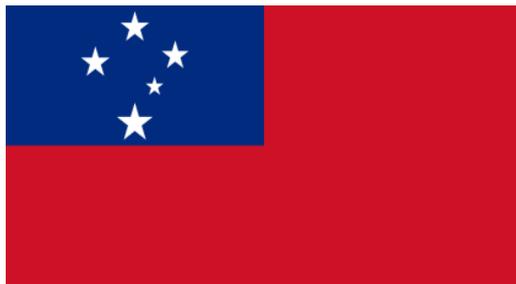


## Universal Periodical Review

*Third Cycle*

# SAMOA



## Right to Life and Right to Peace Related Human Rights Issues

March 25 2021

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

**We understand the right to life as being  
the full enjoyment of Life,  
as being the right not to be killed,  
and 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 and author of the book “Nonkilling Political Science”<sup>1</sup>. 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 with the Center for Global Nonkilling and become a nonkilling centre yourself, celebrating, enhancing and protecting life<sup>2</sup>. The Center has ECOSOC special consultative status since 2014. At each session of the UPR, we make one or more submissions, usually one providing the International Community with a more or less comprehensive report on all aspects of the situation of life in the country under review. We also make systematic submission to the countries still needing to ratify the Convention on the prevention and the punishment of the crime of genocide.

### **Human rights**

All human rights are universal, of equal importance, indivisible, interlinked and mutually reinforcing. They arise out of our fundamental human nature and our conscience and are expressed themselves by our knowledge, feelings and values. They grow, within ourselves as shared, and remain through awareness, practice and kindness. They are needed to build lasting and prosperous, thriving and humane societies, on a sustainable planet, enabling everyone to lead a fulfilling life, in solidarity, leaving no one behind.

As universal legal basis, fundamental rights form the infrastructure of our civilisation, as needed for it to flourish in dignity, through present time and in future History. We, humanity, support and implement human, universal and fundamental rights by using universal and fundamental, peaceful methods such as education and exemplarity, the cultures of peace and non-violence, cooperation and consensus, prevention and precaution, peaceful settlements of disputes. These methods are essential for the full respect and the common enjoyment, for the achievement of all human rights as for the existence and continuity of societies and cultures.

### **The right to life**

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

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](http://www.nonkilling.org)*

a. Dignity can be said as being the paramount right present when each and all human rights are fulfilled. Similarly, the right to life is present in all human rights, at their base. The right to life precedes all other human rights and is needed to fulfill all human rights: if life is taken, all human rights are cancelled<sup>3</sup>.

Conversely, joyfully living and celebrating life gives a solid and happy ground to the existence of life for each and all. Further, life and the quality of life, in equality are the conditions needed for the peaceful progress and the fulfillment, for 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 shall be dealt with dignity, in a preventive, human and humane sustainable manner, for each and all.

c. Only full and effective prevention can guarantee respect and reverence for life and the right to life. Once a life is lost, compensation may be due, but there are no possible reparations.

d. The right to life is also the *absolute duty not to kill*. So forth, the right to life is a fully reciprocal right, granted by all to all.

The Center for Global Nonkilling encourages all persons and institutions to refuse the recognition of any *right* to kill. Killing is never admissible, henceforth, cannot be a right or granted as a right.

Yet so far, three *powers* to kill have sometimes been legally granted, always under very strict and exceptional circumstances. We do not approve or condone to these powers to kill. They shall be considered unwanted remnants of the past and be terminated as soon as may be.

These three legal powers to kill are:

1) Use of *legitimate self-defence*. Legally and presently, it requires a proportionate reaction, in response to a direct, severe and imminent threat that cannot be addressed otherwise.

The circumstances where self-defence may be needed are most always a failure of prevention. A failure that should be thoroughly analysed to extract lessons learned and design more accurate policies, best practices. If self-defence circumstances nevertheless occur, using nonviolent and nonkilling means, they are no possible proportionate reactions and the threat can be addressed otherwise. Whatever the ends and means used, the result of legitimate self-defence shall always be reviewed by an independent mechanism.

