

FINAL REPORT OF THE EASTERN AFRICAN EXPERT MEETING ON THE HUMAN RIGHT TO PEACE

HUMAN RIGHT TO PEACE – AN AFRICAN PERSPECTIVE

Archbishop Desmond Tutu Ecumenical Centre (All
African Conference of Churches), Nairobi (Kenya)

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1. Introduction

The Eastern African Expert Meeting on the Human Right to Peace, which took place in Nairobi in Kenya on 15 June 2007, was convened at the initiative of the Spanish Society for International Human Rights Law (AEDIDH) and co-organized by the Life & Peace Institute (Uppsala, Sweden) and the World Council of Churches (Geneva, Switzerland). The meeting was sponsored by the regional Government of Catalonia, and held with the support of the Office of the All African Conference of Churches (AACC), which provided both logistical and practical support.

The main objectives of the meeting were:

- To share the Luarca Declaration on the Human Right to Peace with civil society, international organisations, and academics from the Eastern Africa region
- To identify strengths and weaknesses of the Luarca Declaration with the purpose of promoting a sustainable peace in the Eastern Africa region
- To contribute to the elaboration of a draft universal declaration on the Human Right to Peace which should represent the interests of international civil society as a whole, including that of people from the Eastern Africa region
- To examine, in the context of the Eastern Africa region, the close relationship between the respect of all human rights – civil, political, social, economic and cultural – and the fulfilment of the Human Right to Peace
- To study the role played by vulnerable and marginalized groups in the development of the Human Right to Peace in the Eastern Africa region

The Expert Meeting's working language was English. It was held from 09h00 to 17h00 at the AACC Office in Nairobi with the following programme:

- First session: Introduction to the Luarca Declaration on the Human Right to Peace
- Second session: Strengths and weaknesses of the Luarca Declaration aimed at building a sustainable peace in the South East Asia Region
- Creation of two working groups aimed to discuss the content of the Luarca Declaration

The meeting was attended by 21 experts and observers from civil society and academia (see Annexe). Mr. Arthur Shoo, Executive Director of the All African Conference of Churches (AACC), chaired the meeting. During the Opening Ceremony, the following persons addressed the participants: Mr. Arthur Shoo, Executive Director of the AACC; Mr. Peter Brune, Director of the Life & Peace Institute; and Mr. David Fernandez Puyana, representative of the AEDIDH.

During the first session, Dr. Guillermo Kerber (WCC) made a presentation titled: "The Luarca Declaration on the Human Right to Peace: An ecumenical perspective" and Mr. David Fernandez Puyana, representative of the AEDIDH in Geneva, made a

presentation titled: “The Luarca Declaration on the Human Right to Peace: History and contents.”

During the second session, Mr. Ambassador Bethuel Kiplagat, Executive Director of the Africa Peace Forum made a presentation titled: “Challenges to Peace in Africa,” and Mr. Nicholas Otieno, human right expert of the AACC, made a presentation titled: “Peace, human rights and development.”

During the third session, two working groups were created with the purpose of discussing the content of the Luarca Declaration.

2. Opening Session

Mr. Arthur Shoo, Executive Director of the AACC, welcomed all participants. He thanked all participants, and especially the Spanish Society for International Human Rights Law (AEDIDH), the Life & Peace Institute (Uppsala, Sweden), and the World Council of Churches, for their roles in organizing and supporting the meeting.

He read the following statement on behalf of Rev. Dr. Mvuma Dandala, Secretary General of the AACC:

“Representatives of the World Council of Churches (WCC) and the Spanish Association for the Advancement of the International Human Rights Law (SSIHRL), Ladies and Gentlemen,

I would like to extend my warm welcome by this forum to the All Africa Conference of Churches.

Conflict remains a challenge in Africa and the Church and its partners cannot afford to ignore this.

It has emerged that faith has a key part to play in ensuring regional and even global peace. It is here that the Church has taken up the challenge to address the search for peace especially here in Africa. We must note that when we refer to faith, it not only addresses Christianity, but also other major faiths like Islam and even traditional faiths.

In several parts of Africa, not only has the Church encouraged dialogue, but it has also, through its partners, sought to meet the needs that result from regional conflict. They have done this by meeting the basic needs of those afflicted and affected. This is but one of the examples of where the Church has recognized the need to end conflict fast and encouraged the search for peace.

As we continue to deliberate on the need for peace in Africa, I agree that there are a number of emerging conflict patterns. All these have a high impact on the continent, its residents, its climate, its productivity and even its settlement patterns. In Africa we

have about 2,5 million refugees and 1,5 million internally displaced persons – due mainly to the lack of peace in their original countries. As such, there is a new role for the broader ecumenical movement that we believe should encourage peace. One is the encouragement of inter-faith activities. This is based on the fact that Africa is a multi-religious continent.

We must also encourage initiatives such as the Luarca Declaration. We cannot ignore the key pointers that the Luarca Declaration embodies. These include the right to security, the right to conscientious objection, the right to disarmament and the need for peace and truthful information. I would also like to take up the challenge to vouch for the recognition of the Right to Peace with reference to the UN Human Rights Council. As such, we must realize that all stakeholders in the search for peace play a key role and must be recognized. I ask you all to seek a better understanding of the mandate of the Church in enhancing peace and those seeking peace.”

Mr. Peter Brune, Director of the Life & Peace Institute, stated that the Board has learned of and encourages the process leading toward a UN Declaration on the Human Right to Peace initiated with the Luarca Declaration. He welcomes the organisation in Nairobi, by the LPI in partnership with AACC, SSAIHRL and WCC, of a seminar to discuss the Luarca Declaration, bringing African perspectives and concerns to the Human Right to Peace as part of a series of seminars all over the world.

Mr. David Fernandez Puyana, on behalf of the AEDIDH, welcomed participants to the consultation process to be carried out through the Expert Meeting. He added that the meeting was aimed at receiving the input of civil society on the Luarca Declaration and, in particular, the perspective of the Eastern Africa region, taking into account the situation of vulnerable groups. He declared that for the AEDIDH it was particularly important to receive feedback from civil society in the different regions of the world, in order to ascertain if the text of the declaration fulfils expectations, and whether changes are necessary or if new themes should be added. He then thanked the Executive Director of AACC, LPI and WCC for his support, and the invaluable collaboration of that organization in helping with the arrangements for the meeting.

3. First session

3.3. The Luarca Declaration on the Human Right to Peace: An ecumenical perspective

Dr. Guillermo Kerber (WCC) explained that the ecumenical work for peace and justice throughout its history has progressively responded to the situation of vulnerable peoples, especially the poor. “The ecumenical concern for the poor during the decades after Amsterdam in 1948 moved from an overview approach to becoming a pivot around which the dogmatic task as a whole might turn.”¹ The biblical concept of the poor, expressed in the already mentioned triad (the orphan, the widow, the

¹ HERZOG, Frederick, Voice “Poor” in *Dictionary of the ecumenical movement*. Geneva: WCC. 2002.

stranger) developed into other sociological categories to respond to different realities: the marginalized, the vulnerable, the excluded. In this perspective, the struggle for economic justice should be seen in relation to, for example, the struggle against racism, against women's violence, or for people with disabilities. Even the work of the churches for the care of the Earth, the awareness raising of the consequences of climate change or the scarcity of water, may be understood under this perspective, being aware of the cosmic dimensions of peace and justice.

