

ROLE OF THE RIGHT TO ENJOY PEACE IN A DIGNIFIED LIFE

PAPEL DO DIREITO DE DESFRUTAR DA PAZ NUMA VIDA DIGNIFICA

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right to enjoy peace is essential to lead a life with human dignity in the present world? The basic objectives of this research are to study the impotence and nature of right to peace and to establish the relations between right to peace and the enjoyment of other human rights which are ensured under different international human right law. This research will also analyses the different dimensions of right to peace.

Keywords: Human Right. Right to Peace. UN Charter. Declaration on Right to Peace.

Resumo: Os direitos humanos são direitos inerentes e inalienáveis de toda pessoa sem qualquer tipo de discriminação e que são essenciais para levar uma vida com dignidade humana básica. As graves e desumanas violações dos direitos humanos durante a Segunda Guerra Mundial fazem o mundo pensar sobre a importância de proteger os direitos humanos e as liberdades fundamentais para garantir um mundo pacífico, sem guerras e quaisquer tipos de violações dos direitos humanos. Essas discussões e esforços resultaram no estabelecimento de uma organização internacional chamada Nações Unidas. De acordo com o Artigo 1 da Carta da ONU, o principal objetivo da ONU é garantir a paz internacional e lutar contra as atividades com efeitos na paz internacional. A Carta da ONU também aponta que é impossível garantir a paz internacional sem proteger os direitos humanos e as liberdades fundamentais e

garantir e desenvolver boas relações entre as nações. Ao reconhecer a importância de desfrutar e garantir a paz na era moderna, a ONU declarou o direito à paz como um direito sagrado e cuja proteção é uma responsabilidade sagrada do Estado em 1984. Mais tarde, em 2016, a ONU adotou a Declaração sobre o Direito à Paz. O Artigo 1 da Declaração afirma que todos têm direito à paz, de modo que todos os direitos humanos devem ser protegidos e o desenvolvimento é plenamente realizado. De acordo com a Declaração, não apenas os Estados, mas também todas as outras agências e instituições que trabalham em nível internacional e nacional devem cooperar para garantir o direito ao gozo da paz a todas as pessoas. Esta pesquisa está centrada na questão de pesquisa: o direito de desfrutar da paz é essencial para levar uma vida com dignidade humana no mundo atual? Os objetivos básicos desta pesquisa são estudar a importância e a natureza do direito à paz e estabelecer as relações entre o direito à paz e o gozo de outros direitos humanos assegurados por diferentes leis internacionais de direitos humanos. Esta pesquisa também analisará as diferentes dimensões do direito à paz.

Palavras-chave: Direitos Humanos. Direito à Paz. Carta da ONU. Declaração sobre o Direito à Paz.

1. Introduction

Human rights are inalienable inherent rights belongs to every persons without which it is impossible to lead a life with human dignity. Every individual are entitled to enjoy basic human rights and fundamental freedoms without any kind of discriminations. It is the responsibility of the states to ensure the protection of human right to all persons. The Second World War has an important significance in the development of modern human right jurisprudence. The huge human rights violations and disturbance to peace due to war makes the world to think about a system to ensure the protection of human rights and fundamental freedoms and to ensure the international peace and security. As the result of those discussions UN was established in 1945. The primary objective of UN is to ensure the protection for human rights and fundamental freedom and to ensure the international peace and security. UN takes a lot of initiatives to protect human rights and peace.

The protection of human rights and the peace are related to each other. It is impossible to ensure peace and security of the world without ensuring protection of human rights and fundamental freedoms (Roche, 2003). Every human rights violation ultimately resulted as a negative impact on the peaceful nature of the society. On the analysis of the definition of the peace, it can be understood that peace is not only the absence of conflict but it is a situation in which an individual can enjoy his all rights and ensure development in all directions (Edgar *et al.*, 2023). This research is aims to answer the question whether the right to enjoy peace is essential to lead a life with human dignity in the present world? First part of this study is discussing about the relations between the protection of human rights and international peace based on the UN Charter and other international human rights documents and the second part of the study is

dealing with the different documents which are specifically dealing with the concept of peace. This part is also analyzing the concept of peace as a right and scope and limitations of right to peace and role of protection human rights in ensuring right to peace.

2. Human Rights as “A Peace Tool”

Human rights are inherent and inalienable rights belong to every human being, without which a life with human dignity is impossible. Human rights are basic rights which are belongs to every individual irrespective of his or her nationality, sex, religion, race etc. (Joshi, 2016, p.476) Protection of human rights and fundamental freedoms of persons are essential elements in the development of persons and the society and it also played an important role in the peace and security of the society (Kapoor, 2017, p.817). The Second World War was an important event in the development of modern human rights law. The serious inhuman human rights violations during Second World War make the world to think about a mechanism to protect human rights and fundamental freedoms and to ensure the peace and security of the world. Those discussions resulted in the establishment of United Nations (Kapoor, 2017, p.818).

