

Universal Periodical Review

Third cycle

Republic of Korea



**Right to Life
and related human rights issues**

30th of March 2017

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

***“We understand the right to life as being the right not to be killed
and so forth as being each and everyone’s responsibility not to kill”.***

In memoriam

To Glenn Page, founder of the Center for Global Nonkilling, Korean War veteran, who dedicated his life to Nonkilling and to the respect of life.

Introduction

The Center for Global Nonkilling has a unique mission that is both 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”.***

The Center for Global Nonkilling (CGNK) was founded in 2009 by late Pr. Glenn Paige, Professor of political science and author of the book “Nonkilling Political Science” translated in many languages. CGNK is a worldwide congregation of scholars working to create societies that do not kill. It has ECOSOC special consultative status since 2014.

The right to life

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They are the human and legal values enshrined in and rising from our human existence. They are at the source and express the skills and capacities needed to create dignity for all as well as a sustainable future. They are at the core of all intent meant to live and to live well and they are always present when achieving any and all aspects of a fulfilling life.

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

- a. If it can be said that dignity is the paramount human right because present when each and all human rights are fulfilled, the right to life precedes all other human rights: if life is taken, all human rights are cancelled¹. Conversely, giving solid ground to the right to life and to the 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 shall be dealt with in a preventive, human and humane sustainable manner.
- c. The right to life is also the duty not to kill. Therefore, the right to life is a fully reciprocal universal right: granted to all, but also in need of being granted and protected by all.

Henceforth, the Center for Global Nonkilling recognises not right to kill. Though not rights, three powers to kill have been or are sometimes legally granted.

1) The use of legitimate defence, proportionally as legally required, or better using nonviolent means should never result in acts of killing or maiming. Nevertheless, whatever the result of legitimate defence may be, judicial control over it is part of the rule of law.

Similarly, because it highly impacts on the right to life, the use of force, by officials or by any one should be avoided or highly limited. Outmost attention is to be given to prevent situations which may thereafter result in loss or losses of lives, as in any type of maiming. Any 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. More often than not, it is also considered as an inhumane, cruel and degrading treatment².

3) Powers of war, as conceded by humanitarian law permit, as an exception to the right to life though under certain circumstances only the taking of the life of soldiers. Seeing peace prevail – always – and 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 human rights may be of more direct importance, either for the full realisation or to avoid breaches of the right to life. The links between *human rights and peace* are progressively being developed³. The Center for Global Nonkilling commends this new approach and 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. Recalling that the Universal Declaration of Human Rights states (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*”, such an order can only be a peaceful order. Peace is needed for the simultaneous realisation of all human rights. As an example, the freedom of conscience, thought and religion and the freedom of expression need to be peacefully coordinated to reciprocally express themselves. Peace is a value but also provides methods to prevent or address conflicts of all sorts without aggravating them.

The *human right to a healthy environment*, sustaining humanity and life on Earth, deserves accurate attention as life can only be sustained and offered to future generations in a lasting and healthy environment.

The *right to participation*, including of women and youth, is highly important as well. The more people take responsibility for their life, the more they will respect the lives of others as of all. Further, the more people participate to decision making, the easier it will be to achieve the Sustainable Development Goals (SDG).

Other specific human rights pertaining to the right to life, including inter alia the *rights to security, to adequate standards of living and to health* will be addressed as needed. The *right to happiness* or to fulfilment in reverence for life should be mentioned as well: “happy people breed a happy world”.

Third Universal Periodic Review of the Republic of Korea

To assure proper implementation and the in depth follow up of the UPR process, the Center for Global Nonkilling will first look at previous UPR cycles⁴ of the Republic of Korea and then raise new issues for progress and enhancement.