He added that: "Decade to Overcome Violence (DOV). Churches seeking reconciliation and peace" has been, in the dawn of the XXIst century, a concrete example of this commitment of the churches and the ecumenical movement for peace. The DOV tries to address all kinds of violence, from domestic violence to international violence. In this perspective structural violence needs to be tackled. Churches in the regions have implemented different initiatives to respond to the threat of violence in our midst. Actions have been linked to analysis in order to unmask the spirit and logic of violence, the misuse and abuse of power, to understand the relationship between violence and justice, and to pay particular attention to the influence of religion in peace and violent conflict situations. As we enter into the second half of the Decade, a process towards an International Ecumenical Convocation on Peace to be held in 2011 has been initiated.

The speaker asked participants whether the ecumenical framework had anything to do with the Luarca Declaration and the Human Right to Peace. He answered that there is just one example to try to show you what is behind the complex set of articles of the Declaration.

He stated that if we go to Article 10, it reads: "**Right to an effective remedy,**" and in the body of the article it is expanded: everyone has the right to an effective remedy; the right to obtain justice; and victims have the right to know the truth."

We can easily read through it without further considerations. But behind it there is a long struggle at the UN and in international law.

Let me start not from the beginning but from the most recent event related to this. In December last year, the UN General Assembly adopted by consensus, the International Convention for the Protection of All Persons from Enforced Disappearance

International Convention for the Protection of All Persons from Enforced Disappearance.²

According to the speaker, the Convention affirms the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person. It states that no one should be subjected to enforced

² Cf. A/Res/61/177, The Convention can be found at:

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/505/05/PDF/N0650505.pdf?OpenElement>

disappearance and that each State party should take appropriate measures to ensure that enforced disappearance constitutes an offence under its criminal law. The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law. Each State party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness. The convention is an important step forward in saying “Never again” to this crime.

Besides, the Convention shows the momentum the international community is living in relationship to **victims’ rights**. International law and international institutions like the UN have dealt mainly with states’ concerns. For most of the people, for most of us, I assume, this is something quite far from our everyday life, work and preoccupations. However, during the last ten years a new perspective has been developed, which has been called “Victims’ rights.” This wouldn’t have been possible without the struggle, testimonies, and advocacy work of victims’ organizations, supported by NGOs and churches. As WCC we have been closely accompanying and supporting the participation of relatives of disappeared persons to the UN Working Group on Enforced Disappearance as well as to the Commission on Human Rights and the Human Rights Council.

He noted that it is important to recall the recent history of the concept of victims’ rights. Some even say³ that the shift from “*In dubio pro reo*” to “*In dubio pro victima*,” this is “In case of doubt in favour of the accused” to “In case of doubt in favour of the victim” is at the core of the discussions in the School of Law of Salamanca, in the XVIth century, with Fray Bartolomé de las Casas ardently defending indigenous rights against the *conquistadores*. This produced a paradigm shift in international law reflected in the writings of Francisco de Vitoria and Francisco Suárez.

Coming back to our days in 1997, the French jurist, M. Louis Joinet, as independent expert, presented at the UN Commission on Human Rights, his report on the “Question of the impunity of perpetrators of human rights violations (civil and political).”⁴ What has been later known as the “Joinet Report” expressed in the introduction that, because of impunity, victims’ organizations built up their organizational capacity to ensure that “justice was done.” The report put as example the work of Madres de la Plaza de Mayo y de la Federacion de Familiares de Detenidos – Desaparecidos de América Latina (FEDEFAM) – Federation of relatives of disappeared persons.

³ I follow here some of the points of the presentation of Judge Eugeni Gay Montalvo, in a panel on “Human dignity and instruments of protection,” held in Palais des Nations, UN, Geneva, April 15, 2005.

⁴ “Question of the impunity of perpetrators of human rights violations (civil and political)” – Revised final report prepared by M. Louis Joinet (E/CN.4/Sub.2/1997/20/Rev.1). The report can be found at: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.sub.2.1997.20.Rev.1.En](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.sub.2.1997.20.Rev.1.En)

The Joinet Report proclaimed three principles in relationship to victims' rights: the victim's right to know; the victim's right to justice; and the victim's right to reparation.

The speaker recalled that the **right to know**, points out Joinet, "is not simply the right of any individual victim or closely related persons to know what happened – a right to the truth. The right to know is also a collective right, drawing upon history to prevent violations from recurring in the future. Its corollary is a 'duty to remember', which the State must assume, in order to guard against the perversions of history that go under the names of revisionism or negationism: the knowledge of the oppression it has lived through is part of a people's national heritage and as such must be preserved." (Paragraph 17)

On the other hand, the **right to justice** "entails obligations for the State: to investigate violations, to prosecute the perpetrators and, if their guilt is established, to punish them. Although the decision to prosecute is initially a State responsibility, supplementary procedural rules should allow victims to be admitted as civil plaintiffs in criminal proceedings or, if the public authorities fail to do so, to institute proceedings themselves." (Paragraph 27)

Finally, the **right to reparation** entails both individual measures and general, collective measures. On an individual basis, victims – including relatives and dependants – must have an effective remedy. The right to reparation should cover all injuries suffered by victims and embrace three kinds of action:⁵

- (a) Restitution (seeking to restore victims to their previous state);
- (b) Compensation (for physical or mental injury – including lost opportunities, physical damage, defamation and legal aid costs); and
- (c) Rehabilitation (medical care, including psychological and psychiatric treatment).

On a collective basis, symbolic measures intended to provide moral reparation help to discharge the duty of remembrance. (*cf. Paragraphs 40-42*)

Joinet's report, drafted in 1997, has been reaffirmed recently. In the 2005 Human Rights Commission in Geneva, Professor Diane Orentlicher presented her report and an "Updated set of principles for the protection and promotion of human rights through action to combat impunity"⁶ which "largely affirms and preserves the principles as they were proposed by the sub-commission in 1997 while reflecting relevant developments."⁷

⁵ Joinet quotes here Theo van Boven's report on "Basic principles and guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law," (E/CN.4/Sub.2/1996/17). See also footnote 9

⁶ E/CN.4/2005/102/Add.1. See also Diane Orentlicher's "Report of the independent expert to update the Set of Principles to combat impunity," (E/CN.4/2005/102).

⁷ E/CN.4/2005/102, para 4.

He indicated that this is not the only example of victims' rights in international law. A particular dimension of victims' rights was adopted by the UN General Assembly in November 2005: the "Basic principles and guidelines on the Right to a remedy and reparation."⁸ Victims' rights have been contemplated as well in the establishment of the International Criminal Court in The Hague in 2003. The Rome Statute, which provides the basis for the ICC, promotes and guarantees victims' participation at the Prosecutor and Registrar's office. At the same time a Trust Fund was created for victims' reparations⁹. The centrality of the victim in these procedures has been one of the characteristics of Restorative Justice.¹⁰

The speaker concluded his presentation by indicating that victims' rights as considered in international law, and incorporated in the Luarca Declaration, are an expression of the rights of the poor, the excluded, and the most vulnerable, as we presented before. The process towards a UN Declaration on the Human Right to Peace from an ecumenical perspective should have these concerns as a milestone in its development.

He added that it should also be nurtured by regional perspectives. Let me conclude by quoting the "African Charter on human and peoples' rights," adopted here, in Nairobi exactly twenty-six years ago, in June 1981. The right to peace is already expressed there. Article 23 of the Charter reads: "All peoples shall have the right to national and international peace and security." And in the Preamble the Charter states that the virtues of the historical tradition and the values of African civilization should inspire and characterize the reflection on the concept of human and peoples' rights.

