

2014 ERSKINE CHILDERS LECTURE: The Human Right To Peace- Foundation for a just International Order

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Ladies and Gentlemen,

I am honoured to deliver the Erskine Lecture 2014 in my capacity as Professor of International Law, retired senior lawyer with the Office of the UN High Commissioner for Human Rights, former Secretary of the UN Human Rights Committee, human rights consultant and decades-long ngo activist. Please note that I do not deliver the lecture in my official capacity as UN Independent Expert. For my official pronouncements as Special Procedures mandate-holder, I refer you to my UN website: <http://www.ohchr.org/EN/Issues/IntOrder/Pages/IEInternationalorderIndex.aspx>

The topic of tonight's lecture is dear to all of us, notably to our host Vijay Mehta, whose important book *The Economics of Killing* should be studied in every university. Highly praised by my friend Professor Richard Falk, this book reveals the links between business and war, between the military-industrial complex and the erosion of democratic governance. Indeed, when the interventionists say "human rights", they actually mean money, the money that comes from the arms trade and the money that comes from obtaining contracts and concessions for the subsequent reconstruction of devastated lands; when they pretend that they want to bring freedom to other countries, they mean that exporting freedom will generate profit; when they claim that democracy must be protected by force, they again mean money; when they invoke the Responsibility to Protect Doctrine, they mean money. Indeed, ***Modern Realpolitik has learned how to instrumentalize human rights rhetoric to pursue traditional geopolitics and economic imperialism.***

I assume that all present endorse the ideal of world peace – understood in its holistic reach, encompassing both individual and collective dimensions. We endorse the peace legacy of Mohandas Ghandi and the daily peace work of the Quakers, of the International Peace Bureau, or Women's International League for Peace and Freedom, of countless other civil society actors who

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believe that peace is a necessary condition for the enjoyment of human rights by all. We endorse the pertinent diagnoses of today's international disorder by Oscar Arias, Noam Chomsky, Arundhati Roy, Jimmy Carter, Ramsey Clark, Rigoberta Menchú, and so many others. True enough, their diagnoses are correct, their recommendations are implementable, but the power of the military-industrial complex is so entrenched and the vested interests of transnational corporations are so pervasive, that meaningful change has become ever more difficult.

It is thanks to civil society that the human right to peace is gradually being recognized. I pay tribute to the Spanish Society for International Human Rights Law, a member of which I have been since 2005, which conducted a worldwide campaign leading to the adoption of the *Declaracion de Santiago de Compostela* on 10 December 2010, which was submitted to the Human Rights Council in March 2011 and led to the Draft Declaration on the Human Right to Peace, elaborated by the Advisory Committee of the Human Rights Council, now being negotiated in the Council. Two sessions of an inter-governmental working group have already met in Geneva to discuss a consensus text with a view to referring it to the General Assembly for adoption. I have actively participated in these sessions and in the UN Workshop on the right of peoples to peace, which was held at in Geneva in December 2009. Two weeks ago, the 27th session of the Human Rights Council extended the mandate of the working group, so that a third session will be held in the near future. In this context I underline the importance of civil society participation.

Another important recent development is the initiative of Michael Moller, Secretary-General of the UN Conference on Disarmament, to convene a civil society forum later on this year in Geneva. Also relevant is the on-going work of PEN International's Writers for Peace Committee, which adopted the Bled Manifesto on Peace at its Reykjavik annual congress 2013.

Ladies and gentlemen,

Peace is not an eschatological phenomenon, but continuous work-in-progress. It encompasses multiple legal commitments undertaken by all States members of the United Nations pursuant to the UN Charter and numerous regional and universal treaties on issues such as collective security, disarmament and international criminal law.

Although there is no generally accepted legal definition of peace, we can agree that it entails a state of harmonious national and international relations based on the rule of law, justice and solidarity, consistent with the motto of the International Labour Office: "if we want peace, we must cultivate social justice" (*si vis pacem, cole justitiam*).

