

*In Przegląd Strategiczny (Poland)*, 2013, núm. 2, pp. 123-143.

Carlos VILLÁN DURÁN  
Spanish Society for International Human Rights Law (SSIHRL)

## LEGAL FOUNDATIONS OF THE HUMAN RIGHT TO PEACE

On 5 July 2012, the UN Human Rights Council welcomed the contribution of CSOs<sup>1</sup> and established an open-ended intergovernmental working group (OEWG) with the mandate of progressively negotiating a **draft United Nations declaration on the right to peace**, on the basis of the draft submitted by the Advisory Committee (doc. A/HRC/20/31, 2012, Annex: pp. 3–9), and without prejudging relevant past, present and future views and proposals.<sup>2</sup>

Following the first session of the OEWG some 1792 CSOs and cities worldwide submitted to the HR Council a joint written statement (doc. A/HRC/23/NGO/96, 2013: 14) inviting it to extend the mandate of the OEWG for an additional year to enable it to achieve consensus with CSOs in the language of the future UN declaration of the human right to peace.

On 13 June 2013, the HR Council welcomed again the important work being carried out by civil society organizations for the promotion of the right to peace and their contribution to the development of this issue. It decided that the working group shall hold its second session for five working days in February 2014. It also requested the chairperson-rapporteur of the working group to conduct informal consultations and to prepare **a new text** on the basis of the discussions held during the first session of the working group and on the basis of the inter-sessional informal consultations to be held, and to present it prior to the second session of the working group for consideration and further discussion thereat (resolution 23/16: paras. 1, 3 and 4).

---

<sup>1</sup> See: the *Santiago Declaration on the Human Right to Peace*, adopted on 10 December 2010 by the International Congress on the Human Right to Peace held at the World Social Forum on Education for Peace, Santiago de Compostela (Spain), available at: <http://www.aedidh.org/sites/default/files/Santiago-Declaration-en.pdf>.

<sup>2</sup> Resolution 20/15, para. 1. Adopted by 34 votes in favor, one against (United States) and 12 abstentions (India and European States).

The draft resolution had been presented by Cuba on behalf of the Community of the Latin American and Caribbean States (CELAC). It was adopted by 30 votes in favor, 9 against and 8 abstentions.<sup>3</sup> Therefore, the EU Member States divided their votes between abstentions and votes against, while they joined the United States and other developed States voting against to refuse the concept of “right to peace”.

In explanation of vote, the **United States** questioned the “right” to peace, since “it is neither recognized nor defined in any universal, binding instrument, and its parameters are entirely unclear”. Therefore, USA does not agree to develop a collective “right to peace” or to position it as an “enabling right” that would in any way “modify or stifle the exercise of existing human rights”. Finally, USA “is not prepared to negotiate a draft declaration on the right to peace, while it remained open to the possibility of discussing the **relationship between human rights and peace**”.

Speaking on behalf of the European Union (EU) **Ireland** stated that the EU firmly believes in peace and human rights, and its close linkage. The preamble of both the 1948 *Universal Declaration of Human Rights* and the 1966 *International Covenants on Human Rights* proclaimed that:

“(R)ecognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of **freedom, justice and peace** in the world”.

Peace and human rights can be mutually reinforced. However, “there is no legal basis for the right to peace in international law and it is not possible to find a common definition of this right”. Therefore, it expressed concern about the content of the draft declaration prepared by the Advisory Committee, since “it is focused on a concept that does not enjoy consensus”. However, the EU is “willing to be engaged in the discussion on the linkage between peace and the enjoyment of human rights”. If the new text to be prepared by the chairperson-rapporteur well reflects its position on the relationship between peace and the enjoyment of

---

<sup>3</sup> In favour: Angola, Bangladesh, Benin, Botswana, Burkina Faso, Cameroon, Chile, Congo, Costa Rica, Djibouti, Ecuador, Guatemala, Indonesia, Jordan, Kuwait, Kyrgyzstan, Libya, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Nigeria, Peru, Philippines, Qatar, Saudi Arabia, Thailand, Uganda and Uruguay. Against: Austria, Czech Republic, Estonia, Germany, Japan, Montenegro, Republic of Korea, Spain and the United States of America. Abstentions: India, Ireland, Italy, Kazakhstan, Poland, Republic of Moldova, Romania and Switzerland.

human rights, then the EU “will take it into serious consideration taking part in the negotiation process, including the second session of the OEWG”.

On the opposite side, **Costa Rica** reminded on 7 June 2013 that “the United Nations has as ultimate goal to create a peaceful environment in which all human beings can enjoy all human rights and fundamental freedoms”. Significantly, at the end of the first session of the OEWG “there was consensus on the need to identify elements for a possible declaration based on another text”. There is “a close interaction between peace, cooperation and human rights”. We cannot “remain deaf to valid claims of ordinary citizens. Do not underestimate the power and demands of civil society. This process is a clear example of its strength and commitment”. Hesitant States “should rethink their position and participate in this process”, which is challenging and exciting at the same time.

Finally, the **Holy See** stated that peace “is one of the deepest desires of the human heart and also a right of everyone which permits the integral human development. Peace is the precondition to the realization of all other rights. Defining peace only as “the absence of war is to reduce it to a negative value”. Peace “is built each day in the family, school and society”. Without economic, political, cultural and spiritual progress, peace would be a mirage for naive minds. “Those who want to base peace exclusively on the force and balance of power are wrong”. “The other name for peace is development”. It is better served through “the construction of schools and health systems”. Peace and security cannot be realized “without respecting peace and the safety of others”. Our world does not lack resources but suffers injustice. Divisions seem more profound and therefore, today peace is more elusive. “The opposite of peace is war and fear”. War is a failure of human beings. “War is an illusion based on the idea that we can defend or build a healthy and better society by inflicting untold suffering into others”.

The **Holy See** concluded that the establishment of an OEWG with the mandate to initiate the formal codification of the human right to peace “was a wise decision, which will end with the adoption of an effective and consensual declaration”. “Non-violence, as a doctrine and method, was and remains to be the most appropriate way of mediation and reconciliation” in order to renew human ties for the common good and lasting peace”.

The present study will review the background provided by civil society organizations to the development of human right to peace (Section II). The roots and legal foundations of the

emerging human right to peace in international human rights law will be spelled out following the 14 Articles' declaration proposed by the Advisory Committee in 2012 (Section III). Lastly, some conclusions will be drawn to invite developed States to join the on-going international codification process of the human right to peace at the UN Human Rights Council (Section IV).

