

EXPERT MEETING ON THE HUMAN RIGHT TO PEACE

Geneva, Palais des Nations, 26 June 2019.

THE MATERIAL CONTENTS OF THE HUMAN RIGHTS TO PEACE.

Oral statement by Mr. Miguel de la Lama Eggerstedt,

Former Secretary of the HR Council's Working Groups on Arbitrary Detention and Enforced or Involuntary Disappearances

Thank you, Madame Chair-person, for giving to me the floor.

As you know, Article 2 of the 2016 General Assembly Declaration on the Right to Peace, adopted on 19 December 2016, expresses that: “States should respect, implement and promote equality and non-discrimination, justice and the rule of law, and guarantee freedom from fear and want as a means to build peace within and between societies”. Adopted with a divided vote of 131 in favor, 34 against and 19 abstentions, the Declaration should have been more ambitious.

As referred by Professor Villán Durán, 693 world-wide civil society organizations led by the Spanish Society for International Human Rights Law (SSIHRL) and the International Observatory for the Human Right to Peace (IOHRP), considered that the 2016 General Assembly Declaration was insufficient, since it did not recognize the human right to peace nor its essential components. Consequently, on 20 September 2017, the civil society organizations updated the draft UN Declaration on the Human Right to Peace (1), proposing to revise the 2016 GA Declaration to include very important elements which were lacking.

On 17 December 2018, the General Assembly, through its resolution 73/170 entitled “Promotion of peace as a vital requirement for the full enjoyment of all human rights for all”, welcomed the 2016 General Assembly Declaration on the Right to Peace. In its resolution 73/170, the General Assembly reaffirms that peoples of our planet have a sacred right to peace and that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of all States.

Resolution 73/170 stresses that peace is a vital requirement for the promotion and protection of all human rights for all.

We consider that the 2018 resolution 73/170 is a good step towards the universal recognizance of the right to peace, although it limits the concept to the right of peoples to peace. However, essential components of the human right to peace, as enounced in the 2017 CSO draft Declaration, continue lacking. A new and improved Declaration should contain at least the following elements: Its preamble should precise that the right-holders of peace are also individuals, groups, minorities and humankind and spell out the legal bases of the right to peace in international human rights law.

It should be clearly expressed that States are the principal duty-bearers of the human right to peace and that they should refrain from the use or the threat of use of force in international relations and from imposing unilateral sanctions.

The GA 2018 resolution 73/170, in its operative paragraph 6, emphasizes that the preservation and promotion of peace demand that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use or threat of 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.

According to article 3 of the CSO draft Declaration on the Human Right to Peace, States shall abide by the legal obligation to refrain from the use or the threat of use of force in international relations and have an obligation to negotiate in good faith and settle disputes by non-violent means. States shall address root causes of conflicts and develop preventive strategies to ensure that grievances are addressed in a timely fashion and do not lead to violence.

States shall respect the right of peoples to self-determination and should suppress propaganda of war. According to Article 20 of the International Covenant on Civil and Political Rights, any propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

States should facilitate the contribution of women to the prevention, management and peaceful settlement of disputes and the maintenance of peace after conflicts. The Security Council should be reformed to ensure compliance with its obligations under the Charter of the United Nations in the field of

collective security. States should strengthen the effectiveness of the three foundation pillars of the United Nations in the fields of international peace and security, human rights and development.

Right to resist and oppose oppression.

Another important component of the human right to peace is the right to resist and oppose oppression. Individuals have the right to conscientious objection to military service. In its General Comment on Article 18, the Human Rights Committee stated that the right of conscientious objection can be derived from Article 18 of the Covenant. Every individual should have the right to conscientious objection to military service as part of the right to freedom of thought, conscience and religion. The right to conscientious objection to military service should be fully recognized.

Members of any military or security institution have the right to disobey orders that are contrary to the United Nations Charter, the international human rights law and the international humanitarian law. The disobedience of such orders shall in no case constitute military offences.

Private military and security companies and their personnel should be held fully accountable for violations of international human rights law and international humanitarian law. In any case, States should refrain from outsourcing inherently State security and military functions to private contractors. UN peacekeepers shall be accountable in cases of violation of international law or criminal misconduct. Troop-contributing States shall investigate complaints against members of their national contingents.

The right of victims of human rights violations to know the truth, to obtain redress, justice, reparation and to guarantees of non-recurrence is also an important component of the human right to peace, as well the right of all individuals to seek and to enjoy refugee status without discrimination, in accordance with international law.

States have an obligation to respect, protect and fulfill the human rights of all individuals and vulnerable groups under their jurisdiction, regardless of their nationality or origin and regardless of their immigration status.

