

20th regular session of the Human Rights Council

**ESTABLISHMENT OF AN
OPEN-ENDED WORKING GROUP
ON THE RIGHT TO PEACE**

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Palais des Nations

REPORT



Prepared by

Prof. Carlos Villán Durán and Mr. David Fernández Puyana

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1. Introduction.

The Human Rights Council (HR COUNCIL) is an inter-governmental body reporting to the General Assembly and made up of 47 States responsible for strengthening the promotion and protection of human rights around the globe. The General Assembly established the HR Council on 15 March 2006 with the additional mandate of developing the international human rights law.

Pursuant to HR Council resolution 17/16 of 17 June 2011 and Advisory Committee (AC) recommendation 8/4 of 24 February 2012, the former submitted to the HR Council at its 20th session the (third) AC draft declaration on the right to peace¹. The HR Council also had before it the joint NGO written statement entitled *A Working Group to Continue the Codification Process of the Human Right to Peace*², which was sponsored by 1.041 civil society organizations (CSOs) and cities worldwide.

In preparation for the 20th session of the HR Council, the Spanish Society for International Human Rights Law (SSIHRL) and the International Observatory of the Human Right to Peace (IOHRP), with the support of many CSOs and Governments, organized and/or participated in six meetings held in Geneva, as follows:

Firstly, on 7 May 2012 the Permanent Mission of the European Union (UE) invited the Deputy Permanent Representative of Costa Rica and the representative in Geneva of both the SSIHRL and the IOHRP, to brief the UE Member States on the on-going codification process for the right to peace at the UN.

Secondly, on 6 June 2012 the Second Dialogue Forum on the *Regional Contributions to the Codification of the Right to Peace* was held at the Palais des Nations, co-organised by several CSOs³ and co-sponsored by the Group of the Non-Aligned Movement (NAM), the Organisation of the Islamic Cooperation (OIC) and the African Group (AG). Both representatives of States and CSOs requested the HR Council to establish an open-ended working group to continue the codification process of the right to peace, taking duly into account both the AC draft declaration and the CSOs' main contribution, i.e. the *Santiago Declaration on the Human Right to Peace*, which was adopted on 10 December 2010.

Thirdly, on 22 June 2012 the Permanent Mission of Cuba organized the first informal consultation meeting on the draft resolution on the right to peace. Both States and CSOs were invited to discuss the draft resolution entitled *UN Declaration on the Right to Peace*. The meeting was attended by representatives of 29 States, one International Organisation and 12 CSOs.

Fourthly, on 25 June 2012 the Expert Meeting on the *Challenges of the Future Open-Ended Working Group on the Right to Peace* was held at the Palais des Nations. It was jointly organized by the WCC and the JCHRP⁴. Both speakers and participants examined the ongoing codification process of the right to peace and reviewed action to be

¹ A/HRC/20/31, of 16 April 2012, Annex.

² A/HRC/20/NGO/59, of 15 June 2012.

³ The Foundation for Dialogue among Civilizations (FDC), the World Council of Churches (WCC), Nord-Sud XXI, Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), the Japanese Committee on the Human Right to Peace and the International Association of Peace Messenger Cities.

taken by the HR Council at its 20th session, in particular the establishment of an open-ended working group (OEWG) on the right to peace.

Fifthly, on 27 June 2012 the side event on *Fighting Violence against Women through Promoting the Right to Peace* was held at the Palais des Nations. It was jointly organized by the Women's UN Report Network (WUNRN), with the support of the Worldwide Organization for Women (WOW) and the JCHRP, and the sponsorship of the Permanent Mission of the People's Republic of Bangladesh to the United Nations in Geneva. The side event considered how the human right to peace needs advocacy by women from high level positions to the grass roots level and examined women's contribution to the future work of the OEWG on the right to peace. And.??

Sixthly, on 29 June 2012 the plenary of the HR Council debated the (third) AC draft declaration on the right to peace. Many States, International Organisations and CSOs, including the SSIHRL and the IOHRP, participated in the debate welcoming the draft declaration. Support was also provided for the establishment of a working group to continue the codification process of the right to peace at the HR Council.

On 5 July 2012 the HR Council took action on draft resolution L.16 as orally revised by Cuba on behalf of the co-sponsors (now titled: "The promotion of the right to peace"). Resolution 20/15 was adopted by a registered vote of 34 votes in favour⁵, 12 abstentions⁶ and one against⁷. Some States provided an explanation of their vote before and after the vote.

Resolution 20/15 welcomed "the important work being carried out by civil society organizations for the promotion of the right to peace and their contribution to the development of this issue"; and took note of the AC draft declaration (preamble).

Therefore, the HR Council, bearing in mind the progressive development of the right to peace, decided to establish an **open-ended intergovernmental working group** (hereinafter: OEWG) "with the mandate of progressively negotiating a draft United Nations declaration on the right to peace, on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals" (para. 1).

The HR Council further decided that the OEWG "shall hold its first session for four working days in 2013 before the twenty-second session of the HR Council" (March 2013) (par. 2); and requested the President of the HR Council "to invite the Chairperson of the

⁴The Japanese Committee on the Human Right to Peace is composed by the Japan Lawyers International Solidarity Association, Japan Workers Committee for Human Rights, Japan's Association of Democratic Lawyers, International Women's Year Liaison Group, Japan Young Women's Christian Association, Pan-Pacific and South-East Asia Women's Association of Japan, Japan Federation of Women's Organization, Japanese Society for Developing the Culture of Peace, Global Campaign for Peace Education Japan, Peace Boat and Global Article 9 Campaign.

⁵Angola, Bangladesh, Benin, Botswana, Burkina Faso, Cameroun, Chile, China, Congo, Costa Rica, Cuba, Djibouti, Ecuador, Guatemala, Indonesia, Jordan, Kuwait, Kyrgyzstan, Libya, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Nigeria, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, Thailand, Uganda and Uruguay.

⁶Austria, Belgium, Czech Republic, Hungary, India, Italy, Norway, Poland, Republic of Moldova, Romania, Spain and Switzerland.

⁷United States of America

Advisory Committee's drafting group on the draft declaration to participate in the first session of the working group" (para. 4).

Finally, it invited "States, civil society and all relevant stakeholders to contribute actively and constructively to the work of the working group" (para. 5); and it requested the OEWG "to submit a report on progress made to the Human Rights Council for consideration at its twenty-third session" (June 2013) (para. 6).

It should be noted that the adoption of resolution 20/15 was a landmark event since a UN resolution on the right to peace was first adopted with the abstention of the European States and only one vote against (United States). This achievement was facilitated by the positive role played by multiple actors, including governments and civil society organisations, along with a very intensive negotiation process. In addition, the new resolution paved the way toward making future work more transparent and constructive within the new OEWG.

2. First informal consultation meeting on draft resolution on the right to peace.

As stated, on 22 June 2012 Cuba organised the first informal consultation meeting opened to both States and CSOs to discuss and negotiate a new draft resolution entitled "UN Declaration on the Right to Peace". The meeting was attended by representatives of 29 States and one International Organisation, as follows: Algeria, Argentina, Australia, Austria, Bangladesh, Bolivia, China, Costa Rica, Cuba, Czech Republic, Denmark, Ecuador, European Union, Federation of Russia, Finland, Iran, Japan, Maldives, Mexico, the Netherlands, Peru, Portugal, Singapore, South Africa, Sweden, Switzerland, Thailand, United Kingdom, United States and Uruguay.

In addition, 17 CSOs attended the meeting, as follows: The Japanese Committee on the Human Right to Peace, International Association of Democratic Lawyers, International Association of Peace Messenger Cities, Spanish Society for International Human Rights Law, the International Observatory of the Human Right to Peace, Rencontre Africaine de Défense des Droits de l'Homme, Dominicans International for Justice and Peace, International Movement against Discrimination and Racism, North-South XXI, International Fellowship of Reconciliation, Worldwide Organisation for Women and Associazione Comunità Papa Giovanni XXIII.

2.1. Presentation of draft resolution L.16.

Mr. **Juan Antonio Quintanilla** (Cuba), reported that that the draft resolution had been circulated among all stakeholders on 18 June 2012. Therefore, all delegates should have had enough time to consult the resolution with the different groups and their respective Capitals. Cuba was ready to discuss the issue in a frank and open manner. The main intention of the draft resolution was to establish an intergovernmental open-ended working group (OEWG) with the mandate to negotiate, finalize and submit to the HR Council a draft Declaration on the right to peace.

He recalled that the issue was not new as the HR Council has been working on it during the last ten years. In addition, the Advisory Committee prepared a draft declaration on the right to peace, which has been submitted to the HR Council at its 20th session. Finally, the speaker offered the floor for general comments.

2.2. General comments

Ms. **Nicole Reckinger**, (European Union, EU), recalled the close linkage between human rights and peace and showed support to some of the principles included in the past resolutions. Nevertheless, the EU could not support the new draft resolution for similar reasons already explained in ... past resolutions.

The EU remained concerned about several aspects, in particular the establishment of the OEWG with the mandate to negotiate, finalize and submit the draft Declaration on the right to peace using the study and the draft declaration prepared by the Advisory Committee as a basis. The EU had doubts about the need to embark on a new standard-setting process. In this connection, she referred to the GA resolution 41/120 of 1986 providing guidance for setting future standards in the field of human rights. In her opinion, the draft resolution did not fulfil these criteria, in particular criteria 4.c which stated that a new standard-setting process should "be sufficiently precise to give rise to identifiable and practicable rights and obligations".

Therefore, the EU preferred an incremental approach to the right to peace before moving it forward. The speaker also stressed some of the main concerns, such as the concept of the right to peace itself; the lack of linkage with international human rights law; and the problematic aspects of the AC draft declaration on the right to peace. Therefore, it appeared very premature to establish an OEWG.

In conclusion, the speaker proposed an alternative format to approach this matter, such as a panel discussion with the mandate to further study the linkage between human rights and peace. Moreover, the OHCHR could prepare a report with the main conclusions of the panel.

Mr. **Robert Schwartz** (United States) proposed to work together bridging opinions during the following two weeks. Working together was important for peace.

