

Universal Periodical Review

Third Cycle

Lesotho



Rights to Life and Peace Related Human Rights Issues

18th of July 2019

“From the politics of taking life to the politics of affirming it”
“From the politics of paying for war to the politics of offering peace”

Center for Global Nonkilling | Conscience and Peace tax International
Christophe Barbey | Main representative in Geneva
C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
+41 79 524 35 74 | cb@apred.ch
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,
but also as being everyone's responsibility not to kill or let others die.*

*We understand the right to peace as being the full enjoyment of Peace,
as being the right to be free from violence and want
but also as everyone's responsibility to assure peace to each and all.*

Introduction

Submitting organisations

The Center for Global Nonkilling (CGNK) 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”*. It was founded in 2008, among others by Glenn Paige (1929-2017), political science Professor and author of the book “Nonkilling Political Science”, widely translated¹. CGNK is a worldwide congregation of individuals, scholars and groups working at creating societies that do not kill. CGNK has ECOSOC consultative status since 2014.

The purpose of Conscience and Peace Tax International (CPTI) is to forward and sustain an economic transformation from an economy of war to an economy of peace, of universal well-being. Until then, it claims that people have a conscience based right to pay their tax money into peace funds instead of into military budgets and it acts to obtain full recognition of the right to conscientious objection to paying for armaments, war preparation and war conduct. CPTI was founded in 1994 and has ECOSOC special consultative status since 1999.

Human rights

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise out of our fundamental human nature and are expressed by our feelings and values. They grow and remain through knowledge, practice and kindness. They are needed to build lasting and prosperous, thriving and humane societies enabling each and every one to lead a fulfilling life. Human rights are universal values, human and legal values.

They are supported and implemented by universal and fundamental methods such as education, the culture of peace, prevention and precaution, peaceful settlements of disputes and if need be non-violence. These methods are fully needed for the full respect, the common enjoyment and the achievement of all human rights.

Center for Global Nonkilling | Conscience and Peace tax International
Christophe Barbey | Main representative in Geneva
C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
+41 79 524 35 74 | cb@apred.ch
Thank you for your kind support at www.nonkilling.org

The right to life

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, present when each and all human rights are fulfilled, so is the right to life present within all other human rights. However, the right to life precedes all other human rights: if life is taken all human rights are cancelled². Conversely, joyfully living and granting life, thus giving solid ground to life and to the right to life, to the equality and 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 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, human and humane sustainable manner, for each and all, in full dignity.
- c. There is only one way to guarantee the respect of, to protect the right to life: full and effective 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 absolute *duty not to kill*. As such, the right to life is a fully reciprocal right, granted to all and in need of being granted by all to all, individually as collectively.

The Center for Global Nonkilling, whatsoever, recognises no *right* to kill and encourages all persons and institutions to do likewise.

Though not rights, three powers to kill have sometimes been legally granted (or remain), always 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. These powers are:

- 1) The use of legitimate self-defence, by a proportionate reaction linked to a direct, serious and imminent threat as legally required. The circumstances where self-defence may be needed are always a failure of prevention: failure that should be thoroughly analysed to extract lessons learned and design more accurate policies. If these circumstances nevertheless occur, using nonviolent means, reaction should never result in killing or maiming. Thereafter and whatever the result of legitimate defence, an independent judicial control over it is part of the rule of law. Similarly, because it highly impacts on the rights to life, personal integrity and security, any *use of force* by officials or any one shall be avoided, or highly limited. We recall that States have a duty of exemplarity regarding fundamental values and respect of human rights. Outmost attention is therefore to be given to prevent situations which may result in loss or losses of lives or in any type of maiming. Failures of prevention shall be thoroughly monitored to extract lessons learned and instigate changes in policies. Methods used when the use of force is nevertheless needed should be inspired by non-violent techniques as used by civil society: force is not violence as long as it causes no harm. Again, any official use of force should be monitored by a totally independent mechanism. We encourage the creation of police complain courts, having

investigative and decisional powers, yet being totally separated and independent from police and prosecutors.

2) Death penalty, if ever permissible, is however a major and definitive breach of the right to life and of numerous other human rights, including of other persons. It is also considered as being an inhumane, cruel and degrading treatment³. It is the worst example of respect for the right to life a State and a nation can give. Preventive effects being undemonstrated, it is unworthy and lacks the necessary dignity, the moral standards and exemplarity required of any authoritative power. Death penalty is not compatible with the Sustainable Development Goals (SDG) as these grant universal development: to “leave no one behind” is development and rehabilitation for all. The SDG’s, unanimously adopted, require “significant reduction of violence and related killings (SDG 16.1)”: it includes State killings.

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

The right to peace

Peace originates in our human nature, is supported by human feelings and continues through intelligence and practices, supported by non-violent institutions.

