

Posted by Joan Russow
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ABOLISHING WAR: PROSPECTS WITHIN THE UNITED NATIONS CHARTER AND AN EXTENDED UNITED NATIONS SECURITY COUNCIL RES. 1325 (2000) ON WOMEN, PEACE AND SECURITY

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We identify with passion the need for deliberate and effectual action to end the scourge of war which manifestly still inflicts hideous, ongoing suffering. As women who bear and nurture children, we are outraged by the pain it inflicts, especially on children, who are innocent victims of its violence. Desmond Tutu reminded us at the Hague Appeal for Peace Conference in 1999 that we have the capability, if we are determined, to put an end to war. Within the Charter and Security Council Resolution 1325 the legal foundations exist to move beyond words to sustainable peace.

The fundamental purpose of the **UN Charter** is to prevent the scourge of war. UN Security Council Resolution 1325 strengthens this purpose.

The preamble of **UN Security Council Resolution 1325** reaffirms the "important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution".

PROVISIONS UNDER CHAPTER VI FOR THE PEACEFUL RESOLUTION OF DISPUTES

Chapter VI, entitled "peaceful solutions of disputes", of the Charter of the United Nations, upholds the fundamental purposes of the Charter of the United Nations, advances the

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de-legitimisation of war, and promotes respect for the rule of international law through the International Court of Justice.

A number of provisions have been established to bring about the peaceful settlement of disputes:

(i) The first provision is to counter conflict of interest in decision-making related to peaceful solutions of disputes

Decisions under Chapter VI, are constrained by **Article 27** which reads that **a party to a dispute shall abstain from voting**

. This provision present in Chapter VI is absent in Chapter VII and is, regrettably, consistently violated by the UN Security Council.

(ii) The second provision to bring about peaceful settlement of disputes is recourse, under **article 36,**

to
the rule of international law, through the International Court of Justice:

Article 36 reads: "legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court".

Chapter XIV complements Chapter VI in outlining the role of the International Court of Justice

Under Chapter XIV, Article 92 states that the International Court of Justice shall be the principal judicial organ of the United Nations...and under **Article 93**

all members of the UN are ipso facto parties to the statute of the International Court of Justice, and

under **Article 94**, each member of the United Nations undertakes to comply with the decision of the International Court of Justice in a case to which it is a party and under

Article 96

there is the provision for the UN General Assembly, UN Security Council and other organs of the UN to request the International Court of Justice to give

an advisory opinion on any legal question.

Chapter VI of the Charter of United Nations must be strengthened and in particular the instituting of the mandatory requirement for states to appear before the International Court of Justice, to accept its jurisdiction and to act on its decisions.

THE CHALLENGE OF CHAPTER VII

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Chapter VII, of the Charter contravenes the its purpose to prevent the scourge of war. Unfortunately, under international law, an invasion of another state is deemed to be legal if the UN Security Council, under Chapter VII, deems that the necessary conditions required for a war to be "legal" have been met.

To prevent the scourge of war and to remove the conditions which are claimed to support the legality of war, the global community must definitively concur that the conditions that have been used to declare war to be legal must be abandoned.

THE CENTRAL ROLE OF THE UN GENERAL ASSEMBLY: UNITING FOR PEACE RESOLUTION

Under the Charter of the United Nations there is an important principle – **the principle of sovereign equality** ; this principle is violated by the UN Security Council but respected by the UN General Assembly.

In 1951, when the UN Security Council was unable to come to an agreement, resolution 377 (V) entitled "Uniting for Peace" was passed by the UN General Assembly. The purpose of the resolution was to recognise **the responsibility of the UN General Assembly** to prevent the scourge of war. In the preamble of the Resolution is the following expression of the role to the UN General Assembly:

” If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for **collective measures**, including, in the case of a breach of the peace or act of aggression, the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations.

ADDITIONAL ROLE OF THE UN GENERAL ASSEMBLY: SETTING UP INTERNATIONAL TRIBUNALS

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When the leader of any state, under any guise, including the misconstruing of Article 51- self defence, demonstrates defiance of the fundamental principles and peremptory norms established through the UN system, the UN General Assembly must invoke **article 22 which would permit the UN General Assembly to set up an international tribunal** to judge a leader for contributing to crimes against the peace.

