



Universal periodical review

BOTSWANA



**Right to life
and related human rights issues**

**Right to conscientious objection to military service
and military taxation**

29th of June 2017

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

***“We understand the right to life as being the right not to be killed,
but also as everyone’s responsibility not to kill others”.***

Introduction

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”*. The Center for Global Nonkilling (CGNK) was founded in 2009 by late Pr. Glenn Paige, Professor of political science and author of the book “Nonkilling Political Science” available in many languages. CGNK is a worldwide congregation of scholars working to create societies that do not kill. It has ECOSOC special consultative status since 2014¹.

The right to life

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They are human and legal values enshrined in and rising from our human existence. They are at the source of and express the skills and capacities needed to create dignity for all, as well as a sustainable and happy future. They are at the core of all intent meant to live, live free and live well and they are always present when achieving any and all aspects of a fulfilling life.

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

- a. If dignity can be said to be the paramount human right because present when each and all other human rights are fulfilled, the right to life *precedes* all other human rights: if life is taken, all human rights are cancelled². Conversely, giving solid ground to the right to life and henceforth to life’s quality is the base needed for the peaceful progress, for the proactive fulfillment and for 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 shall be dealt with in a preventive, human and humane sustainable manner.
- c. The right to life is also the duty not to kill. Therefore the right to life is a fully reciprocal and universal right: life is granted to all and in need of being granted and protected by all.

The Center for Global Nonkilling recognises no right to kill. Though not rights, three powers to kill have been, or sometimes are legally granted:

1) The use of legitimate defence proportionate to the direct, serious and imminent threat, as legally required or better using nonviolent means, 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 right to life, any use of force by officials or by any one 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. More often than not, it is also considered as an inhumane, cruel and degrading treatment³. It

is a poor example of respect for the right to life and thus, unworthy, lacking the necessary dignity 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 human rights may be of more direct importance, either for the full realisation, or to avoid breaches of the right to life.

The links between *human rights and peace* are progressively being developed⁴. CGNK commends this new approach and attaches a special importance to the *human right to peace*. It is with great respect that we salute the fact that Botswana has supported the adoption of the declaration on the right to peace.

Human rights can only progress and be coordinated, be reciprocally fulfilling in a peaceful environment. Recalling the 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*”, we insist on the fact that such an international and social order can only be a peaceful order. Peace is needed for the simultaneous realisation of all human rights and the peace is the means needed to achieve their coordination. As an example, the freedom of conscience, thought and religion and the freedom of expression need to be peacefully coordinated to reciprocally express themselves. So forth, peace is a value but it also provides methods to prevent or address conflicts of all sorts in a peaceful manner, without aggravating them, extracting lessons learned from them and establishing policies for their non-reoccurrence.

The *human right to a healthy environment*, sustaining humanity and life on Earth, deserves accurate attention as life can only be sustained and offered to future generations in a lasting and healthy environment.

The *right to participation*, including of women and youth, 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).

Other specific human rights pertaining to the right to life, including inter alia the *rights to security, to adequate standards of living and to health* will be addressed as needed. The *right to happiness* or to fulfilment in reverence for life should be mentioned: “happy people breed a happy world”.

Conscience and Peace Tax International works to obtain recognition of the right to conscientious objection to paying for armaments, war preparation and war conduct through taxes. It was founded in 1996 and has ECOSOC special consultative status since 1999⁵.

A. Background and framework

1. Scope of international obligations

a. International human rights constitution.

1° Every person needs life and to be part of a social group to live and to be part of a government. The absence of ratification by Botswana of the convention on the prevention and punishment of the crime of genocide is unbearable. The convention is also, among many, one of the tools needed to reach SDG 16.1 on the reduction of homicides, namely to: “Significantly reduce all forms of violence and related death rates everywhere”.

I. We strongly recommend to the authorities of Botswana to ratify the convention on the prevention and punishment of the crime of genocide as soon as possible and as accepted during the second cycle of the UPR (116.12, Armenia).

2° Showing care for the life of each and every one would deserve praise, is a good example for the people and will reduce State killings, thus also participating in the realization of SDG 16.1.

II. We therefore strongly encourage the people and the Authorities of Botswana to abolish the death penalty, to change the constitution accordingly and to ratify protocol II of the Covenant on Civil and Political Rights.

3° Moreover, we note with some regret that the constitution of Botswana largely permits the taking of life in cases of war, arrest, escape, riot, insurrection, mutiny and to prevent the commitment of a criminal offence or to defend life or property (article 4)⁶.

Generally, the use of force, preferably of nonkilling, non-maiming and non-violent force, is to be avoided or highly limited and shall in all circumstances be proportionate to the attack or the offence and shall, in all occurring cases, be the subject of an independent control.

Similarly, killing during wars is not unlimited, including under international humanitarian law.

Therefore the constitution of Botswana is too wide, sending a wrong message about the imperative protection of life and of the right to life. Here again, this is part of SDG 16.1.

III. We therefore encourage the people and the Authorities of Botswana to update their constitution to enhance the promotion and protection of the right to life and to attain the standards of protection of the right to life required by international law.

4° Ratification of the Convention on Enforced Disappearances (CED) should also be made to assure a more comprehensive and legal protection of the right to life, a more commendable progress towards – again – the fulfillment of SDG 16.1.

IV. We encourage the Authorities of Botswana to ratify the Convention on enforced disappearances.

b. Peace treaties and issues (A.1.b)

5° Though it ranks 27th in the global peace index⁷ – the best score in Africa – Botswana has not ratified a long list of disarmament treaties.