No life would be possible without a sufficient attainment of peace, and dignity can only be fully achieved when peace and human rights prevail. Peace is a right but it is also a method, a universal method needed for the completion of all human rights.

Peace is fully present (if not worded) in article 28 of the Universal Declaration of Human Rights when it states that “*Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized*”. It is only through a peaceful order that such an endeavour can be accomplished: all rights set forth in the Universal Declaration being fully realized.

The links between *human rights and peace* are progressively being developed⁴. It is with great respect that we salute the fact that Lesotho has supported the adoption of the Declaration on the Right to Peace in 2016⁵. It is time to implement it⁶.

Henceforth, peace and peaceful methods provide means to prevent and solve conflicts without aggravating them (including between competing human rights) 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, overcoming, for thriving and well-being.

Other 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 rights to life and to peace, or to avoid their breach.

The *right to participation*, including of women, youth and disabled persons is highly important as it creates societies where responsibilities are shared, for the progress of all towards the well-being of all. The more people participate in the decision making process, the more people will respect the consequences of their decisions and the easier it will be to achieve SDG 16: safe and inclusive societies.

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, 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 full attention as well.

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

“Happy people breed a happy world”

Universal Periodic Review of Lesotho

As an introduction, we note with regret that Lesotho has not made any recommendation to other countries in the third cycle of the UPR⁷.

I. We strongly encourage Lesotho to participate and engage in the UPR process of other countries.

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

We here look at some aspects of life and the right to life. In an overall approach of life and its quality, various other aspects of life and living such as reproductive rights, abortion, birth registration, child and maternal mortality, longevity and assisted suicide should be considered for a comprehensive analysis. However, these will need to be considered, presented and analyzed otherwise.

The following international 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 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 shall similarly reflect this human and legal stand in favor of life.

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 and our good will: it is what we offer to each other and to humanity for life, to be living well with accurate living means and it is what our institutions promote and exemplify to pursue progress in dignity and to achieve a sustainable civilization on Earth, so forth it is our personal and collective feelings, intelligence and 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.

Prohibition 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 killing.

Death penalty is still present in the Constitution of Lesotho.

Worse, the constitution largely permits the taking of life in cases of arrest, escape, riot, insurrection, mutiny and to prevent the commitment of criminal offences (article 4)⁸. 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 life, in all occurring cases, use of force should be restricted and be subject to a strict and totally independent control.

The constitution of Lesotho is too wide, sending a wrong message about the imperative protection of life and of the right to life, by all.

II. We urge the People and the Authorities of Lesotho to change the constitution and to enhance life and its full value therein.

Lesotho has not executed any convict since 1995. It can thus almost be considered as an abolitionist country in practice. Yet, Amnesty International reports two persons on death row⁹.

We recall that States have a duty of exemplarity regarding fundamental values and respect of human rights, specifically here the right to life and the duty not to kill.

III. We urge the People and the Authorities of Lesotho to change the law, to abolish the death penalty and to commute all remaining death sentences.

IV. Thereafter, we recommend the swift ratification of protocol II of the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

Prevention of homicides

Tough slowly declining, with a homicide rate of 29.7 killings for a 100,000 inhabitants, much higher than world rate (6.1/100,000) or the African rate (13/100,000) Lesotho clearly has work to do to promote life and respect for life and to attain SDG 16.1¹⁰. We note with regret that target 16.1 of the SDG's is not mentioned in Lesotho's Voluntary National Review (VNR) 2019, though the VNR includes goal 16¹¹. As said, showing the authoritative example of respect for life and for the right to life by abolishing the death penalty would be an essential preventive and constructive step. As proposed by the World Health Organization, adopting prevention plans to reduce violence and killings is of the essence¹².

V. We urgently recommend the adoption of homicide prevention programs.

Prevention of suicides

Suicides are clearly a problem, and rising in Lesotho¹³.

Available figures largely differ but with a mentioned rate of 28.9/100,000 inhabitants¹⁴, Lesotho would be the second country in the world, the first in Africa with the highest suicide rate.

Respect for life, the life of others as ours, is a primal value in education, social networks, in law and institutions. Suicide prevention programs, in general and for populations at risk, are fully part of the State duty to protect life and to enhance the fulfillment of the right to life. Hotlines are an example among many of such programs.

No suicide prevention program is mentioned in the WHO "preventing suicides: a global imperative" study (2014)¹⁵ and suicide prevention is totally absent from the National Health Policy Strategy Plan 2017-2022¹⁶. Suicides come under SDG 3.4.2, but could also be measured under 16.1 (reducing violence and related deaths); nothing is mentioned in VNR 2019.

If disaggregated, data shows a higher proportion of female suicides.

VI. We strongly call on the Government of Lesotho and to all concerned countries to recommend the urgent adoption of a suicide prevention plan.

