
**From the Universal Declaration of Human Rights to the
Universal Declaration of the Human Right to Peace**

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Theo van Boven

1. The Four Freedoms

The preamble of the Universal Declaration of Human Rights commences with two fundamental considerations:

“Whereas recognition of the inherent integrity and of equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, *Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and which has been proclaimed as the highest aspiration of the common people.”

The authors of the Universal Declaration of Human Rights were mindful, at the time when the barbarous acts and the atrocities of World War II were heavily troubling the conscience of humankind, that freedom, peace and justice were cornerstones of a human rights-based national and international society. They brought back to life and explicitly referred to US President F.D. Roosevelt’s Four Freedoms proclaimed in the dark year 1941 as a holistic approach to human rights and fundamental freedom: freedoms of speech, freedom of worship and belief, freedom from want and freedom from fear. Let me quote what Roosevelt said about freedom from fear as a guiding beacon in our course towards a Universal Declaration of the Human Right to Peace:

“The fourth is freedom from fear – which, translated into world terms, means a worldwide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of aggression – anywhere in the world. This is no vision of a distant millennium. It is a definite basis for a kind of a world attainable in our time and generation.”

Freedom from fear, translated in terms of the right to peace, is intrinsically interrelated with freedom from want which found its normative and ethical consecration in the UN Declaration on the Right to Development. Freedom from fear is also the prerequisite for the enjoyment of civil, political, economic, social and cultural rights as universal and indivisible attributions of human dignity, worldwide, everywhere in the world.

The Universal Declaration of Human Rights was proclaimed on 10 December 1948 “as a common standard of achievement for all peoples and all nations”. At that time many peoples and nations, especially from Africa and Asia, had not yet been able to exercise their right to self-determination and were still excluded from participation in representative organs of the world

community, notably the United Nations. Over the years which count for many peoples and nations as years of decolonization, emancipation and self-determination, the world community has set important steps on the way to the universalization of human rights as a common standard of achievement. This universalization, implying a process from exclusion to inclusion of peoples, nations and human persons irrespective of race, colour, ethnic origin, gender, religion, language, social or national origin, is a continuing process and a permanent challenge. The human right to peace and the efforts to affirm and to strengthen its moral and legal basis is part of this process towards a common and universal preservation of human security.

2. Process

The process towards universalization of human rights was reflected in numerous legal instruments, adopted at worldwide and regional levels, with the Universal Declaration of Human Rights as a major frame of reference and source of inspiration.

The edifice of the human rights architecture, in the course of years explicated to persons and groups in need of special attention and protection – women, children, migrants, disabled persons, indigenous peoples and others – has become one of the most vital branches of international law and constitutes now a core component of world political ethics.

This process towards universalization of human rights would however been hardly conceivable without the dynamic role of the human rights movement rooted in many sectors of civil society. At the time when the Universal Declaration of Human Rights was drawn up the authors had the inspiration and benefit of a wealth of texts at their disposal but the involvement of civil society was limited. It was a process driven by selected focus. But it was the broader human rights movement as developed in the seventies and eighties of the last century that had a decisive impact on making human rights a matter of profound national and international concern. This human rights movement, with a precious core of courageous human rights defenders, grew into a worldwide movement in Europe, the Americas, Africa and Asia. It encompassed the womens' movement, the labour movement, religious constituencies, the anti-apartheid movement, conscientious objectors, indigenous peoples coalitions, defenders of political prisoners and many others who turned to the United Nations and other organs carrying authority and asserted the rights solemnly proclaimed and ratified by governments. They invoked human rights instruments and used them as tools in their demands for justice, redress and reparation and in strategic litigation before domestic and international tribunals. We may recall that certain sectors of the human rights movement were closely associated with the peace movement in campaigns against weapons of mass destruction and against other cruel and inhuman devices having indiscriminate and fatal effects on innocent human beings, leading to the outlawing of landmines and cluster bombs. Consequently, the human rights movement and the peace movement not only go hand in hand, they also serve the same goal: the advancement and preservation of human security.

