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The human right to peace: content, challenges, and forms of realization

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Abstract

This article analyzes the perspective of realizing peace as solidarity or third-generation human rights. A qualitative and documentary bibliographic study was conducted to facilitate the search, examination, and interpretation of information to build knowledge through a critical analysis. According to the findings, the main obstacle to the realization of the human right to peace was a lack of support from developed states, led by the United States, the United Kingdom, and France. The dual nature of their ownership and the need to promote peace education were also identified. The key conclusion drawn is that under a state of violence, no human right can be realized. Therefore, it is posited that only by realizing the human right to peace can all human rights be protected and claimed. To conclude, a structural shift in the world's prevailing economic system is required. Such a change should be capable of eliminating poverty, inequalities, and exclusion, identified as root causes of structural violence. Addressing these issues is deemed imperative for achieving positive peace in all aspects.

Keywords: : human right to peace, positive peace, peace, solidarity, human rights of solidarity.

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I. Introduction

The United Nations (UN) was established after World War II (WWII). Its main purpose, as outlined in the first article of the United Nations Charter, is “to maintain international peace and security” (UN, June 26, 1945). Today, the UN General Assembly convenes representatives from 193 nation states with full rights and representation, dedicated to the fundamental mission of promoting world peace.

In addition to the UN mandate, the idea that peace should be considered a human right has gained traction in recent decades (Hayden, 2004). The national security paradigm proved insufficient in preserving other conditions of existence. The emphasis on the security of states, as proposed by national security, falls short in ensuring that each individual has an environment that protects them (Ife, 2007).

In this context, peace has been conceptualized as an emerging human right (Gómez, 2011). Despite significant challenges in realizing this right and complying with related provisions, today, the right to live in peace is incorporated into several international provisions.

However, as confirmed by the UN itself (2022), large-scale armed conflicts persist in Africa, the Middle East, and Eastern Europe, resulting in a trail of death and the forced displacement of tens of millions of people¹. This reality underscores that while the UN has endeavored to preserve global peace, war remains a constituent element of the international system.

This article is based on this apparent paradox of a world emphasizing the importance of peace and international security while grappling with substantial levels of violence and humanitarian consequences. The purpose is to comprehend the path of the human right to peace and challenges confronting the international system in ensuring it today.

To this end, we first provide a brief overview of the evolution of human rights through the lens of generations of rights. Subsequently, the article illustrates how the human right to peace has been incorporated into international law. Finally, it addresses the challenges facing the institutionalization of this right in the international system, as well as potential avenues for overcoming them.

Finally, it is concluded that, although the achievement of the human right to peace currently faces serious challenges in terms of institutionalization, there are discernible windows of opportunity for its realization. Currently, some third-generation rights are gaining prominence on the public agenda, offering the potential to resolve some of the complexities associated with the nature of the human right to peace.

II. Generations of Rights

Shortly after the conclusion of the WWII, the Universal Declaration of Human Rights (1948) was adopted to establish a universal safeguard for the most basic and essential human rights to which all people are entitled. The declaration encompasses first and second-generation rights.

The first generation of human rights emerged from the liberal revolutions of the 18th and 19th centuries, emphasizing individual liberties and life protection. These rights were enshrined in the first republican political constitutions and documents such as the Bill of Rights and the Declaration of the Rights of Man and of the Citizen. These include freedom, equality before the law, the right to private property, the separation of powers, freedom of conscience, and the presumption of innocence. They were embodied in the International Covenant on Civil and Political Rights (UN, 1966a) to which more than 170 national states have adhered.

Second-generation human rights emerged as a consequence of the Industrial Revolution in the late 19th and early 20th centuries. They originated from the organization of social groups seeking to claim rights to counteract the exploitation to which they were subjected, aiming to secure improved living conditions for workers.

Mainly during the Cold War, some countries strongly questioned the conditions of workers and the model of minimal state intervention rooted in freedom-based human rights. This criticism led to progress toward new categories that would guarantee human dignity and complement first-generation rights (Peterson, 2012).

