Pace International Law Review

Volume 2 | Issue 1 Article 2

September 1990

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ARTICLES

THE UNITED NATIONS' EFFORT TO ESTABLISH A RIGHT OF THE PEOPLES TO PEACE†

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Introduction

On November 12, 1984, the General Assembly adopted the Declaration of the Right of Peoples to Peace,[1] a resolution that

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† This article was originally prepared as a paper for presentation at the Second Conference of International Philosophers for the Prevention of Nuclear Omnicide, scheduled for June 1989, in Moscow.

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[1] Declaration of the Right of Peoples to Peace, G.A. Res 39/11, 39 U.N. GAOR Annex (Agenda Item 138) U.N. Doc. A/39/L.14 (1984) [hereinafter the Right to Peace Resolution]. This resolution proclaimed:

> *The General Assembly,*
>
> *Reaffirming* that the principal aim of the United Nations is the maintenance of international peace and security,
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> *Bearing in mind* the fundamental principles of international law set forth in the Charter of the United Nations,
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> *Expressing* the will and aspirations of all peoples to eradicate war from the life of mankind and, above all, to avert a world-wide nuclear catastrophe,
>
> *Convinced* 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,
>
> *Aware* 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,
>
> *Recognizing* that the maintenance of a peaceful life for peoples is the sacred duty of each State,
>
> 1. *Solemnly proclaims* that the peoples of our planet have a sacred right to peace;

consolidates the various instruments on Human Rights proclaimed under United Nations auspices by granting the peoples of the world an all-embracing right to peace.[2] This resolution could become one of the great liberating documents of humankind.

The basis for the Right to Peace Resolution is firmly established by the United Nations Charter of 1945.[3] Article One of the Charter proclaims that the first purpose of the world organization is "[t]o maintain international peace and security. . . ."[4] Under Article Two, members are obliged to "settle their international disputes by peaceful means" and to "refrain in their international relations from threat or use of force."[5] These obligations form the essence of the contemporary world legal order. They are incompatible with any claims of a self-asserted right to violence in the interest of any specific State or group of persons.

The recorded vote on the Right to Peace Resolution was unusually divided: ninety two States voted in favor,[6] and no country voted against it. However, thirty four States abstained from voting on the Resolution,[7] and no fewer than twenty-nine States

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2. *Solemnly declares* that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each state;

3. *Emphasizes* that ensuring the exercise of the right of peoples to peace demands 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. *Appeals* to all States and international organizations to do their utmost to assist in implementing the right of peoples to peace through the adoption of appropriate measures at both the national and the international level.

Id., reprinted in 23 UNITED NATIONS RESOLUTIONS 220 (D. Djonovich ed. 1988) [hereinafter Djonovich].

[2] *Id.*

[3] U.N. CHARTER, preamble. The opening words of the United Nations Charter attest to the appropriateness of this effort: "WE THE PEOPLES OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war . . . ." *Id.*

[4] *Id.* at art. 1.

[5] *Id.* at art. 2.

[6] Those countries voting in favor included China, the Soviet Union and other Warsaw Pact member States, Argentina, Brazil, Chile, Egypt, India, Indonesia, Iraq, Libya, Mexico and Yugoslavia. Djonovich, *supra* note 1, at 45.

[7] Those who abstained included the NATO States, Australia, Austria, Finland, Ireland, Japan, New Zealand and the Philippines. *Id.*

were "absent" from the vote.[8] Two countries did not participate.[9]

Although unanimous acceptance of the resolution was not achieved, no Government rejected the concept. There is hope now that the turn of the century will not be marred by death squads and systematic war preparations, but will instead lead to an era in which the right to peace is recognized for all peoples of the globe. This paper discusses steps taken to achieve these goals.

I. WHAT IS PEACE?

Peace is a concept that is not easily defined. The International Red Cross and Red Crescent Movement does not view peace as simply the absence of war, but rather as:

> *[A] dynamic process* of cooperation among all States and peoples, cooperation founded on respect for freedom, independence, national sovereignty, equality, human rights, as well as on a fair and equitable distribution of resources to meet the needs of peoples.[10]

In other words, peace is based on several mechanisms of cooperation that are dynamically connected. Only by honoring the connection between these enumerated mechanisms can their full impact on society be exercised: cooperation, freedom, independence, national sovereignty, equality, human rights and the fair and equitable distribution of resources.[11]

II. DOES A UNIVERSAL RIGHT TO PEACE EXIST?

The notion of a universal right to peace is, as alluded to above, found in the philosophy of the United Nations Charter. The universal right to peace expresses the desperate cries and

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[8] Those absent included Iran, Israel, Morocco, Saudi Arabia, and several Third World countries. *Id.*

[9] Albania and Malaysia did not participate. *Id.*

[10] Vandekerckhove, *Peace Through Solidarity: A Priority for the Next 125 Years*, 11 DISSEMINATION 1 (1988)(emphasis added). At the 1975 Belgrade Conference of the International Committee of the Red Cross [hereinafter ICRC], this broad view was incorporated into a formal definition of peace. Thirteen years later at the October, 1988 meeting of the ICRC, the League of the Red Cross, the Red Crescent Societies and the National Societies unanimously reaffirmed the 1975 definition. *Id.* at 19.

[11] *Id.* at 1.

longing of countless generations, at a time when the destructive capacity of man-made weapons has literally developed to the point where it threatens the human race with extinction. The underlying principles of the universal right of peoples to peace include:

a) the importance of humane values in both historic concepts of peace and calculations for the future—the *a priori* and indisputable universal desirability of peace; and

b) the implied proposition that all rationally acceptable political purposes can be achieved *without* aggression. These principles give rise to the concept of the unity of humankind, a "common humanity," in an increasingly complex and interdependent world.[12]

Searching for documented proof of the existence of a global right to peace would be unnecessary pedantry. Its existence is proven by the fact that the basis and essence of the present world order, as exemplified by many United Nations efforts, is the desirability of international peace.[13] In contrast to the existence of this right, the reality we face is that potentially fertile resolutions on this issue remain controversial even against overwhelming majorities. In this regard, it is surprising that the United States has been the only country to cast a negative vote on several of these resolutions.[14]

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[12] *See* Chatfield, *The Idea of Peace, Past and Present*, 14 PEACE & CHANGE 223, 224 (1989) (a report concerning the Moscow International Conference of Historians, which was attended by twenty countries from Europe, North America and Asia. The conference was aptly entitled "The Concept of Peace in History and the Present").

[13] For example, the Achievements of the International Year of Peace, G.A. Res. 42/13, U.N. Doc. A/42/L.12 and Add. 1 (1987) proclaimed: "peace is a fundamental element of human existence . . . its promotion is one of the primary purposes of the United Nations . . . and . . . its attainment is the common ideal of all peoples of the world." This Resolution culminates:

> [The General Assembly] expresses the hope that the ideals and objectives contained in the Proclamation of the International Year of Peace [Resolution 40/3 of 24 October 1985] will *continue to be an inspiration* for concerted action during the closing years of this century *which may materialize* the *vision of the year 2000* as the starting-point for a new era in international relations.

Id. (emphasis added).

[14] For example, the United States cast the only negative vote against the Declaration of a Zone of Peace and Cooperation, G.A. Res. 41/11, 41 U.N. GAOR Annex (Agenda Item 139) at 2, U.N. Doc. A/RES/41/11 (1986), which established the Atlantic Ocean between Africa and South America as the "Zone of Peace and Cooperation of the South Atlantic." *See also*, Zone of Peace and Cooperation of the South Atlantic, *adopted* Dec.

III. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS OF 1948[15]

The key word in the title of the Universal Declaration of Human Rights—history's first global Bill of Rights—is the word "Universal." Nothing even approaching such a grandiose claim had ever been made before.[16] It also is significant that this document is a declaration.[17] In its preamble, the Human Rights Declaration calls itself:

> a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.[18]

Although the Human Rights Declaration did not have the effect of a treaty, it was greatly extended by other conventions[19] on specific human rights. The majority of these additional instruments were created after the Human Rights Declaration. The status of United Nations international human rights instruments varies with respect to the number of States that have signed or ratified each.[20]

The widespread attention given to violations of basic human rights globally has led to the appearance of a new activity on the

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11, 1987, G.A. Res. 42/16, 42 U.N. GAOR Annex (Agenda Item 27) at 1, U.N. Doc. A/RES/42/16 (1987).

[15] Universal Declaration of Human Rights, *signed* Dec. 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810, (1948), *reprinted in* INTERNATIONAL HUMAN RIGHTS INSTRUMENTS, 440.1 (R. Lillich ed. 1986) [hereinafter Lillich].

[16] In fact in 1948 when the Universal Declaration of Human Rights was promulgated, the world was still bleeding from a thousand wounds as a consequence of the ferocious onslaught on these humanitarian values by an opposite value system—Fascism.

[17] There is a significant difference between a declaration and a treaty. A treaty is a formally binding agreement between subjects of International Law and is governed by that law. MANUAL OF THE TERMINOLOGY OF PUBLIC INTERNATIONAL LAW (PEACE) AND INTERNATIONAL ORGANIZATIONS 266 (Paenson trans. 1983) [hereinafter Paenson]. In contrast, a declaration is an international unilateral act reflecting the will of one party. *Id.* at 310. It also is recognized that in some instances, declarations have the effect of binding a State to a course of conduct consistent with the declaration. *Id.* at 312.

[18] *See supra* note 15.

[19] Conventions, pacts, agreements, protocols, arrangements, final acts, general acts are all forms of international treaties. *See* Paenson, *supra* note 17, at 266.

[20] *See generally*, UNITED NATIONS CENTRE FOR HUMAN RIGHTS, STATUS OF INTERNATIONAL INSTRUMENTS, U.N. Doc. ST/HR/5, U.N. Sales No. E.87.XIV.2 (1988).

international scene—the monitoring of human rights abuses. This new mechanism, however, has met with relatively little success because the monitors themselves have become the victims of human rights violations.[21]

IV. Response to the General Assembly on the Right to Peace Declaration

In the Right to Peace Declaration, the General Assembly of the United Nations claimed that the principles of the United Nations Charter included the right to peace,[22] that the will of all peoples was to eradicate war from the life of mankind,[23] and that the maintenance of peace cannot be left entirely to the United Nations, but is the paramount duty of each State and government.[24]

On April 4, 1986, the Secretary-General addressed a *note verbale* to all Member States, asking them for their views concerning the General Assembly resolution on the right of peoples to peace. By August 20, 1986, ten substantive replies had been received.

