

Luarca Declaration on the Human Right to Peace

We, the undersigned, a panel of experts convened at the *Casa de Cultura* in Luarca (Asturias, Spain) to draft a Universal Declaration on the Human Right to Peace, promoted by the SPANISH SOCIETY FOR THE ADVANCEMENT OF HUMAN RIGHTS LAW, with the support of the AGENCIA CATALANA DE COOPERACIÓN AL DESARROLLO DE LA GENERALITAT DE CATALUNYA and the collaboration of the CONSEJERÍA DE JUSTICIA, SEGURIDAD PÚBLICA Y RELACIONES EXTERIORES DEL PRINCIPADO DE ASTURIAS, the UNIVERSITY OF OVIEDO and the AYUNTAMIENTO DE VALDÉS,

Having regard to the conclusions and recommendations formulated at the regional seminars of experts regarding the draft Universal Declaration on the Human Right to Peace held in Gernika (30 November and 1 December 2005), Oviedo (27-28 July 2006), Las Palmas de Gran Canaria (17-18 August 2006), Bilbao (15-16 September 2006), Madrid (21-22 September 2006), Barcelona (28-29 September 2006) and Seville (13-14 October 2006);

Have formulated the following Declaration on 30 October 2006 with the purpose that it shall be considered by the General Assembly of the United Nations in the near future.

DECLARATION ON THE HUMAN RIGHT TO PEACE

Preamble

The General Assembly,

(1) *Considering* that, in accordance with the Preamble to the Charter of the United Nations and the purposes and principles established therein, peace is a universal value, the *raison d'être* of the Organisation and a prerequisite and consequence of the enjoyment of human rights by everyone;

(2) *Recognising* the positive concept of peace which goes beyond the strict absence of armed conflict and is linked to the economic, social and cultural development of peoples as a condition for satisfying the basic needs of human

beings, to the elimination of all kinds of violence and to the effective respect for all human rights;

(3) *Taking account of* the principles and rules enshrined in the main human rights instruments of the United Nations in respect of human rights, in particular the Universal Declaration of Human Rights, the Declaration on the Right to Development, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(4) *Considering* that international law constitutes an instrument whose proper and effective implementation is essential to the attainment of peace, and that such an attainment is the shared responsibility of men and women, peoples, states, international organisations, civil society, corporations and other elements of society and, in general, of the whole international community;

(5) *Recalling* that the Charter of the United Nations requires Member States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered, and to refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes and principles of the United Nations;

(6) *Recalling* the Istanbul Declaration, adopted by Resolution XIX (1969) of the XXI International Red Cross Conference, which states that human beings have the right to enjoy lasting peace and Resolution 5/XXXII (1976) of the United Nations Commission on Human Rights, which affirms that everyone has the right to live in conditions of peace and international security;

(7) *Recalling also* the relevant resolutions of the General Assembly, inter alia resolution 33/73 of 15 December 1978, which adopts the Declaration on the Preparation of Societies for Life in Peace; resolution 39/11 of 12 November 1984, which proclaims the Declaration on the Right of Peoples to Peace; resolution 53/243 of 13 September 1999, which proclaims the Declaration on a Culture of Peace, the Rio Declaration on Environment and Development of 1992; and resolution 55/282 of 7 September 2001, which decided that the International Day of Peace is to be observed on 21 September each year;

(8) *Recognising also* that, in accordance with the Preamble to the Constitution of the United Nations Educational, Scientific and Cultural Organization, “since wars

begin in the minds of men, it is in the minds of men that the defences of peace must be constructed”, and that, according to that Organisation, it is necessary to promote a culture of peace, by which is meant a set of values, attitudes, patterns of behaviour and ways of life that reject violence and prevent conflicts by tackling their root causes through dialogue and negotiation among individuals, groups and States;

(9) *Observing* that the commitment to peace is a general principle of international law, in accordance with Article 38.1.c) of the Statute of the International Court of Justice, as was recognised by the International Consultation of experts, representing 117 States, on the Human Right to Peace, held in Paris in 1998;

(10) *Considering* that the international community requires the codification and progressive development of the human right to peace, as a right with its own entity, with universal vocation and intergenerational character, since it applies to both present and future generations;

(11) *Recalling* that human rights are inalienable, universal, indivisible and interdependent and that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women;

(12) *Conscious* of the vulnerability and dependence of human beings, of the right and need of individuals and groups to live in peace and to have a national and international social order established, in which peace has absolute priority, so that the rights and freedoms proclaimed in the Universal Declaration of Human Rights can be fully realised;

(13) *Considering* that the promotion of a culture of peace, the world-wide redistribution of resources and the achievement of social justice must contribute to the establishment of a new international economic order which will facilitate the fulfilment of the proposals of this Declaration, by eliminating the inequality, exclusion and poverty which generate structural violence incompatible with peace on the national and international levels;

