



Asociación Española
para el Derecho Internacional
de los Derechos Humanos

Société Espagnole pour le Droit International des Droits Humains
Spanish Society for the International Human Rights Law

COMMENTARIES BY AEDIDH

TO THE RESOLUTION 14/3 ON THE RIGHT OF PEOPLES TO PEACE

UN HUMAN RIGHTS COUNCIL

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GENEVA

At the opening of its fourteenth session (31 May 2010) the HR Council had before it the report of the Office of the High Commissioner on the outcome of the expert workshop on the right of peoples to peace,¹ as well as the joint written statement of more than 500 NGOs world-wide conducted by the SSIHRL. The NGOs supported the main recommendations of the workshop and, therefore, they requested that the HR Council initiate the international codification of the human right to peace through the appointment of an open-ended working group (representatives of States) open to the participation of civil society organizations.²

In the following days Cuba distributed among delegations a draft resolution on “the promotion of the right of peoples to peace”, and called them to an informal meeting to be held on 7 June 2010 to discuss the text with the participation of interested NGOs. The draft reiterated the same substantive issues already approved in 2008 and 2009. In addition, it welcome “the important work being carried out by civil society organizations for the promotion of the peoples right to peace and the codification of such right”, and took note with satisfaction of the report of the workshop on the right of peoples to peace.³ As a result, it supported “the need to codify the peoples right to peace” and it “requested the President of the Human Right Council, in consultation with Member States, to appoint an *independent expert* on the right of peoples to peace, with the mandate to prepare a *draft declaration on the right of peoples to peace* and to submit a report to the Council in 2011”.⁴

At the informal meeting held on 7 June 2010 the Check Republic, on behalf of the European Union, stated their position contrary to the draft resolution based on the same arguments used in

¹ Doc. A/HRC/14/38 of 17 March 2010, 16 p.

² Doc. A/HRC/14/NGO/47, of 31 May 2010, 9 p.

³ Respectively, last preambular paragraph and dispositive § 13 of the draft resolution discussed *at* the informal meeting held on 7 June 2010.

⁴ *Ibidem*, § 14. Italics are added.



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the previous years, namely: issues regarding peace shall be discussed in other *fora*; the draft only referred to inter-States relations, and not to the relations among States and individuals. The United Kingdom added that there already exists a Declaration on the Right of Peoples to Peace of 1984 and there is no need to draft a new one, an exercise that would require excessive resources expenditure. On the contrary, China said it was in favour of the draft resolution and the Russian Federation stated that the right of peoples to peace is a part of the international human rights law whose development remains within the HR Council's competence.

In its turn the SSIHRL recalled the recommendations of the expert workshop on the right of peoples to peace—which were supported by more than 500 NGOs world-wide—, according to which the HR Council shall establish a *working group to codify the human right to peace* instead of an independent expert to draft a declaration on the right of peoples to peace.

Therefore, the SSIHRL proposed to the drafters of the resolution to amend it by adding the individual dimension of the right to peace to its collective dimension (“right of peoples”), thus giving birth to the claimed *human right to peace*. In addition, it asked for the following issues to be included into the draft resolution: a gender-based approach; an open reference to the three Declarations on the human right to peace already adopted within the civil society (namely, the *Luarca*, *Bilbao* and *Barcelona* Declarations); and the workshop recommendations asking for a codification working group.

Next, the Cuban delegate thanked the SSIHRL's proposals and stated that his country was ready to accept the *individual* dimension of the right to peace, provided that it would be requested by delegations contrary to the draft resolution. To this purpose he concluded the informal meeting inviting delegations to negotiate the following days the draft resolution, with a view to achieve a text that could be approved by consensus.

On 8 June 2010 the workshop report was orally introduced to the plenary of the HR Council by the Deputy High Commissioner. Spain, on behalf of the European Union and other associate European States, said that the EU recognises the linkage between peace and enjoyment of human rights. However, it considers that the absence of peace cannot justify failure to respect human rights. Finally, it believes that most of the issues raised in the workshop report are better dealt with another *fora*, which have the competence to do so and which are already dealing with these issues.

