

ADVISORY COMMITTEE OF THE HUMAN RIGHTS COUNCIL

4° session
25 - 29 January 2010

Agenda item 3 b) of the program

Joint written statement

Title:

Codification of the human right to peace

Text:

I

The Human Rights Council adopted for first time in 2008 a resolution entitled “Promotion of the right of peoples to peace” by inspiring on previous resolutions on this issue approved by the UN General Assembly and the former Human Rights Commission, particularly the GA resolution 39/11 of 12 November 1984, entitled “Declaration on the Right of Peoples to Peace” and the United Nations Millennium Declaration.

The resolution reiterates the traditional position already developed by the former Human Rights Commission and the UN General Assembly, according to which “peoples of our planet has a sacred right to peace”^[1], and that preservation and protection of this right constitutes a fundamental obligation of each State (paragraph 2). Therefore, States should direct their policies 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 (paragraph 5).

These principles constitute a vital requirement for the promotion and protection of "all human rights of everyone and all peoples" (paragraph 8), included the right to development and the right of peoples to self-determination (paragraph 6).

The resolution also stresses that peace is a vital requirement for the promotion and protection of all human rights for all (paragraph 3) and 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, security and stability (paragraph 4).

The resolution requests the United Nations High Commissioner for Human Rights to convene, before April

2009, a three-day workshop on the right of peoples to peace, with the participation of ten experts from countries of each of the five regional groups. Finally, the workshop may not be organized due to OHCHR may not identified those areas from which resources could be redeployed and that the resources available should be allocated to the preparations for the Durban Review Conference and the support for the new mandates created at the UN Human Rights Council^[2].

II

In 2009 the Human Rights Council - with the vote in favor of Latin American, African and Asian countries-, adopted a new resolution on the **right of peoples to peace**^[3], which reiterated the content of this right as supported by the resolution of 2008.

At the same time, the Human Rights Council recognized the individual approach of the right to peace in the Preamble of the resolution by affirming that “human rights include social, economic and cultural rights and the **right to peace**, a healthy environment and development, and that development is, in fact, the realization of these rights” (paragraph 15 of Preamble); that, pursuant article 28 of the Universal Declaration on Human Rights, “**everyone** is entitled to a social and international order in which the rights and freedoms ...can be fully realized” (paragraph 17 of Preamble); and that a life without war is the primary international prerequisite for the material well-being, development and progress of countries and for the full implementation of the **rights and fundamental human freedoms** proclaimed by the United Nations” (paragraph 19 of Preamble).

Consequently, the Human Rights Council insisted that “peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well being” (paragraph 5).

Additionally, the Human Rights Council reiterated the OHCHR to convene a **workshop** on the right of peoples to peace, which was finally held on 15-16 December 2009 in Geneva. Experts from countries of all regional groups, representatives of States, international organizations and NGO were invited to participate actively into the workshop.

The **mandate of the workshop** on the right of peoples to peace was triple:

- a) To further clarify the content and scope of this right;
- b) To propose measures that raise awareness of the importance of realizing this right;
- c) To suggest concrete actions to mobilize States, intergovernmental and non-governmental organizations in the promotion of the right of peoples to peace (paragraph 11 of the resolution 11/4)

The Spanish Society for International Human Rights Law (AEDIDH) actively collaborated with the OHCHR and the state sponsors of resolution in the organization of the workshop, and encouraged the active participation of other NGO. Moreover, this organization presented six written papers to the workshop.

The *workshop of experts on the right of peoples to peace* concluded that on the basis of studies and latest developments of doctrine and civil society, one might identify the contents and scope of the *human right to peace* as emerging right. Consequently, **the workshop recommended the Human Rights Council to**

establish a working group of open-composition (representatives of the States), with the task of initiating the official codification of the *human right to peace*. Civil society representatives should be invited to participate actively in this working group.

The AEDIDH support the relevance of the *human right to peace* as stated in the *Luarca Declaration on the Human Right to Peace* of 30 October 2006 by incorporating this text both the *collective* (peoples) and the *individual* dimension of peace, both equally important. The sum of both subjects, peoples and human beings, leads to the emerging *human right to peace*, in where both peoples and individuals become holders of this right.

Upon request the Human Rights Council resolution, the High Commissioner for Human Rights should submit a report on the outcome of the workshop of experts, in the form of a summary of discussions, to the Council at its fourteenth session (June 2010)

III

The **Advisory Committee** approved without a vote the recommendation 3/5 on 7 August 2009 entitled “Promotion of the Right of Peoples to Peace”. Designated Mr. Miguel Alfonso Martínez, a member of the Advisory Committee "to prepare an initial working paper on the need to initiate a study with the purpose, inter alia, to: a) Further clarify the content and scope of this right; b) Propose measures to raise awareness of the importance of realising this right; c) Suggest concrete actions to mobilise States, intergovernmental and non-governmental organisations in the promotion of the right of peoples to peace”.