Results of Previous Cycles

A. Background and framework

I. Scope of international obligations of the Republic of Korea

To achieve SDG 16.1, namely to: “Significantly reduce all forms of violence and related death rates everywhere”, the Center for Global Nonkilling:

1. **Strongly encourages the Government of the Republic of Korea to approve recommendation 64.20⁵ of the 1st cycle and 124.35 of the 2nd cycle and to urgently abolish death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (ICCPR-OP2).**

2. **Strongly encourages the Government of the Republic of Korea to approve recommendation 64.16 of the 1st cycle and 124.6 of the 2nd cycle and to urgently ratify the International Convention on Enforced Disappearance (CPED) and its optional protocol. Moreover has some its own nationals are allegedly abducted abroad.**

3. **Strongly encourages the Government of the Republic of Korea to approve recommendation 124.44 of the 2nd cycle and to urgently give consideration to the implementation of measures and programmes to provide assistance to landmine victims.**

B. (...)

C. Implementation of international human rights obligations

The right to life

As every child, whatever his nationality is or could be has a right to be registered at birth and to fulfill SDG 16.9⁶:

4. **CGNK strongly encourages the Government of the Republic of Korea to approve recommendations 124.29 and 124.47 of the 2nd cycle and to urgently establish a comprehensive birth registration system.**

Liberty and security

Because the use of force should always be avoided or limited to its strict minimum and if used be the subject of an independent control:

5. **CGNK strongly encourages the Government of the Republic of Korea to approve recommendation 124.36 of the 2nd cycle and to establish proper mechanisms for the prevention and control of any use of force.**

Freedom of thought, conscience and religion

Because being consciously capable of refusing a duty to war and because being willing to serve the community in other ways is just as laudable as serving in the military forces; because the Republic of Korea has more conscientious objectors than all the rest of the planet and because the Republic of Korea has to fulfill its obligations under the Covenant on Civil and Political Rights pursuant to the decisions of the Human Rights Committee⁷,

6. **CGNK strongly encourages the Government of the Republic of Korea to implement the approved recommendation 64.1 (To work on the implementation and dissemination of observations of treaty bodies)⁸, to approve recommendation 64.5 (second part here), 64.17 and 64.24 of the 1st cycle; to approve recommendation 124.53 of the 2nd cycle and to urgently establish an alternative service for Conscientious Objectors and release all conscientious objectors presently imprisoned.**

New elements for the third cycle of the UPR of the Republic of Korea

A. Background and framework

I. Scope of international obligations of the Republic of Korea

7. **As all the elements of concern for CGNK and pertaining to the International Obligations of the Republic of Korea have already been mentioned in previous UPR cycles, the Republic of Korea should give special attention to the recommendations previously made, to the fulfillment of these international obligations and to the respect of the right to life⁹.**

Because the *links between peace and human rights*, participate in the creation of peaceful societies (SDG 16), because improving the capacities of the Republic of Korea to develop peace and peaceful process will help improve the situation in the Korean Peninsula and because the protection of the right to life as of all human rights is important in all circumstances, CGNK strongly encourages the Government of the Republic of Korea to ratify the following treaties:

8. **The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.**

9. **The Convention on Cluster Munitions.**

10. **The Protocols II, III and IV of the Convention on Conventional Weapons.**

11. **The Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two protocols.**

12. **The Protocol III of the Geneva conventions.**

As an expression of the duty and choice to settle disputes peacefully,

13. **CGNK encourages the Republic of Korea to make a declaration accepting the automatic or reciprocal jurisdiction of the International Court of Justice.**

Special consideration is to be given to the obligations arising from the 1953 Korean war Armistice Agreement signed by the United Nations Command in Korea and by all belligerents. It contains *a mandate* to set up *within three months* a High Level Political Conference to achieve a Peaceful Settlement of the Korean question (*Preamble, article II §13, IV §60 and V §62 of the armistice agreement*¹⁰). Our reading of the agreement shows that this mandate is still fully valid and in need of being fulfilled.

14. **Therefore we encourage the Republic of Korea to call for a Peace Conference to formally end the Korean War and to deal in a most human way with its aftermaths and consequences**¹¹.

II. Constitutional and legislative framework

The Constitution of the Republic of Korea has no disposition regarding the right to life. However, the Constitution does state: “All citizens shall be entitled to a life worthy of human beings (article 34)”. We salute here the presence of dignity and of the quality of life in the Constitution.

Further, the constitution does not grant initiative rights to allow the people of Korea to amend their Constitution and practice direct democracy¹².