In 1966, the International Covenant on Economic, Social, and Cultural Rights (UN, 1966b) was signed, acknowledging new human rights, sometimes referred to as second-generation or equality rights. This category includes rights related to health, education, work, and social security, among others, aiming to imbue human life with a sense of dignity (de Miguel and del Cano, 2014).

However, as expressed by Marks (1980), and more recently by Kumar (2014) and Morgan-Foster (2014), the protection of first and second-generations human rights falls short in addressing the lack of solidarity, violence, and unsustainability experienced in the global village. Therefore, human rights of solidarity, also known as third-generation rights, have emerged from the need to build social and sustainable progress for humanity. These rights advocate for justice and peace to confront the significant challenges of the planet's survival and the subsistence of future generations.

Due to their nature, mechanisms need to be established to address major universal problems, requiring cooperation among nations to be effective. As described below, these are collective rights, claimed by a group of persons or people. However, they possess an intrinsic duality, as they can also be held individually. These rights play both a positive role (demanding actions) and a negative role (requiring the inaction of certain activities for their fulfillment).

Human rights of the third generation are under discussion and construction. This implies that, through world meetings, conferences, and summits within the framework of the UN and civil society, several have been defined, but some are still in the process of solidification. Key examples include peace, sustainable development, healthy environment, self-determination of peoples, protection of personal data, universal heritage of humanity, and universal access to scientific advances (Macklem, 2015).

III. The Human Right to Peace in International Law

Peace in international law has been defined in different ways. It has been articulated as an ideal to aspire to (Charter of San Francisco, 1945) and to be promoted among youth (Resolution AG/2037-XX, 1965). It has also been understood as a notion based on human dignity (Universal Declaration of Human Rights, 1948) and, therefore, as a duty of states (Resolution AG/33/73, 1978).}

Peace is also the foundation of the right to education (Resolution AG/50/173, 1995) and is part of the purpose of maintaining international security and strengthening international strain (Resolutions AG/2734-XXV, 1970; AG/3314-XXIX, 1974 & AG/32/155, 1977). Subsequently, peace has been conceptualized as a right of people (Resolution AG/39/11, 1984), as the basis for development (Resolution AG/41/128, 1986) and as a fundamental element of a new culture capable of replacing the culture of violence (Resolution AG/52/13, 1998 & Resolution AG/53/243, 1999).

However, only as of December 2016, with the approval of the Declaration on the Right to Peace through Resolution 71/189 of the UN General Assembly, that a formal recognition materialized, representing, at the very least, a nominal acknowledgment of peace as a right that people should enjoy.

While Resolution 71/189 is an outstanding milestone, it does not imply a universal recognition of a right to peace with its own significant content. In this document, peace is understood as a simple guarantee to safeguard and realize human rights or as the direct consequence of the enjoyment of such rights (Musso, 2018). Moreover, as already mentioned, the situation of violence and human rights violations in the world today highlights the limitations of its scope (Guillemet and Fernandez, 2017).

This article develops the notion, feasibility, and possibility of binding codification of peace as a human right. For this purpose, the Santiago Declaration, promoted by international civil society, is used as a frame of reference.

IV. Discussion

Human right to peace content according to the Santiago Declaration

The content of the human right to peace, according to the Santiago Declaration and United Nations Assembly Resolution 71/189, containing the Declaration on the Right to Peace, was initially approved by the Human Rights Council² in July 2016 through Resolution 32/82. Notably, these declarations do not recognize peace as a human right based on solidarity.

Accordingly, 692 civil society organizations, led by the Spanish Association for International Human Rights Law (AEDIDH) and the International Observatory of the Human Right to Peace (OIDHP), submitted a document to each of the permanent representations accredited to the General Assembly mentioning their disapproval of the declaration that had been accepted by the UN (Musso, 2018; Villán, 2017). There, the member states of the General Assembly were urged to consider the Santiago Declaration as a reference for the discussion on the human right to peace.