Besides its philosophical, sociological and religious components, peace encompasses important legal commitments. As emphasized by the United Nations Security Council, the rule of law is a vital element of conflict prevention and peacekeeping (SC Presidential Statement of 19 February 2014 <http://www.un.org/News/Press/docs//2014/sc11290.doc.htm>). The breach of the peace by aggression constitutes an international wrongful act giving rise to State responsibility, the obligation to make reparation and personal criminal liability.

As many observers have noted, peace is not merely the absence of war (negative peace), it is a comprehensive concept that implies the absence of structural violence, of economic pressures, unilateral coercive measures and political blackmail, and the pro-active promotion of an equitable international order based on fair trade, international cooperation and solidarity (positive peace). It goes beyond mere positivism, beyond the *jus cogens* prohibition of the threat and the use of force stipulated in article 2, paragraph 4, of the UN Charter. It has a natural law component and should be understood as a general principle of law in the sense of article 38 of the Statute of the International Court of Justice. As a general principle, it predates the codification of international criminal law, the Kellogg-Briand Pact of 1928 and article 6a of the Statute of the International Military Tribunal at Nuremberg, which defines the “crime against peace”.

Undoubtedly international criminal law experienced a significant impulse at the Nuremberg trials, which produced legal precedents, subsequently proclaimed by the United Nations General Assembly as the *Nuremberg Principles*. Alas, there have been countless wars and aggressions since the Nuremberg and Tokyo Trials, and whereas tribunals have produced significant case-law on war crimes and crimes against humanity, there has been no progress with regard to the prosecution of the crime against peace.

The Purposes and Principles of the United Nations Charter lay out a *mode d’emploi* to spare future generations from the scourge of war. Admittedly, no world war has been fought since 1945, but there have been continuous wars and foreign interventions in all regions of the world, causing many millions of victims, primarily among civilians. The United Nations General Assembly has adopted numerous resolutions condemning the breach of the peace and the ensuing war crimes. It has repeatedly emphasized the need to promote friendly relations among nations (Resolution 2625) and to prevent aggression (see definition contained in Resolution 3314).

The punishment of the crime of aggression

In the nearly seven decades since the end of the Second World War, the crime of aggression has enjoyed general impunity, notwithstanding the Nuremberg Judgment: 23 out of the 24 Nazi accused were indicted for the crime against peace and 8 were convicted on this count. In this context, it is worth recalling that, at the opening of the Nuremberg Trials, United States chief prosecutor Robert Jackson stated:

“We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow ... While this law is first applied against German aggressors, the law includes, and if it is to serve a useful purpose it must condemn, aggression by any other nations, including those which sit here now in judgment.” (IMT, Nuremberg, *The Trial of the Major War Criminals*, Vol. 2, 21 November 1945, p. 101.)

In this sense the judgment of the tribunal stated “To initiate a war of aggression ... is ... the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole” (IMT Vol. 22, p. 427).

Alas, these noble words were not followed by international action, and no subsequent trial of other aggressors has taken place. Among the many illegal wars of the past decades the assault on Iraq by the so-called “collation of the willing” in March 2003 remains one of the most shocking violations of the UN Charter and of the international rule of law. Even Secretary-General Kofi Annan called this geopolitically motivated war an “illegal war” (<http://news.bbc.co.uk/2/hi/3661134.stm>). In 2003 no international tribunal existed with jurisdiction over the culprits. The only possibility of prosecution would have been through the exercise of universal jurisdiction by a State with appropriate universal jurisdiction legislation and not overly vulnerable to economic and political intimidation or to the imposition of sanctions by the powerful.

International people’s tribunals have, however, taken up the matter, but these tribunals are only moral instances devoid of legal powers of execution, and continue being largely ignored by the mainstream media. On 16 July 2005 Professor Richard Falk reported in an article in *The Nation*: “The World Tribunal on Iraq (WTI) held its culminating session in Istanbul June 24-27...The cumulative process, described by organizers as ‘the tribunal movement’, is unique in history: Never before has a war aroused this level of protest on a global scale--first to prevent it (the huge February 15, 2003, demonstrations in eighty countries) and then to condemn its inception and conduct. The WTI expresses the opposition of global civil society to the Iraq War, a project perhaps best described as a form of ‘moral globalization’.”

