

Expert meeting

NGO and CSO Roundtable: The Advisory Committee progress report on the right of peoples to peace



Report
Parallel event to the
United Nations Human Rights Council

17th session
Geneva, 15 June 2011

Rapporteur

David Fernández Puyana, Representative in Geneva of the Spanish Society for International Human Rights Law, the International Observatory on the Human Right to peace and the International Association of Peace Messenger Cities.



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

Summary

1. Introduction.....	3
2. Expert meeting.....	3
3. Presentations.....	4

1. Introduction

The Human Rights Council (HRC) is an inter-governmental body within the UN system made up of 47 States responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the UN General Assembly on 15 March 2006 with the main purpose of addressing situations of human rights violations and make recommendations on them.

The 17th regular session of the HRC took place at the Regional Office of the United Nations in Geneva from 30 May to 17 June 2011.

2. Expert meeting

The expert meeting on the “NGO and CSO Roundtable: The Advisory Committee progress report on the right of peoples to peace”, was a parallel event which took place at the Palais des Nations (Geneva) on 15 June 2011. It was organized by International Observatory of the Human Right to Peace (IOHRP), the Spanish Society for International Human Rights Law (SSIHRL) and NGO Working Group on the Culture of Peace (Geneva) (CoP WG) with the support of: the International Association of Peace Messenger Cities (IAPMC), the International Movement against All Forms of Discrimination and Racism (IMADR), the Working Group on Peace of the NGO Committee on the Status of Women, the World Council of Churches (WCC) and the NGO Committees on Environment (COE) and on Spirituality, Values, Global Concerns (CSVGC), which provided both logistical and practical support.

The main objectives of the meeting were:

1. To share the *Santiago Declaration on the Human Right to Peace* with civil society, international organisations, and academics attending the HRC.
2. To study the revised progress report on the right of peoples to peace (A/HRC/17/39 of 28 March 2011) elaborated by the Advisory Committee
3. To examine the current codification process of the right to peace at the Human Rights Council and its Advisory Committee, and in particular the HRC resolution 14/3, adopted on 17 June 2010, and the Advisory Committee’s recommendations 5/2, of 6 August 2010 and 6/3, of 21 January 2011.

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

4. To study the role of the peace movements in the development and promotion of the human right to peace.

The Panel's working languages were Spanish and English. It was held from 14:00 to 16,00, at the Palais des Nations (Conference Room IX).

Under the sound moderation of Prof. Carlos Villan Duran, President of the SSIHRL, the guest speakers specially invited to analyse the Advisory Committee progress report on the right of peoples to peace, were as follows:

1. Mr. John Taylor (Representative of the International Association for Religious Freedom). Topic: Freedom of religion or belief and the human right to peace
2. Mr. Oliver Rizzi Carlson (Chairperson of the CoP WG and representative of the United Network of Young Peace-builders). Topic: Peace education and human right to peace
3. Ms. Vita de Waal (Chairperson of CoNGO NGO Committee on Environment and Representative of the Planetary Association for Clean Energy). Topic: human rights to peace and to environment
4. Mr. Derek Brett (Representative of Conscience and Peace Tax International). Topic: Conscientious objection and the human right to peace
5. Ms. Fernando Nimalka (President of IMADR). Topic: the fight against racism and racial discrimination and the human right to peace

3. Presentations

Prof. **Carlos Villan** opened the session by welcoming experts and members of civil society organizations and excusing the participation of Ms. Christina Papazoglou, Head of the World Council of Churches human rights programme –who was invited to moderate the meeting-, due to unforeseen of last minute.

The speaker recalled that the SSIHRL developed its four-year World Campaign on the Human Right to Peace (2006-2010) organizing workshops and expert meetings on the human right to peace in all regions of the world, sharing the content of the Luarca Declaration on the Human Right to Peace (30 October 2006), and receiving inputs from different cultural sensibilities. Besides, the SSIHRL in cooperation with civil society organizations organized many parallel meetings at the *Palais des Nations* during the subsequent sessions of the HR



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

Council and its Advisory Committee in order to address specific questions regarding the content and scope of the human right to peace.