Internationally organized civil society has been pushing for the realization of peace as a human right for the past few decades. A high point of this article was strengthened by the Santiago Declaration, which was adopted at the International Congress on the Human Right to Peace held within the framework of the World Social Forum on Education for Peace in December 2010 in Santiago de Compostela. Aware of the gaps in the framework of international human rights law, especially in areas such as peace as a human right, civil society succeeded in privately codifying the human right to peace through the Santiago Declaration.

This Declaration, having been approved by civil society organizations and not by states, is not binding. Thus, it is only a statement by civil society within the framework of international law, which entails an expectation that it be incorporated into international law.

The Santiago Declaration has been updated twice: on September 20, 2017, and July 14, 2019. In its preface, it adopts a comprehensive vision of peace, beyond the absence of all types of violence. That is, it includes the concepts of negative peace and positive peace:

... peace is not limited to the strict absence of armed conflict (negative peace); it also has a positive dimension, aimed at achieving three goals: Firstly, to satisfy the basic needs of all human beings, with a view of eradicating structural violence arising from the economic and social inequalities that exist around the world. Secondly, to eliminate cultural violence (which includes gender violence, domestic violence, violence at school, in the workplace, etc.). Thirdly, positive peace requires effective respect for human rights and the fundamental freedoms of all, without undue discrimination (Villan, 2017, p. 25).

As can be seen, for the Santiago Declaration (2010, 2017 & 2019), peace also entails a transformation of the economic model so that it is sustainable in terms of international security. The right to peace involves the elimination of poverty, inequality, and exclusion. These are considered to be the causes of the structural and cultural violence that make it impossible to guarantee peace.

In terms of content, in general terms, human rights of solidarity are considered to be synthesis rights; that is, they are realized only if the human rights of freedom and equality are guaranteed and realized in their entirety. This entails the recognition that first and second-generation human rights constitute the foundational elements of third-generation human rights.

With regard to peace as a human right, its content entails the following: a) the right to resist and object to all types of warlike confrontations, specifically to oppose war crimes, crimes against the human race, peace, and human security; b) the right to conscientious objection to extreme military orders in armed conflicts, which implies that non-compliance with military obligations can be based on the grounds that such compliance is detrimental to one's most intimate ethical convictions; c) the prohibition of all proselytism and publicity in favor of warmongering; d) the right to disarmament, which entails the reduction and suppression of the production of arms under international control; e) the right to disarmament, which includes the reduction and suppression of the production of arms under international control; f) the right to civil disobedience and resistance against oppression; and g) the right to education for peace and human rights in general.

Holding and guaranteeing the right to peace

In its first article, the Santiago Declaration (2019) posited three numerals limiting the holding of the human right to peace. The first reads as follows: "Individuals, groups, people, minorities, and all humanity have the right to peace." Here, the human right to peace encompasses individuals and extends to the whole of humanity, as an individual cannot develop or realize their life plan separated from the community, in which culture, values, and history constitute the foundation of unity and identity of individuals.

This is followed by a definition of peace in a positive sense: peace is the absence of violent disputes and "the conditions for the enjoyment of all universally recognized human rights, including the rights to development and the environment" (Art. 1). As it encompasses peace for both the individual and humanity as a whole, this right is inherently rooted in solidarity, that is, on the need for cooperation among people, groups, and nations to confront universal issues that transcend the capabilities of individual nation-states.

The guarantee of the human right to peace is primarily the responsibility of states. Due to their preponderance as subjects in the international system, these must be the main guarantors, whether individually, together, or as part of international organizations (Art. 3).

As established by the Santiago Declaration and reviewed by Musso (2018), the human right to peace is based on the resolutions of the General Assembly and the several bodies making up the UN system. It is also based on the Charter of the UN and international human rights treaties that set forth the need to regulate arms and implement disarmament so that peace can be achieved and maintained³.

