

Universal Periodical Review

Third Cycle

Marshall Islands



**Right to Life
and
Related Human Rights Issues**

3rd of October 2019

“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,
but also 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”.**

*This Universal Periodic Review Submission is dedicated to
Toni de Brum, Marshallese recipient, with the people of the country of the “Right Livelihood Award”.*

Introduction

The Center for Global Nonkilling (CGNK) was founded by Glenn Paige (1929-2017), political science Professor and author of the book “Nonkilling Political Science”, translated in numerous languages². The Center is a worldwide congregation of persons, scholars and others, working at creating societies that do not kill. Valuing life in all its dimensions is a necessary mission; please join the Center for Global Nonkilling in celebrating, enhancing and protecting life³. The Center has ECOSOC special consultative status since 2014. At each session of the UPR, CGNK makes usually one as comprehensive as possible submission making a wholesome “cliché” of the situation of life in the studied country and a few shorter submissions were focusing is on specific issues⁴. We presently call for the Universal ratification of the Convention on the prevention and the repression of the crime of genocide. All concerned countries will receive a CGNK NGO submission.

This is a short comprehensive submission, focusing mainly on international legal aspects of the right to life.

Human rights

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise out of our fundamental human nature and are expressed by our feelings and values. They grow and remain through knowledge, practice and kindness. They are needed to build lasting and prosperous, thriving and humane societies, enabling each and every one to lead a fulfilling life. Human rights are universal values, human and legal values.

They are supported and implemented by universal and fundamental methods such as education and exemplarity, the culture of peace and non-violence, prevention and precaution and peaceful settlements of disputes. These methods are fully needed for the full respect, the common enjoyment and the achievement of all human rights.

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The right to life

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

- a. If dignity can be said to be the paramount human right, present when each and all human rights are fulfilled, so is the right to life present within all other human rights. However, the right to life precedes all other human rights: if life is taken all human rights are cancelled⁵. Conversely, living and joyfully living, thus granting life and giving a solid ground to the existence of life and to the right to life, to equality and quality of life is the base needed for the peaceful progress, the proactive fulfillment and the completion of all human rights.
- b. There are no possible limitations or 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 should thus be dealt with in a preventive, human and humane sustainable manner, for each and all, in full dignity.
- c. There is only one way to guarantee the respect of life, to protect and ensure the right to life: full and effective prevention. Once a life is lost, compensation may be due, but there are no possible reparations for that lost life.
- d. Henceforth, the right to life is also the *absolute duty not to kill*. As such, the right to life is a fully reciprocal right, granted to all and in need of being granted by all to all, individually as collectively.

The Center for Global Nonkilling, whatsoever, recognises no *right* to kill and encourages all persons and institutions to do likewise.

Though not rights, three *powers* to kill have sometimes been legally granted and they are always granted under very strict circumstances. We do not approve or condone to these existing powers. They should be made into what they often already are: unwanted remnants of the past. These powers are:

- 1) The use of legitimate self-defence, by a proportionate reaction linked to a direct, serious and imminent threat, as legally required. The circumstances where self-defence may be needed are always a failure of prevention: failure that should be thoroughly analysed to extract lessons learned and design more accurate policies and best practices. If these circumstances nevertheless occur, by using nonviolent means the reactions should never result in killing or maiming. Thereafter, whatever the result of legitimate defence, an independent judicial control over it is part of the rule of law.

Similarly, because it highly impacts on the rights to life, on personal integrity and security, any *use of force* by officials and any one shall be avoided, or highly limited⁶. We insist on the fact that States have a duty of exemplarity regarding fundamental rights and values and regarding full respect and promotion of human rights. Outmost attention is therefore to be given to prevent situations which may result in loss or losses of lives or in any type of maiming. Failures of prevention shall be thoroughly monitored to extract lessons learned and instigate changes in

policies. Methods used when the use of force is nevertheless needed should be inspired by non-violent techniques as used by civil society: force is not violence as long as it causes no harm. Again, any official use of force should be monitored by a totally independent mechanism. We encourage the creation of autonomous police complain courts, totally or sufficiently separated and independent from police and prosecutors, having full investigative and decisional powers.

