

**PAST AND PRESENT
OF THE PEACE AGENDA WITHIN THE UNITED NATIONS:
THE INFLUENCE OF THE SOCIALIST NOTION
OF PEACEFUL CO-EXISTENCE**

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DOI: 10.21684/2412-2343-2017-4-3-81-109

War and peace perpetually alternate and peace is always seen as an endless project, even a dream, to be realised in brotherhood by everyone all over the earth. Present generations should ensure that both they and future generations learn to live together in peace with the highest aspiration of sparing future generations the scourge of war. The UN Charter is the most solemn pact of peace in history, which lays down the necessary basic principles for an enduring peace. Recently, in the context of the joint effort in the recognition of the high importance of practicing tolerance, dialogue, cooperation and solidarity among all human beings, peoples and nations, the General Assembly has raised the voice of victims to strongly condemn war and to openly reiterate their inalienable right to enjoy peace such that all human rights are promoted and protected and development is fully realized.

Keywords: Commission on Human Rights; Human Rights Council; right to peace; Cuba; General Assembly.

Recommended citation: Christian Guillermet Fernández & David Fernández Puyana, *Past and Present of the Peace Agenda within the United Nations: The Influence of the Socialist Notion of Peaceful Co-Existence*, 4(3) BRICS Law Journal 81–109 (2017).

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Introduction

This year marks the 100th anniversary of the Russian revolution. The year featured two revolutions: the February revolution which deposed Tsar Nicholas II after more than 300 years of rule by the Romanov dynasty, ushering in a brief period in which hopes for a democratic future flourished. Lenin's Bolsheviks, a small, marginal faction of people who were not taken seriously in the aftermath of the February uprising, took control in the October revolution.

The Bolshevik government passed a plethora of legislation in the immediate aftermath of the October Revolution. The Bolsheviks had no experience with government and there was little guarantee that the Bolsheviks would have maintained power for any length of time. Despite the apparent chaos, the leaders of the Bolshevik Party managed to meet for six hours every day for two months in the relative safety of the Smolny Institute. In this time they introduced 193 new laws that were to have a major change on Russian society once they were implemented.¹

In the present paper, the research intends to approach the notion of peace and war from a historical perspective. To understand the meaning contained in these notions,

¹ Social Reforms of 1917, The History Learning Site, 22 May 2015 (Sep. 2, 2017), available at <http://www.historylearningsite.co.uk/modern-world-history-1918-to-1980/russia-1900-to-1939/social-reforms-of-1917/>.

the author shall analyse the notion of peace and war in light of the philosophical thought elaborated by Marx, Engels and Lenin throughout the XIX and XX century.

The third and last Soviet Constitution of 1977, also known as the Brezhnev Constitution, shall be studied taking into account the status given to the notion of peace in both its Preamble and operative section. This specific codification deeply shaped the foreign policy of the Union of Soviet Socialist Republics (USSR) during many decades. After World War II, the USSR went so far as to promote the set of pacifist themes as a central pillar of its doctrine.

The pursuit of the peace agenda by the USSR and its allies in the work of the United Nations will be analyzed. In particular, the research shall focus its attention on the legal and political evolvement of the right to peace in both the *1978 Declaration on Preparation of Societies for Life in Peace* and the *1984 Declaration on the Right of Peoples to Peace*. The involvement of those States pertaining to the Warsaw Pact in the negotiation process of these international instruments was very relevant. The concept of the right of peoples to peace is inspired within socialist notion of peaceful coexistence.

The dissolution of the world's first and largest Communist State in 1991 also marked the end of the Cold War. In this historical context, the Constitution of the Republic of Cuba will be analyzed taking into account the influence of the socialist ideology, which had a real impact in its domestic legislation. In light of this background, the research shall study the Cuban engagement to reinvigorate the traditional notion of the right of peoples to peace within the United Nations system. In particular, the work on the right to peace in the Commission on Human Rights and the Human Rights Council (HRC) shall be analyzed.

Finally, the human rights contribution and main message captured into the recent *Declaration on the Right to Peace*, which was adopted by the General Assembly in 2016, shall be studied. Without absolutely abandoning the traditional conception on the right to peace, the new definition on the right to peace goes more in the line of human rights by declaring the right of everyone to enjoy peace, human rights and development. This conception of right to peace is also based on the philosophical movement known as "Humanism."

1. Approach to the Notion of Peace and War in Socialism

Socialism has so far not given any adequate definition of war and peace, and this follows, *inter alia*, from the circumstance that socialist literature uses the term "war" in a narrower sense than that of "peace."²

As indicated by the philosopher Engels, war in the broader sense of the term is an armed struggle between global societies (clans, tribes and states); further

² Karel Kára, *On the Marxist Theory of War and Peace*, 5(1) *Journal of Peace Research* 1, 2 (1968).

armed struggle between social classes (civil war) and the armed struggle waged by a subjected nation (nations) against a state that is striving to impede its independent development. For him, the origin of war in this sense goes back to the very beginnings of mankind.³

War in this sense is a special form of political violence. It is an act of armed violence on the part of a state or states, designed to subject another state (or states) to its will. In its essence war is an armed struggle waged for specific political goals and is thereby a continuation of policy by other, i.e. extremely violent means. "War is a component of the whole and that whole is policy"; it is not an end in itself, but a means of policy.⁴

It is generally held that the formation of a world Communist society will be a phase where wars will no longer exist, but these are only assertions of a general nature. Marxism does not view violence as something that is a priori negative or positive. Violence can play a dual role: a reactionary or progressive one. It is in these terms that Marxism also assesses the role of wars or revolutions. That is why Marxism rejects all theories or views that categorically repudiate violence. Marxism recognizes the justification of the use of violence provided such use is relevant to historical progress.⁵

In the same line of the *Great Soviet Encyclopedia*,⁶ the *Czech Příruční slovník naučný dictionary* defined the term "peace" as follows:⁷

A state in relations between people, nations and states characterized by peaceful and friendly coexistence and by the settlement of outstanding issues by negotiations and agreement. Lasting peace is one of the goals of the international working class movement and of the foreign policies of the socialist countries.

In the narrower or proper sense of the term, peace is a specific form of relationships among states, when conflicts between them are not resolved by armed struggle and when states settle their relationships and strive to achieve their goals by peaceful political means, i.e. by means that do not have the nature of armed violence, but the nature of a less sharp and a more or less concealed violence or persuasion – in other words by means of diplomacy.

³ Friedrich Engels, *Anti-Dühring* 155 (Praha: Nakladatelství Svoboda, 1949).

⁴ Carl von Clausewitz, *On War* 25 (Praha: Naše vojsko, 1959).

⁵ Kára 1968, at 4.

⁶ Большая советская энциклопедия Т. 27 [The Great Soviet Encyclopedia Vol. 27] (2nd ed., Moscow: Soviet Encyclopedia, 1954).

⁷ *Příruční slovník naučný III* [Small Dictionary of Facts Vol. 3] 164 (Praha: Czechoslovak Academy of Sciences, 1966).

Peace can also differ in nature, since there can be peace rooted in slavery and peace rooted in freedom. Hence peace can be just or unjust. Marxism holds that just peace is not founded on aggression, and respects the independent development and interests of the countries concerned.⁸

Social revolution is a progressive qualitative change of a specific social order. In the more narrow sense social revolution signifies a progressive qualitative change of political power. The transition from feudalism to capitalism was achieved by revolution of the bourgeois type. The transition from capitalism to socialism is achieved by revolution of the socialist type.⁹

Lenin's sceptical view of the possibility of socialist revolution achieving victory by peaceful means, arrived at in terms of the conditions of his time, in no way meant that he failed to understand its import. Lenin's attitude on peaceful revolution is also significant for us in the sense that whenever there was any chance of adopting the peaceful way in Russia, he always preferred it to violent revolution involving an armed struggle for state power, and he made the greatest efforts to achieve the peaceful form.¹⁰

Lenin proceeded from the premise that socialism could best be developed in conditions of peace, and orientated the USSR towards a policy of peace, that could avert this or that eventuality of war, but that was incapable of eliminating the unavoidability of wars, since these arise from the essential nature of the imperialist system.¹¹

2. Elaboration of Peace and War in the Domestic Constitutions

At the 7th (Special) Session of the Supreme Soviet of the Soviet Union Ninth Convocation on 7 October 1977, the third and last Soviet Constitution, also known as the Brezhnev Constitution, was unanimously adopted. The official name of the Constitution was "Constitution of the Union of Soviet Socialist Republics."