### **BACKGROUND: A CIVIL SOCIETY INITIATIVE**

To translate the universal value of peace to the legal category of human right has been the purpose of the legislative initiative carried out by the international civil society in all regions of the world, especially in Europe. The pioneering role of the Spanish Society for International Human Rights Law (SSIHRL) crystallized in the *Luarca Declaration on the Human Right to Peace*, adopted on 30 October 2006 (*Luarca Declaration*, 2008: 560; Villán Durán, 2011a: 59–126; Villán Durán, 2011b: 143–171).

The SSIHRL successfully conducted the World Campaign in favour of the human right to peace (2007–2010), through which the *Luarca Declaration* was shared and discussed by independent experts in meetings held in the five regions of the world (Fernandez Puyana, 2010: 61–76).

The regional contributions to the Luarca Declaration can be found in the declarations on the human right to peace adopted by experts of civil society in La Plata, Argentina in November 2008 and September 2013; Yaoundé, Cameroon in February 2009; Bangkok, Thailand in April 2009; Johannesburg, South Africa in April 2009; Sarajevo, Bosnia and Herzegovina in October 2009; Alexandria, Egypt in December 2009; Havana, Cuba in January 2010; Morphou, Cyprus in October 2010; Caracas, Venezuela in November 2010; Nagoya and Tokyo, Japan in December 2011; Slovenj Gradec, Slovenia in October 2012; San José, Costa Rica in February 2012 and 2013; Oswiecim, Poland in May 2013 (Potyrała, 2013) and London, United Kingdom in May 2013.

At its outcome, civil society organizations (hereinafter, CSOs) adopted on 10 December 2010 the *Santiago Declaration on the Human Right to Peace* and the *Statutes of the International Observatory of the Human Right to Peace* (hereinafter, IOHRP) (*Regional Contributions*, 2010; Faleh Perez, Fernandez Puyana, 2013: 39–103). As stated in a previous

study, “this is an example of good practice showing how a joint legislative initiative of both civil society and academia may pave the way to the codification and progressive development of the international human rights law” (*The International Observatory*, 2013: 545), even in a particular field – war and peace – traditionally reserved to representatives of sovereign States.

Both documents are complementary. While the *Santiago Declaration* encapsulated in legal terms CSOs aspirations of peace, the Statutes of the IOHRP provided CSOs with the appropriate institutional structure to promote and monitor the implementation of the *Santiago Declaration* among CSOs worldwide. In addition, both normative and institutional documents defined CSOs’ position vis-à-vis the on-going official codification process of the right to peace carried out since 2010 by both the UN Human Rights Council and its Advisory Committee. Our aim is that no later than 10 December 2014 the General Assembly of the United Nations could adopt a *Universal Declaration of the Human Right to Peace* taking duly into account the *Santiago Declaration* and its preparatory work.

Since the adoption of its Statutes, the IOHRP was provisionally integrated within the SSIHRL to take an active part in the on-going codification process of the human right to peace carried out in Geneva since 2011. Upon invitation of the City Council of Donostia-San Sebastian (Spain), the IOHRP established its headquarters at Aiete Palace. On 16 November 2012 an agreement was signed with the Mayor of Donostia-San Sebastian to jointly promote human rights and the culture of peace (Villán Durán, 2013: 133–182).

The strategies developed by both the IOHRP and the SSIHRL together with some 2,000 associate CSOs, cities and institutions worldwide, ensured that the *Santiago Declaration* and its preparatory work were taken duly into account by both 18 experts (Advisory Committee) and 47 Member States (HR Council). The result was highly positive since the third draft declaration on the right to peace that was submitted by the Advisory Committee on 16 April 2012 to the HR Council included 85% of the standards proposed by the *Santiago Declaration*. Therefore, CSOs asked the Human Rights Council to take into consideration the remaining 15% of standards.

In addition, on 14 September 2011 the Parliament of Spain adopted at the initiative of CSOs a resolution in support of the human right to peace, by which it urged the Government to support the official codification process of the right to peace at the United Nations, in order

to include the right of individuals and peoples to peace and to join the Group of Friend States with the codification process on the human right to peace.

Moreover, on 29 October 2011 the XXI Ibero-American Summit adopted a resolution on the right to peace in Asunción (Paraguay) at the initiative of Costa Rica with the support of CSOs, which recalled the foundation of this right in the purposes and principles of the UN Charter, the Universal Declaration of Human Rights and other international human rights instruments ratified by Member States of the Ibero-American Community. It also urged the 22 Member States to support the codification of the right to peace, as initiated at the UN Human Rights Council, paving the way for its progressive development and recognizing the important contribution made by civil society organizations to promote the right to peace.

Like the *Luarca Declaration*, the preamble of the *Santiago Declaration* referred to the **holistic approach** to peace (Faleh Perez, 2013: 105–132). This means that peace is not limited to the strict absence of armed conflicts (*negative peace*). Peace also has a *positive* dimension aiming to achieve three goals, as follows: Firstly, to satisfy the basic needs of all human beings with a view to eradicate *structural* violence originated in the world's economic and social inequalities. Secondly, positive peace aims to eliminate *cultural* violence (i.e., gender-related violence, family violence, bullying, mobbing, etc.). Thirdly, positive peace requires the effective respect for all human rights and fundamental freedoms of all, without discrimination.

Consequently, the preamble of the *Santiago Declaration* emphasized the need to establish a new international economic order that would eliminate inequalities, exclusion and poverty. These are the root causes of the *structural* violence, which is incompatible with peace at both domestic and international levels. In addition, the new international economic order should be sustainable, with due respect for the environment. It should also reassign to economic and social development resources liberated from international disarmament, which should be carried out under strict and efficient international control.

The 29 paragraphs-long preamble of the *Santiago Declaration* also provided legal background to the rights recognized in the operative part as core component of the human right to peace (Part I). Distinction was made among *rights* (Section A: Arts. 1–12) and *obligations* (Section B: Art. 13). Part II was devoted to the monitoring mechanism of the Declaration (Arts. 14–15). The Declaration ended with three final provisions.

