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THE CONCEPT OF GENUINE AND JUST PEACE AS A BASIC COLLECTIVE HUMAN RIGHT

Dr. Frank Przetacznik

I. INTRODUCTION

The problem of peace is an extremely topical and urgent matter that now confronts mankind. In 1984, the United Nations adopted the Declaration on the Right of Peoples to Peace.¹ This Declaration proclaims that the peoples of our planet have a sacred right to peace and that preservation of peace is a fundamental obligation of each state.² Peace, which is the essence of man's life in society and the substance of the relations between states, constitutes the highest value of mankind provided that it is a genuine and just peace. To date, the problem of a genuine and just peace has not been dealt with scholarly as a separate subject in philosophical, legal, or

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1. G.A. Res. 39/11, 39 U.N. GAOR Supp. (No. 51) at 22, U.N. Doc. A/39/51 (1985); G.A. Res. 40/11, 40 U.N. GAOR Supp. (No. 53) at 21, U.N. Doc. A/40/53 (1986); G.A. Res. 41/10, 41 U.N. GAOR Supp. (No. 53) at 21, U.N. Doc. A/41/53 (1987).

2. *Id.*

political writings in any country of the world. The goal of this study is the analysis of a genuine and just peace in light of the views of major political and legal thinkers as well as the attempt to determine what is the essence of such a peace. This is the first systematic study on this subject.

A. A Definition of Peace

A peace consists of internal tranquillity within a state, based upon the recognition, guarantee, and strict observance of the basic human rights of all individuals living in such a state, and normal relations with other states based upon mutual recognition and observance of the rights and legal interests of each other. Accordingly, for a peace to be a genuine and just peace, it must satisfy the following prerequisites: (1) the basic human rights, such as the rights to life, living, freedom, education, equality, work, expression, religion, and to leave and return to one's own country, must be guaranteed to all individuals and be strictly observed by each state; (2) any kind of internal or external oppression of individuals or groups, be it political, economic, ideological, or religious, must be strictly forbidden by each state; (3) all peoples and/or nations must guarantee and strictly implement their right to self-determination, including the right of secession; and (4) the occupation, subjugation, or domination over other peoples, nations, or states by foreign powers must be abolished.

All these prerequisites must be satisfied for a peace to be genuine, just, and lasting. Without them, any peace imposed and kept by naked force against the desires and wills of individuals, peoples, nations, and states results in brutal oppression. Such a peace is a source and cause of struggle by individuals and peoples for their individual and collective human rights and the cause of war by oppressed nations and states. Oppressed individuals, peoples, and nations have the inalienable right to struggle for their individual human rights and for their right to self-determination.

If the basic human rights, either individual or collective, are not recognized and fully implemented by any country of the world or by any group of such countries, the prerequisites for the existence of a genuine, just, and lasting peace are not satisfied. Under these circumstances, even if peace apparently exists, that peace, which is the result of the oppressive behavior of one or more such countries,

is illusory and temporary. The dissatisfied and oppressed individuals, peoples, and/or nations sooner or later will struggle and fight for the observance of their individual or collective human rights.

B. A Definition of Human Rights

Human Rights are all of the individual and collective human rights which are recognized by the Universal Declaration of Human Rights and guaranteed by the International Covenants on Human Rights.³ Human rights are those rights which are acquired by a human being simply by the act of being born. Accordingly, human rights are not favors or gifts which may be denied, suspended, or withdrawn by the government or state at its capricious will. Individuals are entitled to these rights and have a valid claim against their governments or states for the failure to observe these rights regardless of whether they are incorporated into the internal law of a particular state.

Human rights may be generally divided into two groups: individual human rights and collective human rights.⁴ The individual human rights are those "which are recognized and guaranteed to human beings in their individual character, and enjoyed by each person individually."⁵ The collective human rights consist of those rights "to which human beings are entitled collectively as members of a greater community," such as a nation, a state, or even a minority group within a state.⁶ Within the category of basic collective human rights are the rights to peace and to self-determination.

C. The Basis of the Right to Peace

The philosophical and legal basis of the right to peace emanates from the fundamental human right to life, from which all other

3. M. CRANSTON, WHAT ARE HUMAN RIGHTS? 87-130 (1973). *The Universal Declaration of Human Rights*, G.A. Res. 217 A, 3 U.N. GAOR at 1, U.N. Doc. A/810 (1948), reprinted in A. BLAUSTEIN, R. CLARK & J. SIGLER, HUMAN RIGHTS SOURCEBOOK 15 (1st ed. 1987); see, e.g., *International Covenant on Civil and Political Rights*, G.A. Res. 2200 A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966).

4. Przetacznik, *Individual Human Rights in John Locke's Two Treatises of Government*, 25 NETH. INT'L L. REV. 195-96 (1978).

5. *Id.* at 196.

6. *Id.*

human rights stem.⁷ In this respect, Thomas Jefferson correctly stated that "[t]he God who gave us life, gave us liberty [and other rights] at the same time."⁸ The enjoyment of the right to life is a necessary condition to the enjoyment of all other human rights, for one who is deprived of his/her right to life is thereby automatically deprived of all other human rights.⁹ The right to life is an in-defeasible and inalienable human right - an in-defeasible right being defined as that which is incapable of being annulled or made void, *i.e.*, a right that one may not be deprived of without one's consent, and an inalienable human right being defined as that which is incapable of being surrendered or transferred, *i.e.*, a right one cannot give away or dispose of, even if one wishes to.¹⁰ Thus, the statement that the right to life as a fundamental human right is inalienable means that, on the one hand, it cannot be surrendered or transferred by the possessor, and, on the other hand, it cannot legitimately be taken away by other person(s) or state(s) except in the execution of a sentence of a court following conviction of a crime for which this penalty is provided by the valid law.

Accordingly, from each human being's right to life derives the duty of the state's institutions and authorities to respect the right to life of such person. The duty of the state to respect the right to life of individuals requires a prohibition against waging an aggressive war against another state(s), because in such a war the right to life of all persons who are killed is violated. In this respect, Thomas H. Green noted that "whether we take the more positive or the more abstract view of the right to free life this right is clearly violated in war."¹¹ Killing in war always constitutes the violation of the right to life of the individuals concerned, therefore, the waging of aggressive war is forbidden to the state(s) based on its duty to respect the right to life of individuals.¹²

Thus, the basis of the right to peace emanates from the fundamental human right to life. Accordingly, a genuine and just

7. Przetacznik, *The Right to Life as a Basic Human Right*, 56 REVUE DE DROIT INTERNATIONAL DE SCIENCES DIPLOMATIQUES ET POLITIQUES 27 (1978).

8. T. JEFFERSON, *DEMOCRACY* 237 (1939).

9. Przetacznik, *supra* note 4, at 197.

10. *Id.*

11. H. LEWIS, *FREEDOM AND HISTORY* 96 (1962).

12. Przetacznik, *The Philosophical Concept of Peace as a Basic Collective Human Right*, 26 REVUE DE DROIT PENAL MILITAIRE ET DE DROIT DE LA GUERRE 362, 365 (1987).

peace is a prerequisite for the enjoyment of the right to life and other human rights. In this respect, Vsevolod Kuritsyn asserted that "peace is essential if the rights and freedoms of the individual are to be realised."¹³ Therefore, individuals have the right to demand that the state(s) observe their human rights and the state(s) has the legal duty to do so. This is the basis of the right to peace as a basic collective human right.

II. THE RECOGNITION BY THE THINKERS THAT PEACE MUST BE GENUINE AND JUST

The history of international relations and the universal experience of mankind have demonstrated and convinced a great number of political and legal thinkers, as well as statesmen, that justice is the indispensable basis for a genuine and lasting peace and that injustice leads to violence, bloodshed, and the general destruction of normal relations among men, peoples, nations, and states. As will be set forth below, many political and legal thinkers who deal with peace assert explicitly or implicitly that peace is one of the highest values of mankind. They also express in various formulations the idea that peace must be genuine and just.

The political and legal thinkers whose works will be discussed below used different formulations in their expressions of the idea of a genuine and just peace. Among these formulations are: "genuine peace," "real peace," "perfect peace," "ideal peace," "just peace," "righteous peace," "democratic peace," "genuine and just peace," "just and durable peace." These terms explicitly mean that peace should or must be "genuine" (real, perfect, or ideal, which generally signifies genuine), or "just" (righteous or democratic, which generally signifies just). The authors also utilize such expressions as "lasting peace," "enduring peace," "durable peace," "stable peace," "permanent peace," "universal peace," "eternal peace." These terms implicitly mean that peace should or must be genuine and just if it is to be lasting and permanent. The term "genuine and just peace" is the most fitting term, for it best expresses the essence of this institution.

