

Universal periodical review

Third cycle

NEW ZEALAND

COOK ISLANDS

NIUE



Participation in the Universal Periodic Review

Right to life

and related human rights issues

12th of July 2018

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

The Center for Global Nonkilling (CGNK) has a unique mission, that is both inspirational for individuals and transformative for societies:

“To promote change towards the measurable goal of a killing-free world by means open to infinite human creativity in reverence for life”.

CGNK was founded by Glenn Paige (1929-2017), political science Professor and author of the book “Nonkilling Political Science”, translated in numerous languages¹. The Center is a worldwide congregation of persons, scholars and others, working at creating societies that do not kill. Valuing life in all its worthwhile dimensions is a necessary mission; please join the Center for Global Nonkilling in celebrating, enhancing and protecting life². The Center has ECOSOC special consultative status since 2014. At each UPR session, CGNK makes usually one main submission looking at all or many aspects of the right to life and a few shorter ones focusing on specific or salient issues³.

The right to life

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise out of human nature and are needed for individual fulfilment as to build lasting and prosperous, thriving and humanist societies. They are universal values, moral and legal values. They are complemented by universal and fundamental methods such as, inter alia, exemplarity, prevention and precaution, peaceful settlements of disputes and non-violence. These methods are needed for the full respect, implementation and common enjoyment of all human rights.

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 as it is present when each and all human rights are fulfilled, so can be the right to life present within all other human rights. Yet it can also be said that the right to life *precedes* all human rights: if life is taken all human rights are cancelled⁴. Conversely and more joyfully, granting and giving solid ground to the right to life – as to the quality of life – is the base needed for the peaceful progress and the proactive fulfillment, for the completion of all human rights.
- b. There are no possible limitations or restrictions to life and 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 in a preventive, humane and human sustainable manner, for each and all, in full dignity.
- c. There is only one way to guarantee respect of, to protect the right to life: prevention. Once a life is lost, compensation may be due, but there are no possible direct reparations for a life lost.
- d. Henceforth, the right to life is also the duty not to kill. As such, the right to life is a fully reciprocal right, granted to all, but also in need of being granted to all by all.

*“We understand the right to life as being the right not to be killed,
but also as everyone’s responsibility not to kill others”.*

The Center for Global Nonkilling recognises no right to kill. Though not rights, three powers to kill have sometimes been granted or legally been recognized or organized:

1) The use of legitimate defence – as legally required: by a proportionate reaction linked to a direct, serious and imminent threat, requirements to which we add: by using nonviolent means – should never result in acts of killing or maiming. Nevertheless, whatever the result of legitimate defence may be, an independent judicial control over it is part of the rule of law.

Similarly, because it highly impacts on the right to life, any *use of force* by officials or any one, as it impedes on the *rights to security and integrity*, should be avoided or highly limited⁵. Outmost attention is to be given to prevent situations which may thereupon result in loss or losses of lives or in any type of maiming. Again, any official use of force should be monitored by an independent mechanism.

2) Death penalty, if it was ever permissible, is however a major and definitive breach of the right to life and of numerous other human rights. More often than not, it is considered an inhumane, cruel and degrading treatment⁶. It is a poor example of respect for the right to life and thus, unworthy and lacking the necessary dignity, the exemplarity required of any authoritative power or institutions. As we are to universally preserve our species and life on Earth, so shall we therefore protect all members of our species. Death penalty is to be abolished.

3) Powers of war, as conceded by humanitarian law, permit as an exception to the right to life, under certain circumstances only, the taking of the life of enemy soldiers. Seeing peace and respect of life prevail – always – and thus nullifying this exception is one of the objectives of the Center for Global Nonkilling.

Other 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 right to life or to avoid its breaches.

The links between *human rights and peace* are progressively being developed⁷. The Center for Global Nonkilling attaches a special importance to the *human right to peace* as human rights can only progress and be coordinated, be reciprocally fulfilled in a peaceful environment⁸. Furthermore, peace and peaceful methods provide means to solve conflicts (including between competing human rights) without aggravating them and, as may be, to the advantage of all persons and institutions concerned, in a constructive or reconstructive way. Conflicts solved peacefully make it easier to alleviate feelings with respect, to draw lessons learned from difficult situations and to design policies for future prevention and overcoming.

Regarding the right to peace, as the Cook Islands and Niue are not members States of the UN, they could not vote for the declaration on the right to peace⁹. However, we would be happy to see them endorse it and to know how they will be implementing it in their public policies, both locally and internationally.

