

## Universal Periodical Review

*Third Cycle*

### San Marino

Towards a killing-free country



**Right to Life  
and**

**Related Human Rights Issues**

28<sup>th</sup> of March 2019

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

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

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 and author of the book “Nonkilling Political Science”, translated in numerous languages<sup>1</sup>. The book is available in Portuguese<sup>2</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 the Center for Global Nonkilling in celebrating, enhancing and protecting life<sup>3</sup>. The Center has ECOSOC special consultative status since 2014. At each session of the UPR, CGNK makes usually one as comprehensive as possible submission and shorter ones focusing on specific issues<sup>4</sup>.

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

**The right to life**

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise out of our fundamental human nature and are expressed in our feelings and thoughts. They progress and remain through knowledge, practices and kindness. They are needed to build lasting and prosperous, thriving and humane societies and to for each and every one of us to fulfil our personalities. They are universal values: human and legal values.

They are complemented by universal and fundamental methods such as the culture of peace, prevention and precaution, peaceful settlements of disputes and non-violence. These methods are fully needed for the full respect, the common enjoyment and the achievement 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 is the right to life present within all other human rights as it precedes all human rights: if life is taken all human rights are cancelled<sup>5</sup>.

Conversely, joyfully granting and giving solid grounds to life and to the right to life, to the quality of life in equality for all is the base needed for the peaceful progress and the proactive fulfillment of all human rights; a life worth living is the base needed for 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 to 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, humane and human sustainable manner, for each and all, in full dignity.

c. There is only one way to guarantee respect of and to protect the right to life: 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 duty not to kill. And as such, the right to life is a fully reciprocal right granted to all and in need of being granted by all to all.

The Center for Global Nonkilling recognises *no right to kill*.

Though not rights, three powers to kill have sometimes been legally granted or still remain, all under very strict circumstances. We do not approve or condone to these existing powers to kill. They should be rendered in what they often already are: unwanted remnants of the past.

They are:

1) The use of legitimate defence by a proportionate reaction linked to a direct, serious and imminent threat, as legally required.

These self-defence circumstances, individual or State like, are a failure of prevention.

If they nevertheless occur, using nonviolent means, they should never result in acts of killing or maiming. Nevertheless, whatever the result of legitimate self-defence may be, an independent judicial control over it is part of the rule of law.

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

2) Death penalty, if 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 treatment, for the persons as for their relatives<sup>6</sup>. Killing is the worst example a State can give of respect for the right to life. It breaches the exemplarity required of any authoritative power. States shall not wait for the population to require the abolition of death penalty, they shall not be instruments or accomplice to killings. Death penalty is not either compatible with the Sustainable Development Goals (SDG) as they grant universal development to all, “leave no one behind” and as they require significant reduction of violence and related killings (SDG 16.1). To morally or legally significant a reduction of killings can only be the abandonment of the practice.

3) Powers of war, as conceded by humanitarian law permit, as an exception to the right to life and under certain circumstances only, the taking of the life of 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.

### 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 right to life or to avoid its breaches.

The links between *human rights and peace* are progressively being developed<sup>7</sup>. 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 environment<sup>8</sup>.

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 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.

It is with regret that we note San Marino abstained in 2016 for the adoption of the Declaration on the Right to Peace<sup>9</sup>. It is nevertheless time to implement it<sup>10</sup>.

The *right to participation*, including of women, youth and disabled persons is highly important as well. The more people take responsibility for their life, the more they will respect the lives of others, the lives of all. Further, the more people participate to decision making, 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 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. It is needed as well to achieve societies in which *human rights are all equally shared*. The *human right to a healthy natural environment*, thus sustaining humanity and life on Earth, deserves accurate protection.

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

*“Happy people breed a happy world”.*

## Universal Periodic review of San Marino

### The 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 or basic treaties, the ones directly concerned with the right to life. They are the minimum international standards needed for any country to show full legal respect for life and to the right to life. National constitutions should reflect this legal stand in favor of life.

However, beyond legal aspects, it is consciously evident that it is the bounty of life, the ethics, the knowledge and the human best practices, it is our progresses so far as a species and as a civilization and as individuals it is our strong heart feelings and our well understood instincts, our

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good will and what we offer to each other and to humanity, what our institutions promote and exemplify to pursue progress in dignity and to achieve a sustainable civilization on Earth; it is our personal and collective commitments that give a future, a meaning and a worth to the lives we lead, live and share, leaving no one behind, for ourselves as for future generations.

### **Illegality of enforced disappearances**

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

We salute the fact that there are no disappearances cases in San Marino. However, the convention has universal effects and contains provisions regarding cases beyond the national territory.

**I. Therefore, we recommend to the State of San Marino the ratification of the Convention on Enforced Disappearances.**

### **Participation in international institutions**

It is with regret that we note that San Marino does not have a permanent diplomatic mission in Geneva. We recall that Switzerland may eventually provide help to facilitate the establishment of such a mission.

**II. We encourage San Marino to enhance its presence in Geneva.**

## **The right to life**

### **Birth registration and statelessness**

Everyone has a right to be recognized by the law and the right to a nationality.

