peace is a right¹², but it is also a method needed for the completion of all other human rights.

Peace has a serene core: a central zone where life, peace and all relationships are naturally and wilfully enjoyed. Walking in the peace zone, peacebuilding is at work through education and empowerment; cooperative and proactive people building and living in strong and kind, fulfilling and inclusive societies. Approaching the outskirts of the zone, non-violence enables us, through prevention and precaution, if need be, using universal peaceful settlements of disputes, to practice justice without aggravation or deprivation, without losing sight of our deep and essential values, thus doing reconstruction and reconciliation work, leaving no one behind and bringing people and their representatives, our political infrastructures closer to a sustained peace. Beyond the peacebuilding zone, there is space for peace-making, prevention of all sorts of violence, if need be gentle use of force, leaving no one apart from the peace process. There is nothing further: all the “not so at peace zones” are peacebuilding or peace-making zones!

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Peace is fully present, though 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 indeed a peaceful order.

Peace is fully present in the Sustainable Development Goals¹³.

The links between *human rights and peace* are widely being developed¹⁴.

We salute with great respect **the vote by Indonesia** in favour of the Declaration on the Right to Peace¹⁵. It is time to adhere to, to learn about peace and peaceful methods, to implement them¹⁶.

Other related human rights

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

Some are of direct influence for the achievement of the rights to life and to peace, and to avoid their breach.

The universal *right to participate in the decision-making*. It creates inclusive and humane societies, where responsibilities regarding life and public affairs are equally shared for the well-being of all. The more people participate, the more the work is done towards consensus, the more core values will emerge, the consequences of all decisions will be seen and the easier it will be to achieve SDG 16: safe and inclusive societies.

The *right to health* is essential for the fulfilment of all human rights, including the right to life and its subsequent right to longevity. Health is also needed to achieve societies in which *all human rights are equally shared*.

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

The *right to a sustainable environment* is need for the life of humanity life on Earth. It requires urgent and accurate action.

The *right to happiness*, the fulfilment of life in reverence for life is mentioned:

“Happy people breed a happy world”

Universal Periodic Review of Indonesia

All States have a full duty of exemplarity. Such a duty – being examples in the respect and promotion of human rights – is vested in their legal commitment to human rights.

Reciprocally, exemplarity is enshrined in our capacity, as human beings,
to give the best of ourselves.

The duty of exemplarity is expressed in international law,
as it is needed to reach the legitimate and peaceful goals of the International Community.

The right to life in the international human rights constitutions

Living happily

The following treaties and international legal obligations are directly concerned regarding the full enjoyment of the right to life:

- The Convention on the prevention and punishment of the crime of *genocide*,

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- The Covenant on *civil and political rights*, article 6,
- Its Optional protocol aiming at the *abolition of the death penalty*,
- The Convention on *enforced disappearances*.

These conventions are the minimum legal standards needed for any State to internationally recognize and show full respect for life and the right to life.

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

Beyond legal aspects, it is consciously evident that it is our knowledge of the bounty of life, upheld by ethics and human best practices and our historical progresses who make for a happy and sustained life. Our heart feelings, our well understood and shared survival instincts, our sound and profound understandings, our good will and evaluation capacities may and shall guide us towards our fulfillment.

Further, it is when we offer to humanity and each other such knowledge of life, when we share our feelings of love and prevailing practices of peace that we create the solidarity needed for the survival of Life on Earth.

It is when institutions understand and promote individual and collective life, happy life, when institutions exemplify progress in dignity that we may and will attain a sustainable civilization. However, our institutions are only guided by our own individual and collective commitments to give a future, a meaning and a worth to the lives we all live and lead, for ourselves as for our world, now as for future generations.

Prevention of genocide

In a time in which humanity must learn to survive on our planet, the prevention of genocide and care for the sustenance of life for all individuals and all social and political groups, for our species is and remains of vital importance. The universal prevention of genocide, through the ratification of the Convention on the prevention and the punishment of the crime of genocide, but also through the establishment of local focal points for prevention will be a great sign of hope and a solid work to prevent genocide.

