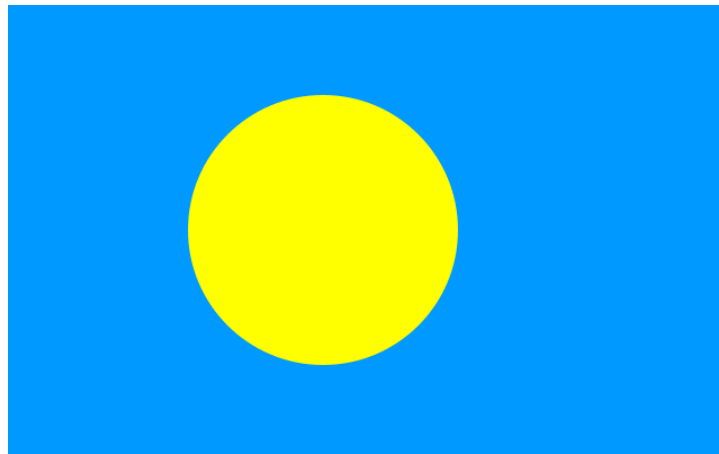


Universal Periodical Review

Third Cycle, 38th session

Palau



Rights to Life and Peace Related Human Rights Issues

October 15th 2020

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

Center for Global Nonkilling | 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,
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”.*

Introduction

The Center for Global Nonkilling (CGNK) was founded by Glenn Paige (1929-2017), political science Professor, 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 dimensions is a necessary mission; please join the Center for Global Nonkilling, be a nonkilling centre yourself celebrating, enhancing and protecting life².

CGNK has ECOSOC consultative status since 2014. At each UPR session, we make one or more comprehensive submissions encompassing a complete “cliché” of the situation of life in the country under review. We also make short submissions on specific issues³ and we address a recommendation to all States yet in need of ratifying the Convention on the prevention and the repression of the crime of genocide.

Human rights

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They rise out of, and are expressed by the best of our human nature and they are confirmed by our knowledge, feelings and values. They are enhanced and remain through awareness, practices and kindness. They are needed to build lasting, prosperous and thriving humane societies, on a sustainable planet, enabling everyone to lead a fulfilling life, in solidarity, leaving no one behind.

As a universal legal basis, *fundamental rights* form the basic infrastructure of our civilisation, as needed to flourish in dignity, through present times and future History. Human rights are supported and implemented by using universal and peaceful *fundamental methods* such as education and exemplarity, prospective and evaluation, the cultures of peace and non-violence, cooperation and consensus, prevention and precaution, peaceful settlements of disputes, reconciliation and reparation, lessons learned and best practices. These fundamental methods are needed for the full respect and the common enjoyment, for the achievement of all human rights, as well as for the existence and continuity of our societies and cultures.

The right to life

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

a. Though all human rights are of equal importance, dignity is the paramount right, present when each and all human rights are fulfilled. Similarly within all human rights, the right to life is the preceding right: if life is taken all human rights are cancelled⁴. Joyfully living, sharing a happy

Center for Global Nonkilling | Christophe Barbey | Main representative in Geneva
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and solid ground for existence, one's own and the life of all, highlights the value of life and of the right to life. Further, quality of life, in equality, is the basis needed for peaceful progress, for the proactive fulfillment and the completion of all human rights.

b. There are no possible 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 should be dealt with in a preventive, human and humane, sustainable manner for each and all, in full dignity.

c. There is only a single way to guarantee the respect of life and the right to life: **prevention**. Once life is lost, compensation may be due, yet there are no possible re-establishment of life, of the entitlement to life.

d. So forth, 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, to be granted by all to all, individually as collectively.

The Center for Global Nonkilling holds all persons and institutions responsible for refusing to grant any *right* to kill. Killing is never admissible. So forth, though not *rights*, three *powers* to kill are still sometimes legally conceded, though only under very strict and exceptional circumstances. We do not approve or condone these existing powers to kill: they shall be considered unwanted remnants of the past and cease to exist and be used as fast as achievable⁵.

These three exceptions sometimes granted to the right to life are:

1) The use of *legitimate self-defence*.

Legally, self-defence requires a proportionate reaction in response to a direct, severe and imminent threat that cannot be addressed otherwise. Alternatives exist: the circumstances in which self-defence may be needed are always a failure of prevention. A failure that should be thoroughly analysed to extract lessons learned and design more accurate policies for the future, the best practices needed to avoid recurrence. If these circumstances where self-defence may be needed nevertheless occur, using nonviolent means the reaction shall never result in maiming or killing. Whatever the ends and means used are, the result of the use of self-defence shall always be reviewed by an independent legal authority.

