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## 人权理事会

第二十一届会议

议程项目3

增进和保护所有人权 ——公民权利、政治权利、

经济、社会和文化权利,包括发展权

促进民主和公平的国际秩序独立专家阿尔弗雷德·莫里斯·德萨亚斯的报告\*\*\*

#### 概要

促进民主和公平的国际秩序独立专家根据人权理事会第 25/15 号决议向人权理事会提交本报告,也是第三份独立专家报告,报告概述了独立专家自 2013 年 6 月至 2014 年 6 月开展的各项活动,补充了其先前提交理事会和大会的报告。本报告内,独立专家(a) 初步研究了军事开支、包括持续的武装冲突、反恐战争、监控、采购、军事研究、挪用和腐败对实现民主和公平的国际秩序的不利影响; (b) 提到和平是公正的国际秩序的条件,因此需要真诚的裁军谈判和逐渐地将军事为先的预算转为人类安全的预算;和(c) 向各国、各议会、国家人权机构、民间社会及人权理事会提出切合实际的建议。

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<sup>\*</sup> 迟交。

<sup>\*\*</sup> 本报告附件不译,原文照发。

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"全球军火贸易及其随之而来的军费膨胀继续严重违背全球至今公认的优先事项。这一状况助长了战争、犯罪活动和族裔暴力;动摇了新兴民主国家;扩大了军事预算以至于损害了保健照料、教育和基本基础设施;加剧了全球不平等与发展不足关系。如果没有大规模的协调行为,军国主义将继续是一个祸害,阻止我们实现一个更加和平与公正的二十一世纪的希望。"(Oscar Arias,前科斯达黎加总统和诺贝尔和平奖得主。)¹

## 一. 导言

1. 审读本报告时请参照阅读独立专家先前提交人权理事会和大会的报告。这些报告参照了各国、政府间和非政府组织提出的意见与建议,任务负责人提交的来文、对问答卷以及互助对话的答复,目的是集中归纳地论述理事会第 18/6 号、21/9 号和 25/15 号决议所包含的广大范围。本着和平是实现民主与平等国际秩序不可缺少的条件的信念,这份关于为发展实现裁军的初步报告证实了裁军必须是国际社会优先考虑的问题。裁军必须包括停止生产和贮存武器,特别要停止大规模杀伤力武器的生产与贮存,同时要大大削减军火贸易。下调军事预算有助于可持续发展,消除极端贫困、解决包括流行病和气候变化在内的全球挑战,有助于教育和联合青年人向和平、合作和国际团结方向前进。同心协力地将军事第一的经济转为人类安全的经济还将创造就业和稳定。<sup>2</sup>

## 二. 活动

- 2. 2013 年 6 月 15 日至 2014 年 6 月 30 日,独立专家根据不同的工作方面进行了大量活动。2014 年 2 月,为了通报他向理事会提交的专题报告,他向各国、政府间组织、国家人权机构和非政府组织发出了问答卷(见附件一)。他对所有的答复表示感谢。
- 3. 他从个人和群体收到了来信和申诉,他承认收到了这些来信和申诉,并且对 这些来信和申诉进行了考虑。在报告阶段,独立专家和其他任务负责人向各国政 府发出了申诉。他还对各种各样的问题发表了无数次媒体声明,他定期会晤日内

<sup>&</sup>lt;sup>1</sup> 见"阿里亚斯和平与人类进步基金会", www.un-ngls.org/spip.php?page=amdg10&id\_article=25 92 还见 http://arcwebsite.org/pages/vj\_arc\_oxfam\_birm\_jan06.htm。

<sup>&</sup>lt;sup>2</sup> Miriam Pemberton, "Demilitarizing the economy" (Institute for Policy Studies), 请查阅 www.ips-dc.org/blog/demilitarizing\_the\_economy\_a\_movement\_is\_underway; Replacing Defense Industry Jobs, 请查阅 http://newprioritiesnetwork.org/fact-sheet-replacing-defense-industry-jobs/http://www.ips-dc.org/staff/miriam; C. N. Makupula, "Disarmament and development: a South African perspective", 《裁军论坛》(联合国裁军研究所(裁研所), 2003). See UNCTAD, 2014年世界投资报告,请查阅 http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=937,及评语,请查阅 from www.rtcc.org/2014/06/24/sustainable-development-goals-face-2-5-trillion-funding-shortfall/。 还请查阅 www.scidev.net/global/mdgs/feature/jeffrey-sachs-sdgs-big-science.html。

瓦和纽约的常驻代表团,特别程序任务负责人。在人权理事会第二十四届、二十 五届和二十六届会议期间,他出席了联合国相关的小组会议。

- 4. 独立专家参加的与其职责相关的活动,包括:
- (a) 2013 年 6 月 24 日至 28 日他参加了在维也纳举行的特别程序任务负责人的年会;
- (b) 2013 年 6 月 27 日和 28 日他在维也纳参加了 2015 年之后发展议程研讨 会+20 次会议:
- (c) 2013 年 10 月 16 日和 17 日,他出席了在布鲁塞尔欧洲议会举行的世界 议会大会第五次国际会议,会上他作了有关参与权的发言;<sup>3</sup>
- (d) 2014年3月11日,他在厄瓜多尔常驻代表团在日内瓦举行的商务和人权研讨会上作了实质性报告;
- (e) 2014 年 4 月 3 日至 5 日,在联合国系统学术理事会和联合国议会大会在维也纳举行的一次会议上作了关于公共参与和预算透明度的演讲;
- (f) 2014年5月15日,他在布鲁塞尔主持了关于军事开支和国际秩序的专家磋商会议(见附件二);
- (g) 2014年5月23日,他在日内瓦举行的关于单方面强制性措施对享有人 权影响的研讨会上作了发言;<sup>4</sup>
- (h) 他出席了在美利坚合众国阿拉斯加,安卡拉奇举行的美国印第安人会议全国代表大会,以了解军事和开采活动对其领土的影响。
- 5. 根据理事会第 25/15 号决议第 18 段,独立专家与学术界、智囊团和研究机构进行了互动,并且
- (a) 在 2013 年 9 月 24 日和 25 日,在哥本哈根丹麦人权机构举行的有关公众参与的研讨会上作了发言;
  - (b) 2013年9月27日在日内瓦大学作了关于其职责范围的讲座;
  - (c) 2013年10月24日在哈佛法学院作了有关其职责的演讲;
  - (d) 2013年10月25日接受阿墨斯特媒体有关职责工作的电视采访;<sup>5</sup>

 $<sup>^3</sup>$   $\mathbb R$  http://blog.unpacampaign.org/2013/10/uns-independent-expert-alfred-de-zayas-time-for-a-world-p arliamentary-assembly/ $_\circ$ 

 $<sup>^4</sup>$  见 http://blog.unpacampaign.org/2013/10/uns-independent-expert-alfred-de-zayas-time-for-a-world-parliamentary-assembly/ $_{\circ}$ 

<sup>&</sup>lt;sup>5</sup> 见 https://archive.org/details/85211HumanRightsMinute。

- (e) 10 月 29 日,在纽约与集会和结社自由特别报告员和法官与律师独立性特别报告员一起在国际和平学院参加了一个小组会并且录制了采访; <sup>6</sup>
  - (f) 2013年11月6日在日内瓦大学作了关于职责的演讲:
- (g) 2013 年 12 月 10 日在日内瓦国际会议中心主持了由人权论坛和地球焦点前景组织的人权活动;
  - (h) 2013年12月19日在瑞士苏黎士苏黎士高院进行演讲;
- (i) 2014 年 2 月 3 日就拉丁美洲和加勒比国家共同体宣布拉丁美洲和加勒比为"和平区"的宣言接受采访;<sup>7</sup>
- (j) 2014 年 3 月 9 日在日内瓦加拿大常驻代表团参加了关于从和平行动转移材料论题的简单介绍会;
- (k) 2014 年 3 月 11 日和 12 日在哥本哈根丹麦人权机构举行的公共参与国际专家工作组会议上作了演讲;
- (l) 2014 年 3 月 31 日与新独立国家运作领袖 Eden Cole 一起在日内瓦民主控制武装力量中心进行发言;
- (m) 2014年4月8日与新当选的各国议会联盟秘书长 Martin Chungong 一起探讨可能的合作:
- (n) 2014 年 4 月 14 日在日内瓦参加了国际和平局主办的全球军事开支行动日的小组讨论会;
- (o) 2014 年 4 月 15 日至 17 日在布鲁塞尔参加了民主律师大会国际联盟的若干小组会:
- (p) 在 2014 年 5 月 7 日至 10 日在斯洛文尼亚 Bled 举行的世界笔会和平作家委员会的年度会议上发言;
  - (q) 2014年5月14日在布鲁塞尔与欧洲委员会司法总局的官员会晤;
- (r) 2014 年 6 月 4 日在哥斯达黎加常驻日内瓦代表团举行的有关和平权利的磋商会议上进行发言。

## 三. 事实与挑战

6. 人权理事会 2014年3月27日第25/15号决议第17段要求独立专家向理事会第二十七届会议提交一份报告。在该项决议内,理事会重申,除其他事项外,民

<sup>&</sup>lt;sup>6</sup> 见 http://theglobalobservatory.org/interviews/611-with-democracy-one-size-does-not-fit-all-interview-w ith-alfred-de-zayas.html。

 $<sup>^7~</sup>$   $\frak{\mathbb R}$  www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx ? NewsID=14215&LangID=E  $_{\circ}$ 

主平等国际秩序要求实现全体人民的和平权利。根据第 10 段,"所有国家都应 促进建立、维护和加强国际和平与安全,并应为之作出最大努力,在有效国际监 督下实现全面彻底裁军,并且确保将通过实行有效裁军措施释放出来的资源用于 全面发展,特别是发展中国家的发展。"

- 7. 上述承诺是《联合国宪章》的宗旨与原则的中心,是实现公正的国际秩序的要素。在这个前提之下,独立专家探讨了军事开支对享有人权的不利影响,减少军事预算的可能性以及将资源重新分配给 2015 年后发展议程的可能性。他深信,一个民主的国际秩序首先要对民主的国内秩序作出承诺,只有促进发展权利才能够最好的实现国际平等秩序。除非改变国内和国际的优先事项,否则这样的世界秩序无法实现。改变这些优先事项的一个方式是使经济和社会权利在所有国家的法院内可以实施,并使有关这些权利的裁决可在区域法庭或者在一个国际人权法庭予以复审。预算和财政透明度是必要的工具以防止国际军事工业综合体劫持国际秩序;8 这些国际军事工业综合体通过生产和销售武器谋取无尽无止的利益,在世界各地引发冲突,阻碍谈判与和平解决争端。9 然而,仅透明度是不够的。只有通过法制才能够实现经济和社会权利的兼顾平衡。
- 8. 联合国通过了无数项决议,这些决议反映了智囊团和民间社会的共识。然而,尽管症结判断准确,但将军事开支重新分配给和平工业方面取得的进展甚少。确实,目前工作所面临的挑战之一是如何准确地将"道德上明显清楚的"转化为政治上实际可行的。本报告涉及裁军与发展之间的联系,涉及紧急减少世界各地军事开支的必要性,本报告只能作为一个初步的报告,因为这个问题普遍存在,而解决这个问题的各项战略至今一直未果。独立专家打算继续审查这个涉面广泛的问题,作为克服障碍建立一个正义的国际秩序全面战略的一部分。
- 9. 至今为止独立专家所有报告的关键内容包括民主和自决问题的讨论,这两者是紧密关联的,均包括个别和集体方面,并具有国家与国际影响。直接民主的思想,包括公民拥有法律举措权,通过真正的磋商与公投管控各种问题,仅在极少国家内部分地得到实现。普遍存在的代议制民主的模式是不完善的,需要予以改进。代议制民主只有当议员真正代表他们的选民才称得上"民主"。当选议员必须保持选民对其的信任,必须主动地告诉选民影响决策的相关进展,例如国家用于军事、教育和卫生保健的预算调拨。他们必须致力于了解选民的需要与愿望。换言之,代表应向公民负责,必须采取透明的行动,必须定期地与选民进行磋商,因为他们不是全权代表,而是代表人民,其职责受限于一定的时间与范围,他们必须诚心诚意地工作,而不应该篡夺权力。