Art. 1 of *Santiago Declaration* recognized the right-holders (individuals, peoples, groups and humankind) and the duty-holders (States) of the human right to peace. Arts. 2–12 defined the scope of the human right to peace and its core elements, as follows: the right to education on and for peace and all other human rights (Art. 2); the right to human security and to live in a safe and healthy environment (Art. 3); the right to development and to a sustainable environment (Art. 4); the right to civil disobedience and to conscientious objection (Art. 5); the right to resist and oppose oppression (Art. 6); the right to disarmament (Art. 7); the freedom of thought, opinion, expression, conscience and religion (Art. 8); the right to refugee status (Art. 9); the right to emigrate and to participate (Art. 10); the rights of all victims of human rights violations (Art. 11); and the rights of persons belonging to groups in situation of vulnerability (Art. 12).

Article 13 of the *Santiago Declaration* spelled out in eight paragraphs the **obligations** of all international actors for the realization of the human right to peace. While the primarily responsible to preserve peace are States and international organizations (paras. 2–6), all international actors, including corporations, persons, groups in society and the entire international community should recognize their obligations to realize the human right to peace. In particular, States are required to have the responsibility to protect humankind from the scourge of war. This, however, shall not imply entitlement for any State to intervene in the territory of other States. Furthermore, any military action outside the framework of the UN Charter is contrary to the human right to peace (para. 7). In order to guarantee the enjoyment of the human right to peace, the Security Council’s composition and methods of work should be urgently revised. Finally, civil society’s representatives must be allowed to take part in regular meetings of the Security Council (para. 8).

Monitoring the implementation of the future universal declaration on the human right to peace (Part II) was trusted to the working group on the human right to peace (Art. 14), to be composed of 10 independent experts elected by the General Assembly for four years. Among its core functions (Art. 15), the working group shall promote the human right to peace; adopt urgent actions; carry out *in loco* fact-finding missions to address violations of the human right to peace; submit annual reports to the relevant political bodies of the United Nations; prepare a draft international convention on the human right to peace; and contribute to the elaboration of definitions and standards concerning the crime of aggression and the legal limits of legitimate self-defense.

Lastly, the final provisions placed the *Santiago Declaration* in the context of the purposes and principles of the UN Charter and international human rights law. They also proclaimed the prevalence of the principle *pro persona*. Finally, they stressed that all States must implement in good faith the provisions of this Declaration by “adopting relevant legislative, judicial, administrative, educational or other measures necessary to promote its effective realization”.

It is now to the HR Council’s intergovernmental working group the responsibility to complete in 2014 the codification and progressive development of the human right to peace, in accordance with the aspirations of civil society at both domestic and international level. The challenge should be taken from the reaffirmation of the three pillars upon which the Charter of the United Nations was founded. They are identified in the Preamble, and Arts: 1 (Purposes), and 2 (Principles) of the UN Charter, namely: the collective security system, which prohibits the threat or use of force and calls States to the peaceful settlement of disputes in accordance with international law; the economic and social development of all peoples; and the respect of universally recognized human rights and fundamental freedoms of all without discrimination.

## **LEGAL FOUNDATIONS OF THE FUTURE UN DECLARATION ON THE HUMAN RIGHT TO PEACE**

The 2012 Advisory Committee’s draft declaration on the right to peace also shared the same **holistic approach** to peace with the *Santiago Declaration*, having accepted up to **85% of the standards** proposed by civil society. It developed the contents of the right to peace in 14 Articles, including standards on human security; disarmament; peace education and training; right to conscientious objection to military service; resistance and opposition to oppression; right to development; environment; rights of victims and vulnerable groups; refugees and migrants; obligations and implementation. In addition, it included new standards in Arts: 6 (private military and security companies) and 8 (peacekeeping). Lastly, new Art. 14 deals with final provisions, as suggested by the *Santiago Declaration*.

On the contrary, the 2012 *AC declaration on the right to peace* did not accept the language contained in the preamble of the *Santiago Declaration*. In addition, the AC

refused to address the reform of the Security Council, as proposed by the *Santiago Declaration*. Finally, regarding the monitoring mechanism to be set up by the future declaration, unlike CSOs the AC invited the HR Council to establish “a **special procedure** to monitor respect for and the implementation of the right to peace and to report to relevant United Nations bodies” (Art. 13.6).

### **Title, preamble and right-holders of the future UN Declaration**

CSOs argue that the **title** of the future UN Declaration should add the concept of “human” to the right to peace, following the *UN Declaration on the Right to Development*.<sup>4</sup> In addition, the right to peace has a solid foundation in the UN Charter, whose main purpose is the maintenance of international peace and security. Moreover, the concept of the right to peace has been recognized in both international (UNGA *Declaration on the Preparation of Societies for Life in Peace*, 1978; UNGA *Declaration on the Right of Peoples to Peace*, 1984) and regional human rights instruments such as the 1982 *African Charter on Human and Peoples’ Rights*, the 2005 *Ibero-American Convention on Young People’s Rights and the Declaration on Human Rights* adopted on 18 November 2012 by the Association of Southeast Asian Nations (ASEAN).

The **preamble** should also make a clear reference to the main legal standards of the UN Charter, which served as a basis for the proclamation of the *International Year of Peace* (UNGA res. 40/3, 1985), namely: the prevention of war, the removal of various threats to peace, respect for the principle of the non-use of force, the peaceful settlement of conflicts, the development of confidence-building measures, the promotion of human rights and freedoms and the enhancement of the quality of life (Schabas, 2011: 43–57).

Additionally, the preamble should make an explicit reference to the Constitutions of the UN specialized agencies (i.e. ILO, FAO, WHO and UNESCO<sup>5</sup>); legal instruments of regional

---

4 Art. 1.1 of the 1986 UN General Assembly (UNGA) *Declaration on the Right to Development* states that “the right to development is an **inalienable human right** by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”. Art. 2.2 states that “the **human** right to development also implies....” (emphasis added).

5 The *Constitution of International Labor Organization* says that “lasting peace can be established only if it is based on social justice”. The *Constitution of the Food and Agriculture Organization* states that it is aimed to the improvement of the levels of life and nutrition of all peoples, as well as to the eradication of hunger. The *Constitution of the World Health Organization* states that “the health of all peoples is fundamental to the

organizations; the 2000 UN *Millennium Declaration*<sup>6</sup> and the 2005 *World Summit Outcome Document*; the Security Council resolutions 1325 (2000), 1820 (2008), 1888 and 1889 (2009) and 2106 (2013) on women, peace and security. Lastly, the preamble should also pay tribute to peace movements and ideas that have marked over the history of humankind (Cortright, 2009: 376) i.e. the 1999 *Hague Agenda for Peace and Justice for the Twenty-first Century*; the 2000 *Earth Charter*; and the 2010 *Universal Declaration of the Rights of Mother Earth*.