The SSIHRL World Campaign on the HR to Peace finalized with the organization of the civil society's *International Congress on the Human Right to Peace*, which took place in Santiago de Compostela (Spain) in the context of the World Social Forum on Education for Peace. The Santiago Congress approved on 10 December 2010 by consensus two important documents: firstly, the **Santiago Declaration on the Human Right to Peace**, which represents the aspirations of the international civil society aiming at the codification of the human right to peace; and secondly, the Statutes of the **International Observatory on the Human Right to Peace**, which is operative since 10 March 2011 as a part of the SSIHRL, benefiting from the wide experience received throughout the four-year World Campaign on the human right to peace.

The speaker noted that the AC's revised progress report submitted to the HR Council (doc. A/HRC/17/39, of 28 March 2011) proposed more than 40 possible standards for inclusion in the draft declaration on the right to peace. It also referred to specific rationale leading to including them and relevant legal standards (paragraph 72). In the light of discussions to be held by the HR Council and of responses from all stakeholders, the drafting group will work at its upcoming meetings on a draft declaration that will be submitted in January 2012 to the Advisory Committee.

He then referred to the last joint NGO written statement in response to the Advisory Committee's questionnaire on elements for a draft declaration on the right to peace. It was a summary of the written reply to the AC's questionnaire submitted on 2 May 2010 by the International Observatory on the Human Right to Peace and the Spanish Society for the International Human Rights Law to the 17^o session of HR Council, acting on behalf of 1.795 NGO, CSO and cities worldwide. The joint statement was distributed as official document A/HRC/17/NGO/57, of 27 May 2011. Both documents provided further elements and standards that civil society would like to see included in the AC's draft declaration. They were the result of a genuine and transparent dialogue among peace-loving organizations from the five regions of the world.

The speaker also informed that on 16 May 2011 the International Observatory on the Human Right to Peace (IOHRP) and the Spanish Society for the International Human Rights Law (SSIHRL) in collaboration with the World Council of Churches (WCC) and the German Institute for Human Rights (GIHR), organized Consultations of two regional groups -Eastern European states and Western European and Other States-, with CSO experts on the codification of the right to peace at the HR Council.

He also highlighted that at its 17th session the HR Council shall adopt a new resolution on the right to peace, acting upon draft resolution L.23 tabled by Cuba and requesting the

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

Advisory Committee to present a draft declaration on the right of peoples to peace at the HR Council's 20th session.

The SSIHRL met GRULAC's delegates this morning and proposed to the drafters of the resolution to extend the mandate of the AC to draft a declaration on **the human right of individuals, groups and peoples to peace**; to include a reference to the role of women in decision-making with regard to conflict prevention and resolution; and to welcome the Santiago Declaration and the International Observatory on the Human Right to Peace, as well as the consultations undertaken on 16 May 2011. The SSIHRL also invited GRULAC States to summit draft resolution L.23 as a Group.

Finally the speaker recalled that in June 2012 the HR Council, acting upon the AC's draft declaration, is expected to establish an open ended working group on standards setting focusing on the human right to peace.

Mr. **John Taylor** began his presentation by indicating that discrimination and violence in the name of religion or belief is at the heart of many conflicts based on religious issues, often intertwined with ethnic, national, political or historical backgrounds. In its resolution 4/10, the HR Council recognized that the disregard for and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience, religion or belief, continued to bring, directly or indirectly, wars and great suffering to humankind.

In continuation, the speaker emphasized that the legal standard on the right to conscientious objection and freedom of religion and belief as proposed by the Advisory Committee in the revised progress report should be divided in two different standards by responding to different purposes as follows:

1° Right to disobedience and to conscientious objection: the right to conscience objection should be qualified as an individual right. Besides, the Santiago Declaration (art. 5.2) stresses that individuals, individually or as members of a group, have the right to civil disobedience and to conscientious objection against that entail a threat against peace.

2° Freedom of religion and belief: discrimination and violence in the name of religion or belief is at the heart of many conflicts that are based on religious issues, often intertwined with particular ethnic, national, political or historical backgrounds. According to the Preamble of the Universal Declaration of Human Rights, "... peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the huma person and in equal rights of men and women...". The concept of human dignity refers to the innate right of all human beings to be protected in their human rights. It follows that whenever religious freedom is denied, and attempts are made to hinder people professing their religion or faith and living accordingly, human dignity is offended, with a resulting threat to justice and peace.