Mr. **Mario Vega** (Costa Rica) stated that this matter had been discussed in the past years within different forums. He appreciated the progressive approach to this topic and welcomed the draft resolution proposing the establishment of an OEWG on the right to peace. He suggested that positive contributions could be made to improve the text. The establishment of the OEWG came in the right time and .. will facilitate new opportunities for further discussion on this issue. Everything could be negotiated. Therefore, Costa Rica supported the draft resolution.

Furthermore, the representative of the Republic of **Maldives** thanked the sponsors of the draft resolution for leading this important matter, showed support to the initiative and considered that the wording of the draft resolution was very precise.

Mr. **Theo Rycroft** (United Kingdom) considered that it was an interesting matter and proposed to find common ways to move forward on this topic. He also supported the comments delivered by the EU. He stressed that there is still a lack of consensus regarding this issue, which is why it is premature to establish an OEWG with the mandate to negotiate a text which does not have an initial agreement on certain points. As an alternative, he supported the idea of organizing a panel to discuss the linkages between peace and human rights. To conclude, the speaker stressed that international law does not recognise either the individual or the collective right to peace.

Mr. **Gerold Vollmer** (Austria), stated that he attended the meeting with an open mind, but while he supports the comments made by his colleagues of the EU, he was concerned about some conceptual matters on the right to peace, sharing with his colleague of the United Kingdom that the right to peace does not exist. In addition, the speaker showed disappointment with the report elaborated by the Advisory Committee. Moreover, he indicated that Austria could not be engaged in the future work considering as a basis only the AC draft declaration. Nevertheless, he was ready to hear different proposals while he demanded flexibility from both sides.

Mr. **Juan Antonio Quintanilla** (Cuba) expressed thanks for the constructive comments provided by Mr. Vollmer. However, he insisted that the bottom line of the draft resolution was the establishment of an OEWG to negotiate a future UN Declaration on the right to peace. He also emphasised the procedural nature of the draft resolution, since it did not propose the adoption of a new text. He highlighted that if there was no agreement by the end of the current negotiation, then nothing would be adopted. Therefore, Cuba proposed a negotiation process in an intergovernmental framework...

The representative of **China** fully supported Cuba's excellent initiative and appreciated the work performed by the Advisory Committee until now. Since the right to peace is a universal right of all of us, then a Declaration on this topic should exist. He underlined that once the mandate had been accomplished by the Advisory Committee, it would be the right time to move forward with this matter. Although he showed disagreement with some elements of the draft Declaration, he recognized this text as the starting point for further discussions. Additionally, he stressed that it is not necessary to organise a panel of discussion before the first session of the OEWG, because while there is disagreement with the AC draft Declaration as a whole, a platform is needed to further discuss this matter. Finally, the speaker pledged to collaborate in further discussions.

The representative of **Iran** recognized that the right to peace is an important matter for his country. Therefore, the speaker supported the proposed draft resolution.

Mr. **Alexey Goltyaev** (Russian Federation) supported the existence of the right to peace and welcomed the submission of the AC draft declaration. He recognised that it would most likely be re-shaped through the inter-governmental negotiation process as has happened with the Declaration on human rights education and training in the past. He asked the Cuban delegate how many panels, side events and workshops have already been organised in the latest years on the right to peace and wondered ... about the added value of a new panel.

Mr. **Juan Antonio Quintanilla** (Cuba) said that surely many delegations were not happy with the AC draft declaration, including Cuba. Therefore, Cuba proposed to establish an intergovernmental working group to negotiate the contents of the text and stated that the only way to achieve this goal was adopting the draft resolution. He thanked the delegations which supported the draft resolution. For those countries which had doubts about the right to peace, the speaker said that the matter has been developed over the last ten years and there have been several resolutions adopted by the Human Rights Council and the General Assembly on the same topic. In addition, several seminars, workshops and meetings have been organised and some independent experts have referred to the right to peace in their reports. To sum up, Cuba proposed to establish the OEWG to negotiate and submit a draft declaration on the right to peace to the Human Rights Council. Furthermore, he recalled that the General Assembly had adopted a Declaration on the right of peoples to peace in 1984, but it was very short and therefore, it deserves to be developed progressively. Finally, the speaker reminded the audience that, at the request of the HR Council, the OHCHR organised an expert workshop on the right of peoples to peace in December 2009 and some experts concluded that a UN Declaration on the right to peace was needed.

The representative of **Japan** shared the views made by the EU and Austria on the lack of recognition of the right to peace in international law and proposed that peace and security issues should be discussed in other forums. In addition, she said that each country has the responsibility to promote the human rights of its citizens and that Japan has traditionally opposed to the right to peace. Finally, the speaker showed concern on the financial implications for the establishment of the OEWG.

Mr. **Juan Antonio Quintanilla** (Cuba) thanked the Japanese colleague for raising the issue of the financial implications of the draft resolution. He stressed that it should not be a problem, since the Human Rights Council has recently agreed to spend 2 million dollars for the establishment of the Commission on Enquiry on the human rights situation in Syria. On the contrary, the OEWG would only need half a million dollars.

2.3. Proposals of amendments.

After the general comments, the Cuban diplomat opened the floor for specific amendments to the draft resolution:

With regards to the title included in the draft resolution, which says "United Nations Declaration on the Right to Peace", **Denmark** on behalf of European Union proposed the following alternative title "UN Declaration on Human Rights and Peace". The delegate of **Cuba** immediately replied that his country cannot accept Denmark's proposal as the right to peace is vital for Cuba. He reminded the audience that Cuba had accepted to change the concept from the 'right of peoples to peace' to the 'right to peace'.

Next, the representative of the **United States of America** supported the EU amendment and additionally proposed "Peace as a vital requirement for the full enjoyment of all human rights by all" in accordance with a resolution on this matter adopted by the UN General Assembly. The representative of **Cuba** reminded the participants that the Human Rights Council has always used the title of the right of peoples to peace but that this year

Cuba would be more flexible and use the concept of the right to peace in its double dimension, individual and collective, in accordance with civil society suggestions.

The representative from the **Russian Federation** recalled that the Declaration on the Right to Development was adopted by consensus and that this Declaration did not have many differences with the right to peace. In turn, the representative of **Austria** proposed another title, taking into account that the Declaration on the right to peace had not yet been adopted and that it was only an aim.

The representative of **Cuba** said that it could study this possibility in the line of the Declaration on human rights education and training, and could include the title of "right to peace".

The representative of **China** stated that it would prefer to keep the title as such and supported the comments made by the Russian delegate on the Declaration on the right to development, and also added that this Declaration is not a prejudgement of the process but a common goal for all states.

The representative of **Cuba** said that it is very difficult to change the title as the main sponsors of this resolution did not want to do so.

The representative of the **United Kingdom** said that bearing in mind that the right to peace does not exist at all, the concept "peace and human rights" could be used, without making any reference to the right to peace.

The representative of the **Netherlands** stated that it did not support the Declaration on the right of peoples to peace adopted in 1984 and that therefore, they could not support the current draft resolution. While it was important to consider the input from civil society, not all noble goals were related to human rights, namely, the right to peace, the right to happiness or the right to a future better world. Besides, he stated that the international community should only pay attention to justiciable rights.

The representative of **Switzerland** supported the comments made by the EU and USA, and she referred to the relationship between peace and human rights.

The representative of **Argentina** supported the title included in the draft resolution. Finally, the representative of the **Russian Federation** said that peace is an indispensable precondition for the enjoyment of all human rights.

Regarding the first preambular paragraph of the draft resolution, which states "*Recalling all previous resolutions on the promotion of the right of peoples to peace adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council, in particular resolutions 14/3 and 17/16, in which the Council requested the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to prepare a draft declaration on the right of peoples to peace*", the **European Union** stated that, taking into account that the AC draft declaration on the right to peace is quite problematic; any reference to the Declaration should be deleted from draft resolution.

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The representative of **Cuba** said that a reference to the draft AC Declaration is very important since this expert body received a mandate from the Human Rights Council to elaborate a Declaration.

The representative of the **United States of America** preferred to delete the reference to the declaration in the paragraph as it was problematic and divisive. In turn, the representative of **Costa Rica** requested the sponsors of the draft resolution to keep the paragraph and any reference to the Declaration prepared by the Advisory Committee.

Regarding the second preambular paragraph which states "*Recalling also General Assembly resolution 39/11 of 12 November 1984 entitled "Declaration of the Right of Peoples to Peace" and the United Nations Millennium Declaration*", the **European Union** said that since it does not recognise resolution 39/11 of 12 November 1984 and it would rather just take note of it.

The representative of **Cuba** stated that it is not possible to change the language of the 1984 resolution so many years after its adoption by the General Assembly. In turn, the representative of the **Russian Federation** indicated that the Human Rights Council is a subsidiary body of the General Assembly.

Afterwards, the representative of the **United States of America** proposed to include the following paragraph of the Universal Declaration of Human Rights: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". The representative of **Cuba** welcomed this amendment and invited the USA delegate to submit it in writing.

With regards to the third preambular paragraph, which states "*Determined to foster strict respect for the purposes and principles enshrined in the Charter of the United Nations*", governmental representatives did not make comments.

As far as the fourth preambular paragraph, which states "*welcoming the important work being carried out by civil society organizations for the promotion of the right to peace and their contribution to the codification of that right*", the **European Union** said that it preferred to use the verb "noting" instead of "welcoming" and to refer not only to NGOs working on the right to peace, but on peace in general.

In turn, the representative of **Cuba** said it was a surprise that the European Union did not want to support and welcome civil society contributions when the EU usually promotes the right of CSOs to participate and speak at the Human Rights Council.

The representative of the **United States of America** said that it would like to thank all NGOs, which work in the field of human rights and peace, and not only those on the right to peace and therefore, he proposed the following alternative paragraph: "Welcoming the important work being carried out by civil society and organisations in the promotion of peace and human rights for all".

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The representative of **Cuba** proposed to add the following sentence: "and, in particular the right to peace".

The representative of the **Russian Federation** showed concern about the concept of codification as it can be only performed by the inter-governmental working group and was reluctant to accept the role played by civil society in the promotion of the right to peace.

In turn, the representative of **Cuba** informed that there were more than one thousand CSOs working in the process of the right to peace and recalled the adoption in 2010 by CSOs of the Santiago Declaration on the Human Right to Peace. Therefore, Cuba wanted to refer to this important contribution and same language was included in the resolution on the right to peace adopted last year. Moreover, Cuba would like to refer to the CSOs' contribution precisely on the right to peace.