<sup>&</sup>lt;sup>8</sup> 见 http://jonathanturley.org/2014/01/12/perpetual-war-and-americas-military-industrial-complex-50-y ears-after-eisenhowers-farewell-address/。

<sup>&</sup>lt;sup>9</sup> 见 Rebecca U. Thorpe, *The American Warfare State:The Domestic Politics of Military Spending* (Chicago, University of Chicago Press, 2014)。

## A. 人类安全

10. 民主与自决服务于人类安全与享有人权的总体目标。"人类安全"的概念并不新鲜。在富兰克林•罗斯福的"四大自由"中就载有人类安全,特别是"免于恐惧的自由"和"免于匮乏的自由"的概念。<sup>10</sup> 联合国开发计划署人类发展报告(1994)将人类安全界定为"通过发展,而不是武器;通过合作,而不是对抗;通过和平,而不是战争的实现的人民安全"。<sup>11</sup> 这包括:"第一,免遭饥饿、疾病和镇压此类长期威胁的安全。第二,无论是在家里、在工作场所或在社区内得到保护,免遭日常生活模式突然危害性中断。此类威胁可存在于国家收入与发展的各个层次"。<sup>12</sup> 优先事项的重大转移是必要的,因为只要各国政府、各公司、银行和大学继续将万亿金钱投入于战争技术,而不是促进和保护人权,则不可能实现人类安全。<sup>13</sup> 正如联合国教科文组织前总干事费德里科•马约尔在 1998 年所写的那样,"必须改变安全概念。时至今日,我们认为武器投资是安全之关键。现在我们认为到,我们真正的敌人是贫困、无知、对环境的破坏。"<sup>14</sup>

11. 解决军费开支的一个问题是缺乏一个包罗万象的定义。由于没有一个包罗万象的定义,使得各国政府将某些开支用于并非直接明确定义的与军事有关的预算。通常,军事开支是"秘密"或隐蔽的,从而阻止公民了解其税收是如何花费的权利。军事开支可能不仅仅调拨给陆军、海军或空军,有时还会调拨给能源部、<sup>15</sup> 调拨给"研究与发展",<sup>16</sup> "外国关系"等部门等。军事开支的定义不仅仅要包括购买所有类型的武器、核武器、常规武器、坦克、飞机、潜水艇和无人机,并且还应该包括其他开支,如军事演习、基地、武器研究、测试、环境破坏、清除地雷和炸药、人员成本、复员、康复、退伍军人的保健照料、国家监测、全球间谍,而且还不应该忘记支付当前和以往战争债务的利息。<sup>17</sup>

<sup>10</sup> 见 www.fdrlibrary.marist.edu/fourfreedoms。

<sup>&</sup>lt;sup>11</sup> 见 http://hdr.undp.org/sites/default/files/reports/255/hdr\_1994\_en\_complete\_nostats.pdf, 第 6 页。

 $<sup>^{12}</sup>$  见 http://hdr.undp.org/sites/default/files/reports/255/hdr\_1994\_en\_complete\_nostats.pdf, 第 23 页。

See Colin Archer and Annette Willi, Opportunity Costs: Military Spending and the UN's Development Agenda (Geneva, International Peace Bureau, 2012). See also Colin Archer, Warfare or Welfare. Disarmament for development in the 21st Century (Geneva, International Peace Bureau, 2005), p. 9.

<sup>&</sup>lt;sup>14</sup> 教科文组织国际专家会议,巴塞罗那,1998 年 11 月。还见 Joseph Wronka, Human Rights and Social Policy in the 21st Century (New York, University Press of America, 1992)。

<sup>15</sup> 见 http://nnsa.energy.gov/aboutus/ourprograms/defenseprograms。 也见 https://www.osti.gov/open net/forms.jsp? formurl=document/press/pc26.html。

Los Alamos National Laboratory, see www.lanl.gov/index.php; http://energy.gov/articles/top-10-things-you-didnt-know-about-los-alamos-national-laboratory.

See International Peace Bureau, "Opportunity costs: military spending and the UN's development agenda" (Geneva, 2012), definition of military spending on p. 15. See also SIPRI definition, available from www.sipri.org/research/armaments/milex/milex\_database/copy\_of\_sources\_methods.

- 12. 军事开支极其惊人,<sup>18</sup> 裁军谈判将在不久的将来大大地减少军事预算,停止军事化的趋势的希望缺少。斯德哥尔摩国际和平研究所估计,在 2013 年,世界范围用于军事的开支将近 17,470 亿美元。<sup>19</sup> 最大的军费消耗国将 40%的税收入用于军事开支。<sup>20</sup> 独立专家与联合国秘书长在探讨这个局势时一致认为,"世界已过分武装,而发展的资金不足"。<sup>21</sup>
- 13. 哈佛大学肯尼迪政府学校出版了一份有关伊拉克和阿富汗战争费用的研究报告,估计军费可能在 4 至 6 万亿美元之间。<sup>22</sup> 这项研究着重于军费给美国纳税人带来的代价,不包括北大西洋公约组织其他成员的代价,未包括"自愿联盟"或者对伊拉克、阿富汗和巴基斯坦人民带来的代价。如果这些军费开支的一小部分用于促进千年发展目标,那么可完成许多工作。
- 14. 必须考虑军事化与发展之间的关联,以及战争与环境之间的关联。环境需要保护;测试新式武器,在战争中使用武器以及他们持续的污染影响造成了长期的环境和经济损害,因而在计算军事化成本时,必须将这一因素计算在内。值得提到 1992 年《里约宣言》原则 24: "战争本身对持续发展具有破坏性。因而,各国应该遵守国际法,在武装冲突期间保护环境,并酌情在今后的发展中进行合作"。<sup>23</sup>
- 15. 许多国际政治家早已在考虑预算优先的问题。早在 60 多年前,美利坚合众国总统,德怀特•艾森豪威尔雄辩地论述了这一危境: "每一去枪的制造,每一艘军舰的起航,每一颗火箭的发射最终意味着偷盗那些没有食物的饥饿者,在偷窃那些没有衣服的饥寒者。这个武器世界不仅只是耗费金钱,而是在耗费劳动者的血汗,科学家的智慧和孩子们的希望。"<sup>24</sup>军事核研究、生产和储存核武器以及大规模杀伤性武器的开支已经达到天文数字,每年超过 1,000 亿美元。<sup>25</sup>

<sup>&</sup>lt;sup>18</sup> 见 http://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS.

<sup>&</sup>lt;sup>19</sup> SIPRI, Fact Sheet April 2014, "Trends in world military expenditure, 2013".

<sup>&</sup>lt;sup>20</sup> 见 Friends Committee on National Legislation, http://fcnl.org/action/alert/2014/0408/;https://www.warresisters.org/sites/default/files/FY2015piechart-BW.pdf; andhttps://www.nationalpriorities.org/budget-basics/federal-budget-101/spending/。

See www.un.org/disarmament/over-armed/. See also Melissa Gillis, Disarmament: A Basic Guide (New York, United Nations, 2012), available from www.un.org/disarmament/HomePage/ODA Publications/AdhocPublications/PDF/Basic\_Guide-2011-web-Rev1.pdf#page=15. See also www.un.org/disarmament/HomePage/ODAPublications/AdhocPublications/PDF/guide.pdf.

See https://research.hks.harvard.edu/publications/workingpapers/citation.aspx?PubId=8956 Joseph Stiglitz and Linda Bilmes, "There will be no peace dividend after Afghanistan", *Financial Times*, 24 January 2013.

 $<sup>^{23}</sup>$  见 www.un.org/documents/ga/conf151/aconf15126-1annex1.htm.

Dwight D. Eisenhower, The Chance for Peace, 16 April 1953, available from www.edchange.org/multicultural/speeches/ike\_chance\_for\_peace.html.

<sup>&</sup>lt;sup>25</sup> 见 www.icanw.org/the-facts/catastrophic-harm/a-diversion-of-public-resources/.

## B. 达摩克利斯剑和核毁灭

- 16. 自原子弹与氢弹的发明,人类拥有了毁灭其本身许许多多次的能力。<sup>26</sup> 温斯顿丘吉尔等人告诫我们大规模杀伤武器所具有的严重危险,指出: "闪闪发光的科学之翅可能载回石器时代,现今给人类带来无穷尽物质福祉之物可能甚至导致其彻底毁灭。"<sup>27</sup> 最近,一些资深政治家,如: Vaclav Havel, Ricardo Lagos, Fernando Cardoso, Yasuo Fukuda, Ruud Luubbers 和 Helmut Schmidt 积极响应这个论点,他们为全面核裁军发起了全球零核活动<sup>28</sup>。
- 17. 著名人士米哈伊尔•戈尔巴乔夫<sup>29</sup>指出核武器对人类造成的持续危险,因而,有必要消除这种危险,因为核破坏的发生不仅可能因为一名侵略者蓄意发起第一袭击造成,也可能由一个人,一名电工或技术员的差错造成。鉴于 1945 年以来无数次"侥幸脱险",值得庆幸的是技术故障没有使人类遭到灭亡。<sup>30</sup>
- 18. 大会通过了许多有关核威胁的决议,最为近期的决议是 2013 年第 68/40 号决议。在该项决议内,大会促请各国采取必要措施,在所有各方面防止核武器扩散和促进核裁军,目标是消除核武器,并邀请秘书长加紧努力,支持各项有助于彻底实施裁军事项咨询委员会报告中所界定的七项建议,因为这将大大地减少核战争的风险,并且促进各国根据联合国千年宣言的提议,举行一次国际会议,确认消除核危险的方法。
- 19. 裁军并不是一个空头的承诺,裁军是《联合国宪章》第 26 条之下的一项承诺,该条规定: "为促进国际和平及安全之建立及维持,以尽量减少世界人力及经济资源之消耗于军备起见,安全理事会应负责拟具方案,提交联合国会员国,以建立军备管制制度。"。世界正在等待一项确保人类无战争安全的有效裁军制度。

<sup>&</sup>lt;sup>26</sup> 见 www.nuclearsecurityproject.org/publications/next-steps-in-reducing-nuclear-risks-the-pace-of-non proliferation-work-today-doesnt-match-the-urgency-of-the-threat.

<sup>&</sup>lt;sup>27</sup> 见 "The Sinews of Peace" Fulton, Missouri, 5 March 1946, available from www.history guide.org/europe/churchill.html。

<sup>&</sup>lt;sup>28</sup> See www.globalzero.org/ and www.globalzero.org/get-the-facts/cost-of-nukes.

Mikhail Gorbachev, "Resetting the Nuclear Disarmament Agenda", Geneva lecture, 5 October 2009, available from www.unitar.org/gls/third-edition. See alsowww.themoscowtimes.com/news/article/qa-25-years-on-gorbachev-recalls-nuclear-milestone/472644.html; and www.youtube.com/watch?v=9-L k9m-Wqy0.

<sup>30</sup> 见 Chatham House, Too Close for Comfort. Cases of Near Nuclear Use and Options for Policy (London, 2014), available from www.chathamhouse.org/publications/papers/view/199200. See also http://nsarchive.wordpress.com/2013/10/09/document-friday-narrative-summaries-of-accidents-involving-nuclear-weapons/; www.theguardian.com/world/interactive/2013/sep/20/goldsboro-revisi ted-declassified-document; www.newyorker.com/arts/critics/books/2013/09/30/130930crbo\_ books\_menand?currentPage=all; and Eric Schlosser, Command and Control: Nuclear Weapons, the Damascus Accident, and the Illusion of Safety (The Penguin Press HC, 2013).

