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## **CIVIL SOCIETY CONTRIBUTION TO THE DEVELOPMENT OF THE HUMAN RIGHT TO PEACE**

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### **Abstract**

The article reviews the Spanish Society for International Human Rights Law (SSIHRL) and 1795 associated CSO activities (2005-2011) to translate peace into the legal category of human right and to encourage the official codification process undertaken since 2010 by the UN Human Rights Council and its Advisory Committee. It is expected that the General Assembly will approve a Universal Declaration on the Human Right to Peace taking into account the *Santiago Declaration on the Human Right to Peace* -adopted on 10 December 2010 by the international civil society-, as well as its preparatory work.

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#### **I. Introduction**

To translate the universal value of peace to the legal category of human right. This was the aim that the Spanish Society for International Human Right Law (SSIHRL) has been carrying out along with its World Campaign in favor of the human right to peace (2007-2010), once the *Luarca Declaration on the Human Right to Peace* was adopted

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on 30 October 2006 by a Spanish expert drafting Committee<sup>2</sup>. The World Campaign was drawn to achieve three main objectives<sup>3</sup>, namely:

Firstly, disseminating and sharing the *Luarca Declaration* with experts from civil society world-wide. To this purpose the SSIHRL organized workshops and expert meetings on the human right to peace in all regions of the world, receiving inputs from different cultural sensibilities.

Secondly, drafting on behalf of civil society a Universal Declaration on the Human Right to Peace. The *Luarca Declaration* was reviewed by a technical drafting Committee of 14 independent experts, which approved on 24 February 2010 the *Bilbao Declaration on the Human Right to Peace*<sup>4</sup>. Afterwards, the latter Declaration was reviewed by the International Drafting Committee (ten international experts from the five geographical groups), which approved on 2 June 2010 the *Barcelona Declaration on the Human Right to Peace*<sup>5</sup>. It was subsequently submitted to discussion at the International Congress on the Human Right to Peace, which adopted on 10 December 2010 the *Santiago Declaration on the Human Right to Peace*<sup>6</sup>, thus finalizing the SSIHRL World Campaign with civil society.

Thirdly, introducing the human right to peace into the agenda of the United Nations competent bodies (namely, the Human Rights Council and its Advisory Committee). Since 2007 the UN Member States were requested to initiate the official codification of the human right to peace. Our vision is that the General Assembly shall adopt by consensus a Universal Declaration on the Human Right to Peace with due regard to the contributions received from civil society.

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<sup>2</sup> See Carmen Rosa Rueda Castañon and Carlos Villan Duran (editors), *Luarca Declaration on the Human Right to Peace*, 2<sup>nd</sup> edition, Oviedo: Madu, October 2008, 557 p. See also William A. Schabas, "The Human Right to Peace", in EIDE (A.) et al. (Editors), *Making Peoples Heard. Essays on Human Rights in Honour of Gudmundur Alfredsson*. Leiden/Boston: Nijhoff, 2011, pp.43-57; Douglas Roche, *The Human Right to Peace*, Ottawa, Novalis: Saint Paul University, 2003, 271 p.; Karel Vasak, "Le droit de l'homme à la paix", in Erika Deuber Ziegler (dir.), *Paix*, Genève: Musée d'Ethnographie, 2001, pp. 44-48; Adrian Nastase, "Le droit à la paix", in BEDJAOUI, Mohammed, *Droit International: Bilan et perspectives*, Tome 2, Chapitre LV, Paris: Pedone/UNESCO, 1991, pp. 1291-1303; Philip Alston, "A third generation of solidarity rights: progressive development or ofuscation of International Human Rights Law?", *Netherlands International Law Review*, 1982, pp. 315 and following; and Krzysztof Drzewicki, "The rights of solidarity: the third revolution of human rights", *Nordisk Tidsskrift International Journal*, 1984, Vol. 53, pp. 26-46.

<sup>3</sup> See David Fernandez Puyana, "World Campaign on the Human Right to Peace", in Carlos Villan Duran and Carmelo Faleh Perez (editors), *Regional Contributions for a Universal Declaration on the Human Right to Peace*, Luarca: SSIHRL, 2010, pp. 61-76.

<sup>4</sup> Full text of the *Bilbao Declaration* is accessible in several languages at <http://www.aedidh.org>  
See also Carmelo Faleh Perez, "A new reading of the *Luarca Declaration on the Human Right to Peace* in light of regional experiences", in Carlos Villan Duran and Carmelo Faleh Perez (editors), *Regional Contributions for a Universal Declaration on the Human Right to Peace*, cit, pp. 511-555. The *Bilbao Declaration* is also published in pp. 579-595.

<sup>5</sup> Full text of the *Barcelona Declaration* is accessible in several languages at <http://www.aedidh.org>

<sup>6</sup> See *infra*, Documentation Section. The *Santiago Declaration* is also available in other languages at <http://www.aedidh.org>

This article shall discuss civil society initiatives to develop the human right to peace as an emerging right, in particular the SSIHRL and associated CSO activities carried out from 2005 to 2011. They were crucial to disclose the official codification process undertaken since 2010 by the United Nations, particularly within the Human Rights Council and its Advisory Committee. Some concluding remarks will be offered at the end of the article.

## II. The International Congress on the Human Right to Peace

On 9 and 10 December 2010, the SSIHRL and the World Council of Churches organized the International Congress on the Human Right to Peace, held in Santiago de Compostela (Spain) in the context of the World Social Forum on Education for Peace. On 10 December 2010 the Congress approved by consensus two important resolutions:

Firstly, the *Santiago Declaration on the Human Right to Peace*, which represented the aspirations of the international civil society on the contents and scope of the human right to peace. It was the result of a fruitful civil society codification process started on 30 October 2006 with the adoption of the *Luarca Declaration*. The *Santiago Declaration* was submitted in 2011 to the consideration of the Human Rights Council and its Advisory Committee as the major contribution of civil society to the on-going official codification process of the right to peace.

Secondly, the Santiago Congress also approved the Statutes of the *International Observatory on the Human Right to Peace* (IOHRP)<sup>7</sup>. Operative since 10 March 2011 as part of the SSIHRL, the IOHRP is benefiting from its wide experience gathered throughout the four-year World Campaign on the human right to peace which has received the support of 1.795 civil society organizations world-wide, as well as of numerous public institutions. To preserve its autonomy, the Observatory enjoys its own structure composed of four organs, namely: the General Assembly, the Executive Committee and its Bureau and the International Secretariat.

The Observatory is networking with local civil society organizations (CSO) interested in the promotion and defense of the human right to peace. The CSO that are part of the World Alliance on the Human Right to Peace -launched in 2008 by the SSIHRL-, are especially invited to formalize their incorporation into the Observatory's General Assembly.

The Observatory's main purpose is to promote and implement the *Santiago Declaration*, as well as to monitor the on-going codification process at the UN, ensuring that the General Assembly would adopt a Universal Declaration taking duly into account the *Santiago Declaration* and its preparatory work.

Furthermore, the Observatory will organize fact-finding missions; develop reliable indicators to measure States and other international actors' compliance with the human right to peace in accordance with the normative content of the *Santiago*

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<sup>7</sup> See *infra*, Documentation Section. The Statutes of the Observatory are also available in other languages at <http://www.aedidh.org>

*Declaration*; and will prepare reports on particular situations of serious, massive and systematic violations of the human right to peace.