The representative of **China** stated that although it welcomed the CSOs' contribution, China is concerned by the use of the concept of codification.

With regard to the fifth preambular paragraph, which states "*welcoming also the submission of the draft declaration prepared by the Advisory Committee contained in its study submitted to the Council (A/HRC/20/31)*", the **European Union** said that bearing in mind that the AC draft Declaration was problematic, the EU proposed to delete the paragraph.

The representative of the **United States of America** also proposed to delete or turn down any reference to the AC draft declaration as significant concerns about it have been voiced in the room.

The representative of **Cuba** answered that mention should be made of the work carried out by the Advisory Committee as it had spent two years in the elaboration of the draft declaration and, therefore, it would be very impolite not to recognise in the draft resolution the AC work.

The representative of **Costa Rica** recalled that the Advisory Committee had been working on this declaration during the last two years and proposed to include the sentence "taking note of the submission".

The representative of **Singapore** proposed the concept of "taking note" as it was not very happy with the AC draft declaration.

The representative of **Cuba** stressed that if no delegation was satisfied with the draft Declaration, they would have an excellent opportunity to redraft it in the inter-governmental OEWG.

With regard to the first operative paragraph, by which the HR Council "*decides to establish an open-ended intergovernmental working group with the mandate of negotiating, finalizing and submitting to the Council a draft United Nations declaration on the right to peace, on the basis of the draft submitted by the Advisory Committee*", the **European Union** proposed an alternative format, such as a panel discussion and therefore,

re-shaped the paragraph in the following terms: "decides to convene within existing resources during the twenty-first session of the Human Rights Council a panel discussion on the world concern about the respect and protection of human rights and to have a constructive and transparent dialogue on the issue of human rights and peace".

The representative of **Cuba** replied that the main intention of the draft resolution was to establish an OEWG and that therefore, it can not accept the idea to convene a panel. In addition, he added that on 15-16 December 2009 the OHCHR organised a workshop with the participation of worldwide experts and governmental representatives, and that the amount of hours of this workshop would always be higher than the three hours proposed for the possible panel. At the outcome of the expert workshop the Human Rights Council requested the Advisory Committee to prepare a draft declaration and all governmental representatives had the opportunity to share their opinions with the AC experts during the debates on the right to peace. Besides, he thought a panel would be a step backwards in the progressive approach to the right to peace. To conclude, the EU proposal could not be accepted.

The representative of the **Russian Federation** welcomed the organisation of a panel discussion, but only after the establishment of the OEWG was completed.

The representative of **Cuba** agreed with this new proposal, but always after the establishment of the OEWG and as one of the possible recommendations adopted by the future working group.

The representative of the **United States of America** said that taking into account that many delegations were very concerned with the AC work, other options and modalities should be studied.. In addition, many governments did not have the opportunity to send their comments to the AC draft declaration, so that it would be very useful to organise a panel in order to give the opportunity to all governments to share their views and opinions. That would give them the chance to reach an agreement on a text they all find acceptable, which will allow all of them to move forward in this matter.

The representative of the **United Kingdom** endorsed the suggestions proposed by the EU and USA and asked the Cuban delegate to accept the EU's proposals.

Immediately, the representative of **Cuba** reaffirmed his support to the AC work and recalled that the AC established a drafting group composed of six AC experts, which sent out a questionnaire to all stakeholders. Besides, he stated that during the AC plenary sessions all governments had the opportunity to share their views with the AC experts and again reminded them that one of the recommendations of the OEWG could be the organisation of a panel discussion.

The representative of **Algeria** expressed his support for the establishment of an OEWG as an excellent opportunity to reach an agreement about the concept of the right to peace.

The representative of **China** proposed that the panel discussion should be organised after the establishment of the OEWG and only if extra-budgetary funds would be available

to convene it. He also supported the AC draft declaration as a basis to start the negotiation process.

The representative of **Cuba** asked all diplomats attending the informal meeting if they truly thought that three hours of a possible panel discussion would be more useful than five working days of an OEWG.

The representative of the **United States of America** stated that in the OHCHR workshop held in 2009 only 16 governmental delegates participated and that therefore, a panel on this matter would give an opportunity to all Permanent Missions to share their opinions.

The delegate of **Cuba** replied that the low participation at the expert workshop did not mean that states were not interested in this topic and that usually there were many meetings in Geneva at the same time, so that small delegations cannot actively participate in all meetings happening at the United Nations (ex. HRC, ILO, OMS or Conference on Disarmament).

The representative of the **United Kingdom** asked about the added value regarding the money to be spent in this OEWG.

The representative of **Cuba** replied that half million dollars is nothing taking into account that enquiry commissions established by the HR Council usually cost two millions dollars each.

The representative of **Singapore** proposed that the OEWG should also start its work on the basis of other possible texts.

The representative of **Cuba** responded that it could include an amendment in the line of "without prejudging future developments, further discussions or debates on this issue". However, reference to the AC declaration was necessary since the working group could not start the negotiation process without any reference.

The representative of **Costa Rica** said that the draft AC declaration was only the starting point for a later negotiation process to be carried out by the OEWG and that the creation of this new UN body would be the only way for the States to re-shape the initial text elaborated by the Advisory Committee.

The representative of **Cuba** repeated that it could include an amendment to recognise other possible contributions as basis of the future work of the OEWG.

The representative of the **Netherlands** indicated that it could not foresee that the outcome of the negotiation process would conclude with the adoption of a declaration on the right to peace. In addition, he recalled GA resolution 41/120 of 1986 on setting international standards in the field of human rights, particularly its paragraph 4, which stated the following: *"invites Member States and United Nations bodies to bear in mind the following guidelines in developing international instruments in the field of human rights; such instruments should, inter alia: (a) Be consistent with the existing body of*

international human rights law; (b) Be of fundamental character and derive from the inherent dignity and worth of the human person; (c) Be sufficiently precise to give rise to identifiable and practicable rights and obligations; (d) Provide, where appropriate, realistic and effective implementation machinery, including reporting systems and (e) Attract broad international support".

The representative of **Cuba** replied that the same language regarding the negotiation process was included in the resolution on the Declaration on Human Rights Education and Training, which established an OEWG to elaborate this declaration. In addition, the main objective of the OEWG was not only to negotiate but also to finalize the declaration on the right to peace.

The representative of the **Netherlands** replied that the Declaration on Human Rights Education and Training had a broader support.

The representative of **Cuba** reminded the participants that the resolution on the right to peace usually has the support of 34 Member States of the HRC and that only 14 Member States vote against it.

The representative of the **United Kingdom** said that the establishment of the OEWG would be a divisive initiative and that therefore, it was strongly advisable to reach a minimum consensus about the right to peace before moving forward the issue of its codification.

The representative of the **United States of America** agreed with the comments made by his colleagues from United Kingdom and Singapore and asked Cuba whether it could be flexible regarding the establishment of an OEWG.

The representative of **Cuba** stressed that the red line was the establishment of an OEWG and that he could include the following amendment proposed by Singapore: "without prejudging future works and developments of this issue". In addition, he reminded that a large number of States supported the further development of the right to peace.

As regards to the second operative paragraph, which states that the HR Council "*also decides that the working group shall hold its first session for seven working days in 2013, before the twenty-second session of the Council*", **Denmark**, on behalf of the European Union, proposed to delete this paragraph on the basis of the panel discussion proposed as an alternative.

In reference to the third operative paragraph, which "*requests the Office of the United Nations High Commissioner for Human Rights to provide the working group with the necessary assistance for it to fulfil its mandate*", **Denmark** on behalf of European Union proposed the following alternative language: "*requests the Office of the United Nations High Commissioner for Human Rights to invite the special procedures, States and other stakeholders, including relevant UN bodies and agencies with the view to participate in the panel discussion*".

With regards to the fifth operative paragraph, which "*requests the President of the Council to invite the Chairperson of the Advisory Committee drafting group on the draft declaration to participate at the first session in the meetings of the working group*", **Denmark** on behalf of the European Union, proposed to delete this paragraph on the basis of the panel discussion proposed as an alternative.

Concerning the sixth operative paragraph, which "*invites Member States, civil society, and all relevant stakeholders, to contribute actively and constructively to the work of the open-ended intergovernmental working group*", **Denmark**, on behalf of the European Union proposed to remove any reference to the OEWG and substitute it by a panel discussion.

With respect to the seventh operative paragraph, which "*requests the working group to submit a report on progress made to the Council for consideration at its twenty-third session*", **Denmark**, on behalf of the European Union, proposed the following alternative language: "*requests the UN Office of the High Commissioner for Human Rights to prepare a report about the outcome of the panel discussion in a format of summary*".

Finally, the representative of **Cuba** concluded that there were two groups of States, one supporting the establishment of an OEWG and the other opposing it. However, there was a majority of States supporting the establishment of the new OEWG that agreed to move forward the development of the right to peace. The final decision as far as engaging or not in the process relies only upon them. He opened the possibility to convene another informal consultation meeting.

2.4. Participation of CSOs

Mr. **David Fernandez Puyana**, Representative in Geneva of the **Spanish Society for International Human Rights Law**, the **International Observatory of the Human Right to Peace** and the **International Association of Peace Messenger Cities**, thanked the representative of Cuba for convening the informal consultation meeting.

He recalled that pursuant to resolution 33/73 ("*Declaration on the Preparation of Societies for Life in Peace*") adopted without opposition by the General Assembly on 15 December 1978, "every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace". In addition, on 12 November 1984, the UN General Assembly adopted in its resolution 39/11 the *Declaration of the Right of Peoples to Peace* by which "solemnly proclaimed that the peoples of our planet have a sacred right to peace". The recorded vote of the last resolution was as follows: Ninety-two votes in favor and no vote against. It follows that the international community agreed by consensus on the recognition of the right to peace.

He also mentioned HR Council resolution 17/16 of 17 June 2011 and Advisory Committee (AC) recommendation 8/4 of 24 February 2012, by which the AC submitted to the HR Council its (third) draft declaration on the right to peace.