20. 在这个前提下,有必要忆及 1946 年《纽伦堡审判》。该项文件认为"发起侵略战争,不仅仅是一项国际罪行,而是一项不同于其他战争罪的高级国际罪行,因为其集聚了所有的罪恶。" <sup>31</sup> 在后核世界,侵略战争不仅是一项罪行,而且相当有可能意味着摧毁所有国际秩序。<sup>32</sup> 零核武器的现实可能听起来乌托邦,需要以人类之名义加以努力。我们不要忘记达摩克利斯剑仍然悬挂在我们头上。<sup>33</sup>

## C. 障碍

- 21. 在前几次报告中,独立专家确认了实现民主与平等国际秩序的多重障碍。在本报告中,他主要论述许多国家内普遍存在消费不平衡问题,即牺牲人民基本需求给与军事部门特权。
- 22. 军事开支由一系列的因素带动,其中包括威胁概念,而这一概念可能是真实的或是臆想的,战争分子的鼓吹与宣传进一步渲染了这一概念。在冷战时期,超级大国以"导弹差距"的数字游戏为几乎所有的开支程度辩护。今天,已确认了一个全能的新敌人: 国家与国际恐怖主义。这个恶魔使军事联盟和国防合同签约者重新有了生计。然而,不仅仅是经济学家,人人有目共睹的是收益递减规律适合此情,即超越了一定水准之后进一步的军事化是徒劳无益的。着重解决人类不安全的根源比到处采用权宜之计更为重要。34
- 23. 尽管《联合国宪章》第二条第三款规定,以和平方式解决争端的强制性义务,然而,媒体和政客都采取恶魔化敌方挥刀进行恐吓的手段,造成了一个极其不利于有成效谈判的气氛。事实上,普遍存在的恐惧与偏执的文化如同火上浇油,加剧了人们之间的不信任与敌意,人为地制造了一种臆想,认为需要增加军事开支来加固"安全"。这反过来触发表明的"敌人"采取同样的方式,从而使军事和重整军备螺旋形上升。在这个周期内,媒体可以发挥一个镇静作用,鼓励采取与《宪章》35 和《公民权利和政治权利国际公约》第二十条相符合的解决办

<sup>31</sup> See www.roberthjackson.org/the-man/speeches-articles/speeches/speeches-related-to-robert-h-jackson/the-crime-of-waging-aggressive-war/.

A first strike would certainly be incompatible with the Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons. See www.icj-cij.org/docket/files/95/7495.pdf. See also the United States deterrence fact sheet, available from www.whitehouse.gov/the-press-office/2013/06/19/fact-sheet-nuclear-weapons-employment-strategy-united-states; Francis Boyle, *The Criminality of Nuclear Deterrence* (Atlanta, Georgia, Clarity Press, 2002): see www.claritypress.com/files/BoyleI.html; andwww.nytimes.com/2014/06/14/upshot/the-lack-of-major-wars-may-be-hurting-economic-growth.html?\_r=1.

<sup>&</sup>lt;sup>33</sup> Cicero, Tusculan Disputations.

<sup>&</sup>lt;sup>34</sup> See Colin Archer, Warfare or Welfare (see footnote 13), p. 35.

See www.usip.org/publications/the-news-media-and-peace-processes-the-middle-east-and-northern-ir eland www.globalresearch.ca/stop-the-disinformation-war-machine-support-independent-media/531 1094.

- 法,这些文书明确禁止进行战争宣传,但情况往往与此相反。军事工业综合体组织似乎滋养了此类敌对文化,因为军事工业综合体的利益是通过生产和使用武器获得更大的利润。毫不奇怪,2012年国际军火贸易的价值达到了3.850亿美元。<sup>36</sup>
- 24. 近几年来,国际紧张局势被煽动起来,使人有理由害怕一些政府可能策略地将自己置于便于后退而不至于丢失了脸面的境地。媒介与政府发起的有关使用武力的"炒作"具有一定的势力,这股势力将假设的敌人妖魔化,使其感到遭受威胁,作出诚恐诚惶的反应,从而使得那些声称必须用武力压倒对方的人有了事后的"理由",打乱了那些提议外交解决方法人的计划。正如独立专家在前几次报告中所指出的那样,集团媒体随时准备从战争中获利,这可解释制造谣言和急功近利宣传达到此种程度的原因。需要有一个在这方面具有磋商能力的抵制升级的委员会。
- 25. 妖魔化《不扩散核武器条约》的缔约方国家,对其进行威胁,将其作为攻击目标,都可能导致这些缔约国根据第 10 条谴责这一条约,<sup>37</sup> 这正是国际社会必须避免的。在这种情况下,更为重要的是根据《条约》第 6 条所设想的那样严肃裁军。显然,如果该《条约》的一个缔约国确实感到受到威胁,它可能希望加入核武器大国的俱乐部——不是一种侵略的举措,而是行使基本的自我保存权利,是对违背《联合国宪章》第二条第四款的威胁的合法关注的策应。
- 26. 鉴于一些国家持续不断地好战行为,显然大会的一些决议,其中包括第68/28号决议,未能成功地减缓紧张局势。38
- 27. 伴随世界军事开支螺旋上升的是一种"爱国主义", "英雄主义"和沙文主义的伪文化,这种伪文化往往将对国家的热爱与增加军事力量等同起来,与此同时,诽谤怀疑论者和"和平主义者"是不爱国,甚至是叛国。在许多国家,将好公民概念与敬畏武装力量的德行与传统挂钩,甚至在二十一世纪,一些国家向青年人灌输在战场上赢得荣誉和荣耀的思想,灌输"殉国美好正当"的信仰。<sup>39</sup> 然而更可取的是应教育青年人发扬文明胆识为社会正义工作同样可以赢得荣誉和荣耀。
- 28. 预算事项缺乏透明度也促发军国主义趋势。确实,军事开支往往被作为"国家安全"对待,充满了保密性。一个真正的民主国家必须主动地告诉公众以便公众能够确定消费优先事项。<sup>40</sup>

<sup>&</sup>lt;sup>36</sup> See www.bloomberg.com/news/2014-01-31/lockheed-remains-top-in-weapon-sales-ranking-amid-rus sian-rise.html.

<sup>&</sup>lt;sup>37</sup> See www.un.org/disarmament/WMD/Nuclear/NPTtext.shtml.

<sup>&</sup>lt;sup>38</sup> 缔结关于不对无核武器国家使用或威胁使用核武器,以加强无核武器国家安全的有效国际安排(大会第 50/68 号决议,第 10、12、13 和 16 序言部门段落和第 2、第 4 和第 5 段)。

<sup>&</sup>lt;sup>39</sup> "Dulce et decorum est pro patria mori," Horace.

<sup>&</sup>lt;sup>40</sup> Colin Archer, *Whose Priorities?* (Geneva, International Peace Bureau, 2007).

- 29. 在冷战结束和苏联解体之后,国际社会正当合理地认为世界将重新朝着合作团结的方向前进,《联合国宪章》的宗旨与原则将被证实是正确的。成千上万人民将能够得到解救,远离不必要的猜疑和对抗。当 1991 年,《华沙条约》解散之后,许多人认为,北大西洋组织失去了其作为防止共产主义扩散堡垒存在的理由,许多人认为昂贵的军事联盟将解散。相反,北约东扩,军事开支继续。许多人希望为持续发展长久裁军的希望最终被破灭。
- 30. 区域军事联盟迫使其成员增加军费开支,甚至不惜牺牲教育和社会服务, 这 并不奇怪。<sup>41</sup> 按照《宪章》的设想,由联合国缔造和平和维持和平岂不是更好? 根据 2014 年的报告中,欧洲联盟在无人机相关项目方面至少耗资 3.15 亿欧元。<sup>42</sup> 然而,将平民百姓作为目标使用无人武装驾驶机被认为是有悖于国际人道主义 法,这些研究经费完成可以更好地用于其他地方。<sup>43</sup> 无人驾驶机绝不能替代外交 政策。2014 年 2 月 25 日,欧洲议会通过了一项谴责使用无人驾驶机的决议。<sup>44</sup>
- 31. 那些经历国内动乱的国家往往不能将保护程度扩展至其人民应享有的程度。根据不干预的原理,外国干涉其他国家的内部事务,向执政政府或者叛乱团体销售武器都不是解决方式。必要的是加强国际团结,帮助一国当局更好地保护其人民的人权。具有政治动机地采用保护权利(R2P)理论(前为"人道主义干预"理论)有着明显然的危险,<sup>45</sup> 这一理论实际上削弱了《联合国宪章》第二条第四款,最终适得其反。
- 32. 还有一些本报告不能审查但影响民主与平等国际秩序的其它障碍,例如向未 获准许的集团或个人转移各种各样武器的复杂问题。<sup>46</sup> 尽管不能为用于购置核武 器的军事开支辩解,用于常规武器的开支也往往充满问题,例如挪用、腐败、贿 赂、偷窃等等。在世界范围内,诸如小型武器调查这样的组织在深挖腐败现象与

<sup>41 2014</sup> 年 3 月 24 日和 25 日在布鲁塞尔举行了北约会议之后,奥巴马总统说,他关注欧洲的防卫开支在若干国家内下降: "如果我们要集体防卫,就意味着每个人都得出钱。"见www.globalsecurity.org/military/world/int/nato-spending.htm。也见 www.whitehouse.gov/photos-and-video/video/2014/03/26/president-obama-holds-press-conference。德国也相应增加军事开支:见 ottawacitizen.com/news/national/defence-watch/germany-to-increase-defence-budget-but-rejects-gdp-percentage-method-for-mapping-levels-of-military-spending。

<sup>42</sup> See www.tni.org/sites/www.tni.org/files/download/011453\_tni\_eurodrones\_inc\_br\_3e.pdf.

<sup>&</sup>lt;sup>43</sup> 反恐中注意保护人权和基本自由特别报告员报告,本・埃默森(A/HRC/25/59)。

<sup>&</sup>lt;sup>44</sup> 见 2005 年世界峰会成果文件,第 130-139 段,可从下列网页查: www.unric.org/html/english/library/backgrounders/R2P.pdf。

See www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P7-RC-2014-0201+ 0+DOC+XML+V0//EN.

<sup>&</sup>lt;sup>46</sup> Eric Berman, Small Arms Survey, various articles, available from www.smallarmssurvey.org/armed-actors/state-security-forces.html.

监督各国小型武器储存等方面发挥了重要作用。国际透明度组织发表的政府国防 反腐败指数为如何解决腐败问题提出了有用的建议。<sup>47</sup>

33. 另一个越来越严重的问题是军事渗入到大学和实验室,造成了危险的依赖程度,以至于高等学院依赖于政府的津贴,研究的优先项目不是根据科学的需要,或者人口的需要,而是根据军事工业联合体愿意为哪个项目提供资金。<sup>48</sup> 脑力的滥用遗憾地助长了大规模杀伤性武器及其他武器的技术发展。军事研究部门已成为争取军备预算的强大游说者。而其他研究与发展基金的竞争者则处于不利的地位。

34. 地方军事就业问题以及令人担忧的传播谣言的程度也严重影响缩减军事的各种努力。一个常常听到的论点,尽管从本质上就是错误的,是军事创造就业。而事实是民用投资比军用投资创造更多就业。<sup>49</sup>

## 四. 良好做法与积极发展

35. 根据各国提交的资料汇编的联合国军事开支年度报告将是一个促进裁军谈判建立信心的有力工具。不幸的是,每年只有不到半数的国家提交报告。这里同样,透明度有利于相互裁减。50 有鉴于这一情况,大会第 68/23 号决议内请秘书长"根据公平地理分配建立一个政府专家小组,请该工作组参照成员国有关这一问题发表的意见和联合国秘书长关于军事事务客观信息的报告,包括军事开支透明度,审查工作情况并进一步制定联合国关于军事开支的报告,包括设立一个定期审查进程,以确保报告的持续相关性以及从 2016 年起的运作,继而将此专家小组报告提交大会供其在第七十二届会议上审议。

#### A. 联合国裁军谈判会议

36. 联合国裁军谈判会议于 1979 年在日内瓦建立,是整个世界唯一多边裁军谈判论坛,具备在全球范围采取协调一致行动的关键性职责。<sup>51</sup> 其职责实际上包括

<sup>&</sup>lt;sup>47</sup> 国际透明度组织, Watchdogs? The quality of legislative oversight of defence in 82 countries(2013年9月,伦敦)。

<sup>&</sup>lt;sup>48</sup> 见 See www.openmediaboston.org/content/subrata-ghoshroy-us-military-funding-academic-research.