Prevention of traffic injuries

Traffic casualties are high as well, 28.9/100,000¹⁷ (World 18.2/100,000, Africa 26.6/100,000¹⁸).

VII. We recommend doing more for traffic casualties' prevention.

Lesotho clearly needs to stand out for a greater respect of life on three of the major causes of deaths caused by injuries and violence¹⁹.

The right to peace, the international and national peace constitutions

Life and peace are deeply intertwined. Respecting life diminishes the risks of violent conflicts and of conflicts becoming violent. Peace enables well-being and therefore a meaningful life.

To attain and sustain peace, there is a need to adopt and implement comprehensive public peace policies, both at the national and international levels.

The international peace constitution

Regarding peace and disarmament, Lesotho fares well: most disarmament treaties are ratified and it accepts reciprocal automatic jurisdiction of the International Court of Justice.

VIII. We still recommend the ratification of the following peace and disarmament treaties and conventions:

The optional protocol n° 3 of the 1949 Geneva Conventions.

The three Hague conventions on the protection of cultural property.

The Enmod convention on the prohibition of military or any other hostile use of environmental modification techniques.

The amended protocol II of the Convention of conventional weapons.

Treaty on the Prohibition of Nuclear Weapons.

The national peace constitution

Peace is not mentioned (except for the right of peaceful assembly), in the Constitution of Lesotho.

As gender and environmental issues, peace is a cross-cutting matter that should be set as a goal for the State, to see Justice and Peace prevail in all State and State overviewed activities.

IX. Therefore, we recommend to the people and the authorities of Lesotho the opening of a participative process to enshrine a living peace in the National Constitution.

We congratulate Lesotho for supporting the adoption, by the United Nations General Assembly, of the resolution on the right to peace²⁰.

The implementation of the right supposes making peace a human right in the Constitution of Lesotho, with individuals and social groups as rights holders and the State as a duty bearer.

X. We recommend the adoption, at constitutional level, of the human right to peace.

To implement the right to peace, the SDG Voluntary National Review (VNR) 2019 of Lesotho is an excellent report documenting many aspects of peace and of SDG 16. It expresses, at least at the policy level, the intended progresses towards peace and peaceful societies Lesotho intends to implement²¹.

We would like to mention and add that comprehensive peace policies and the right to peace shall include, as provided for by SDG 4.7, education to peace and non-violence, as part of the curricula, at all levels, which sadly is not mentioned in the VNR.

XI. We strongly recommend to the authorities of Lesotho and to all educational staff the integration of peace and peaceful relations, of non-violent conflict prevention and management, in the education curricula.

Prevention of violence has partly been mentioned above regarding homicides. We mention it again as a peace building mechanism; moreover as data is missing in the World Health Organization's violence prevention reports²².

XII. We recommend to the authorities of Lesotho the adoption of a general violence prevention plan and of specific prevention plans and laws for groups and situations at risks.

We note with delight and congratulate the authorities of Lesotho for the creation and functioning of the “Directorate for Disputes Prevention and Resolution (DDPR)”²³. We send our care and best wishes to them for their work and encourage them for promotion of peaceful settlements of disputes nationally (as it is provided for internationally).

To peacefully progress with the implementation of peace and the right to peace we would like this office to regularly report on the progress of peace.

XIII. We recommend to Lesotho to be regularly reporting on the progress of peace and of SDG 16.

Various Basotho and others have been researching and encouraging for the total demilitarization of Lesotho²⁴. Such a process of achieving complete disarmament and of attaining non-militarisation – as many countries have already done²⁵ – would lower the potential for cultural and direct violence in the country, enhance respect for the right to life, give a strong signal for peace, bring peace policies to be less hindered by potential violence and destruction and thus make these peace policies more comprehensive.

And last not least, it would liberate funds for more pressing issues; hereafter reduction of poverty or more generally it will provide more funds for the progress of peace.

The Lesotho defense force is a small force, with very little strategic power in a nevertheless peaceful region and it has a rather poor human rights record. Its dismantling would need to be done very cautiously to assure a professional future to the members of the force and to properly collect and destroy (or reallocate) the existing weapons.

The process should be completed by a constitutional change forbidding the existence of an army and, to assure the adherence of the people of Lesotho to assure that the liberated funds will be allocated in a universal way to all the people of Lesotho.

Research has shown that the annual savings from dismantling the force, if distributed evenly among the adult population, as a basic income grant²⁶, would increase average household income by around 20 per cent. This would represent a significant and continuous improvement in the

living standards of a country where almost 60 per cent of the population lives below the international poverty line of US\$1.90 per day²⁷.

XIV. We recommend to the people and authorities of Lesotho the dismantling of the Lesotho defense force, inscribing the absence of an army in the constitution and reallocating the liberated funds to the people of Lesotho.