If UN Security Council Resolution 1325 is to seriously be instrumental in preventing war and violent conflict, *the resolution must recognise the larger spectrum reflected in maintaining true global security* : Common Security [conceived by Olof Palme] through the compliance with international peremptory norms reflected in the years of international instruments; these norms can be derived from international instruments that have the following objectives:

- to achieve a state of peace, and disarmament; through reallocation of military expenses;
- to create a global structure that respects the rule of law and the International Court of Justice;
- to enable socially equitable and environmentally sound employment, and ensure the right to development and social justice;
- to promote and fully guarantee respect for human rights including labour rights, civil and political rights, social and cultural rights-- right to food, right to housing, right to safe drinking water and sewage, right to education and right to universally accessible not for profit health care system;
- to ensure the preservation and protection of the environment, the respect for the inherent worth of nature beyond human purpose, the reduction of the ecological footprint and move away from the current model of unsustainable and over-consumptive development.

RECOMMENDATIONS:

1. **WE CALL UPON ALL GOVERNMENTS TO HELP PREVENT WAR BY INVOKING THE UN CHARTER'S CHAPTER V1; URGE THAT THE CONFLICT MATTER BE TRANSFERRED TO THE INTERNATIONAL COURT OF JUSTICE, OR FOR THE RESPONSIBILITY TO BE TRANSFERRED TO THE UN GENERAL ASSEMBLY UNDER THE UNITING FOR PEACE RESOLUTION;**

2. **WE URGE THE CSW TO SUPPORT THE REPHRASING OF THE CHARTER'S ARTICLE 36 TO READ "LEGAL DISPUTES 'SHALL' RATHER THAN 'SHOULD AS A GENERAL RULE', BE REFERRED BY THE PARTIES TO THE INTERNATIONAL COURT OF JUSTICE..."**

3. **WE CALL UPON MEMBERS OF THE CSW TO URGE EXAMINATION OF CHAPTER V11 WHICH CONDONES CONDITIONAL LEGITIMISATION OF WAR IN CONTRAVENTION OF THE PURPOSE OF THE UN CHARTER ITSELF, WITH A VIEW THAT IT MUST BE STRUCK.**

4. **WE URGE THIS CSW TO SUPPORT THE EXTENTION OF SC RES. 1325 TO INCLUDE WOMEN'S PARTICIPATION CONCERNING TRUE SECURITY ISSUES SUCH AS THE PREVENTION OF ENVIRONMENTALLY-INDUCED WAR AND VIOLENT CONFLICT.**

5. WE URGE THIS CSW TO CALL UPON GOVERNMENTS TO SERIOUSLY

ADDRESS THE CONTRIBUTION OF MILITARISM TO PERPETUATION

OF THE CONTINUING THREAT OF CLIMATE CHANGE- THROUGH

EMISSIONS FROM THE PRODUCTION OF ALL WEAPONS SYSTEMS;

MILITARY EXERCISES; WAR GAMES; WEAPONS TESTING; MILITARY

AVIATION; ENVIRONMENTAL WARFARE; TROOP TRANSFER;

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MILITARY OPERATIONS; WASTE GENERATION; RECONSTRUCTION

AFTER-ACTS OF VIOLENT INTERVENTIONS ETC. TO GREENHOUSE

GASS EMISSIONS

ABOLITION OF WAR

For many years the member states of the United Nations incurred obligations and made commitments to reallocate military expenses and to embrace disarmament

AWARE of the States Members of the United Nations in 1969 called for

The achievement of general and complete disarmament and the channeling of the progressively released resources to be used for economic and social progress for the welfare of people everywhere and in particular for the benefit of developing countries. proclaimed by General Assembly resolution 1542 (article 27 (a)_ XXIV of 11 December 1969) Declaration on Social Welfare, Progress and Development)

AWARE AS WELL the States Members of the United Nations in 1975 made a commitment that Scientific Technological Progress should be in the Interests of Peace and for the Benefit of humanity.

RECALLING THAT the States Members of the United Nations In affirmed that

"The waste and misuse of resources in war and armaments should be prevented. All countries should make a firm commitment to promote general and complete disarmament under strict and effective international control, in particular in the field of nuclear disarmament. Part of

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the resources thus released should be utilized so as to achieve a better quality of life for humanity and particularly the peoples of developing countries" (II, 12 Habitat 1).