Therefore, it is logical that the Santiago Declaration has opened a section entitled “the right to disarmament,” which establishes the obligation of states “to disarm gradually and to eliminate their weapons of mass destruction or weapons of indiscriminate effect, including nuclear, chemical, and biological weapons” (Art. 4). This obligation makes sense if we consider that these types of weapons have the potential to destroy the environmental ecosystem and fail to comply with the principles that underpin international humanitarian law, a healthy environment, and peace.

A specific element of the Santiago Declaration (2019) is the establishment of mechanisms to guarantee this right. The second paragraph of Article 2 establishes that individuals may assert their human right to peace by submitting complaints to the bodies specified in various human rights covenants, protocols, and conventions, the regional courts that make up the human rights system, and the special procedures of the Human Rights Council. This implies that people could turn to different authorities to safeguard the human right to peace.

Peace education as a mechanism to enforce the right to peace

Education cannot be reduced to obtaining knowledge and skills. On the contrary, it involves the possibility of socializing critical and decisive attitudes to face the challenges posed by an increasingly complex world (Carr & Kemmis, 2003). Given this approach, peace education emerges as a critical element of comprehensive education, enabling citizens to assume a transformative role in handling conflicts in peaceful and positive ways (Valbuena Latorre, 2021).

In this regard, the first and second paragraphs of Article 26 of the Universal Declaration of Human Rights state the following:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory [...].

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

In this regard, Gros Espiell (2005) expressed the following:

Undoubtedly, in this text, if correctly interpreted, it is possible to find the basis of the duty to educate for peace, which leads to the recognition that education must include the matter of the human right to peace (p. 538).

As the author himself highlighted, the joint interpretation of paragraphs 1 and 2 of Article 26 could establish the basis for the state’s obligation to educate for peace, insofar as this is the basic and fundamental instrument or mechanism for generating mechanisms of tolerance among individuals and peoples.

Education for peace and human rights is also included in the Santiago Declaration (2019). The following is expressed:

All individuals and peoples have the right to a comprehensive education in peace and human rights, within the framework of the Declaration and Program of Action on a Culture of Peace and Dialogue among Cultures. 2. Education and socialization in peace is a mandatory condition to unlearn war and build identities detached from violence. 3.

Everyone has the right to report any situation that threatens or violates the right to peace and to participate freely in peaceful activities for the defense of the right to peace. 4. States shall review national laws and policies that discriminate against women and adopt legislation to prosecute domestic violence, trafficking of women and girls, and gender-based violence (art. 5).

The transcribed text clearly indicates the links between peace and education. This would include the instruction and skills necessary to understand the problems of their environment, which would result in the internalization of issues such as peace, justice, development, and solidarity toward all people who endure the horrors of war and poverty.

Accordingly, children and adolescents have the right to fully and comprehensively develop their individual and social potential in a suitable environment so that they can participate in and contribute to the society in which they live. Thus, peace would involve offering tools to understand war, as well as to develop attitudes aimed at the resolution of interpersonal conflicts. Therefore, peace education is a mechanism to internalize a culture of peace.

The United Nations General Assembly adopted the Declaration and Program of Action on a Culture of Peace (1999) through Resolution AG/53/243. It states that a culture of peace is

...a set of values, attitudes, traditions, behaviors, and lifestyles based on a) respect for life, the end of violence, and the promotion and practice of non-violence through education, dialogue, and cooperation; b) full respect for the principles of sovereignty, territorial integrity, and political independence of the States and of non-interference in matters that are essentially the internal jurisdiction of the States, in accordance with the Charter of the United Nations and international law; c) full respect and promotion of all human rights and fundamental freedoms; d) commitment to the peaceful settlement of conflicts; e) efforts to meet the development and environmental protection needs of present and future generations; f) respect and promotion of the right to development; g) respect and promotion of equal rights and opportunities for women and men; h) respect and promotion of the right of all people to freedom of expression, opinion, and information; and i) adherence to the principles of freedom, justice, democracy, tolerance, solidarity, cooperation, pluralism, cultural diversity, dialogue, and understanding at all levels of society and among nations encouraged by a national and international environment that favors peace (Art. 1).

