

The Santiago Declaration on the Human Right to Peace

Introduction

On December 9 and 10, 2010, the International Congress on the Human Right to Peace took place in Santiago de Compostella (Spain), which concluded with the adoption of *The Santiago Declaration on the Human Right to Peace* [PDF]. The congress was organized by the Spanish Society for International Human Rights Law in collaboration with Forum 2010 on Peace Education, the World Council of Churches and the Institute for Peace Studies (Alexandria, Egypt) and under the co-sponsorship of more than a dozen civil society organizations and institutions, including IMADR (*see chart*). In fact, IMADR has been closely associated with the whole project, as well as with the Santiago Congress. IMADR Vice-President Kinhide Mushakoji was one of the members of the International Drafting Committee that adopted in early June, 2010, the Barcelona Declaration of the Human Right to Peace, which in turn served as a basis for the Santiago Declaration. At the Santiago Congress itself, IMADR Vice-President Mario Yutzis was one of the rapporteurs and speakers, and Theo van Boven, member of IMADR Board of Directors, acted as the Chairperson of the congress and was also one of the speakers.

This article will briefly review the preparatory process leading to the Santiago Declaration, briefly describe the contents of the Declaration itself, and, finally, offer some observations about its implementation and the prospects of follow-up in the United Nations.

Preparatory Process

As is extensively reflected in the resolution by which the Santiago Declaration was approved by consensus, a long series of meetings and consultations took place in all parts of the world so as to create a global constituency in support of the human right to peace. In this process, a good deal of standard-setting work was performed under the leadership of the Spanish Society for International Human Rights Law with the cooperation of independent experts from a variety of legal, educational and cultural backgrounds, thus underpinning the normative nature and quality of an emerging instrument on the human right to peace. Successive stages were the Luarca Declaration (October 2006), the Bilbao Declaration (February 2010), the Barcelona Declaration (June 2010) and, ultimately, the Santiago Declaration on the Human Right to Peace. The Santiago Declaration is to be appreciated as the outcome of global consultations, reflecting widely shared aspirations by broad sectors of national and international society, with due account of the principles relating to peace and security, as well as justice enunciated by the United Nations, UNESCO and numerous other organs of international society.

Contents of the Santiago Declaration

Broadly speaking, the *preamble* of the Santiago Declaration on the Human Right to Peace performs three functions. First, it refers quite extensively to historical underpinnings pertaining to United Nations documents that are relevant to the right to peace. Second, it seeks to establish a legal basis by references to the UN Charter, international treaties and general principles of international law. Third, it provides guidance as to basic components of the human right to peace, such as the need for its codification and progressive development, the nature and implications of peace, the responsibilities of all relevant actors, the linkages with other collective and individual human rights, and the role of education and a culture of peace.

It would go beyond the scope of this article to discuss at length the *substantive part* of the Santiago Declaration. Therefore, only the titles of the successive articles will be mentioned. There are two sections: Section A on Rights and Section B on Obligations. The rights covered are the following: Rights holders and duty holders (Article 1), Right to education on and for peace and all other human rights (Article 2), Right to human security and to live in a safe and healthy environment (Article 3), Right to development and to a sustainable environment (Article 4), Right to disobedience and to conscientious objection (Article 5), Right to resist and oppose oppression (Article 6), Right to disarmament (Article 7), Right to freedom of thought, opinion, expression, conscience and religion (Article 8), Right to refugee status (Article 9), Right to emigrate and to participate (Article 10), Rights of all victims (Article 11), and Groups in situations of vulnerability (Article 12). In Section B, the Obligations for the realization of the human right to peace are listed in eight paragraphs (Article 13).

The Implementation of the Declaration

While it is envisaged that the Santiago Declaration will constitute a basis for an international instrument to be adopted by the United Nations, the International Congress agreed that, in the meantime, an implementation mechanism should be established as a means to make the Santiago Declaration operational on the level of international and national civil society. To that effect, the International Congress decided in a separate resolution to approve the Statutes of the *International Observatory of the Human Right to Peace* (IOHRP). This mechanism is to be established within the Spanish Society for International Human Rights Law and will begin its work in the early part of this year. Its functions include the organization of or participation in courses, meetings, fora, workshops and other international activities aiming at the promotion and protection of the human right to peace. The functions also include the provision of legal advice and the facilitation of access to justice for victims of violations of the human right to peace, as well as training of the principles of the human right to peace. The International

Observatory will also seek to contribute to the peaceful settlement of disputes through the implementation of the human right to peace. Among the objectives of the International Observatory is the adoption by the United Nations of the Universal Declaration of the Human Right to Peace, taking into account the Santiago Declaration and its preparatory work.

Follow-up in the United Nations

The right of *peoples* to peace figures now on the agenda of the United Nations Human Rights Council. At the request of the Council, the Office of the United High Commissioner for Human Rights convened in December 2009 a workshop on the right of peoples to peace in order to: (a) further clarify the content and the scope of this right; (b) propose measures that raise awareness of the importance of realizing this right; and (c) suggest concrete actions to mobilize States, intergovernmental and non-governmental organizations in the promotion of the right of peoples to peace. Among the experts invited to participate in the workshop was Mario Yutzis. (*see PDF*) The report of the workshop is included in the documentation of the Human Rights Council (UN doc. A/HRC/14/38). Thereupon, the Council adopted an elaborate resolution on the promotion of the right of peoples to peace (HRC res. 14/3, dated June 17, 2010), in which it requested its Advisory Committee to prepare, in consultation with Member States, civil society, academia and all relevant stakeholders, a draft declaration on the right of peoples to peace. Against this background, it was extremely useful that members of the drafting group of the Advisory Committee were present at the International Congress at Santiago de Compostella and participated in the deliberations. In the meantime, after the closure of the Santiago Congress, the drafting group of the Advisory Committee presented a very substantive and interesting progress report on the right of peoples to peace (UN doc. A/HRC/AC/6/CRP 3, dated December 22, 2010).

A basic gap that will have to be bridged is of a conceptual and political nature. The UN Human Rights Council refers consistently to the *right of peoples* to peace whereas the Santiago Declaration and its predecessor texts define and describe the *human right to peace*. This raises the question of the individual versus the collective nature of the right to peace. Are the two approaches compatible inasmuch as other UN instruments of a composite nature, such as the Declaration on the Right to Development, which signifies both collective and individual components? An additional complexity, largely of a political nature and reminiscent of Cold War sensitivities, is the position of Western governments, as well as Japan, which for the time being have disassociated themselves in the UN Human Rights Council from the right to peace. Much work is still ahead to find common ground. As is stated in the last preambular paragraph of the Santiago Declaration “it is urgent and necessary that all States recognize peace as a human right

and that they ensure its enjoyment by all persons under their jurisdiction, without any distinction.”

In conclusion

Pending decisive steps by the United Nations with a view to the enunciation and realization of the human right to peace, it is incumbent on all sectors of civil society to go ahead on the basis of the Santiago Declaration of the Human Right to Peace. IMADR could take its share in such activities in the light of the challenging memorandum on the right to peace, recently conceptualized and circulated by Professor Mushakoji so as to stimulate further discussion and reflection within IMADR and beyond.

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