The authors of bilateral treaties, which impose the obligation to live in peace upon the rulers and governments of the states

13. V. KURITSYN, *THE DEVELOPMENT OF RIGHTS AND FREEDOMS IN THE SOVIET STATE* 15 (1987).

concerned, have also expressed the idea of a genuine and just peace in various formulations. For example, there are included in treaties such formulations as: "good, firm, and inviolable peace";¹⁴ "a firm and lasting peace";¹⁵ "an universal and sincere peace";¹⁶ "an universal and perpetual peace";¹⁷ "a good, firm, faithful, and inviolable peace";¹⁸ "a good, firm, and durable peace";¹⁹ "complete and perfect peace";²⁰ "a universal, Christian Peace";²¹ "a Christian, universal and perpetual peace."²² These formulations mean either explicitly or implicitly that peace should or must be genuine and just.

The political and legal thinkers who maintain that peace must be genuine and just may be generally divided into three groups: (1) those who assert generally that peace must be genuine and just; (2) those who elaborate upon the idea of genuine and just peace; and (3) those who express the idea of genuine and just peace in a negative way.

A. The Thinkers Asserting Generally that Peace Must be Genuine and Just

Hesiod was one of the first thinkers who expressed, in general terms, the idea of a genuine and just peace. He asserted that peace

14. Treaty of Peace, Aug. 10, 1678, France-Holland, art. I, in 1 MAJOR PEACE TREATIES OF MODERN HISTORY 1648-1967, at 129 (F.L. Israel ed. 1967) [hereinafter MAJOR PEACE TREATIES]; 14 THE CONSOLIDATED TREATY SERIES 369 (C. Parry ed. 1969) [hereinafter CONSOLIDATED TREATY].

15. Treaty of Peace, Sept. 17, 1678, France-Spain, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 135; CONSOLIDATED TREATY, *supra* note 14, at 477.

16. Treaty of Peace, Feb. 3, 1678, Emperor-King of France, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 139.

17. Treaty of Peace, Sept. 20, 1697, Great Britain-France, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 145; CONSOLIDATED TREATY, *supra* note 14, at 445.

18. Treaty of Peace, Sept. 20, 1697, France-Netherlands, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 153; CONSOLIDATED TREATY, *supra* note 14, at 351.

19. Treaty of Peace, Sept. 20, 1697, France-Spain, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 162; CONSOLIDATED TREATIES, *supra* note 14, at 457.

20. Treaty of Peace, June 25, 1807, Emperor of France-Emperor of Russia, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 470; CONSOLIDATED TREATIES, *supra* note 14, at 234.

21. Treaty of Peace, May 6, 1779, Holy Roman Emperor-King of France, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 242.

22. General and Definitive Treaty of Peace, Oct. 18, 1748, Great Britain-France, art. I, in MAJOR PEACE TREATIES, *supra* note 14, at 271; CONSOLIDATED TREATIES, *supra* note 14, at 305.

must be just.²³ However, he did not elaborate upon the concept of a just peace. Similarly, Confucius spoke of preserving peace by upholding the laws of propriety and by recompensing evil with justice.²⁴ Thus, in Confucius' system of philosophy, justice was a basic prerequisite for peace. Isaiah and Pindar also expressed, in general terms, the concept of a genuine and just peace. The former said that the work of justice shall be peace.²⁵ The latter proclaimed that "[k]indly Peace, Daughter of Righteousness, . . . makest a nation great."²⁶ Accordingly, Pindar asserted that any citizen "who desired prosperity for his state must seek the radiant light of high-minded Peace,"²⁷ that is, a genuine and just peace.

Starting from the idea that in the long run justice would prevail and right would indeed be victorious over might, Isocrates declared that true prosperity is to be gained by peace founded on justice.²⁸ Similarly, Clement of Alexandria indicated that peace must always be based upon justice, because justice is the peace of life and governs its stability and tranquillity.²⁹ However, like the previous thinkers, Isocrates and Clement did not define the notion of justice. Saint Augustine also maintained that peace must be based on justice.³⁰ However, unlike the previous thinkers, Augustine did define justice, describing it as the "virtue which accords to each and every man what is his due."³¹ This general definition of justice does not explain much.

In this respect, Francisco de Vitoria, who regarded justice as a prerequisite for peace, went little further. He indicated that peace and tranquillity exist within the state because courts are at hand in which justice can be administered, wrongs redressed, and crimes punished.³² Through this, Vitoria demonstrated how, in practice,

23. G. ZAMPAGLIONE, *THE IDEA OF PEACE IN ANTIQUITY* 27 (1973).

24. N. PARK, *THE WHITE MAN'S PEACE* 58 (1948).

25. *Isaiah 9:7*; A CONCISE TREASURY OF BIBLE QUOTATIONS 116 (R. Garvey ed. 1975); *PRINCIPLES FOR PEACE, SELECTIONS FROM PAPAL DOCUMENTS, LEO XIII TO PIUS XII*, at 112 (H. Koenig ed. 1943) [hereinafter *PRINCIPLES FOR PEACE*].

26. W. CALDWELL, *HELLENIC CONCEPTIONS OF PEACE* 78 (1919).

27. *Id.*

28. *Id.* at 132.

29. G. ZAMPAGLIONE, *supra* note 23, at 251.

30. ST. AUGUSTINE, *CITY OF GOD* 454 (V.J. Bourke ed. 1958).

31. *Id.* at 469.

32. J. SCOTT, *THE SPANISH ORIGIN OF INTERNATIONAL LAW, FRANCISCO DE VITORIA AND HIS LAW OF NATIONS* 282 (1934).

justice can affect peace. However, he spoke merely of one kind of peace (within the state) and one aspect of justice (within the state). This is justice in its strict legal and narrow sense.

Justice, in its strict legal meaning, constitutes only one element of the term's broader, general meaning. For justice to actually constitute the basic prerequisite for peace, it must: (1) exist, in its narrow sense, as an administration of justice within every state; (2) exist, in its broad sense, *i.e.*, justice as some kind of political, social, and economic equity in the relations between individuals, peoples, nations, and states; and (3) relate both to peace within the states and to peace among the states. If all these conditions are satisfied, justice constitutes the basic prerequisite for a genuine and just peace.

Like Vitoria, Richard Pace generally argued that peace must be "peace with justice,"³³ but he did not explain what kind of justice he meant or how justice could affect peace in order to make it genuine. Blaise Pascal also considered justice to be a cornerstone of a genuine peace. Though he went little further than Pace, Pascal maintained that men have failed to establish universal principles of justice, which alone can guarantee peace.³⁴ However, Pascal did not precisely define these principles of universal justice and he did not elaborate upon how their practical application could cause peace to become genuine. He recognized the problem and raised it, but he did not provide any specific suggestions for solving it. This is understandable, because the problem of peace was not the basic preoccupation of Pascal. He dealt with peace only marginally.

In modern times, the idea that justice is a basic prerequisite for peace was strongly advocated by Jean-Jacques Rousseau. Pursuant to his philosophy, the relations between peace and justice are inseparable; without exception men, both powerful and weak, in their relations and in the performance of their mutual duties, are obliged to conform to the rules of justice and peace.³⁵ When Rousseau spoke of justice, he did so in its broad sense. He expounded this concept of social justice in his *Social Contract*, calling it "universal

33. J. RUSSELL, PEACEMAKING IN RENAISSANCE 56 (1986).

34. E. SOULEYMAN, THE VISION OF WORLD PEACE IN SEVENTEENTH AND EIGHTEENTH-CENTURY FRANCE 56 (1941).

35. Rousseau, *Discourse Upon the Origin and the Foundation of Inequality Among Mankind*, in 34 THE HARVARD CLASSICS 216 (C. Eliot ed. 1910).

justice," which "emanates from pure reason."³⁶

William Penn also considered justice to be the foundation of peace. He started from the premise that the perpetuation of peace cannot be expected to survive unless it is based upon justice.³⁷ Penn expressed this idea in several formulations, such as "justice is a preserver for it is a better procurer of peace than war,"³⁸ and "justice is the means of peace."³⁹ Finally, he concluded that "peace is maintained by justice."⁴⁰ However, like Pascal, Penn did not precisely define justice. It appears that he meant justice in the narrow sense. In addition, starting from the axiom that peace with all the world is the true foundation of United States policy, John Tyler affirmed that peace "can only be rendered permanent by the practice of equal and impartial justice to all."⁴¹ Thus, impartial justice is a prerequisite for a genuine peace.