The Preamble, which is deeply rooted in the conception of peace framed by Marxism, stated that

the main aims of the people's socialist state are: to lay the material and technical foundation of communism, to perfect socialist social relations and transform them into communist relations, to mould the citizen of communist society, to raise the people's living and cultural standards, to safeguard the country's security, and to further the consolidation of peace and development of international co-operation.

⁸ Kára 1968, at 7.

⁹ *Id.* at 12.

¹⁰ Vladimir I. Lenin, *Selected Works II* 115 (Prague: SNPL, 1955).

¹¹ Kára 1968, at 20.

During many decades the foreign policy of the USSR was aimed at ensuring international conditions favorable for building communism in the USSR, safeguarding the state interests of the USSR, consolidating the positions of world socialism, supporting the struggle of peoples for national liberation and social progress, preventing wars of aggression, achieving universal and complete disarmament, and consistently implementing the principle of the peaceful coexistence of states with different social systems.

In accordance with its 1977 Constitution, “the USSR steadfastly pursues a Leninist policy of peace and stands for strengthening of the security of nations and broad international co-operation” (Art. 28) and “it is the internationalist duty of citizens of the USSR to promote friendship and co-operation with peoples of other lands and help maintain and strengthen world peace” (Art. 69). Finally, it should be noted that the USSR granted the right of asylum to foreigners persecuted for defending the interests of the working people and the cause of peace (Art. 38).

With the end of the Cold War in 1991, the “Soviet Bloc” collapsed and several ex-Soviet Republics became independent states. Nevertheless, the sphere of influence of the Russian Federation has revolved around Eastern Europe (ex. Ukraine and Belarus), the Caucasus (ex. Azerbaijan, Armenia and Georgia) and Central Asia (i.e. Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan and Tajikistan). Since then, many in Russia have strongly advocated for the “civilizational unity,” which there has existed for centuries between Russia and the countries of the post-Soviet Commonwealth of Independent States (CIS).

Significant peace movements arose in many Eastern European States during the early 1990s. The universal value of peace was incorporated in the national Constitutions of thirteen Eastern European States. In particular, the enhancement, strengthening and promotion of peace have strongly inspired the drafting constitutional process of a number of important countries.¹²

After the collapse of the USSR, the concept of peace lost weight and its importance in the new constitutional process diminished in the Russian Federation in 1993. In particular, the value of peace was only included in the Russian Constitution as a general principle. The Preamble states that

we, the multinational people of the Russian Federation, united by a common fate in our land, establishing human rights and freedoms, civil peace and accord, preserving the historically established unity of the state...

Like the Russian Federation, other former Soviet Republics of Eastern Europe, the Caucasus and Central Asia stressed in their Preambles that the ideals of peace,

¹² Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, Lithuania, Macedonia, Moldova, Montenegro, Romania, Serbia, Slovakia and Slovenia.

freedom and equality should be promoted in the line of rule of law, civil peace and peaceful relations.¹³ In addition, other constitutions also included in their Preamble the concept “to live in peace.”¹⁴

Some other States have rejected the use of force and the limitation of war as a means to peacefully settle international conflicts and protect the independence of States.¹⁵ In addition, the Constitutions of the Eastern European, Caucasus and Central Asian States have progressively elaborated the content and scope of peace in connection with the prohibition of propaganda of war, the need to strengthen the cooperation and good-neighborly relations between states, inviolability of frontiers, the principle of non-interference, the self-determination of peoples and the peaceful settlement of international disputes.¹⁶

¹³ *Kazakhstan* – “we... united by a common historic fate... considering ourselves a peace-loving and civil society, dedicated to the ideals of freedom, equality and concord...”; *Uzbekistan* – “...setting forth the task of creating a humane and democratic rule of law, aiming to ensure civil peace and national accord...”; *Kyrgyzstan* – “acting on behest of our ancestors to live in peace and accord, in harmony with nature, hereby adopt the present Constitution”; *Turkmenistan* – “...guaranteeing the rights and freedoms of every citizen and striving to provide civic peace and national accord, in order to affirm the foundations of popular power and the rule of law...” and *Georgia* – “...to enhance the state independence and peaceful relations with other people, bearing in mind the centuries-old traditions of the Statehood...”

¹⁴ *Azerbaijan* – “...to remain faithful to universal human values, to live in peace and freedom with all the nations of the world and co-operate with them for this purpose...”

¹⁵ *Kazakhstan* – “...renounce the first use of the military force” (Art. 8); *Kyrgyzstan* – “the right to wage war shall not be recognized except in cases of aggression against Kyrgyzstan and other States bound by obligations of collective defense...” (Art. 14.1); *Uzbekistan* – “...non-use of force or threat of its use...” (Art. 17) and *Azerbaijan* – “...shall reject a war as a means of encroaching on other States’ independence and settling international conflicts” (Art. 9).

¹⁶ *Russian Federation* – “We, the multinational people of the Russian Federation, united by a common fate in our land, establishing human rights and freedoms, civil peace and accord... proceeding from the universally recognized principles of equality and self-determination of peoples...” (Preamble); *Kazakhstan* – “...shall respect principles and norms of international law, pursue the policy of cooperation and good-neighborly relations between states, their equality and non-interference in each other’s domestic affairs, peaceful settlement of international disputes...” (Art. 8) and “propaganda of or agitation for the forcible change of the constitutional system... undermining of state security, and advocating war... shall not be allowed” (Art. 20.3); *Uzbekistan* – “...shall have full rights in international relations. Its foreign policy shall be based on the principles of sovereign equality of the states... inviolability of frontiers, peaceful settlement of disputes, non-interference in the internal affairs of other states, and other universally recognized norms of international law” (Art. 17); *Kyrgyzstan* – “...has no goals of expansion, aggression or territorial claims to be resolved by military force. It rejects the militarization of state life and the subordination of the State and its activity to the purposes of waging a war...” (Art. 14.1) and “...shall strive for universal and just peace, mutually beneficial cooperation and the resolution of global and regional problems by peaceful means” (Art. 14.4); *Turkmenistan* – “we... based on our inalienable right to self-determination...” (Preamble); “...recognizes the primacy of generally recognized norms of international law, is fully... and adheres in its domestic policies to the principles of peaceful coexistence, rejection of the use of force, and non-interference in the internal affairs of other governments” (Art. 6) and “forbidden are the formation and activity of political parties and other social associations having as their goal violent change in the constitutional order... advocating war... or forming militaristic associations or political parties...” (Art. 28); *Tajikistan* – “...the formation and operation of social associations which advocate racial, ethnic, social, or religious animosity or which incite violent overthrow of the constitutional system, as well as the

The Constitution of Poland prohibits all type of totalitarianism and the use of violence to obtain power. Article 13 states that

political parties and other organizations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power... shall be prohibited.

The rejection of the violence of war, the human ideals of freedom, peace, humanism, equality, justice and tolerance and the enhancement of rule of law have strongly framed legal standards contained in the Preamble of some national Constitutions.¹⁷ In addition, other Constitutions have recognized that peace as a legal and binding principle of international law should be progressively developed, implemented and applied through new measures aimed at punishing crimes against peace, prohibiting non-aggression, strengthening the mutual collective security and protecting life and health of the people, public peace and order.¹⁸

organization of armed groups, are forbidden" (Art. 8) and "...War propaganda is prohibited" (Art. 11); *Azerbaijan* – "...propaganda inciting racial, ethnic or religious animosity or hostility shall be banned" (Art. 47); *Armenia* – "...shall be conducted in accordance with the norms of international law, with the aim of establishing good neighborly and mutually beneficial relations with all states" (Art. 9); *Ukraine* – "...is aimed at ensuring its national interests and security by maintaining peaceful and mutually beneficial co-operation with members of the international community..." (Art. 18) and "the establishment and activity of political parties and public associations are prohibited if their programme goals or actions are aimed at... the propoganda of war and of violence..." (Art. 37) and *Belarus* – "we... founding ourselves on our inalienable right to self-determination..." (Preamble); "...shall proceed from the principles of the equality of states, the non-use of force or the threat of force, the inviolability of frontiers, the peaceful settlement of disputes, non-interference in internal affairs of states... The Republic... pledges itself to make its territory a neutral, nuclear-free state" (Art. 18).