Robert Pollin and Heidi Garrett: see www.peri.umass.edu/fileadmin/pdf/published\_study/PERI\_military\_spending\_2011.pdf.

<sup>50</sup> 联合国裁军事务厅,联合国关于军事开支的报告,可从下列网页查阅 www.un-arm.org/Milex/home.aspx。联合国裁军事务厅,联合国裁军事务厅不定期文件第 20 号,2010 年 11 月 "在军事事务方面促进进一步的公开与透明度: 联合国标准化军事支出报告文书,可从下列网页查阅 www.un.org/disarmament/HomePage/ODAPublications/OccasionalPapers/PDF/OP20.pdf。

<sup>51</sup> 见 www.un.org/News/Press/docs//2010/dcf457.doc.htm。

所有的多边武器控制和裁军问题,着重于停止核军备竞赛必要性,并商定一个核裁军方式,防止核战争,防止外空军备竞赛,有效的国际安排,确保无核国家免遭核武器的使用或威胁使用核武器,包括放射性武器在内的新颖的大规模杀伤性武器和新系统。总而言之,联合国裁军谈判会议促进全面的裁军方案和军备透明度。然而自 1996 年以来,裁军谈判会议未能够对任何一项工作方案达成一致意见。然而,令人鼓舞的是出现了其他举措。裁军谈判会议执行秘书长 Michael Møller 提到了借鉴 2013 年奥斯陆会议于 2014 年 3 月52在墨西哥纳亚里特州举行的核武器的人道主义影响问题第二次会议,53 强调必须认识到任何使用,故意或非故意地使用核武器将对人类生活的方方面面造成灾难性的后果:"对人类而言,只要存在核武器则不可能存在免于恐惧的真正安全与自由。"54

37. 2014 年 5 月在日内瓦举行了裁军谈判会议,会上各个代表团再次承诺 2010 年 9 月 24 日在纽约举行的关于振兴裁军谈判会议工作高层次会议上所作的承诺,<sup>55</sup> 提到了前几十年的标准制定,其中包括《生物武器公约》和《化学武器公约》,《全面禁止核试验条约》和《防扩散条约》。

## B. 大会决议和秘书长的声明

38. 大会每年通过一项着重于军事开支的裁军与发展的决议。大会在第 68/37 号决议内促请国际社会将实施裁军和限制武器协议获得的部分资源用于经济和社会发展,以期缩小发达与发展中国家日益扩大的差距。大会还进一步关注核武器以及需采取措施防范核扩散的必要性。在题为"建立一个无核武器世界:加速履行核裁军承诺"的第 68/39 号决议重申了完全核裁军的目标并且再重建立一个无核区。在第 11 段内,促请所有国家遵循 2010 年振兴裁军谈判会议承诺的决议。

39. 同样,联合国秘书长 2014年 3 月 24 日在海牙核安全高峰会议上呼吁所有国家承诺安全保障: "显然在裁军和不扩散领域内加强法制的时刻到来了。必须饯行诚心诚意进行裁军谈判的承诺。同样还必须由核武器国家向非核武器国家提供安全保障。"他呼吁各代表团"解决无核国家从有核国家方面获得明确的具有法律约束的安全保障的合法利益",他认为: "我们必须一起确保所有国家将核武器看作是一种责任,而不是财产。" 56 2013年 12 月,联合国裁军高级代表声明: "任何关于核裁军的高级别会议促进核裁军,因为其强调了该做什么的紧迫性。

 $<sup>^{52}</sup>$  见 www.reachingcriticalwill.org/disarmament-fora/others/hinw/nayarit-2014/report。

<sup>&</sup>lt;sup>53</sup> 见 John Borrie and Tim Caughley, After Oslo: Humanitarian Perspectives and the Changing Nuclear Weapons Discourse (Geneva, UNIDIR, 2013).

<sup>54</sup> 见 www.unog.ch/80256EDD006B8954/%28httpAssets%29/CCB0AA6D778C809EC1257CDE0044CD 66/\$file/1316ASG+Moller%27s+address\_AsDelivered.pdf.

<sup>55</sup> 见 www.un.org/News/Press/docs//2010/dcf457.doc.htm。

<sup>&</sup>lt;sup>56</sup> 见 www.un.org/apps/news/story.asp?NewsID=47417.

整个架构的基石显然是《核不扩散条约》,该项条约有三个支柱。其中一个是核裁军。但是当你仔细研究究竟进行了多少裁军,裁军其实根本不存在。那些不拥有核武器的国家越来越急迫地对核武器大国说:你们必须裁军,你们必须履行你们那方的约定。举行由许多部长参加的高层次会议强调需要做更多的事。"57

## C. 国际法院的作用

- 40. 鉴于仅核武器储存固有的危险,马绍尔群岛共和国于 2014 年 4 月 24 日针对 9 个核武器的国家没有按照《不扩散条约》的要求真诚地进行核裁军谈判向国际法院提出了申诉。<sup>58</sup>
- 41. 许多民间组织,例如核时代和平基金,赞同马绍尔群岛的举措,要求世界法庭对核武器国家的过度行为以及谈判停滞采取行动。应牢记马绍尔群岛的人民至今仍然遭受 1940 年代和 1950 年代在其领土上进行的核武器测试的影响,他们希望确保任何人不再遭受如此灾难。<sup>59</sup> 更重要的是要求国际法庭根据《不扩散条约》第六条宣布核武器国家应该承担的国际法律义务: "每个《条约》签署国就早日停止核军备竞赛和核裁军方面的有效措施、以及就一项在严格和有效国际监督下的全面彻底裁军条约真诚地进行谈判。"
- 42. 尽管目前的申诉具有争论性的性质,但大会可以根据《联合国宪章》第 96 条向国际法院提出相关的法律问题以征求咨询意见:不遵守《不扩散条约》第六 条的法律后果是什么?

## D. 武器贸易与和平区

- 43. 2013年4月2日,大会通过了《武器贸易协定》。至2014年7月,118个国家签署了该项《协定》,41个国家批准了该《协定》。<sup>60</sup>该项《协定》的生效需要有五十个国家批准。然而,仅条约的存在就提供了一个缓慢而稳步见效的良好国际做法。
- 44. 2014年1月28日和29日,拉丁美洲及加勒比国家共同体在哈瓦那举行第二次峰会,并于2014年1月29日通过一项《宣言》宣布整个地区为"和平区"<sup>61</sup> (见附件三)。该项《宣言》为整个世界树立了一个强有力的榜样,这一《宣言》基于这一地区居民维护与巩固和平的愿望,根据国际法促进各国之间的友好关系

<sup>57</sup> 见 www.un.org/apps/news/newsmakers.asp?NewsID=100#sthash.T597InnU.dpuf。

<sup>58</sup> 见 www.icj-cij.org/presscom/files/0/18300.pdf。

 $<sup>^{59}</sup>$   $\,$   $\,$   $\!$  W www.wagingpeace.org/the-nuclear-zero-lawsuits-taking-nuclear-weapons-to-court/  $\!\circ$ 

<sup>60</sup> 见 www.un.org/disarmament/ATT/, www.un.org/sg/dsg/statements/index.asp?nid=514。

<sup>61</sup> 请见 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14215&。

的意愿,以及履行联合国成员国通过对话与和平方式解决分歧的承诺。该项《宣言》提到了《特拉特洛尔科条约》。该条约于 45 年前在拉丁美洲和加勒比地区设立了无核区。这一《宣言》承诺该组织的所有成员加强区域一体化以期建立一个通过人权实现和平的国际秩序。62 这一意愿排除使用武力和非法防卫手段,包括大规模杀伤武器。这意味着需要进行谈判以实现彻底核裁军,大大缩减常规武器的生产与储存以及常规武器贸易。欢迎世界越来越多的地区建立和平与合作区,因为它将促使有关政府兑现大幅度减少军事开支与费用的承诺。

## E. 最近关于财富分配不公平对经济增长负影响的研究

45. 2013年3月,日内瓦南方中心发表了一份工作文件,指出许多国家的财政紧缩战略以及具体的紧缩措施不利于社会经济恢复或者实现发展与就业目标。社会服务方面的紧缩政策适得其反。相反,紧缩应从缩减军事开支开始。<sup>63</sup>

46. 2014年4月,国际货币基金组织发表了《世界经济展望》一文。<sup>64</sup>之后又发表了一篇文章,内容是财富不公平对国家和国际经济增长的负影响。<sup>65</sup>该份报告一反基金的传统立场,认为收入不平等实际上将导致更加缓慢或者更加少的可持续经济增长,而适度的收入重新分配不仅不伤害经济反而有助于经济。货币基金会对收入不平等想法的转变是一项令人可喜的迹象。根据该份研究报告"着重于增长而听任不平等现象是一个错误,不仅因为不平等从道德上是不可取的,而且因为由此产生的增长可能是低下的,是不能持续的。"。<sup>66</sup>

47. 2014 年 6 月,国际劳工组织发表了《2014-2015 年世界社会保护报告》,<sup>67</sup> 从全球出发概述了社会保护系统的组织情况,其覆盖面,福利和公共开支;分析了近期的政策趋势,包括财政整顿和调整措施的负面影响;呼吁各国扩大危机复苏的社会保护,包括发展与社会正义。报告指出全世界人口的 70%以上缺少适当的社会保护。

<sup>&</sup>lt;sup>62</sup> Carlos Villán-Durán, *The Emerging Right to Peace: Its Legal Foundations* (Cambridge, United Kingdom, Intersentia, 2014). David Cortright, *Peace: A History of Movements and Ideas* (Cambridge, United Kingdom, Cambridge University Press, 2008).

<sup>63</sup> Isabel Ortiz and Matthew Commins, "The age of austerity: a review of public expenditures and adjustment measures in 181 countries" (Geneva, South Centre, March 2013).

<sup>&</sup>lt;sup>64</sup> 见 www.imf.org/external/pubs/ft/weo/2014/01/pdf/text.pdf。

<sup>65 &</sup>quot;Redistribution, inequality, and growth", prepared by Jonathan D. Ostry, Andrew Berg, Charalambos G. Tsangarides (Washington D.C., IMF Research Department, April 2014). See Thomas Piketty, Capital in the Twenty-First Century (Cambridge, Massachusetts, Belknap Press, 2014). See also Pope Francis, Evangelii Gaudium.

<sup>&</sup>lt;sup>66</sup> See www.huffingtonpost.com/2014/02/26/income-inequality-economic-growth-economy\_n\_4860228. html.

www.ilo.org/gimi/gess/ShowTheme.do?tid=3985.

