An Historical Introduction to the Right to Life

0.01 It has been said that the struggle for human rights 'is as old as history itself, because it concerns the need to protect the individual against the abuse of power by the monarch, the tyrant, or the state'.[1] Speaking in 1978 on the occasion of the thirtieth anniversary of the Universal Declaration of Human Rights, US President Jimmy Carter declared that, of all human rights, 'the most basic is to be free of arbitrary violence – whether that violence comes from governments, from terrorists, from criminals, or from self-appointed messiahs operating under cover of politics or religion'.[2] Those fundamental realities notwithstanding, the right to life, per se, is a relatively recent addition to the law of nations. 'To say that each person ought not to be killed is an easily comprehensible moral statement, however much it may in practice be violated.' In 'contrast', Kenneth Minogue suggested, 'the idea that each person has a "right" to life is, on the face of it much more puzzling'.[3]

0.02 In the ancient world, the Code of Hammurabi is the oldest set of complete laws known to exist. Promulgated by King Hammurabi, who ruled Babylon in the first half of the eighteenth century BCE, the text speaks of his desire 'to further the well-being of mankind' by creating protections 'so that the strong should not harm the weak'.[4] In fourth-century BCE China, Meng Zi, a disciple of Confucian thought, declared that 'all human beings' by nature share a common humanity, moral worth, inherent dignity, and goodness.[5] In the same century, the philosopher Xunzi affirmed that in order to eliminate

[1] A. H. Robertson and J. G. Merrills, *Human Rights in the World: An Introduction to the Study of the International Protection of Human Rights*, Manchester University Press, Manchester, 1996, p. 9.
[2] Reproduced in W. Laqueur and B. Rubin (eds.), *The Human Rights Reader*, Meridien, New York, 1979, p. 326.
[3] K. Minogue, 'The History of the Idea of Human Rights', in Laqueur and Rubin (eds.), *The Human Rights Reader*, p. 3.
[4] P. G. Lauren, 'The Foundations of Justice and Human Rights in Early Legal Texts and Thought', chap. 7 in D. Shelton (ed.), *The Oxford Handbook of International Human Rights Law*, Oxford University Press, Oxford, October 2013, pp. 163–93, at 164–5.
[5] I. Bloom, 'Fundamental Institutions and Consensus Statements: Mencius Confucianism and Human Rights', in W. T. deBary and T. Weiming (eds.), *Confucianism and Human Rights*, Columbia University Press, New York, 1998, pp. 101–2.

conflict, 'nothing is as effective as the institution of corporate life based on a clear recognition of individual rights'.[6]

0.03 Elsewhere in Asia, between the end of the fourth and the opening of the third century BCE, Kautilya (also known as Chanakya), an Indian philosopher, economist, prime minister, and royal counsellor contributed largely to the Sanskrit treatise, *The Arthashastra*, in which he argued that the rule of law alone 'can guarantee security of life and the welfare of the people'.[7] Asoka the Great, the third king of the Mauryan dynasty who ruled a 'vast, powerful, and multi-ethnic Indian subcontinent' for nearly forty years in the third century BCE, issued the far-sighted Edicts of Asoka. These stipulated 'equal protection under the law regardless of political belief or caste, respect for all life, environmental protection, humanitarian assistance for those who suffer, humane treatment of employees and servants, the hearing of petitions and the administration of justice; the banning of slavery, the right to be free from "harsh or cruel" punishment, and the possibility of amnesty from the death penalty'.[8]

0.04 In contrast, for centuries Europe was less prominent in articulating a notion of rights or some form of protection of the weak. In the late third century and early second century BCE, Stoic philosophers argued that the laws of nature dictated ethical rules to all human beings. Zeno of Citium, one of the founders of Stoicism, insisted on the worth and dignity of each human life.[9] In Rome, the jus gentium – the law of peoples – recognised certain rights as pertaining to all human beings.[10] But this early concept of a law of nations[11] explicitly authorised slavery[12] and allowed appalling brutality to be perpetrated against individuals – especially, but not only, non-Romans.[13] In the fifth century CE, however, Justinian's *Institutes* foresaw justice as 'an unswerving and perpetual determination to acknowledge all men's rights'.[14] The Qur'an refers to the sanctity of life and respect for all human beings, rooted in the obligations that believers owe to Allah.[15]

6 Cited in the United Nations Educational, Scientific and Cultural Organization (UNESCO), *The Birthright of Man*, Paris, 1969, p. 303.