Moreover, both the Observatory and the SSIHRL are assisting States and International Organizations to focus on the development of the three pillars on which the Charter of the United Nations is based to achieve peace, namely: the collective security system which prohibits the threat or use of force and promote the peaceful settlement of disputes in accordance with international law; the economic and social development of peoples; and respect of human rights and fundamental freedoms for all without discrimination. Under these three pillars the human right to peace has to be built.

The four Declarations already adopted by civil society (namely: *Luarca*, *Bilbao*, *Barcelona* and *Santiago Declarations on the Human Right to Peace*), were drafted in accordance with the legal technique of the international human rights instruments. The Declarations are articulated normative proposals from the civil society to the official codification and progressive development of the human right to peace, formulated with the aim that one day the UN General Assembly would approve a *Universal Declaration on the Human Right to Peace*.

The Preambles of the four Declarations refer to the holistic approach to peace which is common to them, which means that peace is not limited to the strict absence of armed conflicts. It also has a positive component which encompasses three objectives, as follows: Firstly, to satisfy the basic needs of all human beings with a view to eradicate the *structural* violence produced by economic and social inequalities in the world. Secondly, the elimination of *cultural* violence (i.e., gender-related violence, family violence, bullying, mobbing, etc.). And thirdly, the effective respect for all human rights and fundamental freedoms of all, without discrimination<sup>8</sup>.

Consequently, the Preambles of the four Declarations emphasise the need to establish a new international economic order that would eliminate inequalities, exclusion and poverty, which are the root causes of the *structural* violence which is incompatible with peace at both internal and international levels. In addition, the new international economic order should be sustainable, with due respect for the environment.

In particular, the 2010 *Santiago Declaration*<sup>9</sup> recognized the following components of the human right to peace: Right to education on and for peace and other human rights; right to human security and to live in a safe and healthy environment; right to development and to a sustainable environment; right to civil disobedience and to conscientious objection; right to resist and oppose oppression; right to disarmament; freedom of thought, opinion, expression, conscience and religion; right to refugee status; right to emigrate and to participate; right of all victims of human rights violations to truth, justice and reparation; and rights of groups in situation of vulnerability.

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<sup>8</sup> Cfr. Carmen Rosa Rueda Castañón and Carlos Villan Duran, "Preliminary Study of the Declaration", in *The Luarca Declaration on the Human Right to Peace*, cit., pp. 69-93.

<sup>9</sup> See below, Documentation Section.

In addition, Article 13 of the *Santiago Declaration* spelled out the States and other international actors' obligations for the realization of the human right to peace. Finally, Article 14 proposed the establishment of the Working Group on the Human Right to Peace, a new body of 10 independent experts to be appointed by the General Assembly to promote and protect the emerging human right to peace. The Working Group's functions, as described for in Article 15, reproduce the best practices of the Human Rights Council's special procedures.

### III. The codification process of the right to peace at the United Nations

Following the Charter of the United Nations, the 1948 Universal Declaration on Human Rights (UDHR) recognised in paragraph 1 of its Preamble that the "inherent dignity and ... the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". The same statement on the value of peace is reiterated in the Preambles to the two 1966 International Covenants on Human Rights, as well as in countless international human rights instruments which were adopted subsequently, giving birth to the current *International Code of Human Rights*<sup>10</sup>. Additionally, Article 28 UDHR established that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised". This new social and international order was intended to lead to world peace.

Further action was taken within the UN in favour of peace. Both the General Assembly and the former Commission on Human Rights -a subsidiary body of the Economic and Social Council (ECOSOC)-, have proclaimed since 1978 the *right of peoples to peace*, demanding States to guarantee the effectiveness of the collective security system set up at the UN Charter. In this connection both the General Assembly 1978 *Declaration on the Preparation of Societies for Life in Peace*<sup>11</sup> and the GA 1984 *Declaration on the Right of Peoples to Peace*<sup>12</sup> were adopted, the latter being a reaction to the "euro-missiles crisis" which was feed by the Republican Administration of President Reagan.

More recently, the Outcome document of the 2005 World Summit of Heads of State and Governments held in New York at the occasion of the UN General Assembly recognized the close relationship between international peace and security, social and economic development, and the respect for human rights<sup>13</sup>. Likewise, the Summit highlighted its commitment to working toward a "security consensus based on the acknowledgement that many threats are interlinked, and that development, peace, security and human rights are mutually reinforcing"<sup>14</sup>.

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<sup>10</sup> The UDHR was adopted and proclaimed by the General Assembly in resolution 217 A (III), of 10 December 1948. For a more in-depth analysis of the Code see Carlos Villan Duran, *Curso de derecho internacional de los derechos humano*, Madrid: Trotta, 2002 (reprint: 2006), 1.028 p., at 209-270.

<sup>11</sup> General Assembly resolution 33/73 of 15 December 1978.

<sup>12</sup> General Assembly resolution 39/11 of 12 November 1984.

<sup>13</sup> § 157-160 of the General Assembly resolution 60/1, adopted on 15 September 2005.

<sup>14</sup> *Ibidem*, § 172.

Moreover, General Assembly resolution 60/163 entitled “Promotion of peace as a vital requirement for the full enjoyment of all human rights by all”, pointed out that peace is an essential requirement for the promotion and protection of all human rights for all<sup>15</sup>.

### III.1. The Human Rights Council

By establishing in 2006 the Geneva-based Human Rights Council (hereafter: HR Council) as one of its subsidiary bodies, the General Assembly acknowledged 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, and that development, peace and security and human rights are interlinked and mutually reinforcing”<sup>16</sup>.

Therefore, the mandate of the HR Council comprised the promotion and protection of all human rights for all people, including the right to development and the right to peace, thus contributing to strengthening the three UN foundational pillars. Given its current composition —of 47 Member States, 26 are African and Asian States— it has a large majority to respond to the demands of the Southern States with regard to human rights. Unlike the Security Council, no State at the HR Council has the right to veto any decision and the resolutions may be adopted by majority.

Since 2007 the SSIHRL is working closely with the HR Council following a four-point strategy aiming at increasing awareness on human right to peace among Member States and other international actors<sup>17</sup>. They are the following:

Firstly, in March 2007 the SSIHRL submitted to the fourth session of the HR Council<sup>18</sup> the *Luarca Declaration on the Human Right to Peace*, adopted on 30 October 2006. It also informed the HR Council on the launching of its World Campaign in favor of the codification of the human right to peace (fourth session<sup>19</sup>). Moreover, the SSIHRL drafted 16 joint written statements and delivered 15 additional oral statements to the plenary of the HR Council, having obtained the support of 1795 civil society organizations (hereafter: CSO) in 2011. Such statements were submitted to the subsequent sessions of the HR Council.

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<sup>15</sup> General Assembly resolution 60/163, adopted on 16 December 2005, § 1.

<sup>16</sup> General Assembly resolution 60/251, adopted on 3 April 2006, § 6 of its preamble.

<sup>17</sup> See Carlos Villan Duran, “The human right to peace in the work of the Human Rights Council”, in Carlos Villan Duran and Carmelo Faleh Perez (editors), *Regional Contributions for a Universal Declaration on the Human Right to Peace*, cit, pp. 267-293.

<sup>18</sup> Oral statement delivered on 15 March 2007.

<sup>19</sup> Doc. A/HRC/4/NGO/85, of 8 March 2007.

