

Costa Rica and the Right to Peace

VINDICATING SOVEREIGNTY AND SELF-DETERMINATION



What is Peace?

Evolving concept, abstract.

- Is NOT JUST the absence of war and violence
 - Is NOT JUST the absence of oppression
 - Is NOT JUST the absence of injustice
 - Is NOT JUST the absence of freedom
 - Is NOT JUST the absence of discrimination
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- IS the situation where all human rights are fulfilled and enjoyed in an environment free from fear and want.

The case of Costa Rica

Historically

- First Head of State was a school teacher (1821). First constitution established education free and mandatory. (1823)
- Constitutionally prohibited the participation of militarymen in politics and government (1871)
- Proscribed the Death Penalty (1877 by constitutional ammendment)
- Abolishment of the army (1949)
- Adoption of the Pact San José (Inter American Convention on Human Rights, 1969)
- Declaration of Neutrality (1983)
- Prohibited the support of forceful actions without UN approval (2004)
- Prohibited Nuclear Weapons and war-related activities(2008)
- Recognized the Right to Peace (2008)

Iraqi War Case

2003 US-UK created “coalition of the willing” to illegally invade Iraq

Costa Rica supported the Coalition

Supreme Court declared the support unconstitutional and demanded the Government to withdraw from the Coalition

- Violation of the 1983 Neutrality Statement
- Violation of UN Charter proceedings (the invasion was never authorized by the Security Council)
- Violation of article 7 of the Constitution (obligation to respect internationally binding instruments – UN Charter)
- Violation of the “principle of peace”:
- *“it is evident that the people of Costa Rica, tired of a history of death, clashes, dictators, and ostracism from benefits of development, decided from 1949 on, free and wisely, collect a principle cherished long among Costarricans and adopt peace as a guiding principle of our society. On this date a historical turn takes place, a new spirit is proclaimed, a spirit of peace and tolerance. From there on, military headquarters symbolically transforms into a museum, a learning center, and the country adopts reason and law as mechanisms to resolve disputes, in and out of the country. Furthermore, a bet is taken on human development while the right to live free and peacefully is proclaimed. On that day, the nation changed, we decided that any cost that the pursuit of peace could bring, would be always far lesser than the irreparable costs of war. This philosophy culminates on our “Perpetual, active and non-armed Neutrality Statement” and the numerous international instruments signed on this sense, as extension of that deeply rooted constitutional principle, which arises as constitutional parameter for the legality check of challenged acts.”*

Nuclear Weapons Case

President Arias authorized the manufacture of nuclear reactors for warlike purposes

The right to Peace was recognized as a Human Right of international dimension.

- *The aforementioned demonstrates that, within the Costa Rican system, the right to peace is legally acknowledged, not just by the text of the constitution but also due to the International Instruments ratified by our country, along with a case law recognition derived from Constitutional Court's rulings; above all, a social acknowledgment in accordance with the spirit and behavior of Costa Ricans themselves. Now, peace building, as certain doctrine affirms, constitutes an open duty which achievement involves and compromises every single inhabitant of the country, especially those in the exercise of power within the State. This principle demands a bigger effort from Government Authorities in order to achieve, keep and consolidate peace in the country, while strengthening peaceful cooperation relations among peoples. Thus, the effects of the pursuit of peace by a State has effects beyond internal ones, shall it be respected by third States...*
- *Therefore, a State that takes peace as a constitutional fundamental value cannot conform itself with the limited notion that peace is just the absence of war, it must go beyond that, preventing and rejecting continuously all decisions and acts that might derive and end in such a circumstance. Certainly among all the activities that might be considered opposed to the peace spirit of a nation or country, are weapon manufacturing and the production of certain minerals or chemical substances. Those are directly related to scenarios of violence, even in circumstances of legitimate defense. There are even some types of weapons –fire, chemicals, biological, etc.- that are being manufactured specifically for the purpose of war. Thus, a State that aspires to promote peace, both at a domestic level as well as at an international level, must pay special attention when authorizing the fabrication and/or weaponry and chemical substances imports within its territory, rejecting vigorously those that because of its nature had been thought and created to favor the anti-value of war.*

The Right to Peace in International Law

UN Charter

- Preamble, Articles 1 and 2

Universal Declaration of Human Rights

- Preamble, Articles 20 and 26

Declaration on the Preparation of Societies for Life in Peace (UNGA Res 33/73)

Declaration on the Right of Peoples to Peace (UNGA Res 39/11)

Declaration and Programme of Action on a Culture of Peace (UNGA Res 53/243)

Declaration on the Right to Peace (in process of being approved by UNGA already approved by UNHRC)