While it is most appropriate to recall the human rights movement and the peace movement as major forces in the process towards global justice and peace, it is also relevant in this regard to draw attention to human rights standards that clearly and explicitly establish the link between human rights and peace. Recognizing that racial discrimination and ethnic tensions and violence constitute in many ways a threat to peace and security, the International Convention on the Elimination of All Forms of Racial Discrimination observes in its preamble that discrimination on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples. Further, a most notable and explicit provision is article 20 of the International Covenant on Civil and Political Rights which prescribes that any propaganda of war shall be prohibited by law and that such prohibition also applies to any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. In its General Comment (No 11) relating to this provision the Human Rights Committee as the custodian of the International Covenant stated that all forms of propaganda threatening or resulting in an act of aggression or breach of the peace in violation of the United Nations Charter are contrary to public policy and must be the subject of appropriate sanctions provided for by law. These are just a few examples of the intersection between defending peace and prescriptions in international human rights law. Many more can be cited. They reflect a process of political ethics deriving from the United Nations Charter and the Universal Declaration of Human Rights and, as we envisage, advancing progressively towards the adoption by the United Nations of a Universal Declaration of the Human Right to Peace.

3. Development, Peace and Security, Human Rights

An impressive legacy of former UN Secretary-General Kofi Annan is embodied in his report “In larger freedom: Towards development, security and human rights for all” (UN, doc., A/59/2005). This visionary document builds upon the principal notions of freedom from want and freedom from fear and stresses the inextricable link between development, security and human rights as a basic precondition for peoples, nations and individuals to conduct life in larger freedom. Let me quote a fundamental assumption expressed in this document: “Larger freedom implies that men and women everywhere have the right to be governed by their own consent, under law, in a society where all individuals can, without discrimination or retribution, speak, worship and associate freely. They must also be free from want – so that the death sentences of extreme poverty and infectious disease are lifted from their lives – and free from fear – so that their lives and livelihood are not ripped by violence and war. Indeed, all people have the right to security and to development” (para 15). The same document then continues and heralds: “We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights” (para 17). These words were thereupon echoed in the Outcome Document of the 2005 World Summit which stated: “We acknowledge that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being. We recognize that development, peace and

security and human rights are interlinked and mutually reinforcing” (2005 World Summit Outcome, UNGA res. 60/1, para. 9).

A striking element that figures prominently in these quotations is the notion of “security” or more precisely “the right to security”. It is obvious that the right to security and the right to peace, though not fully identical, are closely connected and in many ways overlapping. Nevertheless, we are aware that security also carries adverse connotations. We recall and we know painfully that authoritarian regimes massacred, tortured and deported people in the name of national security. Even democratic authorities disregarded non-derogable human rights in defence of national security. This is not the type of security I want to associate with the right to peace. True, a secure State is necessary to protect all its inhabitants, but any argument which may actually imply that human rights must necessarily be subordinated to the security of the State must be met with great circumspection. The security we have in mind as closely linked the human right to peace is *human security*. The roots of human security are included in the preamble and in the whole thrust of the Universal Declaration of Human Rights and will be an essential underlying component of the Universal Declaration of the Human Right to Peace.