48. 日内瓦的联合国裁军研究所正着手一项包括各种主题的项目,例如核裁军的透明度与责任制。关于这点,裁军研究所为促进裁军的普遍透明度与责任制,根据俄国和美国的军队控制经验,正在努力制定一套切合实际的提案。<sup>68</sup>

## F. 人权理事会及其普遍定期审议机制

- 49. 人权理事会是一个适当的论坛,按照各国预算优先事项审查各国的人权承诺。如果一个国家真正承诺实现基于促进与保护人权的更广泛的人类安全概念,它将据此调拨预算,不仅仅对教育、保健照料、住房、基础设施和诉诸司法调拨起码的资源,<sup>69</sup> 还要逐步增加此类预算的份额。然而如果一个国家奉行"军事第一"的政策,把社会服务排在所谓的"国家安全"需求之后,那么人权理事会可以明智地建议该国如何调整优先事项,更为有效地促进与保护人权。这样,由国家系统地审查军事开支的程度,并与国家用于社会部门的开支进行对比是较有益的。普遍定期审议第十九届会议的下列两个例子说明了完全不同的做法。
- 50. 普遍定期审议工作组关于朝鲜人民民主共和国的报告草案提到了该国政府的报告及其关于"军事第一"政策的解释,即"捍卫国家主权保障了人们享有其人权。<sup>70</sup> 生命权是保障人权的首要问题,对朝鲜人民民主共和国的人们具有重大的意义,因为朝鲜人民民主共和国的人民在半个多世纪的时间内持续地遭到敌对力量的军事威胁。军事第一政策有利于捍卫国家主权,防止战争爆发,使其能够在经济方面获得实际性的成就。"<sup>71</sup> 相反,联合国关于朝鲜人民民主共和国信息的普遍定期审议汇编引用了朝鲜人民民主共和国问题特别报告员对该国将资源调拨给精英与"军事第一"政策所表示的关注,认为这种做法损害了人民的利益。<sup>72</sup> 在利益攸关者信息概要中,北朝鲜难民生命基金声称朝鲜人民民主共和国的核方案牺牲了其人民的基本需求,促请该国政府不要将珍贵的资源进一步用于军事发展。<sup>73</sup>
- 51. 上述报告的许多建议值得探讨,例如建议朝鲜民主主义人民共和国"根据国际法进行彻底的法律改革,支持向公民提供生计的市场活动,并使其合法化,释放所有因进行私人经济活动而被拘留的囚犯"(德国); "考虑进一步提高国家用

<sup>68</sup> 负责研究员是 Pavel Podvig。见 www.unidir.org/programmes/weapons-of-mass-destruction/transparency-and-accountability-in-nuclear-disarmament。

<sup>69 《</sup>国际人权宪章》草案第 26 条规定为加强法制增加资金,承认"法制及其所包含的各种权利使所有国家的公民和生物受益,每个国家每年度应将其国民生产总值的 1%用于在世界范围内利用和支持教育、保健和司法设施以供资的国际资金,包括第 27-34 条所描述的法院。"请见internationalbillofrights.org/wp-content/uploads/2013/10/IBORv9.pdf。

<sup>&</sup>lt;sup>70</sup> A/HRC/WG.6/19/PRK/1.

<sup>&</sup>lt;sup>71</sup> A/HRC/WG.6/19/L.8, para. 58.

<sup>&</sup>lt;sup>72</sup> A/HRC/WG.6/19/PRK/2, para. 68. See also A/HRC/13/47, para. 28.

<sup>&</sup>lt;sup>73</sup> A/HRC/WG.6/19/PRK/3, para. 63.

于保健部门的开支,以期满足药品供应的需求,包括基本药品"(白俄罗斯); "制定和实施更加实质性的方案与举措,向所有人民提供更高层次的教育和保健 权利"(古巴); "继续促进经济、社会和文化发展,提供更好的条件使所有人民 享有所有权利"(中国); 和"加强措施,重振国家经济,例如通过从事经济、和 包括旅游事业在内的商业活动使人们能够进行更多的人与人之间的联系"(马来 西亚)。<sup>74</sup> 这些积极性的建议,表明了如何将军事第一变为人类安全的范例。

52. 在同一个普遍定期审议会议上,理事会还审查了不丹的报告。联合国资料汇编突出强调了联合国儿童基金会关于不丹将公共开支大部分用于社会部门的评估。"确认 2011-2012 年预算是亲贫的,其中约 25%专用于社会部门,其中 17%专用于教育,7%专用于保健照料。在联合国发展援助框架草案,不丹 2014 年至 2018 年 ONE 方案阐述了不丹国民幸福概念是促进兼顾平衡的发展方式,包括良好治理、保护和社区活力,以及传统的社会经济进展指标,发展模式,谨慎的经济管理以及政治稳定大大地提高了生活水准,改进了发展指标。" 75 除了赞扬之外,工作组的报告草案还提出了一些切合实际的建议。其中一些建议是:"特别在解决青少年失业问题方面要更加着重创造就业"(土耳其);"继续努力实施与减贫相关的方案,继续努力创造一个更有利的社会保护系统"(科威特);"通过实施国家报告内所列的各项举措,吁请国际社会支持这些工作,继续实施更加具体的社会保护系统(古巴)";"向实习方案支付酬报,同时给予其该国经济部门同类方案的技术教育培训进程(墨西哥)";"进一步巩固向所有不丹人民提供普及、免费和高质量的医疗照料的成功的保健方案"(委内瑞拉玻利瓦尔共和国)。76

53. 以上所引述的各项建议表明,普遍定期审议程序将成为一个极其良好的论坛,在财政和预算的优先事项方面,在透明度方面,在裁军和维和方面,促进一个更加民主与平等的国际秩序。

## G. 人权理事会关于单方面强制性措施研讨会

54. 独立专家于 2014 年 5 月 23 日参加了根据人权理事会第 24/14 号决议在日内 瓦举行的为期一天的研讨会。他支持由咨询委员会开展的有关研究,该份研究报 告由咨询委员会成员委员让•齐格勒介绍。专家会议的一致意见是经济制裁并非 "和平的",而是一种暴力形式,其效果往往有悖于《联合国的宗旨与原则》。

55. 前助理秘书长丹尼斯·哈利迪说:"就单方面强制性措施而言,本届会议需要确定所有这些措施都是非法的,违背了《联合国的宪章》,建议全面停止使用这种措施,然而,也承认单方面措施往往难以制止,我们必须找到一个方式,对非法继续实施此类措施的国家进行密切监督,并追究其责任。或许可以考虑此类

<sup>&</sup>lt;sup>74</sup> A/HRC/WG.6/19/L.8, para. 124.

<sup>&</sup>lt;sup>75</sup> A/HRC/WG.6/19/BTN/2, para. 9.

<sup>&</sup>lt;sup>76</sup> A/HRC/WG-6/19/L.6, para. 118.

做法,例如终止联合国会员国的地位,丧失大会表决权,支付赔偿,支付个别公民的补偿等。需要人权理事会进行密切监督,每一季度向大会进行汇报,或者向重新振兴的或者运作的国际法庭进行汇报。"<sup>77</sup>

56. 独立专家认为,根据国际法,单边主义和额外主义是时代的错误,有悖于《联合国的宪章》的精神和文字,有悖于一个民主与平等的国际秩序。制裁,特别是单边制裁,往往以欺骗性的人权理由予以实施,但效果适得其反。考虑到制裁的许多受害者并非是政府,而是无辜平民百姓,因而,应该逐案审查制裁制度的合法性。可以按照若干人权条约所设立的个人申诉程序,来审查这些制裁的合法性,这些人权条约包括《公民权利和政治权利国际公约任择议定书》。制裁制度还应该在联合国人权条约机构国家汇报程序前提之下,在人权理事会的普遍定期审议下进行审查。78

57. 经验证明,仅仅通过制裁迫使各国改变其有关人权的做法是徒劳的,政府往往不是不可避免这些制裁,导致无辜人民面对非正义。应该做的是,劝导各国为其本身的利益,从法律和实践上加强人权,对此,联合国人权事务高级专员办公室可以提供咨询服务和技术援助。独立专家还希望能够加强媒体的监督作用,<sup>79</sup>希望媒体能够更加注意制裁制度所造成的人权方面的后果。媒体的作用是,提醒公众,制裁对无辜百姓所带来的灾难,而不是掩饰这一后果。在极权主义国家内,公民没有发言权。然而,在民主国家内,公民对其民主选举的官员所做的决定负有责任。如果是以他们的名义犯下的罪行,他们则有责任追究。

## H. 国际和平日和全球军费行动

58. 自 1981 年以来,根据大会第 36/67 号决议,联合国于 9 月 21 日庆祝和平国际日。<sup>80</sup> 2011 年,民间社会发起了全球军费行动日,于 2014 年 4 月 14 日在全球范围举行会议和其他活动予以庆祝。<sup>81</sup> 由于军费的部分问题是缺乏透明度和问责制,民间社会的加强认识将有助于促使各国政府将优先事项从军费转向教育和社会服务。在日内瓦,国际和平局举行了小组会议,联合国裁军谈判会议执行秘书长,斯德哥尔摩国际和平研究所和专家等人出席了会议。人们协商一致认为,预算决策应该公开,明确标明消费的理由,以便公众能够予以理解。议会应监督预

<sup>77</sup> www.ohchr.org/Documents/Events/Seminars/CoercitiveMeasures/DenisHalliday.pdf.

NewsEvents/Pages/DisplayNews.aspx?NewsID=14639&LangID=E.

<sup>79 2013</sup> 年 8 月 13 日,纽约时报发表了对爱德华·斯诺登的采访,在采访中他深表遗憾的是,媒体未能告诉公众。"9·11 之后,美国绝大多数重要的媒体机构放弃了其作为监督权力的作用——新闻这一政府过度行为的责任——因为惧怕被认为不爱国,以及在高度的民族主义阶段受到市场的惩罚"。见 www.nytimes.com/2013/08/18/magazine/snowden-maass-transcript.html? r=0。

See www.un.org/en/events/peaceday/.

<sup>81</sup> 见 www.cnduk.org/cnd-media/item/1899-monday-14-april-global-day-of-action-on-military-spending.

算决策过程 <sup>82</sup> 和支出执行方面的问责制,并由强有力的程序控制采购,接受民 众监控。应定期进行军费审计工作,对不当行为进行调查与起诉。

59. 从 2014年 6月 6日至 10日,来自 32 个国家的 2,500 名与会者出席了萨拉热 窝和平活动,与会者要求停止战争和战争威胁。这可能是 2014 年最大的和平活动。民间社会集会包括 190 多个研讨会和文化活动,还在萨拉热窝举行了青年营。正如诺贝尔奖得主 梅里德·科里根·麦奎尔说的那样:"让我们全面废除军国主义,使结束和平的萨拉热窝成为彻底废除军事主义,全面实现和平的强有力的起点。"人们还强调,教科文组织以和平文化方案替代战争与军事化的重要性。<sup>83</sup> 在和平活动上,人们宣布,全球军费行动日现在将成为一个全年性的运动。

## I. 布鲁塞尔宣言

60. 应布鲁塞尔欧洲议会邀请,于 10 月 18 日和 19 日在欧洲议会举行了为期两天的富有成果的会议,会议的内容是讨论加强公民在民主全球决策方面的参与,包括参与有关国家优先事项与军费决策。根据人权理事会第 18/6 号决议执行部分第 6 段,独立专家应邀出席,该段明确阐明,一个民主与平等的国际秩序需要: "(g) 促进和强化所有合作领域的透明、民主、公正和负责任的国际体制,特别是通过执行充分公平参与其各自决策机制的原则; 和(h) 人们有权平等地参与本国和全球的决策,而不受任何歧视。"

61. 还讨论了人权理事会关于平等政治参与权的第 24/8 号决议,以及由丹麦人权机构拟定的关于公共参与权的工作报告(见附件六)。<sup>84</sup> 独立专家认为,公众参与权并不是一个含糊的承诺,这项权利实际上在全球、区域和国家的立法,以及在判例法内都有坚实的法律基础。参与是民主治理的标志,需及时采取磋商措施,以便行使政府权力合法化

62. 独立专家的建议之一是,由人权理事会进行一项研究,探讨建立一个世界议会大会如何能够大大地推进民主地从军事第一转化为人类安全预算的目标,帮助促进实现一个更加民主,更加平等的国际秩序。<sup>85</sup> 在会议结束时,通过了《布鲁塞尔宣言》(见附件五)。

<sup>&</sup>lt;sup>82</sup> Willem van Eekelen, *The Parliamentary Dimension of Defence Procurement* (Geneva, DCAF, 2013).

<sup>83</sup> 见 www.peaceeventsarajevo2014.eu/press-releases/articles/more-peace-action-are-needed.html.