The joint CSO written statements addressed the following issues: peace and development as rights of solidarity (sixth session<sup>20</sup>); right to human security and the phenomenon of terrorism, as well as the harmful effects of certain antiterrorist policies to human rights (sixth session<sup>21</sup>); peace and the fight against inequalities on the grounds of gender<sup>22</sup>; peace and the eradication of the extreme poverty (seventh session<sup>23</sup>); right to education on and in peace and other human rights (eighth session<sup>24</sup>); relationship between human right to peace and rights of indigenous peoples (ninth session<sup>25</sup>); human right to peace against racism, racial discrimination, xenophobia and other related forms of contemporary intolerance (tenth session<sup>26</sup>); peace and migrations (eleventh session<sup>27</sup>); disarmament and human right to peace (twelfth session<sup>28</sup>); codification of the human right to peace (thirteenth session<sup>29</sup>); the working group for the codification of the human right to peace (fourteenth session<sup>30</sup>); the human right to peace as a component of the draft declaration on the right of peoples and individuals to international solidarity (fifteenth session<sup>31</sup>); the human right to peace and freedom of religion or belief (sixteenth session<sup>32</sup>); joint reply of 1795 NGO, CSO and cities to the Advisory Committee questionnaire on elements for a draft Declaration on the right to peace<sup>33</sup>; and the human right to peace as part of the right to international solidarity: Amendments to the draft declaration submitted by the Advisory Committee Drafting Group<sup>34</sup>.

In parallel, the SSIHRL delivered 15 oral statements to the different sessions of the HR Council on similar issues as raised in the joint written statements. The aim of all

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<sup>20</sup> Docs. A/HRC/6/NGO/33. and A/HRC/6/NGO/34, of 5 September 2007.

<sup>21</sup> Doc. A/HRC/6/NGO/62, of 6 December 2007.

<sup>22</sup> This statement was submitted to the ECOSOC Commission on the Status of Women at the occasion of the follow-up to the Fourth World Conference on Women. Doc. E/CN.6/2008/NGO/26, of 18 December 2007.

<sup>23</sup> Doc. A/HRC/7/NGO/84, of 25 February 2008.

<sup>24</sup> Doc. A/HRC/8/NGO/33, of 28 May 2008.

<sup>25</sup> Doc. A/HRC/9/NGO/47, of 1st September 2008.

<sup>26</sup> Doc. A/HRC/10/NGO/113, of 13 March 2009.

<sup>27</sup> Doc. A/HRC/11/NGO/29, of 10 June 2009.

<sup>28</sup> Doc. A/HRC/12/NGO/3, of 8 September 2009.

<sup>29</sup> Doc. A/HRC/13/NGO/89, of 25 February 2010.

<sup>30</sup> Doc. A/HRC/14/NGO/47, of 3 June 2010.

<sup>31</sup> Doc. A/HRC/15/NGO/70, of 8 September 2010.

<sup>32</sup> Doc. A/HRC/16/NGO/14, of 22 February 2011.

<sup>33</sup> Doc. A/HRC/17/NGO/57, of 27 May 2011.

<sup>34</sup> Doc. A/HRC/18/NGO/76, of 12 September 2011.

these statements was to keep informed Member States and other international actors about civil society developments in the field of the human right to peace<sup>35</sup>.

The drafting and negotiation process with CSO partners of joint written statements was facilitated by the increased trust recognized to the SSIHRL throughout the world, which today amounts to 1795 CSO. Likewise, it can be concluded that the CSO demands on the human right to peace became a useful and effective tool to channel the CSO hopes for peace and human rights from all regions of the world joining in a common endeavor<sup>36</sup>.

Secondly, the SSIHRL and associated CSO organised at the *Palais des Nations* parallel expert meetings to the sessions of the HR Council, where specific issues regarding the content and scope of the human right to peace were discussed.<sup>37</sup>

Thirdly, in November 2007 the SSIHRL encouraged the establishment of the *Group of Friend States* with the codification process of the human right to peace in the framework of the HR Council. Its purpose was to raise awareness among States regarding the need to codify a draft declaration on this issue. Eight States —Bolivia, Costa Rica, Djibouti, Ecuador, Malaysia, Senegal, Spain and Uruguay— already belong to the Group. Many other States sympathy with the project and are accompanying it. The SSIHRL works to persuade all States to reach a greater level of commitment, so that the States' political trend shall be commensurate with the importance of the international civil society's demands in this field<sup>38</sup>.

And fourthly, the SSIHRL and associated CSO organized the observance of the International Day of Peace (on 21 September each year) at the UN in Geneva. In 2008 and 2009 the SSIHRL solemnly called on all international actors,<sup>39</sup> as well as all people of good will to become part of the *World Alliance for the Human Right to Peace*, thus showing their wish to urge the start of the official codification of the human right to peace.

As stated, 1795 CSO world-wide have already joined the SSIHRL and are the constituencies of this Alliance.<sup>40</sup> In addition, the Spanish Parliament, regional parliaments, local authorities and national human rights institutions expressed support to the human

<sup>35</sup> See Carlos Villan Duran, "The human right to peace in the work of the Human Rights Council", in Carlos Villan Duran and Carmelo Faleh Perez (editors), *Regional Contributions for a Universal Declaration on the Human Right to Peace*, cit., pp. 267-293.

<sup>36</sup> See in general David Cortright, *Peace: A History of Movements and Ideas*, Cambridge, University Press: 2009, 376 p., *passim*.

<sup>37</sup> In addition to the Geneva-based parallel expert meetings, at the UN Headquarters in New York the SSIHRL and the World Council of Churches organized similar meetings in 2009, 2010 and 2011. A full list of all expert meetings parallel to the HR Council and other relevant UN bodies can be found in doc. A/HRC/14/NGO/47, cit., footnote 30. Meeting reports may be found on-line at [www.aedidh.org](http://www.aedidh.org)

<sup>38</sup> See Carlos Villan Duran, "The human right to peace: A legislative initiative from the Spanish civil society", *Spanish Yearbook of International Law*, 2011 (forthcoming).

<sup>39</sup> I.e.: States; International Organisation; local, national and international civil society organisations; regional and national human rights institutions; national, regional and international parliaments; members of the Judiciary; universities and research institutes; media; and experts on education, science and culture.



right to peace; and experts world-wide signed the Lueca, Bilbao, Barcelona and Santiago (Spain) Declarations, as well as the regional Declarations adopted in La Plata, Yaoundé, Bangkok, Johannesburg, Alexandria, Sarajevo, Buenos Aires, Havana, Caracas, Lanzarote, etc.

On 21 September 2011 two international singers (Juanes and Bosé) on behalf of the Foundation Peace Without Borders presented in Geneva a video providing support from well-known artists, musicians, actresses and sport-men to the human right to peace and inviting people to adhere to the SSIHRL World Alliance<sup>41</sup>.

### Action taken by the HR Council

Once it became operational in 2007 the HR Council responded gradually to the increasing demands of the international civil society in favour of the international recognition of the human right to peace. Since 2008 the HR Council has approved annual resolutions entitled “The promotion of the right of peoples to peace”.

The resolution 8/9<sup>42</sup> was the first positive response —although incomplete— to the constant work carried out by international civil society before the HR Council in favour of the recognition of the human right to peace. It was inspired by previous resolutions on this issue approved by the General Assembly and the former Commission on Human Rights, especially GA resolution 39/11 of 12 November 1984 (“Declaration on the Right of Peoples to Peace”), as well as the 2000 UN Millennium Declaration.