3.4. The Luarca Declaration on the Human Right to Peace: History and contents

Mr. David Fernandez Puyana (AEDIDH) explained that the Charter of the United Nations agreed in 1945 that the essential purpose of the Organization is the maintenance of international peace and security. To this end, the Charter established a system of collective security articulated on the UN Security Council (Chapters VI and VII), in order to prevent and remove threats to peace, to suppress acts of aggression and other breaches of peace, as well as to realise the settlement of international disputes by peaceful means in accordance with international law (Article 1.1 of the Charter).

⁸ "Basic principles and guidelines on the Right to a remedy and reparation for victims of gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law," adopted by the UN GA on 10.11.2005 (A/C.3/60/L.24). A selection of the documents quoted on footnotes 3-8 has been compiled under "Enhancing victims' rights. UN selected documents."

⁹ Cf. *inter alia* arts. 68 y 75. The text of the Rome Statute can be found at: [http://www.un.org/english/law/icc/statute/english/rome_statute\(e\).pdf](http://www.un.org/english/law/icc/statute/english/rome_statute(e).pdf)

¹⁰ A presentation of Restorative Justice methodologies from a biblical and ethical perspective can be seen at KERBER, G., "Overcoming Violence and Pursuing Justice. An Introduction to Restorative Justice Procedures," in *The Ecumenical Review*, Volume 55, Number 2, April 2003, pp.151-157.

Despite the abundant references to peace in the United Nations Charter, the truth is that the international community has yet been unable to adopt an international instrument in which the *human right to peace* be codified as an autonomous human right in terms similar to that now known as the *human right to development*. Both the human rights to development and to peace are not only the result of the demands of international solidarity, but also of the gradual incorporation of these rights into modern international human rights law.

The three international texts that presently enshrine the *right to peace* refer exclusively to "peoples" as the sole holders of the right, while "States" are its debtors. Firstly, the *African Charter on Human and Peoples' Rights* adopted on June 26 1981, Article 23.1 states that "People are entitled to peace and security both at national and at international levels."

Secondly, the United Nations General Assembly Resolution 33/73 adopted on December 15, 1978 the *Declaration on the Preparation of Societies to Live in Peace*, which reaffirms "the right of individuals, States and all mankind to live in peace," and solemnly calls on all States "to observe the duties incumbent upon them to ensure this right."

Thirdly, the General Assembly proclaimed the *Declaration on the Right of Peoples to Peace* Resolution 39/11 on November 12, 1984 coinciding with the threat of nuclear war in the so-called "crisis of euromissiles." The Assembly solemnly proclaimed that "the peoples of our planet have a sacred right to peace" and that the "(protection) of the right of peoples to peace and (the) promotion of its implementation constitute a fundamental obligation of each State."

Furthermore, he indicated that there are two other UN international human rights instruments which develop the concept of peace, such as the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, GA, Res. 2625, 1970 and the Declaration on the Participation of Women in Promoting International Peace and Cooperation, GA, Res. 37/63, 1982.

The speaker added that peace is not limited to the strict absence of armed conflict, but that it has a positive meaning, with a threefold aim: to achieve the satisfaction of the basic needs of all human beings, the elimination of all kinds of violence, and the effective respect for all human rights; the need to establish a new international economic order which will eliminate the inequality, exclusion and poverty which generates structural violence incompatible with peace on both national and international levels; and that any new international economic order must, furthermore, be based on environmental protection.

The linkage between the respect of human rights as a legal means to promote a state of peace has been recognised by the UN General Assembly (Res. 110 [II], GA, 3 Nov. 1947; Res. 290 [IV], GA, 1 Dec. 1949, "Essentials of Peace" Res. 37/199, GA, 18 Dec. 1982), the UN Commission on Human Rights (Res. 37/199, GA, 18 Dec. 1982; Res. 5 [XXXII], CHR, 27 Feb. 1976; Res. 1982/7, CHR, 19 Feb. 1982), and the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Res.

1984/30, SCPDPM, 30 Aug. 1984; Res. 1985/2, SCPDPM, 27 Aug. 1985; Res. 1988/27, SCPDPM, 1 Sep. 1988; Res. 1989/47, SCPDPM, 1 Sep. 1989).

He stated that the intellectual background of the Human Right to Peace can be found in the “UNESCO Colloquium on the new human rights: the rights of solidarity 13” (Mexico City 12-15 August 1980). Besides, the “Report of the Seminar on the Relations that exist between Human Rights, Peace and Development” concluded that the latter concepts are interrelated and interdependent and that the fostering of one promotes the enhancement of the others.

Furthermore, the former Secretary-General’s vision is that human rights, peace and development are interrelated and interdependent and that the fostering of one promotes the realization of the others. This idea was included in the report entitled “In a larger freedom,” Report of the Secretary-General to the Summit of Head of States held in New York in September 2005, paragraph 17. These purposes were subsequently endorsed by the World Summit’s Outcome Document, adopted on 16 September 2005. This legal and political assumption should be achieved within the framework of the United Nations as the common house of the entire human family, where it should realize its universal aspiration for peace, cooperation and development (UNGA, United Nations Millennium Declaration, Res. 55/2, par. 32).

According to UNESCO, once the right to peace is established as a new human right, it would provide a solid basis to the culture of peace. Its recognition would also give fresh impetus to the struggle against violence and attitudes based on force, imposition and gender discrimination. Finally, it will match with an ethical notion designed to proclaim the universal principles developed under international human rights law. Regarding to the concept of the human right to peace and the work of UNESCO, one should take into account the Report by the Director-General on the Human Right to Peace, General Conference, Twenty-Ninth Session, Paris, 1997, 29 C/59, 29 October 1997 (UNESCO) and the Report by the Director-General on the Results of the International Consultation of Governmental Experts on the Human Right to Peace, hundred-and-fourth session, Paris, 1998, Executive Board, 154 EX/40, 17 April 1998 (UNESCO).

Furthermore, UNESCO organised some expert meetings the purpose of which was to regulate the human right to peace at the international level, such as in Las Palmas (Spain) from 23 to 25 February 1997 and Oslo (Norweig) from 6 to 8 June 1997. Another meeting was held at the headquarter of UNESCO in Paris (France) from 5 to 9 March 1998. At the latter international conference there were different positions related to the codification of the human right to peace, as those who defended codification of the human right to peace, those who believed that it is moral right, and those for whom peace is an aspiration of human beings and not a human right. Finally, governmental delegations decided not to support a future regulation of the human right to peace due to doubts concerning definition of the human right to peace, the content and scope that such a human right to peace would have, and that UNESCO would not be the competent body to regulate the human right to peace.

He indicated that since the adoption of the Luarca Declaration (30 October 2006), the SSIHRL is conducting a worldwide campaign of three years (2007-2009) to promote human right to peace through the organization of expert meetings with the support of civil society and NGOs in all regions of the world. In 2007 expert meetings were held in Mexico, Colombia, Venezuela, Dominican Republic, Santa Fe (USA), Addis Ababa (Ethiopia) and Nairobi (Kenya).

Additional regional expert meetings on the human right to peace will be organised in the coming months and years with the sponsorship of the regional Governments of Catalonia and Basque Country in Spain, at the following locations: Argentina, Brazil, Geneva, Uruguay and Paris; Africa (Francophone countries of Central Africa, Arab countries of Northern Africa, Southern Africa), Asia (countries of South Asia, East Asia and Central Asia) and Europe (Bosnia and Herzegovina, Azherbaiyan and Geneva).

The world campaign will culminate in 2010 with the organization of an NGO World Conference in Geneva on the human right to peace. The Conference will be invited to discuss and eventually adopt a final draft of Universal Declaration on Human Right to Peace. The final draft should reflect the aspirations of the international civil society as a whole. Thus, the project initially approved in Luarca will be enriched with new regional inputs, responding to different cultural sensitivities.