See also DIHR, The Right to Public Participation – A Human Rights Law Update (Copenhagen, 2013).

Richard Falk, Andrew Strauss, A Global Parliament: Essays and Articles, with a foreword by Boutros Boutros-Ghali (Berlin, Committee for a Democratic U.N., 2011).

## 五. 结论和建议

### A. 结论

- 63. 铭记和平对实现民主与公平国际秩序必不可少,必须尽一切努力以和平的方式解决争端,预止武装冲突,结束目前的战争。裁决与非军事化是发展与人类安全的关键。必须民主地决定与实施裁军与非军事化。这要求持久地认识到核毁灭的威胁,加强对资源浪费的认识。减少军事预算将能够释放出一些资金用于促进和保护人权,用于解决全球问题,如流行病、气候变化、森林砍伐和严重的缺水问题。
- 64. 几十年来,民间社会要求承认和平是一项人权。人权理事会听到这一呼声,人权理事会关于拟定《联合国和平权利宣言》不限成员名额政府间工作组正在进行起草宣言的重要工作,以便由安理会和联合国大会通过这一宣言。民间社会组织支持这一宣言,这些民间组织包括国际笔会,该组织于 2013 年 9 月通过了争取和平作家委员会的《布莱德宣言》(见附件四)。
- 65. 民主与平等的国际秩序要求通过加强民众参与决策,特别要求民众参与包括 预算事项在内的决策国内和国际政策的决策进程,全面的重新安全优先事项,建 立一个实现人类的战略。这不仅仅要求一个透明的文化。国家应着教育和告知其 民众,以便他们能够真正地行使制定政策和选择方案的民主权利。国家应该在预 算优先事项方面,包括军事开支方面征询选民的意见,不应该将其视为政府的永 久特征,不应该将其笼罩在秘密外衣之内,不应该以"国家安全"的理由作为辩 解。民间社会反对制造恐慌和武力威胁。只有通过坚定的政治意愿才能征服军事 工业综合体的势力,这些军事工业综合体对民众资产的要求缺乏民主合法性,而 其得手完全取决于不民主的游说活动。
- 66. 持续解决国际金融危机和许多国家的经济脱臼现象部分取决于承认军事预算错误地膨大,必须予以缩减,大量的军队和核武库是个时代的错误。民间社会要求在制定预算优先事项方面的透明度、问责制以及最为重要的有效参与权利,预算优先事项不能落在国防承包商和企业游说者的手中。<sup>86</sup> 军事预算的大规模缩减将能够在其他地方创造就业——不是生产更多的消费商品,因为人们只能消耗这么多,而是在社会服务、教育、食品安全、清洁饮用水、保健照料、基础设施、对持续的能力资源的研究以及在控制流行病方面创造更多的就业。必须紧缩军事开支——而不是紧缩不断实现经济、社会和文化权利方面的开支。后一领域内的倒退意味着侵犯了《经济、社会及文化权利国际公约》第二条与第五条。

See James Carafano, Private Sector, Public Wars: Contractors in Combat – Afghanistan, Iraq, and Future Conflicts (Praeger, 2008). See also www.batr.org/corporatocracy/021914.html.

## B. 建议

67. 如 2013 年报告那样,独立专家仅在此提出一些切实可行的建议。

### 1. 向各国提出的建议

- 68. 各国应定期向人权理事会汇报其军事开支,并将其军事开支与教育、保健照料、司法行政等方面的开支进行对照。各国应确保此类开支应该在人权理事会普遍定期审议机制的框架之内讨论,应劝导各国将其预算的更大部分用于促进公民、文化、经济、政治和社会权利,提出将军事第一转化为人类安全模式具体的建议。普遍定期审议还应该审查冲突地区与导致没收领土的国际争议领土内的国家所支付的军费开支,以及剥削殖民和被占领人民的资源。
- 69. 各国应根据大会第 66/20 号决议每年向联合国秘书长汇报最近财政年度的军事开支情况。<sup>87</sup>
- 70. 各国应积极地向民众通报军事开支情况,鼓励民众参与预算优先事项的决定情况。各国不应该隐瞒军事开支,将其归于其他部门,例如"情报"或"研究与发展"或"能源"等部门。秘密资金,行贿基金或"应急资金"必须由议会进行控制。
- 71. 各国应大大地削减军费,制定转化战略,<sup>88</sup> 将资源重新转向社会服务,在和平工业领域创造就业,更大地支持 2015 年后的发展议程。各国应个别地或多边地将减少军费所释放的积蓄累资源用于应对全球气候变化挑战所需要的经济和社会过渡。这正是联合国根据《气候变化框架公约》建立"绿色气候基金"时所预料的。<sup>89</sup> 此外,所释放的一部分财政资源应用于研究和发展可持续能源,包括太阳能,应该用于解决紧迫的缺水问题,因为这个问题可能会引起今后的战争。因为其需要进行国际努力,发展有效的海水淡化工业。
- 72. 各国应增加用于研究防止冲突的资金,解决冲突的根源,促进可持续发展, 大大地减少用于大学和其他科学机构军事项目的资金。
- 73. 各国应查获在武器贸易中的浪费、腐败和贿赂,严惩犯罪者。各国应调查武器的转移情况,因为有时武器会落在罪犯的手中,造成额外的混乱与死亡。

<sup>87</sup> 见秘书长关于包括军事支出透明度的客观军事资料报告(A/68/131)。还见 www.un.org/disarmament/convarms/Milex/Publications/。

<sup>&</sup>lt;sup>88</sup> 见 www.ips-dc.org/blog/demilitarizing\_the\_economy\_a\_movement\_is\_underway.

<sup>&</sup>lt;sup>89</sup> 见 www.gcfund.org, unfccc.int/cooperation\_and\_support/financial\_mechanism/green\_climate\_fund/items/5869.php.

## 2. 向议会提出的建议

- 74. 议会议员应定期就财政和预算优先事项通报选民并与他们进行磋商。议会议员应抵制既得利益的压力,抵制国防签约者及其他属军工企业者的游说。
- 75. 议会议员应建立担负监督军费开支,查获转移、腐败和浪费职权具有良好资源的跨党派议会国防专门委员会。
- 76. 议会应为议员组织培训方案,帮助他们了解军费预算的复杂性,帮助他们评估转移与腐败的风险。
- 77. 各议会应制定议会之间的能力建设和合作方案,加强在双边和多边层次监督新兴民主国家的运作情况。
- 78. 议会应打击代表军工综合体施加不民主影响的游说者。

## 3. 对民间社会和国家人权机构的建议

- 79. 民间社会和国家人权机构应要求公众参与国防政策和采购,公众参与国家预算,支持将军事费用重新调拨以满足紧迫的环境和社会需求,例如气候变化和收入不平等领域内的紧迫需求,呼吁将军事生产转为民用生产,包括在和平工业内创造就业的战略。
- 80. 民间社会和国家人权机构应要求政府官员在财政和预算政策方面的贯彻透明度与问责制。
- 81. 要求政府以符合联合国人人享有可持续能源十年的方式,对其能源政策进行重新定向,对可再生能源进行研究,向可再生能源过渡。
- 82. 支持全球有关军费的运动。90
- 83. 发起裁军请愿运动作为发展的必要条件。
- 84. 在受益于国家预算优先事项重新调整的群体中间建立一个广泛的联盟。
- 85. 撤走用于武器生产、战争和核试验的基金与投资。

### 4. 对人权理事会的建议

- 86. 理事会可考虑与现任任务负责人着重进行全球军事开支方面的工作,每年向安理会和大会汇报军事开支的趋势与备选方案。
- 87. 根据普遍定期审议程序,应审查各国所采取的导致严重侵犯受影响人民人权的单边和多边强制性措施的行为。

90 See www.ipb.org/web/.

88. 理事会可根据《公民权利和政治权利国际公约》第二十条第 1 款关于禁止战争宣传的条款考虑从现任的任务负责人中委任一名监督全世界战争宣传和制造战争恐慌问题的负责人。<sup>91</sup>

## 六. 结束语

89. 特别报告员感谢人们进一步认识到此项工作将促成更大的共识:需要同心协力地为一个和平、正义与平等的世界秩序而工作。他欢迎与所有相关领域利益相关者进行联系,并希望在今后汇报年里与他们一起工作。

90. 在结束时,特别报告员谨重申其对人权高专办工作人员的努力工作表示赞赏,请求大会增加拨给这一秘书处的资源,因为这一秘书处确实使许多人民的生活有了改观。他想引用他最喜欢的诗人惠特曼的话:"最伟大的国家,最富有的国家,并不是拥有最多资本家、垄断家,强取豪夺拥有广大的财富,而其悲惨的背景则是极度堕落与令人发指的贫困,最伟大的国家,最富有的国家是拥有最温馨永久家业的土地——在那片土地上没有显著的贫富,人人丰农足食——过着平凡的生活——人人别无他求,只拥有简洁身心的圣明与美丽。" 92

<sup>91</sup> 这一建议与设立当代形式种族主义、种族歧视、仇外心理和相关的不容忍现象特别报告员的 任务相似(根据《公民权利和政治权利国际公约》第二十条第2款)。

<sup>&</sup>lt;sup>92</sup> See www.whitmanarchive.org/criticism/disciples/traubel/WWWiC/2/med.00002.20.html.

## **Annexes**

### Annex I

[English only]

## **Excerpts from or full text of relevant documents**

# Questionnaire sent to States, intergovernmental organizations, national human rights institutions and selected non-governmental institutions on 20 February 2014

- 1. What is the level of information provided to the population at large on military expenditures, including Army, Navy and Air Force contingents, military research, the production and stockpiling of weapons, maintaining domestic military bases and military bases in foreign countries, national defence, intelligence and surveillance, anti-terrorism, involvement in armed conflicts, private military and security companies, etc.?
- 2. What is the level of secrecy that accompanies military expenditures, including concerning weapons of mass destruction? What safeguards exist to prevent abuse and waste, especially when the crucial information is "classified" and not subject to public debate?
- 3. What measures are in place to ensure budget and fiscal transparency, and to what extent can the electorate participate in establishing budget priorities?
- 4. Does the Government pro-actively seek to inform the public and to obtain input from civil society and non-governmental organizations concerning military expenditures?
- 5. Are official or unofficial opinion polling on military expenditures and public referenda on aspects of the military budget conducted, e.g. concerning the continued production and/or testing of nuclear weapons and other weapons of mass destruction, concerning measures of "surveillance" of communications, telephone and internet?
- 6. What is the actual level of all military-related expenditures in real terms, and what actual percentage of national budgets (not percentage of GNP) does this represent, regardless of whether the expenditures are separately assigned to the "defence" budget, the "intelligence" budget, the "anti-terrorism" budget, the "research" budget?
- 7. By comparison, what is the percentage of national budgets devoted to education and health care, medical research, the administration of justice, road safety, infrastructures, etc.?
- 8. What level of accountability exists when military expenses exceed the budget approved by Parliament?
- 9. What strategies, if any, exist to reorient budget priorities away from military expenditures and into the promotion of all human rights, the protection of the environment, climate change, clean water, sustainable energy, medicine and other peacetime industries as well as to achieve the millennium development goals and the post 2015 development agenda? To what extent can civil society and human rights institutions participate in shaping these strategies?
- 10. What strategies, if any, exist to recycle the workforce away from military industries into peacetime industries, conservation, medical research, renewable energy sources,

maintenance of infrastructures. To what extent can civil society and human rights institutions participate in shaping these strategies?

11. Are there regional agreements in force (e.g. military alliances) that commit the State to devote a certain percentage of its budget to military expenses? If so, what percentage and how is it enforced?