Pope Leo XIII recognized that peace has its foundation in justice when he said that "peace is the daughter of justice."⁴² Referring to Christian justice, Leo XIII maintained that a spirit of peace "should lead nations to regard one another as brothers."⁴³ Leo XIII understood Christian justice to consist of universal brotherhood and the teachings of the Gospel.⁴⁴ He believed that such justice is a prerequisite for a genuine peace.⁴⁵ Similarly, Pope Pius X maintained that "when justice is taken away it is vain to cherish the hope of peace."⁴⁶ He further asserted that "peace depends not only on statesmen but also upon the people who must have a profound sense of justice."⁴⁷

Starting from the premise that peace is a great good, Theodore

36. J. ROUSSEAU, *THE SOCIAL CONTRACT* 51 (1954).

37. J. MARRIOTT, *COMMONWEALTH OR ANARCHY? A SURVEY OF PROJECTS OF PEACE FROM THE SIXTEENTH TO THE TWENTIETH CENTURY* 77 (1937).

38. W. PENN, *AN ESSAY TOWARDS THE PRESENT AND FUTURE PEACE OF EUROPE BY THE ESTABLISHMENT OF AN EUROPEAN DYET, PARLIAMENT OR ESTATES* 6 (1693)

39. *Id.*

40. *Id.*

41. F. BOECKEL, *EFFORTS OF THE FOUNDERS OF THE UNITED STATES AND ITS LEADERS TO ABOLISH WAR* 28 (3d ed. 1930).

42. *PRINCIPLES FOR PEACE*, *supra* note 25, at 85.

43. *Id.* at 94.

44. *Id.*

45. *Id.* at 93-94.

46. *Id.* at 112.

47. *Id.* at 123.

Roosevelt asserted that one must remember that for peace to be good it must be righteous, for "unrighteous and cowardly peace may be worse than any war."⁴⁸ By this, Roosevelt meant that an oppressive order imposed under the cloak of peace and maintained by force is worse than war. Accordingly, peace must be genuine and just. Hamilton Holt expressed a similar idea. He indicated that "[p]eace is the outcome of justice, justice of law, [and] law of political organization."⁴⁹ Holt was referring to justice in its narrow sense.

Justice as a basic prerequisite for peace was strongly advocated by William E. Wilson, who asserted that the majority of every nation loves peace, provided that such peace is compatible with justice.⁵⁰ According to his argument, peace which is not based upon justice cannot be lasting.⁵¹ Starting from this premise that justice helps to keep the peace,⁵² William A. White declared that "peace without justice is tyranny, no matter how you may sugar-coat it with expediency."⁵³ Neither Wilson nor White defined justice, but it is clear from their statements that they spoke of justice in its broad sense. Similarly, William H. Monroe affirmed that peace must be founded upon the "spirit of justice."⁵⁴ However, he did not elaborate upon what he meant by this vague notion, "spirit of justice."

Felix J. Mlynarski advocated the same principle when he argued that the condition of "peace must be the principle of justice."⁵⁵ Mlynarski expressed a hope that "peace, calm and justice will reign once more."⁵⁶ Likewise, Pope John XXIII maintained that peace is an "empty-sounding word" if it is not founded upon justice.⁵⁷ The same idea was also expressed by Pope John Paul II, who asserted

48. W. HARBAUGH, *THE WRITINGS OF THEODORE ROOSEVELT* 28 (1967).

49. Holt, *Foreword* to W.H. TAFT, *THE UNITED STATES AND PEACE*, at vi (1914).

50. W. WILSON, *THE FOUNDATION OF PEACE, A DISCUSSION OF PACIFISM AND THE PREVENTION OF WARS* 96 (1918).

51. *Id.* at 112.

52. White, *The Importance of Free Speech*, in *PREFACE TO PHILOSOPHY: BOOK OF READINGS* 290 (1967).

53. *Id.*

54. Monroe, *War and Peace: The Military Point of View*, in M. REELY, *SELECTED ARTICLES ON WORLD PEACE* 131 (1914).

55. F. MLYNARSKI, *THE PROBLEMS OF THE COMING PEACE* 11 (1916).

56. *Id.* at 165. Lord Davies also called justice the foundation of peace. L. DAVIES, *THE SEVEN PILLARS OF PEACE* 21 (1945).

57. POPE JOHN XXIII, *PACEM IN TERRIS* 57 (1963).

that injustice is a great threat to peace,⁵⁸ and by Oscar Arias Sanchez, who urged that "justice and peace can only thrive together, never apart."⁵⁹ This means that peace, to be a genuine peace, must be based upon justice.

It follows from the above considerations that many thinkers, both ancient and modern, Eastern and Western, recognized that justice is the basic prerequisite for a genuine peace. Even though they did not always use the exact expression "genuine peace," it is indeed this type of peace to which they referred. It is clear from the context in which these thinkers spoke of peace that in their understanding a genuine peace must be based on justice. The thinkers who asserted that peace must be based upon justice, usually did not define it and did not specify what kind of justice they meant. However, it is clear from the context in which they use justice that they mean both justice in its strict sense and justice in its broad sense.

B. The Thinkers Elaborating on the Idea of Genuine and Just Peace

Thucydides was one of the first thinkers who elaborated upon the idea of a genuine and just peace. His concept of such a peace was expressed in the speech of the Spartan plenipotentiaries who had been sent to Athens to offer peace during the Peloponnesian war.⁶⁰ In his view, a genuine and just peace: (a) cannot be motivated by hatred and revenge; (b) cannot be imposed by force; and (c) must be negotiated with moderation.⁶¹ Needless to say, such peace must also be based upon justice. Thus, Thucydides' concept of a genuine peace is rational.

Starting from the premise that peace is our final good, Saint Augustine maintained that anyone "who is rational enough to prefer right to wrong . . . can see that the kind of peace that is based on injustice, as compared with that which is based on justice, does not deserve the name of peace."⁶² He explained that the task of justice

58. 34 U.N. GAOR Supp. (17th mtg.) at 353, U.N. Doc. A/34/PV. 17 (1979).

59. Clines, 'Leave Us in Peace,' *Costa Rica Pleads*, N.Y. Times, Dec. 11, 1987, at A3, col. 2.

60. HOBBS'S THUCYDIDES 253 (R. Schlatter ed. 1975).

61. *Id.* at 254-55.

62. ST. AUGUSTINE, *supra* note 30, at 454.

is to see that each person is given what belongs to him/her.⁶³ Augustine's view, that a peace based on injustice is not a peace, has been proven true over time. History clearly demonstrates that injustice in the relations among men, peoples, nations, and states is the paramount obstacle to the existence of normal relations among them and constitutes a very serious threat to internal and international peace.

Likewise, William Penn, having in mind the idea that the demand for peace is a demand for justice, equal rights, and universal liberty, maintained that the observance of these rights is essential for peace.⁶⁴ It is clear from this statement that a genuine and just peace is that which guarantees justice, freedom, and equal rights to individuals, peoples, and nations. A similar idea was expressed by Pope Leo XIII, who asserted that "peace cannot possibly be established if it does not rest on the foundation of Christian public law, from which comes the concord of [rulers] among themselves and of peoples with their [rulers]."⁶⁵

Similarly, Pope Benedict XV expressed his hope that "just and lasting peace" should put an end to the horrors of the First World War.⁶⁶ He fervently exhorted all nations to establish among themselves a true peace, which would be based upon the "laws of justice" and therefore be just and lasting.⁶⁷ Pope Pius XI also considered that a genuine peace must be based on justice, because: "Justitia et pax osculatae sunt - . . . charity must not be separated from justice."⁶⁸ Both Popes believed that a genuine peace should guarantee equality and freedom, including freedom of religion, to individuals, peoples, and nations, but they especially stressed the point that justice should be a basic prerequisite of peace.

Woodrow Wilson correctly insisted that "[n]o peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed, and that no right anywhere exists to hand peoples about

63. *Id.* at 469.

64. W. PENN, *supra* note 38, at 7-8.

65. PRINCIPLES FOR PEACE, *supra* note 25, at 93-94.

66. *Id.* at 221.

67. *Id.* at 291.

68. *Id.* at 322.

from sovereignty to sovereignty as if they were property."⁶⁹ He maintained that any "peace which does not recognize and accept this principle will inevitably be upset,"⁷⁰ because such peace "will not rest upon the affections or convictions of mankind."⁷¹ Wilson explained that the spirit of whole populations will subtly and constantly be against peace imposed and maintained by force, and all the world will sympathize with these populations.⁷² In his view, "[t]he world can be at peace only if its life is stable, and there can be no stability where the will is in rebellion, where there is no tranquility of spirit and a sense of justice, of freedom, and of right."⁷³

The concept of a genuine and just peace was also advocated by Yoshiro Sakatani, who maintained that such a peace must be founded on universal ideas of justice, humanity, liberty, independence, and equality. He stressed that these ideas have expanded and become international, that such universal ideas as justice, humanity, liberty, independence, and equality belong to both the rich and poor, the strong and weak, of every country of the world.⁷⁴ It is evident from Sakatani's statements that the prerequisites for a genuine and just peace are the recognition and observance of basic human rights.