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

The speaker added that since religion can offer a precious contribution for the building of a just and peaceful social order, Member States should set and respect legal standards that are compatible with article 18 of the Universal Declaration of Human Rights and other international law pertaining to freedom of religion, freedom of expression and the principles of tolerance and non-discrimination. Additionally, nurturing values and ethics principles, particularly in children, are key to develop respect and mutual understanding among people of different religious traditions, faith and beliefs.

In continuation, Mr. John Taylor recalled that on 14 June 2011 the HR Council organized a *Panel on promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religious and beliefs*. The panel was mandated by resolution 16/18 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief. The resolution was adopted by consensus. The panel debate helped to cement progress towards ending what has been a divisive debate in the Council. Furthermore, the speaker reminded that during the panel the High Commissioner for Human Rights emphasized that the freedom of expression and religion are interdependent, advocacy can move to incitement to hatred and states have responsibility in the field of education. On the other hand, Dr. Ekmeleddin Insanoglu, Secretary-General of the Organization of the Islamic Conference, indicated that intolerance can endanger peace and international security, and consensus is needed to end the double standards in the issue of freedom of religion or belief.

Mr. John Taylor reminded that the the United Nations Special Rapporteur on the question of religious intolerance in cooperation with the Government of Spain organized an *International Consultative Conference on School Education in relation with Freedom of Religion and Belief, Tolerance and Non-discrimination* in Madrid on 23-25 November 2001. The purpose of the conference was to prepare recommendations to be discussed and adopted by the Conference on 25th November 2001, that corresponded with the 20th anniversary of the adoption of the United Nations 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion of Belief. The involvement of women in the setting of agenda and proposing solutions is fundamental in order to fight intolerance and discrimination, the speaker indicated.

Mr John Taylor ended by stating that 30 years after the adoption of the Declaration on the Elimination of All forms of Intolerance and Discrimination based on Religion or Belief, governments might discuss whether the time had come to consider the possibility of the adoption of a convention

Mr. Oliver Rizzi Carlson offered his view on what he said was a shift from scientific reductionism and the separation of knowledge fields to connecting patterns, relationships and dynamics. He mentioned examples of how this is happening in education, in government and in science as well as in human rights. In each of these, we are shifting from a series of subjects or disciplines to connecting approaches, such as peace education, peace infrastructures, unified

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

field theory, and, in the case of human rights, the right to peace. These are born as additional areas of study, but grow into ways of life. The right to peace is part of this becoming conscious of a deeper calling or need. Hence, peace also acquires a much richer, more diverse and multidimensional meaning: it is not just the opposite of war, nor a state of affairs, but a way of interacting or relating in any situation.

Mr. Rizzi Carlson said that this was the potential of the right to peace in his view. The right to peace is important as a call to notice what is most important: peace; and at the same time it is a seed part of the development of our culture into one of peace. The right to peace contributes to the development of a culture of peace by making peace an organizing principle, a way of relating and not only an objective.

He mentioned some limitations: the right to peace still expressed a largely negative concept of peace (absence of physical violence), and was very normative and legalistic, as all human rights instruments and UN documents. This made the right to peace, as many other rights, problematic for some. However, Mr. Rizzi Carlson noted that the right to peace, unlike others, has a strong self-transformative element within itself, because it is about peace. “The language transforms itself,” Mr. Rizzi Carlson said.

The right to peace was also noted as being very timely: the civil society initiative has been going on for several years; this is a historical moment for the culture of peace (with the International Year in 2000, the Decade 2001-2010, and the Programme of Action); a growing number of organizations are working on the culture of peace, including the IFRC (1 of 3 strategic priorities); a growing number of universities are offering study programs in peace; and the Global Campaign for Peace Education was born out of the Hague Appeal for Peace in 1999. Mr. Rizzi Carlson noted that the right to peace was part of this evolution and the transformation of the culture of violence.

Mr. Rizzi Carlson stated that the right to peace can contribute further to this evolution by emphasizing the importance of peace education. He noted that the Civil Society Report on the Decade for a Culture of Peace highlighted a number of initiatives in peace education. 50+ % of contributing organizations worldwide and in each world region held peace education as their main priority. The Report also recommended to institutionalize peace education. In fact, peace education provides for the sustainability of peace, and the peacefulness of peace – which is the only viable strategy for peace.