Because it highly impacts on the rights to life, personal integrity, security and as self-defence is often used to justify it, *use of force* by officials or anyone shall always be avoided, or highly limited<sup>4</sup>. States have a duty of exemplarity and a legal duty regarding fundamental rights and values, a duty to act non-violently – force is not violence! – to avoid maiming or worse. Utmost attention shall be given to prevent situations which may result in use of force or further, in loss of lives. Security forces must be trained in prevention and non-violent techniques, report, debrief and practice lessons learned and best practices to avoid recurrence of the use of force.

Again, any official use of force should be monitored by a totally independent mechanism.

2) *Death penalty*, if ever permissible, is a major and definitive breach of the right to life and of numerous other human rights, including those of other related persons. It is considered an inhumane, cruel and degrading treatment<sup>5</sup>. It is the worst example of non-respect for the right to life a State can give. Preventive effects being undemonstrated, death penalty is unworthy and lacks the necessary dignity and legitimacy, the moral standards and exemplarity required of any authoritative power. Death penalty is not either compatible with the Sustainable Development

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](http://www.nonkilling.org)

Goals (SDG): these grant universal development and their main assertion and goal is to “leave no one behind”. Killing someone is worse than leaving this person behind, it is depriving them of their share of human destiny and of their right to amend themselves. The SDG’s were unanimously adopted by all Members of the United Nations and thus grant a right to development and to rehabilitation for all. The SDG’s also require “significant reduction of violence and related killings (SDG 16.1)”. This surely includes killings by the State.

3) *Powers of war*, conceded by humanitarian law, dare an exception to the right to life, as permitting under strict circumstances and given due precautions only the taking of the life of soldiers. This is morally unacceptable and profoundly backward. Seeing that 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 goal for all humanity, for the sake of life in peace. Said simply, “peace and peace only”!

### **The right to peace**

Peace originates in our human nature, is supported by human thoughts, feelings and knowledge, continues through prevention and is supported by non-violent institutions and practices, peaceful methods and peaceful settlements of disputes.

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 method, universal, needed for the completion of all other 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*”. Such an order is a peaceful order.

The links between *human rights and peace* are being widely developed<sup>6</sup>.

**We salute with great respect the vote by Samoa** in favour of the Declaration on the Right to Peace at the General Assembly in 2016<sup>7</sup>. It is time to implement it<sup>8</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, make it possible to draw 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 for the full realisation of the rights to life and peace, or to avoid their breach.

The *right to participate in the decision-making*, fully, including for women, youth, persons with disabilities and all vulnerable persons and social groups is highly important as it creates inclusive and humane societies, where responsibilities are equally shared for 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, 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 to social security deserve full attention, in all circumstances.

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](http://www.nonkilling.org)

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 fulfilment of life in reverence for life should always be mentioned:

*“Happy people breed a happy world”*

## **Universal Periodic Review of Samoa**

### **Previous participation and new proposals**

#### *Continuity in progress*

CGNK made a previous submission for the UPR of Samoa during the 2<sup>nd</sup> cycle (September 2015). We focused mainly on the right to life and on prevention of violence, homicides and suicides, on peace-related issues.

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

#### *Living happily*

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 aiming at the *abolition of the death penalty*, and the Convention on *enforced disappearances* are the ones mostly concerned by the application of the right to life. They are minimum standards needed for any country to internationally recognize and show full legal respect for life and the right to life.

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

### **Prevention of genocide**

In a time in which humanity must learn to survive as a whole, on our planet, the prevention of genocide and the sustenance of life for all individuals, all social and political groups and for our species is and always remains of vital importance. Every individual, every social groups and every State have a right, a responsibility and a duty to protect and enhance life for each and all; to be exemplar in this respect.

Every person needs to be part of a social group to live in and thrive in society, to relate with its kin, its government and its institutions and has, individually and collectively, both a right and a duty to protect and be protected against any forms of violence, racism, discrimination or worse, against any destruction of life, including genocide.

The United Nations Special Adviser for the Prevention of Genocide has called for the universal ratification of the Convention of the prevention and the punishment of the crime of genocide<sup>9</sup>.

The Human Rights Council has adopted, without a vote at its 37<sup>th</sup> and 43<sup>rd</sup> sessions resolutions containing similar calls<sup>10</sup>.

Samoa still needs to do so. The ratification of the Convention and adapting local laws is a rather simple commitment. It requires a decision to ratify, a parliamentary decision expressed at least by a small change in the criminal code to criminalize genocide and a certified letter to the Secretary General confirming ratification.

