

## Universal Periodical Review

*Third Cycle*

### Nauru



## Right to Life and Related Human Rights Issues

March 26 2020

*“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 to 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), political science Professor, author of the book “Nonkilling Political Science”, translated in numerous languages<sup>1</sup>. 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 with the Center for Global Nonkilling, be a nonkilling center yourself, celebrating, enhancing and protecting life<sup>2</sup>.

CGNK has ECOSOC consultative status since 2014. At each session of the UPR, we make usually one comprehensive submission, a complete “cliché” of the situation of life in the country under review. We also make short submissions on specific issues<sup>3</sup>. We address a recommendation to all States in need of ratifying the Convention on the prevention and the repression of the crime of genocide.

### **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 knowledge, feelings and values. They grow 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.

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. Human rights are supported and implemented 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 fundamental methods are needed 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.

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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 human rights. However, the right to life precedes all other human rights: if life is taken all human rights are cancelled<sup>4</sup>.

Conversely, joyfully living, thus sharing a solid and happy ground to the existence of life for all, highlights the value of the right to life. Further, life and the quality of life, in equality, are the basis needed for the peaceful progress and proactive 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 should 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 respect for life, to protect and ensure that the right to life is fulfilled: full and effective prevention. Once a life is lost, compensation may be due, but there are no possible reparations for a lost life.

d. So forth, 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, to be granted by all, to all, individually as collectively.

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

Though not rights, three *powers* to kill have sometimes been legally granted. They are always granted under very strict and exceptional circumstances. We do not approve or condone to these existing powers to kill. They should be considered unwanted remnants of the past.

These three powers are:

1) The use of *legitimate self-defence*. Legally, 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 always a failure of prevention: failure that should be thoroughly analysed to extract lessons learned and design more accurate policies, best practices for the future. If these circumstances nevertheless occur, using nonviolent means the reaction should never result in killing or maiming. 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, but also on the rights to personal integrity and security, any *use of force* by officials or by any one shall always be avoided, or highly limited<sup>5</sup>. States have a duty of exemplarity to promote fundamental rights and values, to act ad non-violently as possible, a legal duty regarding full respect and promotion of human rights. Utmost attention shall be given to prevent situations which may result in use of force, or further in loss of lives. Prevention failures shall be thoroughly monitored to extract lessons learned, to instigate experience and changes in policies. Methods used when the use of force is nevertheless needed

should be inspired by non-violent techniques: 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.

2) The *Death penalty*, if ever permissible, is however 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 treatment<sup>6</sup>. It is the worst example of non respect for the right to life a State and a nation can give. Preventive effects being undemonstrated, the death penalty is unworthy and lacks the necessary dignity and legitimacy, the moral standards and exemplarity required of any authoritative power. The death penalty is not compatible with the Sustainable Development Goals (SDG) as they grant universal development and as its main assertion and goal is to “leave no one behind”; killing someone is not only 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 includes killings by the State.

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 given certain precautions only, the taking of the life of enemy 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.

### **The right to peace**

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

The links between *human rights and peace* are being widely developed<sup>7</sup>. We salute with great respect the vote by Nauru in favour of the Declaration on the Right to Peace, at the General Assembly in 2016<sup>8</sup>. It is time to implement it<sup>9</sup>.

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.

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### **Other related human rights**

All human rights are needed for the fulfilment of a safe and happy life.

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

The *right to participate in the decision making* including of 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 and therefore, 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 Nauru**

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

### **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 aiming at the *abolition of the death penalty*, and the Convention on *enforced disappearances* are within the human rights constitution, the ones mostly concerned by the application of the right to life. They are the minimum standards needed for any country to internationally recognize – and thus 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 our knowledge of the bounty of life, upheld by ethics and human best practices, by our historical progresses that make for a happy and sustained lasting life. Our heart feelings and our well understood instincts, our sound and profound understandings, all the good will may and shall guide us towards our fulfillment. Further and only, it is when we offer such knowledge and feelings to each other as to humanity that we create the solidarity needed for Life on Earth.

It is when institutions understand this and promote individual and collective life, happy life, when they exemplify progress, in dignity, that we may attain and achieve a sustainable civilization on Earth. However, our institutions may only be guided by our own, brought together commitments to give a future, a meaning and a worth to the lives we all live and lead, leaving no one behind, for ourselves as for our world, now as for future generations.

### **Prevention of genocide**

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

The United Nations Special Adviser for the Prevention of Genocide has called for the universal ratification of the Convention on genocide<sup>10</sup>. The Human Rights Council made a similar call<sup>11</sup>.

The ratification of the Convention and adapting local laws is a rather simple commitment. It is a local and national endeavour, but it is also a sign of participation, a beacon of hope and reason for the international community and to ensure the overcoming of an unworthy past for brighter future. It is a clear and strong message sent to all humanity that the respect of lives, all lives, is essential and that the progress towards nonkilling is needed and possible. It is also an overall measure preceding and accompanying other preventive measures and policies; tools and initiatives are available for an efficient prevention of genocides, mass atrocity crimes and killings<sup>12</sup>.