Promoted by Cuba and sponsored by 28 developing States, the resolution reiterated the traditional position according to which “the peoples of our planet have the sacred right to peace”, whose promotion and protection is a fundamental obligation of each State<sup>43</sup>. Therefore, States must focus their policies toward “the elimination of the threat of war, especially nuclear war, the renunciation to 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”<sup>44</sup>.

These principles also constitute an essential requirement for the promotion and protection of “all human rights of all individuals and all peoples”, including the right to development and the right of peoples to self-determination.<sup>45</sup>

<sup>40</sup> Both individuals and institutions may become members of the World Alliance for the Human Right to Peace by filling in a simple on-line form at [www.aedidh.org](http://www.aedidh.org)

<sup>41</sup> The participants to the video were: Miguel Bosé (singer of Spain), Juanes (singer of Colombia), Ricky Martin (singer of Puerto Rico), Alejandro Sanz (singer of Spain), Eva Longoria (actress of the United States), Paulina Rubio (actress and singer of Mexico), Daniel Martín (singer of Spain), Juan Luis Guerra (singer of Dominican Republic), Rafael Nadal (tennis player of Spain) and Amaia Montero Saldías (singer of Spain). It can be watched at [www.pazsinfronteras.org](http://www.pazsinfronteras.org)

In the first week the video gathered the signatures of more than 10.000 people.

<sup>42</sup> HR Council resolution 8/9, adopted on 18 June 2008.

<sup>43</sup> § 1 and 2 of res. 8/9. cit.

<sup>44</sup> *Ibidem*, § 5.

<sup>45</sup> § 8 and 6, respectively, of the same resolution.

The resolution also emphasised that “peace is an essential requirement for the promotion and protection of all human rights for all individuals”; and that “the deep rift that divides human society into 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”.<sup>46</sup>

The SSIHRL took part at the informal negotiations among the States on the Cuban draft resolution, proposing numerous amendments aiming to improve the individual dimension of peace. Slovenia, on behalf of the European Union, stated its opposition to the draft resolution on the grounds that, although it recognised that there exists a relationship between peace and human rights, it believed that the HR Council was not the appropriate forum for a debate on this issue. Additionally, it was alleged that the draft failed to analyse the relationship between citizens and States.

On the contrary, the SSIHRL argued that the HR Council was the appropriate forum to deal with issues connected to peace and human rights, given the close relationship between them. Moreover, it proposed that *the right of peoples to peace* be expanded to integrate the *individual* perspective, as well as the gender approach to the right to peace. The sum of both subjects, peoples and human beings, would give rise to the emerging *human right to peace* whose holders are both peoples and individuals<sup>47</sup>.

Lastly, the sponsors of the resolution did not accept the express inclusion of the individual approach to the right to peace, although they did accept making a reference to the importance of *education for peace* as a means to promote the realisation of the right of peoples to peace<sup>48</sup>.

The resolution was finally approved by 32 votes in favour,<sup>49</sup> 13 against<sup>50</sup> and two significant abstentions.<sup>51</sup> The result of the voting revealed, once again, the division between developed and developing countries.

However, both the States in favour of the resolution and those who voted against it or abstained promised to continue negotiating until an agreement could be reached. The SSIHRL considered that such an approach should eventually lead in the future to the acceptance of the *human right to peace* by the international community as a whole.

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<sup>46</sup> § 3 and 4 of the same resolution.

<sup>47</sup> SSIHRL written statement of 27 June 2008 on file with the author. Available at [www.aedidh.org](http://www.aedidh.org)

<sup>48</sup> § 9 of the same resolution.

<sup>49</sup> Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Guatemala, Indonesia, Jordan, Madagascar, Malaysia, Mali, Mauritius, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, the Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Uruguay and Zambia.

<sup>50</sup> Bosnia-Herzegovina, Canada, France, Germany, Italy, Japan, The Netherlands, the Republic of Korea, Romania, Slovenia, Switzerland, Ukraine and United Kingdom.

<sup>51</sup> India and Mexico.

To this purpose, resolution 8/9 requested that the UN High Commissioner for Human Rights organize, before April 2009, a three-days workshop on the right of peoples to peace with the participation of ten experts from countries of the five regional groups. Unfortunately, in March 2009 the Office of the High Commissioner informed to the HR Council that not enough financial resources had been allocated to the workshop to take place before April 2009.<sup>52</sup>

The second resolution of the HR Council on this issue (11/4) was approved in 2009<sup>53</sup>. With the vote in favour of Latin American, African and Asian States (with the exception of India), the HR Council reiterated the material content of the right of peoples to peace as it had been stated in the 2008 resolution.

In addition, the HR Council was innovative by favouring the *individual* dimension of the right to peace, as its preamble stated 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 realisation of these rights” (paragraph 15); that, in accordance with Art. 28 UDHR, “everyone is entitled to a social and international order in which the rights and freedoms set forth [...] can be fully realised” (paragraph 17); and that “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 human rights and fundamental freedoms proclaimed by the United Nations” (paragraph 19).

In consequence, the HR Council further restated 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.”<sup>54</sup>

Moreover, it reiterated to the UN High Commissioner for Human Rights its request to convene an expert workshop on the right of peoples to peace and to report on the outcome of the workshop to the Council at its eleventh session. Finally the workshop took place on 15-16 December 2009 in Geneva with the participation of ten experts<sup>55</sup> and five members of the SSIHRL<sup>56</sup>. The workshop recommended that the HR Council establish an open-ended working group (representatives of States), with the

<sup>52</sup> Doc. A/HRC/11/38, of 17 March 2009, 2 p.

<sup>53</sup> HR Council resolution 11/4, adopted on 17 June 2009 by 32 votes in favour (Angola, Argentina, Azerbaijan, Bahrain, Bolivia (Multi-national State of), Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay and Zambia). 13 States voted against (Bosnia and Herzegovina, Canada, Germany, France, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine and United Kingdom). There was only one abstention (India).

<sup>54</sup> § 5 of resolution 11/4.

<sup>55</sup> See William A. Schabas, “The Human Right to Peace”, in EIDE (A.) *et al.* (Editors), *Making Peoples Heard. Essays on Human Rights in Honour of Gudmundur Alfredsson*. Leiden/Boston: Nijhoff, 2011, pp.43-57; Alfred de Zayas, “Peace as a human right. The *jus cogens* prohibition of aggression”, in Carlos Villan Duran and Carmelo Faleh Perez (Editors), *Regional contributions for a Universal Declaration on the Human Right to Peace*, Lueca; AEDIDH, 2010, pp. 157-174; also in EIDE (A.) *et al.* (Editors), *Making Peoples Heard. Essays on Human Rights in Honour of Gudmundur Alfredsson*. Leiden/Boston: Nijhoff, 2011, pp.27-42.

task of initiating the official codification of the human right to peace. The working group should also include the active participation of civil society representatives.

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<sup>57</sup>, 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<sup>58</sup>.

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 on 7 June 2010 to discuss the text with the participation of interested NGOs. The draft resolution restated 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<sup>59</sup>. As a result, it supported the need to codify the right of peoples 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”<sup>60</sup>.

At the informal meeting the Check Republic, on behalf of the European Union, stated its position contrary to the draft resolution based on the same arguments used in the previous years, namely: issues regarding to peace shall be discussed in other forums; the draft resolution 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.