The AC report stated that in the original mandate of the HR Council reference was made to "the right of peoples to peace"; the Advisory Committee proposed the term "right to peace", which was found "to be more appropriate and includes both the individual and

collective dimensions” (paragraph 6). In addition, “the draft declaration focuses on standards relating to international peace and security as core standards (elements of negative peace, absence of violence), and includes standards in the areas of peace education, development, the environment, and victims and vulnerable groups as elements of a positive peace” (paragraph 7).

Finally, he reminded that at its 20th session the HR Council also had before it the joint CSOs’ written statement entitled, *A Working Group to Continue the Codification Process of the Human Right to Peace*, sponsored by 1.041 CSOs and cities worldwide, by which they called on the HR Council to establish an OEWG to continue the codification process of the right to peace, taking duly into account all preparatory work, including the input from the civil society organizations.

Ms. **Nicole Savia**, representative in Geneva of the **International Association of Democratic Lawyers** and the **American Association of Jurists**, thanked Cuba for leading this important issue and the other Member States that supported and co-sponsored the initiative. She fully supported the draft Declaration and the establishment of an OEWG using the AC draft Declaration as a model. Peace is the primary goal of the United Nations and the UN Charter is very clear in this respect. She said that humankind was witnessing an alarming step down in the protection and enforcement of human rights law. In this context, she believed that a Declaration on the right to peace is needed more than ever. The AC draft Declaration represented a significant improvement in the definition and concept of the right to peace, and a major step forward in regards to the GA Declaration on the right of peoples to peace of 1984. Many years have elapsed since the GA proclaimed that all people of the world have the sacred right to peace and that the promotion of this right constitutes a fundamental obligation for each State. Therefore, the HR Council had to take its responsibility in order to make operative the right to peace in a transparent and open manner and in collaboration with civil society. A written statement on the right to peace was submitted by her organizations explaining in detail their position.

Ms. **Maria Mercedes Rossi**, representative in Geneva of the **Associazione Comunità Papa Giovanni XXIII**, thanked the Cuban delegate for convening the informal consultation meeting, giving the CSOs the opportunity to take the floor and using the concept of the right to peace in its double dimension, individual and collective. She supported the establishment of an OEWG taking as a basis the AC draft Declaration and other possible inputs or texts in the line of the proposal made by Singapore.

Mr. **Yorio Shiokawa**, representative in Geneva of the **Japanese Committee on the Human Right to Peace**, invited the Japanese Government to discuss this issue with the Japanese peace movement.

Ms. **Gala Maric**, representative of **Nord-Sud XXI**, thanked Cuba and the other sponsors for moving forward this important draft resolution. She welcomed it as it was appropriate and timely. Therefore, she supported the establishment of the OEWG and announced her organization’s engagement in the future work of the OEWG.

2.5. Conclusion

At the end of the meeting, Mr. **Juan Antonio Quintanilla** quoted Shakespeare as follows: there are two possibilities, to be engaged or not. Therefore, he invited his governmental colleagues to take their decisions. Finally, he requested them to let him know in advance about their final decision on this topic.

3. Plenary session on the AC draft Declaration on the right to peace

On 29 June 2012 the plenary of the HR Council discussed the (third) AC draft declaration on the right to peace. In the general debate, representatives of nine States⁸, three International Organisations⁹ and ten CSOs¹⁰ took the floor.

3.1. Member States

Cuba introduced draft resolution L.16 on behalf of the sponsors and asked the HR Council to adopt the resolution by consensus. It recalled that the right of peoples to peace was enunciated and approved by the General Assembly in its resolution 39/11 in 1984. Since then, little is known about the efforts aimed at developing and implementing a mechanism which permits the real progress towards the enjoyment of this right. The collective security system established by the Charter of the United Nations, despite having the maintenance of international peace and security as its main objective, has been ineffective in these efforts.

Each day peoples of the world seem further away from the enjoyment of the right to peace. The wars of prey in which we live in modern times bear witness to the current threat. According to various sources, more than 111 million people have been killed in armed conflicts as a consequence of modern wars. If the World War I civilian casualties were only 5% ??? of the total casualties, the wars of conquest carried out after 1990 -mainly in Iraq and Afghanistan-, the innocent deaths were 90% ??? of total casualties. The proportion of children casualties in these conflicts was horrible and unprecedented.

In this context Cuba welcomed the submission of the draft declaration on the right to peace prepared by the Advisory Committee. It should include standards on education for peace, development, environment and rights of victims, disarmament and rights of vulnerable groups. Aware of the importance of this matter, Cuba requested the establishment of an intergovernmental OEWG with the mandate to negotiate a declaration on the right to peace.

⁸Algeria, Bolivia, China, Cuba, Costa Rica, Ecuador, Sudan, Viet Nam and Venezuela (Bolivarian Republic of).

⁹Denmark (on behalf of the European Union), Senegal (on behalf of the African Group) and the representative of the Organization of the Islamic Cooperation.

¹⁰International Association of Peace Messenger Cities (in association with SSIHRL and the IOHRP), Associazione Comunità Papa Giovanni XXIII, International Association of Democratic Lawyers, International Buddhist Relief Organisation, Rencontre Africaine de Défense des Droits de l'Homme, Worldwide Organization for Women, Commission africaine des promoteurs de la santé et des droits de l'homme, Verein Sudwind Entwicklungspolitik, Nord Sud XXI and Comité International pour le Respect et l'Application de la Charte Africaine des Droits de l'Homme et des Peuples.

Denmark, speaking on behalf of the **European Union**, said that the EU and its Member States took note of the conclusion of the draft declaration of the Advisory Committee on the right to peace. However, the EU reminded its view that a "right to peace" does not exist under international law.

Senegal (speaking on behalf of the **African Union**) thanked the Advisory Committee for its work and took note of the draft Declaration on the right to peace submitted to the HR Council. Since the mandate of the Advisory Committee came to an end, it was the Council's responsibility to decide its follow-up. In this perspective, the African Group stressed that the consultations and negotiation process of the draft Declaration on the right to peace should be transparent, inclusive and constructive, within an intergovernmental framework. In addition, the consultations should be well structured and organized, taking into account the heavy amount of meetings and constraints. In this respect, the provisional timetable for negotiations should be proposed in due course.

The African Group shared the Advisory Committee's approach in regards to the education and training on peace and the right to development. For the remaining points and without going into the substance, the African Group reserved its position regarding some issues which go beyond the jurisdiction of the HR Council and some controversial notions. Moreover, the right to peace should be based in the following core principles: respect, dignity, solidarity, tolerance, rejection of violence, conflict prevention and resolution of conflicts by peaceful means.

The speaker recalled the GA resolution 60/251 of 2006 on the establishment of the Human Rights Council, and in particular the paragraph which acknowledged that peace and security, development and human rights are the pillars of the United Nations system and the foundation for collective security and well-being. Therefore, the GA recognised that development, peace and security and human rights were interlinked and mutually reinforcing. In addition, the African Charter on Human and People's Rights recognised the right to peace. For all these reasons, the African Group will support the adoption of a Declaration on the right to peace and contribute to its elaboration in a constructive spirit.

China thanked the Advisory Committee for its report. Since the Advisory Committee is the "think tank" of the HR Council, China supported the Advisory Committee in carrying out studies and reports at the request of the HR Council. Therefore, China welcomed the draft Declaration on the right to peace prepared by the Advisory Committee. In accordance with the UN Charter, all international disputes should be resolved through peaceful means rather than wars. Dialogue offers an important contribution because it helps to reduce differences and resolve disputes, avoid the use or the threat of use of force and enforce peace and international security. The right to peace and the right to development are fundamental rights and they complement each other.

Costa Rica stated that as in the previous regular sessions of this Council Costa Rica wanted to refer to the work of the Advisory Committee, ... specifically, the draft Declaration on the right to peace requested by this Council in its resolution 14/3.

Both domestic and foreign policy of Costa Rica promote and defend the right to peace, because it is closely related to justice, democracy, solidarity, tolerance and respect for human dignity. For all these reasons, Costa Rica continues to focus its work in this area. Costa Rica supports unequivocally and firmly the process leading to recognition of the right to peace, its progressive development and codification.

In this session we received a report on the matter. He said that Costa Rica appreciated the work of the Advisory Committee and those other actors who have contributed to it: States, civil society and other stakeholders. He took note of the draft declaration on the right to peace and recognized its value as a starting point for future negotiations.

Costa Rica believes that there is still much work to be done and welcomes the opportunity to do so. Costa Rica therefore endorsed the draft resolution establishing the OEWG. He indicated that they believe that this forum is the place to achieve the necessary consensus which will lead to recognition of the right to peace and its progressive development and codification.

He urged all States, civil society members and stakeholders to show their support for this initiative which provides a space to maintain an open dialogue and, eventually, to participate actively and constructively in the working group.

3.2. Observers States and intergovernmental organisations

The representative of **Algeria** thanked the Advisory Committee for the report on the right of peoples to peace submitted that day at the HRC. All the basic human rights documents refer to elements related to the right to peace in the broadest sense of the term. In this context they highlighted the main articles, namely: the Preamble of the UN Charter, Articles 3 and 28 of the Universal Declaration of Human Rights and Article 9 of the International Covenant on Civil and Political Rights.

The UN General Assembly has recognised the right to peace in both the Declaration on the Preparation of Societies for Life in Peace (Resolution 33/73) and the Declaration on the Right of Peoples to Peace (Resolution 39/11). At the regional level, this right has been recognised in the African Charter on Human and Peoples' Rights (art. 6) and the Arab Charter on Human Rights (art. 14).

The draft Declaration submitted by the Advisory Committee did not seem to benefit from a general consensus. The Algerian delegation believed that this document could serve as a basis for discussion. In addition, they reserved the right to submit comments and observations on this draft declaration in the format to be adopted by the Council. The establishment of an Intergovernmental OEWG is the appropriate solution, capable of enabling a broad and inclusive debate about the right to peace, and in particular on the Draft United Nations Declaration on the right to peace.

Ms. **Tahani El Mobasher**, representative of the Permanent Mission of Sudan, commended the efforts of the Advisory Committee and its consultations with states and different stakeholders in relation to this important issue. She welcomed the draft

Declaration on the right to peace prepared by the Committee. While welcoming this important draft declaration, her delegation called upon the international community including this august body to make every possible effort to reflect and realize the importance of the principles enshrined in it.