While both the *Santiago Declaration* and the AC declaration recognized the double dimension of the right to peace since its right-holders are **individuals and peoples**, CSOs add that **minorities** and **humankind** should be recognized as right-holders of the human right to peace in accordance with the preambles of the *UN Charter*, the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); the *Declaration on the Preparation of Societies for Life in Peace* (res. 33/73 of 15 December 1978), the *Declaration on the Right of Peoples to Peace* (res. 39/11 of 11 November 1984) and the *ASEAN Declaration on Human Rights* (18 November 2012).<sup>7</sup>

### **Right to human security**

Article 2 (1) of the AC declaration on the right to peace states that:

“Everyone has the right to human security, which includes freedom from fear and from want, all constituting elements of positive peace (...). Freedom from want implies the

---

attainment of peace and security”. The Preamble to the *Constitution of the United Nations Educational, Scientific and Cultural Organization* states that “since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed”.

6 Para. 32 states that the United Nations is the common house of the entire human family, where it should realize its universal aspirations for peace, cooperation and development.

7 The Preamble of the *UN Charter* states that “...to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.” The preambles of the UDHR, the ICCPR and ICESCR state that “whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. The preamble of the 1978 UNGA Declaration says that “The General Assembly (...) Reaffirming the right of individuals, States and all mankind to life in peace... Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace”. The 1984 UNGA Declaration “...1. Solemnly proclaims that the **peoples** of our planet have a sacred right to peace; 2. Solemnly declares that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State...” (Emphasis added). Art. 38 of the ASEAN Declaration indicates that “**Every person and the peoples** of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realized...” (Emphasis added).

enjoyment of the right to sustainable development and of economic, social and cultural rights. The right to peace is related to all human rights, including civil, political, economic, social and cultural rights.”

The right to human security was introduced by the 2005 *Outcome World Summit Document*. Development, peace, security and human rights are mutually reinforcing and peace and justice encompass an economic dimension in accordance with the 1974 *Universal Declaration on the Eradication of Hunger and Malnutrition*, and the 2005 *Outcome World Summit Document*.<sup>8</sup> In addition, it should be recalled the UN Secretary-General reports entitled *An agenda for peace. Preventive diplomacy, peacemaking and peacekeeping* of 1992 and *In Larger Freedom: Towards Development, Security and Human Rights for All* of 2005<sup>9</sup> (Zayas, 2011: 27–42).

### **Right to disarmament**

Art. 3 of the 2012 AC declaration on the right to peace states as follows:

“1. States shall engage actively in the strict and transparent control of arms trade and the suppression of illegal arms trade.

2. States should proceed in a joint and coordinated manner and within a reasonable period of time to further disarmament, under comprehensive and effective international supervision. States should consider reducing military spending to the minimum level necessary to guarantee human security.

3. All peoples and individuals have a right to live in a world free of weapons of mass destruction. States shall urgently eliminate all weapons of mass destruction or of indiscriminate effect, including nuclear, chemical and biological weapons. The use of weapons that damage the environment, in particular radioactive weapons and weapons of

---

8 Principle h) of the 1974 Declaration states that “... **Peace and justice** encompass an economic dimension helping the solution of the world economic problems, the liquidation of under-development, offering a lasting and definitive solution of the food problem for all **peoples**...” (Emphasis added). Para. 72 of the 2005 Document states that “... no State can best protect itself by acting entirely alone and that all States need an effective and efficient collective security system pursuant to the purposes and principles of the Charter.”

9 Paras. 43–44 of *An agenda for peace. Preventive diplomacy, peacemaking and peacekeeping*, stressed that an integrated approach to human security would be related to the deepest causes of war, such as economic despair, social injustice and political oppression. In paras. 25–126 of *In Larger Freedom: Towards Development, Security and Human Rights for All*, the former Secretary-General stated that this concept is linked to the twin values of freedom from fear and freedom from want.

mass destruction, is contrary to international humanitarian law, the right to a healthy environment and the right to peace. Such weapons are prohibited and must be urgently eliminated, and States that have utilized them have the obligation to restore the environment by repairing all damage caused.

4. States are invited to consider the creation and promotion of peace zones and of nuclear weapon-free zones.

5. All peoples and individuals have the right to have the resources freed by disarmament allocated to the economic, social and cultural development of peoples and to the fair redistribution of natural wealth, responding especially to the needs of the poorest countries and of groups in situations of vulnerability.”

Therefore, there is a close linkage between disarmament and international human rights law. The Human Rights Committee recognized in its General Comment No. 14 on nuclear weapons and the right to life (Art. 6 ICCPR) of 9 November 1984, that the “designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront humankind today.” It also stated that “the development and proliferation of weapons of mass destruction not only threaten human life but also absorb resources that could otherwise be used for vital economic and social purposes, particularly for the benefit of developing countries, and thereby for promoting and securing the enjoyment of human rights for all.”

This approach also found expression in the *UN Charter*, the *Declaration on the Right to Development* and the *Final Document of the 1987 International Conference on the Relationship between Disarmament and Development*.<sup>10</sup> In addition, both the *Declaration on*

---

10 Art. 26 of the *UN Charter* envisages an international system based on the “least diversion for armaments of the world’s human and economic resources.” The preamble of the *Declaration on the Right to Development* reaffirmed that “there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries.” In addition, art. 7 states that “all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.” The Conference was the basis to define the relationship between disarmament and development; examine the magnitude and consequences of military expenditure on the world economy and on development; and explore ways to release resources for development through disarmament.

*the Preparation of Societies for Life in Peace* (Roche, 2003: 272) and the *Declaration on the Right of Peoples to Peace*<sup>11</sup> focused their attention in the efforts towards general and complete disarmament, under effective international control. Furthermore, it should be recognized the establishment of Peace Zones free from nuclear weapons,<sup>12</sup> as well as the *Beijing Declaration and Platform for Action*,<sup>13</sup> and Security Council resolution 1325 (2000) on women, peace and security.