On the contrary, the Arab Jamahiriya Libyan was in favour of setting up of an open-ended working group to develop the right of peoples to peace, a special rapporteur to deal with the question of the right to peace, and to request the Advisory Committee to prepare principles and guidelines for the protection of peace and security.

On the same day the SSIHRL, on behalf of more than 500 NGOs world-wide, reiterated before the plenary of the HR Council the joint written statement by which they requested the establishment of a working group to codify the human right to peace (A/HRC/14/NGO/47).



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In the following days not a single developed State accepted to negotiate the draft resolution as distributed by Cuba and discussed at the informal meeting held on 7 June 2010. On the contrary, developing States made a number of proposals to the drafters of the resolution. As a result, Cuba tabled before the Secretariat draft resolution L.12 on “The promotion of the right of peoples to peace”,⁵ which included two outstanding amendments to be attributed to the developing States, as follows:

Firstly, at Bangladesh’s proposal, the draft resolution recalls the United Nations Declaration and Programme of Action on Culture of Peace, 1999, and the General Assembly resolution 53/25 proclaiming 2001-10 as the International Decade for a Culture of Peace and Non-Violence for the children’s of the world;⁶ and it “calls upon States and relevant United Nations bodies to promote effective implementation of the United Nations Declaration and Programme of Action on Culture of Peace”⁷ of 1999.

Secondly, at the request of various Latin-American countries (Argentina, Chile and Mexico), reference to the “independent expert” in paragraph 14 of the original draft is deleted and replaced by *the Advisory Committee* in the equivalent paragraph, so that the final draft says: It “supports the need to further promote the realization of the right of peoples to peace, and in that regard, requests the *Advisory Committee* to, in consultation with Members States, civil society, academia and all relevant stakeholders, prepare a *draft declaration on the right of peoples to peace* and to report on the progress thereon to the Council at its 17th session”⁸ (June 2011).

On 17 June 2010 Cuba introduced before the plenary of the HR Council draft resolution L.12 on behalf of its 23 co-sponsors, pointing out the new paragraphs in relation to the resolution adopted in 2009 on the same issue. It requested its approval by a large majority, thus renewing the HR Council’s engagement with the promotion of the right of peoples to peace.

Before the vote France, on behalf of the European Union, said that the EU supports some of the principles set up in the draft resolution and acknowledges the existing linkage between peace and the enjoyment of human rights. However, it advanced the negative vote of Member States represented before the HR Council because the text is not outlining that the absence of peace cannot justify in any case human rights violations. In addition, the text almost exclusively deals with inter-State relations, while it should focus on the relations between States and their citizens,

⁵ Draft resolution A/HRC/14/L.12 was co-sponsored by 23 developing countries, namely: Algeria, Bangladesh, Belarus, Bolivia (Plurinational State of), Burkina Faso, Congo, Cote d’Ivoire, Cuba, China, Dominican Republic, Ecuador, Egypt, El Salvador, Iran (Islamic Republic of), Lao (Popular Democratic Republic of), Korea (Popular Democratic Republic of), Nicaragua, Nigeria, Sri Lanka, Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and Viet Nam.

⁶ Preamble § 4 of draft resolution A/HRC/14/L.12, cit,

⁷ *Ibidem*, § 11,

⁸ *Ibidem id.*, § 15. Italics are added,



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as well as the States obligations to respect human rights. It also reiterated that most of the issues involved in the text should be dealt with in other international *fora* which have the mandate and the competence to do it. Finally it wondered whether the Advisory Committee could provide a positive contribution since the General Assembly had already adopted a Declaration on the Right of Peoples to Peace in 1984.