Some moments ago I referred to the Outcome Document of the 2005 World Summit and the three pillars of the right to peace: development, peace and security, and human rights as interlinked and mutually reinforcing components of the right to peace. In the same Outcome Document world leaders unanimously committed themselves to protect populations from the most conscience-shocking atrocity crimes: genocide, war crimes, ethnic cleansing and crimes against humanity. They outlined a strategy of prevention and protection that was introduced under the denominator of the Responsibility to Protect (RtoP) (UNGA res. 60/1, paras 138-139). This newly emerging principle of international law can be considered as “an overarching principle that defines the entire fabric of legal, moral and political obligations and responsibilities of States and the international community in the case of specific, actual or imminent, large-scale human rights violations” (Netherlands Advisory Council on International Affairs, report No 70, June 2010). The RtoP principle is based on a progressive, people-oriented interpretation of the UN Charter principle of national sovereignty that not only carries the notion of non-intervention but also, and above all, the responsibility to protect the lives and the security of people. This is the primary duty of States, separately and jointly, but in situations where national authorities are manifestly failing to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity the international community may step in to take collective action, in a timely and decisive manner through the Security Council, in accordance with the UN Charter. The RtoP puts great emphasis on preventive measures as a means to forestall mass atrocity crimes and attributes preventive and protective responsibilities to regional and international capacities as constituent parts and partners of the international community. In this connection it must be kept in mind that the RtoP in no way legitimizes the unilateral use of force contrary to the principles of the United Nations Charter as is also stated quite clearly in the Barcelona Declaration on the Human Right to Peace (art. 13, 7). In recent years the RtoP is apparently scoring high on political and academic

agendas but the political will to translate knowledge, insights, concerns and undertakings into timely and decisive action is still to be tested so that the horrors of Rwanda, Sebrenica and Cambodia are not to be repeated elsewhere. The RtoP bringing about a more secure and peaceful world, remains a major challenge today and in the years to come.

4. Towards the Universal Declaration of the Human Right to Peace

Earlier on I referred to processes that are leading to the enactment of laws. Historic domestic and international documents, such as bills of rights, proclamations of independence, great constitutions and charters were often the outcome of processes in times of revolution and struggle. Such documents were introduced and perceived as marking a new era founded upon on the rule of law. These texts were hailed as a symbol of hope against the odds and evils of persecution and repression. The Universal Declaration of Human Rights ranks high among such texts and proclamations. In the United Nations we occasionally received information about the confiscation of the Universal Declaration as a subversive document. Indeed, the message of emancipation and liberation may come across as subversive in certain societies. It would be a paradox and a defiance to draw from here a parallel to the Universal Declaration of the Human Right to Peace which at first sight would appear to be an anti-revolutionary and anti-subversive document. Nevertheless, I submit that in marking the right to peace, in the dual sense of a collective and an individual right, as a serious proposition, a serious challenge and commitment, we envisage, if not a revolution in thinking and approach, at least a change of mind and a renewal of attitude and political will, a *metanoia* in a world where the postures of the powerful prevail over the rights of the vulnerable and where human security is under permanent threat by forces of abusive power. When the authors of the Universal Declaration of Human Rights presented in 1948 this text to the UN General Assembly to be proclaimed as a common standard of achievement for all peoples and all nations, they could not foresee that in the years and the decades to come this document would have such an immense impact on further normative and ethical developments and on universal human rights awareness building. It would perhaps be too pretentious to assume that a Universal Declaration of the Human Right to Peace would promise a comparable impact. Nonetheless, such a declaration may carry significant potentials to serve as a common standard of achievement by teaching and education as well as by evocation and integration of its principles into domestic and international policies and strategies. The impregnation of the thrust and contents of such a peace declaration, perhaps later to be followed by a convention, into the minds of the people may well strengthen a widely shared public awareness and aspiration for the attainment of peace, justice and human dignity. We should of course not close our eyes that there is in many ways a gap between rhetoric and reality – between declarations and deeds. This gap can be narrowed by the introduction of meaningful measures of implementation, preferably in the text of the Declaration itself or in an accompanying document, reflecting an overall commitment to make the Declaration a dynamic instrument and effective tool in the hands of all, governments, civil society, the corporate sector, all other organs of society and individual persons, so as to foster a universal right and culture of peace.

In conclusion I wish to place on record that in my considered opinion the scope and contents of the Human Right to Peace as well as its implementation are well outlined in the two resolutions which are now before this Congress. In this regard the Spanish Society for International Human Rights Law, together with its partner organizations, deserves the full credit for its great and highly appreciated efforts to develop the concept of the Human Right to Peace set forth in the Declarations adopted in Luanca, Bilbao and Barcelona.