(14) *Bearing in mind* that peace must be based on justice, concerned for the fate of victims of human rights violations and breaches of international humanitarian law, and recalling their right to justice, to the truth and to effective remedy which includes the restitution of their honour, the rehabilitation of their memory and the adoption of measures to prevent a repetition of those acts, thus contributing to reconciliation and the establishment of lasting peace;

(15) *Conscious* that the end of impunity as an instrument of peace requires every military or security institution to be fully subordinate to the rule of law, to the fulfilment of obligations arising under international law, to the observance of human rights and of international humanitarian law, and to the attainment of peace, and that, therefore, military discipline and compliance with orders from

superiors must be subordinate to the achievement of those objectives;

(16) *Conscious also* that forced mass exoduses and migratory flows take place, usually as a response to dangers, threats or the breakdown of peace, and may, as a consequence endanger peace in the countries of destination, and that, accordingly, the international community must establish as a matter of urgency an international migration regime which recognises the right of every person to emigrate and settle peacefully in the territory of a State, in the circumstances provided for in this Declaration;

(17) *Affirming* that the effectiveness of the right to peace will not be achieved without the realisation of equal rights for men and women and the respect for their difference, without respect for the various cultural values and religious beliefs compatible with human rights, and without the eradication of racism, xenophobia and the contemporary forms of racial discrimination;

(18) *Recognising* the particular suffering of women in armed conflicts, and underlying the importance of their full participation in peace-building processes, as recognised by the United Nations Security Council in its resolution 1325 (2000);

(19) *Concerned* because arms manufacture, the arms race and the excessive and uncontrolled traffic of all kinds of arms jeopardise peace and security, and constitute an obstacle to the realisation of the right to development;

(20) *Persuaded* that the attainment of peace is intrinsically linked to environmental protection, and to an economic, social and cultural development of all peoples environmentally and humanly sustainable;

(21) *Persuaded also* that peace has been and continues to be the constant aspiration of all civilisations throughout the history of mankind, and therefore we must all join our efforts to its effective realization.

Proclaims the following Declaration:

PART I

ELEMENTS OF THE HUMAN RIGHT TO PEACE

SECTION A. RIGHTS

Article 1

Holders

Individuals, groups and peoples have the inalienable right to a just, sustainable and lasting peace. By virtue of that right, they are holders of the rights proclaimed in this Declaration.

Article 2

Right to education on peace and human rights

Every person has the right to receive peace and human rights education, the basis of every educational system, which will help to generate social processes based on trust, solidarity and mutual respect, promote the peaceful settlement of conflicts and lead to a new way of approaching human relationships.

Article 3

Right to human security

Everyone has the right to human security, which shall include inter alia:

a) The right to have the material instruments, means and resources which enable him/her to fully enjoy a life worthy of human dignity and, to that end, the right to have essential food and drinking water, primary health care, basic clothing and housing and a basic education;

b) The right to enjoy fair conditions of employment and trade union participation, and the right to the protection of the social services, on equal terms for persons having the same occupation or providing the same service.

Article 4

Right to live in safe and healthy environment

Human beings and peoples have the right to live in a private and public environment which is safe and healthy, and to receive protection against acts of unlawful violence, irrespective of whether they are perpetrated by state or non-state actors;

Article 5

Right to disobedience and conscientious objection

Everyone, individually or in a group, has the right to civil disobedience and conscientious objection for peace, which consists in:

a) The right to civil disobedience in respect of activities which involve threats against peace, including peaceful protest and peaceful non-compliance with laws which offend the conscience;

b) The right of the members of any military or security institution to disobey criminal or unjust orders during armed conflicts and to refrain from participating in armed operations, whether international or national, which vio-

late the principles and norms of international human rights law or international humanitarian law;

c) The right to refrain from participating in -and to denounce publicly- scientific research for the manufacture or development of arms of any kind;

d) The right to acquire the status of conscientious objector in respect of military obligations;

e) The right to object to paying taxes allocated to military expenditure and to object to taking part, in a working or professional capacity, in operations which support armed conflicts or which are contrary to international human rights law or international humanitarian law;

Article 6

Right to resist and oppose barbarity

1. All individuals and peoples have the right to resist and even to rebel against serious, mass or systematic violations of human rights and of the right of peoples to self-determination, in accordance with international law.

2. Individuals and peoples have the right to oppose war, war crimes, crimes against humanity, violations of human rights, crimes of genocide and aggression, any propaganda in favour of war or inciting violence, and violations of the human right to peace, as defined in this Declaration.

Article 7

Right to refugee status

1. Everyone has the right to seek and obtain refugee status in any country, without discrimination, in the following circumstances:

a) If the person is persecuted for activities supporting peace, opposing war or promoting human rights;

b) If the person has a justified fear of persecution by state or non-state agents, on grounds of race, sex, religion, nationality, membership of a particular social group or political opinion;

c) If the person is the victim of enforced displacement, international or internal, occasioned by any kind of armed conflict or environmental disaster.