### **Right to peace education and training**

Art. 4 (1) of the AC declaration stated that:

“All peoples and individuals have a right to a comprehensive peace and human rights education. Such education should be the basis of every educational system, generate social processes based on trust, solidarity and mutual respect, incorporate a gender perspective, facilitate the peaceful settlement of conflicts and lead to a new way of approaching human relationships within the framework of the Declaration and the Program of Action on a Culture of Peace and dialogue among cultures.”

The right to education on peace and human rights is deeply rooted in international human rights instruments (i.e. the *Universal Declaration of Human Rights*, the *UN Convention on the Rights of the Child*, the *International Covenant on Economic, Social and Cultural Rights*) and the *Declaration on the Preparation of Societies for Life in Peace*. At regional level, reference should be made to the 2000 *Dakar Framework for Action, Education for All* and the *Protocol of San Salvador on Economic, Social and Cultural Rights*).<sup>14</sup>

---

<sup>11</sup> Art. 6 of the first Declaration states that “a basic instrument of the maintenance of peace is the elimination of the threat inherent in the arms race, as well as efforts towards general and complete disarmament, under effective international control...” Art. 3 of the second Declaration emphasizes that “ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations.”

<sup>12</sup> The treaties establishing peace zones free of nuclear weapons are the following: Antarctic (1961); Outer Space (1967); Tlatelolco (Latin America and Caribbean, 1969); Seabed (1972); Rarotonga (South Pacific, 1986); Bangkok (ASEAN, 1997); MNWFS Mongolia (2000); Semei (Central Asia, 2009) and Pelindaba (Africa, 2009).

<sup>13</sup> According to para. 22 of the *Beijing Declaration*: “The full participation of women in decision-making, conflict prevention and resolution and any other peace initiative are essential to the realization of lasting peace.”

<sup>14</sup> Art. 26.2 UDHR states that “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding,

As stated by the former Special Rapporteur on the Right to Education, gender inequality and other forms of social, religious, ethnic and racial discrimination impede social mobility and impact negatively on the full realization of all human rights, including development, peace and security (*Report, 2006*: para. 18).

### **Right to conscientious objection to military service**

Art. 5 (1) of the AC declaration on the right to peace stated:

“Individuals have the right to conscientious objection and to be protected in the effective exercise of this right.”

Human Rights Council decision 2/102 of 6 October 2006 and Commission on Human Rights resolutions 2004/35 of 19 April 2004 and 1998/77 of 22 April 1998, recognized the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and

---

tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.” Art. 29 CRC states that children’s education should develop each child’s personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people. Children have a particular responsibility to respect the rights their parents, and education should aim to develop respect for the values and culture of their parents. In accordance with Art. 13 ICESCR States “... recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.” Art. 1 states that “... to ensure that their policies relevant to the implementation of the present Declaration, including educational processes and teaching methods as well as media information activities, incorporate contents compatible with the task of the preparation for life in peace of entire societies and, in particular, the young generations.” Goal 6 of the *Dakar Framework* states that “Education, both formal and non-formal, is therefore a key element to achieving sustainable development, peace and stability within and among countries, by fostering social cohesion and empowering people to become active participants in social transformation.” Art. 13 of the *Protocol of San Salvador* states that “... education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and **peace**. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.”

*General Comment No. 22* (1993) of the Human Rights Committee<sup>15</sup>. A consistent case-law practice was further developed by the HR Committee.

### **Private military and security companies**

Art. 6 (1) of the AC declaration on the right to peace stated that:

“States shall refrain from outsourcing inherently State military and security functions to private contractors. For those activities that may be outsourced, States shall establish a national and an international regime with clear rules regarding the functions, oversight and monitoring of existing private military and security companies. The use of mercenaries violates international law.”

The PMSCs should be accountable for human rights violations in accordance with the international human rights law. In addition, related national legislation will never be successful without a coordinated response by the international community to the increasing role of the private sector in war and peace.

---

15 Para. 3 of resolution 2004/35 “calls upon States that have not yet done so to review their current laws and practice in relation to conscientious objection to military service...”; and par. 4 “encourages States, as part of post-conflict-peace building, to consider granting and effectively implementing amnesties and restitutions of rights, in law and practices, for those who have refused to undertake military services on grounds of conscientious objection.” The preamble of the resolution 1998/77 recognized that conscientious objection to military service derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives and that persons performing military service may develop conscientious objections. Para. 4 reminded “States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature.” Article 18 UDHR states that “everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Art. 18 ICCPR states that “1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” In addition, Art. 19.1 ICCPR states that “Everyone shall have the right to hold opinions without interference.” Para. 11 of the *General Comment 22* states that “Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief...”

## **Resistance and opposition to oppression**

Art. 7 of AC declaration on the right to peace stated:

“1. All peoples and individuals have the right to resist and oppose oppressive colonial, foreign occupation or dictatorial domination (domestic oppression).

2. Everyone has the right to oppose aggression, genocide, war crimes and crimes against humanity, violations of other universally recognized human rights, and any propaganda in favor of war or incitement to violence and violations of the right to peace.”

Resistance to oppression is founded in the preamble of the UDHR and was developed by the *Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations* (Declaration, 1970) and other human rights instruments, which recognized inter alia the duty of every State to promote the realization of the right of peoples to self-determination. Furthermore, other international human rights instruments recognized the right of peoples to self-determination, in particular Art. 1 common to the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*, and the *Declaration on the Right to Development*<sup>16</sup>.

## **Peacekeeping**

Art. 8 of the AC declaration stated:

“1. Peacekeeping missions and peacekeepers shall comply fully with United Nations rules and procedures regarding professional conduct, including the lifting of immunity in cases of

---

16 The preamble of the UDHR states that “... Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to **rebellion against tyranny and oppression**, that human rights should be protected by the rule of law...” (Emphasis added). The 1970 *Declaration of Principles of International Law Concerning Friendly Relations* stated that “...Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and **self-determination of peoples**, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle.” (Emphasis added). Common art. 1 of ICCPR and ICESCR states that “All peoples have the **right of self-determination**. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” (Emphasis added). Art. 1.2 of the *Declaration on the Right to Development* states that “the human right to development also implies the full realization of the **right of peoples to self-determination**, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.” (Emphasis added).

criminal misconduct or the violation of international law, to allow the victims recourse to legal proceedings and redress.

2. Troop-contributing States shall take appropriate measures to investigate effectively and comprehensively complaints against members of their national contingents. Complainants should be informed about the outcome of such investigations.”

