

PEACE AS A HUMAN RIGHT

Christophe Barbey, 23 October 2000

"One's freedom does not stop where other people's freedom starts. From that point on, we develop a common freedom!"

In 1997, a proposal for a declaration establishing peace as human right was submitted to the general conference of the UNESCO. Even though it was specified that it was only a declaration, containing no legal effects, it was refused.

Human rights lawyers have often debated to know if a human right could exist without its previous writing in a legal text. Courts have accepted this possibility in various situations, be it in international or in national law. So is peace a human right? Can we obtain its recognition from a court, and case being which court?

Two questions arise:

First, as for the international criminal court, is this really what we want? Do we want war criminals to be punished? Or better, do we want war crimes - and that for most likely war itself - to stop altogether? Are these two goals fully compatible? Can we set up an institution that will not fully solve the problem, and yet fully favour other, and more peaceful solutions?

Likewise: can we claim peace, and yet go through a trial process, with its losers and winners, but not automatically with progress in understanding, preventing and sharing of humanity and respect, of understood solutions? Can we accept a solution that does not go towards peace in every situation and in every aspects of that solution? Therefore, are the traditional ways to protect a human right sufficient and appropriate for a human right to peace? And if not, how will we bring the human right to peace to become a more peaceful way to implement all human rights?

The answer to these questions is a matter of choice, but also of tactics. What solution will be the fastest and the most efficient in bringing every individual, as well as humanity as a whole, to a better understanding of herself or himself, and to a better realization of the peaceful means available to overcome differences, conflicts and ignorance?

In other words, how can we feel more and more concerned with and for one another, and how can we share and express that concern in an always - more - constructive way? Peace is a new vision of justice, and it will take time to make it trough as a full part of human knowledge and of the various ways to evolve, and to solve conflicts.

Peace is a human right, but it is also a culture that will change the way problems are solved, including through human rights.

Secondly and taking that into account, how can we consider, and give a practical meaning to the human right to peace?

The human right to peace has various manifestations. It is a global right, included in all other human rights, valid for every individual and all public bodies, in all situations. It is

manifested all relations, but also and as shown, in the way the right to peace itself is implemented.

Individually, many aspects of the right to peace are already protected by traditional human rights, even if they are not yet fully implemented.

The right to life is guaranteed by all human rights basic texts, and in matters of war too it should be fully protected, for civilians, by the fourth Geneva Convention (1949, the Red Cross). We are still far from it, be it in war or because of the death penalty, or sadly because these conventions are not sufficiently and willingly applied. (One has to be happy in his life to respect other peoples life!). The right to life is somewhat a core to the right to peace, but all other human rights participate to peace and harmonious relations and overcoming.

The right to safety deserves a special mention here, and its scope could, and should be widely broadened by regular as well as by human rights courts.

The right to a peaceful solution - in any conflict - is definitely a specific aspect of the right to peace. For what I understand, it is twofold (other views or other aspects are welcome).

First, peaceful solutions, mediation or what is generally called "soft law" should be made widely available. To me it should be a legal right to have access to such a solution. It means that governments (we, with our taxes) should provide for it. (It is less costly than traditional justice, and usually for a greater reward in understanding and avoiding new occurrences).

Secondly, I understand peace to be a solution without supplementary damages. The conflict has not gone too far. However, idealistically the goal is to go from the conflict through understanding to a happy, liveable and human solution. The focus is understanding of the values and behaviours at stake, it is not on revenge or punishment, and it is only partly, and when possible, on repairing or restoration. A happy and liveable solution means that the conflict, its grounds and outcomes, will be sufficiently understood and dealt with for one to realize, overcome and eventually teach, for such a conflict not to happen again (or more humbly for a similar conflict to be solved with less damages), be it at his or her own stake, or as well as an experience for others. For me the true solution is to understand what went wrong, and what should be done (in full understanding and respect of all, in humanity) for it not to happen again (or not in a damaging way). Anything that is going to distract from this goal, any supplementary burden might lead to a partial solution, that will lead again to new conflicts or grief. Further an improper solution will shield away the human capacity to understand ourselves, to face mistakes, to overcome them and to have the necessary means to establish (progressively) harmonious relations, in all situations.

Therefore, I uphold the human right to peace as being as close as possible to a responsible and cooperative right to forgiveness and common growth.

In collective relations there is also a right to peace. The United Nations Charter provides the basic grounds for peace, and it

should be understood as a right to peace. The difficulty is that there are just about no links between the people, owners of the right to peace, and the nations, legal providers of the peace. Therefore, in the future of the United Nations (democratization!) or anywhere else, the right to peace has to be reclaimed, and given back to the people for them to avoid and keep governments from doing acts of "unpeace".

In political theory, the problem could be said to be the state monopoly of violence, and the fact that it is not compensated and controlled by a full belonging to all of that right to peace! This is what is called for when a human right to peace is demanded: a way to control the use of force by states. History - even recently - is full of examples of misuses of force. It is therefore urgent, or at least logical for us humans, individually and as a whole, to find other ways than violence or force to tackle problems. The human right to peace is a solution, and it seems in itself to be very reliable one, not only because it has the capacity to overcome brute force, but also because it can do this with understanding and not with force.

And there again, what would be the use of a right to peace, if it is to get an authority (or the people living under it) to suffer shame or worse because of a breach of peace? I do not really believe peace to be only something you can breach or neglect, for which you can be punished. Of course breaches of peace happen, and it is a deep shame for human consciousness (a misuse of history). But it is we "the people" who are to show the example, and to get our governments to respect that essential right to peace, whatever happens around them. Still, I see peace as a full time process, as a natural as well as willed part of all human activities. Peace is an active and permanent creation, in everyone's mind, and in all our relations. Again, peace is a culture.

Therefore the human right to peace can well fit in the traditional procedures used to protect human rights, and it should, but it is not only that. Slowly courts will progress and recognize this right. The international criminal court will have to take a position on the question, sooner or later.

But the human right to peace is also an example, a daily practice and overcoming of the traditional and vertical vision of human rights. The right to peace is clearly a cooperative right, and this is a new concept in human rights theory!

Therefore the right to peace is also a very democratic right, one that is not easy to apply and claim, but one of great reward. The right to peace can be proclaimed, and eventually protected and "institutionalized", but it is through daily practice and education in every individual and in every situation that it will be not only implemented, but lived. Hopefully, our collective bodies will follow.

At last, I would like to point out that the human to right peace is somewhat beyond conflict, but in its fully harmonious and experienced overcoming.

How warm and rewarding can be a reconciliation? How great can be the understanding that we can control consequences to create a peaceful and human outcome?

Because it is in a solution that also brings hope and fulfilment to the heart, the human right to peace is most likely also the first step to a human right to happiness!

Let's be peace together!

Happy birthday Johan, and thank you for many enlightenments!

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