Once adopted, the Declaration by the NGO Conference, the AEDIDH and its NGO partners will submit it to the competent United Nations human rights bodies to urge Member States to start the official codification of a draft universal declaration on the human right to peace on the basis of the draft submitted by the international civil society. The AEDIDH also undertakes to accompany the process of official codification within the United Nations, from the Human Rights Council to the General Assembly and eventual expert bodies.

Finally, he concluded by indicating that the AEDIDH is aware that the final decision concerning the official codification belongs to the United Nations Member States. The AEDIDH, however, will promote before the relevant United Nations codification bodies the draft declaration adopted by the international civil society. Besides, the AEDIDH is convinced that the will of the people in achieving a just, sustainable and lasting peace, will prevail sooner rather than later in the international relations.

4. Second session

4.3. Peace, human rights and development

Mr. Nicholas Otieno, human right expert of the AACC, explained that Africa is the primordial home of all humanity and is revered as the birth place of human civilization. The footprints of the earliest human beings are found in the Great Rift Valley. Africa's first contemplative gaze that gave birth to cosmic wisdom took place in the African sky. From the boundless mountains to the great lakes, meandering rivers and the vast savannah before the Sahara, north and south of the Limpopo, great civilizations have thrived linking the hinterland with the sacred narratives of the Nile delta. Tracing the grandeur of God's creation to the great human exodus from Africa to

the rest of the world, we encounter a bewildering past that selectively feeds into the contemporary global imaging of Africa. From slavery to globalization, the picture of humanness among the struggling ordinary men and women remains buried because the continent is perceived and treated as marginal in all spheres of world concerns except as a source of wealth for others.

The speaker added that the African struggle is part of the human struggle for dignity. Since life began on this continent we must gather with renewed confidence that the world needs Africa more for her moral and spiritual survival. The Being of the world, and not merely in the primordial sense, rather through her identity, history and collective spirit, is anchored in Africa. While globalization represents the rapid and pervasive diffusion around the world of consumption driven by the logic of greed and jungle politics, there remains in the “smell after the rainfall” of history that where we came from is not where we find ourselves today. In the world from which we all came we could not have survived the scorching heat of the sun and traversed the dense forests to the hills of sand in the North in search of more open spaces without sharing resources and upholding the dignity of the other. Africa still retains in her soul the moral and spiritual resources for resistance against negative aspects of global modernization.

However Africa is also the home to all world religions, spiritual movements and institutions ranging from her ancestry to those that were encountered and integrated in modern times. In order to reclaim and proclaim the new dawn of justice and social equity in the continent there is an ongoing search for a new hub of inspiration, the place for renewal, and the reinvention of the African reality. The Church is called to heed the call to be in solidarity with the poor and oppressed people of Africa. All Christians are obliged to stand up against all prevailing forces of evil that seek to engulf the continent with impunity. The suffering due to political and economic violence experienced by the people of Africa in the era of globalization must be faced with the prophetic voice of the Churches together. The leaders of the Church are henceforth called to denounce every form of violence on the continent and address all historical grievances on questions of equity and human rights. It is the basic responsibility of all governments in the world and indeed Africa to protect the weak and vulnerable in society, to guarantee security and safety to all people, and to ensure that the rights and dignity of every individual/groups are upheld irrespective of their race, nationality, gender or religion. Our beloved continent is faced with political marginalisation, economic exploitation, and class domination by rich and powerful corporations that manipulate her resources. More than often, democracy has been reduced into a merchandise serving the rich few elite who use it as a stepping stone to political positions of power in order to perpetuate their own economic domination over the people of this continent.

From the Hamurabi’s code of ancient Babylon to the ancient Greeks and Romans endorsement of natural laws and the capacity of every individual to reason, the spiritual basis for ethical action has always been camouflaged by legal considerations for justice and human rights.

According to the speaker, to Africans, land, like the human community itself, is fundamentally mystical. Everything happens on land. Land is the most important non-human resource that there is. We tread on it, we sleep on it, we sell on it, we bury our dead in it, we extract minerals from it, we grow food on it, and most profoundly it is regarded as sacred. In fact, land is seen as a spatial extension of the kinship group or the community. So even if land may be divided “by using terrestrial landmarks,” such as among the Gikuyu of Kenya and the Bahaya of Tanzania, as Paul Bohannan has pointed out, we cannot speak of “land tenure” in the sense that land or any other part of the environment becomes an article of possession.

He recalled that fight against injustice, exploitation and oppression has been the focus of peoples’ struggles for dignity and human rights throughout history. The linking of the exercise of power among human beings to norms based on human dignity is as ancient as society itself. The motivations and convictions behind the concept of human rights therefore pre-date the United Nations and international treaties, although the latter have facilitated its further definition and international legitimacy, providing tools for their further realisation and development.

Some of the greatest violations of rights and crimes against humanity have been committed in the last four centuries. In fact Africa has been one of the foremost victims of human rights among peoples of this planet – from slavery to colonialism then neo-colonialism and now globalization. Paradoxically, Europe was built upon a legacy of feudal brutality that could only have been sustained by a falsified allegiance to divinity which justified the absolute authority and power of the State. We are reminded of the crusades and the great military expeditions that were anchored on puritan convictions. These prompted civilizing missions that eventually led to genocide of the Native Americans, racism in the Americas, slavery from Africa and most recently apartheid in South Africa. Today virtually every good cause for change in public life seeks to embellish itself in the language of human rights crafted after the second World War. It has been well argued that the philosophical basis of the Universal Declaration of Human Rights is historically conditioned. Thus its form and content can be situated in the aftermath of a war that was in essence a European conflict that became global.

He stated that democratization is basically the process of making effective certain rights that protect both the individual and social groups from arbitrary illegal actions committed either through the government or any other third party. But all these rights are enjoyed within a particular political jurisdiction. The historic multi-party elections in African countries for example are said to offer more opportunities of ensuring the restoration of the rules and procedures of citizens and their application to political institutions previously governed by other principles such as coercive control, one-man rule and party rule. Hence in the context of multi partyism, basic law ensures the expansion of citizenship rights and obligations to include persons who for one reason or another did not previously enjoy such rights. It is commonly argued that Africa’s problems have to do with its political leadership. While this may be true, it is equally true that the kind of political leadership in Africa was never produced in a historical or social vacuum. Furthermore, when governance is left entirely to political parties in a weak civic public realm then every crisis of leadership often sanctions human rights

abuses for the sake of retention of power. The sovereignty of the people is the ethical basis by which power is conferred to an individual or institution because it can be recalled. Spiritual teaching has to highlight this. Participatory democracy which most Churches have continued to promote as part of civic education are the means and method by which the agenda and choice of the people, especially the poor, become part and parcel of consent logic, which in turn leads to the creation of a larger community of peoples, namely, the Nation-State. The idea of participation is in itself very African. When people participate they dignify one another.

He indicated that after the end of the Cold War, the decade began with high hopes of ending large scale human right abuses, specifically large scale massacres or genocides, however these hopes vanished after the UN's failure in Bosnia, Rwanda, Burundi and Somalia. but they were succeeded by new hopes of US interventions in Kosovo and Bosnia. Britain's successful intervention in Sierra Leone in 2000 is a positive case in point. By the beginning of 2001, the hopes for a future in which humanitarian intervention would bring an end to genocide reached a sort of apotheosis in a major international document, "The Responsibility to Protect," 2001. Since then, some prominent members in the international community have continued to develop doctrines of limited sovereignty that would give the international community a leeway and indeed an obligation to undertake armed intervention against a national government that is engaged in massive human right abuses of its citizens.