Therefore, CGNK encourages the Government and the Parliament of the republic of Korea:

15. **To enhance the presence of and reverence for life in the Korean Constitution.**

16. **To propose amendments to the Constitution allowing the people to make referendum proposals to amend the Constitution.**

III. Institutional and human rights infrastructures and policy measures

Regional human rights mechanisms improve the knowledge and practice of human rights locally.

17. **As no such mechanisms exist in East Asia, CGNK encourages the Government of the Republic of Korea to open discussions with other interested countries in the region for the establishment of such a regional human rights mechanism.**

D. (...)

E. Implementation of international human rights obligations

1. The right to life

Living happily

Please remember that every life counts. Here is an overview of the situation of the right to life in the Republic of Korea.

a. As recommended above (rec. n° 4), Children’s registration at birth needs to be improved.

b. Infant mortality rate is the 23rd best in the world¹³. SDG target 3.2 is reached.

18. **However, we encourage the Government of the Republic of Korea to bring its support to other countries to reach this SDG Goal.**

c. Abortion is permitted under some circumstances only. It is not permitted on request only. To our knowledge, no figures are available. Family planning is largely accessible¹⁴.

19. **We encourage the Government of the Republic of Korea to do more for abortion prevention and to disclose figures on the number of abortions.**

d. Homicide rates in the Republic of Korea (0.7/100.000) are very low compared to the rest of the world (6.9/100.000 inhabitants, 2013) and to Asia (3/100.000 inhabitants). It ranks 16th country in the world¹⁵.

20. **We still encourage the Government of the Republic of Korea to establish a plan to fulfill SDG 16.1¹⁶ and to lower homicide rates.**

e. Traffic fatalities are lower than world average, but still comparatively very high (65th). (12/100.000)¹⁷. Recalling that traffic casualties is the first cause of deaths due to accidents¹⁸ and that SDG target 3.6¹⁹ has been set at halving road traffic casualties before 2020 (twenty !)

21. **We encourage the Government of the Republic of Korea to do more for the prevention of traffic casualties and to reach the SDG target before its next and 4th UPR cycle.**

f. Life expectancy is high (11th), with an average of 82.3 years of living for both gender, 85.5 years for females, 78.8 years for males.

Disaggregated through gender, the Republic of Korea is the 3rd country for females, but only the 20th for males. This difference goes to say that males die much sooner than females compared to world averages²⁰.

22. **We encourage the Republic of Korea to explain and overcome this discriminatory difference in life expectancy.**

g. Though recently declining, suicide is a very serious problem in the Republic of Korea, which ranks 2^{sd} worldwide, with suicides rates at 36.6/100.000 (world average 6.9/100.000), half of them being elderly people, lots of them being males²¹.

We recall that suicides amount to more than half of all violent deaths in the world²² (accidents not included) and that the World Health Organisation has recommended including suicide prevention in human rights protection²³.

Preventing suicide in the republic of Korea shall be a primary governmental task and duty for the protection of the right to life²⁴.

23. **We encourage the Republic of Korea to present its suicide prevention mechanisms as well as ways to improve them at this next UPR session.**

24. **We encourage the Republic of Korea to reinforce social protection for elderly people, at large as to prevent suicides.**

2. **Other human rights issues related to the right to life**

a. To satisfy all the rights directly needed to sustain life and to achieve the *right to an adequate standard of living*, according to article 11 of CESCR and to achieve SDG 1, so forth to grant freedom from want:

25. **We encourage the Republic of Korea to adopt a basic unconditional income²⁵.**

- b. To enhance *the right of participation* in the decision-making process,
26. **We encourage the Republic of Korea to explore new ways to practice democracy and to reinforce participation of truthfully informed citizens.**
27. **We also encourage the Republic of Korea to explore new ways to enhance the effective participation of youth and women in the decision-making process, as in the peace process, as recommended by Resolution 2250 of the Security Council on Youth and Peace**²⁶.

Conclusion

The value of life – the very essence of our existence and the base of our common destiny – finds factual recognition in the Republic of Korea. A greater legal recognition is needed and some serious problems remain, among others concerning traffic casualties and suicides. A much clearer stance to refute death penalty would also bring a better light to the value and the respect of life.