Discrimination against women.

States undertake to revise national laws and policies that are discriminatory against women, and adopt legislation to address domestic violence, trafficking of women and girls and gender-based violence.

Right to disarmament.

The right to disarmament under international supervision is a clear component of the human right to peace. States should work towards a complete disarmament, under international supervision. That implies the suppression of illegal arms trade as well as a transparent control of arms trade. States should eliminate stockpiles of weapons of mass destruction or of indiscriminate effect, including nuclear, chemical and biological weapons.

Article 4 (2) of the CSO draft Declaration states that the use of weapons that damage the environment, in particular radioactive weapons and weapons of mass destruction, is contrary to international humanitarian law, the right to a healthy environment and the right to peace.

Rights to development and environment.

GA resolution 73/170 stresses in its operative paragraph 5 that “the deep fault line that divides human society between the rich and the poor and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, peace and security and stability”.

Resources released through disarmament shall be devoted to the promotion and fulfillment of human rights treaty obligations, as well as the realization of the rights to development and environment.

Concerning the rights to development and to environment, it should be emphasized that all individuals and peoples have the right to participate in economic, social, cultural and political development, in which all human rights and fundamental freedoms may be fully exercised, as well as to contribute to, and enjoy that development. Everyone has the right to a safe, clean and peaceful environment, to sustainable development and to international action to mitigate environment destruction, especially climate change.

States shall transfer technology in the field of climate change, following the principle of common but differentiated responsibilities. In accordance with the UN Framework Convention on Climate Change, States shall provide appropriate financing to States with inadequate resources for adaptation to climate change.

The human right to peace needs the establishment of a new international economic order which ensures a just distribution of global resources and the realization of social justice. Indeed, social injustices entail a structural violence that is incompatible with peace. Freedom from want implies the enjoyment of the right to sustainable development and of economic, social and cultural rights.

Right to human security.

Another important component of the human right to peace is the right to human security, including freedom from fear and freedom from want. All peoples and individuals have the right to life in a private and public environment that is safe and healthy. Freedom from want implies the enjoyment of the right to sustainable development and of economic, social and cultural rights.

Implementation.

Article 3 of the 2016 GA Declaration on the Right to Peace “calls upon States, the United Nations and specialized agencies to take appropriate sustainable measures to implement the Declaration on the Right to Peace, in particular the United Nations Educational, Scientific and Cultural Organization (UNESCO). International, regional, national and local organizations and civil society are encouraged to support and assist in the implementation of the Declaration on the Right to Peace”.

The CSO 2017 draft Declaration on the Human Right to Peace proposed in its Article 9 that States, the United Nations and its specialized agencies, funds and programmes, shall take appropriate sustainable measures to implement the draft UN Declaration. 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. The Human Rights Council shall monitor progress in the implementation of this Declaration as a permanent item in its agenda and appointing a Special Rapporteur on the Human Right to Peace.

Right to education on peace and human rights.

According to Article 4 of the 2016 GA Declaration on the Right to Peace, “international and national institutions of education for peace shall be promoted in order to strengthen among all human beings the spirit of tolerance, dialogue, cooperation and solidarity. To this end, the University for Peace should

contribute to the great universal task of educating for peace by engaging in teaching, research, post-graduate training and dissemination of knowledge.

The GA 2018 resolution 73/170 underlines in its paragraph 10 “the vital importance of education for peace as a tool to foster the realization of the right of peoples to peace, and encourages States, the specialized agencies of the United Nations system and intergovernmental and non-governmental organizations to contribute actively to this endeavour”.

The 2017 CSO draft Declaration on the Human Right to Peace proposes in its Article 5 that “All peoples and individuals have a right to a comprehensive peace and human rights education within the framework of the Declaration and the Program of Action on a Culture of Peace and Dialogue among Cultures”. Education and socialization for peace is a condition *sine qua non* for unlearning war and building identities disentangled from violence.

Madame Chair-person,

The human right to peace provides opportunities to prevent crisis, insecurity, violence and conflict. We should continue working to address the root causes of insecurity through a focus on reducing inequalities and eliminating discrimination.

It seems urgent to continue with the codification process and progressive development of the human right to peace. We hope that the human right to peace be fully recognized as a right of all persons and peoples by the UN General Assembly.

Thank you very much.

1. Draft UN Declaration on the Human Right to Peace updated on 20 September 2017 and signed by 693 CSO, available at <http://aeditdh.org/wp-content/uploads2017/09/Draft-UN-Declaration-HRP-20.9.17.pdf>