7 Lauren, 'The Foundations of Justice and Human Rights in Early Legal Texts and Thought', p. 171, citing Kautilya, *The Arthashastra*, transl. L. N. Rangarajan, Penguin, London, 1987, p. 119.

8 Lauren, 'The Foundations of Justice and Human Rights in Early Legal Texts and Thought', p. 171.

9 Ibid., pp. 173–4.

10 See, e.g., D. M. Jackson, 'Jus Gentium', in D. K. Chatterjee (ed.), *Encyclopedia of Global Justice*, Springer, 2011, available at http://bit.ly/3m3GwJC.

11 On the relationship between jus gentium and the law of nations, see, e.g., G. E. Sherman, 'Jus Gentium and International Law', *American Journal of International Law*, vol. 12, no. 1 (January 1918), pp. 56–63.

12 Gaius's *Institutes of Roman Law*, Book I: Status or Unequal Rights (De Personis), text at http://bit.ly/33dYQbu, §52; see also J. Allain, 'On Slavery and the Law of Nations – from Slavery in International Law', chap. 1 in *Slavery in International Law: Of Human Exploitation and Trafficking*, Martinus Nijhoff, January 2013, pp. 9–56, available on ResearchGate at http://bit.ly/3fwijZY.

13 See, e.g., V. V. Palmer, 'Empires as Engines of Mixed Legal Systems', Working Paper No. 17-13, Public Law and Legal Theory Working Paper Series, Tulane University School of Law, August 2017, available on SSRN at http://bit.ly/3nYsc5A.

14 Lauren, 'The Foundations of Justice and Human Rights in Early Legal Texts and Thought', p. 175, citing P. Birks and G. McLeod's translation of Justinian's Institutes, published by Cornell University Press, Ithaca, 1987, p. 37.

15 Lauren, 'The Foundations of Justice and Human Rights in Early Legal Texts and Thought', p. 168.

0.05 The right to life, as such, did not find its way into the *Magna Carta* in thirteenth-century England. That said, recognised therein were the right to trial by jury and the prohibition of the use of force without judicial writ, clearly means by which the right to life may be safeguarded.[16] Likewise, the 1689 Bill of Rights in England did not refer to the right to life, though it did outlaw the infliction of 'cruel and unusual punishments'.[17] At the same moment in history, however, helping to spur the natural law that typified the Age of Enlightenment,[18] philosopher John Locke published his two treatises of government in which he asserted that every individual, irrespective of his circumstances, possesses

> a title to perfect freedom and uncontrolled enjoyment of all the rights and privileges of the law of nature equally with every other man or number of men in the world and has by nature a power not only to preserve his property – that is his life, liberty, and estate – against the injuries and attempts of other men, but to judge and punish the breaches of that law in others.[19]

In this regard, in his *Philosophical Dictionary* of 1764, Voltaire – who did much to spread the philosophy of Locke in France[20] – praised the British Constitution for having 'arrived at that point of excellence' wherein man was 'restored' to his natural rights, which comprised 'entire liberty of person and property'.[21]

0.06 The first legal document in which the right to life was explicitly enunciated, however, was the 1776 Virginia Declaration of Rights in the United States.[22] The Declaration of Rights was largely drafted by George Mason, a Virginian planter and politician (and slave owner), who introduced it at the Fifth Virginia Convention in Williamsburg.[23] The Declaration, which was adopted by unanimous vote on 12 June 1776, affirmed that 'all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty'.

0.07 The Virginia Declaration of Rights served as the basis for Thomas Jefferson's draft text for the Declaration of Independence, which referred to 'rights inherent & inalienable, among which are the preservation of life'. Following revisions by the four other members of the 'Committee of Five' (John Adams, Benjamin Franklin, Robert Livingston, and Roger Sherman), the second paragraph of the first article in the 1776 Declaration of Independence famously stated, 'We hold these truths to be self-evident, that all men are

