Chapter 3. The Right to Life

The present chapter deals with the right to life in so far as it concerns the use of force by police although, clearly, other issues such as abortion and voluntary euthanasia also arise in connection with this right. Indeed the Human Rights Committee, as can be seen below, favours a broader interpretation of the right. The next chapter deals with the wider aspects of the use of force by police, and the essential message of both chapters is that the legal protection of the right to life is enhanced by the lawful and expert use of force by police, and it is undermined by unlawful and arbitrary police action.

The right to life is a fundamental human right, if not the fundamental right. It is enshrined in the Universal Declaration of Human Rights, and in global and regional human rights treaties. The right to life is elaborated, developed and delineated in the jurisprudence of human rights institutions. It is also considered to be a rule of general international law binding on all states. Under international humanitarian law, murder and other forms of unlawful killing are prohibited in times of international and non-international armed conflict.

The Universal Declaration of Human Rights proclaims the right to life under article 3, and links it with other essential rights in the following terms: “Everyone has the right to life, liberty and security of person.”

Although it is arguably the most fundamental of human rights, and is expressed unconditionally in the Universal Declaration, the right to life is not given absolute protection under treaty law whereas, for example, the prohibitions of torture and of slavery are protected absolutely. However, it is among that small number of human rights from which the treaties allow no derogation by states parties in time of public emergency, apart from one particular exception under the European Convention on Human Rights (see below).

Exceptions to the general rule that the right to life shall be protected are expressed in treaties to indicate those limited circumstances under which life may be taken by the state. Indeed, given that the Universal Declaration of Human Rights and the principal human rights treaties followed in the wake of atrocities visited upon people by murderous regimes just prior to and during the Second World War, the overriding purpose of those provisions expressing the right to life is to protect people from being unlawfully killed by the state.

It is pertinent to recall here the observations made in Chapter 2 of Part I on the entitlement of police officials to human rights, and particularly the right to life. Given the numbers of police officials killed in the course of their duties it is surprising that, apparently, none of these deaths have resulted in applications to treaty bodies claiming violations of the right to life of the officials. It is almost inevitable that defects in training, equipment, planning and command and control of police operations have led to loss of police lives. Deficiencies in these areas provide
II.3

at least *prima facie* grounds for seeking remedy or redress through a human rights treaty body.

**(A) TREATY PROVISIONS**

*(a) International Covenant on Civil and Political Rights*

The International Covenant on Civil and Political Rights expresses the right to life in article 6(1): “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of life.”

The remainder of the article (paragraphs 2 to 6) contains provisions on the death penalty and on the crime of genocide. The Covenant does not prohibit capital punishment, and thus does not provide absolute protection for the right to life, but it does seek to ensure that it is imposed only for the most serious crimes and carried out pursuant to a final judgement rendered by a competent court. Furthermore it stipulates that there should be a right to seek pardon or commutation of the sentence, and that it should not be carried out on persons below eighteen years of age or on pregnant women.

The first paragraph of the article, in addition to proclaiming the inherent right to life, places obligations on states to enact laws guaranteeing the right, and to ensure that such laws are not applied so as to arbitrarily deprive an individual of life. The term ‘arbitrary’ has a wider meaning than ‘unlawful’ in that a killing may breach article 6 even though it is within the domestic law of a state. In its General Comment No. 6 (16) concerning article 6 of the Covenant, the United Nations Human Rights Committee characterised the right to life as the supreme right from which no derogation is permitted under article 4 of the Covenant, even in a time of public emergency threatening the life of the nation, and described the protection against arbitrary deprivation of life as one of paramount importance.

The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. It adds, in its General Comment, that the deprivation of life by the authorities of the State is a matter of the utmost gravity and that, therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities. Whilst it is useful for some purposes to distinguish, as the Committee does, deprivation of life by criminal acts and arbitrary killings by security forces, it is important to remember that arbitrary

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111 Adopted by the Human Rights Committee at its 378th meeting (sixteenth session), held on 27 July 1982.