The reply from Australia, dated August 5, 1986, was the only one from a country neither socialist nor underdeveloped.[25] The reason given for Australia's lukewarm attitude toward the Right to Peace Resolution, and for Australia's abstention from voting on it both in 1984 and 1985 was that "the text of the Declaration was unbalanced."[26] Particularly, Australia was averse to the Declaration's fourth preambular paragraph[27] and

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[21] Human Rights Watch, Human Rights Watch Bull. No. 1 (1989). The activities by human rights monitors, in the year 1988 alone, resulted in 750 monitors in 62 countries being harassed, detained or imprisoned. In fact, thirty monitors were killed or died in detention between 10 December 1987 and the end of 1988. These numbers are exascerbated by the fact that it was not possible to monitor human rights abuses in South Africa, North Korea, Saudi Arabia, Albania or Ethiopia during this period. *Id.* at 2.

[22] *See supra* note 1.

[23] *Id.* "*Expressing* the will and the aspirations of all peoples to eradicate war from the life of mankind . . . ." *Id.*

[24] *Id.* "*Recognizing* that the maintenance of a peaceful life for peoples is the sacred duty of each State . . . ." *Id.*

[25] *See International Year of Peace: Report of the Secretary-General*, 43 U.N. GAOR Annex (Agenda Item 21) U.N. Doc. A/41/628 (1986) [hereinafter *Year of Peace Report*].

[26] *Id.* at 2.

[27] *See supra* note 1. "[L]ife without war serves as the primary international prereq-

its second operative paragraph.[28] These two passages in the Declaration, Australia criticized, could be interpreted as endorsing "a philosophy that the State may suppress human rights, freedom of speech, religion, individual liberty and so on."[29] The reply continues that "the Declaration implies that the world should seek peace at any price. Australia would, however, argue that such fundamental values . . . are worth fighting for."[30] The Australian Government insisted that it had actively pursued arms control and disarmament measures and would continue to do so.[31] "It does not, however, agree that the right of peoples to peace should be pursued at the expense of other basic human rights."[32]

In contrast to Australia's position were those of several socialist countries. For example, Czechoslovakia which was occupied during World War II by Germany, replied to the Secretary-General that "following the gruesome experience of war and fascist occupation, [it had] decided to build, in peace and tranquility, a new and just life."[33] The Republic's present Penal Code protects the life of all nationalities in socialist Czechoslovakia and provides the punishability of acts intended to destroy a national, ethnic, racial or religious group [genocide] as well as acts propagating "fascism or another similar movement which aims at suppressing the rights and freedoms of the working people or preaches national, racial or religious hatred."[34]

By the end of 1988, several more governments had submitted favorable comments to the United Nations Secretary-General.[35] One of these, the note of the USSR, dated June 15, 1988, sets out: "The Soviet Union regards the Declaration on the

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uisite 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." *Id.*

[28] "[T]he preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State." *Id.*

[29] *Year of Peace Report*, *supra* note 25, at 2.

[30] *Id.*

[31] *Id.* at 3.

[32] *Id.*

[33] *Id.* at 5.

[34] *Id.*

[35] *See, e.g.*, *Right of Peoples to Peace: Report of the Secretary-General*, 43 U.N. GAOR Annex (Agenda Item 21), U.N. Doc. A/43/602 and addendum 1 (1988).

Right of Peoples to Peace as a constructive document promoting the search for a solution to the central problem of the present day preventing a nuclear war and ensuring the survival of mankind."[36] This formulation permits the interpretation that, in the opinion of the Soviet Union, if nuclear war is to be prevented with certainty, no war, even "conventional war" between non-nuclear weapons States, must occur. This is essential for the survival of mankind to be ensured. The obligation to prevent war is the responsibility of *all States*, by no means merely an obligation of just the Superpowers or the nuclear-weapons States.[37] The Soviets implied that this obligation can be more easily fulfilled by ensuring the right of peoples to peace.[38]

In the Soviet note, the desirable effects of improved USA-USSR relations are acknowledged. It goes so far as to call the two Superpowers' Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles,[39] which for the first time provides for the actual destruction of two categories of nuclear weapons, a landmark in international development which "raises the level of security in the world as a whole."[40]

However, the note underscores that the Soviet Union regards the Treaty as "just a first step, to be followed by new

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[36] *Right of Peoples to Peace: Report of the Secretary-General*, 43 U.N. GAOR Annex (Agenda Item 21) at 19, U.N. Doc. A/43/602 (1988).

[37] "The proclamation in the Declaration of the sacred right of the peoples of our planet to peace is a manifestation of the new political thinking, in keeping with the nuclear and space era; and to promote the implementation of the right is a fundamental *obligation* of *each* State." *Id.* (emphasis added). This statement does *not*, it should be noted, consider the right to peace an exclusively *socialist* demand. The statement is fully compatible with the axiom of marxist as well as non-marxist socialist theoreticians that the inherent benefits of peace serve not only the working class or any socialist but, on the contrary, all mankind.

[38] Specifically, the Soviet note addresses the right to peace as a means to prevent war:

> [E]nsuring the right of the peoples to peace is precisely an objective of the initiative of the group of socialist countries in the United Nations regarding a *comprehensive* system of international peace and security which, organically linking military, political, economic, ecological and humanitarian spheres, should lead mankind to a *demilitarized, non-violent world.*

Id. (emphasis added).

The right of peoples to peace would therefore not only be proclaimed, but also implemented in practice.

[39] 27 INTERNATIONAL LEGAL MATERIALS 90 (1988).

[40] *See supra* note 36, at 20.

agreements on security and disarmament."[41] It also regards an agreement on a fifty percent reduction of the strategic offensive weapons of both sides, as well as adherence to the ABM Treaty, to be crucial.[42] The Soviet note also emphasizes that Soviet-American cooperation in disarmament was generated by *summit meetings*, and that ultimately summit meetings could even lead to the elimination of the nuclear threat.[43]

The political, instead of military solution to regional conflicts and their prevention should become the norm. To that end, broader use must be made of the "authority and possibilities of the United Nations, its Security Council and other bodies."[44] The important contribution of the Secretary-General in achieving the political solution of the Afghanistan situation clearly demonstrated "the great potential of the United Nations in defusing crises."[45]

This delicately-phrased reference to the pact for the withdrawal of Soviet military forces from Afghanistan in February/March 1989 contains an undisguised double admission: (a) that the Soviet Union's military intervention in Afghanistan was wrong; and (b) that the termination of that intervention and the withdrawal of the Soviet forces from Afghanistan was greatly facilitated by the United Nations personalities involved, starting with the Secretary-General himself. The Soviet Note to the United Nations Secretary-General also emphasizes the global character of so-called "regional" conflicts.[46]

In its conclusion, the Soviet Note implies a perplexing problem: How can governments be induced to abstain from military violence? The answer given is that this can be accomplished by

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[41] *Id.*

[42] This calls for adherence to "the form in which the ABM Treaty was signed in 1972 and non-withdrawal from it for an agreed period." *Id.*

[43] *Id.* The note also suggests that this process must become increasingly a multilateral negotiating process and not remain reserved for the two Superpowers or to nuclear-weapons States.

[44] *Id.* at 20-21.

[45] *Id.* at 21.

[46] "The just political solution of regional conflicts is dictated by the same logic of an interdependent and integral world as that which requires the solution of other global problems - problems of food, ecology, energy, universal literacy, education and health." *Id.*

moral guarantees, through cooperation in human affairs.[47] This cooperation must take place in various fields such as respect for human rights, the exchange of information,[48] as well as contacts between peoples[49] and artistic exchanges. These endeavors would be of "great help in establishing moral guarantees for the preservation of peace"[50] and would thereby contribute to the formulation of material guarantees. "All this would help erase the stereotype of the 'enemy' in the relations between States and their peoples . . . ."[51]

V. The Philosophy Underlying the Proclaimed Right of Peoples to Peace

Looking closely at the Declaration on the Right of Peoples to Peace, we find in it a number of far-reaching axioms, and in particular the following:

(a) To maintain international peace and security is eminently desirable.

(b) To maintain international peace and security is possible.

(c) The desirability and possibility of stable world peace and security, contradict doctrines which assert the opposite, namely that war and insecurity are "normal" and ordained as part of human existence. If the latter proposition were true, then the very aim of States and statesmen for a stable international peace and security system would be at best, uncertain and in the worst case, abstruse and in vain.

(d) The maintenance of international peace and security are not only required, but made possible and facilitated by the fundamental principles of international law as set forth in the United Nations Charter.

(e) All peoples (as distinct from all individuals) are animated by the will and aspiration to eradicate war from the life of mankind and above all, to avert a worldwide nuclear catastrophe.

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[47] *Id.*

[48] This is an allusion to UNESCO's controversial Code of Information and Communication.

[49] Examples include tourism and the exchange of foreign students.

[50] *Id.*

[51] *See supra* note 36.

(f) Life without war (which is more than only absence of war) is the primary prerequisite for (i) material well-being, development and progress of countries, and (ii) for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations.

(g) In the nuclear age in particular, a lasting peace on earth represents the primary condition for the preservation of human civilization and the survival of mankind. This formulation connotes the dire prediction that, as a consequence of a nuclear conflagration, human civilization (in the sense of *any* civilization) might no longer be preserved. In the environment that would prevail after nuclear war, the very survival of the human race would become questionable.

(h) The maintenance of a peaceful life for peoples is the sacred duty of each State.

This 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" into bold relief. 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.

Building upon these axioms of the Preamble, the Right to Peace Resolution contains four substantive sections: (1) The *solemn proclamation* that the people 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 each State promote the implementation of the Resolution; and (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 the 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 the Enlightenment, usually avoid entering 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 thereby recognized as incomparably *more* significant than to belong to different parts of the planet. Suddenly, the Earthlings are described not as quarreling and fighting against each other, but demanding to be recognized as builders and perfecters of the only civilizations in the universe.

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 governments.[52]

In order to achieve the goals of the resolution, each State has to fulfill its own obligations to promote the implementation of the right of the peoples to peace. To ensure, the right of peoples to peace, each State must pursue policies which are "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."[53] These are incontrovertibly elementary obligations of all U.N. Member States. The resolution requires above all, a new intensity, a new dedication, a new sense of urgency in the efforts of world governments to end and to settle international strife and war preparations.