United Nations was established according to the UN Charter. The provisions relating to human rights and peace can be found throughout in the UN Charter like a Golden Thread (Maus, 2020). The Preamble of the UN Charter expressly states that 'The Members of United Nations are determined to save the future generations from a war and determined to reaffirm the faith in the fundamental human right, dignity and worth of the human persons for promoting and ensuring the practice of tolerance and peaceful life with others and maintaining international peace and security (Kapoor, 2017, p.807). It is clear from the Preamble that it is the primary responsibility of the UN to take initiatives to prevent another war and any kind of human right violations which may adversely effect in the international peace and security. The peace and human rights are interrelated and absence of one will make impact on other (Ramcgaran, 2021). It can be understood from the UN Charter that human rights are an effective tool for ensuring international peace and security. It is possible to find many Articles in the Charter which are dealing with the relation between peace and human rights (Leblanc, 1977).

Article 1 of the UN Charter is dealing with the purpose of UN and according to this primary purpose of UN is to maintain international peace and security by taking steps to prevent all activities which are adversely affecting the peace. It also states that international peace and security can only be achieved through the suppression of all act of aggression and other acts

which breach the peace in a peaceful manner in conformity with interest of justice. The UN aims to the development of friendly relationships with the nations on the principles of equal rights and self-determinations for ensuring and developing international peace. Article 1 also pointed out that promoting the human rights and fundamental freedom without any kind of discrimination is an essential part in the international dispute settlement mechanism. So from the Article 1 of UN Charter, it can be clearly establish that the primary aim of UN is to ensure the international peace and security and the protection of human right and fundamental freedoms.

According to UN Charter, the Members of UN are responsible to take stapes to protect the human right of individuals and to ensure the international peace. It makes clear that the States shall ensure peaceful situation in their international relations to avoid any kind of used of force against any other states in any manner (Bailliet and Larsen, 2015). The Charter also directs the states which are not the member of UN also to follow steps to ensure international peace and security (Art.2 (6)). The importance of peace and security of the world for UN system is underlined in the conditions of membership to UN, the Charter says that the membership in UN is open to all peace loving nations which are ready to accept the obligations given in the Charter (Art.4 (1)) and It also is make clear that the General Assembly on the recommendations of Security Council can remove a state from the membership, if they acted against basic principle of UN (Art.6). So the UN accept a state as a member, if that state is ready to protect and promote international peace and security and ready to respect and protect the human rights and fundamental freedoms (Vega, 2013).

The General Assembly and the Security Council are two important organs of UN. The General Assembly of UN has the responsibility to consider the issues which are adversely affect the international peace and security. The issues relating to the international security and peace can brought to the notice of General Assembly by any Members, Security Council or by the Non-Member states. If it is necessary the General Assembly can invite the attention of the Security Council to that issue (Art.11). The Security Council is important part of the UN which has the power to make decisions in important matters.

The primary objective of Security Council is to take steps to ensuring the international peace and security and the Members of UN are responsible to work together with the actions of Security Council to maintain international peace and security (Art.24(1)). It consists of eleven members including permanent and non-permanent members. The non-permanent members are elected by giving weightage to their contributions in maintaining international peace and security (Art.23 (1)). In the case of any dispute which may affect the international peace and security

arises between the Members the Security Council may take actions to make a peaceful solution. The Security Council also has the power to investigate any matter which may disturb the international peace and security and based on that may make certain suggestions and recommendations for the settlement after analyzing the stapes taken by the state (Art.36). So General Assembly and the Security Council are two important parts of UN and both of them consider the protection of human rights and fundamental freedoms as an important element in the protection of international peace and security and both organs of UN gives great impotence to the protection of the same. On the analysis of the dispute settlement of UN, it can be seen that UN Charter direct the states to settle the disputes in an amicable manner without disturbing international peace and security (Duran, 2014).