Bolton C. Waller dealt extensively with the concept of a genuine and just peace. In his view, permanent peace is attainable, but such a peace must be based upon freedom, justice, and human progress, which will make the good life possible for individuals.⁷⁵ He recognized that order and stability are of paramount importance for peace, but he asserted that freedom and progress were even more important components to the state's well being.⁷⁶ Waller demonstrated the fundamental fact that permanent world-peace is unattainable

69. President Woodrow Wilson, Address to the United States Senate, *Peace Without Victory* (Jan. 22, 1917), in 2 DOCUMENTS OF AMERICAN HISTORY 126 (H. Commager ed. 7th ed. 1963).

70. W. WILSON, WHY WE ARE AT WAR 11 (1919).

71. CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, DIVISION OF INTERNATIONAL LAW, PAMPHLET NO. 31, OFFICIAL STATEMENTS OF WAR AIMS AND PEACE PROPOSALS, DECEMBER 1916 TO NOVEMBER 1918, at 52-53 (J. Scott comp. 1921).

72. *Id.* at 53.

73. *Id.*

74. Sakatani, *International Mind - The Basis for the Conclusion of Peace*, 6 THE JAPAN PEACE MOVEMENT 1 (1918).

75. B. WALLER, PATHS TO WORLD-PEACE 13-14, 74 (1926).

76. *Id.* at 74.

unless the two essential principles of order and freedom are kept constantly adjusted.⁷⁷

Waller explained that peace can be permanent only by constant adjustments and readjustments, by dealing with each new problem or difficulty whenever it arises, by wise constructive statesmanship applied, not once, but repeatedly, by resolute determined efforts which must continue so long as man lives upon earth.⁷⁸ Accordingly, the international community must ensure peace and order, freedom and justice, and provide the means for bringing about those changes which the desires of men from time to time will make imperative.⁷⁹

Similarly, Nicholas M. Butler asserted that durable peace is to be based upon human liberty, justice, and honorable conduct.⁸⁰ Without "this, there is no peace, but only a rule of force until liberty and justice revolt against it in search of peace."⁸¹ Butler noted that "peace cannot be invoked to protect a denial of human liberty, or injustice, or dishonorable and minatory conduct on the part of any state."⁸² These statements concerning a genuine and just peace are clear and do not require additional explanations.

In his proposals for peace of August 1, 1917, Pope Benedict XV pointed out that the Church acts in order to bring a just peace "which would be stable and honorable for all."⁸³ Benedict XV explained the essence of his just and lasting peace. First, "the moral force of right must be substituted for the material force of arms."⁸⁴ Second, the states must agree upon and guarantee the "simultaneous and reciprocal diminution of armaments."⁸⁵ Third, "as a substitute for armies," a court of compulsory arbitration should be established with authority to impose appropriate sanctions against any state which refuses either to submit an international dispute to it or to accept its decision.⁸⁶ Fourth, territorial and political questions must

77. *Id.* at 77.

78. *Id.* at 79.

79. *Id.* at 78.

80. N. BUTLER, *THE PATH TO PEACE* 9 (1930).

81. *Id.*

82. *Id.*

83. *PRINCIPLES FOR PEACE*, *supra* note 25, at 229.

84. *Id.* at 230.

85. *Id.*

86. *Id.* at 230, 233.

be examined and settled in the spirit of equity and justice.⁸⁷ When the delegates of several nations were united "in solemn congress for the purpose of giving to the world a just and lasting peace,"⁸⁸ the Pope insisted that "peace deliberations" should be conducted in good faith, so that "a peace, just and honorable for all, might ensue."⁸⁹

Pope Pius XII was a strong advocate of a genuine and just peace. He asserted that "a fundamental postulate of any just and honorable peace is an assurance for all nations, great or small, powerful or weak, of their right to life and independence."⁹⁰ The maintenance of "true peace, requires that the nations be delivered from the slavery imposed upon them by the race for armaments."⁹¹ Pius XII enumerated five conditions necessary for the establishment, maintenance, and preservation of a genuine and just peace. First, there must be victory over the hatred which divides the nations, and the elimination of systems, conduct and behaviors by certain states which breed such hatred.⁹² Second, there must be victory over distrust, which exerts a paralyzing pressure on international law and makes all honest understanding impossible.⁹³ The foundation of justice is the loyalty, reliability, and truth of the pledged word and of the understanding which has been reached. Third, there must be victory over the dismal principle that utility is the basis and objective of law and that might can create right.⁹⁴ Such a principle upsets normal international relations and is not acceptable for weaker states. Fourth, there must be victory over those potential conflicts which arise out of disequilibrium in the world economy.⁹⁵ It is necessary to establish a new economic order affording all states the possibility to secure for their citizens an appropriate standard of life. Fifth, there must be victory over the egoism of strong powers which impairs the honor and sovereignty of other nations and the freedom of individuals.⁹⁶

87. *Id.* at 231.

88. *Id.* at 260.

89. *Id.* at 258.

90. *Id.* at 636.

91. *Id.* at 637.

92. CODE OF INTERNATIONAL ETHICS 190-91 (J. Eppstein ed. 1953).

93. *Id.* at 191.

94. *Id.*

95. *Id.*

96. *Id.*

The idea of a genuine and just peace was also expounded upon by Wei Tao-Ming, who considered that harmony and equity "are the true foundation and indispensable factors of peace."⁹⁷ In his concept of a genuine and just peace: (a) nations large and small must stand as equals in the family of nations; (b) there must be no thought of superior or inferior nations, or peoples, or individuals; and (c) all nations, peoples and individuals must be allowed to work out, without external interference, their own destiny, and independently make their proper contribution to the common achievement of scientific, cultural, and spiritual values.⁹⁸ Accordingly, in such a peace, the individuals, peoples, nations, and states should work not only for their own gains and interests, but also for the common good of all mankind.

Starting from the premise that peace is a precious commodity, Harry S. Truman asserted that even "more precious than peace are freedom and justice."⁹⁹ In his view, a genuine and just peace must be based upon freedom and justice, which are the values that give meaning to human lives.¹⁰⁰ He asserted that a just and lasting peace must be built upon good will and good deeds as well as upon power.¹⁰¹ Truman insisted that a genuine and just peace "be not [only] peace in our time, but peace for all time,"¹⁰² and that we must be willing to pay the price of such peace.¹⁰³

From the premise that a genuine and just peace is not a reward that comes automatically to those who cherish it, Truman asserted that such a peace "must be pursued, unceasingly and unwaveringly, by every means at our command."¹⁰⁴ He also correctly stated that a genuine and just peace "is safest in the hands of the people and we can best achieve the goal by doing all we can to place it there."¹⁰⁵ Finally, Truman pointed out that the benefits of peace "come to those who have sown the seeds of peace."¹⁰⁶ Truman's concept of

97. Tao-Ming, *Victory is not Enough*, 5 FREE WORLD 15 (1943).

98. *Id.*

99. THE QUOTABLE HARRY S. TRUMAN 121 (T. Settel ed. 1967).

100. *Id.*

101. *Id.* at 120.

102. *Id.* at 121.

103. *Id.* at 122.

104. *Id.* at 120.

105. *Id.* at 121.

106. *Id.* at 122.

a genuine and just peace is rational and clear.

The idea that peace must be just and genuine was also strongly advocated by Dag Hammarskjöld. In his view, "the question of peace and the question of human rights are closely related."¹⁰⁷ Indeed, as Hammarskjöld expressly stated, "[w]ithout recognition of human rights we shall never have a peace, and it is only within the framework of peace that human rights can be fully developed."¹⁰⁸ From this statement it is clear Hammarskjöld believed that without the recognition and strict observance of human rights by every member-state of the United Nations, the existence of a genuine, just, and lasting peace was impossible. Hence, according to him, peace is inseparable from the recognition and observance of human rights.

John F. Kennedy expounded upon the concept of a genuine and just peace. According to him, "peace is a process, a way of solving problems."¹⁰⁹ Recognizing that world peace is the most important topic on earth, Kennedy first demonstrated what forms of peace would be unacceptable.¹¹⁰ He asserted that world peace should not be either "a Pax Americana enforced on the world by American weapons of war" or "the peace of the grave or the security of slaves."¹¹¹

Regarding the form of peace which was acceptable and desirable, Kennedy expressed the belief that it should be a kind of peace: (1) that "makes life on earth worth living"; (2) that "enables men and nations to grow and to hope and to build a better life for their children"; (3) that exists for "all men and women"; and (4) that is not merely for "our time," but for "all time."¹¹² He noted that "a genuine peace must be the product of many nations and the sum of many acts."¹¹³ Such peace "must be dynamic, not static, changing to meet the challenges of each new generation."¹¹⁴

Lech Walesa has asserted that a genuine peace must be based

107. THE QUEST FOR PEACE 315 (A. Cordier & W. Foote eds. 1965).

108. *Id.*

109. J.F. KENNEDY, THE BURDEN AND THE GLORY 55 (1964)

110. *Id.* at 53.