This declaration establishes that “education at all levels is one of the fundamental means to build a culture of peace (Art. 4).

V. Challenges faced by the human right to peace

According to Vasak (1990), for a human right to exist, it must “represent a value whose universal dimension is unequivocally recognized” (p.297). Currently, peace as a right cannot be claimed by any citizen before judicial bodies or instances, as this option is not available in any of the legal systems. Furthermore, it cannot be safeguarded within human rights protection systems. The fact that it is not classified as a human right in any conventional instrument means that it is not possible to force states to incorporate it into their legal system.

However, in accordance with the procedure to codify the guidelines of international human rights law established by the UN, competent intergovernmental bodies, such as the Human Rights Council, have called on institutions representing civil society to participate in the first phases of codification so that civil society has the power to participate in the creation of international human rights law.

According to Villán (2017), the civil society led by the AEDIDH, has been strongly promoting peace as a human right since 2006. In 2010, several civil society organizations participated in the process of drafting a declaration on the right of people to peace by opening the codification process by the Human Rights Council. In the fourth stage of sessions of the Advisory Committee of the Human Rights Council, the AEDIDH

explained the need to establish peace as a human right. In addition, different matters were addressed, including the urgency of realizing development and peace as rights of solidarity. It was also recommended that the Luarca Declaration on the human right to peace be considered, in addition to the impact of the global campaigns carried out by civil society in the first decade of this century.

As already mentioned, the Santiago Declaration (2010) was established by civil society organizations. Subsequently, there was a declaration by the UN General Assembly on the Right to Peace, but as indicated, this differed from an international treaty.

While the Human Rights Council in the following years made significant progress in the doctrinal establishment of peace as a right of solidarity, in its 32nd period of sessions, it chose to simply recognize the right to peace by means of Resolution 32/28, instead of the human right to peace. In the same text, it is recommended to the UN General Assembly, as per Paragraph 5 c) of Resolution AG 60/251 dated March 15, 2006, to approve a draft resolution on the right to peace.

Accordingly, Resolution 71/189 was adopted by the UN General Assembly on December 19, 2016. The Declaration on the Right to Peace was acknowledged. Due to the express opposition of some developed countries led by the United States, the United Kingdom, and France, the project of the human right to peace was rejected on the grounds that there were no legal bases for its recognition. The historical disinterest of developed states in the realization of the human right to peace is reviewed below.

Opposition of some developed countries to the human right to peace

Some developed countries—led by the United States, the United Kingdom, Great Britain, Northern Ireland, and France—have shown disinterest in realizing the human right to peace, despite the fact that they led the creation of the UN with the promise to maintain world peace. In fact, more than seven decades have passed since the creation of the UN Charter as a result of the end of WWII. However, as Galtung (1996) considered, peace still remains distant and illusory.

In 2022, large-scale wars have continued in Yemen, Iraq, Syria, South Sudan, Somalia, Ethiopia, Afghanistan, and Ukraine. Their consequences have caused the forced displacement and death of tens of millions of people.

The fight for the realization of peace as a human right strengthened at the end of the 20th century. According to Gros Espiell (2005), the United Nations Educational, Scientific and Cultural Organization (UNESCO) requested a gathering of experts in Las Palmas (Canary Islands) in February 1997 to determine the inherent characteristics of the human right to peace. This resulted in the creation of the document from the culture of war to the culture of peace, which paved the way for a second stage with the main goal of constructing a preliminary draft declaration on peace, acknowledging it as a human right.

This second cycle took place in Oslo at the beginning of June 1997. UNESCO, the Norwegian Institute of Human Rights, and a panel of experts participated in it. According to Gros Espiell (2005), the second cycle was extremely successful; thus, a preliminary draft of a universal declaration on peace as a human right could be adopted.