The UN Charter not only discussed about the importance of peace but it also provided the actions need to take for the violation of peace in the Chapter VII. According to which the Security Council has the power and responsibility to determine the steps need to be taken against the actions which violate the peace. As a first step the Security Council may call the parties in dispute and give a provisional measure to avoid any kind of the aggravation of the situation (Ratner, 2021). If the recommendations made by the Security Council according to the UN Charter are violated by the states or the states are continuing with actions which are disturbing the international peace and security. The Security Council may take other measures including the use of armed forces. But before using forces the Security Council may call up on the members to apply measures like complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations (Art.41). If those actions are inadequate to solve the issue and to restore the international peace and security, then the Security Council may take actions with the help of forces. According to the Charter those actions included demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations (Art.42). Those actions should planned and executed by the Security Council with the help of the Military Staff Committee on the interest of international peace and security (Art.47 (3)).

It is clear from above discussions that the Charter of United Nations gives primary importance to the protection of human rights and fundamental freedoms and to the maintenance of international peace and security. General Assemble, Security Council and other organs of UN are actively working to achieve those goals. On analysis of relationship between human right and international peace and security under UN Charter., it can be seen that UN Charter consider both of them are interlinked. The maintenance of international peace and security is the basic

objective of UN but these objectives cannot achieve without ensuring the protection for human rights and fundamental freedoms (Voeten, 2005). So it can be concluded that UN Charter considers the protection of human rights and fundamental freedoms as a tool to achieve international peace and security.

3. Peace under International Human Rights Documents

Huge and inhuman human rights violations during the Second World War made the world think about a mechanism to protect and promote human rights and peace (Agarwal, 2016, p.15). Those discussions resulted in the formation of UN. The UN, from its establishment, took a lot of initiatives to protect and promote human rights and fundamental freedoms for ensuring international peace and security. UN Secretary General in his address to the Human Rights Council in 2017 pointed out that the best way to preserve the peace is to give respect to human rights and fundamental freedoms and the UDHR and other treaties contributed a lot to the preservation of peace (IPI, 2017). He also said that rights given by those documents help to identify root causes of many conflicts. According to him, the initiatives for the protection of human rights and fundamental freedoms help to identify many problems which may lead to serious conflicts able to disturb peace and security of the world (IPI, 2017).

According to the UN Charter, the best way to protect international peace is to give respect to human rights and fundamental freedoms. It is possible to find the objective to protect peace and security of mankind in many other human rights documents, also expressly or impliedly (Butchard, 2020). UDHR is a good example for that. UDHR is an important human rights document in the history of modern human rights law (Agarwal, 2016, p.38). It is a model law for the world in relation to human rights. The Preamble of such document clearly expressed the relation between human rights and the peace. It says that the recognition of inherent dignity and fundamental inalienable rights to all members of the human family is the foundation of freedom, justice, and peace in the world. So it can be understood from the Preamble of UDHR that the protection of human rights and fundamental freedoms are important conditions to protect and maintain justice, freedom, and peace in the world. Article 1 of UDHR points out that all human beings are born free and equal in rights and dignity and should act towards one another in a spirit of brotherhood (Art.1). This Article also underlines the importance of human dignity and human rights and the role of peace in the realization of the same by directing to act in a spirit of brotherhood towards another. Hence it can be said that

human right is a means to make peace in the society. Like UDHR, many other human right documents also either directly or indirectly aims to protect and promote the international peace and security. It is also possible to find out certain international or regional human rights documents which accept people's rights to peace and security as a human right.

The Preamble of the International Convention on the Elimination of All Forms of Racial Discrimination states that any kind of discrimination between the peoples on the ground of race, color or ethnic origin is a barrier to maintain good relationships between the nations and which may lead to the disturbance of international peace and security. The International Covenant on Civil and Political Rights pointed out in its Preamble that the human rights are the foundation of peace in the society and In the General Comment 6, the HRC explains the relationships between rights to life and prevention of war including proliferation of nuclear weapon (HRC, 2011). The Convention on the Elimination of All Forms of Discrimination against Women also states the maximum participation of women on equal terms of with men is required to ensure peace and complete development (HRC, 2011).

African Charter on Human and Peoples Rights is an another important example, According to Article 23, all people have the right to national and international peace and security and this Article direct the states to ensure the rights to national and international peace and security by promoting the principles of solidarity and friendly relations as directed by the UN Charter. This Article also imposes duties on the states parties to ensure that their territories are not used by any anybody for activities which may disturb international or national peace and security. The African Charter clearly states that peace and security are basic inherent and inalienable rights of people and it is the responsibility of the members to protect the same (COE, 2023). The Charter of the Association of Southeast Asian Nations of 2007 express the common desire of member states to live in a peace and to work to enhance peace. In the Human Right Charter which is drafted by the non-governmental organizations in 1998 also assert that all persons have a right to peace so that they can fully develops all their capacities without being targeted by any kind of violence (HRC, 2011).