United Nations peacekeeping missions are not the only protection actor on the ground. Moreover, they are not always deployed in contexts where civilians face serious risks. The United Nations and other humanitarian organizations, including ICRC and various non-governmental organizations, play a long-established and critical role in seeking to enhance the protection of civilians in armed conflicts, including in places that do not have a peacekeeping presence. In addition, States, the UN, its members and entities as well as the international community should recognize, scale up and support **unarmed civilian peacekeeping**. Civilians under threat of violent conflict have the right to physical protection and shall be offered unarmed civilian peacekeepers for their protection and in support of violence deterrence.

### **Right to development**

Art. 9 of AC declaration on the right to peace restated the 1986 UNGA *Declaration on the Right to Development*. Accordingly,

“Every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”

Several declarations and instruments support the relationship between development and peace, namely: the *Millennium Declaration*, the *Declaration on the Right to Development* and the 2005 *World Summit Outcome Document*.<sup>17</sup>

---

17 Para. 32 of the *Millennium Declaration* states that United Nations is the common house of the entire human family, where it should realize its universal aspiration for **peace, cooperation and development** (emphasis added). The preamble of *Declaration on the Right to Development* stated that “**international peace and security** are essential elements for the realization of the **right to development**.” Furthermore, art. 1.1. indicated that “the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.” (Emphasis added). *The World Summit*

Moreover, a transformed partnership based on equality between women and men is needed as a condition for people-centred sustainable development and world peace (*Beijing Declaration*, 1995: para. 1, 132). Finally, the role played by men and boys in advancing gender equality is vital (*Report*, 2004; *Report*, 2003).

## **Right to environment**

Art. 10 (1) of the AC declaration on the right to peace stated:

“Everyone has the right to a safe, clean and peaceful environment, including an atmosphere that is free from dangerous man-made interference, to sustainable development and to international action to mitigate and adapt to environmental destruction, especially climate change (...).”

The relationship between right to peace, development and right to environment, as well as the obligation to ensure to present and future generations a life in peace and in harmony with nature, was recognized in the following documents: the 1972 *Stockholm Declaration*; the 1982 *World Charter for Nature*; the 1992 *Convention on Biodiversity*; the 1992 *Rio Declaration on the Environment and Development*; the 2002 *Johannesburg Declaration on Sustainable Development* and the outcome document of the 2012 *Conference on Sustainable Development* (“*The future we want*”).<sup>18</sup>

---

*Outcome Document* restated that **human rights, peace and development** are interrelated and interdependent and that the fostering of one promotes the realization of the others (emphasis added).

18 Goal 6 of the *Stockholm Declaration* states that “... for the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of **peace** and of worldwide economic and social development.” (Emphasis added). The preamble of the *World Charter for Nature* states that “competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the maintenance of **peace** and cannot be achieved until mankind learns to live in peace and to forsake **war and armaments**.” (Emphasis added). Principle 25 of the *Rio Declaration* states that “**Peace**, development and environmental protection are interdependent and indivisible.” (emphasis added). Principle 35 of the *Johannesburg Declaration* states that “we commit ourselves to act together, united by a common determination to save our planet, promote human development and achieve universal prosperity and **peace**.” (Emphasis added). Principle 8 of the 2012 Conference states that “we also reaffirm the importance of freedom, **peace** and security, respect for all human rights, including the right to development and the right to an adequate standard of living, including the right to food, the rule of law, gender equality, women's empowerment and the overall commitment to just and democratic societies for development” (emphasis added).

## Rights of victims and vulnerable groups

Art. 11 (1) of AC declaration on the right to peace stated:

“Every victim of a human rights violation has the right, in accordance with international human rights law and not subject to statutory limitations, to know the truth, and to the restoration of the violated rights; to obtain the investigation of facts, as well as identification and punishment of those responsible; to obtain effective and full redress, including the right to rehabilitation and compensation; to measures of symbolic redress or reparation; and to guarantees that the violation will not be repeated.”

The right of victims to an effective remedy is widely recognized in IHRL.<sup>19</sup>

As requested by CSOs, reference of Art. 11(3) to the rights of persons belonging to groups in situation of vulnerability should also be extended to victims of enforced or involuntary disappearances which may amount to a crime against humanity (*International Convention*, 2006: arts. 18.2, 20.2, 22); the right of all persons deprived of their liberty to be treated humanely and to save conditions of living, under judicial supervision (*SPT contribution*, 2013); the protection of indigenous peoples, and reference to the popular courts or tribunals of

---

19 Art. 8 UDHR states that “Everyone has the **right to an effective remedy** by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law” (emphasis added). Art. 2.3 ICCPR states that “Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an **effective remedy**, notwithstanding that the violation has been committed by persons acting in an official capacity.” (emphasis added). Art. 6 of the *International Convention on the Elimination of All Forms of Racial Discrimination* states that “States Parties shall assure to everyone within their jurisdiction **effective protection and remedies**, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals **just and adequate reparation or satisfaction** for any damage suffered as a result of such discrimination.” (Emphasis added). Art. 14.1 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* states that “Each State Party shall ensure in its legal system that the victim of an act of torture obtains **redress** and has an enforceable **right to fair and adequate compensation**, including the means for as full rehabilitation as possible...” (Emphasis added). Article 83 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* states that “Each State Party to the present Convention undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an **effective remedy**...” (Emphasis added). *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (General Assembly resolution 60/147 of 16 December 2005).

conscience and to institutions, methods, traditions or local customs of peaceful settlement of disputes.<sup>20</sup>

### **Right to seek refugee status and right to migrate**

Art. 12 of the AC declaration on the right to peace stated:

“1. All individuals have the right to seek and to enjoy refugee status without discrimination, if there is a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion (...)

3. States should place migrants at the centre of migration policies and management, and pay particular attention to the situation of marginalized and disadvantage groups of migrants (...)

Although countries have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfill the human rights of all individuals under their jurisdiction, regardless of their nationality or origin and regardless of their immigration status.”