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<sup>56</sup> SSIHRL experts submitted six session papers to the consideration of the workshop, which are available at [www.aedidh.org/?q=node/1284](http://www.aedidh.org/?q=node/1284). The other participating NGO were: *Graines de Paix*, the Institute for Planetary Synthesis, the Planetary Association for Clean Energy, UNESCO Etxea, Interfaith International, the Union of Arab Jurists, APRED, the International Organization on the Elimination of All Forms of Racial Discrimination, and *Rencontre Africaine pour la Défense des Droits de l’Homme*.

<sup>57</sup> Doc. A/HRC/14/38 of 17 March 2010, 16 p.

<sup>58</sup> Doc. A/HRC/14/NGO/47, of 31 May 2010, 9 p.

<sup>59</sup> Respectively, last preambular paragraph and dispositive paragraph 13 of the draft resolution discussed at the informal meeting held on 7 June 2010.

<sup>60</sup> *Ibidem*, paragraph 14. Italics are added.

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 standard-setting working group<sup>61</sup>.

Next, the Cuban delegate thanked the SSIHRL 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 opposing 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 expert 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, pointed out that the European Union recognise the linkage between peace and enjoyment of human rights. However, it considered that the absence of peace cannot justify failure to respect human rights. Finally, it believed that most of the issues raised in the expert workshop report were better dealt with other forums 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 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 CSO and NGOs world-wide, reiterated before the plenary of the HR Council the joint written statement by which they requested the establishment of a standard-setting working group on the human right to peace<sup>62</sup>.

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

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<sup>61</sup> SSIHRL written statement of 20 June 2010 on file with the author. Available at [www.aedidh.org](http://www.aedidh.org)

<sup>62</sup> Doc. A/HRC/14/NGO/47, cit.

“The promotion of the right of peoples to peace”<sup>63</sup>, which included two important amendments to be attributed to developing States, as follows:

Firstly, at Bangladesh’s proposal the draft resolution recalled the United Nations 1999 Declaration and Programme of Action on Culture of Peace 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<sup>64</sup>; 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”<sup>65</sup> of 1999.

Secondly, at the request of various Latin-American countries (i.e. Argentina, Chile and Mexico), reference to the “independent expert” in paragraph 14 of the original draft was deleted and replaced by a reference to the Advisory Committee in the equivalent paragraph, so that the final draft said as follows: 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 17<sup>th</sup> session”<sup>66</sup> (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, stressing the new paragraphs in relation to the resolution adopted in 2009 on the same issue. It requested approval of L.12 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 supported some of the principles set up in the draft resolution and acknowledged the existing linkage between peace and the enjoyment of human rights. However, it anticipated the negative vote of EU Member States represented before the HR Council because the text was not outlining that the absence of peace cannot justify in any case human rights violations. In addition, the text almost exclusively dealt with inter-State relations, while it should focus on the relations between States and their citizens, as well as the States obligations to respect human rights. France also reiterated that most of the issues involved in the text should be dealt with in other international forums 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.

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<sup>63</sup> Draft resolution A/HRC/14/L.12 was co-sponsored by 23 developing countries, namely: Algeria, Bangladesh, Belarus, Bolivia, 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 and Viet Nam.

<sup>64</sup> Preambular paragraph 4 of draft resolution A/HRC/14/L.12, cit.

<sup>65</sup> *Ibidem*, operative paragraph 11.

<sup>66</sup> *Ibidem id.*, operative paragraph 15. Italics are added.

Next, the United States of America announced its vote against the draft resolution because it did not meaningfully promote peace or address the plight of vulnerable people in conflict zones. Instead, it focused on issues that were primarily a matter of state-to-state relations. In addition, the United States was concerned that the resolution was seeking 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 regretted the resolution's request to the Advisory Committee to prepare a draft declaration, which it anticipated will be an exercise fraught with difficulty and divisions that makes no meaningful contribution to the protection of human rights. Finally, it noted that there were other international bodies— particularly the Security Council—that were better suited to address issues related to international peace and security. The United States would prefer to see the HR Council focused on addressing the numerous violations of human rights and fundamental freedoms that occur around the globe.

At the request of France the President of the HR Council ordered to proceed to a roll-call vote. Draft resolution L.12 was approved on 17 June 2010 by 31 votes in favour, 14 against and 1 abstention. It revealed again the prevailing deep gap among developing and developed States<sup>67</sup>.

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 considered 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, they were ready 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.

Therefore, it may be concluded that the third resolution approved by the HR Council on this issue (resolution 14/3, of 17 June 2010) was a historic land-mark since it formally opened at the United Nations the process of international codification of the right to peace, thus responding positively to the progressive demands from civil society on this field. It is to all international actors to take care of the codification process to be carried out in the next years to advance proposals of consensus that could eliminate any threat of setting back.

However, resolution 14/3 did not accept the recommendations from the expert workshop, nor from civil society on the mechanism that should be entrusted with the codification –i.e., a standard-setting working group-. As stated, the co-sponsors of the resolution originally accepted that an independent expert be appointed by the President

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<sup>67</sup> Resolution 14/3 was approved by 31 votes in favor (African, Asian and Latin American and Caribbean States), namely: Angola, Argentina, Bahrain, Bangladesh, Bolivia, Brazil, 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.

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 at the United Nations: the Advisory Committee of the HR Council. In contrast, civil society was in favour of a standard-setting working group within the HR Council, while it proposed to give a complementary role to the Advisory Committee in order to identify elements which will contribute to the elaboration of a draft universal declaration on the human right to peace, and further to formulate guidelines, criteria, standards and principles aimed at promoting and protecting this right.<sup>68</sup>

On the other hand, resolution 14/3 reduced 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 accepted the individual dimension of this right<sup>69</sup>, 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*.

In preparation of the 17th session of the HR Council (June 2011) the IOHRP and the SSIHRL, in collaboration with the German Institute of Human Rights and the World Council of Churches, organized in Geneva on 16 May 2011 the first Consultation of the Eastern and Western European States and Other Groups with experts on the codification of the right to peace. Representatives of Member States had the opportunity to discuss openly with civil society experts on issues relating to human right to peace and on their Governments' position regarding the on-going codification process of the human right to peace. At the conclusion a proposal was made to organize more consultations of experts with European and other geographic groups to achieve consensus on the most controversial issues<sup>70</sup>.

At the opening of its 17th session (6 June 2011) the HR Council had before it the revised progress report on the activities carried out by the Advisory Committee that included more than 40 possible standards for inclusion in the draft declaration on the human right of peoples to peace<sup>71</sup>, as well as the replies to the questionnaire from the Advisory Committee on the draft declaration on the right of peoples to peace. Among them, the United States of America questioned "the value of working toward a declaration on the *right* of peoples to peace. This proposed right is neither recognized nor defined in any universal, binding instrument, and its putative parameters would be entirely unclear... The proposed effort would surely be as divisive and disputed as those previous resolutions were, while requiring far more time and resources than they did.

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<sup>68</sup> Doc. A/HRC/13/NGO/89, cit., p. 9 *in fine*.

<sup>69</sup> Preambular paragraphs 15, 18 and 20 of resolution 14/3, which restated same paragraphs of resolution 11/4 of 2009, as discussed above.