2. Refugee status shall include:

a) The right to integration into society and employment;

b) The right to effective remedy, in accordance with this Declaration, for violations of human rights and fundamental freedoms;

c) The right to return to the country of origin with proper guarantees, once

the causes of persecution have been removed and, depending on the circumstances, the armed conflict has ended.

Article 8

Right to emigrate, to settle peaceably and to participate

1. Everyone has the right to emigrate and to settle peaceably, and also to return to his/her country of origin. No foreigner may be expelled without the proper guarantees provided for in international law and in accordance with the principle of *non-refoulement*.

2. In particular, everyone has the right to emigrate if his/her right to human security or his/her right to live in a secure and healthy environment, as provided for in Articles 3 a) and 4 of this Declaration, are in danger or under serious threat.

3. Everyone has the right to participate, individually or in a group, in the public affairs of the country in which he/she has his/her habitual residence.

4. Every person or group has the right to the establishment of specific mechanisms and institutions for participation which ensure the free and public expression of his/her/their individual and collective concerns and claims.

Article 9

Exercise of the freedom of thought, conscience and religion

Everyone has the right to express publicly his/her freedom of thought, conscience and religion; and to obtain respect for his/her right to have, adopt and express, individually or in a group, the beliefs and convictions of his/her choice, as established in international human rights law.

Article 10

Right to an effective remedy

1. Everyone has the right to an effective remedy to protect him/her against violations of his/her human rights.

2. Everyone has the imprescriptible and unrenounceable right to obtain justice in respect of violations of his/her human rights, which shall include the investigation and establishment of the facts, as well as the identification and punishment of those responsible.

3. The victims of violations of human rights, the members of their families and society in general have the right to know the truth.

4. Every victim of a violation of human rights has the right to restitution of his/her rights and to obtain reparation in accordance with international law, including the right to compensation and measures of satisfaction, as well as guarantees of non-repetition.

Article 11
Right to disarmament

Individuals and peoples have the right:

- a) Not to be regarded as enemies by any State;
- b) To the general and transparent disarmament of all States, together and in a coordinated manner, within a reasonable time and under efficient and comprehensive international supervision;
- c) To the allocation of the resources freed by disarmament to the economic, social and cultural development of peoples and the fair redistribution of such resources, responding especially to the needs of the poorest countries and to vulnerable groups, in such a way as to put an end to inequality, social exclusion and poverty.

Article 12
Right to development

1. All individuals and all peoples have the inalienable right to participate in an economic, social, cultural and political development in which all the human rights and fundamental freedoms shall be fully realised, and to contribute to and to enjoy such development.

2. All individuals and all peoples have the right to the elimination of obstacles to the realisation of the right to development, such as service of the foreign debt or maintenance of an unjust international economic order which generates poverty and social exclusion.

Article 13
Right to a sustainable natural environment

All individuals and all peoples have the right to live in a sustainable natural environment, as a basis for the peace and survival of mankind.

Article 14
Vulnerable groups

1. All persons belonging to vulnerable groups have the right to an examination of the specific effects on enjoyment of their rights of the different forms of violence to which they are subject, and to the adoption of measures in that respect, including recognition of their right to participate in the adoption of those measures.

2. In particular, the specific contribution of women to the peaceful settlement of disputes shall be promoted.

Article 15
Requirements of peace and truthful information

Individuals and peoples have the right to demand that peace effectively be achieved, and they shall therefore:

a) Urge States to engage in the effective implementation of the collective security system established in the Charter of the United Nations, and the friendly settlement of disputes, in full compliance also with the rules of international human rights law and international humanitarian law;

b) Denounce any act which threatens or violates the human right to peace and, to that end, receive objective information related to conflicts;

c) Participate freely and by any peaceful means in political and social activities and initiatives to protect and promote the human right to peace, without abusive interference from the public authorities at local, national and international level.

SECTION B. OBLIGATIONS

Article 16
Obligations for the realisation of the human right to peace

1. The effective and practical realization of the human right to peace necessarily involves duties and obligations for States, international organizations, civil society, peoples, men and women, corporations and other elements of society and, in general, the whole international community.

2. Under the current international order the fundamental responsibility for preserving peace and protecting the human right to peace lies with the States and also with the United Nations Organisation as a centre which harmonises

the concerted efforts of all nations to fulfil the purposes and principles proclaimed in the Charter of the United Nations.

3. States have the obligation to protect human rights, to prevent and cooperate in the prevention of catastrophes, to respond to catastrophes when they occur and to repair the damage caused. They are also required to adopt measures to build and consolidate peace.