¹⁷ *Bosnia and Herzegovina* – "...rejecting the violence of war and wishing to contribute to peace promotion..."; *Bulgaria* – "...declaring our loyalty to the universal human ideals of freedom, peace, humanism, equality, justice, and tolerance..."; *Macedonia* – "...provision of peace and a common home for the Macedonian people..."; *Montenegro* – "...the commitment of the citizens of Montenegro to live in a State in which the basic values are freedom, peace, tolerance, respect for human rights and liberties, multiculturalism, democracy and the rule of law"; *Slovakia* – "we, the Slovak nation... in the interest of lasting peaceful cooperation with other democratic States" and *Republic of Moldova* – "...judging the rule of law, the civic peace, democracy, human dignity, the rights and freedoms of man, the free development of human personality, justice and political pluralism to be supreme political values."

¹⁸ *Albania* – "...for the maintenance of peace and national interests... may take part in a system of security..." (Art. 2.3); *Bulgaria* – "...there is no statute of limitations for the criminal prosecution and implementation of punishment for crimes committed against peace and humanity" (Art. 32); *Croatia* – "...freedom, equal rights, national equality and equality of genders, love of peace, social justice, respect for human rights... are the highest values of the constitutional order... and the ground for interpretation of the Constitution" (Art. 3); *Hungary* – "...will endeavor to cooperate with all peoples and countries of the world in the interest of establishing and preserving peace and security..." (Art. P); *Lithuania* – "when a threat arises for the constitutional system or social peace of the State, the Seimas may impose a state of emergency..." (Art. 144); *Montenegro* – "...freedom to express religious beliefs may be restricted only if so required in

3. Impact of the Soviet Peace Agenda within the United Nations

From the decree on Peace in 1917 to Gorbachev's "Zero option" in 1987, the themes of Peace and disarmament were recurrent and fundamental topics in Soviet foreign policy. After Trotsky suggested the idea of peace without arms, from 1918 the USSR quickly came back to a more pragmatic conception by setting up a powerful Red Army. Crowned with glory thanks to its victory over Nazism, soon after World War II, the USSR went so far as to promote the set of pacifist themes as a central pillar of its doctrine; it became its universal standard bearer.¹⁹

For some authors, the very language of peace was distorted by the cold war ideological struggle. The USSR and its allies described itself as defending "peace," while the USA and West emphasized the goal of "freedom." These two relevant principles, embodied in the UN Charter, came to be conceived as polar opposites. Consequently, in that time "peace" was perceived as a subversive notion in accordance with many intellectuals and politicians. Vera Brittain complained that the communist front groups were making peace a "dirty word."²⁰ The identification of peace with communism became so pervasive that some groups placed the word "peace" in quotation mark.²¹

This attempt of the USSR and its allies to pursue the peace agenda had an effect and impact in the work of the United Nations. Both the *1978 Declaration on Preparation of Societies for Life in Peace* and the *1984 Declaration on the Right of Peoples to Peace* were promoted by this group of States. These international standard-setting instruments responded to the strong resurgence of group solidarity among Member States in order to gain access through global institutions to resources or power.

In the Cold War times, political groupings played an important role in the democratic decision-making process that occurred in the United Nations. The representation of different legal cultures was and is today a valuable element.

order to protect life and health of the people, public peace and order..." (Art. 46); *Romania* – "...fosters and develops peaceful relations with all States..." (Art. 10); *Serbia* – "...to the preserving of peace and welfare of all the citizens..." (Art. 86); *Slovakia* – "...may, with the aim of maintaining peace, security and democratic order, under the terms laid down by an international treaty, join an organization of mutual collective security" (Art. 7.3) and *Slovenia* – "...in the provision of security the State proceeds principally from a policy of peace, and an ethic of peace and non-aggression" (Art. 124).

¹⁹ David Cortright, *Peace: A History of Movement and Ideas* 119 (Cambridge: Cambridge University Press, 2008).

²⁰ Jacques Le Bourgeois, *La propagande soviétique de 1917 à 1991: paix et désarmement au service de l'idéologie?*, VI(1) Revue LISA 94 (2008).

²¹ Lawrence S. Wittner, *The Struggle against the Bomb: One World or None: A History of the World Nuclear Disarmament Movement through 1953 Vol. I* 319–320 (Stanford: Stanford University Press, 1993).

3.1. Declaration on Preparation of Societies for Life in Peace

3.1.1. Historical Approach

At the 61st meeting of the General Assembly,²² held in New York on 4 December 1978, the representative of Poland introduced the draft resolution (A/C.1/33/L.58) entitled “Declaration on the Preparation of Societies for Life in Peace,”²³ on behalf of twenty-eight Member States of the United Nations.²⁴

The initiative of the preparation of societies for life in peace was originally introduced by Mr. Edward Gierek, First Secretary of the Central Committee of the Polish United Workers’ Party, in a speech delivered before the UNGA at its twenty-ninth session on 10 December 1974.²⁵

At its 85th plenary meeting, on 15 December 1978, the UNGA definitively adopted resolution 33/73 entitled “Declaration on the Preparation of Societies for Life in Peace” under the leadership of Poland and by 138 votes²⁶ to one, with two abstentions.²⁷

In regards to the Declaration, the United States of America said that, while the propagation of racism, racial discrimination and apartheid was abhorrent, it could not accept the proposition that Governments should impose standards of thought and speech. Australia, the United States and the members of the European Communities felt that the declaration made inadequate reference to a number of basic human rights, the enjoyment of which was essential to a just and peaceful life. Norway and Sweden also had reservations. Japan felt that some elements in the text required further study, in particular the legal concept of crimes against peace.²⁸

²² First Committee of the General Assembly.

²³ UN General Assembly, Declaration on the Preparation of Societies for Life in Peace, 15 December 1978, A/RES/33/73.

²⁴ Afghanistan, Algeria, Argentina, Benin, Colombia, Czechoslovakia, German Democratic Republic, Ghana, Hungary, Indonesia, Madagascar, Malaysia, Peru, Philippines, Venezuela, Viet Nam and Yugoslavia, subsequently joined by Bulgaria, Congo, Ethiopia, Mauritius, Mongolia, Morocco, Panama, Syrian Arab Republic, Tunisia and United Republic of Cameroon.

²⁵ Doc. A/PV.2264, at 17.

²⁶ Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Belarus, Canada, Cape Verde, Central African Empire, Chad, Chile, Colombia, Comoros, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Federal Republic of Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian, USSR, United Arab Emirates, United Kingdom, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire and Zambia.

²⁷ United States of America and Israel.

²⁸ 1978 UN Yearbook, at 163–164.

Mr. Henryk Jaroszek, Permanent Representative of Poland to the United Nations in New York, pointed out that the UNGA had just performed an act of great significance because this Declaration offered a realistic and tangible programme on how to make that profound craving for peace. In addition, he added that the primary purpose of the Declaration is

the strengthening of international security and détente, the building up of confidence among nations and the creation of a more propitious atmosphere for progress in disarmament by way of measures which the Charter of the United Nations defines as the determination to practice tolerance and live together in peace with one another as good neighbours.²⁹

3.1.2. Legal Analysis

The Declaration consists of four main parts. Its Preamble reaffirms and makes reference to the existing United Nations accomplishment aimed at fostering the principle of friendly relations and co-operation among States. Part I of the Declaration spells out the eight main principles, which will guide Member States in the preparation of societies for life in peace. Part II calls upon all States to act and to ensure that the provisions of the Declaration will be translated into the language of national and international practice. Part III proposes concrete follow-up measures to be taken on a national and international level toward the implementation of the Declaration.