A third cycle began, and several experts met in Paris at the beginning of May 1998. Unlike previous cycles, this one failed owing to the fierce opposition of some developed countries, led by the United States.

Among its reasons, the United States noted the mistaken idea that the adoption of a declaration on peace as a human right could help terrorist or rebel movements against certain states or against NATO. Paradoxically, as Gros Espiell (2005) mentioned, peace sought to be “an essential instrument against violence in all its forms, including terrorist violence” (p. 529).

It is necessary to remember that the emergence of guidelines in the international system implies pressure from civil society organizations. It is also marked by their adoption by powerful states in the international system. These stakeholders can operate as promoters of a right, but they can also exercise vetoes over those rights that they do not consider appropriate (Valbuena & Badillo, 2022; Adebajo, 2016; Paupp, 2014; Finnemore & Sikkink, 1998; Cohen, 1993).

Subsequently, the last major attempt to codify the human right to peace was also preceded by successful phases with broad participation from civil society⁴. However, through the adoption of Resolution 71/189 by the UN General Assembly in December 2016, the possibility was cancelled due to the opposition of some

developed states as mentioned above, alleging no legal bases for the recognition of the human right to peace and the dual nature of the holders.

Notably, the reluctance of developed states to accept the existence of peace as a human right does not constitute an insurmountable obstacle to the future realization of this right, given that the institutionalization of economic, social, and cultural rights as human rights also faced great difficulties at the time.

Within the framework of the Cold War, Western States and socialist states could not agree on the nature and extent of civil and political rights and economic, social, and cultural rights. However, in 1966, two agreements were adopted, one on civil and political rights with titling and immediate application and another on economic, social, and cultural rights with titling and progressive application. Both are currently realized and have been ratified by more than 170 states.

Throughout the process, internationally organized civil society played a major role (Nogueira Alcalá, 2009). Thus, the strategy of civil society should not be to stop its efforts but to expand them to persuade a significant number of states of the importance of this human right.

The dual holding of the human right to peace

The problem as to the holding of the human right to peace has been discussed on different occasions. It was previously mentioned that in Paris in 1998, a third cycle began for the realization of the preliminary draft declaration on peace in the category of human rights, involving experts in the field. Some developed states led by the United States opposed the creation of the draft Universal Declaration on the human right to peace, while representatives of developing countries in America, Africa, and Asia had a favorable position.

According to Asdrúbal Aguiar (1999), among the interventions opposing the draft declaration, one of the most forceful was that of the representative of Finland, who expressed the lack of consensus on the holding of the human right to peace. In fact, it was argued that human rights of solidarity are collective in nature. Thus, some government representatives used this configuration and concluded that the human right to peace could not be protected individually.

Moreover, Alemany (2008) explained that individual and collective holding of the right has been jointly enshrined in established instruments. For example, the Declaration on the Right to Development of the United Nations General Assembly claimed the right to development as an inalienable human right of “every human being and all people.”

Thus, the declaration chooses this due to the dual individual and collective nature of that right, an interpretation that could be considered a guideline for the rest of the solidarity rights. In fact, Martínez (2009) argued that third-generation rights, or solidarity rights, are held in a mixed manner. This is because they could be protected individually or collectively. Martínez (2009) referred to this as the “dual nature of holding the right.”

In the Santiago Declaration (2010, 2017, & 2019), this dual nature of holding the right has been defended in the human right to peace. There they extend holding to individuals, groups, towns, minorities, and all humanity. Since 2006, the Declaration of Luarca (Asturias) maintained in its first article that “individuals, groups, and people have the inalienable right to a just, sustainable, and lasting peace” (Villán & Faleh, 2010).

In relation to those responsible or indebted to the human right to peace, considering the provisions of the dual nature of holding the right and in accordance with the provisions in the Declaration of Santiago, these would primarily be the states. However, other authors expressed that “human beings are not only beneficiaries but also debtors, responsible for the implementation of this right and have an active participation in its fulfillment” (Symonides, 2004, p. 213).