In its concluding sentence, the resolution supplicates and beseeches *all* States, not only the States involved, and *all* international organizations, not only the United Nations, to "do their utmost to assist in implementing the right of peoples to peace"[54] adding that, for this purpose, they should adopt "appropriate measures at both the national and international level."[55]

This appeal by the General Assembly to its own Members and to the world's other international and regional organizations to assist in desperately needed work for peace is couched at the

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[52] *See supra* note 1. The resolution conspicuously addresses all States, not merely militarily powerful States or permanent members of the Security Council.

[53] *Id.*

[54] *Id.*

[55] *Id.*

end of the resolution in very general terms.[56] That the assurance should consist of appropriate measures is vague, but the Assembly could not be more specific and hope to achieve ratification.

VI. Do People's Rights Differ from Individual Human Rights?

Distinguished Dutch international law expert, Theo van Boven[57] has just published a deep-searching analysis of this problem.[58] He concluded that "[t]here is an obvious link between human rights and people's rights. It is largely recognized that [they are] interrelated and interdependent."[59] Professor van Boven also draws attention to the fact that there are "those who fear that people's rights are detrimental to the realization and enjoyment of individual rights."[60]

Clearly the Universal Declaration of Human Rights, which has been of historic significance to the cause of human rights since 1948,[61] focuses on the individual human being. Almost all of the Universal Declaration's thirty articles either start with the word "Everyone," proclaiming to what rights everyone is entitled, from the right to life to the right to work or the articles start with the word "No-one," proclaiming what wrongs nobody must be subjected to such as torture or arbitrary arrest.[62] It was almost twenty years later, when the 1966 International Covenants on Human Rights[63] intended to guarantee the right of all

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[56] *Id.*

[57] Professor Theo van Boven is the former Director of the United Nations Division of Human Rights; he is currently a Professor at the University of Limburg, Maastricht, Netherlands.

[58] *See* van Boven, *Can Human Rights have a Separate Existence from People's Rights?* 16 Social Justice 12 (1989)[hereinafter van Boven].

[59] *Id.* at 12.

[60] *Id.*

[61] That is, the period shortly after World War II when the authoritarianism of the Hitler-Mussolini-Tojo period, with its patterns of strict obedience and autocratic duties imposed by fascist rulers, were recent experiences.

[62] *See generally*, Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948).

[63] The International Covenants on Human Rights (1966) are comprised of the following: International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), Lillich, *supra* note 15, at 170.1; International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), Lillich, *supra* note 15, at

peoples to self-determination. That was still revolutionary, in view of certain colonial interests at that time when the decolonization process was far from completed.[64]

Professor van Boven correctly contrasts that still-limited anti-colonialist stand of only a generation ago with comments on the collective right of self-determination adopted by consensus in 1984 by the Human Rights Committee: "The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights."[65]

The notion of "Rights of the Peoples" has a polemical connotation. These rights might differ radically from what the authorities consider to be good for the people. As Professor van Boven puts it, "[t]he notion of peoples' rights may be controversial and contentious in the minds of politicians and diplomats who defend the interests of governments and States."[66] Individual human rights and peoples' rights can become the battleground or the weapon of ideologies. "Policies directed against what is considered as the threat of communism, or, to take just the reverse, policies that seek at all costs to uphold what is considered the socialist system, may make a mockery of individual human rights."[67] But Professor van Boven warns against considering the concept of peoples' rights because it can possibly be abused and dangerous in itself. "[t]he notion of peoples' rights itself is not destructive of individual human rights; rather, it places peoples' rights and (individual) human rights in positive relationships as mutually supportive and complementary concepts."[68]

In addition to defending existing rights and freedoms, international instruments on peoples' rights and individual human

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180.1; and Optional Protocol of the International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16) at 59, U.N. Doc. A/6316 (1966), Lillich, *supra* note 15, at 370.1. These instruments express the axioms of the 1948 Human Rights Declaration as formally binding Treaties, when ratified. *See also* 11 UNITED NATIONS RESOLUTIONS at 165-175 (D. Djonovich ed. 1988) [hereinafter Djonovich II].

[64] van Boven, *supra* note 58, at 13.

[65] *Id.*

[66] *Id.* at 15.

[67] *Id.* at 16.

[68] *Id.*

rights also can be "tools of liberation for the deprived, the oppressed, the have-nots, and the victims of discrimination."[69] They can be invoked as tools of liberation and emancipation that constitute an extralegal, political dimension of human rights and peoples' rights.[70]

VII. United Nations' Use of Non-Military Intervention for Serious Human Rights Violations

The United Nations may, depending on the circumstances, intervene in a non-military manner in situations where violations of human rights have occurred and have aroused serious international concern. The detailed fortieth year anniversary survey, *United Nations Action in the Field of Human Rights*,[71] points out that the authority of the United Nations to promote and protect human rights is subject to the principle set out in the United Nations Charter, that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State."[72] However, in practice this domestic jurisdiction intervention has *not* been viewed as an insurmountable obstacle to the consideration of human rights questions by competent United Nations bodies, which have usually proceeded on the assumption that any violation of human rights which arouses serious international concern is *not* "essentially within the domestic jurisdiction of any State."[73] Hence, in these circumstances or situations, the United Nations is not forbidden to intervene on behalf of human rights.

VIII. The Affinity Between Peace and Human Rights

The United Nations Charter exemplifies the close affinity between peace and human rights. In the fewer than fifty years existence of the United Nations, the General Assembly, as well

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[69] *Id.*

[70] *Id.* at 16, 17.

[71] U.N. Centre for Human Rights, United Nations Action in the Field of Human Rights (1988) U.N. Doc. ST/HR/2 Rev.3, U.N. Sales No. E.88.XIV.2 (1988) [hereinafter Human Rights Survey].

[72] U.N. Charter, *supra* note 3, at art. 2.

[73] Human Rights Survey, *supra* note 71, at 10.

as some of the specialized agencies of the United Nations system[74] have created more than five dozen international instruments dealing with Human Rights. The texts of these documents cover a volume of over 400 printed pages.[75]

Instructively, this compilation contains only two instruments protecting human rights that pre-date the United Nations era: the [Anti-] Slavery Convention of 25 September 1926, which provided cautiously for the gradual abolition of slavery;[76] and the [Anti-] Forced Labor Convention of 28 June 1930,[77] also adopted by the International Labor Organization. The latter convention came into force on May 1, 1932.

In contrast to the virtual absence of international human rights instruments prior to the creation of the United Nations system, the very first sentence of the 1948 Universal Declaration of Human Rights proclaims: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of . . . peace in the world."[78] This opening statement expresses the basic connection between the inherent dignity of all human beings and their fundamental rights as human beings with "peace in the world."

The statement concerning the indissoluble interconnection and interdependence between human dignity, human rights, and world peace is accompanied in the Preamble of the Universal Declaration of Human Rights by other basic statements in the same vein, such as: "[I]t is essential to promote the development of friendly relations between nations."[79]

The proposition that "peace in the world" is more than something negative, namely the absence of killing, has thus become an uncontroverted article of faith since the promulgation of history's first international Bill of Rights. In fact, it could be said that the 1948 Universal Declaration of Human Rights al-

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[74] Especially the International Labor Organization and UNESCO organizations.

[75] *See* HUMAN RIGHTS: A COMPILATION OF INTERNATIONAL INSTRUMENTS, U.N. Doc. No. ST/HR/1/Rev.3, U.N. Sales No. E.88.XIV.1 (1988).

[76] Slavery Convention, *signed* September 25, 1926, *entered into force*, March 9, 1927, 46 Stat. 2183, T.I.A.S. No. 778, 60 L.N.T.S. 253 (*entered into force* for U.S. March 21, 1929). Lillich, *supra* note 15, at 20.1.

[77] Convention Concerning Forced Labor or Compulsory Labor (ILO No. 29), June 28, 1930, 39 L.N.T.S. 53, Lillich, *supra* note 15, at 410.1.

[78] Lillich, *supra* note 15, at 440.1.

[79] *Id.*

ready contains the notion of the Right of Peoples to Peace when it stipulates that: "[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."[80]

It suffices to quote one of the numerous rights and freedoms that are pledged in the Human Rights Declaration, to prove that they cannot be "fully" enjoyed by "everyone" in the absence of peace in the world: "Everyone has the right to life, liberty and security of person."[81] In war, there is *no* right to life, liberty and security of person. Most particularly in the nuclear age, it is a virtual mockery to speak of the existence of a right to life, liberty and security of person in time of war.

In the spring of 1968, in observance of the International Year for Human Rights, an international conference under the auspices of the United Nations took place in Teheran to review the progress made in the twenty years since the adoption of the Universal Declaration of Human Rights, and to formulate a program for the future. That stock-taking has not lost its significance with the passing of time.

The resulting "Proclamation of Teheran"[82] underscores that conflict and violence prevail in many parts of the world which shows that "human interdependence and the need for human solidarity are more evident than ever before."[83] The Proclamation also insists that peace is the universal aspiration of mankind, that peace brings human rights to mind and human rights bring peace to mind; and that "peace and justice are indispensable to the full realization of human rights and fundamental freedoms."[84] The Teheran Conference found that "[s]ince the adop-

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[80] *Id.* at 440.5.

[81] *Id.* at 440.2; *see also, Id.* Article 26(2): "Education shall . . . *promote understanding*, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace." (Emphasis added). *Id.* at 440.4. This demand of the Human Rights Declaration is repeated as a formal legal obligation in the International Covenant on Economic, Social and Cultural Rights, G.A. Res. *adopted* Dec. 16, 1966, *entered into force* Jan. 3, 1976, after ratification by 35 countries. Djonovich, *supra* note 63, art. 13(1), at 167.

[82] 23 U.N. GAOR, U.N. Doc. A/Conf.32/41 (1968), *reprinted in* HUMAN RIGHTS SOURCEBOOK 276-8 (A. Blaustein, R.Clark, J.Sigler ed. 1988) [hereinafter SOURCEBOOK].

[83] SOURCEBOOK, *supra* note 82, at 276. This proclamation was later endorsed by the General Assembly in G.A. Res. 2442 (XXIII), 23 U.N. GAOR, Supp. No. 18 at 49-50, U.N. Doc. A/7218 (1968).

[84] *See* sources cited, *supra* note 83.

tion of the Universal Declaration, the United Nations has made substantial progress . . . in defining human rights."[85] It also determined that the primary aim of the United Nations, in the matter of human rights, is the achievement by each individual of the maximum freedom and dignity. For these reasons, the Teheran Conference declared that:

> [T]he law of every country should grant each individual . . . the right to participate in the political, economic, cultural and social life of his country[86] . . . [G]ross denials of human rights . . . outrage the conscience of mankind and endanger the foundations of freedom, justice and peace in the world[87] . . . Since human rights and fundamental freedoms are indivisible,[88] the full enjoyment of civil and political rights without the enjoyment of economic, social and cultural rights is impossible.[89]

The document also emphasizes that general and complete disarmament is one of the highest aspirations of all peoples.

