

Universal Periodical Review

Forth Cycle

Republic of Korea



Right to Life
Related Human Rights Issues
Right to peace

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

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Thank you for your kind support at www.nonkilling.org

**We understand the right to life
as being the full enjoyment of Life,
as being the right not to be killed,
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".*

The Center for Global Nonkilling (CGNK) was founded by Glenn Paige (1929-2017), Professor of political science, author of the book "Nonkilling Political Science"¹, widely translated². CGNK is a worldwide congregation of persons, scholars and others, working at creating societies that do not kill and enabling all individuals to do so. We are all nonkilling centres and we are all global. Valuing life in all its dimensions is a fulfilling mission for everyone. Please yourself: become a Nonkilling Centre by celebrating, enhancing and protecting life for everyone, everywhere, at all the time³.

For the Universal Periodic Review, we make submissions providing the International Community and the Country under review with either reports on all or most aspects of the right to life in the State under review. Or we make submissions calling for the ratification of the basic treaties of the "life constitution": the Convention on the prevention and the punishment of the crime of genocide, the second protocol of the Covenant on Civil and Political Rights aimed at the abolition of the death penalty, the convention on enforced disappearances. Local constitution shall similarly uphold life in a dignified and inspiring manner.

Life as a nonkilling human right

Life stands as a right for which any exception will destroy the right.

There is therefore *no right* to kill, whatsoever.

History so far (or those that think they make it, righteously or not) has sometimes granted, through law, three exceptions to the right to life: *powers* or permit to kill.

Because law entails dignity, because of the fundamental value of human life expressed by human rights: killing is never admissible. So forth, killing shall and is never be granted as a *right*, it would be unworthy of both life and law.

We do not and cannot approve any exceptions to the right the life.

We call upon humanity, for its own sake (moreover in times of trouble and such we presently have) and we ask to each and every individual to learn about the right to life, to live it peacefully, to be granted by institutions the means needed to enjoy and to appreciate life, to share it among with everyone.

These three killing powers have been highly restricted.

Much more needs to be done to progress towards – and achieve! – a nonkilling world, one where life is preserved and guaranteed, for humanity and every individual, now as for future generations.

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The Center for Global Nonkilling does not, nor should anyone, approve or condone to any these killing powers. These are unwanted inhumane remnants of the past and shall be terminated to achieve the future we want. Our conscience is hurt by such killing possibilities: we call for all persons facing situations in which they may kill to exert their right to Conscientious Objection⁴. If these killings nevertheless occur, they shall be used under strict, impartial and participative legal control, and only in exceptional circumstances.

These three legal *powers* to kill are:

1) *Self-defence*. Legitimate self-defence requires a proportionate reaction in response to a direct, severe and imminent threat, that cannot be prevented, cannot be addressed otherwise.

a) Circumstances needing self-defence are almost always a failure of education, solidarity and prevention. Such failures shall be thoroughly analysed to design and implement improved policies enabling in similar circumstances education, solidarity, prevention and nonrecurrence.

b) If nevertheless prevention failed and a need for self-defence arises nonviolent, non-maiming and nonkilling means are most appropriate, are the proportionate means needed to react and repel the threat or aggression, without causing further damage. So often, these “call on conscience” means are the most efficient, and certainly the less damaging course of action.

Much more needs to be done through education, cooperation, prevention and non-violent practices to empower people, culture and institutions to achieve reactions to violence that do not resort to imitating the aggressor’s violence, to enable replying from higher moral and sane action grounds, with more peaceful means.

c) Whatever means are used, the results of legitimate self-defence, if maiming or killing happens, shall always be reviewed and monitored by a totally independent, impartial mechanism, encompassing victims and civil society.

d) Self-defence also warrants any *use of force*. Force may highly impact on the rights to life, personal integrity and security. Use of force shall always be prevented, avoided or highly limited⁵. States have an ethical and legal duty of exemplarity regarding respect of fundamental rights. As such, they have a duty to act non-violently – force is not violence! – and to enable themselves to avoid maiming or worse. Security forces must be trained in prevention and non-violent techniques and are due to report, debrief, practice lessons learned; they must uphold and demonstrate capacities for policy changes towards less violence, towards avoiding recurrences of use of force. Again, any official use of force should be monitored by a totally independent mechanism encompassing victims and civil society⁶.

2) *Death penalty* is a major and definitive breach of the right to life and a denial of numerous other human rights, including those of other related persons. It is an inhumane, cruel and degrading treatment⁷ and preventive effects are not demonstrated⁸. It severely lacks the necessary dignity, legitimacy and exemplarity required of any authoritative power. It is double standard as it is impossible for a State to show full and true respect for life and for the right to life if the State itself is practicing killing, thus legitimating it.

Death penalty is not compatible with the Sustainable Development Goals (SDG) which entail universal development by “leaving no one behind”. Killing someone is worse than left behind; it deprives of the share of our common human destiny; of the right to amend and of the possibly, if may be, of repairing wrongdoings. Unanimously adopted, the SDG’s imply the possibility of development and rehabilitation. Further, they require “significant reduction of violence and related killings⁹”, reduction which surely includes killings by the State.

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3) Powers of war, as conceded in very limited circumstances by humanitarian law dare an exception to the right to life, thus permitting under strict circumstances and given due precautions, the taking of the life of soldiers. War is morally and legally unacceptable, profoundly backward: it is time to put an end to it¹⁰.