16 Art. 39, *Magna Carta*; concluded at Runnymede, England, 15 June 1215, text available at http://bit.ly/2z5qYyB.
17 An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown; received royal assent, 16 December 1689, available at http://bit.ly/2PlgeGw.
18 A. Gottlieb, *The Dream of Enlightenment*, Penguin, London, 2017, pp. 133–4.
19 J. Locke, *Two Treatises of Government*, Hafner Library of Classics, New York, 1947, p. 163.
20 B. Russell, *History of Western Philosophy*, Routledge (Republication), London, 2004, pp. 552, 584.
21 Reproduced in 'The Philosophical Background', in Laqueur and Rubin (eds.), *The Human Rights Reader*, p. 79.
22 Text available at http://bit.ly/2OCbG9k.
23 See, e.g., P. Wallenstein, 'Flawed Keepers of the Flame: The Interpreters of George Mason', *Virginia Magazine of History and Biography*, vol. 102 (April 1994), pp. 229–60, at 253.

created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'

Surprisingly, the 1789 Declaration of the Rights of Man promulgated in France did not explicitly protect the right to life, though it did refer to the right to security as one of the 'natural and imprescriptible rights'.[24]

0.08 In 1790, Mary Wollstonecraft published *A Vindication of the Rights of Woman: with Strictures on Political and Moral Subjects*. Therein, she asserted that women were human beings who deserved the same fundamental rights as men, declaring: 'I shall first consider women in the grand light of human creatures, who, in common with men, are placed on this earth to unfold their faculties.'[25] She went on to advocate that 'if the abstract rights of man will bear discussion and explanation, those of woman, by a parity of reasoning, will not shrink from the same test'.[26] Issued over the following two years, in Parts I and II of *Rights of Man*, Thomas Paine delivered an explicit rebuttal to Edmund Burke's attack on the French Revolution, arguing that human rights depend on nature and asserting that the role of an elected government is to protect the family and their inherent rights.[27]

0.09 In the aftermath of the First World War, the protection of minority rights became an issue of concern in the League of Nations. Eloquently described by Julius Stone in his 1932 tome, *International Guarantees of Minority Rights*, published by Oxford University Press,[28] the League protected the lives of members of minorities in both general and dedicated treaties. Thus, for example, under Article 63 of the Treaty of Saint-Germain-en-Laye of 10 September 1919, Austria undertook 'to assure full and complete protection of life and liberty to all inhabitants of Austria without distinction of birth, nationality, language, race or religion'. Under the Minorities Treaty of 28 June 1919, both Germany and Poland made similar undertakings with respect to minorities in Upper Silesia.[29]

0.10 But outside the protection of minorities and even then only in 'extreme cases in which a government treated a racial or religious minority with such cruelty that it repulsed the conscience of the rest of the world',[30] States were loath to see international law intervene into domestic matters of concern. Thus Colon-Collazo recalled a proposal by Chile in the 1936 Inter-American Conference for the Maintenance of Peace that each American republic agree to recognise 'the right of every individual to life, liberty, and the free exercise of his religion'. The proposal was rejected on the basis that it was 'too

[24] Art. 2, Declaration of the Rights of Man; approved by the National Assembly of France, 26 August 1789, text available at http://bit.ly/2RL9ZZ8.
[25] British Library, 'Mary Wollstonecraft, A Vindication of the Rights of Woman', at http://bit.ly/2ITsrj7.
[26] M. Wollstonecraft, *The Rights of Woman*, Everyman edition, Dents, London, 1929, p. 11.
[27] British Library, 'Rights of Man by Thomas Paine', at http://bit.ly/3lJHs5K.
[28] J. Stone, *International Guarantees of Minority Rights: Procedure of the Council of the League of Nations in Theory and Practice*, Oxford University Press, London, 1932. See also H. Rosting, 'Protection of Minorities by the League of Nations', *American Journal of International Law*, vol. 17, no. 4 (October 1923), pp. 641–60.
[29] See also Permanent Court of International Justice, *Rights of Minorities in Upper Silesia (Minority Schools)*, *Germany* v. *Poland*, Judgment (No. 12), 26 April 1928, available at http://bit.ly/32WWhdX.
[30] J. Colon-Collazo, 'II. The Drafting History of Treaty Provisions on the Right to Life', in B. G. Ramcharan (ed.), *The Right to Life under International Law*, Martinus Nijhoff, Dordrecht, 1985, pp. 33–4.

revolutionary'.[31] It was the barbaric actions of Nazi Germany that would instigate acceptance of the need for such a revolution.