A. *The International Convention on the Suppression and Punishment of the Crime of Apartheid*[90]

This Convention, of 30 November, 1973 has been in force since 18 July 1976.[91] It has, as its title indicates, an especially severe character: it not only condemns certain inhumane policies as criminal, it also created a machinery for the prosecution and punishment of "the international crime of apartheid."[92]

Herein, the General Assembly again insisted on the correlation between peace and human rights. The Convention castigates apartheid as "a crime against humanity."[93] The Preamble to this Convention points out that "apartheid and its continuous

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[85] *See* SOURCEBOOK, *supra* note 82, at 277.

[86] *Id.*

[87] *Id.*

[88] They are mutually interdependent and interconnected, as this statement asserts.

[89] *See* SOURCEBOOK, *supra* note 82, at 277.

[90] International Convention on the Suppression and Punishment of the Crime of Apartheid, G.A. Res. 3068 (XXVII), 28 U.N. GAOR Supp. (No. 30) at 166, U.N. Doc. A/9030 (1974) *reprinted in* Lillich, *supra* note 15, at 420.1.

[91] Lillich, *supra* note 15, at 420.1.

[92] *Id.*

[93] A crime against humanity is a crime not only being committed against its direct victim, but one that is directed against an entire population. *See, e.g.*, WEBSTER'S NEW INTERNATIONAL DICTIONARY 536 (3d ed. 1976).

intensification and expansion seriously disturb and threaten international peace and security,"[94] and that the General Assembly has condemned it in "a number of Resolutions as a crime against humanity."[95] The reasons given in the preamble painted a picture that was an almost literal description of both the internal situation in South Africa and of the external policies which prevailed prior to the de Klerk regime.

B. *The U.N. Convention on the Elimination of all Forms of Discrimination Against Women*[96]

There is also a correlation between peace and the elimination of discrimination against women, another area of rights violations that has very much occupied the world organization. In United Nations parlance, the lack of equality of rights of men and women constitutes discrimination against women. There can be no doubt that the work of the United Nations on this highly disputed subject has decidedly contributed to the reduction of injustice towards women. Nevertheless, the United Nations Convention on the Elimination of all Forms of Discrimination against Women[97] still considered it necessary to commence with the assertion that "extensive discrimination against women continues to exist."[98] This critical statement does not say that such discrimination continues to exist in certain parts of the world, or words to that effect. Such attenuation of this indignant critique was deliberately omitted.

Instead, the Convention insists that the ubiquitous inequality of women has three nefarious consequences. It adversely affects: "(a) the full and complete development of a country; (b) the welfare of the world; and (c) the cause of peace."[99] The Convention emphasizes that only "maximum participation of women

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[94] Lillich, *supra* note 15, at 420.1.

[95] *Id.*

[96] Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, 34 U.N. GAOR Supp. (No.46) at 193, U.N. Doc. No. A/Res/34/180 (1980), 19 INTERNATIONAL LEGAL MATERIALS 33 (1980). *See also* Lillich, *supra* note 15, at 220.1.

[97] Lillich, *supra* note 15, at 220.1.

[98] *Id.*

[99] *Id.*

on equal terms with men in all fields will prevent this."[100]

C. *The Convention on the Prevention and Punishment of the Crime of Genocide*[101]

The Convention on the Prevention and Punishment of the Crime of Genocide was, under the impact of the mass crimes of the Hitler regime, one of the first treaties adopted by the General Assembly of the newly-established United Nations. It "confirms that genocide, whether committed in time of peace or in time of war, is a crime under international law."[102] It is contrary to the spirit and aim of the United Nations, is condemned by the civilized world, and the States that have ratified the Genocide Convention have undertaken to prevent and punish it.[103]

This Convention does not deny the uniqueness of the Third Reich's extermination policies, especially as they were directed in the Holocaust against Europe's Jews. However, the Genocide Convention recognizes that in all periods of history, genocide has inflicted great losses on humanity, a further reason that "in order to liberate mankind from such an odious scourge, international cooperation is required"[104] by outlawing and punishing its

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[100] After a protracted and highly intensive debate, the General Assembly agreed on the following characteristically convoluted definition of the term "discrimination against women." The term

> shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Id. at 220.2.

Lawyers and legislators should not be denounced for coming up with such an unwieldy sentence if the welfare of countless human beings—of course, not only of females but also of males—is at stake.

[101] Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, Lillich, *supra* note 15, at 420.1.

[102] Lillich, *supra* note 15, at 130.1.

[103] *Id.*

[104] *Id.* Odious acts that the Convention considered acts of Genocide are:

> any of the following acts if committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; and (e) Forcibly transferring children of the group to

manifestations.[105]

The Genocide Convention stipulates that "persons committing genocide . . . shall be punished, whether they are constitutionally responsible rulers, or [other] public officials or private individuals."[106] There were voices favoring the establishment of some sort of international criminal jurisdiction for the crime of genocide reminiscent of the Nuremberg and Tokyo International Tribunals which tried major German and Japanese war criminals after World War II. Even within the 1948 Genocide Convention, no machinery for the multinational trial of Genocide has been created. Furthermore, the Genocide Convention envisages that the Contracting Parties would provide effective penalties for persons guilty of genocide.[107] It must be remembered that genocide, like apartheid, may involve hundreds of thousands to millions of victims.[108]

Ironically, in the five decades since the unanimous adoption of the Genocide Convention by the General Assembly in Paris, with Mrs. Eleanor Roosevelt in the Chair, not a single country has adopted legislation under which its own citizens (including, conceivably its own President or King) might have to stand trial in his own country or might have to be extradited for trial to another country.

IX. The Right to Peace Includes the Right to Security

The right of the peoples to peace must certainly include their right to security; and the peoples' right to security must include more than merely military security. The International Meeting of Experts on Trends in and Evaluation of Peace and Conflict Research in the Social and Human Sciences[109] came to the agreement that whereas peace research, after World War II,

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another group.
Id. at art. 2.

[105] *Id.*

[106] *Id.*

[107] *Id.*

[108] *See, e.g.*, H. Hannum, *International Law and Cambodian Genocide: The Sounds of Silence*, 11 Human Rights Quarterly 82 (1989).

[109] The International Meeting of Experts on Trends in and Evaluation of Peace and Conflict Research in the Social and Human Sciences, Lima, Peru, 21-24 November, 1988 [hereinafter the Lima Conference].

started in response to the emergence of the Cold War and nuclear weapons, "*non-military* threats to peace and security have become of parallel importance to military ones."[110] To understand global interaction in an ever more complex and interdependent world, the meaning of "security" must be reviewed and diversified.

Topics such as "the right to self-determination" or "basic human rights" are necessary elements of security.[111] Economic and ecological security are recognized as central security problems, so that such disparate phenomena as pollution and debt burdens, for example, impinge not only on the well-being, but also on the security of communities. "The relevance to human security of famine in Africa, or the fear of AIDS, or the global refugee problem needs no further elaboration in this context."[112]

The Lima Conference reached the fundamental conclusion that the failure of the legal order to provide stable protection tends to make existing divisions in societies[113] even more divisive, and to make stable peaceful interaction in societies even more difficult to obtain. The consequence of this failure is a vicious growing circle of human rights violations.[114]

Like other meetings of this type, the Lima Conference of peace and conflict researchers assumed that intra-societal violence as well as global arms race dynamics are grave threats to peace and that:

> the simple absence of war does not exhaust the meaning and content of peace. Instead our aim is to arrive at a nonviolent civilized society based on cooperative patterns of interaction, constructive patterns of human development and an equitable system of social justice. This is what peace researchers refer to as positive peace.[115]

In other words, socio-economic development inevitably

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[110] INTERNATIONAL PEACE RESEARCH ASSOCIATION, 28 INTERNATIONAL PEACE RESEARCH ASSOCIATION NEWSLETTER No.2 at 5 (April, 1989) [hereinafter I.P.R.A. NEWSLETTER].

[111] *Id.* at 7.

[112] *Id.*

[113] The existing societal divisions referred to here include such matters as race, gender and class status.

[114] I.P.R.A. NEWSLETTER, *supra* note 110, at 11.

[115] *Id.*

leads to social changes. In order to advance social change and to stabilize new social, economic and political relations, the gratification of basic social and economic needs must be brought about through the transformation of basic social and economic needs into human rights. These human rights must be expressed in positive legal terms. Stated differently, the satisfaction of basic but unfulfilled social and economic needs must be provided by the stipulation of formal legal obligations by society. In short, the recognition of the peoples' right to peace easily leads to a recognition of their right to social and economic improvements where needed.

X. The Right of States to Make War

The right to peace is not logically, historically or ideologically connected with, and much less identical with, pacifism. If harsh realists insist on the need for peace in the nuclear age, this is so because peace is required by the objective facts of technology. However, the right of peoples to peace *is* accompanied by a carefully circumscribed right of States to make war—namely, the right to use military force in defense against military attacks by other States.[116]

The American Declaration of Independence of 4 July 1776 did not contain the limitation that the use of military force had to be defensive in order to be legitimate. According to the views prevailing at the end of the 18th century, the American Declaration of Independence was consonant with the international legal order in proclaiming that the newly "free and independent States of America have full power to levy war, conclude peace, contract alliances . . . and to do all other acts and things which independent States may of right do."[117] In bold contrast to this philosophy is the United Nations Charter which established, for the first time in international law, a comprehensive prohibition of the threat or use of force in international relations.[118] It also

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[116] United Nations Charter, article 51 provides in pertinent part: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs . . . ." U.N. Charter, *supra* note 3, at art. 51. For a more in-depth analysis on the acceptable uses of military force see for example, Schacter, *Just War and Human Rights*, 1 Pace Y.B. Int'l L. 1 (1989).

[117] *See* C. Becker, The Declaration of Independence 17 (1958).