The programme envisaged by the drafters of the Declaration in its part I aimed at justifying the eight principles, which will guide States to prepare their societies for life in peace, as follow: 1. Recognition of the right to life in peace; 2. Qualification of the war of aggression as a crime against peace; 3. Prohibition of the propaganda of war; 4. Strengthening of the cooperation in peace; 5. Respect of the right of self-determination of peoples, independence, sovereignty, territorial integrity and independence; 6. Elimination of the threat inherent in the arms race; 7. Discouragement of all manifestation and practices of intolerance, racism, racial discrimination, colonialism, apartheid and other human rights and fundamental freedoms.

Part II of the Declaration is devoted to calling upon all States to adopt two key measures in order to implement the principles contained in Part I, namely: 1. Educational processes and teaching methods as well as media information with the task of educating societies and younger generations in the peaceful values of democracy, openness, tolerance, racial equality, empathy and justice; 2. The development of bilateral and international cooperation programs with the purpose of preparing societies for life in peace.

As pointed out by Mr. Eugeniusz Kulaga, Vice-Minister for Foreign Affairs of Poland, on 15 December 1978 before the first Committee,

²⁹ Doc. UNGA, 33rd session, 1978, Official records, Plenary meetings, Vol. 3, at 1501.

the preparation of societies for life in peace might be described as a specific kind of education... The countless wars which haunted mankind for centuries have developed more of an education for and mentality of war than of an education for and mentality of peace.³⁰

Education based on the values of tolerance and peace will help to create an intellectual and moral solidarity of mankind for the transformation of the obsolete maxim "*si vis pacem, para bellum*" into the one reflecting the present aspiration of humanity – "*si vis pacem, para pacem*" (if you desire peace, prepare for peace).

Part III proposes concrete follow-up measures to be adopted by Governments, UN specialized agencies (i.e. UNESCO), mass media and civil society organizations in order to implement the Declaration. One highlight among these measures is the creation of a broad education for peace aimed at bringing mankind to a new era of progress and solidarity among peoples, the strengthening of a new pedagogy of peace by programmes that would breed a culture of peace and international friendship and the promotion of an enlightened public opinion. It follows that governments have a particular responsibility to encourage the education of their peoples for the purposes of peace, co-operation and understanding among nations in accordance with the purposes of the UN Charter.³¹

3.2. Declaration on the Right of Peoples to Peace

3.2.1. Historical Approach

In a letter of 11 July 1984, Mongolia requested the inclusion in the agenda of the thirty-ninth regular session of the UNGA an item on the right of peoples to peace. They annexed to the letter an explanatory memorandum, which stated that adoption by the Assembly of an appropriate document would make a substantial contribution to the support of the peoples' struggle to achieve a peaceful life.³²

In its thirty-ninth session, the UNGA discussed on 12 November 1984 the draft resolution A/39/L.14, as orally revised by Mongolia.

In general terms, most of the governmental representatives,³³ that took the floor, stated that the right of peoples to peace was implicitly recognized by the international community in accordance with the UN Charter. In order to protect and promote this right, they proposed that States should effectively implement and respect the following set of principles contained in Art. 2 of the UN Charter, namely: prohibition of the threat or use of force against the territorial integrity or political independence of

³⁰ Doc. UNGA, 33rd session, 1978, Official records, First Committee, Doc. A/C1/33/PV, at 35.

³¹ Doc. UNGA, 33rd session, 1978, Official records, First Committee, Doc. A/C1/33/PV, at 40–41.

³² 1984 UN Yearbook, at 118.

³³ Mongolia, Union of Soviet Socialist Republics, German Democratic Republic, Bulgaria, Viet Nam, Hungary, Poland, Byelorussian Soviet Socialist Republic, Lao People's Democratic Republic, Czechoslovakia, Cuba, India and Malaysia.

any State, the settlement of international disputes by peaceful means, the prohibition to intervene in matters within the domestic jurisdiction of any State, the cooperation among States, the self-determination of peoples and the sovereign equality of States. These delegations also stressed that the respect of the latter principles should help to eliminate the scourge of war, which has brought only death and suffering, and to create a useful tool to fight for peace and against nuclear weapons. In addition, States stated that disarmament, limitation of the arms race, economic and social development of States, improvement of the quality of life on our planet and the attainment of social progress and justice are vital to promote the right of peoples to peace.

In particular, the representative of the USSR stated that

life in conditions of peace and the prevention of war, which brings only death and suffering, have long been the cherished dream of all peoples... It was for this purpose that the United Nations was founded and its Charter reference was made to the need to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

According to him,

guaranteeing the right of peoples to peace demands that the policies of States be directed toward the elimination of the threat of war, particularly nuclear war, renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the United Nations.³⁴

The representative of Cuba added that

the right of peoples to peace was recognized by the United Nations as long ago as 1945, when the signatories to the Charter of the United Nations pointed to the need to save succeeding generations from the scourge of war... We must work resolutely to ensure observance of and respect for the principles of international law, in particular those relating to the non-use of force in international relations, to the peaceful settlement of disputes and to respect for the independence, sovereignty and self-determination of peoples.³⁵

Other governmental delegations³⁶ stated that while peace is an indispensable condition of human survival, it cannot be peace at any price. In addition, peace should be developed in accordance with the principles of the UN Charter and the rights to freedom, to self-determination, to justice and to a decent life.

³⁴ Doc. UNGA, 39th session, 1984, Official Records, Plenary meetings VII, A/39/PV.32-70, at 1003.

³⁵ Doc. UNGA, *supra* note 34, at 1015–1016.

³⁶ Malaysia and Philippines.

Finally, another group of countries³⁷ stressed that the right of peoples to peace has no legal basis. In this line, the representative of Ireland pointed out on behalf of the ten States who were members of the European Community, that

the text of the annex to the draft resolution has not agreed legal basis for its assertions, although it does refer to the maintenance of international peace and security in accordance with the Charter. It also refers to the fundamental principles of international law set forth in the Charter of the United Nations. However, it does not explain how the right to peace might correspond with these principles or fit in with the established and carefully constructed body of law developed from them.

About the questions which arise, he singled out five:

first, it is not clear how the text could be reconciled with the right to self-defense as contained in the Charter. Secondly, how would the draft relate to human rights and fundamental freedoms as set out in the Charter? Thirdly, who may invoke the right to peace? How would the right be vindicated? Fourthly, on what foundation in existing international law would the draft base the obligation of States to which it refers? And fifthly, how would the draft declaration be reconciled with Article 2, paragraph 4, of the Charter, which also forbids the threat as well as the use of force.³⁸

The result of the registered vote was 92³⁹ to none and 34 abstentions.⁴⁰ Twenty-nine States were absent from the vote⁴¹ and two countries did not participate.⁴² The resolution 39/11 was sponsored by 8 States.⁴³

³⁷ European Community.

³⁸ Doc. UNGA, *supra* note 34, at 1017.

³⁹ Afghanistan, Algeria, Argentina, Bahamas, Bahrain, Bangladesh, Belize, Benin, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burma, Burundi, Belarus, Central African Republic, Chile, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, German Democratic Republic, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Panama, Peru, Poland, Qatar, Romania, Rwanda, Sao Tome and Principe, Seychelles, Sierra Leone, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Togo, Tunisia, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire and Zambia.

⁴⁰ Australia, Austria, Belgium, Brunei, Darussalam, Cameroon, Canada, Cape Verde, Denmark, Finland, France, Gabon, Federal Republic of Germany, Greece, Grenada, Guinea-Bissau, Iceland, Ireland, Italy, Japan, Luxembourg, Malawi, Netherlands, New Zealand, Niger, Norway, Philippines, Portugal, Saint Christopher and Nevis, Senegal, Spain, Sweden, Turkey, United Kingdom and United States.

⁴¹ Those absent included Iran, Israel, Morocco, Saudi Arabia and several Third World Countries.

⁴² Albania and Malaysia.

⁴³ Bulgaria, Cuba, Equatorial Guinea, German Democratic Republic, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Mongolia and Nicaragua.

