

Universal Periodical Review

Third Cycle

DOMINICA



Right to Life and Related Human Rights Issues

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“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 or let others die”***

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”.*

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 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 session of the UPR, CGNK makes usually one as comprehensive as possible submission and a few shorter ones focusing on specific issues³. 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, they are expressed in our feelings, grow and remain through knowledge, practice 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.

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. *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, more joyfully granting and giving solid ground to the right to life and to the quality and equality 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 to the end of life such as reproductive rights,

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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, to protect the right to life: that is prevention. Once a life is lost, compensation may be due, but there are no possible reparations for that 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 to all by all.

The Center for Global Nonkilling recognises no right to kill. Though not rights, three powers to kill have sometimes been legally granted, under very strict circumstances. We do not approve or condone to these existing powers. They should be made into 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 circumstances 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 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 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 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 ever permissible, is however a major and definitive breach of the right to life and numerous other human rights. More often than not, it is also considered as an inhumane, cruel and degrading treatment⁵. It is the worst example of respect for the right to life a State and a nation can give and thus, unworthy and lacking the necessary dignity, moral standards and exemplarity required of any authoritative power.

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.

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 developed⁶. 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 environment⁷.

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

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alleviate feelings with respect, to draw lessons learned from difficult situations and to design policies for future prevention and overcoming.

The *right to participation*, including of women and 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 as 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 and attention as well. The *right to happiness* or to fulfilment in reverence for life should be mentioned as:

“Happy people breed a happy world”.

Universal Periodic Review of Dominica

We wish a happy UPR to the people and the country of Dominica.

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 (basic 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 the right to life. National constitutions should reflect as well 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, strong heart feelings and our well understood instincts, our good will; it is what we offer to each other and to humanity for life, living well and living means; it is what our institutions promote and exemplify to pursue progress in dignity and to achieve a sustainable civilization on Earth and so forth it is our personal and collective commitments that give a future, a meaning and a worth to the lives we lead and live, leaving no one behind, for ourselves as for future generations.

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 a social group to live, to be part of a society and to relate with its government, ideally all thriving for the good of each and all. Therefore all individuals as well as all social and political groups should be protected against genocide.

We recall, that the United Nations Special Adviser of the Secretary-General on the Prevention of Genocide has called, for the 70th anniversary of the Convention, on the 9th of December 2018

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for its universal ratification⁸. We also recall that the Human Rights Council has adopted, without a vote at its session 37 in March this year, a resolution containing a similar call⁹.

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. However 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, as such an overall measure preceding or accompanying other measures and policies. More than not as tools and initiatives are now available for prevention¹⁰.

I. Hereupon, we strongly urge and recommend to the authorities of Dominica the ratification of the Convention on the prevention and punishment of the crime of genocide as soon as possible.

Abolition of the death penalty

To respect life is to value all lives, without distinction or discrimination. The act of killing is the same, be it official or a crime. States have the duty to stand as examples of respect for life and for the right to life. We recall that the right to life granted to all is also the responsibility vested in all to refuse to kill. Accepting that one could be killed or to kill one is accepting the act of killing; as such, regardless of who is killed, how many are killed or why there is a kill.

We command the fact that in Dominica no executions have been carried on in a long period of time. It is now time to move to the next and totally abolish the death penalty.

The constitution must be changed accordingly, more than not because the constitution may be understood as permitting the taking of life in cases of arrest, escape, riot, insurrection, mutiny and to prevent the criminal offences (article 2.2)¹¹. The use of force, preferably of nonkilling, non-maiming and non-violent force is to be avoided or highly limited in all circumstances. Instead of being permitted and an exception to the right to life, in all occurring cases, it should be the subject of a strict independent control. The constitution of Dominica is too wide, sending a wrong message about the imperative protection of life and of the right to life, by all, allowing instead for exceptions to its protection.

II. Therefore, we strongly encourage the people and the Authorities of Dominica to abolish death penalty, to change the constitution accordingly and to ratify protocol II (CCPR OP2-DP) on the death penalty of the Covenant on Civil and Political Rights.

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

As such enforced disappearances violate numerous human rights, be them in law or in jus cogens. As need be, we will recall that there is an unanswered invitation of the Working Group on Enforced or Involuntary Disappearances to visit the country. There are no reported cases of enforced disappearances listed by the working group for Dominica¹².

III. Nevertheless, we hereby recommend to the State of Dominica ratify the Enforced Disappearances Convention and if not yet done, to answer the allegation sent by Working Group on Enforced or Involuntary Disappearance.

It is with great delight that I remember my stay in Dominica in 1991 and eventually hoping to see some of the people I met then in Geneva or proudly promoting their rights, we welcome the delegation of Dominica to Geneva and wish to them and to all the people of Dominica 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 analysis, see the ones recently done for the UPR's of 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 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, 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 See i.e. the 9th meeting of the 34th session of the Human Rights Council.

⁶ 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 <http://www.undocs.org/A/RES/71/189>.

⁷ 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".

⁸ http://www.un.org/en/genocideprevention/documents/171208_AD_International%20Day_FINAL.pdf

⁹ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/26

¹⁰ I. e. : <http://www.gaamac.org/organizations>

¹¹ https://www.constituteproject.org/constitution/Dominica_2014?lang=en

¹² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/236/81/PDF/G1823681.pdf?OpenElement>