[118] *See* U.N. Charter, *supra* note 3, at art. 2.

provides for universal respect for human rights and fundamental freedoms for all.[119]

XI. The Prohibition of the Use and Threat of Military Force

In principle, the prohibition of the use and even of the mere threat of military force is the most characteristic aspect of the present world order. It expresses the very essence of the fundamental compact of our era, the United Nations Charter which pledges: "all Members (of the United Nations to) settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."[120] This positive command that international disputes shall be settled by peaceful means is supported and duplicated by the negative prohibition of threat or use of force: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any states, or in any other manner inconsistent with the Purposes of the United Nations."[121]

Although pacific settlement, with or without the assistance of the United Nations, is adamantly demanded, these same United Nations Charter principles do not absolutely preclude the use of force. Law-abiding States' right to threaten and use force in self-defense against a preceding aggression is essential. The United Nations Charter provides this as an indispensable exception from the overall basic prohibition of violence. It specifically guarantees nations, individually and collectively, the right, which it calls "inherent," of self-defense. Not only are the direct victims of an illegal attack entitled to defend themselves, but also third party nations, i.e., those who were not themselves attacked, have this right of self-defense if an armed attack occurs against a Member of the United Nations. Beyond that, the Charter devotes an entire chapter to regional arrangements which it describes as "regional arrangements or agencies for dealing with such matters . . . as are appropriate for regional action, provided that such arrangements or agencies and their

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[119] *Id.* at preamble.
[120] *Id.* at art. 2.
[121] *Id.*

activities are consistent with the Purposes and Principles of the United Nations."[122]

The most important of these regional agreements became the North Atlantic Treaty (NATO) and the Warsaw Pact alliances. Therefore, the significance of this restraining rule that no member of a regional alliance may intervene in another country without the specific and prior consent by the United Nations Security Council, can hardly be over-emphasized.[123]

XII. THE WORLD ATMOSPHERE—OVERCAUTIOUS ABOUT DISARMAMENT

In the Treaty on Non-Proliferation of Nuclear Weapons signed simultaneously in Washington, London and Moscow, three nuclear-weapons States warned that "devastation would be visited upon all mankind by a nuclear war."[124] They felt compelled to predict that not only the attacked State(s) but ALL MANKIND will cease to function as civilized societies. The frightful significance of this prediction in the 1968 Non-Proliferation Treaty has undoubtedly gone unrecognized. Similarly, insufficient attention has been paid to the three main nuclear-weapons States' solemn promise of their "intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,"[125] likewise expressed in that Treaty. There, the United States, Great Britain, and the Soviet Union pledged to "facilitate the cessation of the manufacture of nuclear weapons,

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[122] *Id.*, at art. 52. Compare this with article 53 which mandates that no enforcement action be taken under regional arrangements or by regional agencies without previous authorization of the Security Council. *Id.*, at art. 53.

[123] *See e.g.*, Declaration on the Inadmissability of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, G.A. Res. 2131 (XX), U.N. Doc. A/6220. *See also* M. Waters, *The Law and Politics of a United States Intervention: The Case of Grenada*, 14 PEACE & CHANGE 65 (1989). This article also deals with other cases of U.S. and other countries' coercive intervention. I believe the ethos and thrust of contemporary international law supports Professor Waters' conclusion from the United Nations and the Organization of American States (OAS) Charters, that the United Nations and OAS Members "must attempt to resolve their disputes peacefully before utilizing their right of individual or collective self-defense." *Id.*

[124] Treaty on Non-Proliferation of Nuclear Weapons, *opened for signature* 1 July 1968, 21 U.S.T. 483, T.I.A.S. No. 6839, 729 U.N.T.S. 161, 7 I.L.M. 809 (1968).

[125] *Id.*

the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control."[126]

The assertion, arising from a pathetic euphoria, that the Cold War has not only somewhat subsided but is actually "over" is, alas, unfounded. In order to understand the half century of systemized hostility between the United States and the Soviet camp, it must be realized that an antagonism prompts different emotions in each antagonist.

Whereas Hitler's demonic onslaught on the Soviet Union constituted for it the "Great Patriotic War" — a well-nigh superhuman contest that left much of the Soviet Union in ruins and twenty million of its people dead — for the United States, the second world war has been a follow-up to the first world war and might itself be destined to be followed by a third world war.

An essential difference in the image of the Cold War for the two sides has been that for the United States, the military programs required by the Cold War have been relatively easy to sustain, but for the Soviet Union they have been much more burdensome. As stated by Edward Pessen, Distinguished Professor of History at the City University of New York Graduate School and University Center:

> The Soviets detest the cold war because its enormous costs [coming after the catastrophic bloodletting of the Hitler war] have doomed them to continuing deprivation. American leaders have insisted on cold war because they delight in its economic and political consequences, as well as the cover it affords for flexing our muscles abroad.[127]

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[126] U.S. ARMS CONTROL AND DISARMAMENT AGENCY, ARMS CONTROL AND DISARMAMENT AGREEMENTS, TEXTS AND HISTORIES OF NEGOTIATIONS 92 (1982).

[127] Pessen, COLD WAR ISN'T OVER WHILE THE U.S. CAN HELP IT, N.Y. Times, April 23, 1989, at E22, col. 3. In a similar vein, *see* Lewis, N.Y. Times, April 27, 1989 at A31, col. 1, which maintains that:

> ending the cold war . . . is an idea that fills the United States with uneasiness. This country has lived with the cold war for a long time. Interests have grown around it . . . The terrain of the cold war is familiar. We are comfortable with it. . . .
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> . . .Moreover, the drastic shifts in Soviet thinking challenge our assumptions. For 70 years, fear of Communism has permeated American life and politics. We have been told that Soviet Communism seeks world domination and is incapable of

The General Assembly has reacted to the changing attitudes towards the Cold War and Nuclear Disarmament initiatives. A bundle of twenty General Assembly resolutions on the United Nations' most ambitious project, General and Complete Disarmament, was adopted on December 7, 1988. These resolutions exemplify an overcautious worldwide attitude toward disarmament. The first of these resolutions,[128] called upon the two Superpowers to exert every effort to establish a treaty effecting a 50 percent reduction in strategic offensive arms, a goal which they had set for themselves.[129]

Another resolution,[130] noted that the leaders of the Soviet Union and the United States agreed in their joint statement issued at Geneva on 21 November 1985[131] that "a nuclear war cannot be won and must never be fought."[132] The General Assembly also welcomed the US/USSR Treaty on the Elimination of their Intermediate-Range and Shorter-Range Missiles.[133]

Particularly interesting among these resolutions was the Conventional Disarmament resolution[134] that was carried without a negative vote from any NATO country. After referring to the dangers to world peace and security caused by wars and conflicts in regions with a high concentration of conventional and

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change. To absorb the notion of a changing USSR moved less by ideology than by traditional national interests is hard . . . [However, most NATO members want to negotiate arms reductions in Europe.] The Bush Administrations' negative demeanor risks political isolation.

[128] General and Complete Disarmament: Bilateral Nuclear Arms Negotiation, Dec. 7, 1988, G.A. Res. 43/75-A, 43 U.N. GAOR Annex (Agenda Item 64) at 2, U.N. Doc. A/RES/43/75 (1989).

[129] *Id.*

[130] General and Complete Disarmament: Nuclear Disarmament, Dec. 7, 1988, G.A. Res. 43/75-E, 43 U.N. GAOR Annex (Agenda Item 64) at 5, U.N. Doc. A/RES/43/75 (1989).

[131] *Letter dated 16 December 1985 from the Permanent Representatives of the United States of America and the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General*, 40 U.N. GAOR Annex (Agenda Item 65), U.N. Doc. A/40/1070 (1985).

[132] *Id.* at 3.

[133] *Signed* Dec. 8, 1987, United States-Union of Soviet Socialist Republics, 27 I.L.M. 84 (1989), 12 UNITED NATIONS DISARMAMENT YEARBOOK 444 (1989).

[134] General and Complete Disarmament: Conventional Disarmament, Dec. 7, 1988, G.A. Res. 43/75-F, 43 U.N. GAOR Annex (Agenda Item 64) at 6, U.N. Doc. A/RES/43/75 (1989).

nuclear weapons[135] and observing the technological and scientific advances of conventional weaponry,[136] the General Assembly insisted "that the military forces of all countries should not be used other than for the purpose of self-defense."[137]

Almost ironically, Israel and the United States cast the only two negative votes against the resolution prohibiting the development, production, stockpiling and use of radiological weapons.[138] This resolution, "*[r]eaffirms* that armed attacks of any kind against nuclear facilities are tantamount to the use of radiological weapons, owing to the dangerous radioactive forces that such attacks cause to be released."[139]

Similarly, the United States stood alone in voting against 141 positive votes on a "Comprehensive United Nations Study on Nuclear Weapons."[140] The negative United States vote could not block this United Nations study but actually expressed the United States' displeasure with worldwide pressure for "the complete cessation of nuclear testing . . . ."[141] The General Assembly also took a very staunch position on the dumping of radioactive waste, a problem symbolizing a new form of imperialistic arrogance. The resolution prohibiting the dumping of radioactive wastes "condemns all nuclear-waste dumping practices that would infringe upon the sovereignty of States"[142] and demands "all States to ensure that no radioactive waste is dumped in the territory of other States, which territory, also includes their respective territorial waters."[143]

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[135] *Id.* at 7.

[136] "[W]ith the advance in science and technology, conventional weapons tend to become increasingly lethal and destructive. . . ." *Id.*

[137] *Id.*

[138] General and Complete Disarmament: Prohibition of the Development, Production, Stockpiling and Use of Radiological Weapons, Dec. 7, 1988, G.A. Res. 43/75-J, 43 U.N. GAOR Annex (Agenda Item 64) at 13, U.N. Doc. A/RES/43/75 (1989).

[139] *Id.* at 14.

[140] General and Complete Disarmament: Comprehensive United Nations Study on Nuclear Weapons, Dec. 7, 1988, G.A. Res. 43/75-N, 43 U.N. GAOR Annex (Agenda Item 64) at 17, U.N. Doc. A/RES/43/75 (1989).

[141] *Id.* at 18.

[142] General and Complete Disarmament: Dumping of Radioactive Wastes, Dec. 7, 1988, G.A. Res. 43/75-T, 43 U.N. GAOR Annex (Agenda Item 64) at 25, U.N. Doc. A/RES/43/75 (1989).

[143] *Id.* at 26.