Next the United States of America announced its vote against the draft because it does not meaningfully promote peace or address the plight of vulnerable people in conflict zones. Instead, it focuses on issues that are primarily a matter of state-to-state relations. In addition, the United States is concerned that the resolution seeks to cast this overall issue as a collective right. Human rights are universal and apply to individuals. Collective rights are a distinct category of rights. The United States also regrets the resolution's request for the Advisory Committee to prepare a draft declaration, which it anticipates will be an exercise fraught with difficulty and divisions that makes no meaningful contribution to the protection of human rights. Finally, it notes that there are other international bodies — particularly the Security Council— that are better suited to address issues related to international peace and security. The United States would prefer to see this Council focused on addressing the numerous violations of human rights and fundamental freedoms that occur around the globe.

Next the President of the HR Council ordered to proceed to a roll-call vote as requested by France. Draft resolution L.12 was approved on 17 June 2010 by 31 votes in favour, 14 against and 1 abstention. This result revealed again the prevailing deep gap among developing States and developed States.⁹

In its explanation of vote after the vote Argentina (on behalf of Argentina, Chile and Mexico) stated on 18 June 2010 before the plenary of the HR Council that their countries had voted in favour of draft resolution L.12. However, they consider it necessary to advance in a progressive way towards the elaboration of a draft declaration on the right of peoples to peace. To achieve this objective, there was wise to open a space of dialogue and reflexion with the widest participation of actors that would analyse the need of such an instrument and, if positive, that could contribute to the concept, content and scope of this right, as well as to the way to implement it. It concluded showing their availability to contribute to the analysis of the issue.

⁹ Resolución 14/3 was approved by 31 votos in favour (African, Asian and Latin American and Caribbean States), namely: Angola, Argentina, Bahrein, Bangladesh, Bolivia (Plurinational State of), Brasil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Indonesia, Jordan, Madagascar, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay and Zambia.

14 States voted against, namely: Member States of the European Union (Belgium, France, Hungary, Italy, Netherlands, Slovakia, Slovenia and United Kingdom), associate European States (Bosnia and Herzegovina, Norway and Ukraine), United States of America, Japan and Republic of Korea).

There was 1 abstention (India). Kyrgyzstan did not participate.



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Therefore, it may be concluded that resolution 14/3 is a historic land-mark, since it has formally opened within the United Nations the process of international codification of the right to peace, thus replying positively to the progress that civil society had achieved in the last years. It is now to all international actors to take care of the codification process that should evolve in the next years towards proposals of consensus that would avoid any threat of set back.

The HR Council did not accept the recommendation from the expert workshop, nor from civil society on the mechanism that should be entrusted with the codification, i.e., a working group. The co-sponsors of the resolution originally accepted that an independent expert be appointed by the President of the HR Council, but disagreements within the group led to trust this task to the first body in the scale of the process of codification and progressive development of international human rights law within the United Nations: the Advisory Committee of the HR Council. In contrast, the civil society was in favour of a working group within the HR Council, while it gave a complementary role to the Advisory Committee: to identify the elements which will contribute to the elaboration of a draft universal declaration of the human right to peace, and further to formulate guidelines, criteria, standards and principles aimed at promoting and protecting this right.¹⁰

On the other hand, the HR Council resolution 14/3 is reducing the material content of the draft declaration to be prepared by the Advisory Committee to *the right of peoples to peace*. However, given that this resolution indirectly accepts the individual dimension of this right¹¹, it should not be a serious obstacle to preclude in the future to extent the mandate of the Advisory Committee to prepare a *draft declaration on the right of individuals and peoples to peace*.

The international civil society claims a universal declaration of the human right to peace to be adopted by consensus of all States. To this purpose it would be determinant that developed States, which are in minority within the HR Council, accept to negotiate *bona fide* this declaration with developing States. Among them Argentina, Chile and Mexico, in addition to other interested Latin American countries, may be very useful to bridge the gap between developed States and international civil society.

¹⁰ Doc. A/HRC/13/NGO/89, cit., p. 9 *in fine*. See also doc. A/HRC/AC/4/NGO/3 of 20 January 2010, p. 5, § 24.

¹¹ Preambular § 15, 18 and 20 of resolution 14/3, which reiterate same paragraphs of resolution 11/4 of 2009, as discussed above.