The speaker considered that civil society is the realm of organized social life that is voluntary, self-generating, (largely) self supporting and autonomous from the state. It is distinct from "society" in general in that it involves citizens acting collectively in a public sphere to express their interest and ideas, achieve mutual goals, make demands on the state, and hold state officials accountable. Voluntary collective action within the public sphere takes place in socio-political and ideological as well as economic markets; civil society thus implies notions of the impartiality, pluralism and competition.

Organizations that seek to monopolize a sphere of collective life or totally envelope the lives of their members are not part of the civil society. Civil society also excluded private dimensions of individual and family life, the inward-looking activities of parochial institutions and organizations that seek to win a formal place in the state altogether. As essentially market oriented phenomena, actors in civil society recognize the principles of state authority and rule of law, and need the protection of these realities to prosper and be secure. Thus, civil society not only contains state power but legitimizes state authority when that authority is based on the rule of law. However there are major constraints in the application of the western notion of civil society without the context of historical experience of liberation in Africa. The growth of nationalist movements and the creation of public space in which various forms of public associational life was realised and promoted during the struggle for independence marks the emergence of the civil society in Africa. But this opportunity, borne out of the struggle for self determination, was killed by subsequent monolithic, military and dictatorial regimes. Indigenous leadership itself became an impediment to the growth of civil society. Military regimes as in the case of West Africa are known to have usurped the strength of civil society and in some cases controlled its formation. In this regard, historically, the emergence of civil society linked to the

struggle for self determination or the struggle against external domination is now prominent in the so-called second liberation. This is the new epoch of struggle against internal domination and abuse of Human Rights in Africa.

He stated that the persistent and systemic denial of basic freedoms and needs as experienced by the poor and the oppressed in many countries of the world are and should be recognised as significant human rights deficiencies. Poor people are poor because they have been denied or have been unable to access their rights and freedoms. Prevailing development policies and strategies have inadequately addressed questions of non-discrimination and equity in the distribution, access and control of resources and rights in the given society.

Power is typically in the hands of those who control or are able to influence ideology and resources in a given society. Experience suggests that states frequently respond to and are influenced by the most expressive and powerful groups, typically those wielding economic power. Those marginalised in society or living in abject poverty rarely have either the social or political power to articulate their claims and entitlements. Through the language of human rights *legitimate political claims* can be articulated with a moral and normative authority which other approaches lack. It is a language which has the potential to empower the poor and the marginalised through the recognition that they are entitled to the right to food, the right to health care or any other right. The human rights legal framework of responsibility and accountability at regional, national, and international levels is also a transformative factor in peoples' struggles for increased access to resources and rights, as it can partially counter-balance political powerlessness and marginalisation by providing a set of international legal norms to which they can appeal when national systems fail to respond. Working in a rights framework reinforces the notion that development is not about providing welfare to passive recipients or beneficiaries but about facilitating the securing of basic claims and entitlements of rights-holders. The focus must therefore be on supporting the poor, where necessary, in their processes of self-identification as rights-holders and in strengthening their active and meaningful participation in decisions that affect their lives.

The speaker added that the integrity of the Nation State in Africa has been overshadowed and overwhelmed by a global international oligarchy. Why, when Africa is the most endowed continent in terms of natural resources, is it still the world's most aid-dependent and indebted region? Coupled with this situation the burden of external debt servicing weighs heavily on many African economies. This burden is increased by uncertainty of export earnings from commodities and the threat posed by the New Protectionism to change structures of manufactured goods, production and trade.¹¹ Economic and political reforms as prescribed by international financial institutions do not seem to have brought the promise of prosperity. Indeed, the opposite has been the case. The average income per capita in most African countries is

¹¹ Edited by Marcos Arruda WCC/CCPD: An Ecumenical Approach to Economics Ecumenism and A New World Order: The Failure of the 1970s and the Challenges of the 1980s, page 24.

today lower than it was at the end of the 1960s. In fact most African countries were then well ahead of today's wealthy nations of the Far East such as Singapore and South Korea. In the eighties and early nineties, at a time when Africa was being faced by a new emerging global order in which international financial institutions were gaining more visibility and clout in new political and economic arrangements in Africa, scholars and some leaders in the continent committed themselves to the advancement of alternative means to sustainable development.

It is of course true that corruption has contributed to making a bad situation worse, but those problems are part of a bigger picture. The current World Order is one of agricultural subsidies and industrial protectionism in the North while African governments are required to embrace a free market economy devoid of protectionism and subsidies. Over the past two decades, the promised benefits of trade liberalization, increased foreign direct investments, and easier access to markets in the North have not been realized as was expected. It is a threat to Africa's hope for economic recovery as it creates fertile ground for disaffection which can grow into militancy to wreck peace and political stability.

Finally, he stressed, that if Africa is to reduce the incidence of poverty by half by 2015 as proposed in the Millennium Development Goals, it needs to achieve and sustain a growth rate of at least seven per cent per year. Moreover, for Africa to benefit from participation in globalized markets, the following conditions must be met: macroeconomic and structural policies that hinder competitiveness have to be addressed; socioeconomic conditions of the poor must improve; and suboptimal relations with its major trade partners must be revised. Most countries in Africa are largely aid dependent and also rely primarily on exportation of raw materials. The challenges facing the continent are much deeper than low income or slow growth. Therefore to alleviate the state of poverty in the continent an increase in savings through efficient collection and management of taxes is mandatory. To create an enabling environment in which the economy of African countries would flourish, developed countries such as the USA and Europe should forgive Africa of all her debts, so that these resources can be used to provide food, shelter and education to the people of the continent. Therefore notion of wealth must be reinterpreted – wealth as intrinsic to the value of life itself – so that there are aspects of wealth that are not subject to monetary value but to the value of life itself.

The pressure to democratize and improve on human rights has been perceived as a selective strategy of foreign governments not only to contain the sequence of autonomy of the African State but also as a means to economic reassignment of the continent. The hegemonic policies of colonial regimes have led today to an undeserving orchestration of political conditionality urging Africa to seek better 'governance' and more respect for human rights. While the authenticity of external pressure is questionable it is equally true that internal demand for democracy has been growing in most African countries since the end of the Cold War notwithstanding the historical nature of internal economic crisis on the continent.

4.2. Challenges to Peace in Africa

Mr. Ambassador Bethuel Kiplagat indicated that the first challenge that affects us as far as peace is concerned in Africa, he would term as structural. Structural in the sense of the structure of the state in Africa. At the present time, as in the way it is constituted, it is also a source which can create conflict in Africa itself. This is related to the constitutions of almost all the countries on the continent. If we examine the constitutions, it is clear that they have been the fundamental root of the cause of conflict in African states. Constitutions had been radically tampered with, and significantly amended since the time that we inherited them during colonial times. All constitutions were not followed by those who were in power – and this was the start of all the conflicts on the continent. So, we are looking at the constitutions and I feel that we have not paid sufficient attention as an ecumenical movement to the constitutions of African states.

Now, how have constitutions really affected us? Firstly, have the amendments that have been made helped to entrench and give power to the executive and the president? We found in the past that there was a person or an individual with either a group of his tribe community or of a small political party. Other people were marginalised. So, power was in the hands of an individual or a very small group of people. How did that happen? The executive was responsible for allocation of resources of the state and of course if you had that responsibility, whether for financial or human resources, and you take it and want to keep it for yourselves, then you will want to remain in power, and you will allocate those resources in such a way that it will entrench you and keep you there. Now, with that kind of a position, the executive had to keep his power, and make sure that even if you had elections, they would really not be very serious elections. You would manipulate it as much as you can or as a single party in order not to ever have any competition.