4. The United Nations Organization should be further enabled to prevent violations and protect human rights and human dignity, including the human right to peace, in cases of serious or systematic violations. In particular, it is for the Security Council, the General Assembly, the Human Rights Council or any other competent body to take effective measures to protect human rights from violations which may constitute a danger or threat to international peace and security.

5. Any unilateral military intervention by one or more States, without the preceptive authorisation of the Security Council pursuant to the Charter of the United Nations, is unacceptable, constitutes a serious infringement of the purposes and principles of the Charter and is contrary to the human right to peace.

6. The composition and procedures of the Security Council shall be reviewed so as to ensure the proper representation of the current international community and the establishment of transparent working methods which allow the participation of civil society and other international actors.

7. The United Nations system must be fully and effectively involved, through the Peacebuilding Commission, in the preparation of integral strategies for peacebuilding and the reconstruction of countries concerned once the armed conflicts have ended, ensuring stable sources of financing and effective coordination within the system.

PART II

IMPLEMENTATION OF THE DECLARATION

Article 17

Establishment of the Working Group on the Human Right to Peace

1. A Working Group on the Human Right to Peace (hereinafter called “the Working Group”) will be established. It will be composed of ten members who will carry out the functions set forth in Article 18.

2. The members of the Working Group will be nationals from the Member States of the United Nations who will carry out their duties with complete independence and in their personal capacity.

3. The following criteria will be taken into account for their election:

a) The experts shall be of high moral standing, impartiality and integrity, and show evidence of long and appropriate experience in any of the spheres stated in Part I of this Declaration;

b) Equitable geographical distribution and representation of the different forms of civilisation and of the main legal systems of the world;

c) There shall be a balanced gender representation; and

d) There may not be two experts from the same State.

4. The members of the Working Group will be elected by secret ballot at a session of the United Nations General Assembly from a list of candidates proposed by the Member States. The ten candidates who obtain the highest number of votes and a two thirds majority of the States present and voting will be elected. The initial election will take place at the latest three months after the date of adoption of this Declaration.

5. The experts will be elected for four years and may be re-elected only once.

6. Half of the Working Group will be renewed every two years.

Article 18

Functions of the Working Group

1. The main function of the Working Group is to promote the observance and implementation of this Declaration. In the exercise of its mandate it has the following competences:

a) To promote worldwide observance and awareness of the human right to peace, acting with discretion, objectivity and independence and adopting an integral approach which takes account of the universality, interdependence and indivisibility of human rights and the overriding need to achieve international social justice;

b) To gather, analyse and respond effectively to any relevant information from States, international organisations and their bodies, civil society organisations, concerned individuals and any other reliable source;

c) Whenever appropriate, to address recommendations and appeals to Member States of the United Nations to adopt appropriate measures for the effective realisation of the human right to peace, in accordance with Part I of this Declaration. States shall give due consideration to those recommendations and appeals;

d) To draw up, on its own initiative or at the request of the General Assembly, the Security Council or the Human Rights Council, the reports it deems necessary in case of an imminent threat to or serious violation of the human right to peace, as defined in Part I of this Declaration;

e) To submit an annual report of its activities to the General Assembly, Security Council and Human Rights Council, in which it will include the recommendations and conclusions it considers necessary to the effective promotion and protection of the human right to peace, paying special attention to armed conflicts;

f) To prepare, to the attention of the General Assembly, a draft international convention which shall include the human right to peace, as well as a mechanism for supervising and monitoring its effective implementation. Both the mechanism to be established in the convention and the Working Group will coordinate their mandates and avoid duplicating their activities;

g) To bring to the attention of the Prosecutor of the International Criminal Court or other competent international criminal court or tribunal, reliable information about any situation in which it appears that crimes falling within the jurisdiction of the Court or any other international criminal tribunal have been committed;

h) To approve by majority of its members the working methods for the ordinary functioning of the Working Group, which shall include, inter alia, rules governing the appointment of the Bureau and the adoption of decisions and recommendations.

2. The Working Group will have its seat in New York and will hold three ordinary sessions per year, as well as any extraordinary session to be determined in accordance with its working methods. The Working Group will have a permanent Secretariat which will be provided by the Secretary General of the United Nations.

FINAL PROVISIONS

1. No provision of this Declaration may be interpreted as meaning that it confers on any State, group or individual any right to undertake or develop any activity or carry out any act contrary to the purposes and principles of the United Nations, or likely to negate or infringe any of the provisions of this Declaration, the International Bill of Human Rights or the international humanitarian law.

2. The provisions of this Declaration shall apply without prejudice to any provisions that are more conducive to the effective realization of the human right to peace formulated in accordance with the legislation of the Member States or stemming from applicable international law.

3. All States must implement the provisions of this Declaration by adopting the relevant legislative, judicial, administrative, educational or other measures necessary to promote its effective realization.

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