It can be understood from above discussions that protection of human right is considering as a tool to maintain peace and security and which is the fundamental purpose of UN and other international human right organizations. It is also important to note that peace is essential to the full development of a person and society (Rummel, 2023). By realizing the importance of peace in a dignified life, UN took a number of initiatives to make peace as a basic

Human right through certain declarations (Mac Laughlin, 2017). It is also important to note that UN through different declarations defined the right to peace in different manner.

4. Right to Peace as an Inherent Right

The Declaration on the Participation of Societies for Life in Peace is adopted by the UN General Assembly in 1978 and this Declaration reaffirms the rights of states and all man kinds to live in peace. According to the Declaration every war is starting from the minds of people so every initiative to achieve peace must starts from the minds of the peoples. The Declaration also point out that good relationship between the nations is a most important thing to maintain international peace and security so that the international and national governments or non-governmental organizations should try to protect and promote the idea of peace. The Declaration also direct the world to use all kind of scientific and technical developments in the interest of peace and security of the world. The Preamble gives special concern about the use of the nuclear weapons and developments in that area and directs the states to ensure that those scientific developments are not adversely affect the peace and security of the world.

The Article 1 of the Declaration invite all state to give respect, recognition and importance for maintaining and strengthening a just and durable peace for present and future generations in their activities. It also declared that every nation and every human beings without any kind of discrimination has an in inherent right to live in peace. The respect for this right and the other human rights are essential for the development of all nations in all field. So this Declaration recognized the right to live in peace as an inherent right and protection of right to live in peace and other human rights are essential for the advancement of the nations (Fried, 1990). It also declared that the prevention of war and other activities which are adversely affecting the right to life in peace as responsibility of all state and it acknowledge the impotence of the protection of constitutional right, families and other institutions in the protection of right to life in peace (Art.1).

This Declaration is one of the important document in the history of the development of right to peace because this was the first document by the UN which accepted right to life in peace as an inherent right. It may be noted that the Declaration pointed out that the right to life in peace is an inherent right not only to persons but to every nations without any kind of discrimination. The Declaration also expressed the importance of human right protection in the enjoyment of right to life in peace. According to the Declaration the protection of human rights

is an essential for the enjoyment of right to life in peace and to achieve the development of nations. This is also important to note that the Declaration direct the states to ensure that use of achievements of scientific developments are not disturbing the peace and security of the world especially the developments in atomic field (Fried, 1990). After this declaration in 1984 UN adopted another declaration related to peace which is called Declaration on the Right of Peoples to Peace and this declaration declared that right to peace as a sacred right of people.

5. A Sacred Right of People

The Declaration on the Rights of People to Peace is adopted by the UN General Assembly in 1984. The Declaration pointed out that the absence of war is a primary perquisites for the development and protection of human rights and fundamental freedoms which are ensured by the UN. According to the Declaration, in the present nuclear age, lasting peace on the earth is an important condition for the survival of mankind and civilization (Ishay, 1997). This Declaration also as pervious declaration consider use of nuclear weapons and developments in that area will resulted in the violation of peace and even result in the end of mankind.

The Declaration proclaims that the people in our planet has a sacred right to peace and impose the duty to protect that right on the states (Singh, 2017). According to the Declaration the protection of peace is a sacred duty of each states and it is a fundamental obligation of each states. The declaration also emphasizes that the rights of people to peace can only protected by making policies by the states which prevent the war especially nuclear war and it request the states and international organizations to assist in the implementation of people's right to peace by adopting measures in national and international level .

So according to the Declaration right to peace is a sacred right of all people in the planet and states has the fundamental duty to protect the same by making policies which are preventing the war especially by use of nuclear weapons. The Declaration also appeals to the states as well as the international organizations to give all assistance to protect the people's right to peace in national and international level. In addition the Declaration pointed out that in the present world, the right to peace has a great importance because in the era of atomic weapons any disturbance in peace may be resulted in the end of mankind. So the Declaration consider the people's right to peace is something sacred and states has a sacred responsibility to ensure the lasting peace in the world. It may be also noted that the Declaration not only impose the duty to

protect the peace on states but also to the international organizations which means a collective actions must be taken in national and international level to protect the right to peace. The Declaration also ensures that all people of our planet has the sacred right to peace irrespective of any kind of discrimination. By this Declaration the UN underlines the importance of international peace and security in the existence of mankind and directs the all peoples to collectively work for the establishment of lasting peace in the world.