<sup>70</sup> See *Report on the Consultation of the Eastern and Western European States and Other Groups with experts on the codification of the Right to Peace at the UN Human Rights Council*, prepared by the Chairperson-rapporteur Mr. Jose Luis Gomez del Prado. Geneva, 16 May 2011, p. 15. Available at [www.aedidh.org](http://www.aedidh.org).

<sup>71</sup> Doc. A/HRC/17/39 of 28 March 2011, 38 p.



Moreover, we foresee no significant benefits from it; for example, such a declaration will not bring more peace to the world”.<sup>72</sup>

On the contrary, the SSIHRL/IOHRP on behalf of 1795 NGO, CSO and cities world-wide welcome the Advisory Committee’s report on elements of a future Declaration on the right to peace<sup>73</sup>. However, emphasis was made to additional standards that should be taken into account by the Advisory Committee, in particular on disarmament, human security, resistance to oppression, right to conscientious objection, freedom of religion and belief, peace education, development, environment, rights of victims and vulnerable groups. Core components of the right to peace are also its double dimension -individual and collective-; and strengthening the relationship among the right to peace and women, migrations, indigenous peoples, and the prohibition of racism, racial discrimination, xenophobia and related intolerance. Finally, attention should be paid to the implementation of the human right to peace at both international and domestic levels.

Cuba circulated a new draft resolution on “the promotion of the right of peoples to peace” and called delegates and CSO to informal discussions. Draft resolution L.23 was tabled on 9 June 2011. On 12 June 2011 and 15 June 2011 -meeting with GRULAC Member States in Geneva-, the IOHRP/SSIHRL reiterated civil society position that draft resolution should be entitled “the human right to peace”. It therefore proposed to amend L.23 to include inter alia the right of individuals and groups to peace, as well as gender mainstreaming in the field of peace-building.

Therefore the HR Council adopted its fourth resolution on this matter (resolution 17/16 of 17 June 2011<sup>74</sup>) by which it welcome again the important work being carried out by civil society organizations for the promotion of the right to peace and its

<sup>72</sup> USA reply to the questionnaire (document on file with the author). USA objections to the standards proposed included the following:

- in them, key concepts are undefined or not sufficiently defined;
- they inappropriately assign human rights to groups or “peoples,” rather than to individuals;
- they purport to turn a goal of the entire human rights system into a freestanding “right;”
- they attempt to treat issues addressed in other areas, such as the environment and security, as human rights issues;
- they state “standards” that are not agreed upon, and are rejected by many countries; and
- to the extent that they do address valid human rights issues, they are duplicative of other instruments or mechanisms, and offer no significant prospect of improved promotion of these rights. In some instances, because of overly broad or vague formulations, promotion of established human rights might actually be undermined...”.

<sup>73</sup> See *Joint reply by 1795 NGO, CSO and cities world-wide on elements of a future Declaration on the right to peace*, Geneva, 2 May 2011, 85 p. Available online at [www.aedidh.org](http://www.aedidh.org)

A summary of the joint reply was distributed as doc. A/HRC/17/NGO/57 of 27 May 2011, cit.

<sup>74</sup> Resolution 17/16 was adopted by a recorded vote of 32 to 14, with no abstentions. The voting was as follows: *In favour*: Angola, Argentina, Bahrain, Bangladesh, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Ecuador, Gabon, Ghana, Guatemala, Jordan, Kyrgyzstan, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Nigeria, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, Thailand, Uganda, Uruguay and Zambia

*Against*: Belgium, France, Hungary, Japan, Norway, Poland, Republic of Korea, Republic of Moldova, Slovakia, Spain, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America.

Libya was suspended as Member State of the HR Council.

codification<sup>75</sup>. It also took note of the progress report of the Advisory Committee on the right of peoples to peace and supported “the need to further promote the realization of the right of peoples to peace”. Moreover, it requested “the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to present a draft declaration on the right of peoples to peace, and to report on progress thereon to the Council at its twentieth session”<sup>76</sup> (June 2012). Finally, it requested the OHCHR to retransmit the questionnaire seeking again the views and comments of Member States, civil society, academia and all relevant stakeholders<sup>77</sup>.

To sum up, resolution 17/16 was transitional in the on-going codification process of the human right to peace. While it showed no progress in the negotiation among developed and developing countries, it allowed the Advisory Committee to continue its work to complete a draft Declaration on the right to peace to be submitted to the HR Council in June 2112. Civil society’s expectation at that time is that the HR Council shall establish an open-ended working group on standard-setting composed of representatives of States with a wide participation of civil society, to draft a Universal Declaration on the Human Right to Peace strongly inspired by the *Santiago Declaration* to be submitted to the General Assembly for final adoption.

### III.2. The Advisory Committee.

Since its third session the SSIHRL is also working closely with the Advisory Committee (hereafter: AC), the expert body composed of 18 experts and reporting to the HR Council. On 28 January 2009 it delivered on behalf of 98 NGO an oral statement to the AC on the right to education in and or peace and other human rights<sup>78</sup>.

On 7 August 2009 the AC adopted recommendation 3/5 entitled “Promotion of the Right of Peoples to Peace”. It designated Mr. Miguel Alfonso Martinez, a member of the AC, "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; and c) suggest concrete actions to mobilise States, intergovernmental and non-governmental organisations in the promotion of the right of peoples to peace”.

In January 2010 the SSIHRL submitted to the AC at its fourth session a joint written statement on the “codification of the human right to peace” with the support of some CSO<sup>79</sup>. Report was made on the outcome of the expert workshop on the right of peoples to peace held in Geneva on 15-16 December 2009 and on the adoption of the *Luarca Declaration on the Human Right to Peace* (2006). It was followed up on 29 January 2010 by an oral statement delivered to the plenary of the AC on the same

<sup>75</sup> Last preambular paragraph.

<sup>76</sup> Operative paragraphs 14 and 15.

<sup>77</sup> Operative paragraph 16.

<sup>78</sup> The statement is on file with the author.

<sup>79</sup> Doc. A/HRC/AC/4/NGO/3 of 20 January 2010.

issue<sup>80</sup>. The study was not done due to the passing away of the expert. In June 2010 the expert Miguel d'Escoto Brockman (Nicaragua) was elected to fill the vacancy.

At its 5th session (August 2010), the SSIHRL submitted to the AC a new joint written statement signed by more than 500 CSO on the “draft declaration on the right of peoples to peace”<sup>81</sup>, inviting the AC to acknowledge the double dimension –individual and collective- of the human right to peace and to take into account the *Bilbao Declaration on the Human Right to Peace*, as adopted by civil society on 24 February 2010. Reference was also made to the joint written statement submitted in June 2010 to the HR Council on this matter and to HR Council resolution 14/3 of 17 June 2010 by which the AC was invited to prepare a draft declaration on the right of peoples to peace<sup>82</sup>.

Further to HR Council resolution 14/3 the AC (recommendation 5/2 of 6 August 2010) established a drafting group on a draft declaration on the right of peoples to peace. It was composed of four members<sup>83</sup> who submitted the first progress report to the AC in January 2011.

At its 6th session (January 2011), the AC had before it the progress report on the right of peoples to peace prepared by its drafting group<sup>84</sup>; It recognized the important contribution of civil society to the international codification of the right to peace within the United Nations, paying tribute particularly to the World Campaign on the human right to peace carried out by the SSIHRL with the support of more than 800 NGO<sup>85</sup> -in 2010-.