111. *Id.* When Kennedy asserted that world peace should not be a Pax Americana, it is implicit that it should also not be a Pax Sovietica.

112. *Id.* at 53-54.

113. *Id.* at 55.

114. *Id.*

on justice and the observance of human rights of individuals. In his view, respect for "human rights in Poland and for our national identity is in the best interests of all Europe"¹¹⁵ because "the Polish aspirations to freedom will never be stifled."¹¹⁶ Walesa was absolutely right when he stated that dialogue between the people and the Communist rulers in Poland is the only way to achieve internal peace, and that this dialogue is also an indispensable element of peace in Europe.¹¹⁷

Similarly, Ronald Reagan acknowledged that "just as we all know what peace is, . . . we certainly know what peace is not."¹¹⁸ He maintained that it is necessary that a "[t]rue peace rest on the pillars of individual freedom, human rights, national self-determination, and respect for the rule of law."¹¹⁹ He indicated that a peace "is secure only when individuals are free to direct their own governments."¹²⁰ From their statements, it is clear that both Reagan and Walesa consider the recognition and strict observance of human rights to be basic prerequisites for a genuine and just peace.

Hector G. Espiell expounded a very interesting concept of a genuine and just peace. He asserted that peace necessarily identifies itself with the idea of justice.¹²¹ Having in mind that peace and law are unavoidably united concepts and that peace and justice are related notions, Espiell correctly demonstrated that human rights cannot exist without peace, and peace cannot exist without respect for human rights.¹²² He explained that this maxim applies to the internal situations of the states and to international situations as well.¹²³

It follows from the above considerations that the thinkers who elaborate upon the idea of a genuine and just peace assert that such a peace: (a) must be established by understanding and be founded on universal ideas of justice, freedom, and equality of individuals and

115. N.Y. Times, Dec. 12, 1983, at A10, col. 3.

116. *Id.*

117. *Id.*

118. N.Y. Times, Oct. 25, 1985, at A11, col. 3.

119. N.Y. Times, Nov. 15, 1985, at A10, col. 1.

120. N.Y. Times, Oct. 25, 1985, at A11, col. 3.

121. Espiell, *El Derecho a la Paz*, 3 REV. DEL INST. INTERAMERICANO DERECHOS HUMANOS 87 (1986).

122. *Id.*

123. *Id.* at 88.

peoples, irrespective of sex, color, social status, political position, political or social philosophy, or religion; (b) must guarantee to all states, strong and weak, independence and equality; (c) must guarantee the recognition and strict observance of individual and collective human rights by every country of the world; and (d) must guarantee the recognition and strict implementation of the right to self-determination of peoples and nations by every country which politically dominates such peoples or nations.

*C. The Thinkers Expressing the Idea of Genuine and
Just Peace in a Negative Way*

Expressing the idea of a genuine and just peace in a negative way entails describing how such a peace should not be or negating such peace. One of the first thinkers to express the idea of a genuine and just peace in a negative way was Euripides. Beginning with the idea that every man realizes how much better peace is for mankind than war,¹²⁴ Euripides "made it clear that he was never for peace at any price."¹²⁵ A similar position was taken by Isocrates. He rejected the "King's Peace," which was imposed upon Greece and severely limited her independence.¹²⁶ Isocrates thus rejected peace imposed by force in the form of slavery, domination, and oppression, and in this way he said that peace must be genuine and just.

A similar idea was expressed by Cicero, who urged that one should always work for peace,¹²⁷ but the price for peace cannot be slavery.¹²⁸ This statement demonstrates that Cicero, like Euripides, was against the idea of peace at any price. Peace in the form of slavery and oppression was also denounced by Galgacus. Referring to the so-called Roman concept of peace, which was nothing less than slavery, domination, and oppression, he stated that from "the yet more terrible Romans . . . escape is vainly sought by obedience

124. W. CALDWELL, *supra* note 26, at 105.

125. *Id.* at 104.

126. GREEK ORATIONS 33 (W. Connor ed. 1966); A. SAUNDERS, GREEK POLITICAL ORATORY 121-22 (1970).

127. M. CICERO, DE OFFICIIS 21 (C. Edmonds trans. 1858).

128. Zouche, *An Exposition Of Feacial Law And Procedure, or of Law Between Nations, and Questions Concerning The Same*, in 2 THE CLASSICS OF INTERNATIONAL LAW 59 (J. Scott ed. 1911).

and submission."¹²⁹ With a genuine and just peace in mind, Tacitus indicated that Agricola, by "the repression of these abuses in his very first year of office, restored to peace its good name."¹³⁰ Thus, he demonstrated that abuses of power are incompatible with a genuine and just peace.

Similarly, Edwin H. Chapin affirmed that there are interests that are too dear to be sacrificed for peace.¹³¹ Accordingly, he too was against the idea of peace at any price. Charles M. Talleyrand considered that nothing matters except peace, and that the sole function of statesmanship was to assure the existence of peace. However, he rejected the concept of peace imposed by force. In referring to Napoleon, Talleyrand stated that even on St. Helena he had not yet learned his lesson, "for he [Napoleon] wrote that what he had intended was 'order and peace for Europe,' but it was to be a peace and an order imposed by force, by military conquest, and by cultural colonization - a new pax Romana, in other words, forced upon Europe."¹³²

Talleyrand argued that peace must not be "peace at any price - but peace with honor."¹³³ He did not explain what he understood to be peace at any price or peace with honor; however, there are reasons to believe that when he spoke of this peace, he meant a genuine and just peace. The general conclusion to be drawn from the above considerations is that, according to Talleyrand, peace must be genuine and just and that an order imposed by force is not such a peace, but its negation.

Theodore Roosevelt asserted that in the closing decade of the nineteenth century the great European powers, by joint action, had maintained the infamous peace. He exclaimed that during that period, "[w]ar was avoided; peace was kept; but what a peace!"¹³⁴ Peace, which serves merely as a mask and an instrument for despotism and oppression "becomes a very evil thing."¹³⁵ Roosevelt

129. TACITUS, THE COMPLETE WORKS OF TACITUS, THE ANNALS, THE HISTORY, THE LIFE OF CNAEUS JULIUS AGRICOLA, GERMANY AND ITS TRIBES, A DIALOGUE ON ORATORY 695 (1942).

130. *Id.* at 689.

131. THE NEW DICTIONARY OF THOUGHTS 455 (T. Edwards ed. 1974).

132. J. BERNARD, TALLEYRAND: A BIOGRAPHY 264 (1974).

133. *Id.* at 570.

134. W. HARBAUGH, *supra* note 48, at 28.

135. *Id.* at 371.

pointed out that many tyrants have cried peace when they have "scourged honest protest into silence."¹³⁶ From Roosevelt's statements it is clear that an oppressive order, imposed forcefully and kept by force for the purpose of domination over and exploitation of other peoples, nations, and countries, is the negation of a genuine and just peace.

William Jennings Bryan also indicated how a genuine and just peace should not be. He stated that "[t]he age-long attempt of powerful nations, sometimes acting alone and sometimes in groups, to terrorize the world into peace has failed and failed miserably."¹³⁷ Although Bryan was not specific in his statement, it is obvious that he referred to the Holy Alliance's concept of peace, which was an oppressive order imposed by force and kept by force. He was accurate when he stated that "[t]he theory of peace by terrorism has exploded with bursting shells."¹³⁸ Here, he meant the outbreak of the First World War.

Bryan demonstrated that an oppressive order imposed and kept by naked force is not peace, but its negation. Randolph S. Bourne affirmed that "[n]o peace is possible unless the idea of world domination is given up."¹³⁹ In accord with this position is Oscar Newfang, who referred to the period of history dominated by "four autocracies [the Czar of Russia, the Kaiser of Germany, the Emperor of Austria-Hungary, and the Sultan of Turkey] constantly scheming to dominate the world, or large portions of it, by the force of arms" as a period during which it was not possible to form "a peaceful and friendly union of nations of the world for the purpose of maintaining international peace on the basis of justice."¹⁴⁰ He correctly stated that "[i]nternational justice was the last thing that these autocrats wanted to see established."¹⁴¹ They sought, "not just relations with their neighbors, but domination over them."¹⁴² Since they could not achieve such domination by peaceful methods, they

136. *Id.* at 372.

137. W.H. TAFT & W.J. BRYAN, *WORLD PEACE: A WRITTEN DEBATE BETWEEN WILLIAM HOWARD TAFT AND WILLIAM JENNINGS BRYAN* 29 (1970).

138. *Id.* at 66.