More recently, the *Kuala Lumpur War Crimes Tribunal* found both George W. Bush and Tony Blair guilty of waging aggressive war. In its judgment of 22 November 2011 the Tribunal concluded: “The essence of legality is the principled, predictable, and consistent application of a single standard for the strong and the weak alike. Selective manipulation of international law by powerful states undermines its legitimacy. The 2003 invasion of Iraq was an unlawful act of aggression and an international crime... It amounts to mass murder. (http://www.brusseltribunal.org/pdf/Extempore_Judgment_KL_War_Crimes_Tribunal.pdf)

Although the UN General Assembly, the old Commission on Human Rights, the new Human Rights Council and the UN Human Rights Committee, among others, have repeatedly condemned impunity, until recently there has been no mechanism with recognized competence to try and sentence aggressors.

The most significant step toward the punishment of the “crime against peace”, now known as the crime of aggression, was achieved at the Diplomatic Conference in Rome in 1998, which adopted the Statute of the International Criminal Court, article 5 of which gives jurisdiction to the ICC over the crime of aggression. At the July 2010 meeting of States Parties to the Rome Statute held Kampala, Uganda, a consensus definition of aggression was finally adopted, which entered into force on 26 September 2012 in accordance with article 121(5) of the Rome Statute. It will enable the ICC to conduct investigations and to prosecute individuals for this crime, albeit without retroactive effect.

Justifications for the use of force

At present there are only two legitimate justifications for the use of force (*jus ad bellum*). The exercise of self-defence is customary international law, but since the entry into force of the UN Charter and its article 51, self-defence can only be exercised “until the Security Council has taken measures necessary to maintain international peace and security”. Thus it is a temporary right of self-help, which necessarily ceases when the Security Council becomes seized of the matter. Following an “armed attack”, any self-defence measure must be notified to the Security Council so that the United Nations can exercise its peace restoring function. Moreover, a mere border skirmish does not justify all-out war under the pretext of self-defence, since there must be a “threshold of gravity” as the International Court of Justice determined in the *Nicaragua Judgment* of 27 June 1986. In this context it is also important to recall that the right to self-defence does not allow the preventive or so-called pre-emptive use of force. A previous armed attack is a necessary precondition for invoking article 51 of the Charter.

Another legitimate use of force exists when the Security Council, acting under Chapter VII of the Charter, authorizes it. The Security Council, however, is not above the Charter and can only authorize the use of force in a manner consistent with the Purposes and Principles of the Organization, particularly the maintenance of peace, as stipulated in Article 24 of the Charter: “the Security Council shall act in accordance with the Purposes and Principles of the United Nations”. In this context the relatively new doctrines of “humanitarian intervention” and “responsibility to protect” cannot be understood as a *lex specialis* which could derogate from Charter obligations under article 2, paragraph 3, to resolve all disputes through peaceful means, article 2, paragraph 4, to refrain from the threat and the use of force, or under paragraph 7, to refrain from intervening in the domestic affairs of other States. R2P cannot be used as a pretext to facilitate military intervention, but must be read in conjunction with the overall obligation to protect succeeding generations from the scourge of war, and therefore to prevent armed conflict. Thus, contrary to some journalistic trends and misconceptions, which would like to see the United Nations transformed from a peacekeeping to a war-making organization, the R2P idea contained in General Assembly resolution 60/1, the World Summit Outcome, does not and cannot replace the Charter-mandated rule of non-interference in the internal affairs of sovereign States. This is all the more true as in 2005 world leaders declared that “[e]ach individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. The principle of non-intervention remains very much valid and is confirmed in countless resolutions of the General Assembly and the Human Rights Council. Therefore, responsibility to protect must not be abused to circumvent the Charter or engage in sabre-rattling or propaganda for war, which is specifically prohibited by article 20, paragraph 1, of the International Covenant on Civil and Political Rights.

Moreover, it should be recalled that the Charter of the United Nations imposes certain *erga omnes* obligations on States, including the obligation to condemn the illegal use of force and to deny recognition of territorial changes arising from the illegal use of force. While there is an international responsibility to protect, there is, first and foremost, an international responsibility to

protect humanity from the scourge of war and, most importantly, to protect humanity from weapons of mass destruction, including biological, chemical and nuclear weapons.