Seeing respect for life prevail, always, and nullifying these three exceptions to the right to life are objectives of the Centre for Global Nonkilling of and for our human community.

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Universal Periodic Review of the Republic of Korea

All States have a full duty of exemplarity.

Such a duty – being examples in the respect and promotion of human rights – is vested in their commitment to human rights and sustainable development.

Reciprocally, exemplarity is enshrined in our capacity,
as human beings, to give the best of ourselves.

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The duty of exemplarity is somehow expressed in international law; it is needed to reach the legitimate and peaceful goals of the International Community.

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

*Living happily*¹⁸

The following treaties, international legal obligations, are directly concerned by the enjoyment of the right to life:

- The Convention on the prevention and punishment of the crime of *genocide*,
- The Covenant on *civil and political rights* (article 6),
- Its Optional protocol aiming at the *abolition of the death penalty*,
- The Convention on *enforced disappearances*.

These conventions are the minimum legal standards needed for any country to internationally recognize and show full respect for life and the right to life, for its people as for our species.

National constitutions shall similarly reflect the stand in favor of life.

I. Life as an institutional gift Prohibition of death penalty

To respect life is to value all lives, without exceptions, distinctions or discriminations.

It is also living as an example of this valuation of life.

States and their authorities have a duty to stand as examples of their respect for life and for the right to life. They are the ones that shall lead, by their example and their policies, the changes of opinions needed regarding the use of the death penalty – whatever is said by the polls – thus bringing dignity and regard for life, both to the State they represent and to the people they serve.

We recall that the right to life granted to all is also the responsibility vested in all to refuse to kill. The act of killing is the same, be it official or a crime: a killing. Accepting that one could be killed and accepting to kill anyone is accepting that act of killing, which impedes our own quality of life and our right to security¹⁹. Regardless of who is killed by whom, why or how, a killing is the destruction of life, inasmuch the destruction of the right to life²⁰.

We urgently recommend to the Republic of Korea to prepare the legal changes needed to definitely abolish the death penalty and to ratify the second Optional protocol of the Covenant on civil and political rights aiming at the abolition of the death penalty and to become a killing-free Nation-State.

II. Life as a manifested existence

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*. The International Convention on the protection of all persons from enforced disappearances has universal effects and contains provisions regarding cases beyond the national territory²¹. The human rights council also has a special procedure, a working group reporting on possible cases of enforced disappearances in countries who are not party to the convention.

They re persons concerned by disappearances in the Korean peninsula, ratification of the convention seems all the more needed.

We urge the Republic of Korea to ratify the Convention on enforced disappearances.

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III. Peace in the Korea Peninsula

We recall that the armistice agreement of 1953 contains a duty to call for a peace conference within three months. 65 years later, such a conference has still not taken place.

We call on the republic of Korea to organize and to regularly and repeatedly call concerned parties such a peace conference.

*All this being peacefully said,
calling on each and all to achieve a peaceful and sustainable,
indeed a nonkilling world,
we wish to the people and to the authorities of Japan
a participative and constructive Universal Periodic Review
and we welcome to Geneva,
a City of Peace,
the Delegation of Japan.*

¹ <https://nonkilling.org/center/publications-media/books-cgnk-publications>

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

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

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⁴ Conscientious objection is a recognized right, at least to military service, which is in times of conflict a major cause of killing, though objection is valid in times of peace as well, as objecting to the possibility of killing. Based on article 18 of CCPR, we consider that it could also be based on article 6, the right to life, as a refusal to kill. We also consider that the right should be extended to any mandatory killing. Similarly, it shall be recognized to persons refusing to pay for killings or pay for military service (www.cpti.ws).

⁵ 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>

⁶ See our statement at the Human Rights Council related to George Floyd’s death : <https://nonkilling.org/center/download/human-rights-council-43rd-urgent-debate-2020-06-17-18/>.

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

⁸ The question was discussed at Human Rights council session 48, the report is in the making.

Every life counts. Yet as an example in Japan: with such a low rate and few homicides cases, one of the best rate in the world (0.3 / 100,000 – world 6.1 / 100,000, 2021), why maintain death penalty, thus augmenting the number of killings in 2021 from 874 to 877, and thus augmenting the rate?

And if the rate is so low, can it still have a general deterrent effect? Indeed, in casu, one may be refrained by the penalty, but the general valuation of life will most likely save more lives, including the lives the State will not take.

⁹ SDG 16.1

¹⁰ Under the United Nations Charter, war is illegal. Member States shall refrain from the use of threat or force and shall solve their conflicts peacefully (Charter article 2, § 3 and 4, article 26 and 33), self-defense is strictly limited (Charter 51). One can add the illegality of the crime of aggression (Rome Statute, art 8bis), as well as customary law.

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¹⁸ And safely under international and national law.

¹⁹ Provide security from deadly judicial errors, to name the least. Less death penalty and thus more respect for life respect which also means less enforced disappearances, less homicides and less wars. Not an unworthy goal.

²⁰ The unabated right to life gives confidence in life; a confidence we all need, and which opens wider for equal and universal betterment of life. The right to life also recalls our common destiny as members of the human community, the fate and the right to life of our species.

Further arguments regarding the death penalty, including links with the SDG, with other human rights and deterrent effects are found in annex one.

²¹ 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 to 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.

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