After the vote, the representative of Albania said it had not participated in the vote since it believed the draft did not deal with the main aspects of the problem (i.e. crime of aggression and intervention) and did not mention the two imperialist super-powers, the USSR and the United States, whose rivalry for hegemony was detrimental to peace and security.⁴⁴

3.2.2. *Legal Analysis*

In the *Declaration on the Right of Peoples to Peace*, we can find in its Preamble six far-reaching axioms, and in particular the following: 1. Reaffirmation that the principal aim of the United Nations is the maintenance of international peace and security; 2. Reaffirmation of the fundamental principles of international law set forth in the Charter of the United Nations; 3. The will and the aspirations of all peoples to eradicate war from the life of mankind and, above all, to avert a world-wide nuclear catastrophe; 4. That life without war serves as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations; 5. That in the nuclear age the establishment of a lasting peace on Earth represents the primary condition for the preservation of human civilization and the survival of mankind and 6. That the maintenance of a peaceful life for peoples is the sacred duty of each State.

The final statement, which constitutes the passionate culmination of the Preamble to the Declaration on the Right of Peoples to Peace, places the fundamental distinction between “Peoples” and “States.” The fate of “Peoples” is squarely described here as dependent on and determined by the policies of States. This places an enormous, responsibility on the shoulders of policy-makers and policy-influencers of the States.

Taking into account these axioms of the Preamble, the right to peace resolution contains four substantive sections: 1. The solemn proclamation that the peoples of our planet have a sacred right to peace; 2. The solemn declaration that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State; 3. The demand that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations; 4. The supplication to all States and all international organizations to do their utmost in implementing the right of peoples to peace.

The solemn proclamation that people of our planet have a “sacred right to peace” is extraordinarily elevated language for an assemblage of government representatives, many of whom are jurists, who in the tradition of Enlightenment usually avoid entering

⁴⁴ 1984 UN Yearbook, at 119.

the realm of the sacred. Furthermore, the reference to the population of the United Nations Member States as “the peoples of our planet” shows the human masses as being more than citizens of various countries of the Earth who share a common terrestrial origin. To belong to the same identical planet is recognized as incomparably more significant than to belong to different parts of the planet.

The solemn declaration that the preservation of the right of peoples to peace and the promotion of its implementation, constitutes a fundamental obligation of each State. It asserts a basic, evident, non-transferable obligation of each State to preserve the right of peoples to peace and to foster the exercise of this right to peace by all other government.

The concept of the right of peoples to peace is inspired in the socialist notion of the peaceful coexistence, which is based on such principles as the rejection of war as a means for the settlement of disputes among states and the settlement of disputes by negotiation; the relations between states must further rest on trust, on economic and cultural cooperation, and on the principles of mutual respect for interests, territorial integrity, and sovereignty. Another important principle of peaceful coexistence is the requirement of non-interference in the domestic affairs of states and recognition of the right of each nation to settle independently its own affairs.⁴⁵

4. Cuba and the Peace Global Agenda

The USSR was formally dissolved on 26 December 1991. Additionally, the Warsaw Pact was officially dissolved in Prague in 1991, after successive governments withdrew their support of the treaty. The dissolution of the world’s first and largest Communist State also marked the end of the Cold War. Moreover, the breakup of the Socialist Federal Republic of Yugoslavia occurred as a result of a series of political upheavals and conflicts.

Unlike the new constitutions approved in both the Russian Federation and the former East bloc, the Constitution of the Republic of Cuba continued recognizing in its Preamble the socio-political ideas of Marx, Engels, and Lenin and outlined that all the regimes of the exploitation of man by man cause the humiliation of the exploited and the degradation of the human nature of the exploiters and that only under socialism and communism could man be free from all forms of exploitation – slavery, servitude and capitalism.

Inspired in the notion of peaceful coexistence, Art. 12 declares that Cuba adopts anti-imperialist and internationalist principles, and consequently, ratifies its aspiration for a worthy, true, and valid peace for all States, large and small, weak and powerful, based on the respect for the independence and sovereignty of peoples and the right to self-determination. Also it reaffirms the

⁴⁵ Kára 1968, at 21.

... principles of equality of rights, free determination of peoples, territorial integrity, independence of States, international cooperation for mutual and equitable benefit and interest, peaceful settlement of controversies, marked by equality and respect, and the other principles proclaimed in the United Nations Charter and in other international treaties to which Cuba is a party.

Like Art. 38 of the 1977 USSR Constitution, which recognized the right of asylum to foreigners persecuted for defending the interests of the working people and the cause of peace, Art. 13 of the Cuban Constitution

grants asylum to those persecuted for their ideals or struggles for democratic rights against imperialism, fascism, colonialism and neo-colonialism; against discrimination and racism; for national liberation; for the rights and demands of the workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace.

In his work on imperialism, Lenin outlined that the unevenness of economic and political development that is the law inherent in capitalism in the phase of imperialism is still in a process of change. In the period of imperialism the law of the uneven economic and political development of the individual countries is characterized by the circumstance that the uneven development of a number of countries proceeds in leaps, and that some rapidly push others out of the world markets. It is from this law that Lenin then deduced that wars were unavoidable in imperialism, and he called this period the epoch of wars and revolutions.⁴⁶

In light of this legal and political background and the collapse of the USSR, Cuba decided to reinvigorate the traditional notion of the right of peoples to peace within the United Nations system in the understanding that the right to peace is principally devoted to the relationship among countries and the condemnation of war.

4.1. Commission on Human Rights

4.1.1. Relationship among States

From 2001 to 2003 the CHR has adopted two resolutions entitled "Promotion of the Right of Peoples to Peace."⁴⁷ In particular, at the 78th meeting, Mr. Rodolfo Reyes, representative of Cuba, introduced draft resolution E/CN.4/2001/L.95, sponsored by several countries⁴⁸ and said that the text aimed to consolidate and promote the

⁴⁶ Vladimir I. Lenin, *Imperialismus jako nejvyšší stádium kapitalismu* [*Imperialism as the Highest Stage of Capitalism*] (Praha: Svoboda, 1972).

⁴⁷ Commission on Human Rights resolution 2001/69, 25 April 2001 and resolution 2002/71, 25 April 2002.

⁴⁸ Algeria, Angola, Burundi, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Ghana, Haiti, Libyan Arab Jamahiriya, Republic of the Congo, Rwanda, Sudan and Togo, Kenya, Madagascar, Panama, Tunisia and Yemen subsequently joined the sponsors.

international community's conviction that "life without war serve(d) as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental freedoms proclaimed by the United Nations," as enshrined in the Declaration on the Right of Peoples to Peace.⁴⁹

In the explanation of vote before the vote, the representative of Belgium, speaking in explanation of the position of the European Union (hereinafter – EU) and its associated countries,⁵⁰ said that some of the issues raised in the draft resolution were better dealt with in other forums. International Peace and Security were essential for the realization of all human rights, including the right to development, but military spending continued to be high. There was therefore a need for Governments to set priorities in favor of development and the promotion and protection of human rights. He added that the draft resolution dealt only with the relationship between States and not with the relationship between a State and its citizens, which was the Commission's core mandate. Moreover, the Declaration on the Right of Peoples to Peace had not been agreed to by consensus. The Union was also uncomfortable with the idea that there was a right to peace, which was not established in any international human rights instrument.⁵¹

The representative of Canada, speaking also on behalf of Norway, said that neither delegation had supported the Declaration on the Right of Peoples to Peace (which had been approved by the UNGA in 1984 by 92 votes to none, with 34 abstentions). Both delegations maintained their concerns regarding the concept of the "right to peace," including the content of such a right and the specific obligations of States. The draft resolution dealt with matters more appropriately addressed in other forums, such as the UNGA, Security Council and Conference on Disarmament. She thus urged the members of the Commission to oppose the draft resolution.⁵²

Mr. Moose, representative of the United States, said that his delegation was deeply concerned that the draft resolution dealt largely with disarmament and relations between States, issues which were more appropriately addressed in the First Committee of the UNGA and other forums. The Commission should avoid politicization.⁵³

⁴⁹ Doc. E/CN.4/2001/SR.78, Summary record of the 78th session, 1 May 2001, at 20–21.

⁵⁰ Members of the European Union that are members of the Commission – France, Germany, Italy, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland; the associated countries that are members of the Commission – the Czech Republic, Latvia, Poland and Romania – aligned themselves with the statement.

⁵¹ Doc. E/CN.4/2001/SR.78, *supra* note 49, at 23–24.