San Marino has not yet ratified the conventions on Statelessness<sup>11</sup>.

**III. We encourage the Government of San Marino to ratify the Statelessness conventions.**

### **Child and maternal mortality**

Child under 5 mortality is magnificently low (2.2 / 1'000, world 39.1 / 1'000)<sup>12</sup>, well below SDG 3.2 (10 / 1'000).

Figure for maternal mortality is missing<sup>13</sup>.

**Abortion** is strictly limited in San Marino. To our modest knowledge it is not forbidden if the life of the mother is in danger. We recall that legal abortion has a strong preventive effect and that we stand for an improvement of adoption practices to allow for the survival of the foetus<sup>14</sup>.

**IV. We call on the Authorities of San Marino to open their policies on abortion, at least for cases of duress.**

**Homicides** are so rare, that we can say that San Marino is a killing-free country<sup>15</sup>.

Congratulations!

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**Traffic** deaths are very rare too<sup>16</sup>.

**Suicide** rates are unknown. Neighbouring Italy is already lower than world average (5.5/100,000 and 10.6/100,000). With a population of 33'000, it can be inferred that suicides are rare. Could they become inexistent?<sup>17</sup>.

**Life expectancy** is very high in San Marino, numbered 5<sup>th</sup> country in the world at an average of 83.3 years. Females will live 5 years longer than males<sup>18</sup>. More is needed to explain and fill this gap.

Life is surely very good in San Marino, however for their own sake as to show to show that a non-killing country is possible, statistics need improvements.

**V. We encourage the Government of San Marino to give more means to the statistical office of San Marino to improve the knowledge of the conditions under which the right to life prospers.**

### **The right of participation**

San Marino, so far has no written constitution.

**VI. To enhance participation and civic responsibility, we encourage the people and the authorities of San Marino to initiate a constitutional process and to integrate therein direct participation rights such as referendums and initiative.**

### **The right to peace**

Dignity is present in all human rights, life precedes them all and peace is always interlinking them. Peace is also needed to link the individual person with all social and political groups, with all institutions. Reciprocally, peace links institutions and social groups among themselves as with individuals.

San Marino is one of the 26 countries in the world that has achieved total disarmament<sup>19</sup>. Except for the “Guardia di Rocca”, an honorary guard performing ceremonial duties and if need be helping the police, San Marino has neither armed forces, nor any heavy weaponry and thus has reached a state of non-militarisation.

Noteworthy, San Marino has ratified almost all the disarmament or arms control conventions and treaties listed by the International Committee of the red Cross (ICRC) as part of international humanitarian law, including the Nuclear weapons ban treaty (not yet listed in the ICRC database<sup>20</sup>).

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Are still in need of being ratified:

- Convention on the prohibition of military or any other hostile use of environmental modification techniques (Enmod).
- The convention on some conventional weapons and all the related protocol (CCW).
- The Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict. The Hague, 26 March 1999.

**VII. We recommend the ratification of these treaties to complete or progress towards the ratification of all treaties related to negative peace, thus limiting military uses and consequences.**

**VIII. We also recommend the acceptance of the reciprocal jurisdiction of the International Court of Justice as a peacemaking mechanism and the ratification of the Kampala amendment of the Rome Statute on the Crime of Aggression.**

The progress towards positive peace and the implementation of comprehensive peace policies includes foreseeing, prospective and evaluation. Therefore, we recommend to the State of San Marino:

**IX. To regularly report on the progress of peace in its UPR and the SDG reports, in any relevant reports.**

**X. To work at the United Nations to create or join a group of like minded countries about the achievement of peace, including through non-militarisation.**

**XI. To enhance peace within the country, we encourage the Authorities to create a peace ministry of San Marino, and therein to:**

**XII. Guarantee education for peace and non-violence at all levels of the school system, as promoted by SDG 4.7 and to educate to human rights as advocated by numerous UN resolutions and action plans. To report about it in its next SDG voluntary report and UPR reports.**

**XIII. Forward peaceful settlement of disputes within the country as it is internationally mandatory by upholding and making mediation procedures easily available to all individuals and social groups.**

**XIV. If not yet done, to adopt violence prevention plans as advocated for by the World Health Organisation<sup>21</sup>.**

**XV. If not yet so, to criminalize war and violence propaganda in the national legislation as prescribed by article 20 of the Covenant on Civil and Political Rights.**

**XVI. To train the police and all law enforcement forces in non-violent techniques to prevent and avoid or to strictly limit any use of force. To set up a totally independent mechanism to control any uses force, including non-violent. To equip the police forces with non-lethal weapons.**

**XVII. To set up a special peace fund, within the tax system, to allow individuals and corporations to dedicate funds, a legitimate part of their taxation, directly and exclusively to the promotion, the enhancement and the establishment of peace, locally and**

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worldwide, for the achievement of peace as required by the preamble, the principles and the aims of the United Nations Charter.