2) Death penalty, if ever permissible, is however a major and definitive breach of the right to life and of numerous other human rights, including of other related persons. It is also considered as being an inhumane, cruel and degrading treatment⁷. It is the worst example of respect for the right to life a State and a nation can give. Preventive effects being undemonstrated, it is unworthy and it lacks the necessary dignity and legitimacy, the moral standards and exemplarity required of any authoritative power. Death penalty is not compatible with the Sustainable Development Goals (SDG) as they grant universal development in its main assertion to “leave no one behind”. Such an affirmation unanimously adopted by all Members of the UN is grant a right to development and rehabilitation for all. The SDG’s also require “significant reduction of violence and related killings (SDG 16.1)”. This includes State killings.

3) Powers of war, as conceded by humanitarian law may be an exception to the right to life, as it permits, under certain circumstances and precautions only, the taking of the life of soldiers. This is morally unacceptable and profoundly backward. Seeing 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 purpose for all humanity, for the sake of life in peace.

The right to peace

Peace originates in our human nature, is supported by human feelings and knowledge, continues through prevention and practices and is supported by non-violent institutions.

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 universal method needed for the completion of all human rights.

Peace is fully present (if not worded) in article 28 of the Universal Declaration of Human Rights when it states: “*Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized*”. It is only through a peaceful order that such an endeavour can be accomplished: all rights set forth in the Universal Declaration fully realized.

The links between *human rights and peace* are being developed⁸. It is with regret that we noted that the Marshall Islands were absent during the vote on the Declaration on the Right to Peace⁹. It is however time to implement it¹⁰.

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; allow drawing 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 importance, either for the full realisation of the rights to life and to peace, or to avoid their breach.

The *right to participation*, including of women, youth, disabled and all vulnerable persons and social groups is highly important as it creates inclusive and humane societies, where responsibilities are shared for the progress of all 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 and henceforth, 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 social security all 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 to fulfilment, in reverence for life, should always be mentioned:

“Happy people breed a happy world”

Universal Periodic Review of The Marshall Islands

We wish a happy, constructive and peaceful UPR to the people and the authorities of the Marshall Islands.

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

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 on the *abolition of the death penalty*, and the convention on *enforced disappearances* – are, within the human rights constitution, the ones mostly concerned with the right to life. They are the minimum international standards needed for any country to show full legal respect for life and the right to life. National constitutions shall similarly reflect this human and legal stand in favor of life.

Beyond legal aspects, it is consciously evident that it is the bounty of life, the ethics, knowledge and the human best practices, our strong heart feelings and well understood instincts, our sound and profound understanding and good will, it is what we offer to each other and humanity for life, to living well with accurate living means, it is what our institutions promote and exemplify to pursue progress in dignity and achieve a sustainable civilization on Earth, it is our personal and collective feelings, intelligence and commitments that give a future, a meaning and a worth to the lives we live and lead, leaving no one behind, for ourselves as for future generations.

Prevention of genocide

The right to live is also to duty not to kill, for individuals and inasmuch for groups of people. Every person needs life and to be part of a social group to live in and be part of society and to relate with its government and institutions, all thriving for the good of each and all. Therefore all individuals and all social and political groups are to be protected against genocide.

We recall, that the United Nations Special Adviser of the Secretary-General on the Prevention of Genocide has called, for the 70th anniversary of the Convention on the 9th of December 2018 for its universal ratification¹¹. We also recall that the Human Rights Council has adopted, without a vote, at its 37th session 37 in March 2018 a resolution making a similar call¹².