⁵² *Id.* at 25.

⁵³ *Id.* at 26.

At the request of the representative of Belgium, a roll-call vote was taken on the draft resolution, which was adopted by 29 votes⁵⁴ to 16,⁵⁵ with 7 abstentions.⁵⁶

In explanation of vote after the vote, the representative of India said that, although the text contained agreed-upon language from various international instruments and although her delegation noted in particular the second preambular paragraph and paragraph 4, it did not consider the Commission to be the appropriate forum for examining disarmament issues.⁵⁷

Afterwards, the representative of Costa Rica said that she did not agree with the preceding speaker. The Commission was indeed the appropriate forum to address such issues, since disarmament was crucial to the protection of human rights. The draft resolution complemented other resolutions adopted by the Commission with the aim of promoting a culture of peace. Costa Rica possessed no army, having opted to devote its national resources to education and development.⁵⁸

Afterwards, at the 56th meeting of the Commission, the representative of Cuba introduced draft resolution E/CN.4/2002/L.90, sponsored by several countries by saying that the absence of war is the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms, and in particular the right to life. To ensure the exercise of the right of peoples to peace the policies of States should be directed towards the elimination of the threat of war, the renunciation of the use or threat of use of force in international relations, the settlement of international disputes by peaceful means, the respect of the principle of territorial integrity and the respect of independence of States on the basis of the Charter of the United Nations. In addition, the international community should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.⁵⁹

In the explanation of vote before the vote, the representative of Spain, speaking in explanation of the position of the EU and its associated countries,⁶⁰ said that some

⁵⁴ Algeria, Burundi, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

⁵⁵ Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

⁵⁶ Argentina, Brazil, Cameroon, Colombia, Guatemala, India, Senegal.

⁵⁷ Doc. E/CN.4/2002/SR.56, Summary record of the 56th session, 1 May 2001, at 30.

⁵⁸ *Id.* at 31.

⁵⁹ Doc. E/CN.4/2001/SR.78, Summary record of the 78th session, 9 August 2002, at 44.

⁶⁰ Members of the European Union that are members of the Commission – France, Germany, Italy, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland; the associated

of the issues raised in the draft resolution were better dealt with in other forums. He added that the draft resolution dealt only with the relationship between States and not with the relationship between a State and its citizens, which was the Commission's core mandate. The Union was also uncomfortable with the idea that there was a right to peace, which was not established in any international human rights instrument.⁶¹

At the request of the representative of Spain, a roll-call vote was taken on the draft resolution, which was adopted by 33 votes⁶² to 15,⁶³ with 5 abstentions.⁶⁴

Both resolution 2001/69 of 25 April 2001 and resolution 2002/71 of 25 April 2002, adopted by the CHR, basically elaborated in their Preambles the fundamental principles of international law set forth in Art. 2 of the Charter of the United Nations, namely: sovereignty, territorial integrity and political independence of States and non-intervention. In addition, these two resolutions have stressed the importance of promoting the right of self-determination of peoples, the relationship between disarmament and development and a life without war as primary international prerequisites for the material well-being, development and progress of countries.

4.1.2. Introduction of the Human Rights Approach

As a consequence of introducing a more human rights approach to the right of peoples to peace, in 2003 the Commission changed the title of the three following resolutions as follows "Promotion of Peace as a Vital Requirement for the Full Enjoyment of All Human Rights by All."⁶⁵

In 2003 and 2004 the CHR slowly began to elaborate the component of human rights in this topic jointly to the principles of international law – Art. 2 of the UN Charter – by emphasizing that an international system should be "based on respect of the principles enshrined in the Charter of the United Nations and the promotion of all human rights and fundamental freedoms."⁶⁶ After that, the Commission urged "all States to respect and to put into practice the principles and purposes of the Charter of the United Nations in their relations with all other States, irrespective of

countries that are members of the Commission – the Czech Republic, Latvia, Poland and Romania – aligned themselves with the statement.

⁶¹ Doc. E/CN.4/2001/SR.78, *supra* note 59, at 48.

⁶² Algeria, Armenia, Bahrain, Burundi, Cameroon, Chile, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Uruguay, Venezuela, Viet Nam, Zambia.

⁶³ Austria, Belgium, Canada, Croatia, Czech Republic, France, Germany, Italy, Japan, Poland, Portugal, Republic of Korea, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

⁶⁴ Argentina, Brazil, Guatemala, India, and Senegal.

⁶⁵ Commission on Human Rights resolution 2003/61, 24 April 2003, resolution 2004/65, 21 April 2004 and resolution 2005/56, 20 April 2005.

⁶⁶ Resolution 2003/61, 24 April 2003, para. 4 and resolution 2004/65, 21 April 2004, para. 6.

their political, economic or social systems⁶⁷ and to promote the peaceful settlement of disputes “as a vital requirement for the promotion and protection of all human rights of everyone and all peoples.”⁶⁸

In particular, at the 61th meeting, the representative of Cuba introduced draft resolution E/CN.4/2003/L.76, sponsored by several countries⁶⁹ and said that it reaffirmed the commitment of all States to promote peace and underlined the importance of enhancing the role and effectiveness of the United Nations in strengthening international peace and security. In addition, it rejects the use of violence in pursuit of political aims and stressed that only peaceful political solutions could assure a stable and democratic future for peoples throughout the world and urged all States to respect the principles enshrined in the Charter of the United Nations and international law. He stated that paragraph 1 was a new element, stressing that peace was a vital requirement for the promotion and protection of human rights for all.⁷⁰

The representative of Ireland, speaking on behalf of the member States of the EU said that some of the issues raised in the draft resolution were better dealt with in other forums. Moreover, the draft resolution dealt only with the relationship between States and not the relationship between the State and its citizens or the exercise of individuals’ human rights vis-à-vis the State, which was the core mandate of the Commission.⁷¹

At the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution, which was adopted by 33 votes⁷² to 16,⁷³ with 4 abstentions.⁷⁴

The arguments used by Cuba, Ireland on behalf of the EU and the United States of America to be in favor or against the draft resolution E/CN.4/2004/L.68 were exactly the same as in previous years. However, Ireland added in the explanation of vote

⁶⁷ Resolution 2003/61, 24 April 2003, para. 5 and resolution 2004/65, 21 April 2004, para. 6.

⁶⁸ Resolution 2004/65, 21 April 2004, para. 6.

⁶⁹ Algeria, China, Cuba, Democratic Republic of the Congo, Kenya, Libyan Arab Jamahiriya, Sierra Leone, Swaziland, Sudan, Syrian Arab Republic, Togo and Zimbabwe and the observers for Angola, Belarus, Botswana, Burundi, Equatorial Guinea, Haiti, Iran (Islamic Republic of), Iraq, Mozambique, People’s Democratic Republic of Korea, Qatar, Rwanda and Tunisia.

⁷⁰ Doc. E/CN.4/2003/SR.61, Summary record of the 61th session, 26 May 2003, at 48.

⁷¹ *Id.* at 27.

⁷² Algeria, Armenia, Bahrain, Brazil, Burkina Faso, Cameroon, China, Cuba, Democratic Republic of the Congo, Gabon, Guatemala, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Pakistan, Peru, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Uruguay, Venezuela, Viet Nam, Zimbabwe.

⁷³ Australia, Austria, Belgium, Canada, Croatia, France, Germany, Ireland, Japan, Paraguay, Poland, Republic of Korea, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

⁷⁴ Argentina, Chile, Costa Rica, India.

before the vote that the text failed to emphasize that the absence of peace did not justify failure to respect human rights.⁷⁵ The latter resolution took into consideration some of the human rights elements already included in the resolutions 2001/69 of 25 April 2001 and 2002/71 of 25 April 2002 (i.e. Art. 28 of the UDHR and the relationship between the right to life and war). Nevertheless, at the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution, which was adopted by 32 votes⁷⁶ to 15,⁷⁷ with 6 abstentions.⁷⁸

In the last resolution on this topic presented before the CHR in 2005,⁷⁹ the human rights approach to the right of peoples to peace was again elaborated. In particular, the resolution stressed that

peace is a vital requirement for the promotion and protection of all human rights for all⁸⁰

and also invited

States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights.⁸¹

Finally, it

calls upon the United Nations High Commissioner for Human Rights to carry out a constructive dialogue and consultations with Member States, specialized agencies and intergovernmental organizations on how the CHR could work for the promotion of an international environment conducive to the full realization of the right of peoples to peace, and encourages non-governmental organizations to contribute actively to this endeavor.