That is, human beings would have a right to peace and the duty to guarantee such right to their fellow human beings. In that sense, holding the right is not only in terms of enjoyment but also in terms of the obligations it entails. The above is based on the provisions of Article 29 of the Universal Declaration of Human Rights by establishing that every person has duties toward their community, as only in that area of collective nature can human beings foster and mature their personality with freedom and in full.

For Martínez (2009), the dual nature of possessing this right implies that both individuals and various groups share a legal status, making them subjects of the law. These statuses are not mutually exclusive and possess validity, legitimacy, and common recognition, irrespective of the specific forms, procedures, and scope associated with different holders of the human right to peace.

Each owner, in this case, individuals, groups, people, and minorities, may protect peace as a human right both for their enjoyment and application and to require a sentence for its violation.

A common argument proposed by deniers of the human right to peace is related to the supposed eccentricity of its dual nature of holding the right. However, the relationship between obligations and rights for both individuals and subjects of collective rights is evident in the American Declaration of the Rights of Man (1948). In addition to outlining rights, the declaration specifies obligations of individuals toward society, the community, and the nation, as articulated in articles 29, 34, 36, and 37.

VI. Toward the binding codification of peace as a human right of solidarity

Several possible models have helped codify the human right to peace (Gros Espiell, 2005; Alemany, 2008; Durán, 2017; Ochoa, 2016). These include three options with the strength to make this a reality: i) an Additional Protocol to the Agreement on Civil and Political Rights including the rights of solidarity; ii) a Third Agreement exclusively referring to third-generation rights or solidarity, or iii) an International Declaration on Third-Generation Human Rights or Human Rights of Solidarity.

This section considers that the establishment of an Additional Protocol to the Covenant on Civil and Political Rights including third-generation rights would not be the best option to codify the human right to peace. This instrument would possess the quality of a binding international treaty in terms of its validity, but it would be linked to a mother treaty.

Thus, the rights of solidarity or third generation could emerge in a condition of inferiority with respect to civil and political rights and economic, social, and cultural rights.

There are two arguments to defend this position. First and second-generation rights were introduced through two separate pacts. In this aspect, as they are rights seeking the same range of importance in the international system, the rights of solidarity should have an equal treatment.

Second, there is a problem regarding the nature of the rights themselves. In fact, civil and political rights are mainly individual rights, unlike the rights of solidarity, which, as already shown, are rights held dually (individually and collectively). Thus, there exists the need for “a framework in which [the rights of solidarity] with their specific characteristics and their own systems of application and control have a place” (Alemany, 2008, p. 229).

Therefore, by potentially creating this discrepancy in terms of importance and in terms of the holding of the right, an additional protocol in the current agreements is not adequate to make solidarity rights binding.

The second option proposed to codify the human right to peace is a Third Agreement. That is, an international treaty exclusively referring to third-generation rights that, pursuant to the Vienna Convention on the Law of Treaties, would entail the protection, legal effectiveness, and rigor necessary to materialize the human right to peace.

Notably, this agreement would have a global impact, as states would have the option to incorporate it into their domestic legal system through ratification or membership, as determined in the Convention.

Finally, the third proposal is an International Declaration on the Rights of Solidarity or of Third Generation. As already known, a declaration is “a solemn document, which is used only in very special cases, of great and true importance and when the goal is to obtain maximum observance by the greatest number of States possible” (Arechaga, 1980, p. 39).

Despite holding significant political authority, declarations, according to International Law, are not a direct source of law, although they may eventually contribute to the development of legally binding documents. Thus, it is noteworthy that the Universal Declaration of Human Rights preceded the two great treaties, that of civil and political rights and that of economic, social, and cultural rights, which are currently ratified or adhered to by the vast majority of countries part of the UN.

Thus, an International Declaration on the Human Rights of Solidarity or of Third Generation could constitute an ideal regulatory basis to bring the human right to peace to its full legal structuring and effectiveness.