0.11 As the descriptor indicates, however, human rights continue to inhere only in human beings. For the sake of clarity, the American Convention on Human Rights even confirms in its text that '"person" means every human being'.[32] Maurice Cranston postulates:

> No one wants to die a violent death or be injured or bound. These aversions are so naturally felt that we speak of them as natural. . . . Unlike lobsters or porcupines, *homo sapiens* has no physical defenses in his own body. The strongest man on earth can, while he is asleep, easily be killed or be injured or captured. This vulnerability gives a special urgency to his desire to avoid such fates.[33]

Animal rights – the notion that animals are also entitled to respect for their own existence and that their cruel treatment is prohibited[34] – are not recognised by contemporary international law.

0.12 The human right to life ordinarily begins at birth, although the American Convention on Human Rights explicitly protects it 'in general, from the moment of conception'.[35] The right is also, in effect, extinguished at death, although nowhere is that made explicit nor indeed is the notion itself defined. In the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), death is defined as 'the irreversible cessation of all vital functions, including brain activity'.[36] Janus was the god of beginnings and ends in Roman mythology: the 'god who looked both ways'.[37] Like the Roman God, Janus, on the cover of the book, the right to life looks both forward and back in time. When it is suspected that death has been caused unlawfully, consideration of the right to life assesses whether the deprivation of life has been arbitrary. During life, the right needs protection, demanding all reasonable effort to prevent avoidable death.

[31] Ibid., p. 33.
[32] Art. 1(2), American Convention on Human Rights; adopted at San José 22 November 1969; entered into force 18 July 1978.
[33] M. Cranston, 'What Are Human Rights?', in Laqueur and Rubin (eds.), *The Human Rights Reader*, pp. 21–2.
[34] See, e.g., A. Taylor, *Animals and Ethics: An Overview of the Philosophical Debate*, 3rd ed., Broadview Press, Toronto.
[35] Art. 4(1), American Convention on Human Rights.
[36] Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), Office of the UN High Commissioner for Human Rights, New York/Geneva, 2017, Glossary. 'Death is "natural" when it is caused solely by disease and/or the ageing process. It is "unnatural" when its causes are external, such as intentional injury (homicide, suicide), negligence, or unintentional injury (death by accident).'
[37] World History Encyclopedia, 'Janus', at https://bit.ly/39dc4Z3.

PART I

Overview of the Right to Life under International Law

1

The Status of the Right to Life

INTRODUCTION

1.01 This chapter describes the international legal status of the right to life and both its substantive and procedural elements. It was in 1945 that fundamental human rights, such as the right to life, were first reflected in international law. The Charter of the United Nations (UN Charter)[1] was adopted following, and predominantly in response to, the ravages of the Second World War and the Holocaust. The preamble to the Charter noted the determination of the peoples of the United Nations 'to reaffirm faith in fundamental human rights . . . [and] in the dignity and worth of the human person'.[2]

1.02 One of the declared purposes of the global body is to achieve international cooperation in 'promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion'.[3] UN member States further undertake 'to take joint and separate action' in cooperation with the United Nations, with a view to achieve 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'.[4] Aside from this evocation of the prohibition of discrimination, however, the Charter does not identify which human rights and fundamental freedoms are to be respected.

1.03 In 1948, the Universal Declaration of Human Rights[5] addressed this obvious lacuna. Article 3 of the Declaration affirms that 'everyone has the right to life, liberty and security of person'. The Universal Declaration of Human Rights is ostensibly a soft-law instrument, without direct legally binding force, although many, if not all, of the Declaration's articles

[1] Charter of the United Nations; adopted at San Francisco 26 June 1945; entered into force 24 October 1945 (hereinafter, UN Charter). As of 1 May 2021, there were 193 UN member States: 49 States were formally party to the UN Charter and a further 144 were admitted to the United Nations on the basis of Article 4 of the UN Charter, having declared their acceptance of the obligations contained in the Charter.

[2] UN Charter, second preambular para.

[3] Art. 1(3), UN Charter.

[4] Arts. 56 and 55(c), UN Charter.

[5] Universal Declaration of Human Rights; adopted at Paris, by UN General Assembly Resolution 217, 10 December 1948. Resolution 217 was adopted by forty-eight votes to zero with eight abstentions (Byelorussian SSR, Czechoslovakia, Poland, Saudi Arabia, South Africa, Soviet Union, Ukrainian SSR, and Yugoslavia). Honduras and Yemen did not take part in the vote.

are reflective of customary law.[6] The Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention),[7] adopted by the UN General Assembly the same year as the Universal Declaration, is a treaty with explicit legal obligations to prevent and repress widespread violations of the right to life when committed with the requisite intent to destroy, in whole or in part, a minority.[8] This is so, even though the text of the Convention does not specifically refer to the right to life.