⁷⁵ Doc. E/CN.4/2004/SR.57, Summary record of the 57th session, 27 April 2004, at 34–39.

⁷⁶ Armenia, Bahrain, Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Dominican Republic, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Indonesia, Mauritania, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Uganda, Zimbabwe.

⁷⁷ Australia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

⁷⁸ Argentina, Chile, Costa Rica, Honduras, India, Mexico.

⁷⁹ Doc. E/CN.4/2004/SR.57, *supra* note 75, at 34–39.

⁸⁰ Resolution 2005/56, 20 April 2005, para. 1.

⁸¹ *Id.* para. 10.

At the request of the representative of the United States of America, a roll-call vote was taken on the draft resolution, which was adopted by 32 votes⁸² to 15,⁸³ with 6 abstentions.⁸⁴ The explanation of Member States before the vote was again the same.⁸⁵

The CHR was a functional commission within the overall framework of the United Nations from 1946 until it was replaced by the HRC in 2006. It was the UN's principal mechanism and international forum concerned with the promotion and protection of human rights. On 15 March 2006, the UNGA voted overwhelmingly to replace the Commission with the UNHRC.

4.2. Human Rights Council

Since 2008 onwards the HRC has adopted a yearly resolution entitled "Promotion on the Right of Peoples to Peace" on the initiative of Cuba by which it requested firstly the OHCHR to organize a workshop on the right of peoples to peace and secondly its Advisory Committee to elaborate a draft Declaration on the same topic.⁸⁶

Unlike the 1984 *Declaration on the Right of Peoples to Peace*, all resolutions on the right to peace adopted by the Human Right Council were more linked to international human rights law. In particular, these resolutions expressively recalled the Preamble, Art. 1.3 of the UN Charter, which states that the purpose of the United Nations is

to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

In addition, the Council resolutions on the right of peoples to peace progressively elaborated human rights elements. In particular, all resolutions included the following human rights components: firstly, the elimination of war as a prerequisite for the realization of human rights, and in particular the right to life;⁸⁷ secondly,

⁸² Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Guinea, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

⁸³ Australia, Canada, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

⁸⁴ Argentina, Armenia, Costa Rica, Honduras, India, México.

⁸⁵ Doc. E/CN.4/2005/SR.57, Summary record of the 57th session, 27 March 2006, at 36–40.

⁸⁶ Resolution 8/9, 18 June 2008, resolution 11/4, 17 June 2009, resolution 14/3, 17 June 2010 and resolution 17/16, 17 June 2011.

⁸⁷ Preamble: "...life without war is the primary international prerequisite for the material well-being, development and progress of countries and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations."

the importance of construction of peace and the strengthening of human rights,⁸⁸ thirdly, international cooperation in the field of human rights as a means to create an environment of peace and stability⁸⁹ and fourthly, the obligation of all States to promote peace and human rights.⁹⁰

In 2012 the HRC decided to create an Intergovernmental Open Working Group on the Right to Peace to progressively negotiate a future Declaration,⁹¹ which was chaired by Ambassador Christian Guillermet of Costa Rica.

On 18 September 2015, the Secretariat of the HRC presented its compliments to the Permanent Missions of the United Nations Office at Geneva and had the honour to transmit a new text of a Draft United Nations Declaration on the Right to Peace prepared by the Chair-Rapporteur of the third session of the Open-ended intergovernmental working group on a draft United Nations declaration on the right to peace.

On 21 September, Cuba convened an informal consultation open to all permanent missions, civil society and other stakeholders, in which the Chairperson-Rapporteur was invited to participate. The new revised text presented was the result of the bilateral meetings held from June to September 2015 with those missions which had objected to some of the preambular paragraphs on 24 April 2014, last day of the OEWG on the right to peace.

The HRC resolution 32/28, in which the Declaration was annexed, was presented by the delegation of Cuba. In its presentation, they emphasized that the adoption of this Declaration is framed in the context of the bilateral ceasefire and cessation of hostilities signed in Havana, between the Government of Colombia and the Revolutionary Armed forces of Colombia-People's Army (FARC-EP) on 23 June 2016. The HRC recommended that the General Assembly adopt this Declaration in its 71st regular session.

On 19 December 2016, the plenary of the United Nations General Assembly (UNGA) in New York ratified the Declaration on the Right to Peace by a majority

⁸⁸ Preamble: "...human rights include social, economic and cultural rights and the right to peace, a healthy environment and development, and that development is, in fact, the realization of these rights." Operative section: "...the importance of peace for the promotion and protection of all human rights for all" and "...peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being."

⁸⁹ Preamble: "...commitment to peace, security and justice, respect for human rights and the continuing development of friendly relations and cooperation among States." Operative section: "...international cooperation in the field of human rights contributes to the creation of an international environment of peace and stability" and "...encourages States to settle their disputes as early as possible as an important contribution to the promotion and protection of all human rights of everyone and all peoples."

⁹⁰ Operative section: "...all States should promote an... international system based on respect for the principles enshrined in the Charter and the promotion of all human rights and fundamental freedoms, including the right to development and the right of peoples to self-determination."

⁹¹ Resolution 20/15, 17 July 2012.

of its Member States,⁹² as previously adopted by the Third Committee of UNGA on 18 November 2016⁹³ and the HRC on 1 July 2016⁹⁴ in Geneva.

The recent adoption of the *Declaration on the Right to Peace* by the General Assembly is the result of a long and difficult process initiated by the Republic of Cuba in the Commission on Human Rights in 2001 and continued at the HRC in 2008. In this process, the role played by some civil society organizations was fundamental in order to reach a successful end by updating the *Declaration on the Right of Peoples to Peace*, an international instrument which was originated and promoted by the USSR and its allies in 1984.

Conclusion

The impact and effect of the peace agenda promoted by the socialist countries within the United Nations have been very relevant since 1945. Both the 1978 *Declaration on Preparation of Societies for Life in Peace* and the 1984 *Declaration on the Right of Peoples to Peace* were promoted by this specific Group. The promotion of peace became a central pillar of the communist doctrine. For some authors, the

⁹² For 131: Afghanistan, Algeria, Angola, Antigua and Barbados, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cote d'Ivoire, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kyrgyzstan, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, South Sudan, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad-Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia and Zimbabwe.

Against 34: Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Israel, Japan, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherland, New Zealand, Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Former Yugoslav Republic of Macedonia, United Kingdom and United States of America.

Abstentions 19: Albania, Andorra, Armenia, Cyprus, Fiji, Greece, Iceland, Italy, Liechtenstein, Norway, Palau, Republic of Moldova, Poland, Portugal, San Marino, Serbia, South Sudan, Switzerland and Turkey.

⁹³ A/C.3/71/L.29, 18 November 2016. The resolution was presented by the following States: Algeria, Bolivia (Plurinational State of), Cuba, Democratic People's Republic of Korea, Eritrea, Namibia, Nicaragua, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and Viet Nam. Subsequently, Belarus, Cameroon, Central African Republic, China, Lao People's Democratic Republic, Myanmar, South Africa, Togo and Zimbabwe joined in sponsoring the draft resolution. At the same meeting, Benin, Colombia, Costa Rica, Ecuador, Egypt, El Salvador, Ghana, Indonesia, Nigeria, Paraguay, Senegal, Sudan and Uganda joined in sponsoring the draft resolution, as orally revised.

⁹⁴ A/HRC/32/28, 1 July 2016.

language of peace was manipulated by the cold war ideological struggle and it was perceived as a subversive notion.

The concept of the right of peoples to peace, which was formed in 1984, is inspired in the Marxist notion of peaceful coexistence, which is based on such principles as the rejection of war as a means for the settlement of disputes among states and the settlement of disputes by negotiation; the relations between states must further rest on trust, on economic and cultural cooperation, and on the principles of mutual respect for interests, territorial integrity, and sovereignty; the requirement of non-interference in the domestic affairs of states and recognition of the right of each nation to independently settle its own affairs.