Use of force highly impacts on the rights to life, personal integrity and security. It shall always be avoided, or highly limited⁶: all the more if it's not self-defence. Exemplarity of States' practices is here at stake for the promotion and the respect of and for all human rights. Thus, utmost attention shall be given to prevent situations which may result in use of force, or further in loss of lives or maiming. Prevention failures by law enforcement authorities shall be cautiously and thoroughly monitored to extract lessons learned, instigate human experience and as need be enhance policy change. Methods used when the use of force is nevertheless needed shall be inspired by non-violent techniques: force is not violence if it does not cause harm⁷. Official use of force shall always be totally monitored by an independent mechanism including civil society members and representatives of victims. To enhance morale and practices, law enforcement officers confronted with violations of human rights have a right to and a duty of conscientious objection, doing so without prejudice or penalties, without reprisals if legitimate.

2) *Death penalty*.

If ever permissible, State killing is a major and definitive breach of the right to life. It is the worst example a State can give of its respect for life and all subsequent cancelled human rights. For

those still living, it also directly violates numerous other human rights, including those of other related persons. It is considered an inhumane, cruel and degrading treatment⁸.

Death penalty is incompatible with the Sustainable Development Goals (SDG). These grant universal development and intend to “leave no one behind”. Unanimously adopted by all Members of the United Nations, they require, quote: “Significant reduction of violence and related killings (SDG 16.1)”. This includes killings by States.

3) *Powers of war.*

As conceded by humanitarian law, they allow under certain strict circumstances and given certain precautions only, the taking of life of enemy soldiers. Seeing that respect of life prevails, always, nullifying this exception to the right to life, the stain war is human History and the dignity of humanity is one of the objectives of the Center for Global Nonkilling.

Please join us, for the respect of life, in building a peaceful world for each and all.

The right to peace

Peace originates in our human nature and is supported by human feelings, knowledge and practices, methods. It starts through education, is supported by non-violent institutions and endeavours, public peace policies, peaceful prevention and settlement of disputes and it continues through personal engagement. No life would be possible without a sufficient attainment of peace and dignity can only be achieved when peace and human rights prevail. Peace is a right, but also a universal deed and a method needed for the common and reciprocal completion of all human rights.

Peace is fully present, if not worded, in article 28 of the Universal Declaration of Human Rights:

“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 through a peaceful order that such an endeavour can be accomplished: all rights set forth in the Universal Declaration fully expressed and realized. It is through positive and proactive public peace policies that peace will prevail and remain untroubled⁹. The links between *human rights and peace* are developing; they need permanent and universal support and reinforcement¹⁰.

So forth, it is with some regret that we note that Palau abstained on the General Assembly’s vote on the Declaration on the Right to Peace¹¹. Nevertheless, it is now time to develop and implement peace and the right to peace, peaceful means and subsequent public peace policies¹².

Other related human rights

All human rights are needed for the fulfilment of a safe and happy life. However, some of them may be of more direct importance for the full realisation of the rights to life and peace.

The *right to participate in the decision making* including for women, youth, persons with disabilities and all vulnerable persons and social groups is highly important. It creates inclusive, proactive and humane societies where responsibilities are equally shared towards the well-being of all. The more people participate in the decision making, the more people work by consensus, 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, the rights 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*.

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C/° Center John Knox, 27, ch. des Crêts-de-Pregny, CH-1218 Grand-Saconnex, Geneva, Switzerland
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The *human right to a sustainable environment*, thus sustaining humanity and life on Earth, deserves accurate protection and full attention as well.

The *right to happiness* and fulfilment of life should always be mentioned:

“Happy people breed a happy world”

Universal Periodic Review of Palau

All States have a full duty of exemplarity. Such a duty of being examples in the respect and promotion of human rights is vested in their commitment to life and human rights.

It is also enshrined in the capacity of each and all, of all of us to give the best of ourselves.

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

We wish a happy, constructive and peaceful UPR to the people and the authorities of Palau.

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

Within the human rights constitution, the following treaties are the basis of the protection of life: the Convention on the prevention and punishment of the crime of *Genocide*; the Covenant on *Civil and Political Rights* and its Optional Protocol aiming at the *Abolition of the death penalty* and the Convention on *Enforced Disappearances*. These are the minimum standards needed, for any country, to internationally recognize and show full legal respect for life and the right to life.

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National constitutions shall similarly reflect this necessary and universal stand in favor of life.

More than by legal aspects, it is consciously by our knowledge of the bounty and the beauty of life that we make for a happy and universal, sustained and lasting life. Our ethics, best practices, and historical progresses; our heart feelings and well understood instincts, and all the good will we show may and shall guide us towards our fulfillment. When we offer knowledge and feelings to each other and to humanity, we create the solidarity needed for Life on Earth. When institutions and their representative understand this and promote individual and collective life, happy life; when they exemplify progress in dignity, thus we may attain and achieve a sustainable civilization on Earth. However, our institutions may only be guided by our personal and own, brought together commitments to give a future, a meaning and a worth to the lives we all live and lead, leaving no one behind, for ourselves as for our world, now as for future generations.