Every person needs to be part of a social group to live and thrive in society, to relate with its kin, its government and institutions; every individual, every social groups and every State is concerned and has a right and a responsibility, a duty to enhance and protect life for each and all, to be protected against all forms of discrimination, of violence or worse, against any destruction of life, including genocide.

The United Nations Special Adviser for the Prevention of Genocide calls for the universal ratification of the Convention¹⁷. The Human Rights Council has adopted resolutions containing similar calls¹⁸.

The ratification of the Convention and adapting local laws is a rather simple accomplishment. It requires a decision to ratify, a parliamentary change of the criminal code to criminalize genocide and a certified letter to the Secretary General confirming ratification.

Endorsing prevention of genocide is a national endeavour, moreover in countries with a very diverse population or if the concerned country has a troubled past. It is a sign of participation, a beacon of hope and reason for the national and international communities, ensuring for a brighter future. Tools and initiatives are available for the efficient prevention of genocide and atrocity crimes¹⁹. Ratification is a message sent to all humanity that the respect of lives, all lives, is possible and essential, that nonkilling is needed and attainable.

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Indonesia received during the third cycle, from Armenia, its first recommendation asking for the ratification of the Convention. Regretfully, it was noted, and without detailed explanations²⁰.

Nevertheless, to progress towards universal nonkilling, we strongly recommend to the Authorities of Indonesia the swift ratification of the Convention on the Prevention and the Punishment of the Crime of Genocide.

*Calling on each and all to attain a nonkilling world,
where life can be sustained for all on Earth,
we welcome the delegation of Indonesia to Geneva,
the City of Peace,
and wish you, as to all the people of Indonesia,
a constructive, successful, enhancing and fulfilling
Universal Periodic Review.*

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

² <https://nonkilling.org/center/book-review/ahinsatmak-rajnaitik-vigyan-nepali>

³ <http://nonkilling.org/center/how-to-help>

⁴ The Human Rights Committee, in 2018 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

⁵ Powers are not “rights”, sometimes and hereby they are wrongs!

⁶ The UNESCO Seville Declaration on Violence, 1989, stated the “The same species who invented war is capable of inventing peace. The responsibility lies with each of us”. 30 some years later, the tools arising from this major invention are largely available. They need implementation.

⁷ See our statement at the Human Rights Council related to George Floyd’s death :

<https://nonkilling.org/center/download/human-rights-council-43rd-urgent-debate-2020-06-17-18/>.

⁸ 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>

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

¹⁰ The question was discussed at Human Rights council session 48, the report is in the making.

¹¹ This paragraph needs improvements taking in account the illegality of war (Charter article 2, § 3 and 4), the strict limitation to State Self-defence (Charter 51) and the illegality of the crime of aggression (Rome Statute, art 8a, and may customary law).

¹² <http://www.undocs.org/A/RES/71/189>

¹³ SDG 4.7 and 16 as a whole: “By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, *promotion of a culture of peace and non-violence*, global citizenship and appreciation of cultural diversity and of culture’s contribution to sustainable development (4.7)”.

¹⁴ Among numerous examples, 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>. There is Conflict prevention caucus at the Human Rights Council.

> 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

¹⁵ United Nations General Assembly, 2016 <http://www.undocs.org/A/RES/71/189>

¹⁶ 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.

¹⁷ http://www.un.org/en/genocideprevention/documents/171208_AD_International%20Day_FINAL.pdf

¹⁸ Without a vote at its 37th and 43rd sessions http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/26 and <https://www.undocs.org/A/HRC/RES/43/29> § 7. A similar resolution is presently tabled for the 49th session.

¹⁹ I. e. : <http://www.gaamac.org/organizations>

²⁰ 141.16, made by Armenia. <https://www.ohchr.org/en/hr-bodies/upr/id-index> Specifically, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7/Add.1

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