Faced with concerns regarding the manipulability of the right to peace, the relationship with the Responsibility to Protect and the “duty” connected with a new human right, Mr. Rizzi Carlson said that the right to peace could also benefit from having a stronger emphasis on peace education and the peacefulness of the process that would be the stable sustainer of the right to peace.

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

The speaker's remarked that the Advisory Committee's progress report on the right of peoples to peace mentions that the right to peace without a serious commitment to education is "inconceivable." He said that, in fact, peace should be recognized as the organizing principle, a very important resource and tool to implement the right to peace. Also, peace education went from being one of the core issues in the second-to-last report to being classified under "other issues." Mr. Rizzi Carlson said this was not desirable, given the importance of peace education for the right to peace, and that it should be recognized as an essential part of the right to peace.

Mr. Rizzi Carlson concluded by stating that education is not just the objective, but the main resource with which to achieve the right to peace and education itself, in a virtuous cycle. Also, he mentioned the importance of peace infrastructures to facilitate peace education processes. And while the former two are preventative, peace education can also be very useful after violations of human rights, such as restorative justice processes that heal relationships instead of carrying out retribution for violence through punishment. Furthermore, peace education can also be very useful when facilitating the dialogue processes essential to the functioning of government and intergovernmental organizations, including when dealing with the design and administration of the right to peace.

In short, the speaker said that the right to peace contributes to the development of the culture of peace in the world; that it can benefit from peace education in many ways; and that it can contribute to peace education itself by calling for its institutionalization, as well as including the right to peace education more strongly within the right to peace itself.

Mrs **Vita de Waal** began her presentation by indicating that It will not come as a surprise that the issues that today have the potential to lead to war are not at all different to why tribes and nations have waged wars in the past. The need for water, land and resources are the primary factors. To this we need to add issues related to climate change and the industrialisation process.

The speaker pointed out that the demand for clean water already approaches the limits of finite supply. UN Secretary General Ban Ki-moon has warned that water shortages will drive future conflicts. Ten of the world's 15 most water-stressed countries are in the Middle East and Northern Africa. There are nearly three hundreds potential conflicts over water around the world and almost 5 billion people face the threat of water insecurity. Conflicts concern not only countries that share trans-boundary freshwater reserves, but also those sharing the same river.

The ongoing Nile dispute can serve as an example, she added. Egypt claims that since ancient times it has a natural historical right on the Nile River. Past colonial powers have reiterated this right, a right that Sudan was very firm on not recognizing. Sudan is the second most extensive user of the Nile, after Egypt. Reduction of the Nile water supply to Egypt is

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

conceived as affecting its national security and Egypt has threatened more than once that it could go to war over Nile water. Historically, the Nile water has always been a contentious issue and in the past Egypt has threatened war on Ethiopia and Tanzania over its waters. It is of interest to know that Ethiopia's tributaries supply about 86 percent of the waters of the Nile, though the country uses about one percent of the Nile water.

In continuation, the speaker indicated that the reduction of regional water sources by 40 to 80% by the end of the century will augment existing tensions in Central Asia. Upstream countries are pitched against their downstream neighbours for the control and use of water flows. However, the real issue lies with the sources and with wells as these are currently being exploited far more rapidly than they can recharge.

The most important Asian rivers, Indus, Sutlej, Brahmaputra, Irrawady, Salween and Mekong to name but a few, have their source on the Tibetan Plateau in the TAR of China. These rivers affect 11 countries and around two billion people down-stream. On the eight great Tibetan rivers alone, almost twenty dams have been built, or are under construction, while some forty more are proposed. This would also have disastrous effects not only on downstream countries and the environment but on the whole Himalayan region.

On the other hand, she added, India has begun to construct a dam in the Jhuleum River, a river allocated to Pakistan under the "Indus Water Treaty of 1960." Pakistan too has begun dam construction in the region, with the help of the Chinese.

The above highlights the environmental and socio-political contentious issues related to dangers of shared fresh water resources and the interrelationship between water resources, water systems, and international security and conflict in countries.

