



General Assembly

Distr.: General
15 February 2012

English only

Human Rights Council

Advisory Committee

Eighth session

20-24 February 2012

Item 2 (a) (vi) of the provisional agenda

Requests addressed to the Advisory Committee stemming from

Human Rights Council resolutions:

Promotion of the right of peoples to peace

Written statement* submitted by the International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Opinion for the draft declaration on the right to peace*

We, the International Association of Democratic Lawyers respectfully submit to the Advisory Committee a written statement, which takes account of voices raised by one of our affiliates that expresses deep attachments and commitment to the Right to Peace. While we are mindful of the aspirations and views of the Advisory Committee in its endeavor to elaborate a Draft Declaration on the Right to Peace (A/HRC/AC/8/2 of 9 December 2011), we request that the following three points would be incorporated into the draft in order to concentrate our efforts to attain higher achievements.

Right to live in peace

The second Draft reads in Article 2 Paragraph 2 that “All individuals have the right to live in peace so that they can develop fully all their capacities, physical, intellectual, moral and spiritual, without being the target of any kind of violence.” Along with this passive aspect of the right, a positive aspect of the same right should be clearly defined in the draft.

It is noteworthy that we have already a good example in this regard: The Constitution of Japan stipulates in the preamble that “We recognize that all peoples of the world have the right to live in peace, free from fear and want.” In 2008 Nagoya High Court ruled in a definite judgment that the right to live in peace covers a wide range of meanings from “the right not to be involved in wars,” which has a passive and defensive nature, to “the right not to take part in war,” rather of active and positive nature, which prohibits the Japanese Government from engaging in wars abroad. Having confirmed a State practice as it is, we can safely say that “the right not to take part in war” is not only compatible with the preamble of the Draft Declaration on the Right to Peace, but also with the terms and principles of the Charter of the United Nations, which turns out that the right is something more effective to let the world in peace. As Article 5 Paragraph 2 of the Draft sets out that “States have the obligation to prevent members of any military or other security institution from taking part in wars of aggression or other armed operations, whether international or internal, which violate the Charter of the United Nations, the principles and norms of international human rights law or international humanitarian law,” the right of conscientious objectors such as defined above can be extended so as to admit the same title to men and women on the street or ordinary citizens in general. In this regard, the “right not to take part in war” can be safely said as an integral part of the right to peace.

Foreign military bases

The “right to disarmament” as defined in Article 3 of the Draft can be extended so as to accept a wording proposed by Article 7 Paragraph 1 of the Santiago Declaration, which reads that “States shall adopt effective and coordinated measures in order to progressively phase out their armies and foreign military bases.”

Any foreign military bases with stationing armed forces are basically deemed to be maintained on the premise of continuing hostile relations between States; it is thus evident that they might become big obstacles in peace-keeping or in a peace process. Keeping military bases on foreign soil could fall undeniably within the word traced by Article 2 Paragraph 4 of the Charter of the United Nations, for it may be considered as threat of force. It is well-known that foreign military bases have played important roles in waging war, to say, in Afghanistan and Iraq. Using military bases in a foreign country may be seen

* The Japan Lawyers International Solidarity Association, an NGO without consultative status, also shares the views expressed in this statement.

as overstepping the limit of self-defense, and can be seen as threatening vis-à-vis other nations or even leads up inevitably to an overheated arms race.

Around any premise of a foreign military base, neighboring population may suffer from unexpected harms caused by noises or clashes of military planes; they may be exposed to atrocities like murders or rapes committed by military personnel; they may be targeted by armed attacks in eventual hostilities; they may be by no means in a position to prevent any military operations against their will; they may be exploited as a foothold in waging war of aggression. It could go so far as to say that a receptive nation itself can't control at its discretion over any use of foreign military bases within its territory. These and other things could amount to overwhelming disadvantages for the neighboring population.

These heavy burdens as mentioned above are well illustrated by people in Okinawa, where 75% of US military facilities accepted by Japan are concentrated within less than 1% of the national surface. It should be noted that those above-mentioned harms and sufferings have already come out to the point that the vast majority of people in Okinawa want removal of the US military bases out of their communities.

In summing up, in terms with Article 3 Paragraph 3 of the Draft Declaration on the Right to Peace, which reads that "States are invited to consider the creation and promotion of peace zones and of nuclear weapon-free zones," we propose to add "including removal of foreign military bases."

Radioactive contamination

Article 10 of the Draft Declaration on the Right to Peace establishes important aspect of this right in regard to environmental right. The relevant article reads that "Everyone has the right to a safe, clean and peaceful environment, including an atmosphere that is free from dangerous man-made interference, to sustainable development and to international action to mitigate and adapt to environmental destruction, especially climate change" (Article 10 Paragraph 1). Today we have experienced serious accidents of melt-down of a nuclear power plant in Fukushima, Japan. Such radioactive contamination as we are still facing now compels us to write down some clearer message in the Draft Declaration on the Right to Peace, because sufferings or even anxiety and sense of insecurity of this kind are not completely different from peace or human security. We need something like "right to healthy environment, free from radioactive contamination."

The explosion occurred in Fukushima on March 11, 2011 tells us that spreads of radioactive materials and radioactive accumulation of farm products or livestock may be detrimental to public health. Internal exposure through food or water as well as external exposure to radiation may affect seriously without any doubt survival of human beings as a whole. Even peaceful use of nuclear energy may endanger us to some extent. Its military use beyond civilian control or people's control might endanger us to a greater extent if nuclear submarines or other nuclear-powered naval vessels might cause nuclear leakages or even if nuclear weapons or depleted uranium arms might be used. In that sense, it is pertinent to clearly define "the right to a safe, clean and peaceful environment, free from radioactive contamination" in Article 10 of the Draft Declaration on the Right to Peace.

Again we appreciate in advance the pertinent considerations of the Advisory Committee and also of the Human Rights Council.
