

The respect for international legality and the renewed centrality of the United Nations: the only alternative to war

In the 70th anniversary of the United Nations and of the end of the Second World War

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The diagnoses of the ongoing conflicts abound, but are not sufficient unless they are accompanied by precise proposals in the framework of an appropriate vision. In order to be legitimate and effective, proposals must comply with the principles and norms of universal law, which is based on the Charter of the United Nations, the Universal Declaration of Human Rights and the new International Law that places the respect for the dignity of all members of the human family and of all their equal and inalienable rights at the centre of the world order.

The warfare activities under way in various parts of the world are illegal. They violate article 2 of the Charter of the United Nations (prohibition of the use of force for the settlement of international disputes, obligation to solve them with peaceful means), and, more generally, violate the fundamental rights of the person and of the peoples, starting with the right to life.

The war, any war, denies life, kills the original subjects of rights, is permanent execution of collective death penalty.

Together with individual human rights, also collective rights are blatantly violated, from the right of peoples to self-determination, to the right to development and the right to protect the natural environment.

Many violent conflicts concern specifically the right of peoples to self-determination. What does International Law provide for in this regard?

Article 1 of the Charter of the United Nations establishes, among its purposes, that of developing “friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples”.

The identical article 1 of the two International Covenants of 1966, respectively on civil and political rights and on economic social and cultural rights, turns the ‘principle’ into a ‘fundamental right’:

1. “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence ...”.

The reference for the European continent is Principle VIII of the Helsinki Final Act (1975):

VIII. Equal rights and self-determination of peoples

“The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal

and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle”.

Where there is a legitimate claim for the right of peoples to self-determination, it is necessary to use the instrument of negotiation and the exercise of the right must take place in a free and peaceful way, under the control of the United Nations and of other multi-lateral institutions: in the European Continent, the Organization for Security and Co-operation in Europe, OSCE. It should be firmly stressed that this right belongs to the international bill of human rights and, consequently, it must be exercised in full respect of all human rights, including the rights of minorities. The outcomes does not necessarily have to translate into forms of secession from pre-existing states, but it can usefully consist in advanced forms of self-government within broader frameworks of security and co-operation.

The prevention and the peaceful resolution of conflicts are the main road to peace, to be walked with initiatives of real disarmament and putting into operation the collective security system, as envisaged in the Charter of the United Nations. In the presence of a violent conflict, the possible international interposition must be decided and managed by the United Nations in strict compliance with the Charter.

It is worth recalling that the European Security Strategy, adopted by the EU in 2003 and updated in 2008, is fully positioned within a vision of the world order that makes constant reference to International human rights law and to the centrality of the supranational authority of the United Nations, according to an approach built on the human person and consistent with the concept of “human security”. The principles formulated for the CFSP in art. 21 of Title V of the Lisbon Treaty are clear about this:

“1. The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

It has become a commonplace, also in the lexicon of (Italian) rulers, to use the expression “to put one’s own face”. The proper translation for this expression is “to take on one own responsibilities”. Wars begin in the mind of some ruler, with name and last name, before translating into fratricidal carnages on the field.

Applies here the severe admonishment issued by John Paul II in his Message for the World Day of Peace 2005: "Evil always has a name and a face: the face and the name of men and women who freely choose it".

As stated in the Preamble of the Constitution of UNESCO, “it is in the minds of men that the defences of peace must be constructed”

It is thus urgently necessary to develop a broad mobilization of information and education for human rights and peace, also to stem the orgiastic use in place of concepts and modalities of action typical of geopolitics, which pose on the same level war and peace, enhance the selfish national interest, trivialize the scope of the principles and norms of International Law, more or less openly despise the universalist vision of world order contained in the Charter of the United Nations, humiliate the commitment of civil society organisations for the construction of positive peace.

To be effective, the urgently needed education must 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 (art. 26 of the Universal Declaration of Human Rights).

To return to the United Nations the power that was blatantly usurped by the most powerful states starting from the first Gulf War (1991) and the 'easy wars' that followed, it is necessary to make known the ideals of the Charter and the new international law of human rights derived from it. At the same time, it is necessary to democratise the United Nations, creating a Parliamentary Assembly, empowering the system for the international protection of human rights and giving more voice to NGOs and Local Governments.

The 70th anniversary of the United Nations which, significantly, coincides with the 70th anniversary of the end of the Second World War, offers the opportunity to convene a special session of the General Assembly for the adoption of the Declaration on the Right to Peace, currently the subject of harsh debate in the Human Rights Council of the United Nations.

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