Prevention of genocide

The right to live is the imperative duty not to kill, for individuals and inasmuch for all groups of people. Every person needs to be part of a social group to live in and to be part of society, to relate with its government and its institutions, all thriving for the good of each and all. Therefore, all individuals, social and political groups are fully entitled to be protected against genocide.

The United Nations Special Adviser for the Prevention of Genocide has called for the universal ratification of the Convention on Genocide¹³. The Human Rights Council makes and reiterates a similar call¹⁴.

The ratification of the Convention and adapting local laws are rather simple commitments. Ratification is a local and national endeavour, but also a worldwide sign of participation, a beacon of hope and reason for the international community. It ensures the overcoming of an unworthy past for a brighter future. It is a clear and strong message sent to all humanity that the respect of life and all lives is essential and that the progress towards nonkilling is needed and possible. It is also an overall measure preceding and accompanying other preventive measures and policies; tools and initiatives for an efficient prevention of genocides and mass atrocity crimes are available¹⁵.

Armenia and Ghana made recommendations that were noted during the previous UPR cycle¹⁶. If it may help, we encourage Palau to seek technical assistance to do this ratification.

I. To progress towards universal nonkilling, we strongly recommend to the authorities of Palau the urgent ratification of the Genocide Convention.

The International Covenant on Civil and Political rights

The universality of human rights implies a commitment by all States to the values and practices of the basic standards of human dignity and well-being. The covenant is almost universally ratified. It is time for Palau to do likewise.

II. We strongly support and encourage the swift ratification of the Covenant on civil and political rights by the people and the authorities of Palau.

Again, please ask for technical assistance if useful.

Prohibition of the death penalty

We congratulate Palau for the prohibition of capital punishment.

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The ratification of the second optional protocol of the Covenant on civil and political rights (CCPR) aiming at the abolition of the death penalty requires the ratification of the Covenant.

III. We recommend the joint ratification of CCPR and its optional Protocol n° 2.

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, 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*. However, the convention goes further, has universal effects and contains provisions regarding cases beyond the national territory¹⁷.

Gladly, there is as known of today no cases of enforced disappearances listed by the working group on enforced disappearances in Palau¹⁸.

IV. Henceforth, we hereby recommend to the State of Palau to ratify the Enforced Disappearances Convention.

Regional cooperation

There is no human rights regional body – ideally a judicial one – in the Pacific region.

V. CGNK recommends to the State of Samoa as well as to all States in the Pacific Region to set up as soon as may be a regional human rights legal mechanism.

*Calling on each and all to attain a nonkilling world,
where life can be sustained on Earth,
we welcome the delegation of Palau
to Geneva, the City of Peace
and we wish you, as to all the people of the country,
a constructive, successful, enhancing and fulfilling
Universal Periodic Review.*

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

² <http://nonkilling.org/center/how-to-help>

³ For more comprehensive analysis, see as examples the ones recently done for the UPR's of Nepal, Lesotho, Costa Rica or Mauritius. Such submissions look at all legal and practical aspects of the right to life and the rights needed to sustain 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, to a healthy environment and to 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 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

⁵ In our humble and legal opinion, legally granted powers to kill are also insults to law: law should be made to serve life and life only. We wait with patience but persistence for the end of all legal and illegal killing as we know we have, humanity has, the means needed to achieve such a noble goal. It is a choice we encourage you to do as well.

⁶ 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>

⁷ The "do no harm" principle and methods apply to law enforcement.

⁸ See i.e. the 9th meeting of the 34th session of the Human Rights Council.

⁹ 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.

¹⁰ 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>.

The United Nations General Assembly's Declaration on the Right to Peace A/RES/71/189, link here after.

¹¹ <http://www.undocs.org/A/RES/71/189> ; <https://digitallibrary.un.org/record/855187?ln=en>, p. 26.

¹² Such public peace policies have been presented more thoroughly in our submission for Lesotho: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRLSStakeholdersInfoS35.aspx>, joint submission n° 4.

¹³ http://www.un.org/en/genocideprevention/documents/171208_AD_International%20Day_FINAL.pdf

¹⁴ http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/26, <https://undocs.org/A/HRC/RES/43/29>

¹⁵ I. e. : <http://www.gaamac.org/organizations>

¹⁶ 104.49-50.

¹⁷ 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 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 and non-renewable period.

¹⁸ <https://undocs.org/A/HRC/45/13>, 7.8.2020.

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