## **Annex II**

## Agenda for the expert consultation, 15 May 2014

09:00 – 09:15	Opening remarks	Welcome and introduction by the Independent Expert, Mr. Alfred de Zayas. Objectives of the consultation, including overview of the requirements of the report
09:15 - 11:00	Session 1	Transparency in budget and fiscal matters relating to military expenditures/ Trends in military expenditures worldwide
		Main resource persons*: Tobias Bock (Transparency International), Pieter Wezeman (SIPRI), Philipp Fluri (DCAF)
		Moderator: Mr. de Zayas
11:15 – 13:00	Session 2	Transparency (cont'd)/Obstacles to the meaningful participation of the public in determining budget and fiscal policies
		Main resource persons*: Jamie Shea (NATO), Colin Archer (IPB), Andrew Lane (QCEA)
		Moderator: Mr. de Zayas
14:00 – 16:00	Session 3	How resources currently devoted to the military-industrial complex could be redirected to the promotion of peace and development
		Main resource persons*: Jan Grebe (BICC), Melanie De Groof (GRIP), Mar á Muñoz (WILPF),
		Moderator: Mr. de Zayas
16:15 – 17:30	Session 4	Strengthening national and international security through the promotion of human rights
		Main resource persons*: Nils Duquet (Flemish Peace Institute), Marc Bossuyt (University of Antwerp), Filip Reyniers (International Peace Information Service)
		Moderator: Mr. de Zayas
17:30	Closing remarks	Preliminary conclusions and recommendations

#### Annex III

## Community of Latin American and Caribbean States Proclamation of Latin America and the Caribbean as a zone of peace, 29 January 2014 (full text)

The Heads of State and Government of the Community of Latin American and Caribbean States (CELAC) gathered in Havana, Cuba on January 28 and 29, 2014 at the second Summit, on behalf of their peoples and faithfully interpreting their hopes and aspirations,

Reaffirming the commitment of member countries with the Purposes and Principles enshrined in the United Nations Charter and International Law, and aware of the fact that prosperity and stability in the region contribute to international peace and security,

Mindful that peace is a supreme asset and a legitimate aspiration of all peoples and that preserving peace is a substantial element of Latin America and Caribbean integration and a principle and common value of the Community of Latin American and Caribbean States (CELAC),

Reaffirming that integration consolidates the vision of a fair International order based on the right to peace and a culture of peace, which excludes the use of force and non-legitimate means of defense, such as weapons of mass destruction and nuclear weapons in particular,

Highlighting the relevance of the Tlatelolco Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean establishing the first nuclear weapon free zone in a densely populated area, this being a contribution to peace and to regional and international security,

Reiterating the urgent need of General and Complete Nuclear Disarmament, as well as the commitment with the Strategic Agenda of the Organization for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL), adopted by the 33 Member States of the Organization in the General Conference held in Buenos Aires in August, 2013.

Recalling the principles of peace, democracy, development and freedom underlying the actions of countries members of SICA,

Recalling the decision of UNASUR Heads of State of consolidating South America as a Zone of Peace and Cooperation,

Recalling the establishment, in 1986, of the Zone of Peace and Cooperation of the South Atlantic,

Recalling also our commitment, agreed in the Declaration of the Summit of Unity of Latin America and the Caribbean, on 23 February 2010, to promote the implementation of our own mechanisms for the for peaceful conflict resolution,

Reiterating our commitment to consolidate Latin America and the Caribbean as a Zone of Peace, in which differences between nations are peacefully settled through dialogue and negotiations or other means, fully consistent with International Law,

Cognizant also of the catastrophic global and long-term humanitarian impact of the use of nuclear weapons and other weapons of mass destruction, and the ongoing discussions on this issue,

#### **Declare:**

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;

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

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;

The commitment of the peoples of Latin American and Caribbean to foster cooperation and friendly relations among themselves and with other nations irrespective of differences in their political, economic, and social systems or development levels; to practice tolerance and live together in peace with one another as good neighbors;

The commitment of the Latin American and Caribbean States to fully respect for the inalienable right of every State to choose its political, economic, social, and cultural system, as an essential conditions to ensure peaceful coexistence among nations;

The promotion in the region of a culture of peace based, inter alia, on the principles of the United Nations Declaration on a Culture of Peace;

The commitment of the States in the region to guide themselves by this Declaration in their International behavior;

The commitment of the States of the region to continue promoting nuclear disarmament as a priority objective and to contribute with general and complete disarmament, to foster the strengthening of confidence among nations;

We urge all Member States of the International Community to fully respect this Declaration in their relations with CELAC Member States.

## **Annex IV**

## PEN International Bled Manifesto of the Writers for Peace Committee (full text)

PEN International, the world's leading association of writers, promotes a culture of peace based on freedom of expression, dialogue, and exchange. PEN is dedicated to linguistic and cultural diversity and to the vibrancy of languages and their cultures whether spoken by many or few. PEN International's Writers for Peace Committee has therefore approved this Manifesto calling for the universal right to peace, based on the Lugano Declaration for Peace and Freedom (1987), the Appeal of Linz Protesting Against the Degradation of the Environment (2009) and the Belgrade Declaration (2011). It was adopted by the Assembly of Delegates at the 79th PEN International Congress in Reykjavik (September 2013).

Bled Manifesto of the Writers for Peace Committee:

- (a) All individuals and peoples have a right to peace and this right should be recognized by the United Nations as a universal human right.
- (b) PEN promotes discussion and dialogue between writers from countries in conflict and across regions of the world where wounds are open and political will is unable to address tensions.
- (c) PEN seeks to bring together people from around the world through literature and discussion amongst writers and with the broad public.
- (d) PEN considers one of the world's greatest challenges to be the transition from violence to debate, discussion and dialogue. We aim to be active participants in this process promoting where necessary the principles of international law.
- (e) In order to achieve the conditions for peace, freedom of expression and creativity in all its forms must be respected and protected as a fundamental right so long as it respects all other basic human rights in accordance with the principles of the Universal Declaration of Human Rights.
- (f) PEN acknowledges that it is of primary importance to be permanently committed to creating conditions that can lead to ending conflicts of all kinds. There is neither freedom without peace, nor peace without freedom; social and political justice is inaccessible without peace and freedom.
- (g) In order to achieve sustainable conditions for peace, PEN calls for the respect of the environment in conformity with the Rio Declaration on Environment and Development (1992). We condemn the excesses of technology and financial speculation that contribute to the impoverishment of a large part of the world's population.
- (h) PEN respects and defends the dignity of all human beings. PEN opposes injustice and violence wherever they are found, including oppression, colonisation, illegal occupation and terrorism.
- (i) In accordance with the principles of freedom of expression and justice, every individual or group involved in conflict has the right to demand non-violent solutions to conflict and should be free to petition and appeal to international institutions and government authorities.
- (j) All children have the right to receive a comprehensive peace and human rights education. PEN promotes the implementation of this right.

#### Annex V

## Declaration of Brussels: Toward a democratic and equitable international order, 16/17 October 2013 (full text)

Recalling and affirming:

- (a) the "Appeal for the Establishment of a Parliamentary Assembly at the United Nations" of April 2007,
- (b) the "Conclusions regarding policies of the Campaign for a UN Parliamentary Assembly" of November 2007,
- (c) the "Statement on the establishment of a United Nations Parliamentary Assembly and the Inter-Parliamentary Union" of November 2008,
- (d) the "Call for global democratic oversight of international financial and economic institutions" of April 2009, and
  - (e) the "Declaration of Buenos Aires" of October 2010,

We, the participants in the Campaign for the Establishment of a United Nations Parliamentary Assembly (UNPA), reiterate our joint appeal to the United Nations and its member states to advance the necessary processes for the establishment of a Parliamentary Assembly at the United Nations.

We express our concern that in the intergovernmental realm no adequate measures have been taken to address the democratic deficit of global governance in general and of the United Nations in particular.

We reiterate our view that a UNPA is a vital component to strengthen democratic participation in and the democratic legitimacy of the United Nations as well as other intergovernmental organizations such as the World Bank Group, the International Monetary Fund, and the World Trade Organization.

A UNPA would enable citizen representatives, i.e. elected parliamentarians, to be directly involved in global political deliberations, agenda-setting, and decision-making, in a formalized and institutionalized manner.

Global problems require global solutions. The daily lives of the world's citizens are increasingly shaped by economic, social and political forces that transcend national boundaries and demonstrate a growing need for more inclusive, effective and transparent global governance.

The universality of human rights and the necessity of a democratic basis for legitimate governance are widely acknowledged. Yet, far too many people are denied their human rights and democratic participation. We are convinced that a UNPA as a global democratic body of elected representatives would strengthen the practice of democratic governance and fulfillment of human rights regionally, nationally and locally. Conversely, we believe that excluding democratic principles and participation from global governance undermines democracy at the regional, national, and local levels.

We emphasize our conviction that a UNPA needs to be inclusive and open for participation of parliamentarians of all UN member states and observer states. We acknowledge that ensuring the democratic character of a UNPA presents challenges. We are convinced that these challenges can be overcome, and that with political will a

parliamentary assembly for the United Nations can be constructed in a manner that is both representative and legitimate.

We welcome the decision of the UN's Human Rights Council to mandate an Independent Expert on the Promotion of a Democratic and Equitable International Order, and encourage the Independent Expert to keep considering the question of a UNPA and in particular to examine possible processes towards its creation.

We welcome the recent and ongoing broad-based consultations among a wide range of governmental and nongovernmental stakeholders, to develop a global consensus on the Post-2015 Development Agenda. We feel encouraged that these consultations have emphasized (1) the importance of a "rights-based" approach to sustainable development; and (2) the necessity of a comprehensive, global approach, to address poverty and inequality in all countries.

The UN High Level Panel of Eminent Persons on the Post-2015 Development Agenda recently noted that achieving the post-2015 vision will require "reshaped and revitalized global governance partnerships" to ensure that "the United Nations, multilateral systems, and all development actors effectively support the post-2015 development agenda." Indeed, we observe that sustaining a multi-stakeholder consensus for shared global goals is one of the key functions that a UNPA would be expected to provide.

To maintain political support, to reinforce accountability and to bring global governance in the pursuit of post-2015 development goals closer to those directly affected, we encourage the creation of a UNPA when the international community adopts its Post-2015 Development Agenda.

A UNPA is a global parliamentary body that includes distinctive innovative features that go beyond the characteristics of existing national and regional assemblies and parliaments. Acting as an institutionalized "network of networks", a UNPA could allow representatives of existing parliamentary networks and institutions to formally participate in its work, thus providing them with more leverage and influence. Consideration should be given to the possibility of involving local authorities and representatives of indigenous peoples and nations in the activities of a UNPA.

We affirm that a UNPA can and should evolve gradually. Eventually members of a UNPA should be directly elected. From the UNPA's inception its statutes should allow participating states to opt for direct elections of their delegates if they wish to do so.

With a view to exploring innovative forms of civic participation in a UNPA, implementing models of electronic direct or "liquid" democracy that allow citizens to participate in deliberations or to influence decision-making processes could be considered.

We congratulate the European Parliament on its pioneering role in promoting the establishment of a UNPA, dating back to resolution A3-0331/93 adopted in 1994, and most recently expressed in resolution P7\_TA 0255 of 2011, which called on the EU Council to introduce the establishment of a UNPA into the proceedings of the UN General Assembly.

We call on the European Parliament and its members as well as on all other parliaments and their members to reinforce their commitment to more democratic global governance through continued support for a United Nations Parliamentary Assembly.

#### Annex VI

## Danish Institute of Human Rights submission on participation<sup>93</sup>

Public participation as a human right is a process through which individuals and groups have an opportunity to influence public decisions. This constitutes the basis of democratic governance and a key to the promotion and protection of human rights. It is recognized as fundamental for the legitimacy and authority of government and a crucial element for the quality, inclusiveness and sustainability of decision making processes.

From a human rights perspective, the ability of the individual to shape their lives and participate in the realization of human rights is inherent in human dignity. The principle that the authority of government should be the will of the people is also widely recognized.

The right to participate is rooted in Art 25 of the International Covenant on Civil and Political Rights, which recognizes the rights of every citizen to take part in the conduct of public affairs, the right to vote and the right to have access to public service.