Here in Kenya, Kenyatta, our past president, never had any competitors. The only time there was competition was just before the elections for independence, and then after that there were never any competitors. He was the single candidate. I am not saying that the rest was going well, because there was a lot of competition for members of parliament. But for the president, it was automatic that no one would dare to stand against him. When Moi took power, it was similar and for decades – two or three elections – he was the only candidate. So, the party would declare and say here he is – and if you look at the rest of the continent, you will see the individuals remain. There was no competition. I believe in Tanzania it was the same. Nyerere, was a very liberal man, a great man, a democrat, but whenever we had a national election, others would stand and lose, but not the president.

Now why did this happen? Because this was manipulated. The whole political system was manipulated to ensure that certain people remained in power. The president and the executive depended on security intelligence for keeping them in power. The intelligence particularly, and sometimes the army were the people who controlled the situation and, as a member of government, I would be working inside. I could see how very easily security could be manipulated – not intentionally, but rather to please the president. If they knew, sometimes they never give him the correct information that

things were not going well. Because if you went to the president and said: “You know your Excellency, people do not really like you, and the policy you enacted the other day is very unpopular,” you may have lost your job. So, the tendency was to give information that would please and by doing that the situation just developed and in the end, the president would wake up one morning and find a rebellion on his hands – and he would wonder why. So he would want to crush that rebellion in the only way he knew. If you come as a foreigner and you say: Your Excellency there is a rebellion that is going on, can we do something?” He would say that there was no rebellion – these are only bandits.

I remember going to Mozambique to present to the government issues about the negotiation with Renamo, and I had about an hour with Cisano who told me that these are bandits. These are people with no ideology, no idea at all. The only thing for us is to crush them. Similarly in Uganda, when the northerners took up arms, it took more than a decade for the government to accept that there was a problem – that there was a rebellion. There was denial, and there was demonization of those who were on the other side, because they wanted to crush them.

So that is part of the problem, or I would say a challenge to peace in Africa – the power of the executive. Those constitutions are being changed but they have not gone very far. Secondly, related to that is that, since the executive is trying to hold onto power, the judiciary is not that independent. This causes many problems. Instead of having a betrayer, and an independent body to deal with conflicts, you come in if you agree to a land as a community and you take it to the judiciary. If that judiciary is not that independent then the executive will manipulate or just telephone and say to the judges ... by the way can you look at that case. If there is corruption, maybe it's his children or his closest allies that are involved. They would simply say you have to drop that case. It's not happening as much but it's still there being manipulated. So, the judiciary becomes subservient to the state. In some cases, it is still the same. There is no independent appointment of the judges, but the most important is the disciplines of the judges. How do you discipline? Is it the executive that can dismiss the judges or is there an independent body which would be responsible for doing that? Since they are not well remunerated, corruption flourishes.

Here in our country, delays of a case can take eight to ten years. In fact, it's amusing that there is a case coming up next week, of electoral difficulties. There was a challenge that the last elections were not proper and which caused the candidate not to be elected. We are going to the next round of elections in December, and the decision on this matter is only now being made after four years. It's useless. So, you can imagine what could have happened if the person had no hope. What he could do is take up arms, maybe, and kill the guy or fight his neighbour and that would start it off. So the judiciary is an area of potential corruption.

When I was a permanent secretary of the Ministry of Foreign Affairs, I pleaded to the international partners to please look at the constitutions but more importantly to look at the judiciary. Reforming the judiciary could become our saviour. If it works out well, they can help out and deal with a lot of problems today where people have no other choice. So what they did was to take up arms in order to put it right.

Second and thirdly is the electoral commission. We set up an electoral commission for the elections as a whole. This is an area which is a source of a challenge to peace. Firstly, the commissioners – who chooses the commissioners? How independent are they? Can they organise the elections independently and make sure that the playing fields are levelled? In many countries, it is the executive that appoints the commissioners, that pays the commissioners, that can dismiss the commissioners – in the worst cases, others might not be. Parliament has no say. In fact in our country this is the challenge now. Fortunately there are many other factors that I think have helped us. But otherwise, all along it has been the executive that choose the members of the commission and they organise the elections. Of course once you do that you can do all sorts of things concerning the elections.

If I had to make any appeal to those of us who are involved in peace in Africa, I would say please invest in elections. I met some Nigerians the other day, and they were very unhappy with what had happened. I told them: “You should begin now to prepare for the election which will take place five years from today. Because if you do not begin, there will be too much to be done. You have to look at the laws, you have to look at the members of the commissions, you have to look at the infrastructure. It should start from today.” This would be my appeal. I remember when we had our own elections moving to multi party in 1997. The National Council of Churches invited me to speak about the politics in the country. It was eighteen months before the elections. I appealed to that body and I said if you are going to monitor this election, which you are interested in, you are already too late. Fortunately, within about a month, I was called to be a member of a Committee, almost sixteen months before the election. We met almost every month to plan and follow every step during the election. I was saying that manipulation does not happen in the last three weeks. It takes place fifteen months before. The printing of the ballot papers, the boundaries, the selection of the candidates, the media, all of these things you need to begin to monitor including the registration of voters. So we were following it. A year before the registration was taking place, we discovered in one area, people would go to register, and they would check the names they knew if these people came from the opposition. They were not refused but they said to everybody to come the next week to get their cards. When they came, those who were known on the side of the government, got their cards. The others were told that the cards were not ready and to come back again. So, you disenfranchise people whom you know would oppose you. Then we intervened and they were finally included. Then what we did was to share and show you what one can do. We decided, as a team of National Council of Churches of Kenya (NCCCK) and other Catholic groups, to appoint monitors for every polling station. We hired 29 000 monitors. Three months before the elections, they were following what was going on and giving us reports. During the voting itself, two of the monitors never left the room, until the voting was finished. They checked everything, like the counting and the announcement, and we had a full report. In fact, we saved this nation, because it was difficult for the commission to come up with a statement. We called a conference at one of the hotels here, with the Secretary General of NCCCK. We announced and told the people of Kenya that we have monitors, we have documents and we can tell you that the elections were not fair, but the election was free. We are therefore asking you, to accept the result of the elections. My plea for those of you who are in these two elections, you need to take it really seriously. Because when everything goes well with

the election, that is at least half the problem – not that you finish everything and everything is solved. You can see what happened in Ethiopia, in Uganda, and in Nigeria just recently. If the country had not been accepting, you could find people taking up arms in Nigeria, because it had been unfair, as often happens.

Then the second part involves the post-conflict resolutions in Africa, and the resultant debris and impact. Firstly, the continent has suffered enormously from conflict. In fact when we did a survey at the peak the conflict situation, there were at least 36 countries that had been affected by conflict. There were very complicated conflict issues such as internal conflict, community conflict, and interstate conflict – and I am going to talk about all of them. Now, imagine 36 countries with conflicts that can last a long time – maybe even two decades. The Sudanese have been fighting for the first round for sixteen years and the second round has been twenty years – that's 36 years in total. There are no statistics on how many people have been in the army – both on the government side and on the rebels' side. If this continent had to export people who know how to use guns, we could supply the rest of world. I am sure there must be more than two million Africans who have used guns. At the peak of the conflict in Ethiopia, there were 600 000 people recruited. These last months, alone, at the peak for the SPLA, there were more than 50 000 men under arms in Sudan. The same applies to Congo.