Tools and initiatives are available for the efficient prevention of genocide and State participation, however modest, is a step ahead<sup>11</sup>.

Samoa noted the recommendations made by Armenia and Ireland, recognizing the importance and the value of the convention, yet wanting to do more local consultations before committing itself. We sincerely hope these have taken place and the ratification is now possible.

**I. To progress towards universal nonkilling, we strongly recommend to the Authorities of Samoa the urgent ratification of the Convention on the prevention and punishment of the crime of genocide.**

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

Samoa is the facto abolitionist regarding the death penalty since 2004<sup>12</sup>. Despite constitutional changes in 2017 and 2019, the penalty is still present in the constitution<sup>13</sup>.

States have a duty of exemplarity regarding human rights and Constitutions are of major guidance. They shall show coherence between the text and the practice.

**II. As we did in 2015, we recommend a change of the Constitution, ideally through a participative process, to definitely bar the possibility of such sentences.**

**III. We then recommend the swift ratification of the 2<sup>nd</sup> Protocol of CCPR aiming at the abolition of the death penalty.**

The constitution of Samoa also contains a clause largely permitting the taking of life in cases of defense of life, arrest, escape, riot, insurrection, mutiny, etc. (article 5 § 2)<sup>14</sup>. This clause sends a wrong message about the protection and the fulfillment of the right to life. Use of force shall always be avoided, or be very strictly limited and controlled. If force is used, it shall be nonkilling /non-lethal, but also non-maiming and therefore non-violent. To avoid unnecessary killings and police brutality, locally<sup>15</sup> as worldwide, there is a need for a change of culture, towards promoting the protection of life in all cases, starting with the guidance of the Constitution. Such a somewhat killing clause is found in former British Colonies. It would be nice if Samoa would – the pacific way! – take the lead to initiate such a change<sup>16</sup>.

**IV. We strongly urge the authorities and people of Samoa to change their constitution regarding the use of force and introduce non-lethal principles and strict control of it therein<sup>17</sup>.**

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

*Security to live well*

#### **Prevention of homicides and violence**

Prevention of homicides and violence requires dedication and accurate tools: a nonkilling culture, general and specific measures to reduce violence, proper reporting.

Since our previous submission in 2015, we did not find new international data<sup>18</sup> and local data is partial. We have coverage for 2017 and 2018<sup>19</sup> indicating a sharp rise in the number of killings in 2018. In 2015, the rate was 3.1/100,000 or 6 killings for a total population of 180,000~. For 2017, we have 7. For 2018, we have 13 deaths, bringing the rate to 6.5 / 100,000.

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](http://www.nonkilling.org)*

**V. Every life counts! We encourage Samoa to adopt more robust life preserving policies and to set becoming a nonkilling country as a goal.**

**Prevention of suicides**

Suicide rate is low and declining (4.5/100'000, world 10.5); mostly young men<sup>20</sup>. Again data is lacking; a private source mentions twice as much<sup>21</sup>.

Suicides prevention comes under SDG 3.4.2. Nothing regarding suicides is mentioned in Samoa's VNR's 2016 and 2020 or in the 2018 national statics report<sup>22</sup>. Valuing life in all circumstances is a primal goal for education, social networks, in law and for institutions. Suicide prevention programs are fully part of the State duty to protect life and enhance the fulfillment of the right to life.

**VI. We strongly encourage the implementation and support of suicide prevention programs.**

**Prevention of traffic injuries**

Traffic-related death rates are low in Samoa (11.3/ 100,000 – World 18.1) and diminishing; a third between 2013 and 2016<sup>23</sup>. Here again work is needed on data and SDG 3.6 demands diminishing them by half, by 2020.

**VII. We encourage the Government, road building and traffic authorities of Samoa to pursue further the reduction of deaths related to traffic.**

*Hoping to welcome the delegation of Samoa to Geneva,  
we wish to you and to all the people of the country  
a constructive, enhancing and fulfilling  
Universal Periodic Review.*

---

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

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

<sup>3</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>4</sup> 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>

<sup>5</sup> See i.e. the 9<sup>th</sup> meeting of the 34<sup>th</sup> session of the Human Rights Council.

<sup>6</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>.