Sudan exerts a lot of efforts to resolve the internal conflicts in order to end the suffering of their people; the government signed the CPA and held a referendum that led to the cessation of South Sudan, an area which is historically, economically and socially very important for the country. In spite of all the sacrifices made for peace's sake, Sudan is still faced with aggression and threats that affect the infrastructure, lives and enjoyment of human rights for all the Sudanese, including women and children who have been subject to abduction, children recruitment and involvement in different kinds of violence by the rebel movements.

Her delegation took the opportunity of the discussion in relation to the right to peace to call upon all states to stand for their duties in supporting the Government of Sudan in its efforts towards achieving peace and security in all parts of Sudan and to urge all parties in conflict, different political parties and other actors to work for peace and to help the government in its initiatives to stop the fighting and start development projects. It also called upon the international community to use all possible means to obligate states to refrain from the threat or use of force against the territorial integrity or political independence of any state.

She said that Sudan had suffered and is still suffering from the passive and even negative role of some members of the international community in issues relating to aggression against the national territory of Sudan. The related violations have a direct impact on the civilians. Moreover, Sudan has been accused when responding and exercising its international right to self-determination and the right to peace. She hoped that by adopting this declaration, the international community will change its attitude and start a real movement towards the achievement of peace and security worldwide.

Mr. **NGO Le Hoang Vu**, second secretary of the Permanent Mission of Vietnam, said that to begin with, his delegation would like to thank the Advisory Committee for their study and presentation that day on the right of peoples to peace. He noted the efforts made by the Advisory Committee members. He believed that the work done so far would be an important impetus for further substantive and comprehensive deliberations at an intergovernmental level in the near future.

The representative of the Permanent Mission of **Bolivia** stated that the Plurinational State of Bolivia acknowledges the valuable contribution of the Advisory Committee through the submission of the draft declaration on the right to peace, which coincides with the position of her country. In accordance with article 10.1 of the Political Constitution of the State: *"Bolivia is a pacifist state that promotes the culture of peace and the right to peace, as well as cooperation among the peoples of the region and the world, in order to contribute to mutual understanding, equitable development, and the promotion of interculturalism, with full respect for the sovereignty"*.

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Her country strongly supported the right to peace and called upon all states to incorporate this right into their legal systems, in order to turn it into a mandatory right. As indicated by the Declaration, there is "the legal obligation to renounce the use or threat of use of force in international relations". This is the basis for states to provide broader protection to people.

In this sense, she indicated that it is important to establish an intergovernmental working group to finalize the text of the Declaration of the right to peace, taking up the contribution of the Advisory Committee with the mandate to submit to the Council an instrument whose objective is the pursuit and maintenance of peace worldwide.

Mr. **Edgardo Toro**, Second Secretary of the Permanent Mission of Venezuela, expressed their satisfaction with the report of the Advisory Committee which includes the draft Declaration on the right to peace. He recognized the valuable contribution made by the Committee, and fully supported its important work.

The impossibility of exercising any right in the midst of war has been fully acknowledged; so has the fact that no socio-economic transformation can be expected during armed conflict. To ensure the realization and promotion of the right to peace, we must exhaust all necessary efforts to eliminate any threat of war and the cessation of the ongoing conflicts, which seriously affect the life of millions people. Innocent people are killed each day. He stated that violence generated by armed foreign military raids caused by powers should cease immediately in order to make way for a genuine dialogue and cooperation between people. Venezuela will always oppose the application of the "humanitarian bombing" nestled under the imperial thesis of the responsibility to protect.

Building a fair, loving and peaceful society is the essential objective of the Venezuelan state and it is enshrined in its constitution. In this regard, Venezuela will continue to support and encourage these initiatives by making real calls for world peace, which are based in the universal principle of the peaceful settlement of disputes. Finally, he reiterated that only under the promise of solidarity and international cooperation; genuine dialogue, and respect of territorial integrity and sovereignty, will Venezuela be able to advance towards a true conception of the right of peoples to peace for that is the only way in which their full development may be achieved

H.E. Ambassador **Slimane Chikh**, Permanent Observer of the Organization of the Islamic Cooperation (OIC) to the United Nations in Geneva, said that as permanent representative of the OIC and on behalf of our Secretary General he expressed their organisation's support for the draft Declaration on the human right to peace. He recalled the following passage of the Charter of UNESCO: "since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed".

The Declaration on the human right to peace contributes precisely to show the way forward and to offer the contents of the culture of peace. OIC is fully committed to the program of action for a Culture of Peace adopted by the UN in 1999 and the Alliance of Civilizations. Peace, in its holistic approach, not only is related to the absence of war, but also the culture of peace. Peace is committed to the preservation both of life and conditions

for a dignified life. The culture of peace should begin to be inculcated at school and it has inspired the OIC multifaceted actions on the field. Peace has a close linkage with the management of conflicts through the preventive diplomacy and conflict resolution through the deployment of multiple humanitarian actions.

On Thursday, December 8, 2005 OIC adopted the *Decennial program of action* in the Mecca summit. In accordance with the program, Islam should be conceived as a religion of "moderation, measurement and tolerance". It also condemns terrorism in all its forms and manifestations by stating that terrorism is a global phenomenon which is not linked to any religion, race, color or country. This program also says that there should be a distinction between terrorism and the legitimate resistance to foreign occupation as indicated by article 7 of the draft Declaration on the right of peoples to peace-

3.3. Civil society organisations

Mr. **David Fernandez Puyana** made the following statement on behalf of the International Association of Peace Messenger Cities, the International Observatory on the Human Right to Peace, the Spanish Society for International Human Rights Law, the Union of Arab Jurists, the General Arab Women Federation, the Arab Lawyers Union, the International Organization for the Elimination of All Forms of Racial Discrimination and the OSC 1.041 and cities worldwide which had signed the joint written statement contained in the document A/HRC/20/NGO/59 entitled *A Working Group to Continue the Codification Process of the Human Right to Peace*.

At its 20th session the HR Council has before it the (third) draft declaration on the right to peace submitted by the Advisory Committee. The undersigned CSOs requested the HR Council to thank the AC draft declaration and recognise the CSOs' contribution to the codification process of the human right to peace.

In addition, the HR Council should establish an **open-ended working group** to continue the codification process of the human right to peace, taking duly into account all preparatory work. It shall meet during ten working days split in two sessions and would encourage a wide participation of CSOs. The chairperson of the AC drafting group shall also be invited to take part.

Moreover, they invited the future working group to consider the following amendments to the AC draft declaration on the right to peace in order to recover the 15% of the legal standards proposed in the Santiago Declaration, which were not collected by the AC, namely:

1. The draft Declaration should amend the title on "human right to peace" to incorporate *minorities and humankind* as additional right-holders of the right to peace.
2. The Preamble should be completed following the Preamble of the *Santiago Declaration on the Human Right to Peace* (2010), since it includes relevant universal and regional legal instruments providing background to the codification of the right to peace.
3. The concept of "right" should be added to the title of arts. 2 ("human security"), 3 ("disarmament"), 4 ("education and training in peace"), 5 ("disobedience and conscientious objection") and 9 ("development").

4. Article 13 should be entitled "Obligations for the realization of the human right to peace" and completed in accordance with paragraphs 4, 6, 7 and 8 of Article 13 of the Santiago Declaration concerning, among other things, the reform of the Security Council. And,??

5. Article 13.6 ("implementation") should be substituted for arts. 14 and 15 of the Santiago Declaration, which provides the establishment by the General Assembly of a Working Group on the Human Right to Peace, composed of ten independent experts, which will have equivalent functions to those of the best practices developed by the Human Rights Council special procedures.

Mr. **Fabio Agostini**, representative of the Associazione Comunità Papa Giovanni XXIII (APG23) thanked the Advisory Committee for its work on the right to peace and the delivery of its report. APG23 joined the network of civil society that supports the process of the draft Declaration on the right to peace, having been active in promoting positive peace through peace education, peacekeeping and peace building in the reconciliation process for many years.

Since 1973, APG23 has been committed to promote conscientious objection and welcomes the service of conscientious objection in its family-homes, shelters for the homeless, cooperatives and other realities caring for the most vulnerable in society. APG23 has even launched the campaign "white helmets" (conscientious objectors in the service of peace in the world) in 1994. The White Helmets are young volunteers who operate in situations of structural violence and injustice in order to monitor human rights and express solidarity to the populations in the respect of local culture. Every individual should have the right to conscientious objection to military service as part of the right to freedom of thought, conscience and religion.

The Human Rights Committee has a long-standing position on this issue and the European Court of Human Rights affirmed in 2011 the right to conscientious objection to military service. In this regard, APG23 takes note with appreciation, among others, of Art. 5 of the draft Declaration prepared by the Advisory Committee but supports the amendment proposed by the NGO network to change the title of the article to "right to civil disobedience and conscientious objection to military service".

APG23 appreciated also the initiative of Costa Rica, Croatia and Poland to present a Human Rights Council resolution on the right to conscientious objection to military service since it would be a step forward towards recognising the importance of the role played by civilians in building and maintaining peace among peoples and nations.

Ms. **Jeanne Mirer**, President of the International Association of Democratic Lawyers (IADL), welcomed the work of the Advisory Committee on the codification of the human right to peace. The draft Declaration they presented represents a significant improvement in the definition of the content and scope of the right to peace and a major step forward from the Declaration on the Right of Peoples to Peace adopted by the General Assembly in 1984.

The document overcomes the tendency to restrict the human right to peace mainly as a collective right and exclusively in relation to issues such as war and disarmament. Peace is not just the absence of war or violence. The draft also includes standards of positive actions towards peace in areas such as the rights to development, a healthy

environment, the rights of refugees and migrants. These standards reflect the accumulation of two years activities of the Advisory Committee.

Peace is the primary goal of the United Nations, and the major reason for its existence. In the Preamble of the United Nations Charter, the peoples of the world proclaimed their determination to "save succeeding generations from the scourge of war" and to live together in peace with one another as good neighbours. The Preamble to the Universal Declaration of Human Rights also recognizes that the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom and justice in the world.

IADL urged Member States to carefully consider the proposed draft Declaration and to engage, without delay, in a transparent and open process, involving the civil society, toward the adoption of a Declaration on the right to peace, using the one prepared by the Advisory Committee as a model and including the provisions on military bases, nuclear weapons and monitoring program which are mentioned in their written statement.