Obstacles to maintaining peace

A significant obstacle to maintaining the peace in the world is the prevalence of belligerent rhetoric, sabre-rattling and war-mongering, including irresponsible media-hype and blatant propaganda for war in contravention of article 20 ICCPR. Indeed, many armed conflicts have begun because of incitement by politicians and the media, pursuing a logic of war and rejecting other options for the solution of international disputes by negotiation and diplomacy.

Humanity's best hope thus rests on a revitalized United Nations and a pro-active General Assembly capable to deploy preventive strategies. As the most representative world body the GA should not only voice the international community's rejection of war and war-mongering, but also develop early warning mechanisms to detect and neutralize disinformation, insidious propaganda for war and the panoply of pretexts used by some States to justify the use of force. Similarly, the UN Secretary General could use his good offices and deploy preventive strategies against the uncontrolled dynamics of war propaganda. He can exercise a more proactive role in referring belligerent tensions not only to the Security Council but also to the General Assembly and to the Human Rights Council, bearing in mind that armed conflicts always impact negatively on the most fundamental human rights. In this context the creation of the function of a Special Advisor to the Secretary General on the prevention of war and the suppression of war-mongering could be considered. The United Nations should provide a friendly forum where politicians who have galloped away in their belligerent rhetoric can lower their tone, defuse the tension and discretely withdraw without losing too much face. (See proposal of the IE in his introductory statement to the GA on 28 October 2013

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13956&LangID=E>). The General Assembly could also consider setting up a truly neutral "de-escalation committee" to bring people back to the negotiating table even after the adversaries have burned bridges behind them.

Another important obstacle to the maintenance of world peace is the continued arms race and the enormous commerce in arms. Both effectively fuel wars worldwide. Many observers have long concluded that as long as there are big profits to be made, there will be wars. We can welcome the forthcoming entry into force of the Arms Trade Treaty on 24 December 2014, but it is not only a regulation of the arms trade and controls so that arms are not diverted to terrorists. What is necessary is a significant reduction of militarism.

The undemocratic impact of the military-industrial complex on governments and the general lack of budget and fiscal transparency in most countries constitute a major problem in many countries. Few people know that in 2013 the world spent 1.75 trillion dollars on the military (See SIPRI tables). Few people know that some countries waste 20, 30 or even 40% of the government budget on military endeavours, military-related research, including research into so-called lethal autonomous weapon systems and killer-robots, and on servicing the debt for prior or ongoing wars (see World Bank tables, and UNICEF tables with comparisons with expenditures for education and health care) .

Effective measures must be adopted to reduce the undemocratic influence of the arms industry on government officials, also concerning decisions on the use of force, the privatization of war, the globalization of militarism, and the expansion of military bases at home and abroad.

Disarmament

In the light of the above, the international community has adopted a number of important legal commitments concerning the necessity of global disarmament. Since 1979 the United Nations Conference on Disarmament, a multilateral negotiating forum composed of 65 countries, meets three times a year in Geneva. Currently the Conference on Disarmament focuses on the cessation of the nuclear arms race and the promotion of nuclear disarmament; prevention of nuclear war, including all related matters; prevention of an arms race in outer space; effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; new types of weapons of mass destruction and new systems of such weapons including radiological weapons; comprehensive programme of disarmament and transparency in armaments.

Among the many treaties the observance of which contribute to peace, the Nuclear Non-Proliferation Treaty of 1968 (190 states parties) stipulates in Article 6: "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control." On 24 April 2014 the Marshall Islands submitted Applications against nine nuclear weapon States before the International Court of Justice with a view to testing their responsibility for environmental damage caused by nuclear testing and the failure to conduct good faith negotiations aimed at nuclear disarmament." (see inter alia <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=miind&case=158&k=2a> <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=mipak&case=159&k=fc> <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=miuk&case=160&k=ef>) Disarmament, after all, is a general legal commitment stipulated in article 26 of the UN Charter.