Migration and peace are closely related in accordance with the outcome of the *International Conference on Population and Development* (Doc. A/CONF.171/13, 1994) and the *Program of Action of the World Summit for Social Development* (A/CONF.166/9, 1995). In addition, equality before the law and non-discrimination in the enjoyment of human rights are structural principles of international human rights law. Reference to these principles is to be found in the *International Covenants on Human Rights*, the *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Racial Discrimination*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, ILO Conventions No. 143 and 151 on migrant workers, ILO *Convention concerning*

---

<sup>20</sup> Art. 40 of the UN *Declaration on the Rights of Indigenous Peoples* states that “indigenous peoples have the right...” to effective remedies for all violations of their individual and collective rights. Art. 164 (f) of the *Program of Action on a Culture of Peace* states that the “access to legal remedies should be facilitated for victims of discrimination and, in this regard, the innovation of conferring a capacity on national and other institutions, as well as relevant non-governmental organizations, to assist such victims should be seriously considered, and programs should be developed to enable the most vulnerable groups to have access to legal system.” In addition, art. 164 (g) states that “new and innovative methods and procedures of conflict resolution, mediation and conciliation between parties involved in conflicts or disputes based on racism, racial discrimination, xenophobia and related intolerance should be explored and, where possible, established.” Art. 40 of the UN *Declaration on the Rights of Indigenous Peoples* states that “Indigenous peoples have the right... to effective remedies... Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.”

*Migration for Employment*, the UN *Convention against Transnational Organized Crime* and the outcome of the Durban Review Conference. Finally, in 1995 the Fourth *World Conference on Women* examined the situation of migrant women and called upon States to recognize their vulnerability as a consequence of violence and other forms of abuses (*Beijing Declaration*, 1995: para. 46).

### **Obligations and implementation**

Art. 13 of the AC declaration on the right to peace stated:

“1. The preservation, promotion and implementation of the right to peace constitute a fundamental obligation of all States and of the United Nations (...) to realize the purposes and principles proclaimed in the Charter of the United Nations. (...)

3. The effective and practical realization of the right to peace demands activities and engagement beyond States and international organizations, requiring comprehensive, active contributions from civil society, in particular academia, the media and corporations, and the entire international community in general. (...)

6. The Human Rights Council is invited to set up a special procedure to monitor respect for and the implementation of the right to peace and to report to relevant United Nations bodies.”

In addition, CSOs requested progressive development of the human right to peace in order to include the following issues: reform of UN Security Council; recognition that preventive war is a crime against peace; strengthening the UN Peace-building Commission; effective implementation of the *Program of Action for a Culture of Peace*; further ratification of the *Rome Statute of the International Criminal Court*; and establishment by the GA of a working group on the human right to peace to monitor the implementation of the future Declaration. The group is supposed to be composed of ten independent experts elected by the General Assembly, whose functions shall be inspired in the best practices developed by the Human Rights Council’s special procedures, as proposed by Arts. 14–15 of *Santiago Declaration*.

### **Final provisions**

Art. 14 of the AC declaration on the right to peace stated:

“1. No provision of the present Declaration may be interpreted as conferring on any State, group or individual any right to undertake or develop any activity or carry out any act contrary to the purposes and principles of the Declaration or of those in international human

rights law, international labor law, international humanitarian law, international criminal law and international refugee law.

2. The provisions of the present Declaration shall apply without prejudice to any other provision more propitious to the effective realization of the human right to peace formulated in accordance with the domestic legislation of States or stemming from applicable international law.

3. All States must implement in good faith the provisions of the present Declaration by adopting relevant legislative, judicial, administrative, educational or other measures necessary to promote its effective realization.”

The final provisions are designed to ensure that nothing within the Declaration goes against the principles of the United Nations or the principles of human rights and the implementation of the principle *pro persona*. The purpose of the Declaration is to encourage the enjoyment of human rights and not to be an obstacle to them.

\* \* \*

It is urgent that the States finalize as soon as possible the codification of the human right to peace, as it is the target of continued and systematic violations. These violations originate from three types of violence, namely:

Firstly, *direct* armed violence. There are more than 40 armed conflicts taking place in the world, many of them have been forgotten by the mass media. They are fueled by the world arms race that in 2012 reached the shocking figure of \$1,756 billion (SIPRI). In addition, the war industries and the enormous trade in weapons generate corruption, since there is profit to be made. “The existence of an immensely powerful military-industrial complex constitutes a danger to democracy, both internationally and domestically, because it follows its own logic and operates independently of popular participation” (*Report*, 2013: para. 26).

Secondly, the *structural* violence caused by extreme poverty and hunger, which, far from being reduced, today affects 870 million human beings (FAO), most of them women and children from developing countries.

And thirdly, manifestations of *cultural* violence, such as gender violence, mobbing, bullying and family-related violence, round off the bleak panorama of a massive violation of the human right to peace in our societies where, paradoxically, a culture of violence (a corollary of the Latin dictum *si vis pacem para bellum*) prevails to the detriment of the culture of peace.

From a legal perspective, as showed by the Santiago and the Advisory Committee Declarations, the human right to peace is strongly rooted in universally accepted instruments (i.e. the *Charter of the United Nations*, the *Universal Declaration of Human Rights* and other international instruments quoted in the preamble of the *Santiago Declaration*). Both Declarations proposed a concrete content, that is holistic and legally founded, to define peace as a human right (Van Boven, 2012: 137–147; Villán Durán, 2010: 267–292).

The difficulties are rather political, as some States find it challenging to go beyond the international peace and security paradigm originated in the Cold War, which happily ended 24 years ago. As discussed in the negotiation process of the HR Council resolutions 14/3, 17/16, 20/15 and 23/16, the arguments spelled out by developed States to refuse the concept of human right to peace are rather cosmetic and formal excuses to discuss substance, so that these obstacles should be removed as well. To this purpose, States should respond positively to the permanent demands of their civil society for *fair, sustainable and lasting world peace*, to the achievement of which we must all contribute.

To this end, the EU and its Member States should commit themselves to a genuine negotiation when the OEWG receives in February 2014 the new text of declaration as drafted by its chairperson-rapporteur. Some European States already moved from against to abstention in their votes of 2012 and 2013 resolutions. Therefore, they paved the way to a genuine negotiation at the OEWG. In particular, the United States should accept to negotiate *bona fide* the declaration with other States, which are widely supported by the international civil society.

Since peace is a universal value that must prevail over international relations, the *human right to peace* is a legal imperative claimed by civil society worldwide. It is a demand of civilization prevailing over any regional, historic and cultural particularities. Developed States cannot continue to lag behind the evidence: the international civil society demands now that peace be recognized as a human right and the international community must respond

positively<sup>21</sup>.

Time is up to clarify the legal content of the emerging human right to peace and its connection with other important rights, in particular the right to life, the right to development or the right to environment. CSOs trust that States will be respectful of the well established international human rights standards linked to peace. No set back would be acceptable.