A. *Draft Convention on the Prohibition of the Use of Nuclear Weapons*

In addition to the twenty Resolutions adopted by the General Assembly, the Draft Convention on the Prohibition of the Use of Nuclear Weapons was also adopted on December 7, 1988.[144] That draft consisted of a single lapidary obligation: "The States Parties to this Convention solemnly undertake not to use or threaten to use nuclear weapons under any circumstances."[145] This pledge would mean that use or even threatened use of nuclear warfare in retaliation to any prior use or threat by another State would be forbidden. The lapidary obligation neither to use nor to threaten to use nuclear weapons under any circumstances would be of historic significance. The Draft Convention is explained by the General Assembly's being "[a]larmed by the threat to the survival of mankind [and to the life-sustaining system] posed by the existence of nuclear weapons and their use, inherent in concepts of deterrence."[146]

The Preamble to the Draft Convention expressed the conviction that "any use of nuclear weapons constitutes a violation of the Charter of the United Nations and a crime against humanity."[147] It also expressed a desire that the Convention would lead complete elimination of nuclear weapons.[148] This Convention shall enter into force after it has been ratified by at least 25 Governments, which would have to include "the Governments of the five nuclear-weapons States."[149]

B. *Dissolution of the NATO and the Warsaw Pact Alliances*

In a little-noticed section of a lengthy Resolution of 1984,[150] the General Assembly specifically referred to the conditions for

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[144] Draft Convention on the Prohibition of the Use of Nuclear Weapons, *adopted* Dec. 7,1988, G.A. Res. 43/76-E, 43 U.N. GAOR Annex (Agend Item 65) at 8, U.N. Doc. A/RES/43/76 (1989) [hereinafter Draft Convention].

[145] *Id.* at 9.

[146] *Id.* at 8.

[147] *Id.* at 9.

[148] "[T]his Convention would be a step towards the complete elimination of Nuclear Weapons." *Id.*

[149] *Id.*

[150] International Co-operation for Disarmament, G.A. Res. 39/148-M, 39 U.N. GAOR Annex (Agenda Item 59), U.N. Doc. A/RES/39/148 (1985). The vote was 109 in

dissolution of NATO and Warsaw Pact military alliances as a desirable goal. By that resolution, the Assembly "[a]ppeal[ed] to States which are members of military groupings to promote . . . in the spirit of international cooperation for disarmament, the gradual mutual limitation of military activities of these groupings, thus creating conditions for their dissolution."[151]

At times, structural changes in the NATO alliance are debated in NATO member States; but the aim will always be to increase the reliance on that enormous scheme. The reduction of NATO's military prowess has not been discussed seriously in the Establishment. Clearly, the least considered by NATO's leaders has been dissolution of the two opposing alliances.

In contrast, the Committee of Ministers of Foreign Affairs of the Warsaw Pact members, declared:

> The States parties to the Warsaw Treaty call upon the NATO member States, indeed all the European States, to take concrete steps conducive to scaling down the level of military confrontation in Europe . . . [t]he need for establishing relations between the Warsaw Treaty and NATO on a truly non-confrontational basis and for creating the proper conditions for the simultaneous dissolution of both alliances, starting with their military organizations, is becoming more and more obvious.[152]

This is a remarkably positive statement about the simultaneous dissolution of the two opposing alliances.

On the 50th anniversary of the outbreak of World War II, the Committee of the Warsaw Pact Foreign Ministers also issued an appeal to all nations and all peoples, reminding them that Germany's invasion of Poland in 1939 "unleashed what became the most tragic conflict in human history . . . [where] the earth was soaked in the blood of the fallen and the tortured

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favor, nineteen against (NATO countries plus Israel, Japan and New Zealand), with seven abstaining (including Austria, Finland, Ireland and Sweden). Djonovich II, *supra* note 63.

[151] *Id.* at 24.

[152] Committee of Foreign Ministers of the States Parties to the Warsaw Treaty, *New Initiatives on the Reduction and Elimination of Tactical Nuclear Arms in Europe* 7 (April, 1989). These statements were made following the Committee's session held in East Berlin on 11 and 12 April 1989. The session was attended by the Foreign Ministers of Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and Rumania, and the First Deputy Foreign Minister of the USSR.

. . . ."[153]

The appeal makes what may have been the first official reference to mankind's right to a life in peace: "Memories of that gravest tragedy in history should encourage nations to tireless efforts to ensure the right to a life in peace for everyone on this planet."[154]

There have been numerous Soviet governmental voices indicating the same trend, long before the Gorbachev era. In 1979, the USSR Academy of Sciences in conjunction with the USSR State Committee for Science and Technology and the Soviet Peace Committee founded the Peace and Disarmament Research Council in Moscow. From the first issue of its periodical, the Soviet Council has demonstrated its understanding of the gravity of these issues by suggesting that science and the technological progress which it engenders would seem to create much for the happy future of mankind.[155] On the other hand, abuse of scientific achievements and technological progress may lead to the extermination of all life on Earth. Hiroshima and Nagasaki are a special warning. The likelihood of such a finale to human history seems so monstrous by ordinary common sense that even its very discussion seems to do violence to reason.[156]

Even a cursory comparison of programmatic Soviet statements on matters of war and peace, with programmatic statements by the United States on these matters reveals that statements by the United States are often couched in polemical language that manifests a Cold War mentality.

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[153] *Id.* at 12.

[154] *Id.* at 14.

[155] M. Markov, *The Pugwash Movement of Scientists*, PEACE AND DISARMAMENT: ACADEMIC STUDIES, 95-103 (1980). (Markov is a member of the Presidium of the USSR Academy of Sciences and Chairman of the Soviet Pugwash Committee).

[156] *Id.* at 95. The same Soviet symposium on Peace and Disarmament contains an essay by the influential Kirghiz writer, C. Aimatov, who is a member of the Supreme Soviet of the USSR, expressing his equally strong convictions. "Under the present conditions of the unprecedented and ever-growing scientific and technological might of States, any approach that ignores the necessity for peaceful coexistence is fraught with consequences which, to put it bluntly, are tantamount to mutual mass extermination of mankind. . . ." *Id.* at 161.

Mr. Aitmatov concludes his observations by reminding us that "[c]onsequently, nothing that facilitates detente . . . must be interpreted . . . to the detriment of peace. The right to peace is higher than anything else." *Id.* at 164.

C. *The Revised Soviet Military Doctrine*

In 1988, the head of the Military Science Administration of the Soviet General Staff, Colonel-General Makmut Gareyev, wrote:

> In our age, security can only be universal and equitable. A reliable and stable security must be insured, by primarily political means. War has always been a calamity, but if it breaks out now, it will be a horrible disaster due to the modern means of warfare and the destructive capacity of weapons . . . How should States build relations proceeding from the goal of preventing war and the need to settle all disputes exclusively by peaceful means?[157]

General Gareyev answered this fundamental question from the Soviet perspective:

> Previously, military doctrine was defined as a system of views on the preparation for and conduct of war. Now military doctrine concentrates on the prevention of war. The task of precluding war has become the supreme goal of military doctrine, the main function of the state and its armed forces.[158]

In the Soviet view, the authoritative Soviet writer insists, nuclear war cannot achieve political, economic, ideological, or other aims because "we do not believe that a controlled nuclear war is possible."[159] This statement is the crux of the Russian argument.

Why can a nuclear war not be a controlled war? The answer is that it could not be fought at a limited level. It is especially evident that a mutual nuclear war between the United States and the Soviet Union would lead to limitless devastation and destruction.

The author deems it necessary to stress for the sake of justice (fairness) that the task of protecting the Soviet homeland against outside military aggression has guided the Soviet Union in the past, that is, prior to the glasnost and perestroika era.[160] Nevertheless, General Gareyev insists, the prevention of armed

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[157] Gareyev, *The Revised Soviet Military Doctrine*, 44 BULLETIN OF THE ATOMIC SCIENTISTS 30, 34 (1988). Mr. Gareyev is the Deputy Chief of the General Staff of the Armed Forces of the Soviet Union. The BULLETIN OF THE ATOMIC SCIENTISTS is the leading United States periodical on the nuclear weapons complex.

[158] *Id.*

[159] *Id.*

[160] *Id.*

conflict should determine, even more than it has so far, the Soviet analysis of "the very character of war." The aim and purpose of preventing armed conflict should be given priority without reservation.[161] This cautious but quite admissive formulation indicates that

> a deeper analysis . . . of today's realities has convinced us [the Soviets] of the need to correct some provisions of our military doctrine.
>
> . . . .
>
> First . . . development of weapons and combat technology of Soviet and foreign armed forces . . . will curb aggression without spurring on the arms race.
>
> Second . . . the current levels of forces are impermissibly high.[162]

General Gareyev supports this unorthodox statement that his own country's armed might is too great and indeed, "impermissibly high," with the extraordinarily frank argument that, by itself, the inflated nature of Soviet armed might presents a grave threat to peace because no modernization of weapons, defensive or offensive, can guarantee any State's security.[163] He repeats that security cannot be guaranteed by an arms buildup, concluding: "[t]herefore, Soviet strategists see the lowering of the level of armed confrontation and the reduction of the military potentials of the Warsaw Treaty and NATO alliances as well as [those] of other States to the limits of sufficiency for defense . . . as the most rational path of military development."[164]

Another aspect of Soviet military doctrine advocates the prevention of war, implying a policy of no first use of nuclear arms and renouncing the initiation of hostilities against any State or group of States.[165] These obligations or principles[166] compel the Warsaw Pact members to "solve the complicated problem of being prepared to take defensive measures which

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[161] *Id.*

[162] *Id.*

[163] *Id.*

[164] *Id.*

[165] *Id.*

[166] Restraint from spurring on the arms race, reduction of force levels, and no first use of nuclear weapons.

would not put our forces into a vulnerable position."[167] General Gareyev reiterates the continuing Soviet military axiom that any unprovoked attack should be repelled and the aggressor should be dealt a devastating blow. This task has required a revision of many traditional concepts of military strategy.[168] General Gareyev emphatically stresses the principle of sufficiency, which he views to be definitely new:

> Of decisive importance . . . is the adoption and consistent implementation by all countries of the principle of sufficiency for defense at the lowest possible force level and complete renunciation of the strategy of nuclear deterrence. At current [inflated] levels of forces [this] . . . means limiting armed forces . . . and limiting the number and quality of their weapons. The level of combat readiness should strictly correspond to the extent of danger of war, to insure military equilibrium and strategic parity between confronting sides, and to meet the genuine requirements of insuring defense and reliable security for each individual country and its allies.[169]

He also maintains that genuinely equal security in our age is not guaranteed by the highest possible level of strategic balance, but the lowest. In general, the defensive abilities of the Soviet Union and of the United States, and of the Warsaw Treaty and NATO alliances should be equal.[170]

Furthermore, both alliances should "disavow any measures to compensate for . . . disarmament, renounce efforts to spread their sphere of action to other regions, eliminate foreign military bases, and return troops to their own national territory."[171] The most far-reaching of these measures considered by the Soviet

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[167] Gareyev, *supra* note 157, at 30.