139. R. BOURNE, *TOWARDS AN ENDURING PEACE, SYMPOSIUM OF PEACE PROPOSALS AND PROGRAMS 1914-1916*, at 113 (1916).

140. O. NEWFANG, *THE ROAD TO WORLD PEACE* 133 (1924).

141. *Id.*

142. *Id.* at 133-34.

resorted to war so they might impose it by force.¹⁴³ In these statements, Newfang expressed the idea that peace imposed and kept by force is not a genuine peace, and that justice is the basic prerequisite for a genuine and lasting peace. This leads to a conclusion that, without justice, such a peace is impossible. Finally, Newfang implied that authoritarian regimes are unable to establish and maintain a genuine peace based on justice.

James M. Beck denounced and rejected unjust peace. He maintained that "the preservation of a peace based upon fear cannot be either durable or just, for such a peace would generally mean the acquiescence of weaker powers in the demands, often unjust, of stronger powers."¹⁴⁴ Beck argued that injustice is infinitely worse than war; thus, not every peace is preferable to war for "there can be peace with dishonour; and multiplied death is better than multiplied disgrace."¹⁴⁵ Finally, Beck explained that "it is infinitely better to have justice through war than injustice through peace, which deliberately sacrifices justice."¹⁴⁶ Now it is impossible to obtain justice through war, because war is illegal.¹⁴⁷

Political and legal thinkers, in principle, reject the concept of peace at any price, because such a peace is usually nothing more than an oppressive order dictated or imposed by force by the stronger state(s) upon the weaker state(s). In addressing this "peace-at-any price" concept, David S. Jordan stated "let us see your price-lists first. Let us find out what we want, and count the cost."¹⁴⁸ He referred to the peace that Europe enjoyed in June, 1914, just before the beginning of the First World War as "the peace of 'proper armament,'" and he proclaimed that such a peace "is not for us. It costs too much - a waste of human effort and human life that civilization cannot long endure."¹⁴⁹

In these statements, Jordan showed that armed peace is not a genuine peace, and that such a peace is too expensive and cannot last long. The logical conclusion then is that such a peace is not

143. *Id.* at 134.

144. J. BECK, *THE WAR AND HUMANITY* 34-35 (1917).

145. *Id.* at 35.

146. *Id.* at 36.

147. See Przetacznik, *The Illegality of War*, 64 *REVUE DE DROIT INTERNATIONAL DE SCIENCES DIPLOMATIQUES ET POLITIQUES* 101, 141 (1986).

148. Jordan, *The Guarantee of Peace*, *THE PEACE FORUM*, July 1914, at 11.

149. *Id.*

acceptable, for, as Hiram M. Chittenden pointed out, "[t]he whole subject of armed peace . . . rests on an irrational basis."¹⁵⁰ Ernst Richard also rejected the concept of armed peace. He stated that "the Pax Romana is not an ideal for modern friends of peace."¹⁵¹ In his view, this peace is "worthless";¹⁵² it is "the Roman conception of pacification, namely, to compel a nation, by the supremacy of military strength, to tolerate injustice."¹⁵³ Accordingly, Arthur C. Watkins stated that a "coerced or dictated 'peace' is not peace at all."¹⁵⁴

Fraudulent and deceitful proposals of peace were suggested by Adolf Hitler in his speech before the Reichstag on October 6, 1939. Referring to the German-Russian Pact of "friendship and mutual interest"¹⁵⁵ which "clearly defined the boundaries of their own spheres of interest,"¹⁵⁶ and to the annihilation of the Polish State,¹⁵⁷ Hitler said "I believe even today that there can only be real peace in Europe and throughout the world if Germany and England come to an understanding."¹⁵⁸ He asked "[w]hy should this war in the West be fought? For restoration of Poland? Poland of the Versailles Treaty will never rise again. This is guaranteed by two of the largest states in the world [Nazi Germany and the Communist Soviet Union]."¹⁵⁹

Edouard Daladier, the French Prime Minister, referred to the deceitful proposals of peace made by Hitler in this speech as talk "of peace, of German peace, of peace which would only consecrate conquests by deceit or violence [of Austria, Czechoslovakia and Poland] and would not prevent preparation for new [conquests]."¹⁶⁰

150. H. CHITTENDEN, *WAR OR PEACE* 131 (1911).

151. E. RICHARD, *GOD'S PATHS TO PEACE* 14 (1914).

152. *Id.* at 15.

153. *Id.*

154. A. WATKINS, *THE PARIS PACT* 41 (1934).

155. 354 *CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, INTERNATIONAL CONCILIATION, DOCUMENTS FOR THE YEAR 1939*, at 508 (1939) [hereinafter 354 *INTERNATIONAL CONCILIATION*]. The pact referred to is the Molotov-Ribbentrop Pact of August 23, 1939. Przetacznik, *The Soviet Type of Peaceful Coexistence is not a Prerequisite for Peace*, 65 *REVUE DE DROIT INTERNATIONAL DE SCIENCES DIPLOMATIQUES ET POLITIQUES* 225, 229 (1987).

156. 354 *INTERNATIONAL CONCILIATION*, *supra* note 155, at 509.

157. *Id.* at 498.

158. *Id.* at 515.

159. *Id.* at 519.

160. *Id.* at 526.

Daladier stated that Hitler's speech before the Reichstag actually amounted to: "I (Hitler) destroyed Poland, I am satisfied; let's stop the combat; let's hold a conference to consecrate my conquests and organize peace."¹⁶¹ Daladier was absolutely right that a genuine and just peace cannot be based upon illegal conquests and enslavement of peoples and nations, and upon their oppression and exploitation.

He also correctly pointed out that "[i]f peace is really desired, a lasting peace, it will be necessary to understand that security of nations can rest only on reciprocal guarantees excluding any surprise and erecting a barrier against any attempt at domination."¹⁶² Daladier further declared that "[i]f peace is really desired, a lasting peace, it will be necessary to understand finally that the time has passed when territorial conquests bring well-being to the conquerors."¹⁶³ The general conclusion to be drawn from Daladier's statements is that a genuine and just peace cannot be based upon the conquest, domination, and oppression of other peoples and nations.

Neville Chamberlain, the British Prime Minister, was a vigorous advocate of peace, and at the 1938 Munich Conference he paid a very high price, the sacrifice of Czechoslovakia, for the preservation of "[t]he peace of Europe."¹⁶⁴ However, even this high price did not preserve peace. Conscious of Hitler's fraudulent concept of peace, Chamberlain rejected the peace proposals put forward by the German Chancellor in his speech on October 6, 1939, proposals which were strongly supported by the Soviets.¹⁶⁵ Chamberlain maintained that on September 1, 1939, Hitler violated Polish frontiers and invaded Poland.¹⁶⁶ He stated that in contravention of law, "Polish towns and villages were bombed and shelled into ruins and civilians were slaughtered wholesale."¹⁶⁷ Chamberlain asserted that "it is after this wanton act of aggression, which has cost so many Polish and German lives sacrificed to satisfy his own insistence on the use of force, that the German Chancellor now puts forward

161. *Id.*

162. *Id.* at 527.

163. *Id.*

164. N. CHAMBERLAIN, IN SEARCH OF PEACE 270 (1939).

165. 354 INTERNATIONAL CONCILIATION, *supra* note 155, at 531.

166. *Id.* at 530. The Soviet Union subsequently invaded Poland in September, 1939. 20 WORLD BOOK ENCYCLOPEDIA, *World War II*, at 387 (1970).

167. 354 INTERNATIONAL CONCILIATION, *supra* note 155, at 530.

his proposals."¹⁶⁸ Chamberlain indicated that Hitler's deceitful peace proposals "are to be based on recognition of his conquests and his right to do what he pleases with the conquered."¹⁶⁹ The British Prime Minister further pointed out that "all the peoples of Europe, including the peoples of Germany, long for peace,"¹⁷⁰ but this peace must be genuine and just, a "peace which will enable them to live their lives without fear and to devote their energies and their gifts to the development of their culture, the pursuit of their ideals, and the improvement of their material prosperity."¹⁷¹ Finally, Chamberlain asserted that the "peace which we are determined to secure however, must be a real and settled peace, not an uneasy truce interrupted by constant alarms and repeated threats."¹⁷²

Another figure who referred to the oppressive and aggressive Nazi regime was Anthony Eden, who declared that "[w]e are determined upon the destruction of Hitler, his regime, and all it stands for. For we know that until this is achieved, no foundation will exist upon which lasting [genuine and just] peace can be built."¹⁷³ Eden stated that "[w]e have learnt that . . . the price of [a genuine and just] peace is constant vigilance, readiness, courage; and we must never forget that lesson."¹⁷⁴ In his Message to Congress of January 6, 1941, Franklin D. Roosevelt similarly insisted that principles of morality and considerations for our own security will never permit us to acquiesce in peace dictated by aggressors and sponsored by appeasers, declaring that "enduring peace cannot be bought at the cost of other people's freedom."¹⁷⁵

Also against a peace attained by appeasement was Ann S. Cardwell, who stated that a "peace attained by appeasement, if it be attained, is an unjust peace."¹⁷⁶ Cardwell was correct, for such a peace is usually the result of a dictate imposed by the aggressive power(s), through the use of illegal threats and blackmail, upon the

168. *Id.*

169. *Id.*

170. *Id.* at 532.