With regards to climate change, the speaker highlighted, that droughts in Africa that once appeared every decade have started ravaging the land every two or three years, throwing the tribe's migratory patterns into disarray.

Water wars could also soon engulf the nine countries that share the Lake Victoria/Nile River system, Tribal competition for water and grazing lands has been escalating during the last 10 years, with armed battles becoming more destructive, spreading across national borders and forcing thousands of displaced farmers and pastoralists to seek refuge in neighbouring countries.

Mrs Vita de Waal stated that water has become a commodity instead of a public good, leaving millions of poor people without access to safe drinking water and sanitation. Since the 1990s, many countries have handed over water management to private companies. Many citizen worldwide now campaign for the water supply to return to public ownership.

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

In continuation, she indicated that the financial crisis and a collapsing global economy have caused a new wave of privatization of water, Greece will be privatizing their water next week. In Bolivia, South Africa, Ghana, the Philippines and Indonesia violent struggles have broken out against companies seeking to privatize water and in Peru the number of social conflicts related to water management issues has risen dramatically. More than 50 countries on five continents might soon be caught up in water disputes unless agreements are entered into on how to share reservoirs, rivers, and underground water aquifers.

Countries with a rural base use 70-80% of water resources on agriculture, while industrial nations use 50-60% for their industry. Countries like China and India are now looking to ‘outsource’ their agriculture and are leasing or buying up cheap farmland in Africa. Why not grow food on home soil? Because importing food is equivalent to importing “virtual water”, since food production accounts for nearly 80 per cent of annual freshwater usage. They are therefore not merely buying land, but using huge amounts of water as well.

Between 2004 and 2009, she informed, that China, India and Saudi Arabia have cheaply leased vast tracts of land in sub-Saharan Africa. Their primary aim is to grow food using the water that African countries do not have the proper infrastructure to exploit. Doing so is cheaper and easier than using water resources back home.

Furthermore, the speaker pointed out that Saudi Arabia has leased 376 000 hectares of land in Sudan to grow wheat and rice while Sudan has sold millions of acres of agricultural land to China. Firms from China and India have also leased hundreds of thousands of hectares of farmland in Ethiopia.

Mali leased over 100 000 ha of prime rice producing land to Libya and South Korea joined the race, buying 690 000 hectares, about five times the size of Delhi, in Sudan to grow wheat. How much land has been sold? Between 15 million and 20 million hectares has been sold to many foreign governments, either directly or through state-owned entities and public-private partnerships which is more than all of Germany’s farmland. Such projects often push numbers of local farmers off the land and will compete directly with others for water, in the case of the Mali project, from the Niger river, the most important source of irrigation for the Sahel–Sahara. Malibya is currently negotiating with the Malian government for priority in water allocation during the off-season, when the water levels are low.

In continuation, the speaker emphasized that according to the UN Food and Agriculture Organisation’s (FAO's) food price index, prices have risen for the 8th consecutive month to the highest since the index was started 21 yrs ago, in 1990. Recently, at a joint press conference, Director-General Jacques Diouf of the UN Food and Agriculture Organisation

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

and the French Agriculture Minister, Bruno Le Maire called financial speculation on food both economically dangerous and morally unacceptable.

The World Development Movement argue that banks and hedge funds are helping to drive up the price of food to record levels through reckless speculation on basic foods such as wheat and sugar. Wheat prices have increased by 60 per cent in the last year, being fuelled mainly by speculation because, despite drought and fires affecting harvests, there is no global shortage in the supply of wheat.

The speaker ended by indicating that water as one the main issues that can fuel political, socio-economic and cultural tensions that can create conflicts on four different levels - local, national, international and global. International cooperation on rivers, basins and other sources of water can help diminish these tensions. Without water there is no food, without water there is no health, without water there is no development and without water there is no life.

Mr. **Derek Brett**, representative of Conscience and Peace Tax International (CPTI), thanked the organisers for inviting him to speak, particularly as CPTI had not been a signatory of the joint NGO statement but had made its own written statement to the Human Rights Council (A/HRC/17/NGO/20) which took a different line on some issues.

He would bring the discussion back from threats to peace and the building of a culture of peace to the narrow title “The human right to peace”. When one talks of peace as a human right, one is inevitably committed to looking at it in a “normative and legalistic” fashion, even though this is obviously not all there is to peace.

