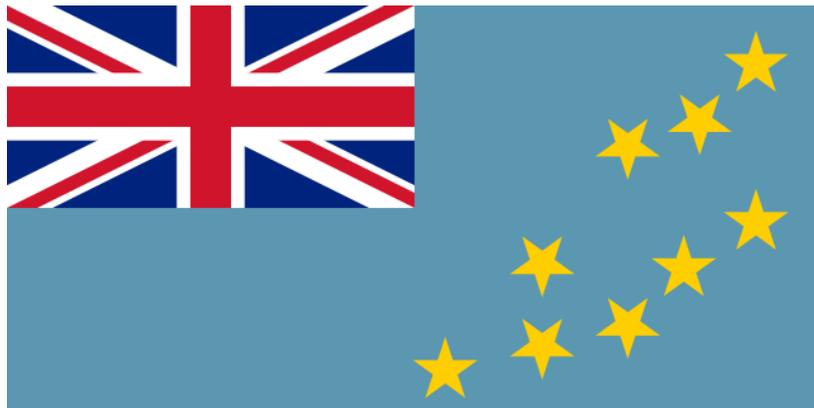


Universal Periodical Review

Third cycle

TUVALU



Right to life and related human rights issues

Short submission

4th of October 2017

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

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 by Glenn Paige (1929-2017), political science Professor and author of the book “Nonkilling Political Science”, widely translated. The Center is a worldwide congregation of scholars working to create societies that do not kill. It has ECOSOC special consultative status since 2014.

The present submission is a short version insisting on some of the most salient aspects of the respect of the right to life in Tuvalu¹. Some of the bearings it contains could however be applicable worldwide.

The right to life

All human rights are of equal importance, indivisible, interlinked and mutually reinforcing. They are universal human and legal values.

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

- a. If dignity can be said to be the paramount human right because present when each and all human rights are fulfilled, so is the right to life present for all human rights to be fulfilled. Yet the right to life also precedes all other human rights: if life is taken all other human rights are cancelled². Conversely, granting and giving solid ground to the right to life and to the quality of life 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, suicide 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. The right to life is also the duty not to kill. Therefore the right to life is a fully reciprocal right granted to all and in need of being granted by all to all.

Other human rights

All human rights are needed to fulfil a happy life. However, some of them are of more direct importance for the full realisation of the right to life, or to avoid its breaches. CGNK 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 environment³. Furthermore, peace and peaceful methods provide means to solve conflicts without aggravating them and, as may be, to the advantage of all concerned in a (re)constructive way. Conflicts solved peacefully alleviate feelings with respect, redress damages when possible, give ground to lessons learned and to design policies for future prevention. Peaceful methods of conflict management also address conflict between apparently conflicting human rights (i.e, freedom of expression and freedom of religion). The right to *accurate standards of living*, including the rights to food, water and sanitation, clothing and housing, health, work and social security deserve full attention, at least in our comprehensive submissions. The *right to health* is essential for the fulfilment of the right to longevity, as well as to achieve societies in which *human rights are equally shared*. The *human right to a healthy natural environment*, thus sustaining humanity and life on Earth, deserves accurate attention as well.

Tuvalu is a both a gifted country and a country standing with strong challenges. It is a very peaceful nation, beautifully located, but under the threat of climate change and the rise of sea levels. It has limited resources, including to bear great distances to and from other places in the world.

However, as a full member of the community of Nations, it should as any country, be an example for the legal, structural and factual respect of the human person, for the fulfillment of dignity for each and every individual, for to full accomplishment and availability of human rights, in a nonkilling world.

A. Background and framework

1. Scope of international obligations

a. 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 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 the right to life. National constitutions should similarly reflect this legal stand in favor of life.

1° Every person needs life and needs to be part of a social group to live and to be part of a society and to be related with its government, ideally all thriving for the good of all. Therefore all individuals, as well as all social and political groups should be protected against genocide.

The absence of ratification by Tuvalu of the convention on the prevention and punishment of the crime of genocide is unbearable.

A recommendation made by Estonia (84.11) in the second cycle was sadly noted. However, ratifying the convention would entail little efforts, but to adapt the criminal code.

I. Therefore, we will commend Tuvalu for reviewing its position on this recommendation and we strongly recommend to the authorities of Tuvalu to ratify the Convention on the prevention and punishment of the crime of genocide, as soon as possible.

2° We congratulate Tuvalu for the absence of the death penalty.

II. However, we strongly urge the authorities of Tuvalu to swiftly ratify the Covenant on Civil and Political Rights and henceforth its protocol on the abolition of the death penalty.