In case an army is maintained, we want to make sure that even professional soldiers have a right to conscientious objection, as provided for by international law²⁸.

XV. We recommend the adoption and publication of a status for conscientious objectors.

Peace is in dire need of being financed (nevertheless to peacefully address climate change issues), while paying for war preparation and war is, for the organizations supporting and the members of Conscience and Peace Tax International and others a consciousness issue.

To forward the financing of peace, people should be able to choose to retrieve the part of their taxes going to the military budget and to dedicate these funds for peace building issues.

XVI. Therefore, we recommend the creation of a peace fund and of the option, for the tax payers, to pay the part of their taxes that would usually go to the military budget into the said peace fund.

Participation in the decision making process shall be universal.

XVII. We recommend to the parliament and to the people of Lesotho the extension of referendum and initiative rights to the approval of all laws and constitutional changes.

**Welcoming the delegation of Lesotho to
Geneva, the city of peace,
we wish to you as to all the people of the country
a constructive, successful, enhancing and fulfilling
Universal Periodic Review.**

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

² The Human Rights Committee, in its general comment 36 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 as a right that inheres in every human being, but it also constitutes a fundamental right whose effective protection is the prerequisite for the enjoyment of all other human rights (...)”.

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

³ See i.e. the 9th meeting of the 34th session of the Human Rights Council.

⁴ 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.

⁵ <http://www.undocs.org/A/RES/71/189>

⁶ They are possibilities described here: 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.

⁷ <https://www.upr-info.org/database/>

⁸ https://www.constituteproject.org/constitution/Lesotho_2011?lang=en

⁹ <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF> page 39.

<http://www.afsam.org/?&Syf=22&Mkl=920059>

¹⁰ Significantly reduce all forms of violence and related death rates everywhere.

Unodc, *Global Study On Homicide 2019* <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet2.pdf> Booklet 2, p. 22

¹¹ https://sustainabledevelopment.un.org/content/documents/23777Lesotho_VNR_Report_2019_Final.pdf

¹² <http://apps.who.int/violence-info>

¹³ https://apps.who.int/iris/bitstream/handle/10665/131056/9789241564878_eng.pdf p.128

¹⁴ https://en.wikipedia.org/wiki/List_of_countries_by_suicide_rate

<https://www.nwlesotho.co.ls/report-lesotho-has-highest-suicide-rate-in-africa/>

¹⁵ https://www.who.int/mental_health/evidence/atlas/profiles-2014/lso.pdf?ua=1

https://apps.who.int/iris/bitstream/handle/10665/131056/9789241564878_eng.pdf

¹⁶ http://www.nationalplanningcycles.org/sites/default/files/planning_cycle_repository/lesotho/lesotho_revised_nhsp_2017-22_final_draft1.pdf

¹⁷ https://www.who.int/violence_injury_prevention/road_safety_status/2018/Table_A2_Road_Traffic_Deaths.pdf?ua=1

¹⁸ <https://apps.who.int/iris/bitstream/handle/10665/277370/WHO-NMH-NVI-18.20-eng.pdf?ua=1>

¹⁹ In decreasing order of importance worldwide (2012): traffic (24.4%), suicides (15.5%), falls (13.5%), interpersonal violence including armed conflict (12.1%), drowning (7.2%), etc. Source: WHO, from MDG's to SDG's, 2015, p. 174.

²⁰ <https://undocs.org/A/RES/71/189>

[https://undocs.org/en/A/71/PV.65 p. 26.](https://undocs.org/en/A/71/PV.65_p.26)

http://www.demilitarisation.org/spip.php?rubrique16&debut_article_numerotes=0#pagination_article_numerotes

A bibliography on the right to peace is available on request.

²¹ https://sustainabledevelopment.un.org/content/documents/23777Lesotho_VNR_Report_2019_Final.pdf

²² <http://apps.who.int/violence-info/country/LS>

²³ https://sustainabledevelopment.un.org/content/documents/23777Lesotho_VNR_Report_2019_Final.pdf p. 85

²⁴ I.e. Letsie, T. 2018. *Demilitarising the mountain kingdom: an action research project in Lesotho*. PhD thesis in Peacebuilding, Durban University of Technology. Available at <http://hdl.handle.net/10321/3125>

Letsie, Tlohang & Harris, Geoff. (2019). The economics of peace and security journal: *Demilitarizing a small African country: Rationale, necessary conditions, and financing*.

²⁵ C. Barbey: « *Non militarization: countries without armies. Identification criteria and first findings*». APRED. Working papers series. Åland Islands Peace Institute. Octobre 2015, online version. March 2016, paper version.

²⁶ On the Universal Basic Income, see the report of the UN's special rapporteur on extreme poverty:

http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/26

²⁷ See above, footnote 24.

²⁸ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/23