IADL also requested Member States to focus attention on a mechanism for monitoring the implementation of this declaration. Article 13, particularly paragraph 6, of the draft declaration is simple, or rather vague. Together with other provisions on roles of States the human right to peace must now contain procedural safeguards. To avoid any conflicts in jurisdictions or any overloaded breakdowns of monitoring mechanism, IADL recommended the Member States to set up open-ended intergovernmental working groups with well-coordinated assignments within the network of the Human Rights Council of the United Nations High Commissioner for Human Rights.

Wars cause unspeakable damage to people. The right to peace enables people to directly demand that their government prevent or stop war. From this perspective, we should pay more attention to the precedent in countries which have recognised this right or the right to live in peace and have included it in their constitution or jurisprudence. For example, in Japan and Costa Rica, ordinary citizens have invoked those rights against violation of these rights and the right to peace. There is no legal reason why an enforceable right to peace should be required in country constitutions when the UN Charter itself makes peace a right of all people.

Almost thirty years ago the General Assembly, in resolution 39/11, proclaimed that we, the people of the world, have the "sacred right to peace" and that "the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each state". Time has come for Member States to take their responsibility and make the right to peace operative. The right to peace is not a "moral right" or a human "aspiration", it is a fundamental human right.

Mr. **Sagar Chandrakant Zende**, representative of the International Buddhist Relief Organisation (IBRO), thanked the members of the Human Rights Council Advisory Committee for the draft Declaration on the right to peace. They hoped that the proposed open-ended intergovernmental working group will incorporate missing issues in the Declaration in order for it to be an effective UN document to promote peace in the world. They noted with concern that the Declaration had failed to address the notion of caste-based discrimination that continues to threaten peace of diverse and multiethnic societies.

Mr. **Visuvalingan Kirupaharan**, representative of the Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), welcomed the report A/HRC/20/31 published by the members of the drafting group. He said that they, along with many other NGOs, congratulate and support their good work.

The draft Declaration reminds every individual and every organ of society that the right to peace is universal and indivisible. Recognising the right to peace and the right to work for peace provides a human and legal ground for all laws. Articles 1 to 14 in this draft Declaration show the path to a just, meaningful and comprehensive peace. It is their fervent hope that states will implement them. The principle of the right to peace, article 1, paragraph 6 stipulates that "...international peace is based on respect for the principles enshrined in the Charter and the promotion of all human rights and fundamental freedoms, including the right to development and the right of peoples to self-determination". There is no doubt that this principle, if adhered, will certainly create peaceful environments in many parts of the globe. Under human security, article 2, paragraph 6, encouragement is given to all peoples and individuals to demand from his or her government the effective observance of the norms of international law, including human rights and humanitarian law. Undoubtedly this will make victims of violence aware of their rights. Opposition to oppression, outlined in article 7, paragraph 2, reminds everyone of their right to oppose aggression, genocide, war crimes, crimes against humanity, other universally recognised human rights violations and any propaganda in favour of war or incitement to violence and violations to the right to peace. Countries in conflict and post-conflict situations and those making transitional steps to democracy should seriously consider the draft Declaration, rather than making empty verbal promises.

RADDHO supported all initiatives and studies in favour of the right to peace. RADDHO also appealed to member countries to implement the provisions of the present Declaration by adopting relevant legislative, judicial, administrative, necessary measures to promote its effective realisation.

Ms. **Jessica Lees**, representative of the Worldwide Organization for Women (WOW), welcomed the opportunity to express their views and concerns regarding the issue of women and the right of peoples to peace. WOW was gravely concerned with the impact that the contemporary conflicts have upon women as they are often the first victims of any conflict. As women are at the boundaries of society they are often targets where rape and other forms of violence are used as weapons of war. Although women are often targets of violence, they hold more importantly the powerful potential to help end conflict and ensure peace.

United Nations resolution 1325 calls upon States to include women in all peace negotiations, post-conflict reconstruction and reconciliation. Yet women must also be included in the discussion of the right of peoples to peace as these discussions are an imperative means of preventing all forms of conflict.

WOW therefore supported the creation of the OEWG on the right of peoples to peace and called for States to include women in this working group as full participants. Through the inclusion of women in all peace processes, including the OEWG, a necessary gender dimension will be included in conflict resolution helping to ensure the end of violence against women during conflict and its aftermath.

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The WOW called for States to correctly apply United Nations resolution 1325 in the creation of the Open-Ended Working Group on the right of peoples to peace and insist on the inclusion of a gendered perspective in all deliberations. The admission of all stakeholders, especially women, in peace-promoting measures will pave the way for sustainable peace throughout the world.

Ms. **Ana Leurinda**, representative of the Commission Africaine des Promoteurs de la Santé et des Droits de L'homme (CAPSDH), stated that in the last decades the General Assembly adopted two Declarations on the right to peace, namely; the Declaration on the Preparation of Societies for Life in Peace (res. 33/73 of 15 December 1978) and the Declaration on the Right of Peoples to Peace (res. 39/11 of 11 November 1984). The reasons to adopt a new (normative) Universal Declaration on the Human Right to Peace within the United Nations are the following:

- It would provide a solid basis to the culture of peace and the Alliance of Civilizations;
- It would also give fresh impetus to the struggle against violence and attitudes based on force, imposition and gender discrimination;
- It would match with an ethical notion designed to proclaim the universal principles developed under international human rights law;
- It should recognize that the holistic concept of peace goes beyond the strict absence of armed conflicts.
- It would consolidate the right to peace in its double dimension, namely individual and collective; And
- It shall strengthen dialogue and peaceful coexistence among cultures, civilizations and religions or belief, as a means to combat racism, racial discrimination, xenophobia and related intolerance;

At its 20th session the HR Council has before it the (third) draft declaration on the right to peace submitted by the Advisory Committee. She invited the HR Council to thank the AC draft declaration. In addition, the HR Council should establish an **open-ended working group** to continue the codification process of the human right to peace, taking duly into account all preparatory work.

The representative of the **Verein Sudwind Entwicklungspolitik** commended the achievements of the Advisory Committee to present the draft Declaration on the Right to Peace. However, to implement articles of this draft Declaration, they need practical strategies.

Sudwind brought attention to the Preamble of the draft Declaration which states that "expressing the will of all peoples that the use of force must be eradicated from the world, including through full nuclear disarmament, without delay". To achieve this aim, Sudwin believed that all countries should join the Non-Proliferation Treaty.

Ms. **Gala Maric**, representative of Nord-Sud XXI, joined the hundreds of NGOs and overwhelming majority of States who have spoken out in favour of the right to peace. It is a right that we must understand already exists. Another Declaration on the right to peace will help us move towards implementation and promotion of the right in a world in which States, even Members of this Council, still are often too ready to use aggression against their fellow human beings.

Nord-Sud XXI welcomed Cuba and its co-sponsors initiative on the right to peace. She said that Nord Sud XXI looks forward to participating as an observer in the work of the intergovernmental working group that will refine and build upon the draft declaration prepared by the Advisory Committee. They also welcomed opportunities to be engaged with the OHCHR, Member States and especially their colleagues of civil society to give strong and concerted support for the Declaration on the right to peace.

Mr. **Maurice Katala**, Secretary-General of the Action Internationale Pour la Paix et le Développement dans la Région des Grands Lacs, welcomed the draft Declaration on the right to peace and after focused on the problems of Great Lakes.

4. Second informal consultation meeting

On Monday 2 July 2012, the Permanent Mission of Cuba organised the second informal consultation meeting open to all States and CSOs to follow the discussion and negotiation of the next draft resolution on the right to peace. The meeting was attended by 33 people, among them representatives of 25 Member States, as follows: Algeria, Austria, Brazil, Belgium, Chile, China, Costa Rica, Cuba, Czech Republic, Denmark, Federation of Russia, Hungary, Iran, Italy, Malaysia, Maldives, Mexico, the Netherlands, Norway, Portugal, Singapore, Spain, Switzerland, the United States of America and Uruguay.

In addition, the following 8 CSOs attended the meeting: the Japanese Committee on the Human Right to Peace, International Association of Peace Messenger Cities, Spanish Society for International Human Rights Law, the International Observatory of the Human Right to Peace, Nord-Sud XXI, International Fellowship of Reconciliation, Worldwide Organisation for Women and Associazione Comunita Papa Giovanni XXIII.

4.1. Follow-up of the resolution

Mr. **Juan Antonio Quintanilla**, first Secretary of the Permanent Mission of Cuba, opened the informal consultation by thanking the delegates for participating in the second and hopefully final session on the draft Cuban resolution entitled "*United Nations Declaration on the Right to Peace*". He informed that several changes had been introduced in this resolution, namely: the paragraph regarding the establishment of the OEWG, the CSO's contribution to the right to peace and the number of days of this future OEWG. For the benefit of all delegations and flexibility, he decided to convene a second consultation meeting to give the opportunity to all delegations to have their say on the content of these amendments or even in the case, to propose additional concrete language in order to improve it. After this introduction he opened the floor to those delegations who wanted to make general comments or concrete proposals.

4.2. General comments

Mr. **Mario Vega**, Counsellor of the Permanent Mission of Costa Rica, thanked the Cuban delegate for convening this informal meeting in a constructive and open spirit in order to adopt this Declaration. Only through dialogue we can adopt a Declaration.

Mr. **Juan Quintanilla** thanked the Costa Rican delegate for his words and recalled that it is important to approach this resolution with an open mind as far as the limits of the objectives go.

Mr. **Gerold Vollmer**, First Secretary of the Permanent Mission of Austria, thanked the Cuban delegate for all the changes included and announced that they had additional suggestions to strengthen and improve the text in a constructive spirit.

Mr. **Juan Quintanilla** invited the rest of the delegations to make general comments before beginning the analysis of each of the paragraphs.

4.3. Proposal of amendments

With regards to the title, the representative of **Austria** said that bearing in mind that there is still some pendent discussion to be had on the Declaration, he proposed to include the previous title used in other resolutions adopted by the Human Rights Council, namely: "promotion of the right to peace". The representative of **Cuba** reaffirmed that this title was used in other resolutions and pledged to consider this amendment with their sponsors so that it does not lose the main objective of the resolution. In turn, the representative of the **Russian Federation** said that although they were comfortable with the title, they could accept the new one if the result was going to be a progressive approach to this topic.