The research will be submitted to the consideration of the Advisory Committee on August 2010. According to the Rules of Procedure, “a research proposal shall take the form of a working paper, inter alia, the relevance of the study, including its being within the scope of the work set out by the Council, timeliness, object and the general outlines envisaged, as well as a draft timetable”^[4].

Furthermore, expert shall take duly into account "the conclusions and recommendations that may be reached in the Workshop on this issue referred to in operative paragraph 11 of Council resolution 11/4".

RECOMMENDATIONS

We invite the expert Miguel Alfonso Martínez to consider in its study the conclusions and recommendations of the workshop of experts on the right of peoples to peace, particularly in relation to the establishment within the Human Rights Council of an Open Composition Working Group on the codification of the human right to peace.

The research should promote human rights to peace as a means to foster the right to self determination of peoples and all human rights, including the right to development. In special, this study should recognize the relationship between human right to peace and the right to life, integrity, liberty and security of people; the protection of those person victims of uncontrolled use of mass destruction weapons in armed conflict; and the exercise of economic, social and cultural rights to enhance the social justice, equity, gender equality and the elimination of extreme poverty since it will make possible the solidarity, peace and friendly relations among all nations, races, ethnicities or religions.

The study should stress that human right to peace strength solidarity rights and peace education, and the construction of democratic, interactive and egalitarian multiculturalism, as well as the promotion of dialogue among cultures, civilizations and religions, as a means to achieve the human right to peace and to discourage the armament career.

The research should take necessary measures aiming at the realization of the human right to peace as contained in the UN Charter, the Universal Declaration on Human Rights, the International Covenants on Human Rights, the 2000 United Nations Millennium Declaration, the 2005 World Summit Outcome Document, the Declaration on the development of societies to live in peace, the Declaration on the Right of Peoples to Peace, the Charter of the Organization of American States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Asian Human Rights Charter, the African Charter on Human Rights and Peoples' Rights, the Arab Human Rights Charter and the Charter of the Organization of Islamic Conference.

The study should also take into account the Luarca Declaration on the Human Right to Peace, adopted by the Spanish civil society in 2006, and the results of the Global Campaign for the Human Right to Peace, which leads the AEDIDH with the support of UNESCO Etxea since 2007 in all regions of the world and international organizations. In particular, the reports of the meetings of experts organized by the AEDIDH in the five regions of the world and the regional declarations on the human right to peace adopted by scholars members of civil society in La Plata, Yaoundé, Bangkok, Johannesburg, Sarajevo, Alexandria and Havana. Furthermore, the research should take into account the joint written and oral statements on the content and scope of the human right to peace presented by the AEDIDH, with the support of 200 NGOs from around the world, in the successive sessions of the Human Rights Council (see www.aedidh.org).

The study should further recognize the need to enhance gender mainstreaming in the field of peace-building as requested by the Beijing Declaration and Platform of Action, as adopted by the Fourth World Conference on Women of 1995 and to promote women's participation at all levels of decision-making on peace, disarmament and security issues, as provided for in Security Council resolution 1325 (2000).

[1] Párr. 1 de la parte dispositiva de la res. 8/9 del Consejo DH, aprobada el 18 de junio de 2008 por 32 votos contra 13 y 2 abstenciones (India y México)

[2] Párr. 3 del doc. A/HRC/11/38 (Informe de la OACNUDH sobre la aplicación de la resolución 8/9), de 17 de marzo de 2009

[3] Resolución 11/4 del Consejo de Derechos Humanos, de 17 de junio de 2009, aprobada por 32 votos a favor (Angola, Arabia Saudita, Argentina, Azerbaiyán, Bahrein, Bolivia (Estado Plurinacional de), Brasil, Burkina Faso, Camerún, Chile, China, Cuba, Djibouti, Egipto, Federación de Rusia, Filipinas, Gabón, Ghana, Indonesia, Jordania, Madagascar, Malasia, Mauricio, México, Nicaragua, Nigeria, Pakistán, Qatar, Senegal, Sudáfrica, Uruguay y Zambia). Votaron en contra 13 Estados (Alemania, Bosnia y Herzegovina, Canadá, Eslovaquia, Eslovenia, Francia, Italia, Japón, Países Bajos, Reino Unido de Gran Bretaña e Irlanda

del Norte, República de Corea, Suiza y Ucrania). Se registró una sola abstención (India)

[\[4\]](#) Art. 17.2 del Reglamento del Comité Asesor, de 6 de agosto de 2009. Vid. doc. A/HRC/AC/3/2, de 9 de octubre de 2009, pp. 25-34