171. *Id.*

172. *Id.*

173. Anthony Eden, Address at the Foreign Press Association Luncheon (July 29, 1941), in 1 BRITISH OFFICIAL STATEMENTS, PEACE AIMS 23.

174. *Id.* at 24.

175. 367 CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, INTERNATIONAL CONCILIATION 79 (1941).

176. A. CARDWELL, POLAND, HERE IS THE RECORD 62 (1945).

weaker state(s) or upon even the strong state(s) which wants to keep peace at any price. Usually the price for peace attained by appeasement is paid mainly by the weaker state which is sacrificed by the state(s) which wants to preserve the semblance of illusory peace, even when it is against its own vital interests. The foremost example of such dictated illusory peace is the Munich Agreement of September 30, 1938, concluded between Hitler, Mussolini, Chamberlain and Daladier.¹⁷⁷

Phillip M. Brown indicated that many timid souls, who dread violence in any form, approach peace in a cowardly manner, viewing it as desirable at any price, even at the cost of justice and honor.¹⁷⁸ In other words, these persons are ready to sacrifice everything for a quiet life. Brown correctly affirmed that there can be no tranquillity where there is injustice,¹⁷⁹ because injustice creates disorder. Pursuant to his view, peace and order can exist if men act justly, that is, if they apply, in their relationships and in their conduct, the principles of justice. Finally, Brown correctly stated that peace cannot be imposed by legislation, political or social system, command or force,¹⁸⁰ because appropriate conditions must exist for there to be a genuine and just peace.

Similarly, referring to the totalitarian concept of peace, which is nothing more than an order imposed by force and trickeries, Dwight D. Eisenhower indicated that "peace may be marked by, or may even be the product of, chicanery, treachery, and the temporary triumph of expediency over all spiritual values."¹⁸¹ He stated that "[w]ithout these values [such as freedom, and the recognition and observance of human rights] peace is an inhuman existence."¹⁸² Assuming a genuine and just peace, Eisenhower declared that peoples want to live in peace - not an imposed peace, as sought by Hitler and now sought by the Communist powers, which is a mere stilling of the guns, but a peace lodged "in freedom, where all [peoples] dwell in security."¹⁸³

Eisenhower pointed out that peace must be secure and just, but

177. Wright, *The Munich Settlement and International Law*, 33 AM. J. INT'L L. 12 (1939).

178. P. BROWN, *THE SCIENCE OF PEACE* 22 (1942).

179. *Id.* at 23.

180. *Id.*

181. D. EISENHOWER, *PEACE WITH JUSTICE* 2 (1961).

182. *Id.* at 3.

183. *Id.* at 80.

not "bought at the expense of others, not bought at the expense of principle, and not bought by the abject surrender of our vital interests [*i.e.*, freedom, justice, and other basic human rights]."¹⁸⁴ Accordingly, Eisenhower considered that a genuine and just peace should guarantee the rights of individuals, peoples, nations, and states.¹⁸⁵

Pointing to a grave misconception of the nature of peace by many persons who erroneously have identified peace as a perpetuation of the oppressive status quo,¹⁸⁶ John F. Dulles indicated that such people claimed that "peace" meant keeping this oppressive status quo forever.¹⁸⁷ Plainly the oppressive status quo cannot be maintained, because it constitutes the violation of basic individual and collective human rights.

Dulles correctly indicated that peace must take into account "the fact that life is essentially dynamic, that change is inevitable, and that transformations are bound to occur violently unless there are provided ways of peaceful change."¹⁸⁸ Dulles was right when he stated that any world system is doomed if it identifies peace with a mere maintenance of the status quo, because to do this is to breed the forces of revolution and revolt.¹⁸⁹ The history of mankind demonstrates that in such situations, the oppressed individuals, peoples, and nations always struggle for the recognition and observance of their individual and collective human rights.

Referring to the peace that prevails in a state dominated by one party, one group of self-perpetuating rulers, the peace of the policeman and the jail, Lester B. Pearson stated that, while peace was desired, this was not the correct kind of peace; what was desired was a genuine peace, characterized by the absence of fear and the presence of friendship and cooperation.¹⁹⁰ In his view, a genuine peace must be based upon people understanding one another, for there can be no such peace if people do not know one

184. *Id.* at 83.

185. *Id.* at 129.

186. 369 CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, INTERNATIONAL CONCILIATION 493 (1941) [hereinafter 369 INTERNATIONAL CONCILIATION].

187. J. DULLES, WAR OR PEACE 18 (1950).

188. 369 INTERNATIONAL CONCILIATION, *supra* note 186, at 493.

189. *Id.*

190. L. PEARSON, THE FOUR FACES OF PEACE AND THE INTERNATIONAL OUTLOOK 167 (1964).

another. He correctly stated that there can be no cooperative coexistence among peoples and nations if men are cut off from one another.¹⁹¹ Pearson asserted that if we get peace without the recognition of human dignity and freedom we will have failed, and for this reason we must always refuse to admit that the only alternative to peace is surrender, out of fear, to unjust demands.¹⁹²

According to Urpo Harva, not every kind of peace is an absolute good,¹⁹³ because "a peaceful community may be so ridden with injustice, oppression, and deprivation of liberty that the situation may well be considered worse than war."¹⁹⁴ Here, Harva expressed the correct idea, but through an erroneous formulation. He should have stated that "a peace may be so ridden with injustice, etc.," rather than "a peaceful community," which does not make sense in this context.

The expression "peace" and the term "peaceful community" have qualitatively different meanings. The former is a legal and political existence, the latter is a factual group or an association of people. It must be observed that the notion of a peaceful community, which is ridden with injustice, oppression, and the deprivation of freedom, is a contradiction in itself. That is because such a community is not peaceful at all and could not be peaceful as such. However, an imposed peace may be ridden with injustice, oppression, and deprivation of freedom. Such an oppressive order is the negation of a genuine peace.

Carlos Santamaria properly stated that "[p]eace can never be imposed by arms."¹⁹⁵ He explained that constraint, dictation, and domination by force "have no right to the name of concord [peace], even if they eventually overcome the adversary's resistance and create a kind of unanimity which is completely artificial."¹⁹⁶ Santamaria pointed out that peace gained by such methods is "the same as the peace of guns and graveyards, in which the will of the adversary is never won by reason and generosity."¹⁹⁷ In this respect, Maurice Edelman correctly articulated that "stability achieved by a

191. *Id.* at 17.

192. *Id.* at 72-73.

193. Harva, *War and Human Nature*, in *THE CRITIQUE OF WAR* 51 (R. Ginsberg ed. 1969).

194. *Id.* at 52.

195. Santamaria, *In Search of a Concept of Peace*, in *2 WORLD JUSTICE* 19 (1960-61).

196. *Id.*

197. *Id.* at 20.

dictated peace is the first cousin to war."¹⁹⁸ In his statements concerning peace, Santamaria, in a negative way, demonstrated that peace must be genuine and just.

Henry Kissinger, like Eisenhower, confirmed that "the United States will never seek stability [peace] at the expense of others."¹⁹⁹ A genuine and just peace, Kissinger properly asserted, "cannot be maintained unless all share in its benefits."²⁰⁰ If all do not share the benefits of peace, such peace is not genuine and just. Therefore, Kissinger pointed out, the United States "strives for the peace of cooperation, not the illusory tranquillity of condominium,"²⁰¹ because peace "is ennobled by making possible the realization of humane aspirations."²⁰² In other words, the United States is striving not for the establishment of an imposed order by force, but for a genuine and just peace, which will make possible the realization of human rights.

As discussed previously, Ronald Reagan not only suggested the kind of peace which should be, but also the kind of peace that should not be.²⁰³ Thus, he asserted that a "peace based on repression cannot be true peace."²⁰⁴ Moreover, Reagan affirmed that "[p]eace based on mutual fear cannot be true peace because staking our future on a precarious balance of terror is not good enough. The world needs a balance of safety."²⁰⁵ Finally, Reagan declared that "a peace based on averting our eyes from trouble cannot be true peace."²⁰⁶ It follows from the above considerations that, according to Reagan, peace based on domination, fear, and repression enforced by brutal force is not a genuine peace and will not last.

In a negative way Manuel Obando y Bravo brilliantly expounded upon the idea of a genuine and just peace. He claimed that "[p]eace is just an empty word if it is not directed at society's well-being."²⁰⁷

198. Edelman, *Russia: War or Peace*, 1 *WORLD AFFAIRS* 4 (1947).

199. 6 U.N. GAOR Special Mtg (2214th mtg.) at 4, U.N. Doc. A/PV.2214 (1974).

