

## Universal Periodical Review

*Third Cycle*

### *United States of America*



## Right to Life and Related Human Rights Issues

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*“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”*

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## **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 translated<sup>1</sup>. 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.

## **Introduction**

### **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 and exemplarity, the culture of peace and non-violence, prevention and precaution and peaceful settlements of disputes. These methods are fully needed for the full respect, the common enjoyment and the achievement of all human rights.

### **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 cancelled<sup>2</sup>.

Conversely, living and joyfully living, thus granting life and giving a solid ground to the existence of life and to the right to life, to 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 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 life, to protect and ensure 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 and they are always 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. 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 and best practices. If these circumstances nevertheless occur, by using nonviolent means the reactions should never result in killing or maiming. Thereafter, 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, on personal integrity and security, any *use of force* by officials and any one shall be avoided, or highly limited<sup>3</sup>. We insist on the fact that States have a duty of exemplarity regarding fundamental rights and values and regarding full respect and promotion 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 autonomous police complain courts, totally or sufficiently separated and independent from police and prosecutors, having full investigative and decisional powers.

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 related persons. It is also considered as being an inhumane, cruel and degrading treatment<sup>4</sup>. 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 it lacks the necessary dignity and legitimacy, the moral standards and exemplarity required of any authoritative power. Death penalty is not compatible with the Sustainable Development Goals (SDG) as they grant universal development in its main assertion to “leave no one behind”.

Such an affirmation unanimously adopted by all Members of the UN is grant a right to development and rehabilitation for all. The SDG's also require "significant reduction of violence and related killings (SDG 16.1)". This includes State killings.

3) Powers of war, as conceded by humanitarian law may be an exception to the right to life, as it permits, under certain circumstances and precautions only, the taking of the life of soldiers. This is morally unacceptable and profoundly backward. Seeing peace and respect of life prevail – always – and nullifying this exception to the right to life is one of the objectives of the Center for Global Nonkilling. It shall be a purpose for all humanity, for the sake of life in peace.

### **The right to peace**

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

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 it is also 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: "*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 fully realized.

The links between *human rights and peace* are being developed<sup>5</sup>. It is with great respect that we regret the fact that the United States has not supported the Declaration on the Right to Peace<sup>6</sup>. It is nevertheless time to implement it<sup>7</sup>.

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 persons and parties in a constructive or reconstructive way. Conflicts solved peacefully alleviate feelings with respect; allow drawing lessons learned from difficult situations and favour the design of preventive policies for the future.

### **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, disabled and all vulnerable persons and social groups is highly important as it creates inclusive and humane societies, where responsibilities are shared for the progress of all and towards the well-being of all. The more people participate in the decision making process and the more people work by consensus, the more people will respect the consequences of their decisions and henceforth, 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 all deserve full attention, in all circumstances.

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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 sustainable 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 the United States of America**

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 human rights, but it is also enshrined in the capacity of each and all, or all of us, to give the best of ourselves.

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

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

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

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 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, knowledge and the human best practices, our strong heart feelings and well understood instincts, our sound and profound understanding and good will, it is what we offer to each other and humanity for life, to living well with accurate living means, it is what our institutions promote and exemplify to pursue progress in dignity and achieve a sustainable civilization on Earth, it is our personal and collective feelings, intelligence and commitments that give a future, a meaning and a worth to the lives we live and lead, leaving no one behind, for ourselves as for future generations.

### **Prohibition of the death penalty**

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

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 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 and accepting to kill

one is accepting the act of killing in itself. As such, regardless of who is killed by whom or of how many are killed or why, a killing is always an infringement on, a destruction of the right to life. The United States as an influent member of the human community and as a permanent member of the Security Council has a clear duty to work towards the full preservation of life and the complete respect of the right to life.

**I. Dear United States of America, please abolish the death penalty.**

**II. Henceforth, we recommend, sooner than not, the ratification of the Second Protocol of the Covenant on civil and political rights aiming at the abolition of the death penalty.**

### **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*. There are 5 outstanding cases of enforced disappearances presently listed by the working group on enforced disappearances in the USA<sup>8</sup>.

But even if they were none, the convention has universal effects and contains provisions regarding cases beyond the national territory<sup>9</sup>.

**III. Henceforth, we hereby recommend to the United States of America to urgently ratify the Enforced Disappearances Convention.**

### **The right to life in practice**

#### **Prevention of homicides**

Despite the general impression given because of shocking events, the homicide rate is low in the United States at 5.3/100,000 inhabitants (2017) and below world rate (7.6/100,000). However, goals 16 applies and substantive reduction of killings is thereupon expected.

**IV. Nevertheless, we expect the United States, as any other country to reach a nonkilling State.**

**V. Henceforth, we urgently call for the adoption of homicide prevention programs.**

## **The national and international peace constitution**

We recommend to the USA adoption of comprehensive peace policies for the fulfillment of SDG16, for the well-being and safety of its entire people and of the world and for the progress of peace, non-violence and non-killing worldwide.

**VI. We recommend the ratification of the following peace and disarmament treaties and conventions:**

**Acceptance reciprocal automatic jurisdiction of the International Court of Justice.**

**The optional protocols of the 1949 Geneva Conventions.**

**Two of the three Hague conventions on the protection of cultural property.**

**The Rome statute of the Criminal Court.**

**The mine and cluster munitions ban conventions.**

**The Arms Trade Treaty.**

**The treaty on the Prohibition of Nuclear Weapons.**

## **The national peace constitution**

Peace is barely mentioned in the Constitution of USA.

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.

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

We regret that the USA has not supported the adoption, by the United Nations General Assembly, of the resolution on the right to peace<sup>10</sup>.

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

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

To implement the right to peace, SDG 4 and 16 we mention 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.

**IX. We strongly recommend to the authorities of USA 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.

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

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 law<sup>11</sup>.

**XI. We recommend the adoption and publication of a status for conscientious objectors for professional as for employees of private military and security companies.**

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.

**XII. 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.

**We recommend to the Congress and to the people of the United States the extension of referendum and initiative rights to the national level for the approval of all laws and constitutional changes.**

**Welcoming the delegation of the United States 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.**



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

<sup>2</sup> 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](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf)

<sup>3</sup> The constitution of the local State, 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>

<sup>4</sup> See i.e. the 9<sup>th</sup> meeting of the 34<sup>th</sup> session of the Human Rights Council.

<sup>5</sup> See 3<sup>rd</sup> meeting of the 34<sup>th</sup> 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 13<sup>th</sup> 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.

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

<sup>7</sup> They are possibilities described here: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/31](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.

<sup>8</sup> [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/42/40](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/40)

<sup>9</sup> 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 known to a person or an institution of his choice within 48 hours of his arrest. 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.

<sup>10</sup> <https://undocs.org/A/RES/71/189>

<https://undocs.org/en/A/71/PV.65.p.26>.

[http://www.demilitarisation.org/spip.php?rubrique16&debut\\_article\\_numerotes=0#pagination\\_article\\_numerotes](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.

<sup>11</sup> [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/23](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/23)