

THE RIGHT TO LIFE UNDER INTERNATIONAL LAW

The Right to Life under International Law offers the first-ever comprehensive treatment under international law of the foundational human right to life. It describes the history, content, and status of the right, considers jurisdictional issues, and discusses the application of the right to a wide range of groups, such as women, children, persons with disabilities, members of minorities, LGBTI persons, refugees, and journalists. It defines the responsibility of not only governments but also the private sector, armed groups, and non-governmental organisations to respect the prohibition on arbitrary deprivation of life. It also explains the nature and substance of the duty to investigate potentially unlawful death as well as the mechanisms at global and regional level to promote respect for the right to life.

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The late Christof Heyns was a member of the UN Human Rights Committee (2017–2020), the former UN Special Rapporteur on extrajudicial, summary or arbitrary executions, and Director of the Institute for International and Comparative Law in Africa (ICLA) at the University of Pretoria. He was recognised internationally as a leading expert in the field of international human rights law, including right to life issues and regional human rights mechanisms, and published widely on these matters.

The Right to Life under International Law

AN INTERPRETATIVE MANUAL

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WITH A FOREWORD BY CHRISTOF HEYNS



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Foreword

The realisation of the right to life is a precondition for the protection of all other human rights. Violations of the right to life are total and irreversible. Deadly violence, even more so than other forms of violence, destroys individuals and communities. The United Nations Human Rights Committee, in its 2018 General Comment on the right to life, reiterated the position it had taken in its 1982 General Comment – that the right to life is ‘the supreme right’.

Over the millennia, in communities around the world, religious, ethical, and legal rules have developed aimed at protecting the value of life, and at restoring the value of life if this norm is or has been breached. The very existence of international human rights law can be seen as a global response to the carnage that took place in the middle of the last century. The local, regional, and global expressions of the human preoccupation with personal and collective security, and the elimination of arbitrary deprivations of life, have shaped the development of many branches of international law. In its purest form, this aspiration to ensure the security of the individual finds its expression in the protection provided to the right to life.

The modern focus on the individual has led to an emphasis on the recognition of the equal value of each individual life, and resistance against the idea that the life of any person can be sacrificed in the pursuit of any other social objectives. The guiding star of international law has indeed been called, by myself and others, the ‘protect life’ principle, namely the ideal – still far too often breached – that the only possible justification for the intentional deprivation of one person’s life lies in the protection of the life of another.

While the core values underlying the right to life as part of international law have deep roots in cultures around the world, the applicable standards became much more coherent, nuanced, and expressly stated during the decades since the Second World War. Nevertheless, in spite of great strides made at the outset, much uncertainty remains. Developments in technology and shifting social values require constant expansion, adjustment, and further development of the substantive as well as the procedural content of the right. And, given the political sensitivity of all matters perceived as affecting State security, while the outline of the right is widely accepted, the exact contours of the right are subject to constant contestation by States and other parties. As a result, countless developments, small and large, in the way in which the right to life is perceived today have occurred during the last couple of decades.

Yet, surprisingly, in an era when there are general treaties available on most human rights, no up-to-date, comprehensive textbook is available on this most fundamental of rights. Someone trying to come to grips with the nuances of this core area of human rights will seek fruitlessly for the benefit of a comprehensive textbook which can serve as a first port of call.

A comprehensive treatment of the right, which is general enough to provide the ‘big picture’ between its two covers but specialised enough to cover the details of the most important elements of the right, is necessary for a range of reasons. It provides a proposed conceptual framework within which scientific engagement with the topic can take place, and a starting point for the development of alternative frameworks in the future. Such a book can allow researchers who work on aspects of the right or related themes to get a sense of where their works fit in. It can give newcomers – including those from other disciplines – an entry point. And it will allow everyone who works in the field to take stock of where things are. It can never claim to be the final word, but it provides a framework within which a much more meaningful discussion can take place.

This is the void that Stuart Casey-Maslen’s new book so admirably fills. The book provides a comprehensive yet tightly constructed framework that identifies the main issues and arranges them in a logical structure. Then, one by one, in economical yet elegant prose, the author provides an in-depth discussion of each issue, which could stand on its own feet but also builds on what was said before. This is the beauty of this single-author treatise, as opposed to say an edited collection – a single, deft, and reassuring voice guides one through the vast and contested terrain where the realisation of the right to life is pursued.

Stuart is singularly well placed to be the one who writes the first comprehensive treatise on the right to life. He has a rich background and deep expertise not only in human rights law but also in the other areas of law which affect our understanding of the right: the laws of war, disarmament, international criminal law, and international law in general. In addition, he is highly qualified in the areas of ballistics and forensics. His expertise is on the one hand academic, and he is one of the most prolific authors on issues related to the right to life. On the other hand, he also had a deep involvement as a practitioner and has played a leading role in the development of many of the international standards concerning the right to life that have emerged during the last decade.

Anyone whose work relates to the protection of the right to life – as an academic or as a practitioner – will benefit greatly from reading and using this book. Its publication is a major contribution towards our understanding of the right to life, and the protection of the ‘supreme right’.

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In Loving Memory, 10 January 1959 to 28 March 2021

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This book could not have been written without the generous and insightful guidance and inspirational leadership of Professor Christof Heyns. Personally, I owe so much to Christof. He contributed the Foreword to this book in January 2021. His death in March 2021 was a devastating loss to the family he adored. The human rights community lost a deeply respected member, as the testimonies that came privately and publicly in the days following his passing so clearly demonstrated. Rare are those who have both vision and attention to detail. Rarest of all are those who combine intellectual brilliance with humility, kindness, and selflessness. Christof was such a man. The obituary on the website of the Law Faculty at the University of Pretoria justly referred to a legal giant who would be sorely missed by all. While I rage at the iniquity of someone who gave so much to others being taken so young, he would not have. Always the better man, Christof. Always the better man.

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