There is a universal duty to protect all social groups and the ratification of the convention and adapting local laws to it is rather simple commitment. However, it is a clear and strong sign sent to all humanity that the respect of lives is essential and the progress towards nonkilling needed and possible.

It is also an overall measure preceding or accompanying other preventive measures and policies. Tools and initiatives are available for an efficient prevention of genocides and killings of all sorts¹³.

I. Hereupon, to progress towards universal nonkilling, we strongly urge and recommend to the authorities of the Marshall Islands the swift ratification of the Convention on the prevention and punishment of the crime of genocide.

Prohibition of the death penalty

The Marshall Islands is free from death penalty ever since independence. We congratulate the Country for this clear stand of exemplarity, a State refusing this power to kill.

However, the Second Protocol of the Covenant on Civil and Political Rights aiming at the Abolition of the death penalty still needs ratification to confirm this stand and fully join the nonkilling by death penalty nations.

II. We joyfully recommend the ratification of ICCPR OPII aiming at the abolition of the death penalty.

It is with some regret that we note that the supported recommendations made to this end by France and Montenegro have not yet been implemented. We encourage these States to provide help and support to attain this needed ratification.

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 know of today no cases of enforced disappearances listed by the working group on enforced disappearances in the Marshall Islands¹⁴.

However, the convention has universal effects and contains provisions regarding cases beyond the national territory¹⁵.

III. Henceforth, we hereby recommend to the State of the Marshall Islands to urgently ratify the Enforced Disappearances Convention.

It is with some regret that we also note that the supported recommendations made to this end by France, Uruguay, Argentina and Brazil have not yet been implemented. We encourage these States to provide help and support to attain this needed ratification.

The international peace constitution

We salute the fact the fact the Marshall Islands has no army, works tirelessly towards nuclear disarmament and recognizes the reciprocal jurisdiction of the International Court of Justice.

We do encourage however progress towards the ratification of the international peace constitution.

IV. Namely, to progress towards universal nonkilling, we recommend the ratification of the following peace and disarmament treaties and conventions:

The optional protocols 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.

The protocols of the Convention of conventional weapons.

The mine and clusters munitions ban conventions.

The arms trade treaty.

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

¹ <https://www.rightlivelivelihoodaward.org/laureates/tony-de-brum-the-people-of-the-marshall-islands/>
https://en.wikipedia.org/wiki/Tony_deBrum

² <http://nonkilling.org/center/publications-media/books-translations>

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

⁴ For more comprehensive analysis, see as examples the ones recently done for the UPR's of Lesotho, Costa Rica or Mauritius. Such submissions look at all legal and practical aspects of the right to life the rights needed to sustain a fulfilling and lasting life, including in relation with the Sustainable Development Goals. Statistics are used therein to uphold the Universal Periodic Review process regarding the fulfilment of life from conception until death, including inter alia reproductive rights and abortions, birth registrations, child and mother's mortality, suicides of all sorts and homicides, traffic, work and leisure casualties and life expectancy. Other topics such deaths in custody, minimal standards of living and other applications of the right to life may be added as accurate for the enhancement, the enjoyment and the protection of life and of the right to life.

Rights to health, minimum standards of living, a healthy environment and peace, all deeply related to the right to life, are studied as needed or according to available means.

⁵ 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

⁶ The constitution of the local State, the Canton of Geneva, states it clearly (§ 184.3): "Confictive 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>

⁷ See i.e. the 9th meeting of the 34th session of the Human Rights Council.

⁸ 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>. Or the Declaration on the Right to Peace A/RES/71/189.

⁹ <http://www.undocs.org/A/RES/71/189>

¹⁰ 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.

¹¹ http://www.un.org/en/genocideprevention/documents/171208_AD_International%20Day_FINAL.pdf

¹² http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/26

¹³ I. e. : <http://www.gaamac.org/organizations>

¹⁴ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/40

¹⁵ 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 witch any person arrested has the right to make is arrest know to a person or an institution of his choice within 48 hours of his arrest. 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.

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