COGNIZANT THAT the States Members of the United Nations "Solemnly proclaimed

that the peoples of our planet have a sacred right to peace (1. Declaration on the Right of Peoples to Peace approved by General Assembly resolution 39/11 of 12 November 1984)

RECALLING THAT "the States Members of the United Nations in 1984 affirmed

their determination to make further collective efforts aimed at strengthening peace and international security and eliminating the threat of war, and agreed that in order to facilitate the process of disarmament, it was necessary to take measures and pursue policies to strengthen international peace and security and to build confidence among states. Declaration on the Right of Peoples to Peace approved by General Assembly resolution 39/11 of 12 November 1984)

AWARE THAT the States Members of the United Nations in 1985

the first special session devoted to disarmament encompassing all measures thought to be advisable in order to ensure that the goal of general and complete disarmament under effective international control is realized. This document describes a comprehensive programme of disarmament, including nuclear disarmament; which is important not only for peace but also for the promotion of the economic and social development of all, but also for the promotion of the economic and social development of all, particularly in the developing countries, through the constructive use of the enormous amount of material and human resources otherwise expended on the arms race (Par 13, The Nairobi Forward Looking Strategy, 1985)

RECALLING PAR 25 in the 1985 Nairobi statement;

Safeguarding world peace and averting a nuclear catastrophe is one of the most important

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tasks today in over

which women have an essential role to play, especially by supporting actively the halting of the arms race followed by arms reduction and the attainment of a general and complete disarmament under effective international control... (Par 250 Nairobi Forward Looking strategy for the Advancement of women, 1985)

NOTING THAT the Members of States the United Nations in 1986 Reaffirmed

there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures *should shall* be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries, (Declaration on the Right to Development, General Assembly resolution 41/128 of 4 December 1986)

NOTING the States Members of the United Nations, In 1992, made a commitment

, "to reallocate resources presently committed to military purposes" (.Agenda 21, 33.16)
UNCED

REMINDED THAT States Members of the United Nations in 1995 made a commitment to ...work actively towards general and complete disarmament under strict and effective international control... Art 28, (143(f)i) ...Support negotiations and conclusions, without delay, of a universal and multilateral and effectively verifiable comprehensive nuclear –test ban treaty ...nuclear disarmament and the prevention of the proliferation of nuclear weapons in all its aspects, art 28., 143 9e)

The years of rhetoric must be translated into action

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□ Given the social, economic, ecological psychological consequences of war, under no circumstance or condition is war legal or just, we call for the delegitimization of war

We call for the 1.7 trillion annual military budget to be reduced by at least 50 %

[TO 700 YEARS OF THE UN REGULAR BUDGET OR ALMOST 3,000 YEARS OF THE NEW UN WOMEN'S AGENCY.]

WE CALL UPON ALL GOVERNMENTS TO HELP PREVENT WAR BY INVOKING THE UN CHARTER'S CHAPTER V1; □ the peaceful resolution of disputes. □ (VOW raised this issue on □ 2012 International Women's day before representatives of the Security Council at the Trustee Council)

We call for the United nations to promote true security□ and call upon the member states to sign and ratify international covenants and conventions□ which embody obligations and commitments related to □ true security - common security;

Common security was a concept initiated by Olof Palme, a former president of Sweden, and has been extended to embody the following objectives:

- to achieve a state of peace, and disarmament; through reallocation of military expenses and delegitimization of war
- to create a global structure that respects the rule of law and the International Court of

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Justice;

- to enable socially equitable and environmentally sound employment, and ensure the right to development and social justice;

- to promote and fully guarantee respect for human rights including labour rights, women's rights civil and political rights, social and cultural rights- right to food, right to housing, right to safe drinking water and sewage, right to education and right to universally accessible not for profit health care system ,

- to ensure the preservation and protection of the environment, the respect for the inherent worth of nature beyond human purpose, the reduction of the ecological footprint e move away from the current model of unsustainable and overconsumptive development furthering the cult of war

Common security through the respect for the rule of international law will lead to the fulfillment under Security Council 1325 – the important role of women to prevent war. And the violence against women that is both a result and a tool of war

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URGE THAT THE CONFLICT MATTER BE TRANSFERRED TO THE INTERNATIONAL COURT OF JUSTICE, OR FOR THE RESPONSIBILITY TO BE TRANSFERRED TO THE UN GENERAL ASSEMBLY UNDER THE UNITING FOR PEACE RESOLUTION;

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Canadian Voice of Women for Peace OVER

This petition was drafted and circulated by the Canadian Voice of women for peace at the 2012 Commission on Status of Women On International Women's Day, this petition with over 400 signatures from over 50 countries was submitted to the Commission on the Status of Women