Notwithstanding the above, the Nuclear States have continued producing, modernizing and stockpiling nuclear weapons. Some commentators point out that this entails not only a failure to abide by the NPT commitment to negotiate in good faith, but also amounts to a contravention of Article 6 of the International Covenant on Civil and Political Rights, which protects the right to life. The first General Comments of the Human Rights Committee on Article 6 stipulates: "Every effort they make to avert the danger of war, especially thermonuclear war, and to strengthen international peace and security." (GC No. 6, 1982) Similarly, in the second General Comment on Article 6 the Committee stated: "... While remaining deeply concerned by the toll of human life taken by conventional weapons in armed conflicts, the Committee has noted that, during successive sessions of the General Assembly, representatives from all geographical regions have expressed their growing concern at the development and proliferation of increasingly awesome weapons of mass destruction, which not only threaten human life but also absorb resources that could otherwise be used for vital economic and social purposes, particularly for the benefit of developing

countries, and thereby for promoting and securing the enjoyment of human rights for all.... The Committee associates itself with this concern. It is evident that the designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront mankind today. This threat is compounded by the danger that the actual use of such weapons may be brought about, not only in the event of war, but even through human or mechanical error or failure. Furthermore, the very existence and gravity of this threat generates a climate of suspicion and fear between States, which is in itself antagonistic to the promotion of universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter of the United Nations and the International Covenants on Human Rights. The production, testing, possession, deployment and use of nuclear weapons should be prohibited and recognized as crimes against humanity.” (GC No. 14, 1986) These were courageous words from the most respected universal human rights treaty body, the Human Rights Committee. Unfortunately, its pronouncements are only “soft law” and not legally binding.

In this context it is important to welcome the emergence of several demilitarized zones in the world, the first being Antarctica, pursuant to the Antarctic Treaty of 1959. There are also important Nuclear-Weapon Free zones and nuclear-free countries, including countries like Austria, Finland, Norway, Sweden, and many cities in individual countries including the United Kingdom and the United States.

Of regional significance is the Tlatelolco Treaty of 1967, also known as the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, which committed 33 States to a regional nuclear-weapon free zone. Pursuant to the South Pacific Nuclear-Free Zone Treaty (Rarotonga Treaty) of 1985 fourteen States, including Australia and New Zealand, declared a large area of the Pacific a nuclear-weapon free. Similarly, pursuant to the African Nuclear-Weapon Free Zone Treaty (Pelindaba Treaty) of 1996, the entire African continent and many Islands in the Atlantic Ocean such as the Canary Islands and Cape Verde, and Islands in the Indian Ocean including Comoros, Madagascar, Mauritius, Seychelles, a number of countries in the Indian Ocean constitute a nuclear-weapon free zone.

Proposals for other nuclear-weapon free zones are on the table. So, for instance, in 2010 the General Assembly proposed a nuclear-weapon free zone in the Middle East (Resolution A/67/RES/64/26). This follows-up on Security Council Resolution 687 (1991), which specifically recalled “the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East.”

Other legal commitments concerning disarmament include the Biological Weapons Convention (1972), the Chemical Weapons Convention (1993), the Anti-Personnel Landmines Convention (1997), the Convention on Certain Conventional Weapons (2001), and the Convention on Cluster Munitions (2008).

Besides treaties, some regions have issued Declarations proclaiming themselves “zones of peace”. On 29 January 2014 at the conclusion of the second CELAC Summit (Community of Latin America and Caribbean States), held in Havana, Cuba, the 33 States members adopted by consensus a Declaration proclaiming:

“1. Latin America and the Caribbean as a Zone of Peace based on respect for the principles and rules of International Law, including the international instruments to which Member States are a party to, the Principles and Purposes of the United Nations Charter;

2. Our permanent commitment to solve disputes through peaceful means with the aim of uprooting forever threat or use of force in our region;

3. The commitment of the States of the region with their strict obligation not to intervene, directly or indirectly, in the internal affairs of any other State and observe the principles of national sovereignty, equal rights and self-determination of peoples...” On 2 February 2014 the Independent Expert issued a press release welcoming this Declaration

(<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14215&LangID=E>)