Within the right to peace, the speaker's special interest was in one small area, that of conscientious objection to military service, which is however within the “normative and legalistic” framework a core part of the right. If the human right to peace is to mean anything, it must include that the individual should face neither the threat of physical, particularly armed, violence nor, perhaps even more so, the obligation to take part in such violence. In the continuing campaign to obtain full recognition of the right of conscientious objection to military service, an explicit mention of this in a UN declaration on the right to peace would be of immeasurable value. However the progress which had been made so far was in the context of the freedom of thought, conscience and religion as first elaborated in the Universal Declaration of Human Rights, so unless that progress was to be undermined this linkage must be maintained. Conscientious objection to military service might unduly dominate Section IV(F) of the Working Group report (A/HRC/17/39), but that was not a good reason for moving it elsewhere.

It was noteworthy that Article 18 of the Universal Declaration, and the various texts which subsequently borrowed its wording, refer to the freedom of thought, conscience, and

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

religion – in that order. The prime focus is not on organised religion; the article is there to enable people to break out of any attempt to force their thinking into a straightjacket; we must stop it from being hijacked by the notion that people immutably “belong” to a religion, which may then tell them what to do, and resist the suggestion that beyond questions of freedom to worship or otherwise manifest one's religion this article should be addressing discrimination or persecution on the basis of actual or perceived religious identity. The concept of individual conscience – that people are free to make their own moral judgements – is central.

In 1948, there were only eleven countries in the entire world which permitted any of their nationals to act on the basis of their conscientious objection to military service – today there are over sixty. It is not therefore surprising that the Universal Declaration did not contain an explicit reference to conscientious objection to military service. It took over fifty years to make up for this omission. In fact it was by piggy-backing on the apartheid issue that the phrase first entered the language of the UN – a General Assembly resolution in 1979 encouraged states to give asylum to conscientious objectors who were avoiding service in armed forces enforcing apartheid. A couple of years later the Sub-Commission (the predecessor of the Human Rights Council Advisory Committee), was mandated to prepare an expert study on the issue, following which there were a number of Commission resolutions. But the crucial role in confirming the right of conscientious objection to military service as protected under the freedom of thought, conscience and religion has been played by the Human Rights Committee, the treaty body which interprets the International Covenant on Civil and Political Rights., first in its General Comment No. 22 on Article 18, but most importantly in its recent jurisprudence on individual cases..

In 2006, ruling on the cases of two imprisoned Jehovah's Witness conscientious objectors from South Korea, Mr. Yoon and Mr. Choi, the Human Rights Committee found that by arguing just that it had no conscientious objection provisions in its military recruitment laws the state had not shown permissible grounds to limit the young men's right to manifest their religious beliefs. Everyone knows that Jehovah's Witnesses are not willing to perform military service. But in March 2010 the Committee applied the same reasoning to eleven further imprisoned conscientious objectors from South Korea – a Buddhist, a Catholic and nine who had no religious affiliation but were simply “secular objectors”, thus confirming that the right applies to all – it is not just a special dispensation for certain religious groups.

Then in March this year the Committee ruled on the cases of 100 further Jehovah's Witnesses from South Korea. While three members, in a minority opinion, advocated finding a violation following the decision in the original Yoon and Choi case, the majority took a major step forward and said that the right of conscientious objection to military service “inhered” in the freedom of thought, conscience, and religion, rather than simply being a “manifestation” of beliefs and that therefore the question of whether it might be limited in certain circumstances did not arise at all..

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

Mr Brett felt that although this sequence of decisions had firmly established the right of conscientious objection to military service, the progress made was still fragile. In particular none of the regional human rights mechanisms had yet had the opportunity to apply the Human Rights Committee's jurisprudence (the judgement of the Grand Chamber of the European Court of Human Rights in the case of *Bayatyan v Armenia*, to be announced on 7th July, ought to change this, but was not a foregone conclusion). Therefore, he believed, wording in a declaration on the human right to peace which would consolidate the progress made to date would represent considerable “value added”.