So, the first problems that can affect our peace are these people who have not been properly mobilized, and not properly integrated. These people know how to use guns. They are there amongst us. For example the veteran association in Zimbabwe was able to cause problems for Mugabe. This was one of the factors that Mugabe had to deal with concerning the land problem. So they invaded the land, and the consequences are there today. We still have conflict today in this continent, between men and women, in particular men, and in this region of ours, when at any one time all of us have been involved in conflict in one way or another. There are many people who have been trained and are familiar with guns, particularly the children who don't know anything else, except the gun. They are recruited at the age of twelve and are the most dangerous. They have not attended school, are attached to militia, and we do not know what to do with them. I was in Juba the other day, and we had an incident. There were people attached to the militia, who just walked to Juba to the graveside of Garanga and started shooting. I was right there, then some conciliation took place and they calmed down. Related to these incidents are arms – I do not know how many. All of us have been doing small arms, and we think there are two or three million or even five million out there. The only thing one can say is that from West Africa right across to the east, there are many arms. We have been struggling with it but we are very far from managing and dealing with small arms. They are too many.

Thirdly, which is still related to it, has been the use of landmines. I am sorry to say that international interest in landmines has deminished, and so they are still there. They are in Ethiopia, in thousands. They are in Somalia, they are in Sudan, Congo, and Mozambique – at least the Mozambiquans have tried to get them out. But I don't get the sense that we are really concerned, yet the people out there in the villages are worried, since daily many people still get killed by landmines. The land that could have

been used for cultivation cannot be used now because there are landmines. So that is another problem that is related with the problem of post-conflict.

Then related to this is the population of Africa. I saw this morning in the newspaper that now we are close to 850 million. The majority of these people, more than 50 per cent, are still young. With the economy not growing as well as it should, we have a lot of young people who are unemployed. If trained, they will try to leave the country just to make a living. Sometimes they do it in illegal ways. Recently, I was dealing with a problem here when we had an incident with a lot of fighting and killing. I don't know how many died, perhaps thirty or forty in one of the slum areas. It was extortion – a group who got together, were mainly young and were being manipulated by people using religion. Then what these young people do is use extortion at the bus stop for power and many other things. We have done a bit of study on this. These young people are there, and can be easily manipulated and used.

The other issues that can cause us instability and problems with security are the resources which we have in this continent. At the top of that list are resources of oil. You know Africa has about 15-20 per cent of the international oil today. The whole of that is in West Africa, on the coast of Nigeria, Cameroon, Equatorial Guinea, Gabon, and Congo. In Angola oil has now been discovered. When you come to East Africa, Sudan, Chad – I think Mauritania also has oil now, as has Algeria and Libya. So, now you can see the demand for oil and the competition between East and West. China, India and the United States are the major consumers of oil. On Africa's west coast America claims ownership of the oil there. Well, I am exaggerating a little bit, but it's true. They have built huge runways in Equatorial Guinea, a country with less than one million people. There are flights daily or twice or three times a week from Houston to Equatorial Guinea, just off the coast of Cameroon. Now whether that government is democratic or corrupt – provided that revenue is coming into the country – it doesn't matter to them. Angola is now producing more than 2 million barrels a day. However, the poverty of the people is enormous. Nobody raises any questions – because of the oil. The Chinese have come and signed a contract. The Americans have come and signed a contract. We know, and if you talk to the people of Angola, it's the Chipenda after whom this room is named. They tell you what's happening such as there will not be enough medicine in the hospital, education and so forth, unless there is security for the oil. So this could be a problem for us.

Related to that are some of the essential minerals. Congo of course has diamonds, gold, uranium in Nigeria, and I think in Namibia. This is going to be the competition. And if that competition comes, people exploiting the natural resources will not be worried on what's happening to ordinary people. What they want is to make sure that they are getting their resources, they are getting what they need. For the rest you can kill yourself, you can ... whatever happens. We are going back to the days when there was competition between the eastern world and the western world, when Africa was looked at. All you needed was to come and you would be in. Stability was the key – no human rights, no democratization, none of these things. That was the main focus. So, this is how people like Mobutu has managed to survive, because they were supported. They were pro West and the West supported them. Some of them were pro East, and they had their support. I fear that we might be coming into that position today. One

can feel a softening with the East because of these resources. And of course there's a huge market for construction in Africa. The Chinese are coming in and when the Chinese come in they come in. So, the West is a little bit worried that China might be taking over on this continent. Yesterday I was with the Chinese ambassador and I was asking him a question. How was it? I was in Germany three weeks ago for the preparation of G8 and people asked me.

So all I am raising are some of these issues that we need to look at. Poverty is a major problem and a challenge to peace. With the programme of liberalisation there is a changing. In the past there was almost a type of extreme liberalisation when the State kept away. You know what they do is to set up the laws, get things opened up, and any country can come in. They will help to privatise education, privatise medical, privatise this and that, when we could do it ourselves. We are glad that in our country the government is moving back towards the State – investing in health and in education. It's a relief for the people to know that today we have a programme of free education for primary schools, next year we are starting free education for secondary schools, and the same applies to the health sector. There was an attempt two years ago when my government here tried to have a national health insurance by the state. It was fought left and right and shelved, but it's not dead. So they will come back through another door even though there isn't much support. I think what we will require from people like you is to see how the state in Africa can in fact be the agent for change and for the alleviation of poverty. If we do not do it, no one else will do it. We have to do it ourselves. We must use the internal resources which we have ourselves. Also, unless we develop our own private sectors, small businesses – not the big ones only but the smaller businesses – we will not get very far. We may have major investment with millions, but it will not solve our problems, particularly of employment. So what we need is small businesses which we then build up and educate people.

A further problem is that, as we came through Christian schools and were educated by the evangelical and puritanical missionaries that were here, anything to do with business was looked down upon. You needed to keep away from money and you remained poor. There exists this attitude towards business which is rather negative. Europe has not been helpful to us, so now, we are moving fast with the Americans. I think it has gone too far. I want Europe to come in and moderate it but not to the other extreme, theologically. I think the Church has a theological role to play, to welcome, but to say there should be responsibility, there are ethical principles, there are things to be done - the business and farm to be run well, that restaurant to be well managed, and so forth. When we did a study on businesses here, it was never inherited by, and passed on to the next generation. You start something, but it's not a success because it's badly managed. Towards the end the old man grows old, he cannot manage it and he goes to the grave with everything. The family is poor and you have to start from nothing again. So I would say that, in order to alleviate this, can we also focus on the management of all those little things that we do. I am with the micro credit bank myself, and we have seen miracles happen, where lives have truly changed. We get people going. Without knowledge and experience and proper management, everything collapses, and we are back again where we were. So I would say that this is a major risk. The state cannot employ everybody. It is impossible. It has to be the private sector. I would like to urge you to look at the private sector. If possible, I may end here.

Yesterday, our budget was red, as budgets are in Uganda, and Tanzania. I have always claimed assistance since being in government. We were writing reports to you, requesting some of you to assist us. We write projects to Oxfam, Christian Aid, USAIDS, etc., asking please can you help us, we don't have anything – you know we are poor. And you told us you are poor, but we also believe we are poor. You know this is wrong.

When I look at the resources of all these countries, where a budget like that one of Kenya, which is more than 600 billion Kenyan shillings, is divided by 6. We as Christians and Churches, have never been interested in that budget at all – either in the formulation of that budget, in the allocation of resources of that budget, or the way that money is managed. It is far more than the donors give you. Yet, we are interested in the donors' money, which takes years to get, and most of the donations will go back to consultation. I think we have read how much money has been returned to the donors as a result of consultation. Why not use your own which is here. Why not talk to the people, campaign, tell them that paying taxes is a good thing. If we are able to raise that money, monitor it, and open it up to transparency, we will be able to do much more with what we have.