1.04 Adopted a year later, the four 1949 Geneva Conventions prohibit the wilful killing of 'protected persons' in situations of international armed conflict, including sick, wounded, or shipwrecked combatants and civilians in occupied territory, making such killing a crime of compulsory universal jurisdiction.[9] In non-international armed conflict, Article 3 common to the 1949 Geneva Conventions[10] provides that in such situations, 'violence to life and person, in particular murder of all kinds' against anyone 'taking no active part in the hostilities' is 'and shall remain prohibited at any time and in any place whatsoever'.[11] Further, the 'carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples',[12] is also prohibited (and is a war crime under the jurisdiction of the International Criminal Court).[13] Although, of course, the Geneva Conventions are instruments of international humanitarian law and not human rights treaties, the effect of these common provisions is to protect the life of all those who are not directly participating in hostilities in connection with an armed conflict.

6 See, for example, H. Charlesworth, 'Universal Declaration of Human Rights (1948)', *Max Planck Encyclopedia of Public International Law*, February 2008, paras. 13–18, at http://bit.ly/2zKA9nC; and H. Hannum, 'The Status of the Universal Declaration of Human Rights in National and International Law', *Georgia Journal of International and Comparative Law*, vol. 25 (1995–96), pp. 287–397, available at http://bit.ly/2DgGyKw.

7 Convention on the Prevention and Punishment of the Crime of Genocide; adopted at New York, by UN General Assembly Resolution, 9 December 1948; entered into force 12 January 1951. As of 1 May 2021, 152 States were party to the Convention, the latest to adhere being Mauritius, on 8 July 2019. One further State, the Dominican Republic, is a signatory.

8 The Convention specifies that genocide is any of a series of acts committed with the *dolus specialis* of 'intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such'. Art. 2, 1948 Genocide Convention.

9 For example, Arts. 146 and 147, Convention (IV) relative to the Protection of Civilian Persons in Time of War; adopted at Geneva 12 August 1949; entered into force 21 October 1950.

10 Common Article 3 applies to non-international armed conflicts, but in its judgment in the *Nicaragua* case, the International Court of Justice (ICJ) affirmed that there 'is no doubt that', in the event of international armed conflicts, the rules contained therein 'also constitute a minimum yardstick, in addition to the more elaborate rules which are also to apply to international conflicts'. ICJ, *Case Concerning Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*) Judgment (Merits), 27 June 1986 (hereinafter, ICJ, *Nicaragua* judgment), para. 218.

11 For example, Art. 3, Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; adopted at Geneva 12 August 1949; entered into force 21 October 1950.

12 Ibid.

13 Art. 8(2)(c)(iv), Rome Statute of the International Criminal Court; adopted at Rome 17 July 1998; entered into force 1 July 2002. As of 1 May 2021, 123 States were party to the Convention and a further 31 States were signatories (although four – Israel, Russia, Sudan, and the United States – had declared that they would not be ratifying the Rome Statute).

1.05 The American Declaration on the Rights and Duties of Man, also known as the Bogota Declaration, was adopted on 2 May 1948, preceding by seven months the promulgation of the Universal Declaration of Human Rights. Article I of the Bogota Declaration stipulates that 'every human being has the right to life'. In 1950, the Convention for the Protection of Human Rights and Fundamental Freedoms (better known as the European Convention on Human Rights),[14] a regional human rights treaty adopted by the Council of Europe, explicitly recognised the right to life, stipulating that 'everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.'[15] As of 1 May 2021, forty-seven States were party to the Convention.[16] But it would not be until 1966, with the adoption by the UN General Assembly of the International Covenant on Civil and Political Rights, that the right to life would be instituted as a global treaty norm in the modern era.