**I. To progress towards universal nonkilling, we recommend the urgent ratification by Nauru of the Convention on the prevention and punishment of the crime of genocide.** There is a supported recommendation made by Armenia during the previous cycle. For a comprehensive implementation of supported resolutions, the ideal would be to **have the convention ratified as soon as may be, at best before Nauru's forthcoming session with the UPR working group.** Please ask for technical assistance if needed.

### **The international covenant on civil and political rights**

The universality of human rights implies a commitment by all States to the values and practices of the basic standards of human dignity and well-being. The covenant is almost universally ratified. It is time for Nauru to do likewise.

**II. We strongly support and encourage the swift ratification of the Covenant on civil and political rights by the people and the authorities of Nauru.**

### **Prohibition of the death penalty**

We congratulate the Nauru for the abolition of capital punishment<sup>13</sup>.

The ratification of the second optional protocol of the Covenant on civil and political rights (CCPR) aiming at the abolition of the death penalty requires the ratification of CCPR.

**III. We strongly support and encourage the ratification of CCPR.**

Yet, death penalty is still present in the Constitution of Nauru.

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)<sup>14</sup>. The use of force, preferably of nonkilling, non-maiming and non-violent force shall always be avoided, or highly limited, in all circumstances and this shall be enshrined as such in the constitution.

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 Nauru is too wide, sends a wrong message about the imperative protection of life and the right to life, by all. It shall be changed as soon as possible<sup>15</sup>.

**IV. We recommend to the people of Nauru and their authorities engaging in a participative process to amend the Constitution and to value life therein (instead of allowing in it open exceptions breaching the right to life).**

**V. Thereafter, we recommend the 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 Nauru<sup>16</sup>.

However, the convention has universal effects and contains provisions regarding cases beyond the national territory<sup>17</sup>.

**VI. Henceforth, we recommend to Nauru the ratification of the Enforced Disappearances Convention.**

*Calling on each and all to create and attain a nonkilling world,  
where life can be sustained on Earth,  
we welcome the delegation of Nauru  
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.*



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

<sup>2</sup> <http://nonkilling.org/center/how-to-help>

<sup>3</sup> For more comprehensive analysis, see as examples the ones recently done for the UPR's of Nepal, Lesotho, Costa Rica or Mauritius. Such submissions look at all legal and practical aspects of the right to life and 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 as 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, to a healthy environment and to peace, all deeply related to the right to life are studied as needed or according to available means.

<sup>4</sup> 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](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf)

<sup>5</sup> 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>

<sup>6</sup> See i.e. the 9<sup>th</sup> meeting of the 34<sup>th</sup> session of the Human Rights Council.

<sup>7</sup> See 3<sup>rd</sup> meeting of the 34<sup>th</sup> 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 13<sup>th</sup> of June 2016 appeal by Switzerland and 70 States, <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-62152.html>.

And the United Nations General Assembly's Declaration on the Right to Peace A/RES/71/189, link here after.

<sup>8</sup> <http://www.undocs.org/A/RES/71/189>

<sup>9</sup> They are possibilities described here: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/31](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.

<sup>10</sup> [http://www.un.org/en/genocideprevention/documents/171208\\_AD\\_International%20Day\\_FINAL.pdf](http://www.un.org/en/genocideprevention/documents/171208_AD_International%20Day_FINAL.pdf)

<sup>11</sup> [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/37/26](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/26)

<sup>12</sup> I. e. : <http://www.gaamac.org/organizations>

<sup>13</sup> [https://en.wikipedia.org/wiki/Capital\\_punishment\\_in\\_Nauru](https://en.wikipedia.org/wiki/Capital_punishment_in_Nauru), <http://www.worldcoalition.org/Abolition-of-the-death-penalty-in-Nauru.html>

<sup>14</sup> [https://www.constituteproject.org/constitution/Nauru\\_2015?lang=en](https://www.constituteproject.org/constitution/Nauru_2015?lang=en)

<sup>15</sup> [List of countries with such a clause](#) (12.2019):

|                     |                               |                    |
|---------------------|-------------------------------|--------------------|
| Antigua and Barbuda | Bahamas                       | Barbados           |
| Belize              | Botswana                      | Cyprus             |
| Dominica            | Gambia (incl. draft 2019)     | Ghana              |
| Grenada             | Kiribati                      | Mauritius          |
| Nauru               | New Guinea                    | St-Kitts and Nevis |
| St-Lucia            | St-Vincent and the Grenadines | Samoa              |
| Sierra Leone        | Solomon Islands               | Swaziland          |
| Tuvalu              | Zambia                        |                    |

<sup>16</sup> [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/42/40](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/40)

<sup>17</sup> 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.