The *right to participation*, including of women, youth and disabled, is highly important. The more people take responsibility for their lives, the more they will respect the lives of others as of all.

Further, the more people participate to the decision making processes, the easier it will be to achieve the Sustainable Development Goals (SDG).

The right to *accurate standards of living*, including the rights to food, water and sanitation, clothing and housing, to rights to work and social security deserve full attention too, 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. The *human right to a healthy natural environment*, thus sustaining humanity and life on Earth, deserves accurate protection and attention. It must be, as often as need be, recalled that it is needed to achieve societies in which all *human rights are all equally shared*. Finally, the *right to happiness* or to fulfilment in reverence for life should be mentioned as “happy people breed a happy world”.

Participation of other political entities to the Universal Periodic Review

As it is named, the Universal Periodic Review is meant to be universal. We therefore hold it to be true that all territories, whatever their status, should participate in the UPR.

The present submission (a short one as it is one of our practices) is specifically meant to address some of the issues concerning Niue and the Cook Islands¹⁰.

I. Henceforth, we urge the Governments New Zealand, Cook Islands and Niue to open the process and to submit at least partially separated reports.

A. International human rights constitution.

The following 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 basic international human rights treaties) 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 for the right to life.

National constitutions should clearly reflect this legal stand in favor of life.

Beyond legal aspects, it is the bounty and the worth of life, ethics and sufficient living standards for all, knowledge and best practices that give a future and a meaning to the lives we lead and live, for ourselves as for a sustainable civilization, for future generations.

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Prevention of genocide

The right to live is also to duty not kill, for individuals and inasmuch for groups of people. Every person needs life and needs to be part of social groups to live, to participate in the progress of society, to relate to others and with institutions and governments, ideally all thriving for the good of each and all. Therefore all individuals, all social and all political groups should be protected against genocide.

We here recall that, for the 70th anniversary of the Convention on the prevention and punishment of the crime of Genocide, the United Nations' Special Adviser of the Secretary-General on the Prevention of Genocide has called for its universal ratification¹¹. We also recall that the Human Rights Council has adopted, at its 37th session without a vote, a resolution containing a similar call¹².

Nothing in the political or strategic situation of a country can justify the absence of the needed tools for the prevention of genocide and atrocity crimes. More than not, even if such a measure as the ratification of the convention may seem to be a light commitment, it is a clear sign that such crimes will never be tolerated and a head start for long term policies. It is an overall measure preceding or accompanying other policies meant to prevent atrocity crimes. More than not, this ratification is needed as tools and initiatives are available for effective prevention¹³.

II. Hereupon, as we do to all States that have not yet done it, the Center for Global Nonkilling urges the Authorities of the Cook Islands and of Niue to swiftly ratify the Convention on the prevention and punishment of the crime of genocide.

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, an acknowledgeable presence with, for and from one's kin.

Enforced disappearances violate numerous human rights, be them in law or in customary law. Nevertheless, the convention on enforced disappearances reinforces the protection against disappearances.

There are no standing cases opened before the Working Group on Enforced or Involuntary Disappearances¹⁴.

III. Henceforth, we hereby recommend to Authorities of the Cook Islands and of Niue to swiftly ratify the Convention on enforced disappearances.

*Welcoming the delegation of New Zealand
and hopefully representatives of the Cook Islands and of Niue to Geneva,
we wish to them and to all their people
a constructive and fulfilling Universal Periodic Review.*

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

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

³ For more comprehensive submissions, see the ones recently done for the UPR's of Iceland, Switzerland, South-Korea, the UK or recently Mauritius. Such submissions look at all legal aspects of the right to life and at many practical aspects of 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.

⁴ The Human Rights Committee, in its draft comment 36 (2015) 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, but also serves as a basic right, facilitating the enjoyment of all other human rights". <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx>

⁵ The Constitution of the local canton (federated state) of Geneva (2012), article 184.3 reads: "In all conflictive situations, use of force should be avoided or limited. Concerned persons shall concur" (translation by the author).

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

⁶ See i.e. the 9th meeting of the 34th session of the Human Rights Council.

⁷ See 3rd meeting of the 34th session of the Human Rights Council on mainstreaming human rights on the contribution of human rights to peacebuilding, 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>, the Declaration on the Right to Peace A/RES/71/189.

⁸ Universal Declaration of Human Rights, article 28: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized".

⁹ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/189

<https://digitallibrary.un.org/record/855187>

¹⁰ We also call upon the Holy See and the State of Palestine to participate in the UPR.

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 http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/39