> United Nations General Assembly’s Declaration on the Right to Peace A/RES/71/189,

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

> Florence Foster: “Sustaining Peace: how can human rights help?”, QUNO-OHCHR, February 2021, available here:

[https://quno.org/sites/default/files/timeline/files/2021/2021\\_QUNO-OHCHRSustainingPeace-HowCanHumanRightsHelp.pdf](https://quno.org/sites/default/files/timeline/files/2021/2021_QUNO-OHCHRSustainingPeace-HowCanHumanRightsHelp.pdf)

<sup>7</sup> <http://www.undocs.org/A/RES/71/189>

<sup>8</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>9</sup> [http://www.un.org/en/genocideprevention/documents/171208\\_AD\\_International%20Day\\_FINAL.pdf](http://www.un.org/en/genocideprevention/documents/171208_AD_International%20Day_FINAL.pdf)

<sup>10</sup> [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/37/26](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/26) and <https://undocs.org/A/HRC/RES/43/29> § 7

<sup>11</sup> I. e. : <http://www.gaamac.org/organizations>

<sup>12</sup> [http://www.parliament.gov.ws/new/wp-](http://www.parliament.gov.ws/new/wp-content/uploads//01.Acts/Acts%202004/Crimes_Abolition_of_Death_Penalty_Amendment_Act_2004_-_Eng.pdf)

[content/uploads//01.Acts/Acts%202004/Crimes\\_Abolition\\_of\\_Death\\_Penalty\\_Amendment\\_Act\\_2004\\_-\\_Eng.pdf](http://www.parliament.gov.ws/new/wp-content/uploads//01.Acts/Acts%202004/Crimes_Abolition_of_Death_Penalty_Amendment_Act_2004_-_Eng.pdf)

<sup>13</sup> <https://www.palemene.ws/wp-content/uploads/Constitution-Eng.pdf> (2019)

<sup>14</sup> Idem

<sup>15</sup> Nice to see a judge clearly doing so: <https://www.samoaoobserver.ws/category/article/55016>

<sup>16</sup> List of countries with a similar clause: Antigua and Barbuda, Bahamas, Barbados, Belize, Botswana, Cyprus, Dominica, Gambia (incl. draft 2019), Ghana, Grenada, Kiribati, Mauritius, Nauru, Papua-New Guinea, St-Kitts and Nevis, St-Lucia, St-Vincent and the Grenadines, Samoa, Sierra Leone, Solomon Islands, Swaziland, Tuvalu and Zambia.

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](mailto:cb@apred.ch)

*Thank you for your kind support at [www.nonkilling.org](http://www.nonkilling.org)*

---

<sup>17</sup> See as a start point an example found in article 184.3 of the Constitution of the Canton of Geneva. Available here:

<https://www.admin.ch/opc/fr/classified-compilation/20132788/index.html#a184> in French. Translated: “In conflictive situations use of force shall be avoided or limited. Concerned persons must concur”.

<sup>18</sup> SDG 16.1. “To significantly reduce all forms of violence and related death rates everywhere”. Though Samoa did include SDG16 in its VNR, some figures are present therein, but no specific program addresses the rise.

Unodc, *Global Study On Homicide 2019* <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet2.pdf> Booklet 2, p. 32

<sup>19</sup> <https://www.sbs.gov.ws/images/sbs-documents/social/Abstract/Abstract2018.pdf> P. 84

[https://sustainabledevelopment.un.org/content/documents/26429Samoa\\_Samos2ndVNR2020reduced.pdf](https://sustainabledevelopment.un.org/content/documents/26429Samoa_Samos2ndVNR2020reduced.pdf) Page 124

<sup>20</sup> [https://data.worldbank.org/indicator/SH.STA.SUIC.P5?locations=AS-WS&name\\_desc=false](https://data.worldbank.org/indicator/SH.STA.SUIC.P5?locations=AS-WS&name_desc=false)

<sup>21</sup> <https://www.samoaoobserver.ws/category/article/49289>

<https://www.rnz.co.nz/international/pacific-news/399114/mental-illness-stigma-exacerbating-samoa-suicide-rate> with life lines to call to find help.

<sup>22</sup> <https://www.sbs.gov.ws/images/sbs-documents/social/Abstract/Abstract2018.pdf> Absent p. 92.

<sup>23</sup> <https://data.worldbank.org/indicator/SH.STA.TRAF.P5?locations=WS>