We here present our compliments to the Government of the Republic of Korea and we wish to the people of the Republic of Korea and their representatives a nonkilling future, as well as a profound and constructive Universal Periodic Review.

¹ The Human Rights Committee, in its draft comment 36 (2015) on the right to life describes life 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>

² See i.e. the 9th meeting of the 34th session of the Human Rights Council.

³ 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.

⁴ We hereby generously thank UPR-Info for their database on UPR recommendations. <https://www.upr-info.org/database/>

⁵ To maintain the current de facto moratorium and to progress towards the abolition of the death penalty and to pass the special bill to abolish the death penalty into law in the new National Assembly that starts on 1 June 2008

http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/KR/A_HRC_8_40_RoK_E.pdf

⁶ “By 2030, provide legal identity for all, including birth registration”. <https://sustainabledevelopment.un.org/sdg16>

⁷ Communications No. 1642-1741/2007 and No. 1786/2008 and § 45 of the Concluding observations on the fourth periodic report of the Republic of Korea.

⁸ http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/KR/A_HRC_8_40_RoK_E.pdf

⁹ For details of these recommendations see previous paragraph.

¹⁰ http://peacemaker.un.org/sites/peacemaker.un.org/files/KP%2BKR_530727_AgreementConcerningMilitaryArmistice.pdf

¹¹ See CGNK’s previous NGO statements regarding this issue, i.e. A/HRC/28/NGO/9

<http://www.nonkilling.org/pdf/G1502860.pdf>

¹² We here recall that CCPR 25 does mention direct democracy: “Article 25. Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, **directly** or through freely chosen representatives; (...)” and general comment on article 25, § 6.

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.7&Lang=en

¹³ 2.9/1000, <http://www.childmortality.org/index.php?r=site/index&language=> ;

https://en.wikipedia.org/wiki/List_of_countries_by_infant_mortality_rate

¹⁴

http://www.un.org/en/development/desa/population/publications/pdf/policy/WorldAbortionPolicies2013/WorldAbortionPolicies2013_WallChart.pdf

¹⁵ 392 fatalities in 2014, 0.7/100.00 https://en.wikipedia.org/wiki/List_of_countries_by_intentional_homicide_rate

http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf

¹⁶ To “significantly reduce all forms of violence and related death rates everywhere”.

<https://sustainabledevelopment.un.org/sdg16>

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- ¹⁷ 5 931 fatalities, 12/100.000, 2013. World average is 17.4/100'000, <http://apps.who.int/gho/data/node.main.A997>, http://gamapserver.who.int/gho/interactive_charts/road_safety/road_traffic_deaths2/atlas.html
- ¹⁸ “*Health in 2015: from MDGs, Millennium Development Goals to SDGs, Sustainable Development Goals*”, World Health Organisation, Geneva, 2015, available here: http://apps.who.int/iris/bitstream/10665/200009/1/9789241565110_eng.pdf p. 183ss.
- ¹⁹ “By 2020, halve the number of global deaths and injuries from road traffic accidents”
<https://sustainabledevelopment.un.org/sdg3>
- ²⁰ 82 (84 for females, 81 for males), <http://apps.who.int/gho/data/node.main.688?lang=en>, https://en.wikipedia.org/wiki/List_of_countries_by_life_expectancy
- ²¹ https://en.wikipedia.org/wiki/Suicide_in_South_Korea
- ²² « Preventing suicide. A global imperative ». World health organization. Geneva, 2014, page 83.
http://apps.who.int/iris/bitstream/10665/131056/1/9789241564779_eng.pdf,
- ²³ « Preventing suicide ... ». p. 7.
- ²⁴ « Preventing suicide ... », p. 56.
- ²⁵ We here recall that the Human Rights Committee has also recommended to the republic of Korea an increase in efforts to prevent suicide. Concluding observations on the fourth periodic report of the Republic of Korea, 3 of December 2015, § 25.
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fKOR%2fCO%2f4&Lang=en
- ²⁶ https://en.wikipedia.org/wiki/Basic_income
http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2250.pdf