6. Right to Development and the Culture of Peace

It is impossible to avoid the Declaration on Right to Development and Declaration and Programme of Action on a Culture of Peace while discussing about the human right and peace. The Declaration on the Right to Development states that right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. The Declaration impose the duty on the state to ensure the full enjoyment of right to development of the people and the Declaration make clear that the enjoyment right to development is not possible in the situations in which the human rights and peace are not protected. Hence the Declaration directs the states to actively participate in the protection of international peace and security which are important elements in the enjoyment of right to development (Ilbhawoh, 2011). So the right to development is a right which is interlinked with the protection of human rights and fundamental freedoms, peace and security of the world.

In Declaration and Programme of Action on a Culture of Peace is an important document adopted by the UN General Assembly and it proclaims that governments, international organizations, civil society may regulate their actives in a such a way that to strengthen and promoted the culture of peace. According to Article 1 of the Declaration culture of peace is the set of values, attitudes, traditions and modes of behavior and ways of life based on the respect for the fundamental human rights and dignity, principle of non-violence and commitment to peaceful settlement, efforts to meet the developments and environmental needs of present and future generations etc. The Declaration appeals to the governments, organizations and civil society to promote the culture of peace. Another important initiative of UN in relation to right to peace was the Declaration on the Right to Peace adopted in 2016

7. Right to Enjoy Peace

According to the Declaration on Right to Peace the concept of peace is not only the absence of conflict but also required a situation in which a positive ,dynamic participatory process where dialog is encouraged and conflict are solved in the spirit of mutual understanding and co-operation and the situation in which social economic development is ensured. So the declaration makes clear that peace is not absence of war but also it includes the situation in which a person can developed in all dimensions. The Declaration recognized that peace and security, development and human rights are three pillars of UN system and which are interlinked and mutually supporting to each other. It acknowledges the importance of human rights and fundamental freedoms in ensuring international peace and security and also the Declaration underlines the importance of civil society organizations in the preservation of peace.

The Declaration states that everyone has the right to enjoy peace such that all human rights are promoted and development is fully realized. According to the Declaration right to enjoy peace is only possible when the human rights are promoted and protected and in a situation in which when the development of the individuals are fully realized. So the protection of human right, development and right to peace are interlinked. It is can be interpret that protection of human right is a tool to ensuring peace.it is impossible to enjoy the right to enjoy peace without ensuring human rights and fundamental freedoms (Rao, 2017). Hence the Declaration directs the states to promote the quality, justice, rule of law and guarantee freedom from fear as a means to build the peace.

The Declaration also imposes the duty to protect and promote the sustainable peace not only to the states but also to UN, specialized agencies and other institutions. According to it the proper implementation of the right to enjoy peace is only possible by the collective efforts by the world. On the analysis of the Declaration, it can be seen that Declaration aims to protect the right to enjoy peace by ensuring the better protection of human right and fundamental freedoms and it accepts the human rights ,development and peace are mutually connected and the protection of those are essential for a life with basic human dignity.

8. Conclusion

Human rights violations during the Second World war makes the world to think a proper machinery for the protection of human rights and fundamental freedoms those discussions resulted in the creation of UN. The primary objectives of UN is the protection of human rights and fundamental freedoms and the promotion and protection of international peace and security.

On the analysis of U N Charter, it can be seen that UN is trying to establish the international peace and security by ensuring the protection of human right and fundamental freedoms because the protection of human rights and the protection of peace are interconnected. It is impossible to ensure a peace to the society without protecting the human rights and fundamental freedoms. It is also important to note that complete enjoyment of human rights is possible only in a peaceful society. So it can be concluded that human right and peace are interconnected. U N Charter considering the protection of human rights as a tool to ensuring international peace and security.

The relation between human rights and peace can be seen in the different human rights documents also. Many international human right documents expressly or impliedly deals with the importance of protection of human rights in the international peace and security. All human rights documents in international level and regional level are aim to ensure sustainable peace and security of the world by protecting human rights.it is also possible to find out the international human rights documents which are ensuring people's right to enjoy peace as a human rights. According to those documents peace is a not only absence of conflict but it is a situation in which the people can enjoy their human right and fundamental freedoms without any kind of discrimination and situation in which an individual can ensure his development in all dimensions. By declaring the right to enjoy peace as a human right the UN is aims to underline the importance of the protection of human rights and fundamental freedoms because without which the it is not possible to ensure peace.

On the analysis of the role of right to enjoy peace in a dignified life in the present society it can be concluded that peace and human rights are interconnected and it is impossible to enjoy the human rights without a peace full world. So the every disturbance on the peace will make negative impact on the enjoyment of human right and in life with dignity. So it can be conclude that it is impossible to lead a life with human dignity without ensuring the right to enjoy peace. But it is important to note that the protection of peace is only possible through a collective effort by the world and we need more effective mechanisms for that.

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