THE RIGHT TO LIFE AS A TREATY NORM

1.06 A treaty is the first of three primary sources of international law listed by the Statute of the International Court of Justice that the Court is obligated to apply with a view to resolving disputes as to the tenets of international law.[17] Treaties – 'international conventions, whether general or particular', in the words of the Statute – are defined in the 1969 Vienna Convention on the Law of Treaties as an 'international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation'.[18]

1.07 First and foremost in global treaty law with respect to the right to life is the International Covenant on Civil and Political Rights (ICCPR). The ICCPR was adopted by the UN General Assembly in New York on 16 December 1966,[19] entering into force a decade later on 23 March 1976. As of 1 May 2021, it had a total of 173 States Parties.[20] The

[14] Convention for the Protection of Human Rights and Fundamental Freedoms; adopted at Rome, by the Council of Europe, 4 November 1950; entered into force 3 September 1953.
[15] Art. 2(1), 1950 European Convention on Human Rights.
[16] Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, and the United Kingdom. On the European continent, only Belarus and the Holy See are not party to the Convention.
[17] Art. 38(1), Statute of the International Court of Justice, adopted at San Francisco 24 October 1945.
[18] Art. 2(1)(a), Vienna Convention on the Law of Treaties; adopted at Vienna 23 May 1969; entered into force 27 January 1980 (VCLT). As of 1 May 2021, 116 States were party to the VCLT. A further 15 States were signatories. The VCLT largely codifies customary international law on treaties.
[19] UN General Assembly Resolution 2200A (XXI), adopted on 16 December 1966 by 104 votes to 0.
[20] Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Colombia, Democratic Republic of Congo, Republic of Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, Denmark, Djibouti,

following States were not party to the Covenant as of writing: Bhutan, Brunei, China (a signatory),[21] Comoros (a signatory), Cook Islands, Cuba (a signatory), Holy See, Kiribati, Malaysia, Micronesia, Myanmar, Nauru (a signatory), Niue, Oman, Palau (a signatory), Saint Kitts and Nevis, Saint Lucia (a signatory), Saudi Arabia, Singapore, the Solomon Islands, South Sudan, Tonga, Tuvalu, and the United Arab Emirates.[22]

1.08 Article 6(1) of the ICCPR stipulates that 'every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.' No derogation from these provisions is possible, even in a 'time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed'.[23] The central importance of this provision under international law can be seen in the fact that, when assessing the legality of the threat or use of nuclear weapons under international human rights law for the purpose of an Advisory Opinion, the International Court of Justice specifically considered and applied Article 6 of the Covenant.[24]

1.09 The Human Rights Committee, tasked with oversight of the implementation of the ICCPR by the Covenant's States Parties,[25] has issued three General Comments on the right to life. In its first General Comment on the right to life (No. 6), issued in 1982, the

Dominica, the Dominican Republic, East Timor, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Eswatini, Ethiopia, Fiji, Finland, France, Gabon, The Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, the Democratic People's Republic of Korea, the Republic of Korea, Kuwait, Kyrgyzstan, the Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, the former Yugoslav Republic of Macedonia, Madagascar, Malawi, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, the Republic of Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, the Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Palestine, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Samoa, San Marino, São Tomé and Príncipe, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syria, Tajikistan, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Kingdom, United States of America, Uruguay, Uzbekistan, Vanuatu, Venezuela, Vietnam (also written Viet Nam), Yemen, Zambia, and Zimbabwe.

[21] The Secretary-General of the United Nations, as the depositary of the ICCPR, notes that 'upon resuming the exercise of sovereignty over Hong Kong [in 1997], China notified the Secretary-General that the Covenant will also apply to the Hong Kong Special Administrative Region'. The Covenant had been applied to Hong Kong by the United Kingdom while Hong Kong was under its jurisdiction. Hong Kong is a partial subject of international law, with authority to conclude treaties under the name 'Hong Kong, China'. Given Article 48 of the ICCPR, however, which limits adherence to States, it is unclear by which means under international law the region is a party to the Covenant.

[22] Article 48(1) provides that the Covenant is open for signature by any UN 'member state *or the member of any of the specialised agencies*', by any State Party to the Statute of the ICJ, 'and by any other State which has been invited by the General Assembly of the United Nations' to become a party to the Covenant (emphasis added). Thus, while the ICCPR does not apply the 'all States' formula employed in many other global human rights treaties, its provision on adherence is tantamount to an embrace of those 197 States that the UN Secretary-General believes are encompassed by the formula (193 UN member States, 2 observer States, and 2 other States: Cook Islands and Niue).

[23] Art. 4(1) and (2), ICCPR.

[24] International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, paras. 24 and 25.

[25] See Arts. 28–45, ICCPR, for details on the operation of the Committee.