200. *Id.*

201. *Id.*

202. *Id.*

203. *See supra* notes 118-120 and accompanying text.

204. *N.Y. Times*, Oct. 25, 1985, at A11, col. 3.

205. *Id.*

206. *Id.*

207. Obando y Bravo, *Peace in Nicaragua*, *N.Y. Times*, Apr. 25, 1983, at A17, col. 5.

Indicating that today everyone talks about peace, he suggested that false forms of peace are very much in vogue.²⁰⁸ Referring to the activities of totalitarian regimes, Obando y Bravo stated that it "is common to impose peace, to 'pacify' a country with a formidable army, with executions, [and] persecution."²⁰⁹ He correctly asserted that "peace can never be imposed by anyone."²¹⁰ Instead he urged that "[p]eace should create joy, not fear; it should provoke fellowship, not hate."²¹¹

In Obando y Bravo's view, peace is also often confused with a certain order some regimes claim to maintain.²¹² This is the "typical peace in countries ruled by a minority trying to pass off its own interests as those of the nation's."²¹³ He pointed out that it is similar to imposed peace, but "in a sense more deadly, because it is under the guise of law and order."²¹⁴ With this type of peace, "the meaning of life completely disappears."²¹⁵ Thus, Obando y Bravo contended that "[w]e become useful dummies, guinea pigs, caged birds, living very contentedly."²¹⁶ He maintained that peace cannot be imposed, bought or sold, but must be sought and molded; we must make sacrifices for peace.²¹⁷

From these statements it follows that, according to Obando y Bravo, a genuine and just peace cannot be confused with an order imposed by force and kept by force, because the latter is the negation of the former. Living in his native country, Nicaragua, he learned from experience that the totalitarian type of peace is not peace at all but order imposed and kept by naked force and oppression. Such oppressive order is a serious threat to peace, because the individuals whose human rights are systematically violated always struggle for the recognition and strict implementation of those rights.

Beginning with the idea that peace is the aim and normal

208. *Id.*

209. *Id.*

210. *Id.*

211. *Id.*

212. *Id.*

213. *Id.*

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

condition of the existence of the international community, Krzysztof Skubiszewski postulated that peace is based on the independence of one nation from another, therefore, categories such as peace founded on the hegemony of one state over another or by the forcible creation of a multinational empire (e.g. Pax Romana) have no place in contemporary international law.²¹⁸ Like many previous thinkers, Skubiszewski questioned whether a genuine and just peace can be identified with order imposed by force, because usually such an order is oppressive and negates peace, which should be based upon the independence of nations.

A similar idea was expressed by Oscar Arias Sanchez, who stated that peace "is not the product of a victory or command."²¹⁹ Remark- ing on the peace in Central America, Arias Sanchez insisted that he sought "not peace alone, not peace to be followed someday by political progress, but peace and democracy, together, indivisible, an end to the shedding of human blood, which is inseparable from an end to the suppression of human rights."²²⁰ Thus, for a peace to be genuine and just, it must guarantee the observation of human rights.

These thinkers, who expressed the concept of a genuine and just peace in a negative way, suggest how such a peace should not be. Accordingly, a genuine and just peace should not be: (a) an identification with an order imposed by force and kept by force; (b) an oppression imposed by force and kept by force; (c) a peace achieved by a conquest and enslavement of other peoples, nations, and states; (d) an identification with an oppressive status quo and perpetuation of it forever; and (e) a countenance and perpetuation of slavery or foreign domination in any form. In their view, a genuine and just peace can only be achieved through understanding.

III. CONCLUSIONS

It follows from the forgoing considerations that the substance of a genuine and just peace contains the following elements:

1. Peace, which is the essence of man's life in society and of the relations between states, constitutes the highest value of mankind,

218. Skubiszewski, *Peace and War*, in 4 ENCY. OF PUB. INTL L. 75 (R. Bernhardt ed. 1982).

219. Clines, *supra* note 59, at A3, col. 1.

220. *Id.*

provided that it is a genuine and just peace. Peace is not simply the absence of disorder or violence. Therefore, peace must not be confused with an oppressive order imposed by force, where human rights are systematically violated, and such order is maintained by naked force.

2. Peace, which is not based upon justice and does not guarantee the recognition and the strict implementation of the individual and collective human rights by every state of the world, is not a genuine peace. Such illusory peace, wherein the basic individual and collective human rights of individuals, peoples, and/or nations are constantly violated, is an oppressive order, which constitutes a negation of a genuine peace.

3. An oppressive order cannot be confused with peace, and especially with a genuine and just peace, because they are institutions which are diametrically different and mutually exclusive. Thus, an illusory peace, which serves merely as a mask and an instrument for oppression and exploitation of individuals, peoples, and/or nations, becomes a very evil thing. Accordingly, this manifestation does not deserve the name of peace.

4. Peace cannot be bought and preserved at any price, especially if it results in the deprivation of personal freedom of individuals or would be shameful to their dignity as persons. Since peace cannot be disassociated from justice, freedom of individuals, and their dignity as human beings, the price for peace cannot be oppression, slavery, and foreign domination and exploitation. Such violations of human rights are incompatible with a genuine and just peace.

5. A genuine and just peace can never be imposed by force upon the vanquished or weaker opponents by the stronger powers. Such peace must be based upon justice and the recognition of individual and collective human rights of individuals and peoples concerned, and of the legitimate rights and legal interests of the nations and states concerned. Justice is the basic prerequisite for a genuine and just peace; without justice, peace cannot exist at all.

6. In the context of a genuine peace, justice is not the asserted claim of any one party, but it must be determined by the judgment of the International Court of Justice or other competent international tribunal. In order to implement a genuine and just peace, every country must accept all human rights recognized and consecrated by the Universal Declaration of Human Rights and by the International

Covenants on Human Rights.

7. The ratification of or accession to the International Covenants on Human Rights by all states of the international community and the strict implementation of all their provisions by all these states is the basic prerequisite for a genuine and just peace. The situation wherein individual and collective human rights are not recognized and fully implemented does not deserve the name of peace. The systematic violation of human rights by any country constitutes a threat to peace and creates a danger of war.

8. International concern for individual and collective human rights is inextricably connected with a genuine and just peace, because the enslavement and oppression of individuals and peoples usually extends beyond the borders of the state. History demonstrates how easily internal oppression leads to external aggression. Besides being an essential condition of any peace, safeguarding human rights remains an end in itself, as an integral element of a genuine and just peace.

9. From Jeremiah's day until the moment the United Nations recognized and consecrated individual and collective human rights, men insisted and repeated, again and again, that there was peace when there actually was not and could not have been a genuine and just peace, because the human rights of individuals, peoples, and/or nations had not been internationally recognized and protected. Without such recognition and protection of human rights, a genuine and just peace is absolutely impossible.

10. The history of mankind demonstrates that any international order, either imposed unilaterally by force by way of conquests, *i.e.*, the so-called Pax Romana, or the Soviet type of peace, or imposed by way of an international agreement between the victorious powers, such as the so-called Holy Alliance, was not actually peace, that is, not a genuine and just peace. Such an oppressive order imposed on individuals, peoples, and nations actually represented the negation of peace.

11. The progress of civilization and international recognition of individual and collective human rights has reached a level from which it cannot and will not retreat. Accordingly, mankind will not purchase peace at any price, and is not prepared to tolerate the suppression of freedoms for individuals and peoples or of the national independence of nations and states in order to maintain an illusory peace.

12. At present, men and women demand a genuine and just peace in which dignity and all human rights in all countries of the world are strictly implemented by governments and individual freedom are observed by those governments. The relations between the individuals and their rulers must be based upon valid laws, to which the former freely consent.

13. A genuine and just peace cannot be a static condition of life achieved by the renunciation of war, nor a mere pious desire to live in peace. Peace must be a dynamic and continuous process for the achievement of freedom, justice, progress, and full implementation of all individual and collective human rights by every country of the world. Peace requires strict international supervision of the implementation of all human rights by every state of the international community.

14. One of the prerequisites of a genuine and just peace is the firm establishment in peoples' minds and habits of toleration of different creeds and philosophical, political, social and economic views, as well as mutual understanding of the legitimate rights and legal interests of individuals, peoples, nations, and states. Moreover, the international community has the duty to grant assistance to peoples who are striving for the recognition and observance of all their individual and collective human rights.

15. The essential prerequisite for a genuine and just peace is appropriate education designed to instruct children, students, and the public at large on individual and collective human rights and on the necessity of every country in the world implementing these rights. Moreover, such education for peace must be designed to promote friendly cooperation between nations and a sense of the essential oneness of all mankind, as well to demonstrate that war in which all weapons of massive destruction are deployed could be the end of civilization.