[168] General Gareyev discussed the previous Soviet Military Doctrine in greater detail:

> Politically, Soviet military doctrine has always been oriented to defense. [Although, as seen above, it must be even more defense-oriented in the future.] . . . In military-technical terms, and in methods of warfare the Soviet army relied on the strategy and tactics of vigorous actions, both during the Civil War (1918-1920) and World War II, considering the offensive to be the main type of military operation.

Id. at 31.

[169] *Id.* at 33.

[170] *Id.*

[171] *Id.*

General to be mutually advantageous, is the proposal that "[i]n the long term, both the Warsaw Treaty and NATO [alliances] could be disbanded."[172]

XIII. Peace as a Process: Preparation for a Life in Peace

The year 1986 was officially designated as the International Year of Peace.[173] One of the principle tasks of this International Year of Peace was to set in motion the preparation of societies for life in peace.[174] Numerous activities around the world ensued from this process. However, this was not the first effort undertaken to prepare for global peace. As early as 1978, the General Assembly adopted the Declaration on the Preparation of Societies for Life in Peace.[175] This document announced principles to enhance the process of preparing societies for "common existence and cooperation in peace, equality, mutual confidence and mutual understanding."[176]

Under this concept, the world is seen as a collection of many diverse societies. In order to maintain a side by side existence and mutual understanding, it is considered axiomatic that peace must prevail among them. In fact, in addition to peace, equality and mutual confidence, mutual understanding must also prevail. Furthermore, the Preparation Declaration insists that cooperation be encouraged in various bilateral and multilateral ways, and between governments as well as non-governmental organizations.[177] Educational and teaching methods, as well as media information activities should concentrate on subject matters that are apt to prepare the younger generations, in particular, for life in peace.[178]

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[172] *Id.* at 33-34.

[173] International Year of Peace, G.A. Res. 41/31, 40 U.N. GAOR Annex (Agenda Item 27), U.N. Doc. A/RES/40/3 (1985).

[174] *Id.*

[175] Declaration on the Preparation of Societies for Life in Peace, G.A. Res. 33/73, U.N. GAOR Annex (Agenda Item 50), U.N. Doc. A/33/RES/73 [hereinafter the Preparation Declaration].

[176] *Id.*

[177] *Id.* The resolution calls upon all States: "to develop various forms of bilateral and multi-lateral cooperation, also in international, governmental and non-governmental organizations, with a view to enhancing preparation of society to live in peace. . . ." *Id.*

[178] *Id.* This resolution also calls for policies "including educational processes and teaching methods as well as media activities, [to] incorporate contents compatible with

The numerous activities conducted during the International Year of Peace included educational and cultural programs, conferences and seminars, festivals and exhibits, religious ceremonies and youth programs.[179] The overall theme of the International Year of Peace, "To Safeguard Peace and the Future of Humanity," fostered a positive vision of a peaceful world. As the Secretary-General's report on the implementation of the Preparation Declaration[180] underscores, there was general agreement that education for peace "should go on not only within political and cultural establishments, but also in the family and various social groupings, through information, action and publications."[181] An example of the widespread acceptance of this view was evident at the Congress of Intellectuals for a Peaceful Future of the World, held in Warsaw, January 1986.[182] In addition, an international symposium organized by the World Federation of United Nations Associations and held in Barcelona, Spain, noted that peace is not the product of cultural unanimity, but reflects a common support of diverse cultural entities.[183] An international teachers' conference, held in Copenhagen, Denmark on "Education for Life," emphasized that peace education must teach a *positive* image of peace, and avoid stereotyping outsiders as enemies.[184] The International Year of Peace also gave impetus for including peace education in school curricula in many countries.[185]

A panel of experts on the Preparation of Societies for Life in Peace met in lengthy sessions in Nieborow, Poland and Osaka, Japan during 1986, to discuss the implications and potential of the Declaration on the Preparation of Societies for

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the task of preparation for life in peace of entire societies and, in particular, the young generation." *Id.*

[179] *Id.*

[180] *Review of the Implementation of the Declaration on the Preparation of Societies for Life in Peace: Report of the Secretary-General*, 42 U.N. GAOR Annex (Agenda Item 72(a)) at 26, U.N. Doc. A/42/668 (1987).

[181] *Id.* para. 56, at 26.

[182] *Id.*

[183] *Id.* para. 57, at 26-27.

[184] *Id.* para. 58, at 27.

[185] *Id.* para. 60, at 27. Austria, Argentina, Bolivia, Bulgaria, Kuwait, and Vietnam, have included peace education in their school curricula. *Id.*

Life in Peace.[186] They underscored the need for greater international cooperation in the study of world problems, and greater awareness of the increasing interdependence of the global community. The panel stressed that "[t]here is no doubt . . . that humanity will share a common future—for better or for worse."[187] Regarding the future, they rejected equally a predeterministic position and a dependence on blind chance.[188] The experts agreed that a single, commonly accepted definition of peace does not yet exist but that peace is a dynamic multidimensional process that should be used to facilitate change and the settlement of conflicts without violence.[189] They emphasized that peace, as well as the absence of peace, is relevant to individuals and not reserved for larger entities.[190]

In a highly optimistic finding, the experts agreed that the basic purposes and principles of the United Nations Charter have been widely accepted throughout the world and are crucial in eventually providing a "one world" approach.[191] On the other hand, the experts differentiated between two types of obstacles to life in peace, military and non-military. They generally agreed that threats to life in peace are manifested by "hidden wars" such as famine, disease, unemployment and discrimination as well as military encounters.[192] Many of these non-military difficulties such as pollution and economic troubles cause tremendous losses and deterioration in the quality of human life and often cause or aggravate military threats, conflict and war.[193]

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[186] *Id.* para. 61, at 27.

[187] *Id.* para 62, at 28.

[188] *Id.*

[189] *Id.* para. 63.

[190] *Id.*

[191] *Id.* para. 64. Only 40 years earlier, the official philosophy of the then leading countries of Germany, Japan and Italy openly and aggressively espoused fascism and war.

[192] The panel specifically determined that "life in peace is threatened not only by military war, but also by 'hidden wars' such as famine, disease, unemployment and discrimination." *Id.* para. 66.

[193] *Id.* "Environmental pollution and ecological imbalances also cause tremendous losses and deterioration in the quality of human life. These non-military threats to life often cause or aggravate military threats, conflict and war." *Id.*

XIV. Fostering Peace Legitimizes Common International Action

The work of the United Nations system is dedicated to peace in the widest sense. It is for this reason that the work is so multi-faceted and has to be carried out on so many fronts.

One of the first resolutions adopted without a vote at the General Assembly's 1987 session dealt with the situation in Central America.[194] Its principal concerns were with immediate threats to international peace and security, and peace initiatives.[195] Therein, the General Assembly declared:

> *Convinced* that the peoples of Central America wish to achieve peace, reconciliation, development and justice, without outside interference . . . and without sacrificing the principles of self-determination and non-intervention . . . [the Assembly] [c]ommends the desire for peace expressed by the Central American Presidents [in the Agreement concluded at Guatemala City].[196]

The world body recorded its awareness that this Agreement was due to "the decision of the Central Americans to take up fully the historical challenge to forge a peaceful destiny for Central America."[197] After years of violence, bloodshed, fratricide, civil war and foreign intervention, the General Assembly, in a visible show of emotion, expressed its firmest support for the Agreement by adopting it without a vote.

Fortunately, this spirit of resolve is very often portrayed in extremely delicate, programmatic resolutions of the General Assembly. For example, merely eight days after enthusiastically embracing the resolution on ending the agony in Central America, another General Assembly resolution requested cooperation between the United Nations and the Organization of the Islamic Conference.[198] This resolution emphasized cooperation

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[194] The Situation in Central America: Threats to International Peace and Security and Peace Initiatives, G.A. Res 42½, 42 U.N. GAOR (Agenda Item 34), U.N. Doc. A/RES/42/1 (1987). The topic was so uncontroversial it did not require a formal vote.

[195] *Id.*

[196] *Id.* at 1-2. The agreement was signed by the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua's Contadora Group on 7 August 1987.

[197] *Id.* at 2.

[198] Cooperation Between the United Nations and the Organization of the Islamic Conference, G.A. Res. 42/4, 42 U.N. GAOR Annex (Agenda item 22) at 1, U.N. Doc. A/RES/42/4 (1987).

on what the General Assembly considered thorny, global problems of the highest priority, such as: "international peace and security, disarmament, self-determination and decolonization, fundamental human rights, and establishment of a new economic order."[199]

A similar General Assembly Resolution addressed cooperation between the United Nations and the League of Arab States.[200] The General Assembly noted appreciation for the League's "desire . . . to consolidate and develop the existing ties with the United Nations . . . and to co-operate in every possible way with the United Nations . . . relating to the question of Palestine and the situation in the Middle East."[201] In addition, the resolution very cautiously requested contacts and consultations between the United Nations and the League of Arab States, as well as recommending some common programs.[202]

XV. The Growing Role of Human Rights: From Serving the Individual to Serving Worldwide Initiatives

The role of human rights has grown from serving the individual to serving worldwide initiatives. The purpose of human rights is first of all to improve the fate of individual human beings, and thereby also serve the community to which those persons belong. However, some very major worldwide initiatives have been added to this primary role of human rights for the purpose of the betterment of human society as a whole.

This trend can be illustrated by four such initiatives: (A) the Universal Declaration on the Eradication of Hunger and Malnutrition;[203] (B) the Declaration on the Rights of Disabled

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[199] *Id.*

[200] Cooperation Between the United Nations and the League of Arab States, *adopted* Oct. 15, 1987, G.A. Res. 42/5, 42 U.N. GAOR Annex (Agenda Item 23) at 1, U.N. Doc. A/RES/42/(1987). All NATO countries except the United States, all non-aligned countries, and all members of the Warsaw Pact including the Soviet Union, cast positive votes. Only the United States and Israel saw themselves compelled to cast the sole two negative votes, thereby largely emptying this remarkably conciliatory Resolution of its potential.

[201] *Id.*

[202] *Id.* at 2.

[203] Universal Declaration on the Eradication of Hunger and Malnutrition, G.A. Res. 3348 (XXIX).

Persons;[204] (C) Global Strategy for Health for All by the Year 2000;[205] and (D) the Declaration on the Right of Development.[206]

A. *The Eradication of Hunger and Malnutrition*

The significance and scope of this global initiative is manifestly clear. The worldwide abolition of hunger and malnutrition would affect the life and health of a very large part of the population of the globe.