Peace as a Human Right

The General Assembly has been at the vanguard in the efforts to recognize peace not only as a general principle, but also as a human right. Already GA Resolution 33/73, Declaration on the Preparation of Societies for Life in Peace, adopted on 15 December 1978 without opposition, stipulated that “every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace.” On 12 November 1984, the GA adopted Resolution 39/11, Declaration of the right of Peoples to Peace, which “solemnly proclaims that the peoples of our planet have a sacred right to peace.” Ninety-two States voted in favour, no State voted against. Moreover, it should be noted that 105 States have incorporated the universal value of peace in their national Constitutions as a governing principle of their domestic legal systems. Some Constitutions explicitly recognize peace as a fundamental right of peoples and individuals, in particular article 10.1 of the Constitution of Bolivia (“Bolivia is a pacifist State, which promotes the culture of peace and the right to peace...”, article 22 of the Constitution of Colombia (“Peace is a right and a duty whose compliance is mandatory”) and the Preamble of the Constitution of Japan (“...we recognize that all peoples of the world have the right to live in peace, free from fear and from want...”). Other States have chosen to abolish their armies, thus Article 12 of the Costa Rican Constitution stipulates: “The Army as a permanent institution is abolished.” And in the context of regional cooperation, the African Charter of Human and Peoples Rights (1986) stipulates in article 23(1) “All peoples shall have the right to national and international peace and security.” Notwithstanding these legal commitments, the world is still very far away from developing a culture of peace.

On 18-21 February 2013 the first open-ended inter-governmental working group on the right to peace of the UN Human Rights Council was convened in Geneva. Among the issues discussed was the *legal basis* for the contention that peace is a human right? While most States were cautious, speakers from civil society stressed that the Working Group’s mandate necessarily encompassed the progressive development of international law and its mechanisms of implementation. Precisely here lies the added value of the draft Declaration as dynamic development -- not mere reaffirmation of norms – since law is a living thing.

It is indicative of the enhanced role played by civil society that this standard-setting exercise was spearheaded not by Governments but by scholars, in response to the worldwide aspiration of individuals and peoples to live in peace. This confirms the spirit of the Charter of the United Nations, which begins with the words “We the Peoples”. At the session, some delegates expressed scepticism about the legal basis of the right to peace. Some participants, however, pointed out that the legal basis rests solidly on the Charter’s preamble and Articles 1 and 2. Legal basis is also provided by article 28 of the Universal Declaration of Human Rights, which stipulates that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized, and by the United Nations human rights treaties.

Many of the elements of the right to peace have been codified as articles of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other United Nations treaties. While some States still harbour doubts about the justiciability of the right to peace as a norm of international law, participants indicated that constitutive elements of the right to peace already exist and that a significant body of regional and international jurisprudence has emerged. Just to name an example, Costa Rican lawyer Luis Roberto Zamora filed a suit against the participation of Costa Rica in the “Coalition of the Willing”, which resulted in the 2004 Judgment of the Supreme Court of Costa Rica holding Costa Rica’s association to be contrary to the Costa Rican Constitution, its neutrality declaration, international law and the United Nations system (See judgement No. 9992-04).

Seen from the perspective of individual rights, the Human Rights Committee is competent to examine individual complaints concerning violations of the International Covenant on Civil and Political Rights. Thus, a breach of the right to life such as extrajudicial executions and potentially also illegal wars can be considered as a breach of article 6. Bearing in mind that two general comments on article 6 and general comment No. 29 on states of emergency postulate the State obligation to disarmament, a test case in this context may be justiciable. Threats to the right to peace may potentially be examined under article 9, which imposes on the State an obligation to ensure security of the person. Freedom to engage in anti-war activities, to demonstrate for peace and to create pacifist organizations is protected under articles 19, 21 and 22. The prohibition of the recruitment of children as soldiers in armed conflicts breaches article 24 and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and will be justiciable under the third protocol to the Convention which has just entered into force on 14 April 2014. The right of conscientious objection to military service has been repeatedly affirmed in the general comments of the Human Rights Committee and case law as inherent to article 18, which stipulates the right to freedom of conviction and belief. Conscientious objectors and other persons have the right to leave any country, including their own, pursuant to article 12. Persons who have fled armed conflict and persecution or who have left their countries of origin because of conscientious objection have a right to seek asylum; as refugees, they have a right not to be subjected to *refoulement*, a right protected under article 7 of the International Covenant on Civil and Political Rights, article 3 of the Convention against Torture and the 1951 Convention relating to

