

Submission of the International Association of Democratic Lawyers on the Report of the Advisory Committee on the Human Right to Peace

The International Association of Democratic Lawyers (IADL), a non-governmental organization of thousands of lawyers and jurists world-wide, welcomes the work of the Advisory Committee on the codification of the human right to peace. IADL thanks as well all the UN Member States and the Human Rights Council which made this development possible and kept this important issue on the international agenda.

The draft Declaration on the human right to peace prepared by the Advisory Committee (A/HRC/220/31) represents a significant improvement in the definition of the content and scope of the right to peace and it represents a major step forward from the Declaration on the Right of Peoples to Peace adopted by the General Assembly in 1984.

The document overcomes the tendency to restrict the Human Right to Peace mainly as a collective right and exclusively in relation to issues such as war and disarmament. Peace is a human right belonging to everyone, individuals and people, without distinctions or discrimination. Peace is not just the absence of war or violence. IADL particularly welcomes the fact that the proposed draft recognizes that “inequality, exclusion and poverty generate structural violence which is incompatible with peace, and therefore, they must be eliminated”. The draft includes as well standards of positive actions towards peace in areas such as the rights to development, a healthy environment, the rights of refugees and migrants.

Today millions of people are starving or dying from curable diseases and too many are highly exploited. True peace is not possible in the face of massive poverty, hunger, discrimination, inequality, exclusion and intolerance. Social justice is necessary for there to be peace.

Peace is the primary goal of the United Nations, and a reason for its existence. In the Preamble of the United Nations Charter, the peoples of the world proclaimed their determination to “save succeeding generations from the scourge of war” and to live together in peace with one another as good neighbors.

The first purpose of the UN Charter in Article 1 is “to maintain international peace and security, and to that end, to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace”. In pursuit of this purpose, article 2 requires to all Member States to settle their international disputes by peaceful means and to refrain from the threat or use of force in their international relations.

Realizing the goals of the Charter after almost seventy years is still a struggle. While there have been no World Wars, a culture of violence persists. Wars are preemptive and “humanitarian”. The killing of civilians is tolerated as collateral damage. Extrajudicial executions are on the rise as technology allows unmanned drones to target groups and individuals. Torture is tolerated, sometimes authorized. War is being privatized through the use of contractors and mercenaries. Public opinion is unfortunately accepting this regression of our legal and political systems, and in so doing undermining the purposes of the United Nations.

Today the threat of the use of force is becoming a common political instrument to interfere with other’s right of self-determination. IADL notes with concern that, recently, the major Western powers are poisoning the atmosphere by creating hysteria to wage war against Iran. A few months ago, in total disregard of the UN Charter, “the United States, France and Britain invaded Libya with cruise missiles, stealth bombers, fighter jets and attack jets. Although NATO took over the military

operation, which was sold to international community as part of the “responsibility to protect” civilians, yet the number of civilians killed in this effort remains unknown. But, the “responsibility to protect” doctrine is not enshrined in any international treaty nor has it ripened into a norm of customary international law”.¹ As noted by Mr. Alfred de Zayas during the UN expert workshop on the right of peoples to peace held in Geneva on 15 and 16 December 2009, whether or not there is a responsibility to protect, there is “first and foremost a responsibility to protect humanity from the scourge of war, and most importantly to protect humanity from weapons of mass destruction, including nuclear weapons”. For the reasons stated in the article referenced in Footnote 1 IADL believes that the wording of Article 2, paragraph 3 of the draft declaration” is too vague and dangerous and should be discussed further in order to avoid any misinterpretation. This paragraph states: “Everyone has the right to be protected from genocide, war crimes, the use of force in violation of international law, and crimes against humanity. If States are unable to prevent these crimes from occurring within their jurisdiction, they should call on Member States and the United Nations to fulfill that responsibility, in keeping with the Charter of the United Nations and international law”.

Since its founding in 1946 and again in its conference of Paris in 2010, IADL has always supported the total elimination of nuclear weapons. The danger to world peace caused by nuclear weapons is so great as to require the global eradication of all of them. IADL therefore agrees with Article 3.3 demanding the elimination of nuclear weapons as part of the elimination of weapons of mass destruction.

While IADL welcomes this draft we are concerned that it does not contain any provision opposing foreign military bases. Members of civil society were unanimous that because the presence of foreign military bases increase tension among the host country and its neighbors a provision prohibiting foreign military bases should be part of the declaration.² Member States should take note of the importance of unilateral efforts towards de-militarization and peace. Cases as Article 9 of the Japanese Constitution and Article 12 of the Costa Rican Constitution are living examples of the positive impact of peace constitutions and de-militarization towards human development, peace and international relations.

IADL also requests Member States to focus attention on a mechanism for monitoring the implementation of this declaration. Article 13, particularly paragraph 6, of the draft Declaration is simple, or rather vague, which says only “The Human Rights Council is invited to set up a special procedure to monitor and respect for and the implementation of the right to peace and to report to the United Nations bodies.”. Together with other provisions on roles of States the human right to peace must now contain procedural safeguards. To avoid any conflicts in jurisdictions or any overloaded breakdowns of monitoring mechanism, IADL recommends the Member States to set up working groups with well-coordinated assignments within the network of the Human Rights Council, the United Nations High Commissioner for Human Rights and the office of the High

¹ “The Responsibility to Protect – The cases of Libya and Ivory Coast” by Marjorie Cohn, professor of law at Thomas Jefferson School of law and deputy secretary general of the International Association of Democratic Lawyers. May 15, 2011, e-International Relations, www.e-ir.info

² In Latin America, for example, countries have not waged war against each other for almost four decades now, and certainly none of them plan or have the capacity to invade the United States. Since the elimination of military bases in Argentina, Brazil, Ecuador, Bolivia and Venezuela, the region has reached a sustained period of understanding and diplomatic relations. In East Asia, the maintenance of United States military bases in Japan and Korea are responsible for the high level of tension in the region.

Commissioner. We suggest all State Parties to should be required to make a financial contribution and support toward the monitoring mechanism of the right to peace.

Almost thirty years ago the General Assembly, in resolution 39/11, proclaimed that we, the people of the world, have the “sacred right to peace” and that “the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State.” Time has come for Member States to take their responsibility and make the right to peace operative. The right to peace is not a “moral right” or a human “aspiration” it is a human right.

IADL urges Members States to carefully consider the proposed draft declaration and to engage, without delay, in a transparent and open process, involving the civil society, toward the adoption of a Declaration on right to peace, using the one prepared by the Advisory Committee as a model and including the above mentioned express provisions on military bases, nuclear weapons a monitoring program.