But he also looked to “value added” in moving in such a declaration beyond a simple codification of what had already been achieved elsewhere. A right of conscientious objection was all well and good, but was it in any way logically consistent with a human right to peace that *anyone* should be conscripted into obligatory military service? In fact, more and more states were “professionalising” their armed forces. In 1960, conscription applied on the territory of 32 of the 35 present-day EU Member States, Candidate Countries and Potential Candidate Countries. From 1st July 2011, military service will remain obligatory in only 7 of the 35. Obviously not all States are yet ready to give up conscription, but the tide is so strong that perhaps all could agree to wording encouraging them to consider this.

At the same time, a declaration ought to acknowledge that the right of conscientious objection to military service or militarism applied beyond the narrow context of conscription. One reason why it was so important to keep the linkage to Article 18 of the Universal Declaration was the firm statement there that the freedom of religion or belief also meant the freedom to change one's religion or belief. In the specific context, this meant that someone who had originally volunteered to join the armed forces had as much right to become a conscientious objector as anyone else. A ground-breaking recommendation - CMRec(2010)4 - from the Committee of Ministers of the Council of Europe had recognised this, but it was remarkable how slow even pacifists were to acknowledge this. He mentioned an court-martial he was following in the UK where a young man who had as a teenager signed up to serve as a medical orderly in submarines had several years on objected to being required to attend rifle training with a view to a posting to Afghanistan. He was surprised how many people when told these facts said something like “But he must have known when he joined that the armed forces are all about carrying weapons and killing people”.

The right must also be extended to conscientious objectors who are completely outside the armed forces. He cited the example of the “Motherwell Two” - railwaymen in Scotland who had refused as part of their civilian job to operate a train carrying munitions for use in the invasion of Iraq.

Moreover, he said, we must realise that the “professionalisation” of armed forces in fact suited the military agenda. They no longer need each of us to carry a rifle. What they need is our money so that they can supply highly trained military professionals with expensive

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

high-tech equipment. His organisation, CPTI, existed in order to argue that the right of conscientious objection to military service should be extended to objection to having one's tax payments applied to military expenditure. In this campaign they were frequently confronted by the argument that it was undemocratic for individual taxpayers to pick and choose what their taxes might be spent on. To this they replied that military expenditure was different. It usually falls within a clearly identifiable defence budget which has no other purpose. And at a time when the phrase was being increasingly used, sometimes controversially, in the medical sphere, it was important to remember that the recognition which had been achieved was not of a general right to conscientious objection but a specific right of conscientious objection to military service, explicitly linked in General Comment 22 to the obligation to use lethal force. In itself, such a recognition represented a small building-block towards a culture of peace, as it implied acceptance, within an international system based on military power, of the validity of moral objections to military activity

Finally, he conceded that all that he had said referred to a Human Right to Peace, as envisaged by the Santiago declaration, not to the Advisory Council's brief, "The right of peoples to peace". He was convinced there was an individual right to peace, but was much less impressed by the concept of a collective right. Governments certainly did not have a right to peace. In the debate in the Human Rights Council the previous week China had effectively equated the right to peace with the principle of non-interference in internal affairs. Such a conflation would do nothing for the human rights of Chinese citizens – including their right to peace!

Ms. **Fernando Nimalka** indicated that conflicts in Asia have their roots in both political and economic issues, each feeding into the other. This has had serious repercussions in many countries, with the immediate or gradual emergence of tensions and hostilities between different groups on religious, ethnic, class or other lines. For this reason, the speaker affirmed that the human right to peace is fundamental for Asia. It is important to understand the geo-political challenges to peace in South Asia. To send the 'dove for peace' is easy. But to struggle to find the real meaning of peace is difficult. Now the war is over in Sri Lanka and the government is saying we are now free and is calling for people to live peacefully. But there is no peace without addressing the real political issues faced by the Tamil speaking people. Further she asked What is peace to Dalit will be different to what is peace to an upper caste person in India.

Ms. Nimalka recommended that the HR Council Advisory Committee focus on the human rights approach to the right to peace, since the international community needs to return the legal basis of the Charter of the United Nations.



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

To conclude, the moderator thanked to the interpreters for their voluntary work, to panellists and participants for their commitment to peace, and to the organizers, in particular Mr. David Fernandez Puyana, IOHRP and SSIHRL representative in Geneva, for the excellent organization of the meeting.