With regards to the third preambular paragraph, the representative of **Spain** suggested to include a reference to the "progressive development of the right to peace" considering the lack of consensus in this matter. In turn, the representative of **Cuba** responded that he would study carefully the concrete language in the line of the Spanish amendment. Nevertheless, he could not accept the inclusion of a reference to the lack of consensus in this topic. Therefore, he invited him to send these comments including the new concrete language. The representative of **Spain** pledged to provide it a little later.

Regarding the new fourth preambular paragraph, by which "*welcoming the important work being carried out by civil society organizations for the promotion of the right to peace and their contribution to the codification of that right*", the representative of **Austria** proposed to delete the part of sentence regarding the CSOs' contribution to the codification of the right to peace, keeping only the reference to the important work carried out by them. In turn, the representative of **Cuba** said that he should also consult this amendment with members of civil society but repeated that it would be very important to recognise the remarkable work carried out by them in the past. The representative of the **Russian Federation** indicated that in the line of the comments made by the distinguished colleague from Austria, they were reluctant to accept the concept of "codification" as it can be done only through the intergovernmental bodies and never by civil society. Next, the

representative of **Portugal** intervened in the discussion to support the amendments made in the fourth preambular paragraph.

With reference to the new first operative paragraph, by which "*decides to establish an open-ended intergovernmental working group with the mandate of negotiating, finalizing and submitting to the Council a draft United Nations declaration on the right to peace, on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals*", the representative of **Austria** welcomed very much that the amendment included at the end of the sentence the words "without prejudging". Nevertheless, he proposed to re-shape the sentence as follows: "*decides to establish an open-ended intergovernmental working group with the mandate to consider the possibility and elaborating a draft United Nations declaration on the right to peace, taking into consideration the draft declaration submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals*". Having said this, he made clear that his delegation was not yet ready to accept the need for a new Declaration taking into account that the right to peace is not clear enough as a concept. He said that they were ready to discuss this issue but not with the aim to adopt a Declaration on the right to peace. In addition, he suggested that this Working Group should meet and decide the next steps to be taken. Then, the representative of the **Russian Federation** proposed to withdraw this proposal as it did not give additional support to the process of the right to peace. In turn, the representative of **Cuba** recalled that the main objective of this resolution is to establish an OEWG and that the proposal made by Austria loses this objective as the main purpose is not to consider the possibility to elaborate a specific text on this matter, but to negotiate a future Declaration starting with the AC draft Declaration. In addition, he showed his flexibility to include in the resolution the concept of "taking into account" or "taking into consideration" the AC draft Declaration, but he again repeated that the main purpose of the resolution is to establish an OEWG and to start the negotiations by next year. In the end he did not accept the concept of "considering the possibility". Later, the representative of **Spain** said that he shared Austria and Cuba's opinions and that therefore, he suggested including an alternative language in reference to the "progressive negotiations". In turn, the representative of **Cuba** encouraged the Spanish delegate to send him this concrete language proposal and showed his agreement in the progressive approach to the matter, but without losing the main purpose of the resolution. After, the representative of **Mexico** said that they did not like the language "on the basis of the draft submitted by the Advisory Committee" and that therefore, she proposed the concept of "taking into account" instead of "on the basis". She added that they would like to introduce the concept of "preparing" instead of "negotiating", and that the rest would be the same, namely: "*decides to establish an open-ended intergovernmental working group with the mandate of preparing, finalizing and submitting to the Council a draft United Nations declaration on the right to peace*". In his reply, the representative of **Cuba** said that he would try to reflect upon this approach in the resolution in the line of the Spanish proposal and that by the next day or the day after that he would propose an alternative paragraph. Subsequently, the representative of **China** said that they also sponsored this resolution and supported the establishment of an OEWG to discuss the right to peace. In regards to the Austrian proposal, she proposed to keep the language and agreed with the inclusion of the concept of "taking into account". In turn, the representative of **Singapore** stated that they were satisfied with the concept of "without prejudging" and showed his agreement with the

concept "taking into account". After that, the representative of the **Netherlands** voiced his support to the Austrian proposal and suggested to add the following sentence, namely: "in the light of the GA resolution 41/121 on reporting obligations under United Nations instruments on human rights".

With regards to the new second operative paragraph, which states that "*also decides that the working group shall hold its first session for five working days in 2013, before the twenty-second session of the Council*", the representative of **Cuba** announced that they had shortened from seven to five the working days of the OEWG. Afterwards, the representative of **Austria** showed his concerns on the budget implications of the OEWG and thanked the Cuban representative for shortening the number of working days. After saying that, he proposed to have more informal than formal time to discuss this matter, and therefore, suggested to have only two formal days in the line of the Working Group on the right to development and the rest for informal consultations. In turn, the representative of **Cuba** agreed with the Austrian delegate that the Working Group on the right to development had informal meetings without interpretation, but the HRC practices says that it is not possible to specify in the resolution how many days will be formal or informal sessions. After, the representative of the **Russian Federation** stated that it was not a big deal for the Russians to shorten the working days as all documents could be translated into Russian in Moscow. On the other hand, the representative of **China** said that two working days were not enough. In agreement, the representative of **Costa Rica** said that two working days were not enough to have a constructive discussion on this topic and therefore, he proposed between two and five working days. In turn, the representative of **Cuba** replied that there was not enough room to negotiate this issue and promised to consult with the future Chairperson of the OEWG about the number of days needed to properly organise the sessions.

Concerning the sixth operative paragraph, by which "*invites Member States, civil society, and all relevant stakeholders, to contribute actively and constructively to the work of the working group*", the representative of the **Russian Federation** asked to the representative of **Cuba** whether it would be useful to include the concept of "progressive" work of the working group in the line of the Spanish proposal. In his reply, the representative of **Spain** said that he would prefer to include this approach in the preambular paragraph of the resolution. On behalf of his delegation, the representative of **Singapore** proposed to keep only the word States, and not Member States. In turn, the representative of **Cuba** agreed to delete this word and explained that the concept of negotiation implies the progressivity of international law.

4.4. Participation of civil society organisations

Mr. **David Fernandez Puyana**, Representative in Geneva of the Spanish Society for International Human Rights Law, the International Observatory of the Human Right to Peace and the International Association of Peace Messenger Cities, stated that on 1 December 1949, the General Assembly adopted the resolution 290 (IV) on *essentials of peace* by which it declared that the UN Charter, the most solemn pact of peace in history, lays down basic principles necessary for an enduring peace, such as the full respect of fundamental rights expressed in the Universal Declaration of Human Rights. Additionally, resolution 380 (V) on *peace through deeds*, adopted by the General Assembly on 17

November 1950, stated that "if all States faithfully reflect this desire and observe their obligations under the Charter, lasting peace and security will be established". It follows that all measures tending to silence or distort the activities of the United Nations in favor of peace should be considered as propaganda against peace in accordance with the resolution 381 (V).

As stated by the resolution 2817 (XXVI) of 14 December 1971 and resolution 3065 (XXVIII) of 9 November 1973, both on *scientific work on peace research*, the General Assembly considered that fundamental research on the foundations of and conditions for peace can contribute considerably to the peace mission of the United Nations and build peace, security and cooperation in the world.

He again recalled that at its 20th session the HR Council has before it the (third) draft declaration on the right to peace submitted by the Advisory Committee and the joint CSOs' written statement entitled *A working group to continue the codification process of the human right to peace*, sponsored by 1.041 CSOs and cities worldwide. He added that the HR Council should establish an open-ended working group to continue the codification process of the right to peace, taking duly into account all preparatory work, including the input from the civil society organizations.

After, Mr. **Michel Monod**, representative in Geneva of the International Fellowship of Reconciliation, wanted to make a general comment of the Declaration on the right to peace in light of the recent events in Lybia and Syria. According to him, this draft Declaration did not focus on the responsibility to protect civilians from war and the principle of intervention in internal affairs of countries. Therefore, the internal peace is a really important approach to take into consideration.

In turn, Ms. **Maria Mercedes Rossi**, representative in Geneva of the Associazione Comunità Papa Giovanni XXIII, suggested that the Spanish proposal on the progressive development of the right to peace was a way of diminishing the future perspective of the Declaration on the right to peace and expressed her disagreement with the Austrian amendment in reducing the number of days of the OEWG.

After that, the representative of the **Russian Federation** said that CSOs should not make comments about the governmental positions and that therefore, they should not be engaged in a negotiation process. In turn, the representative of **Cuba** replied that Cuba always wants to give space to NGOs in all informal consultation meetings and he is always open to receive all types of comments, including those from CSOs. After, the representative of **Norway**, said that there is a general principle, which permits civil society to present their viewpoints and positions about all relevant issues raised by the Human Rights Council, Working Groups or informal consultations. He added that CSOs are valuable actors in all negotiation processes. In addition, he requested some answer about the relationship between internal conflict and the right to peace. In turn, the representative of **Cuba** replied that there was not enough time to enter into this particular question and that the main objective of the current meeting was to negotiate only this text. Besides, he showed his availability to discuss this matter in other meetings or forums.

4.5. Conclusion

The representative of **Cuba** asked the delegations which supported the concept of "take into account" which should be, according to them, the starting point of this negotiation. The representative of **Mexico** suggested that the future Chairperson of the OEWG should organise an informal meeting to discuss the starting point of negotiations taking into account that there is not yet a common agreement on accepting the AC draft Declaration. After, the representative of **Cuba** indicated that it would be easier to start the negotiation process with the AC draft Declaration and discuss each paragraph of the Declaration. In turn, the representative of the **Russian Federation** supported the concept of "on the basis" in spite of "take into account". After him, the representative of **Austria** said that in order to have a constructive dialogue on this matter the AC draft Declaration should not serve as a basis and that therefore, it would be more useful to rethink the steps to be taken in the immediate future. In turn, the representative of **Cuba** underlined that they need some concrete language to start the negotiations. In response to that, the representative of **Singapore** asked whether the AC draft Declaration should serve as a basis or simply as a reference and that they could not prejudge the document prepared by the Advisory Committee. In turn, the representative of **Cuba** promised to share with them an alternative language for this paragraph and asked someone to help him draft some concrete language. After saying that, he closed the second informal meeting and reiterated his intention to find a common ground on this matter and bridge gaps among all different delegations.