V. We strongly recommend to the Authorities of Botswana to ratify the third protocol of the Geneva conventions, the Convention on the prohibition of military or any other hostile use of environmental modification techniques, the convention on conventional weapons and its protocols and the arms trade treaty.

6° Considering that reports on the progress of peace within and without a country are an integral part of human rights enhancement and of SDG 16,

VI. We encourage the Government of Botswana to integrate the progress of peace in its reporting processes.

2. Constitutional and legislative framework

7° Democratic participation rights, i.e. as provided for in article 89 of the Constitution or 25 CCPR, should be extended to all citizens, including for all revisions of the constitution.

VII. CGNK recommends improving participation rights.

B. (...)

C. (...)

D. Policy measures

8° Using tools such as the SDGs, but also the WHO Global Status on Violence Prevention (2014) and similar other ones, mainstreaming also meditation and peaceful settlement of disputes nationally and locally, eventually creating a department or a ministry for peace and violence prevention and henceforth allocating proper funds for it to deliver on purpose,

VIII. We recommend to Botswana the drawing of a plan for violence reduction at all levels.

E. Implementation of international human rights obligations (...).

1. (...)

2. The right to life

Living happily.

9° Here are some aspects of the right to life in need of improvement.

a. Due to time constraints we do not enter in detail on some aspects of the right to life that are in Botswana rather on average compared to Africa or the rest of the world, or that are already in good progress such as the right to registration at birth, infant and maternal mortality, life expectancy issues, suicide rates and abortion issues. We do not either detail other aspects for which we presently lack sufficient information such as work and leisure casualties, enforced disappearances, death in custody, assisted suicide and euthanasia and if relevant prenatal and genetic engineering.

However, we recall that the protection of life is a right and a duty, and that the only possible way to attain full respect of the right to life is through the *prevention* of any possible infringement on the right.

IX. Therefore, we encourage the authorities and the people of Botswana to highlight the right to life and the protection due thereupon in all their policies and discourses and to set up efficient prevention mechanisms and programs to avoid losses of life, thus becoming killing free.

b. Homicide rates are a bit high compared to the world average, but still good for Africa⁸.

X. As every life counts, we recommend to Botswana the adoption of a plan to show more respect for life and to diminish homicide rates in accordance with SDG 16.1.

c. They are however, press report containing allegations of the police or the Botswana Defence Force being “easily shooting” at people⁹. If these allegations are true, armed forces should be reminded of due respect to the right to life, and or equipped with non-lethal weapons.

XI. Any use of force resulting in a killing or a maiming should be investigated and dealt with by an independent body. We encourage the Authorities of Botswana to adopt or present measures to limit the use of force and to provide for an independent control of any use of force.

d. Similarly, traffic casualties are a bit high compared to the world average, but still good for Africa¹⁰.

XII. As every life counts, we recommend to Botswana the adoption of a plan to lower traffic casualties and fulfill SDG 3.6.

3. The right to freedom on Conscience, thought and religion: Conscientious objection.

^{10°} As conscientious objection is also the refusal to kill, conscientious objection should also be considered under the right to life.

a. Serving in the Botswana defence Force is voluntary. However, we lack information on the possibility of these volunteers to come out of service, should they develop conscientious objection motives.

XIII. Therefore we recommend that Botswana, as with other countries whose armed forces rely upon voluntary recruitment, be encouraged to make a clear statement in law of the right to have or to develop a conscientious objection to military service, so as to guarantee protection of that right to all, including those who have already enlisted in the armed forces.

b. Similarly, persons who should develop conscientious objection motives to participate in the financing of military activities should be provided with the possibility to be liberated from such taxation and to pay a similar amount for sustaining peace activities.

XIV. We encourage the Government of Botswana to create a fund for peace in which people can make voluntary contribution or pay what they refuse to pay for military budgets.

Conclusion

Generally speaking, the right to life is rather well protected in Botswana. Major flaws concern the death penalty and the ratification of the genocide convention. Not withholding poverty alleviation and the fight against HIV/aids, improvements can and should also be made regarding homicides rates, traffic casualties and as it seems police or armed forces violence to approach the establishment of a killing-free society.

Botswana is a rather peaceful country. However, important improvements can be made to enhance peace and peace promotion, locally as internationally, including by offering to the tax payers the opportunity to see their funds dedicated to peace issues.

*“We understand the right to life as being the right not to be killed,
but also as everyone’s responsibility not to kill others,
in any circumstances and by any direct or indirect means”*

¹ www.nonkilling.org

² The Human Rights Committee, in its draft comment 36 (2015) on the right to life describes life 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>

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 www.cpti.ws

⁶ https://www.constituteproject.org/constitution/Botswana_2005?lang=en#16

⁷ <http://visionofhumanity.org/indexes/global-peace-index>

⁸ Botswana: 10.53/100,000, World 6.9/100,000, Africa 12.5/100,000.

<http://apps.who.int/gho/data/view.main.VIOLENCEHOMICIDEv>

https://en.wikipedia.org/wiki/List_of_countries_by_intentional_homicide_rate

⁹ <https://mg.co.za/article/2016-03-16-botswanas-shoot-to-kill-policy-against-suspected-poachers>

¹⁰ Botswana: 23.6/100,000, World 17.4/100,000, Africa 26.6/100,000.

<http://apps.who.int/gho/data/node.main.A997>

https://en.wikipedia.org/wiki/List_of_countries_by_traffic-related_death_rate