*Wishing to the people and the authorities of San Marino  
the continuation and the progress of their nonkilling society,  
we welcome their delegation to Geneva and  
we wish to them as to all the people of the San Marino  
a constructive, enhancing and fulfilling  
Universal Periodic Review.*

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

<sup>2</sup> <https://nonkilling.org/center/book-review/nao-matar-e-possivel-por-uma-nova-ciencia-politica-global-portuguese/>

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

<sup>4</sup> For more comprehensive analysis, see the ones recently done for the UPR's of San Marino, Costa Rica or 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

<sup>5</sup> 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>

<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 Declaration on the Right to Peace A/RES/71/189. <http://www.undocs.org/A/RES/71/189>

<sup>8</sup> 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".

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

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

<sup>10</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>11</sup> No UPR recommendation has been made to that end so far and to our knowledge no local and public information is available on the issue. Clarification is needed.

<sup>12</sup> <https://data.worldbank.org/indicator/SH.DYN.MORT>

<sup>13</sup> World 216/100'000, , below SDG 3.1 70/100'000.

<https://data.worldbank.org/indicator/sh.sta.mmrt>

<http://apps.who.int/gho/data/view.main.1390>

<sup>14</sup> We recall that world data on abortion is still not as clear as it is on numerous other health and life issues. . Data on San Marino is missing.

[http://www.un.org/en/development/desa/population/publications/pdf/policy/WorldAbortionPolicies2013/WorldAbortionPolicies2013\\_WallChart.pdf](http://www.un.org/en/development/desa/population/publications/pdf/policy/WorldAbortionPolicies2013/WorldAbortionPolicies2013_WallChart.pdf)

[https://en.wikipedia.org/wiki/Abortion\\_in\\_San\\_Marino](https://en.wikipedia.org/wiki/Abortion_in_San_Marino)

<sup>15</sup> Date is hardly available, of course if there is nothing to report! However, last known reported homicide in 2012, may it never happen again.

<https://www.gunpolicy.org/fr/firearms/region/san-marino>

<http://wp.unil.ch/space/files/2018/12/San-Marino.pdf>

[https://de.wikipedia.org/wiki/T%C3%B6tungsrates\\_nach\\_L%C3%A4ndern](https://de.wikipedia.org/wiki/T%C3%B6tungsrates_nach_L%C3%A4ndern)

[http://data.un.org/Docs/SYB/PDFs/SYB61\\_T12\\_Intentional%20Homicides%20and%20Other%20Crimes.pdf](http://data.un.org/Docs/SYB/PDFs/SYB61_T12_Intentional%20Homicides%20and%20Other%20Crimes.pdf)

[https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_intentional\\_homicide\\_rate](https://en.wikipedia.org/wiki/List_of_countries_by_intentional_homicide_rate)

<http://apps.who.int/gho/data/view.main.VIOLENCEHOMICIDEv>

<https://www.unodc.org/gsh/en/data.html>

<sup>16</sup> Here again, data is hardly available. Last known to us fatality in 2013. We recall that SDG target 3.6 is to halve traffic casualties by 2020.

<http://apps.who.int/gho/data/view.main.51310>

[http://www.euro.who.int/\\_data/assets/pdf\\_file/0018/301824/San-Marino-GSRRS-2015-en.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0018/301824/San-Marino-GSRRS-2015-en.pdf?ua=1)

[https://www.who.int/violence\\_injury\\_prevention/road\\_safety\\_status/2013/country\\_profiles/san\\_marino.pdf?ua=1](https://www.who.int/violence_injury_prevention/road_safety_status/2013/country_profiles/san_marino.pdf?ua=1)

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[http://www.euro.who.int/\\_data/assets/pdf\\_file/0007/249442/36-San-Marino.pdf](http://www.euro.who.int/_data/assets/pdf_file/0007/249442/36-San-Marino.pdf)

[https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_traffic-related\\_death\\_rate](https://en.wikipedia.org/wiki/List_of_countries_by_traffic-related_death_rate)

<sup>17</sup> Data is missing. It could probably be desegregated from here:

[http://www.statistica.sm/contents/instance15/files/document/14107875Tav\\_morti\\_per\\_ca.pdf](http://www.statistica.sm/contents/instance15/files/document/14107875Tav_morti_per_ca.pdf)

SDG's classify Suicides under Goal 7.

<http://apps.who.int/gho/data/node.sdg.3-4-data?lang=en>

<sup>18</sup> Local data is available.

<http://www.statistica.sm/contents/instance15/files/document/14093228SperanzaDiVitaMa.pdf>

[https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_life\\_expectancy](https://en.wikipedia.org/wiki/List_of_countries_by_life_expectancy)

<sup>19</sup> Christophe Barbey, « *Non militarization: countries without armies. Identification criteria and first findings*». APRED and Åland Islands Peace Institute Working papers series. Octobre 2015, online version. March 2016, paper version.

<sup>20</sup> <https://ihl-databases.icrc.org/ihl>

[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&cmdsg\\_no=XXVI-9&chapter=26&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&cmdsg_no=XXVI-9&chapter=26&clang=en)

<sup>21</sup> [http://www.who.int/violence\\_injury\\_prevention/violence/status\\_report/2014/report/report/en/](http://www.who.int/violence_injury_prevention/violence/status_report/2014/report/report/en/), page 185.

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