Secondly, I was at another meeting where we were discussing Africa with the donor partners in Germany who organised the meeting. So, I said, if only we managed to reduce waste. Look at the whole continent and see how much we are wasting in terms of human resources, and the way we use financial resources, etc. If we were able to reduce that waste five to ten per cent, it would make a major difference. I am pleading and I have been pleading with the Churches to please look at the financial sector. How are we using those resources? We need a debate – next week the Churches will come together to look at the budget and find out how this is being done and what the procedures are for the allocation. Because very often, even in this country which has the infrastructure, we cannot implement and absorb all that money into our own country. It gets returned to the donors. Why? Because of the procedures and the system we have established. I will stop here.

5. Amendments to and proposals for the Luarca Declaration

Art. 2: Right to education on peace and human rights

- ❖ It is very important to integrate educated citizens, at an early age, into society. The right to education is a fundamental right recognised under international law, but not the education on human rights.
- ❖ Human right approach to education is new in the field of education.
- ❖ Necessary to find a legal definition on peace in order to regulate this new right.
- ❖ Peace is an aspiration and not properly a right.

- ❖ Advisable to include some definition of peace in the Preamble of the Luarca Declaration.

Art. 3: right to human security

- ❖ Disagreement for including the right to enjoy fair conditions of employment and trade union participation under the right to human security.
- ❖ Advisable to write other articles for regulating this right.
- ❖ Criticized the liberal policy applied by NEPAD and international institution owing to this promotes unemployment among young people. As a consequence of cutting jobs, there exists an increasing social violence in many towns of Africa. An example of this would be the creation of young gangs, because they create insecurity in streets.

Art. 4: right to live in safe and healthy environment

- ❖ No linkage between public environment and protection against acts of unlawful violence.
- ❖ Healthy environment should be combined with article 3.a.
- ❖ This article doesn't make a difference between environment and environmental. This latter concept is broader than environment.
- ❖ Not to mention the destabilization promoted by other countries and international corporations (e.g. Shell)

Art. 5 and 6: right to disobedience and conscientious objection/right to resist and oppose cruelty

- ❖ The first reaction by reading these articles is to reject them because, according to states, this article could legalise any type of rebellion. In the negotiating process, states will plainly reject these articles.
- ❖ These articles can be easily manipulated by states to wage war.
- ❖ Necessary to rephrase it, since the content is good.
- ❖ Mentioning child soldiers and forcing prostitution (e.g. Bukavu hospital) would enrich the content of the article.

Art. 7: right to refugee status

- ❖ Legal duties from refugees in relation to the state where they are protected (e.g. in many places in Africa the refugee problem promotes destabilization) should be included.

- ❖ Humanitarian intervention is a crime against humanity under international humanitarian law.
- ❖ It's advisable to gather the basic principles of the international refugee law.

Art. 8: right to emigrate, to settle peaceably and to participate

- ❖ This right could become an object of manipulation in the negotiating process with states, due to the fact that this right is highly politicized at international level.

Art. 10: right to an effective remedy

- ❖ Follow victim' rights structure: right to know, right to justice, right to reparations.
- ❖ Indicate that this refers both to the individual and collective dimensions of the three aspects.
- ❖ Change title to be more comprehensive.
- ❖ 4. Have in mind priority of rights. For instance for the Palestinians, first right to return, then right to remedy and reparations.
- ❖ 2. The Rwanda case. Need to bring to justice those who have not yet been.
- ❖ Add "independent" to the right to investigation. Should read "independent investigation."
- ❖ Who does justice? Stress the independence dimension.

Art. 11: right to disarmament

- ❖ Indicate that this refers to nuclear arms, small arms, and light weapons, including landmines.
- ❖ How to address root causes, e.g. the producers of armaments?
- ❖ c. add "across states"

Art. 12: right to development

- ❖ Should read "sustainable development"
- ❖ Possibility to merge with article 13 and then have "Right to sustainable development and environment."
- ❖ Include phrase on fair distribution of resources.

- ❖ Does participation include the right to employment? To be taken into account.

Art. 13: right to sustainable natural environment

- ❖ Have in mind right to settlement, right to housing.
- ❖ How to combine human needs with the protection of the environment?
- ❖ Relate, (merge?) with article 4, right to live in safe and healthy environment.

Art. 14: vulnerable groups

- ❖ Is there an agreed definition of vulnerable groups?
- ❖ Analysis – who will be doing the analysis?
- ❖ Address specific needs of less advantaged.
- ❖ Revise, change title
- ❖ 2. Include all vulnerable groups, not only women.
- ❖ Not clear why only women are highlighted here.
- ❖ Rephrase into something like: “All vulnerable groups have the right to determine their destiny including peaceful settlement of disputes.”

Art. 15: requirements of peace and truthful information

- ❖ Re draft. Should read: “... in full compliance with the rules of International Law, including Human Rights Law and International Law.”
- ❖ Include the concept of Human Security.

PROGRAMME

09h00 - 10h30 Opening: Mr. Arthur Shoo (All Africa Conference of Churches)

- Presentation of the Luarca Declaration
- Introduction to the Luarca Declaration: Mr. Peter Brune
- Interpretation of the Luarca Declaration from ecumenical perspective: Mr. Guillermo Kerber
- History and content of the Luarca Declaration: Mr David Fernandez Puyana
- Open dialogue: Questions and answers

10h30 - 11h00 Coffee break

11h00 - 12h30 African approach to the human rights to peace

- Peace, human rights and development: Mr. Nicholas Otieno
- Challenges to Peace in Africa: Mr. Ambassador Bethuel Kiplagat
- Summary of the presentations made to the panel
- Debate and conclusions

12h30 - 14h00 Lunch break

14h00 - 15h00 Discussion on the content of the Luarca Declaration

- Creation of two working groups:
 - Group 1^o: from art. 1 to 9
 - Group 2^o: from art. 10 to 18

15h00 - 15h30 Coffee break

15h30 - 17h00 Plenary and conclusions (intervention of working groups at the plenary of the meeting through Rapporteur)

List of participants

Name	ORGANISATION
1. Mr. Guillermo Kerber	World Council of Churches
2. Mr. Jerome Gouzon	Life and Peace Institute and Ecovillages and Networks in Africa
3. Mr. Runo Bergström	Life and Peace Institute (Congo, Brazzaville)
4. Mr. Trevor Williams	Life and Peace Institute (Sweden, Uppsala)
5. Mr. Vincent Mangóngó	Nairobi Peace Initiative - Africa (NPI-Africa). (Kenya, Nairobi)
6. Ms. Zahira Zaján	African Women's Development and Communication Network (FEMNET)
7. Mr. Tore Samnelsson	Life and Peace Institute and Christian-Muslim Leaders for Peace in Somalia
8. Ms. Caroline Muriithi	Equality Now
9. Mr. Tony Waworuntu	Life and Peace Institute (Hong Kong)
10. Mr. Nuha Khoury	Dar al-Kalima College
11. Mr. Michael Ouko	Sudan Council of Churches
12. Mr. Bernard Okok-Obudga	The Programme for Christian-Muslim Relations in Africa (PROCMURA)
13. Mr. Séraphin Ngouma	Life and Peace Institute (Congo, Brazzaville)
14. Mr. Admasu Simeso	Africa Online
15. Mr. Solomon Gichira	All African Conference of Churches
16. Mr. Arthur Shoo	All African Conference of Churches
17. Mr. Za Sahlberg	International League of Religious Socialist
18. Mr. David Fernández Puyana	Spanish Society for International Human Rights Law (AEDIDH)
19. Mr. William Babumba	Christian Aid
20. Mr. Tom Bamat	Catholic Release Service
21. Mr. Peter Brune	Life and Peace Institute (Sweden, Uppsala)