The Universal Declaration on the Eradication of Hunger and Malnutrition, adopted in Rome by the World Food Conference proclaims that the "elimination of hunger and malnutrition . . . and the elimination of the causes that determine this situation are the common objectives of all nations."[207] The statement that the elimination of the causes of hunger and malnutrition anywhere in the world is a common objective of all nations implies a three-fold conviction: The causes of famine and malnutrition in the world are (a) known or at least knowable, (b) can be eradicated by existing science and technology, and (c) should in the opinion of all nations be eradicated.[208] Based on this objective, the world organization concluded that all people have the right to be free from hunger and that each state has the responsibility to ensure that increased food production, waste prevention, environmental preservation and market stabilization are maintained to allow for adequate supplies for all needs, including emergency reserves.[209]

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[204] Declaration on the Rights of Disabled Persons, Res. 3347 (XXX).

[205] Global Strategy for Health for All by the Year 2000, WHA 34.36 (1981).

[206] Declaration on the Right of Development, G.A. Res. 41/128, 41 U.N. GAOR Annex (Agenda Item 101) at 1, U.N. Doc. A/RES/41/128 (1987) [hereinafter Right of Development].

[207] *See supra* note 203.

[208] *Id.*

[209] *Id.* The Declaration on the Eradication of Hunger and Malnutrition provides:

> 1. Every man, woman and child has the inalienable right to be free from hunger and malnutrition . . . Society today already possesses sufficient resources . . . to achieve this objective . . . Accordingly, the eradication of hunger is the common objective of . . . the international community, especially of the developed countries and others in a position to help.
>
> 2. It is a fundamental responsibility of Governments to work together for higher food production and a more equitable and efficient distribution of food . . . Governments should initiate immediately a greater concerted attack on chronic malnutrition and deficiency diseases among the vulnerable

B. *Declaration on the Rights of Disabled Persons*

The General Assembly of the United Nations, by Resolution 3447 (XXX) of 9 December 1975, issued principles that "shall be granted to all disabled persons without any exception whatsoever and without distinction or discrimination."[210] The Declaration includes, among others, the following principles:

> Disabled persons have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life as normal and full as possible . . . They have the same civil and political rights as other human beings . . . They have the right, according to their capabilities, to secure and retain employment or to engage in a useful, productive and remunerative occupation . . . They have the right to live with their families or with their foster parents and to participate in all social, creative or recreational activities.[211]

C. *Global Strategy for Health for All by the Year 2000*

In this resolution,[212] the General Assembly of the United Nations drew attention, after much study, to a devastating prob-

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and lower income groups. . .

. . . .

4. It is a responsibility of each State concerned . . . to remove the obstacles to food production and to provide proper incentives to agricultural producers. . .

. . . .

6. Every endeavor should be made to prevent wastage of food in all its forms. . .

. . . .

9. All countries must collaborate to facilitate the preservation of the environment, including the marine environment. . .

. . . .

11. All States should strive . . . to readjust where appropriate their agricultural policies to give priority to food production. Moreover, all countries should cooperate to devise effective steps . . . to stabiliz[e] world markets and promot[e] equitable and remunerative prices. . .

. . . .

12. It is the common responsibility of the entire international community to ensure the availability at all times of adequate world supplies of basic foodstuffs by way of appropriate reserves, including emergency reserves. . . .

Id.

[210] *See supra* note 204.

[211] *Id.*

[212] *See supra* note 205.

lem to which it wished to give a commensurate answer. The situation is that a substantial portion of the people in many countries, by no means only "poor" countries, lacks access to basic health services. The "Global Strategy for Health for All by the Year 2000" is by far the largest of the world's non-military multilateral projects.

The idea that the people of the world are to enter the third millennium in as good a state of health as medical art and contemporary technology permit, originated at a conference on Primary Health Care jointly sponsored by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), held at Alma Ata, (USSR) in late 1978. Eventually, this ambitious idea was unanimously embraced by the World Health Assembly[213] as WHA Resolution 34.36 on May 22, 1981.

The fortieth anniversary publication of the United Nations on its work for human rights[214] calls the activities summarized as the Global Strategy for Health for All by the Year 2000, a gigantic project.[215] It reports that, as shown by the assessments of about 75 percent of the WHO Member States, the political will to achieve its goal exists in a large majority of them, but that nevertheless, only a few had well-defined plans for implementing their strategies.[216]

D. *The Declaration on the Right to Development*

Adopted by the General Assembly,[217] this resolution defines development as "a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals. . . ."[218] Interestingly, this most recent United Nations

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[213] The World Health Organization equivalent of the United Nations General Assembly.

[214] UNITED NATIONS ACTION IN THE FIELD OF HUMAN RIGHTS 171, U.N. Doc. ST/HR/Rev.3, U.N. Sales No. E.88.XIV.2 (1988) [hereinafter U.N. ACTION].

[215] By 1986, 146 of the total 166 State Members of the WHO had their strategies for Health for All reported. In a number of countries, the health infrastructure had been made impressively strengthened, although many countries faced formidable managerial and financial problems to ensure the essentials of primary health care. *Id.*

[216] *Id.*

[217] *See supra* note 206. *See also*, U.N. ACTION, *supra* note 214, at 179.

[218] *See supra* note 206, at preamble.

human rights instrument distinguishes between the entire population and all individuals. Some sociologists will apply different interpretations to this distinction. The resolution also expresses the General Assembly's concern "about serious obstacles to Development, as well as to the complete fulfillment of human beings and of peoples, inter alia, by the denial of civil, political, economic, social and cultural rights."[219]

On the other hand, the preamble of this resolution does contain formulations that refer only to a single right to development, identically possessed by individuals and the collectivity. Two statements, that "international peace and security are essential elements for the realization of the right of development,"[220] and that "the creation of conditions favorable to the development of peoples and individuals is the primary responsibility of their States"[221] (rather than the responsibility of the international community or of the United Nations) especially bring this home.

In its substantive section, Article One stipulates that the right to development is an inalienable right which all persons and peoples are entitled to enjoy.[222] It further provides that "States have the right and the duty to formulate appropriate National Development policies that aim at the constant improvement of the well-being of the entire population and of all individuals."[223] It must be reemphasized that the reference to the "entire population" and to "all individuals" is not a pleonasm but refers to two different notions each dealing with different collectivities yet composed of identical human beings.[224]

All in all, it can be said that the careful distinction between

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[219] *Id.* at 2.

[220] *Id.* at 3.

[221] *Id.*

[222] *Id.* art. 1, at 3. "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political Development. . . ." *Id.*

[223] *Id.* at 4.

[224] *Id.* Furthermore, Article Three declares that the "realization of the right to development requires full respect for the principles of international law concerning friendly relations and cooperation among States. . . ." *Id.* at 4. Article Seven obligates "all States" to "promote the establishment, maintenance and strengthening of international peace and security. . ." without elucidating whether in this context peace and security are a right of peoples or of individuals. *Id.* at 5.

human rights of individuals and the right of Peoples has become a hallmark of human rights instruments emanating from the United Nations. On the other hand, it must be emphasized that the Declaration on the Right to Development, true to the basic philosophy of the Enlightenment characteristic of the United Nations Charter, proclaims:

> The human person is the central subject of development and should be the active participant and beneficiary of the Right of Development . . . All human beings have a responsibility for development, individually and collectively, taking into account . . . their human rights . . . as well as their duties to the community.[225]

CONCLUSION

Can the Peoples' Right to Peace Foster Transition from Confrontation to Cooperation?

It would be an exaggeration to claim that even the widest acceptance of the Peoples' Right to Peace would usher the world into full harmony. Yet, the appearance of the concept of the Peoples' Right to Peace in the public conscience and vocabulary could mean a change of historic dimension.

The United Nations' solemn proclamation that "all peoples" possess an unconditional right to peace is relatively little known. It deserves to be made much more widely known.

The resolution was not adopted by a large majority of countries but, the essential fact is that no country voted against it. Not a single Government was ready to accept the stigma of actually depriving the masses of its own people, or of any other countries' peoples, of their right to peace.

The Declaration of the Peoples' Right to Peace is one of the United Nations' and potentially one of history's most far-reaching pronouncements. The question is: will it be disregarded as idealistic or embarrassing rhetoric? Are death squads for ever and evermore?

Even in an improved world climate, enormous efforts will be required to end a half century of immense preparations for wars.

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[225] *Id.* at 3-4.

For this task of gradually ending the arms race, the notion of the peoples' *right* to see these long overdue endeavors succeed can become a powerful and exhilarating argument.

The principle on which Mr. Reagan and Mr. Gorbachev eventually agreed at their Geneva summit meeting,[226] that nuclear war cannot be won and must never be fought, expresses the clearest insight into the nature of nuclear warfare. This insight is incompatible and cannot be logically reconciled with the axiom of deterrence, the philosophy that nuclear war can only be prevented by preparing and threatening nuclear war, and ultimately by actual nuclear war itself.

Hence, it is incorrect to assume that a rational choice has to be made between the doctrines of no nuclear war and deterrent nuclear war. Only "no nuclear war" can save the world. As for its alternative, this is a solution that veritably consists of the disaster it promises to prevent. That alternative is not a remedy and cannot be transformed into a remedy.

The concept of the Peoples' Right to Peace intrinsically supports the recognition that nuclear war cannot be won and must never be fought. That support is very urgently needed. Let this not be overlooked, the opposite doctrine is still virulent and constitutes a driving force in the uninterrupted preparations for wars.

The United Nations' proclamation of the Right of Peoples to Peace is not a blueprint for the settlement of ongoing or threatening military conflagrations, nor is it a program for arms reductions. The Right of Peoples to Peace does not offer any precise plan for a mass movement of peace activists; nor does it contain an outline for academic peace studies. Yet, the dynamic notion of the Peoples' Right to Peace has an unmistakable ring of urgency, impatience and confidence. It can become an added inspiration for any initiatives on peace and disarmament.

The idea that the "ordinary" people themselves possess an inalienable claim to be permitted to live in peace, the simple proposition that peace is due to them as their birth-right, is an idea whose time has come.

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[226] *See* Gorbachev, News Conference Remarks by Soviet General Secretary at the Close of the Geneva Summit Meeting [Extracts] *reprinted in*, ARMS CONRTOL AND DISARMAMENT AGENCY, DOCUMENTS ON DISARMAMENT 1985 871 (1989).

Editor's Note: In 1989 former Manhattan Borough President, David N. Dinkins, proclaimed December 14 as JOHN H.E. FRIED AND THE RIGHT TO PEACE DAY.