the Status of Refugees. They also have the right to return in safety and dignity to their countries of origin pursuant to article 12 of the International Covenant on Civil and Political Rights. Propaganda for war is specifically prohibited under article 20 of the Covenant. The liability of State officials for warmongering and State responsibility for incitement by non-State actors may be considered by the Human Rights Committee under the State reporting and the Optional Protocol procedures. In case of violation of these constitutive elements of the right to peace, victims have a right to a remedy under article 2 of the Covenant.

The human right to peace also has important economic, social and cultural components. Following the entry into force of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 5 May 2013, individuals can invoke violations before the Committee on Economic, Social and Cultural Rights. Thus, the rights to, *inter alia*, health, a safe environment, food, water and education have acquired even more resonance in the life of each individual.

Advancing toward world peace?

It has been said that the arms trade fuels wars, since weapons are built so as to be used and destroyed, so that ever more weapons can be produced and sold. Only in this manner can the arms industry make a profit.

In January 2014 Professor Jonathan Turley of the George Washington University published a thoughtful article on the dangers posed by the international arms lobbies, in particular the undemocratic influence that the military-industrial complex holds on government, which not only threatens the maintenance of world peace but more fundamentally the functioning of democracy itself and the democratic international order (<http://jonathanturley.org/2014/01/12/perpetual-war-and-americas-military-industrial-complex-50-years-after-eisenhowers-farewell-address/>). He also recalled the farewell address of President Dwight D. Eisenhower on 17 January 1961, in which Eisenhower specifically identified the military-industrial complex as a grave danger to democracy and peace (<http://www.youtube.com/watch?v=9QXjBVC233s>).

It is in the hands of international civil society to demand budget and fiscal transparency, a significant reduction in military spending and a reorienting of the work force away from war industries toward peace activities. Perhaps there is some truth to the observation by Oscar Wilde: “As long as war is regarded as wicked, it will always have its fascination. When it is looked upon as vulgar, it will cease to be popular.”

But seriously, humanity’s survival really depends on disarmament, particularly nuclear disarmament. Chatham House and other think tanks have already documented a number of close calls, and it is not impossible that the third world war will not be deliberately started by a megalomaniac aggressor, but rather be a mutual assured destruction triggered by a computer of technical glitch, as Mikhail Gorbachev has repeatedly warned. (“Too close for comfort” <http://www.chathamhouse.org/publications/papers/view/199200>)

Let us remember the words of Albert Einstein: “I know not with what weapons world war III will be fought, but world war IV will be fought with sticks and stones.” It is because of this Sword of Damocles suspended over all of our heads that we must do everything in our power to achieve total nuclear disarmament. On September 26, International Day for the Total Elimination of Nuclear Weapons was celebrated worldwide, including at the United Nations in New York and Geneva, and on 24 October World Disarmament Week will be launched with numerous activities, including those of the UN Platform for Nuclear Disarmament, UNFOLD Zero (<http://www.unfoldzero.org/angela-kane-sep-26-it-s-always-possible-make-progress>, <http://www.unfoldzero.org/un-days>) and of the International Peace Bureau, which is expanding the Global Day of Action on Military Expenditures into a Global Campaign on Military Spending. (<http://www.ipb.org/web/>)

Besides Civil Society activism, we must also rely on our Parliaments. On 20 March of this year, the 130th assembly of the Inter-Parliamentary Union adopted an important resolution “Towards a Nuclear-Weapon-Free World”, outlining the role of Parliaments and recommending them to urge their governments to start negotiations on a nuclear-weapons convention or on a package of agreements to help achieve a nuclear-weapons free world as proposed by UN Secretary-General Ban Ki-moon, who has famously said: The world is over-armed and peace is underfunded.”

I thank you for your attention.

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