Although the USSR was dissolved on 26 December 1991, some ideas and principles based on the socialist conception of peace have been kept alive in the United Nations. In fact, the Non-Aligned Movement (NAM), which represents nearly two-thirds of the United Nations' members, based its action on the following principles: mutual respect for each other's territorial integrity and sovereignty; mutual non-aggression; mutual non-interference in domestic affairs; equality and mutual benefit and peaceful co-existence.

In this context, the traditional construction of the right to peace, which was and is actually supported by the whole NAM, emphasizes that ensuring the exercise of this right and its promotion demands that the policies of States be directed towards the elimination of the threat of war, the renunciation of the use or threat of use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations.

This conception is rooted in socialism, which holds that just peace is not founded on aggression, but in the full respect of the independent development and interests of all countries. According to some thinkers, communism could best be developed in conditions of peace, but that was incapable of eliminating wars, since these arise from the essential nature of the imperialist system.

After the collapse of the USSR, the Republic of Cuba decided to reinvigorate the traditional notion of the right of peoples to peace within the United Nations system in the understanding that the right to peace is principally devoted to the relationship among countries and the condemnation of war.

In the HRC, the notion of the right to peace has been strongly linked to social justice. The shift toward greater recognition of social justice as a requirement for peace marked a significant conceptual evolution for the peace movement. The concern for economic justice as a means of preventing war continued after World War II with the founding of the United Nations. Article I of the Charter linked the goal of achieving peace and security to "solving international problems of an economic, social, cultural, or humanitarian character." The Charter devoted two chapters to establishing mechanisms and procedures for advancing economic and social justice.⁹⁵

⁹⁵ Cortright 2008, at 272.

The 2016 *Declaration on the Right to Peace*, by updating the 1984 Declaration, achieved a difficult balance between Art. 2 of the Charter of the United Nations and the protection of all human rights – civil, political, economic, social and cultural rights. Taking into account that in a context of war all human rights are violated, this new human rights instrument has a clear victim orientated approach instead of an inter-State perspective, by stressing in its Art. 1 the right of everyone to enjoy peace, human rights and development.

Throughout the long negotiation process among all regional groups held in Geneva, Member States decided to elaborate in its Art. 2 the human rights approach of the right to peace, which was absolutely missing in the 1984 Declaration, as follows:

States should respect, implement and promote equality and non-discrimination, justice and the rule of law, and guarantee freedom from fear and want as a means to build peace within and between societies.

Thanks to this new human rights evolvement on the right to peace, a Group of States⁹⁶ declared within the Third Committee of the General Assembly that the Declaration has some value because it develops the *New Agenda 2030* and also reinforces the three UN pillars – peace and security, development and human rights. Also they pointed out that the Preamble of the Declaration additionally contains many elements that will benefit the clarity and greater balance in order to ensure and to represent the full range of views among memberships.

The 2016 *Declaration on the Right to Peace* will pass to history for having elaborated the human rights approach to a notion, which was traditionally devoted to the relations among States, and that today refers to the importance of protecting the fundamental freedoms of all victims of war and conflict.

This new human rights instrument goes along the line of Humanism, in which the right to peace is strongly linked to the movement known as “Renaissance.” Erasmus of Rotterdam was the pre-eminent representative of this new intellectual and ethical advancement of humankind. In his book “The Complaint of Peace”, Erasmus openly called for the recognition of the right to peace.⁹⁷

On the basis of this Humanism, other well-known philosophers, poets and thinkers positively contributed to elaborate in their works the right to peace, such as Hugo Grotius, Immanuel Kant, Rousseau, Schiller, Victor Hugo, Voltaire or Ortega y Gasset.⁹⁸

In the period of the League of Nations, several relevant and well-known jurists elaborated important manuals on international law and extensively developed

⁹⁶ Australia, Liechtenstein, New Zealand, Norway, Switzerland and Iceland.

⁹⁷ Right to Peace: From Ideals to Reality by Erasmus of Rotterdam, 1 May 2017 (Sep. 5, 2017), available at <http://pazsinfronteras.org/en/el-derecho-a-la-paz-de-los-ideales-a-la-realidad-por-erasmo-de-rotterdam/>.

⁹⁸ Available at <http://pazsinfronteras.org/en/noticias/>.

the principles and rules of the right to peace. In particular, Charles Dupuy,⁹⁹ Stelio Seferides,¹⁰⁰ Maurice Bourquin,¹⁰¹ Louis Le Fur¹⁰² and Erich Kaufmann¹⁰³ deeply developed these ideas in the “Le Recueil des Cours de l’Académie de Droit International de La Haye (RCADI).” All of them agreed to recognize the importance of international law to promote peace, cooperation and dialogue.

These important ideas, legal systems and thoughts inspired and effectively influenced the Intergovernmental Open Ended Working Group on the Right to Peace (2012–2015), of which the final outcome reflects a more comprehensive and inclusive notion of peace, human rights and development. Consequently, the traditional approach on the right to peace, which was based on the notion of peaceful co-existence among nations, was overcome thanks to a common effort carried out by some civil society organizations¹⁰⁴ and Member States from all regional groups. This important shift clearly responds to the new international context created after the Cold War.

In the XXI century, the *Declaration on the Right to Peace* should contribute to the strengthening of international cooperation, multilateralism, human rights, peace, tolerance, friendship and cooperation among all peoples. After many years of work,

⁹⁹ Charles Dupuy, *Règles générales du droit de la paix*, 32 Recueil des cours 5 (1930).

¹⁰⁰ Stelios Seferiades, *Principes généraux du droit international de la paix*, 34 Recueil des cours 181 (1930).

¹⁰¹ Maurice Bourquin, *Règles générales du droit de la paix*, 35 Recueil des cours 1, 5–227 (1931).

¹⁰² Louis Le Fur, *Règles générales du droit de la paix*, 54 Recueil des cours 1 (1935).

¹⁰³ Erich Kaufmann, *Règles générales du droit de la paix*, 54 Recueil des cours 309 (1935).

¹⁰⁴ Alongside Foundation Peace without Borders, International Association of Democratic Lawyers (IADL), Comunità Papa Giovanni XXIII (APG23), UN Network of United Network of Young Peacebuilders (UNOY) and Japanese Committee for the Human Right to Peace (JCHRP) prepared in 2016 an Open Letter addressed to the International Community, which was supported by: Foundation Culture of Peace, International Society for Human Rights (ISHR), Finn Church Aid (FCA), International Federation of Settlements and Neighbourhood Centers (IFS), Commission Africaine des Promoteurs de la Santé et des droits de l’homme (CAPSDH), Cultura de Solidaridad Afro-Indígena, International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Universal Esperanto Association (UEA), Mother’s Legacy Project, International Federation of Women in Legal Careers (IFWLC), International Federation of Women Lawyers (IFWL), 3HO Foundation, Institute for Planetary Synthesis (IPS), Institute of Global Education, Lama Gangchen World Peace Foundation, Federation of Family Associations of Missing Persons from Armed Conflicts (IFFAMPAC), Pax Christi International, Foundation for GAIA (GAIA), Planetary Association for Clean Energy (PACE), Global Eco-village Network (GEN), Institute of International Social Development at the United Nations (IISD), International Association of Peace Messenger Cities (IAPMC), International Peace Bureau (IPB), World For World Organization (WFWO), United Religions Initiative (URI), Lucis Trust-World Good Will Bangwe and Dialogue, Dzeno, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco (IIMA), Foundation for the Refugee Education Trust (RET International), Graines de Paix, International Volunteerism Organisation for Women Education Development (V.I.D.E.S.), US Federation for Middle East Peace, ONG Hope International, World Association for Education as an Instrument of Peace, Commission Colombian of Jurist, General Arab Women Federation (GAWF), International Organization for Victim Assistance (IOVA), International Society for Traumatic Stress Studies (ISTSS), International Women’s Year Liaison Group, Association Points-Coeur, Nonviolent Peaceforce, Association Centre Europe-Tiers Monde Cetim.

the General Assembly has definitively heard the voice of all victims, which strongly demands the right to enjoy peace, human rights and development in a world free of wars and conflicts.

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