In addition, the report 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<sup>86</sup>. The ultimate aim of the drafting group was to produce a document helping to promote freedom, peace and security and which will be valuable in the promotion of the human rights agenda and the right to peace<sup>87</sup>.

Moreover, the report suggested conceiving peace as both the absence of organised violence, the effective protection of human rights, gender equality and social justice, economic well being and free expression of different cultural values, without discrimination<sup>88</sup>. Consequently, the drafting group proposed nine guiding dimensions

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<sup>80</sup> The statement is on file with the author.

<sup>81</sup> Doc. A/HRC/AC/5/NGO/2 of 29 July 2010.

<sup>82</sup> Doc. A/HRC/13/NGO/89 of 25 February 2010, cit.

<sup>83</sup>The drafting group was composed of Chinsung Chung, Miguel d'Escoto Brockmann, Wolfgang Stefan Heinz (Rapporteur) and Mona Zulficar (Chairperson).

<sup>84</sup> A/HRC/AC/6/CRP.3, of 22 December 2010.

<sup>85</sup> *Ibidem*, paragraph 14.

<sup>86</sup> *Ibidem*, paragraph 72.

<sup>87</sup>*Ibidem id*, paragraph 74.

<sup>88</sup> *Ibidem id*. paragraph 21.

which should be included in the future draft declaration on the right of peoples to peace, namely: peace as a right of all peoples; disarmament; human security and respect of our environment; resistance to oppression; conscientious objection; private military and security forces; education; development; the rights of victims and vulnerable groups; the obligations of States; and the monitoring and implementation of the right of peoples to peace<sup>89</sup>.

The report also identified the legal basis for each of the proposed dimensions and made proposals of standards providing a frame to the right of peoples to peace<sup>90</sup>. It reaffirmed that the right to peace has its legal basis in the Charter of the United Nations, the international human rights law and numerous resolutions approved by the General Assembly, the Human Rights Commission and the Human Rights Council<sup>91</sup>.

Additionally, it recognised that the right to peace has a double dimension -individual and collective-, and that the duty-holders of the right are both peoples and individuals<sup>92</sup>. Besides, it noted that the establishment, maintenance and strengthening of the right to peace requires the application and respect of all human rights for all, namely: civil, political, economic, social, cultural, the right to development and the right of peoples to self-determination<sup>93</sup>.

Finally, it recognised that the contribution of women to the cause of peace is fundamental for a full and complete development of a country and the welfare of the world<sup>94</sup>. Therefore, States, international organizations, in particular the United Nations, and civil society should empower women so that they can contribute to building, consolidating and maintaining peace after conflicts and can participate at all levels of decision-making on peace and security issues<sup>95</sup>. To reach this aim, the gender perspective should be incorporated in a comprehensive peace education<sup>96</sup>. Furthermore, national laws and policies that are discriminatory against women should be revised, and legislation addressing domestic violence, the trafficking of women and girls and gender-based violence should be adopted<sup>97</sup>.

The AC also had before it the joint written statement submitted by more than 500 CSO that had been prepared by the SSIHRL/IOHRP. The Committee was informed on the adoption of civil society Declarations of Barcelona (2 June 2011) and Santiago on the Human Right to Peace, as well as the Statutes of the International Observatory of

<sup>89</sup> *Ibidem id.* paragraph 22.

<sup>90</sup> *Ibidem id.* sections IV to XV.

<sup>91</sup> *Ibidem id.* paragraphs 5-12 and 23-27.

<sup>92</sup> *Ibidem id.* Annex III.

<sup>93</sup> *Ibidem id.*, paragraph 27.e.

<sup>94</sup> *Ibidem id.*, paragraph 9.

<sup>95</sup> *Ibidem id.*, paragraph 67.c.

<sup>96</sup> *Ibidem id.*, paragraph 57.a.

<sup>97</sup> *Ibidem id.*, paragraph 57.f.3.

the Human Right to Peace (10 December 2011). In addition, CSO made substantive commentaries to the progress report in line with the *Santiago Declaration*<sup>98</sup>.

By recommendation 6/3 of 21 January 2011 the AC took note of the progress report; increased to six the members of the drafting group<sup>99</sup>; and requested it to prepare a questionnaire to be distributed among all stakeholders. In the light of the comments to be received, it will submit in August 2011 and February 2012 a draft Declaration to the AC. The first progress report was then submitted to the HR Council at its 17th session<sup>100</sup> (June 2011).

In April 2011 the questionnaire was distributed to all stakeholders inviting them to provide comments to the revised progress report on the right of peoples to peace. On 13 April 2011 the IOHRP and the SSIHRL issued a table showing the comparative analysis among the 1984 GA Declaration on the Right of Peoples to Peace, the AC drafting group's revised progress report and the 2010 *Santiago Declaration*<sup>101</sup>.

Based on this study both organizations coordinated the reply to the questionnaire by international civil society. On 2 May 2011 they submitted to the Advisory Committee the joint reply on behalf of 1795 CSO, NGO and cities world-wide. The reply provided further elements and standards that civil society would like to see included in the AC draft declaration<sup>102</sup>.

Therefore the AC had before it at its 7<sup>th</sup> session (August 2011) the progress report on the right of peoples to peace<sup>103</sup> prepared by its drafting group, which included a first **draft declaration on the right of peoples to peace**. The group focused on standards relating to international peace and security as core standards (elements of negative peace, absence of violence), and included standards in the areas of peace education, development, the environment, victims and vulnerable groups as elements of a positive peace<sup>104</sup>.

According to paragraph 6 of the report "...the draft declaration refers to the right of peoples to peace, but subsequently uses the language of the "human right to peace", which was found to be more appropriate. General Assembly resolution 39/11, which was adopted more than 25 years ago (1984), has a strong focus on the collective dimension. In the draft declaration, the rights of the individual have also been included.

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<sup>98</sup> Doc. A/HRC/AC/6/NGO/2 of 17 January 2011, 7 p.

<sup>99</sup> It was expanded to include Shigeki Sakamoto and Latif Hüseyinov.

<sup>100</sup> Paragraph 3 of recommendation 6/3.

<sup>101</sup> See IOHRP and SSIHRL, *Comparative Analysis of the 1984 GA Declaration on the Right to Peace, the Advisory Committee drafting group's progress report and the Santiago Declaration on the Human Right to Peace*, Geneva, 13 April 2011, 30 p. Available at [www.aedidh.org](http://www.aedidh.org)

<sup>102</sup> IOHRP/SSIHRL, *Joint reply of 1795 CSO to the questionnaire on possible elements for a draft declaration on the right of peoples to peace*, Geneva, 2 May 2011, 85 p. Available at [www.aedidh.org](http://www.aedidh.org). See a summary of the CSO joint reply at doc. A/HRC/17/NGO/57 of 27 May 2011.

<sup>103</sup> Doc. A/HRC/AC/7/3 of 19 July 2011, 9 p.

<sup>104</sup> *Ibidem*, paragraph 5.

It identifies States and international organizations as the main duty-bearers, and individuals and peoples as rights-holders”.

With regard to monitoring, the drafting group argued that the HR Council had created such special mechanisms as the Forum on Minority Issues and the Expert Mechanism on the Rights of Indigenous Peoples. In the final article of the draft declaration, a proposal was made that the HR Council set up a mechanism to continue the discussion on and monitoring of the human rights to peace<sup>105</sup>.