Therefore, the future UN Declaration on the human right to peace, to be adopted by the General Assembly no later than 10 December 2014, must proclaim that all human beings, peoples and minorities without discrimination should enjoy their fundamental right to peace, as well as all human rights universally accepted.

Geneva, 21 September 2013  
International Day of Peace

#### **Bibliography:**

A/CONF.166/9, Copenhagen, 14 March 1995.

*Beijing Declaration and Platform for Action, Fourth World Conference on Women of 15 September 1995* (1995), A/CONF.177/20 and A/CONF.177/20/Add.1.

*Contribution of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to the Advisory Committee*, 23 February 2013.

Cortright D. (2009), *Peace: A History of Movements and Ideas*, Cambridge.

*Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations* (1970), General Assembly res. 2625 (XXV).

Doc. A/CONF.171/13, Cairo, 5–13 September 1994.

Doc. A/HRC/20/31 of 16 April 2012, Annex.

Doc. A/HRC/23/NGO/96 of 24 May 2013.

Faleh Perez C. (2013), *Civil society proposals for the codification and progressive development of international human rights law*, in: *The International Observatory of the Human Right to Peace*, (eds.) C. Villán Durán, C. Faleh Perez, Luarca.

Faleh Perez C., Fernandez Puyana D. (2013), *The International Congress on the Human Right to Peace*, in: *The International Observatory of the Human Right to Peace*, (eds.) C. Villán Durán, C. Faleh Perez, Luarca.

Fernandez Puyana (2010), *World Campaign on the human right to peace*, in: *Regional Contributions for a Universal Declaration on the Human Right to Peace*, (eds.) C. Villán Durán, C. Faleh Perez, Luarca.

---

<sup>21</sup> *Cfr.* C. VILLAN DURAN, “The International Observatory of the Human Right to Peace”, in Carlos VILLAN DURAN and Carmelo FALEH PEREZ (Directors), *The International Observatory of the Human Right to Peace*, *op. cit.*, p. 174 *in fine*.

*International Convention for the Protection of All Persons from Enforced Disappearance* (2006), GA res. 61/177, 20 December 2006.

*Luarca Declaration on the Human Right to Peace* (2008), (eds.) C.R. Rueda Castañón, C. Villán Durán, Grandasiero: Madú.

Potyrała A. (2013), *Workshops on draft UN Declaration on the human right to peace, Oswiecim, 16 May 2013*, "Przegląd Strategiczny", No. 1.

*Regional Contributions for a Universal Declaration on the Human Right to Peace* (2010), (eds.) C. Villán Durán, C. Faleh Pérez, Luarca.

*Report by the independent expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas* (2013), doc. A/HRC/24/38, 1 July 2013.

*Report of the Expert Group Meeting: The role of men and boys in achieving gender equality* (2004), United Nations Division of Advancement of Women, EGM/MEN-BOYS-GE/2003/REPORT, 12 January 2004.

*Report of the Secretary General, The role of men and boys in achieving gender equality* (2003), Commission on the Status of Women, doc. E/CN.6/2004/9, 22 December 2003.

*Report submitted by the Special Rapporteur on the Right to Education, Mr. Vernor Muñoz Villalobos* (2006), E/CN.4/2006/45, 8 February 2006.

HR Council resolution 23/16, paras. 1, 3 and 4.

Schabas W.A. (2011), *The Human Right to Peace*, in: *Making Peoples Heard. Essays on Human Rights in Honour of Gudmundur Alfredsson*, (eds.) A. Eide et al., Leiden-Boston.

*The International Observatory of the Human Right to Peace* (2013), (eds.) C. Villán Durán, C. Faleh Perez, Luarca.

UNGA *Declaration on the Preparation of Societies for Life in Peace* (1978), res. 33/73 of 15 December 1978.

UNGA *Declaration on the Right of Peoples to Peace* (1984), res. 39/11 of 11 November 1984.

UNGA res. 40/3 of 24 October 1985.

Van Boven T. (2012), *The Right to Peace as an Emerging Solidarity Right*, in: *Evolving Principles of International Law. Studies in Honour of Karel C. Wellens*, (eds.) E. Rieter, H. de Waele, Leiden-Boston.

Villán Durán C. (2011), *Civil society organizations contribution to the Universal Declaration on the Human Right to Peace*, "International Journal on World Peace", Vol. XXVIII, No. 4.

Villán Durán C. (2011), *The human right to peace: A legislative initiative from the Spanish civil society*, "Spanish Yearbook of International Law", Vol. XV.

Villán Durán C. (2010), *The human right to peace in the work of the Human Rights Council*, in: *Regional Contributions for a Universal Declaration on the Human Right to Peace*, (eds.) C. Villán Durán, C. Faleh Pérez, Luarca.

Villán Durán C. (2013), *The International Observatory of the Human Right to Peace*, in: *The International Observatory of the Human Right to Peace*, (eds.) C. Villán Durán, C. Faleh Pérez, Luarca.

Zayas A. de (2011), *Peace as a human right. The jus cogens prohibition of aggression*, in: *Making Peoples Heard. Essays on Human Rights in Honour of Gudmundur Alfredsson*, (eds.) A. Eide et al., Leiden-Boston.

## **ABSTRACT**

While most developed States refuse accepting the concept of human right to peace, developing States support civil society organizations' contribution to the codification and progressive development of the emerging human right to peace. This study focuses on the strong legal foundations of the human right to peace in international human rights law. Therefore, developed States should listen to other States and civil society organizations and join the ongoing codification process of the human right to peace at the UN Human Rights Council.

## **PRAWNE PODSTAWY PRAWA CZŁOWIEKA DO POKOJU**

### **STRESZCZENIE**

Podczas gdy najbardziej rozwinięte państwa odmawiają uznania koncepcji prawa człowieka do pokoju, państwa rozwijające się wyrażają poparcie dla wkładu organizacji pozarządowych w proces kodyfikacji i rozwoju prawa człowieka do pokoju. Niniejsze studium ukazuje prawne podstawy omawianego uprawnienia w ramach międzynarodowego prawa praw człowieka. Z tego względu, Autor postuluje, aby państwa rozwinięte przychyliły się do stanowiska krajów rozwijających się i organizacji pozarządowych, wspierając proces kodyfikacji prawa człowieka do pokoju w ramach Rady Praw Człowieka ONZ.