3° Ratification of the Convention on Enforced Disappearances (CED) is also needed for Tuvalu to complete the ratification of the basic treaties regarding the right to life, thus giving a more comprehensive and legal protection to the right to life.

III. We encourage the Authorities of Tuvalu to ratify the Convention on enforced disappearances.

b. Regional human rights mechanisms

4° There is no human rights regional body – ideally a judicial one – in the Pacific region.

IV. Therefore, we recommend to the State of Tuvalu, as well as to all States in the Pacific Region, to set up as soon as may be a regional human rights legal mechanism.

B. Implementation of international human rights obligations

Right to life

5° The constitution of Tuvalu, at large, beautifully bears on the right to life:

In the preamble: “The right of the people of Tuvalu, both present and future, to a full, free and happy life, and to moral, spiritual, personal and material welfare, is affirmed (...)”

Similarly, in a specific human rights provision, the constitution states (article 16): “Subject to the provisions of this Part, (...) no-one shall be killed intentionally”. We note with appreciation that this nonkilling provision applies to individuals and institutions alike.

However, the exceptions to the absolute right to life provided for in articles 16.2 and in articles 30 to 32 of the Constitution of Tuvalu are considerably too wide and at least for some of them in contradiction with humanitarian law. No killing committed by an official, in any circumstance and in our opinion including in case of war, should ever be legal *prima facie* simply because it is committed by an official. So forth, killings or use of force by officials should never go without a legal – automatic and independent – control over it. Moreover, in the shift towards States and societies that no longer sanction killing and who grant full and entire respect for the right to life, creating viable alternatives and policies for life enhancement, early violence prevention strategies and establishing increasing limitations to the use of lethality and, from nonviolent means to nonlethal weaponry in extreme scenarios, nonkilling shall become a shared goal for humanity, the full accomplishment, by authorities for the respect of the right to life and an expression of the dignity and exemplarity of States and public institutions, a living example for individuals to respect as well, the right to life.

V. We therefore strongly recommend to the Authorities and to the population of Tuvalu to amend as soon as may be their Constitution, to give full reverence to life as provided for in its preamble and human rights sections, and to suppress all exceptions to the right to life.

Doing so, the authorities of Tuvalu will also progress with the goal set by SDG 16, target 1: “[To] significantly reduce all forms of violence and related death rates everywhere”.

VI. We also encourage the Government of Tuvalu to establish an automatic judiciary procedure to verify the legality, circumstances and sufficient prevention means provided for beforehand, in any situation where force was used or may be used, by officials in the course of their duties.

6° To enhance the *right of participation* in the decision-making process, as granted in article 25 of the Covenant on civil and political rights (yet to be ratified by Tuvalu) and to give greater meaning and practice to the excellent part of the preamble of the Constitution of Tuvalu (quote): “In government, and in social affairs generally, the guiding principles of Tuvalu are: - agreement, courtesy and the search for consensus, in accordance with traditional Tuvaluan procedures, rather than alien ideas of confrontation and divisiveness; (...)”,

VII. We encourage the Authorities of Tuvalu to explore new ways to practice democracy and to reinforce participation of truthfully informed citizens, including for constitutional reforms and, or by giving official recognition to local consensus practices.

7° Giving due consideration to the limited resources of Tuvalu,

VIII. We nevertheless encourage Tuvalu to participate more in international affairs, including through Internet means, to make recommendations to other States in the UPR (as much as they receive) and, as may be, to update the ratification processes of peace related treaties.

Welcoming the delegation of Tuvalu to Geneva, we wish to them as well as to all the people of Tuvalu a constructive and fulfilling Universal Periodic review.

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

¹ For more comprehensive analysis, see the submissions recently done for the UPR’s of Iceland, Switzerland, South-Korea and the UK. Such submissions look at all legal and statistical aspects of the right to life as needed to fulfil a happy and lasting life, including in relation with the Sustainable Development Goals. Statistics are used to uphold the Universal Periodic Review process by regarding at the right to life through all its aspects 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 deaths in custody, euthanasia and genetic engineering and other applications of the right to life may be added as accurate for the enhancement, the enjoyment and the protection of life. Rights to health, minimum standards of living, a healthy environment and peace, all deeply related to the right to life, are studied more thoroughly as needed or according to available means.

² 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>

³ Article 28 of the Universal Declaration of Human Rights reads: “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized”. In our opinion, such an order is indeed peaceful and therein rights fulfilling.