On 19 July 2011 a comparative analysis of previous texts, the first draft declaration prepared by the AC drafting group and the *Santiago Declaration*, was made by IOHRP/SSIHRL to illustrate shortcomings of the drafting group’s text<sup>106</sup>. It therefore proposed new standards to be included in the future GA Declaration on the human right to peace. The analysis also provided the legal background in support of the proposed standards.

In preparation of the 7th session of the AC the SSIHRL/IOHRP and the World Council of Churches organized in Geneva on 7 August 2011 a Consultation of members of the AC with experts of civil society on the human right to peace. The draft declaration on the right of peoples to peace prepared by the drafting group and amendments submitted by civil society were widely discussed<sup>107</sup>.

At its 7th session (8-12 August 2011), the Advisory Committee also had before it the joint written statement submitted by SSIHRL/IOHRP on behalf of 778 CSO proposing numerous amendments to the draft declaration<sup>108</sup>. They welcome the draft declaration and invited the drafting group to complete it. They suggested inter alia the following: Firstly, to review the preamble of the draft declaration in accordance with the preamble of the *Santiago Declaration*, since the later refers to relevant international instruments which are the legal foundations to the codification of the human right to peace. Secondly, it should spell out in more detail the States and other international actors’ obligations in the realization of the human right to peace (Article 13 of the *Santiago Declaration*). And, thirdly, it should include a Working Group on the Human Right to Peace to monitor both the promotion and protection of that right. The Working Group’s functions, as described for in Article 15 of the *Santiago Declaration*, reproduce the best practices of the HR Council’s special procedures.

On 8 August 2011 a general debate on the draft declaration took place at the plenary of the AC<sup>109</sup>. **The participation of civil society was particularly relevant. Three**

<sup>105</sup> *Ibidem*, paragraph 7.

<sup>106</sup> See IOHRP/SSIHRL, *Comparative Analysis of the 1984 GA Declaration on the Right of Peoples to Peace, the Advisory Committee drafting group’s progress report, the AC drafting group’s draft Declaration on the right of peoples to peace, and the Santiago Declaration on the Human Right to Peace*, Geneva, 19 July 2011, 29 p. Available on line at [www.aedidh.org](http://www.aedidh.org)

<sup>107</sup> See *Report on the Consultation of members of the Advisory Committee with civil society experts on the human right to peace*, Geneva, 7 August 2011, 25 p. Report prepared by Ms. Mona Zulficar, Chairperson-rapporteur. Available on line at [www.aedidh.org](http://www.aedidh.org)

<sup>108</sup> A/HRC/AC/7/NGO/3 of 3 August 2011 and Corr.1 of 5 August 2011.

<sup>109</sup> See David Fernandez Puyana, *The Right of Peoples to Peace. Analytical report of the 7th session of the Advisory Committee*, Geneva, 13 August 2011, 51 p. Available at [www.aedidh.org](http://www.aedidh.org)

**representatives of IOHRP/SSIHRL highlighted the amendments to the draft declaration, as submitted in the CSO joint written statement.**

The United States of America reiterated its objections to the standards proposed which included the following:

- “· In them, key concepts are undefined or not sufficiently defined;
- They inappropriately assign human rights to groups or "peoples", rather than to individuals;
- They purport to turn a goal of the entire human rights system into a freestanding "right;"
- They attempt to treat issues addressed in other areas, such as the environment and security, as human rights issues;
- They state "standards" that are not agreed upon, and are rejected by many countries; and
- To the extent that they do address valid human rights issues, they are duplicative of other instruments or mechanisms, and offer no significant prospect of improved promotion of these rights. In some instances, because of overly broad or vague formulations, promotion of established human rights might actually be undermined. For example, in implementing the proposed standards for education, rights such as freedom of expression and opinion might be contravened”<sup>110</sup>.

On 12 August 2011, the AC adopted recommendation 7/3 entitled "Drafting Group on the promotion of the right of peoples to peace", by which it took note of the second progress report submitted by the drafting group<sup>111</sup> (paragraph 1); it welcomed "the responses received to the questionnaire sent out in April 2011, and the discussions and statements made during its seventh session" (paragraph 2); it also welcomed "initiatives by civil society to organize discussions on progress reports of the Advisory Committee with Member States and academic experts" (paragraph 3); it encouraged "the various stakeholders to contribute to the work under way" (paragraph 4); it requested "the drafting group to submit to the eighth session of the Committee a draft declaration on the right of peoples to peace revised in the light of comments received and discussions held at the seventh session of the Advisory Committee" (paragraph 5); and it requested "the Office of the United Nations High Commissioner for Human Rights to provide the drafting group with all the assistance necessary to enable it to accomplish its task" (paragraph 6).

To sum up, the AC will continue to work on the draft declaration. As stated, a second and final discussion is to be held by the AC at its eighth session (February 2012). Thereafter, a finalized draft declaration will be presented to the HR Council at its twentieth session (June 2012).

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<sup>110</sup> Statement on file with the author. Also available at [www.aedidh.org](http://www.aedidh.org)

<sup>111</sup> A/HRC/AC/7/3 of 19 July 2011, cit.

### III. Conclusions

It is urgent that the official codification of the *human right to peace* be finalised as soon as possible, as it is the target of continuous and systematic violations. These violations originate firstly from *direct* armed violence fuelled by world arms race reaching 1.6 billion dollars in 2010 -there are more than 40 armed conflicts taking place in the world, many of them forgotten-. Secondly, peace is incompatible with the *structural* violence caused by extreme poverty and hunger, which, far from being reduced, now affects 1.02 billion human beings, most of them women and children from developing countries. 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 in detriment of the culture of peace.

However, there are no insurmountable legal obstacles to ascertain the human right to peace. As spelled out by the 2011 AC drafting group draft declaration, as well as by the *Luarca, Bilbao, Barcelona and Santiago Declarations*, right to peace is strongly rooted in instruments universally accepted (i.e. the Charter of the United Nations and the International Bill of Human Rights). Both the AC draft and the four Declarations drafted by civil society showed to the world that peace has a legal and human rights, holistic, content.

The difficulties are rather political in nature, as some developed States find it challenging to go beyond the international peace and security models originated from the Cold War, which happily ended 22 years ago. The arguments advanced by developed States to refuse the international codification of peace as a human right –in particular those of the United States of America- are rather cosmetic and formal excuses to postpone discussion of substance. The recent incorporation of Spain, Costa Rica and Uruguay to the *Group of Friend States* with the international codification of the human right to peace, probed that political obstacles can be overcome as well.

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 fides* the future declaration with developing States. Among them Spain, Costa Rica and Uruguay, in addition to other interested countries, may be very useful to bridge the gap between developed States and international civil society.

Peace is a universal value which must prevail over international relations. Therefore, the *human right to peace* is a legal imperative which civil society worldwide is identified with, because it is a demand of civilisation which is above any regional, historic and cultural particularities.

Finally, there is no excuse for the States to complete the codification and the progressive development of the human right to peace at the HR Council and its Advisory Committee. The AC drafting group declaration was strongly inspired by the CSO international legislative initiative crystallized at the *Luarca, Bilbao, Barcelona and Santiago Declarations on the Human Right to Peace*. Mankind deserves a *Universal*



*Declaration on the Human Right to Peace* to be adopted as soon as possible by the UN General Assembly.

Geneva, 21<sup>st</sup> September 2011.  
World Peace Day.