5. Adoption of the resolution L.16

On 5 July 2012 Mr. **Juan Antonio Quintanilla**, first Secretary of the Permanent Mission of Cuba, introducing resolution A/HRC/20/L.16, said that a change had been made to the heading, so the resolution was now called "the promotion of the right to peace". The draft resolution aimed to establish an open-ended Working Group to negotiate a draft declaration on the right to peace. It highlighted the work done by civil society in promoting the right to peace. The text had a broad number of co-sponsors and support from various sectors of civil society. Cuba thanked those delegations that were actively involved in the negotiating process. A revised document had been circulated. Cuba hoped the draft resolution would be adopted with broad support, sending a very strong message of commitment in promoting this very important issue.

Ms. **Chen Can**, third Secretary of the Permanent Mission of China, in a general comment on resolution A/HRC/20/L.16, said that the right to peace was an important collective right which China promoted. In addition, she showed her support for the establishment of the OEWG. China appreciated Cuba's adoption of proposals during the consultation process.

Mr. **Gerold Vollmer**, First Secretary of the Permanent Mission of Austria, speaking on behalf of a group of countries¹¹, said that he had the honour to deliver the following explanation of vote for the draft resolution L.16 on the promotion of the right to peace on behalf of Austria, Belgium, Czech Republic, Hungary, Italy, Poland, Romania and Spain. He stated that they support some of the principles included in the draft resolution. They

¹¹Austria, Belgium, Czech Republic, Hungary, Italy, Poland, Republic of Moldova, Romania and Spain.

would be willing to have a fruitful discussion on the linkage between peace and the enjoyment of human rights. However, he stressed that they do not recognise the right to peace in the existing international law either as a collective or as an individual human right. Moreover, there is not sufficient international consensus to justify the inter-governmental negotiation set up in this resolution as it assumes that the right to peace exists. As their countries did not support resolution 14/3 and 17/16 on the right to peace, they are deeply concerned about the content of the draft Declaration prepared by the Advisory Committee. Most of the issues raised in the resolution are better dealt with in another forum, which has the competence to do so and is ready to deal with these issues. He indicated that they have to acknowledge the openness of the main sponsor of this resolution to engage other States on the text and they took note of some of the changes made in the text. Yet, given the deep flaws of the alleged right to peace and the potential and undermining effects of the future Declaration in international human rights law, they could not support the draft resolution L. 16 and therefore, will abstain.

Mr. Robert Schwartz, representative of the Permanent Mission of the United States of America, said that like all peace-loving nations, the United States is deeply concerned whenever conflict erupts and human rights are violated. They also know that any peace is unstable where citizens are denied the right to speak freely or worship as they please, choose their own leaders or assemble without fear.

In this vein, the USA would continue its work on many of the underlying issues that the supporters of this resolution have argued the creation of a right to peace would advance, such as women's rights, disarmament and development. The USA would address each of these issues in the appropriate UN body, utilizing deep reservoirs of subject matter expertise and building on years of diligent and robust efforts.

The USA appreciated the leadership of several members in this Council to build bridges and focus on issues in which there is space for productive engagement. However, the inter-governmental Working Group created by this resolution took as its basic premise drafting a declaration that would cover many issues that are, at best, unrelated to the cause of peace and, at worst, divisive and detrimental to efforts to achieve peace. Rather than building on the existing consensus-based paths that have been developed over the years in the UN on a variety of topics related to peace-building, this resolution threatened to sow division and embroil the Council in contentious negotiations.

Regardless of how it had been promoted, studied or framed, past efforts to move forward with a right to peace have always ended in endorsements for new concepts on controversial thematic issues, often unrelated to human rights. The result has inevitably been to try and circumvent ongoing dialogue in the Council and across the UN system by using the broad support for the cause of peace to advance other agendas.

This Council could make the greatest contribution to promoting peace by focusing on the implementation of human rights obligations and commitments. Human Rights are universal and are held and exercised by individuals. The USA does not agree on attempts to develop a collective right to peace or to position it as an enabling right that would in any way modify or stifle the exercise of existing human rights.

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No country wants to be cast as voting against peace. However, this resolution and its Working Group would not contribute to the cause of peace or human rights. A vote against this resolution is not a vote against peace, but rather a vote against continuing an exercise fraught with divisions that makes no meaningful contribution to the protection of human rights on the ground.

USA therefore felt the need to call a vote and vote against this resolution, and asked that other countries vote against the establishment of this divisive, time-consuming and resource-intensive Working Group.

Next, Ms. **Laura Dupuy Lasserre**, President of the Human Rights Council called a vote at the request of the United States of America. She invited the Secretariat to close the voting machine and the Council members to record their vote. After that, she informed that the result of the vote was 34 votes in favour, one against and 12 abstentions, therefore, the draft resolution L.16 as oral revised was approved.

Mr. **Roberto Nocella**, First Secretary of the Permanent Mission of Italy, made an explanation after vote. They aligned itself with the Explanation of Vote read by Austria. Nevertheless, they made few additional remarks on the resolution L.16 after the vote. Italy recognized that some changes were introduced in the text before them that day in comparison with previous resolutions on the matter. Still, the notion of the "right to peace" remained vague and legally flawed. What is the content of the "right to peace"? Does a peace-keeping operation or humanitarian intervention violate the "right to peace"? What is the relationship between the responsibility to protect and the "right to peace"? Unfortunately, the long draft declaration prepared by the Advisory Committee did not provide clarity and guidance and they do not take it as a good basis for future activities.

In addition, Italy believed that the forthcoming working group, instead of focusing on the codification of a disputed right, should highlight the intrinsic link between human rights and peace: violations of human rights lead to conflict, as stated only a few days before by the Special Rapporteur on contemporary forms of racism, whereas the promotion and protection of human rights promotes peace. Only on such a basis could the Working Group realistically work on a consensual platform in the future. They hope that the main sponsors of the resolution will take this idea into account. While abstaining on this resolution, Italy remains committed to the promotion of peace worldwide, according to the national Constitution.

6. Concluding remarks

Mr. **Edgardo Toro**, Second Secretary of the Permanent Mission of Venezuela, expressed his satisfaction for the adoption of the resolution, which creates the Working Group on the Right to Peace. This type of initiatives should be supported by those who call themselves human rights defenders in the world. It is not possible the enjoyment of human rights without peace.

Mr. **Theo Rycroft**, Secretary of the Permanent Mission of the United Kingdom and Northern Ireland, made an statement on behalf of Canada, the Netherlands and the United

Kingdom of Great Britain and Northern Ireland. He said that they noted the adoption of HRC resolution A/HRC/20/L.16 on the “Promotion of the Right to Peace” by a vote, and would like to put their position on this matter on record. They underlined at the outset their strong commitment to human rights, democracy, and rule of law as well as international peace and security.

They remained firmly of the view that “the right to peace” does not exist under international law, whether as a collective or individual human right, or otherwise. As such, there is no justification for inter-governmental negotiations aimed at agreeing a Declaration on the concept. They considered that the decision to establish a Working Group with this aim was an overly political step. Also, notwithstanding the lack of consensus, it is a highly expensive mechanism which will draw attention and funds away from other more important tasks of the Council and the Office of the High Commissioner. The Council has missed an opportunity for a fruitful discussion aimed at finding consensus over the value that the Council can add in this area. A Panel discussion on the relationship, or links, between peace and the full enjoyment of all human rights would have been such an opportunity, and one squarely within the mandate of the Council.

They acknowledged the openness by the Main Sponsor to engage with other States on the text and note some of the changes made to the text as a result. But they regretted that they forced the issue to a vote, and given our objection to the basis on which the Working Group has been established, they will consider carefully our participation in its proceedings.

He indicated that they have closely studied the Advisory Group’s “draft Declaration on the Right to Peace”. They do not consider it a good starting point for any discussions of this nature, and in any event it is a deeply flawed document. In addition to our fundamental disagreement with the concept on which it is based, it is also potentially inconsistent with other relevant international norms, including the UN Charter.

The absence of peace cannot justify failure to respect human rights. In this regard, they were willing to consider options for the Human Rights Council to look at. They were disappointed that the main sponsors were not willing to consider their constructive efforts to find common ground. Had they been members of the Council, they would have voted ‘no’ on this resolution.

The representative of the **Mouvement contre le racisme et pour l'amitié entre les peuples** (MRAP) praised the Human Rights Council for the adoption of the resolution on the Right to Peace. The faith in fundamental human rights is the main pillar, followed by peace/security and development. The three elements are linked and interrelated by nature. Reinforcing one of them will make the building stronger. He invited the United States of America, the only Human Rights Council member who opposed to the adoption L. 16, to work in a more constructive way in the promotion of human rights and peace.

Annex I

Resolution on the "promotion of the right to peace"

The Human Rights Council,

Recalling all previous resolutions on the promotion of the right of peoples to peace adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council, in particular resolutions 14/3 and 17/16, in which the Council requested the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to prepare a draft declaration on the right of peoples to peace,

Recalling also General Assembly resolution 39/11 of 12 November 1984 entitled "Declaration of the Right of Peoples to Peace" and the United Nations Millennium Declaration,

Determined to foster strict respect for the purposes and principles enshrined in the Charter of the United Nations,

Welcoming the important work being carried out by civil society organizations for the promotion of the right to peace and their contribution to the development of this issue,

Taking note of the draft declaration prepared by the Advisory Committee contained in its study submitted to the Council (A/HRC/20/31),

Bearing in mind the progressive development of this issue,

1. Decides to establish an open-ended intergovernmental working group with the mandate of progressively negotiating, and eventually finalizing and submitting to the Council a draft United Nations declaration on the right to peace, on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals;
2. Also decides that the working group shall hold its first session for four working days in 2013, before the twenty-second session of the Council;
3. Requests the Office of the United Nations High Commissioner for Human Rights to provide the working group with the necessary assistance for it to fulfill its mandate;
5. Requests the President of the Council to invite the Chairperson of the Advisory Committee drafting group on the draft declaration to participate at the first session of the working group;
6. Invites States, civil society, and all relevant stakeholders, to contribute actively and constructively to the work of the working group;

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7. Requests the working group to submit a report on progress made to the Council for consideration at its twenty-third session.