Among these options, the Third Agreement would offer better conditions to guarantee these rights. While the rights of solidarity had limited development in significant International Law instruments, this trend recently shifted with the acknowledgment of a safe, clean, healthy, and sustainable environment as a human right by the Council of Human Rights through Resolution A/HRC/48/L.23/Rev.1 (2021) and subsequently by the United Nations General Assembly through Resolution AG/76/300 (2022).

The human right to the environment is one of the human rights of third generation and currently enjoys recognition by a reference intergovernmental body such as the Human Rights Council. It includes 47 states, with 43 voting in favor. There were only 4 abstentions from Russia, China, India, and Japan. In the UN General Assembly, it received 161 votes in favor, with eight abstentions from China, Russia, Belarus, Cambodia, Iran, Kyrgyzstan, Syria, and Ethiopia, and no votes against. These recognitions were achieved partly thanks to the support of more than 1,100 organized civil society organizations.

In this context, there is currently an important window of opportunity for the recognition of the human rights of solidarity. This window could be used for the construction of a *Third Agreement* that consolidates other rights. Furthermore, an International Declaration on the Rights of Solidarity or of Third Generation would not have immediate effects. It entails greater efforts in political and time terms.

A *Third Agreement* could structure immediate protection procedures that consider the nature of solidarity rights, such as access for third-generation rights holders to supranational control bodies that can protect against violations of rights recognized in the future treaty.

VII. Conclusions

This article seeks to illuminate the trajectory of the human right to peace, tracing its evolution through the efforts of civil society organizations and examining attempts to institutionalize it within the international system. Beyond narrating its history, the article explores its content, specificity, mechanisms for ensuring it, and presents some codification proposals. Additionally, the article delves into the potential challenges that this right might encounter as it vies for a place on the international agenda.

The institutionalization of the human right to peace in the international system is an important step in the fight against war, terrorism, crime, and all types of violence. In addition, the right to peace ensures all other human rights. Therefore, peace is not a simple sum of human rights. As it is a human right by its very nature, it serves as a means to safeguard the rest of human rights.

Guaranteeing the right to peace involves the socialization of a culture of peace. This is built through education about peace, constituting formal and informal education instances. Thus, it is not only about the acquisition of knowledge about human rights, war, and peace, but rather the internalization of alternative conflict resolution mechanisms and new ways of facing social conflicts must be sought.

Thus, establishing peace as a human right in the internal legal systems of states is fundamental, but there are several challenges. On the one hand, the holding of the right has been under discussion, as it is argued that it can imply both individual and collective guarantees at the same time, as opposed to human rights understood classically. On the other hand, the guarantee of the right, primarily the state's responsibility, is complex, as there are situations that may not be under the complete control of these institutions.

The Santiago Declaration makes it clear that it is impossible to understand peace only in its negative sense. While it is true that there is no possibility of realizing any human right in a state of violence, it is also true that without economic changes that reduce poverty, inequalities, and exclusion, the structural causes of violence will be there to produce new shoots. This process of understanding peace under its direct manifestations and its causes is known as positive peace.

In addition to these obstacles regarding its very nature, the human right to peace has faced reluctance from politically dominant states in its adoption. They have legal arguments against it, and this position could be rooted in geopolitical interests. Accepting a human right to peace would thus indicate that proxy wars or military interventions in other states would be illegal under all circumstances, as they would violate the human right to peace of the societies intervened.

The current provisions banning military interventions in other states are primarily based on the need to respect the sovereignty of states. The human right to peace, in contrast, would add a restriction

related to a guarantee of the peoples, which can be problematic for the geopolitical interests of powerful states.

In any case, the position of the states opposing the institutionalization of the human right to peace does not become an insurmountable challenge. In the context of the Cold War, many of these states also opposed the institutionalization of economic, social, and cultural rights. However, keeping these rights on the international agenda allowed the two great agreements to be adopted in 1966, which have been currently ratified by more than 170 states.

VIII. References

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