Under the provisions of the Covenant, states are required to ensure that citizens have an effective opportunity to enjoy this right, including by initiative of the state being actively involved in public decision-making processes (working groups, observation groups, commissions), and to be given space to voice their opinions.

The right to participate in the conduct of public affairs is a composite right and is not limited to or fulfilled by merely organizing periodic free elections. Additionally, the right is equally not limited to instances where individuals participate directly in the conduct of public affairs as members of the legislative or executive branches; or indirectly, through freely chosen representatives. Individuals also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives, or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression (including the right to access to information), assembly and association.

Taking part in public affairs also goes beyond mere political activities. People may seek influence in many other ways; therefore the three freedoms mentioned above are fundamental to all public participation. The close link between these three and democratic governance is recognized in a number of international documents.

The right to participate in public affairs has been standardized in the sphere of civil and political rights, but details on the quality and conduct of the participatory process have been elaborated mostly in the sphere of economic, social and cultural rights (environment, housing, education, health etc), and in relation to certain groups requiring specific attention, such as women, children, persons with disabilities, migrants, indigenous peoples and persons belonging to minorities, among others.

Traditionally, human rights law has taken a somewhat narrow approach to the right to participation, which is also reflected in the current general comment No. 25 of the Human Rights Committee on Art 25 of the ICCPR. Under this narrow approach, the right to participate does not imply a general right to be heard, and even participation itself is a right which does not belong to everyone in every situation.

<sup>&</sup>lt;sup>93</sup> Submission for a side-event to the Human Rights Council on 11 June 2014, partly based on input from the Independent Expert, who participated in the Copenhagen workshops in September 2013 and March 2014.

However, during the 18 years since the adoption of the general comment, human rights law has started to gradually move beyond the above described narrow interpretations of the right to participation. The UN Committee on Economic, Social and Cultural Rights, as well as a number of other treaty bodies, have adopted general comments pointing to governments' responsibility to inform and hear the opinions of groups affected by political decisions on, among other things, water and sanitation, adequate food and eviction from houses. Other examples of expansion of consultation rights can be seen in relation to the rights of certain group requiring particular attention.

Additionally, new human rights instruments have adopted hitherto unprecedented obligations on States parties to consult with certain groups or with regard to particular issues. In particular, the Convention on the Rights of Persons with Disabilities has adopted unprecedented obligations on States parties to consult with representatives of people with disabilities in the monitoring mechanisms of the convention.

We are witnessing similar expansion in the understanding of the scope and content of the right at the national, regional and international level as well. At the international level states are increasingly called upon to consult with relevant segments of the society before submitting information to UN human rights bodies and to include them in follow-up activities on recommendations stemming from these bodies.

While there has been increased recognition of the importance of the right, this has not been reflected in a corresponding level of international elaboration and standardization of what the rights and obligations entail or what quality of participation is required and how it should be enforced. This should establish the duty of states to ensure consultation in the development, implementation and monitoring of public legislation, policy, programmes and projects and also that this should involve everyone and not only citizens as is the case when exercising participation in relation to elections.

The increasing importance attributed to participation as a key principle has spawned growing interest in defining the extent to which states should open up to wider dialogue with the general public. The quality and nature of such participatory and consultation processes has not yet been addressed in an international human rights document that is generally applicable. Additionally, accountability mechanisms for the conduct and outcome of participatory processes are either weak or non-existent, or only relate to a very narrow segment of the process (right to access to information).

The challenge therefore is manifold. It is crucially important to raise awareness among governments and members of the general public of the current understanding and interpretation of the right to participate in the conduct of public affairs. Equally important is to attempt to arrive to a coherent understanding and interpretation of the right to participation and to fill the concept with content that is generally applicable and can be used as a tool by communities and relevant authorities at the local, national, regional and international levels.

The aim is to ensure that participation is recognized as a right at all relevant levels and to design more informed, effective and legitimate public participation processes with a strong evaluation and accountability component. There is also a need for new approaches that emphasize two-way interaction between decision-makers and the public as well as deliberation among participants. Lastly, enforcement mechanisms should be defined in order to ensure the implementation of the right at all relevant levels.

## **Annex VII**

## The fifteen countries with the highest military expenditures in $2013^{\rm 94}$

Spending figures are in US\$, at current prices and exchange rates. Figures for changes are calculated from spending figures in constant (2012) prices.

Rank			C., I:		Spending as a share of GDP (%) <sup>b</sup>		
2013	2012	Country	Spending 2013 (\$ b.)	Change,	2013	2004	
1	1	USA	640	12	3.8	3.9	
2	2	China	$188^{a}$	170	$2.0^{a}$	$2.1^{a}$	
3	3	Russia	87.8 <sup>a</sup>	108	$4.1^{a}$	$3.5^{a}$	
4	7	Saudi Arabia	67.0	118	9.3	8.1	
5	4	France	61.2	-6.4	2.2	2.6	
6	6	UK	57.9	-2.5	2.3	2.4	
7	9	Germany	48.8	3.8	1.4	1.4	
8	5	Japan	48.6	-0.2	1.0	1.0	
9	8	India	47.4	45	2.5	2.8	
10	12	South Korea	33.9	42	2.8	2.5	
11	11	Italy	32.7	-26	1.6	2.0	
12	10	Brazil	31.5	48	1.4	1.5	
13	13	Australia	24.0	19	1.6	1.8	
14	16	Turkey	19.1	13	2.3	2.8	
15	15	$UAE^c$	$19.0^{a}$	85	4.7	4.7	
Total top 15			1 408				
World total		1 747	26	2.4	2.4		

### Notes

<sup>&</sup>lt;sup>a</sup> SIPRI estimate.

<sup>&</sup>lt;sup>b</sup> The figures for military expenditures as a share of gross domestic product (GDP) are based on data from the IMF World Economic Outlook database, October 2013.

<sup>&</sup>lt;sup>c</sup> Data for the United Arab Emirates is for 2012, as figures for 2013 are not available.

<sup>&</sup>lt;sup>94</sup> See SIPRI Fact Sheet, available from: http://books.sipri.org/product\_info?c\_product\_id=476.

## **Annex VIII**

## Comparison of budget share allocated to military, education and health care

## **Economic indicators**

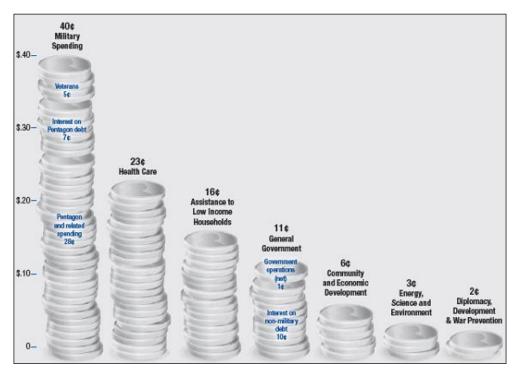
	% of central government expenditure (2000–2009 <sup>a</sup> ) allocated to			
Countries and territories	Health	Education	Defence	
Australia	14	10	6	
Brazil	6 <sup>x</sup>	6 <sup>x</sup>	3 <sup>x</sup>	
China	0	2	10	
France	_	_	_	
Germany	20	1	4	
India	2	3	13	
Italy	14	11	4	
Japan	$2^{x}$	6 <sup>x</sup>	4 <sup>x</sup>	
Republic of Korea	1	15	11	
Russian Federation	7	3	12	
Saudi Arabia	_	_	_	
Turkey	3	10	8	
United Arab Emirates	7 <sup>x</sup>	17 <sup>x</sup>	30 <sup>x</sup>	
United Kingdom	15 <sup>x</sup>	4 <sup>x</sup>	7 <sup>x</sup>	
United States	24	3	19	

<sup>&</sup>lt;sup>x</sup> Data refer to years or periods other than those specified in the column heading. Such data are not included in the calculation of regional and global averages.

*Note*: The above table is an excerpt from a UNICEF table of economic indicators of the state of the world's children. The complete table is available from www.unicef.org/sowc2012/statistics.php.

## **Annex IX**

## Allocation of income tax dollars 2013 (United States of America)



"[...] This imbalanced spending has consequences: cuts in programs that help give people ladders out of poverty, as well as missed opportunities to prevent war and address climate change. The Pentagon budget still accounts for 40 cents of every tax dollar the U.S. Government spends."

Friends Committee on National Legislation explanation of USA Government spending:

## (a) "For current and past wars: 40%

This includes the Pentagon budget and related programs with a military function, such as nuclear weapons production in the department of energy, and foreign military assistance (28%); interest on the federal debt accumulated from past Pentagon spending (7%); and care and benefits for veterans plus other costs and obligations from past wars (5%).

#### (b) For general government operations: 11%

This includes interest on the rest of the federal debt – the part that is not attributable to past military spending (10%) – and other government operations such as Congress, the judiciary, most of the department of homeland security, the IRS, treasury, etc. (1%)

## (c) For health care, health care financing and health research: 23%

This includes Medicaid, public health programs, Indian health, the national institutes of health and the centers for disease control. (Most of the money for Medicare comes from a dedicated payroll tax, not from income taxes, so the Medicare trust fund, with its separate income, is not considered part of the "federal funds budget" and is not included here.)

#### (d) Energy, science and the environment: 3%

Includes funding for the Environmental Protection Agency, National Science Foundation, National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, most of the Department of the Interior, plus the Forest Service and Natural Resources Conservation Service.

#### (e) To assist low income households: 16%

This category includes programs such as housing, income, education, and food assistance that are available to people who meet certain income guidelines. Some help to alleviate poverty (food assistance, income supplements) while others provide a firm foundation and ladders out of poverty (such as housing, health care and education.)

## (f) Development, diplomacy and war prevention: 2%

This tiniest category includes funding for all the ways we relate to the rest of the world that do not engage our military capacities – the entire State Department, including the diplomatic corps and the agency for international development, support for the United Nations and other international institutions and non-military aid to other countries."

<sup>&</sup>quot;Where do your tax dollars go?" Data taken from graph available from www.fcnl.org/assets/flyer/FCNL\_Taxes13\_final.pdf.

## Annex X

## World nuclear forces<sup>96</sup>

Country	Year of first nuclear test	Deployed warheads <sup>a</sup>	Other warheads <sup>b</sup>	Total inventory
United States	1945	2 150°	5 550	~7 700 <sup>d</sup>
Russia	1949	~1800	6700 <sup>e</sup>	~8500 <sup>f</sup>
United Kingdom	1952	160	65	225
France	1960	~290	~10	~300
China	1964		~250	~250
India	1974	_	90-110	90-110
Pakistan	1998	_	100-120	100-120
Israel		_	~80	~80
North Korea	2006			6-8?
Total		~4 400	~12 865	~17 270

<sup>&</sup>lt;sup>a</sup> "Deployed" means warheads placed on missiles or located on bases with operational forces.

<sup>&</sup>lt;sup>b</sup> These are warheads in reserve, awaiting dismantlement or that require some preparation (e.g. assembly or loading on launchers) before they become fully operationally available.

<sup>&</sup>lt;sup>c</sup> In addition to strategic warheads, this figure includes nearly 200 non-strategic (tactical) nuclear weapons deployed in Europe.

<sup>&</sup>lt;sup>d</sup> This figure includes the United States Department of Defense nuclear stockpile of c. 4,650 warheads and another c. 3,000 retired warheads that are awaiting dismantlement.

<sup>&</sup>lt;sup>e</sup> This figure includes c. 700 warheads for nuclear-powered ballistic missile submarines (SSBNs) in overhaul and bombers, 2,000 non-strategic nuclear weapons for use by short-range naval, air force and air defence forces, and c. 4,000 retired warheads awaiting dismantlement.

<sup>&</sup>lt;sup>f</sup> This includes a military stockpile.

<sup>&</sup>lt;sup>96</sup> See SIPRI, SIPRI Yearbook 2013: Armaments, Disarmament and International Security, available from www.sipriyearbook.org. See also www.ploughshares.org/world-nuclear-stockpile-report.