

UN Human Rights Council

Advisory Committee

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**The right of peoples to peace**

**Analytical report**

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## 1. Introduction

On 20-24 February 2012, the meeting room of the Alliance of Civilizations (Room XX) at the Palais des Nations (Geneva) hosted the eighth session of the UN Human Rights Council Advisory Committee. According to the programme of work, the topics main covered were: right to food; integration of a gender perspective; the promotion of a democratic and equitable international order, the integration of the perspective of persons with disabilities, human rights and international solidarity, the promotion of the right of peoples to peace, the enhancement of international cooperation in the field of human rights, promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind and human rights and issues related to terrorist hostage-taking.

## 2. Background on the right of peoples to peace

The Human Rights Council has been working since 2008 on the **promotion of the right of peoples to peace**. On 17 June 2010 it adopted resolution 14/3 which explicitly recognized "... the important work being carried out by civil society organizations for the promotion of the right of peoples to peace and the codification of that right"<sup>1</sup>; and "supported the need to further promote the realization of the right of peoples to peace". In that regard it 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, and to report on the progress thereon to the Council at its seventeenth session"<sup>2</sup>.

On 17 June 2011, the HR Council adopted resolution 17/16 by which it "takes note of the progress report of the HRC Advisory Committee on the right of peoples to peace (A/HRC/17/39)..." and it "supports the need to further promote the realization of the right of peoples to peace and, in that regard, requests the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to present a draft declaration on the right of peoples to peace, and to report on progress thereon to the Council at its twentieth session" (in June 2012).

At its eighth session, the *drafting group* submitted the **progress report on the right of peoples to peace**, doc. A/HRC/AC/8/2 of 9 December 2011. After its debate within the Advisory Committee, the draft recommendation contained in document A/HRC/AC/8/L.4 was approved without a vote on 24 February 2012 with the sponsorship of the following AC members: Ms Laurence Boisson de Chazournes (France), Mr. Shiqiu Chen (China), Ms. Chinsung Chung (Korea), Mr. Wolfgang Stefan Heinz (Germany), Mr. Latif Hüseyinov (Azerbaijan), Mr. Ntundurugu Alfred Karokora (Uganda), Mr. Vladimir Kartashkin

<sup>1</sup>Last preambular paragraph of the res. 14/3 cit.

<sup>2</sup>Ibídem *id.*, operative § 15.

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(Russian Federation), Mr. Obiora Chinedu Okafor (Nigeria), Ms Anantonia Reyes Prado (Guatemala), Mr. Shigeki Sakamoto (Japan), Mr. Dheerujlall Seetulsingh (Mauritius), Mr. Ahmer Bilal Soofi (Pakistan), Ms. Halima Embarek Warzazi (Morocco), Mr. Jean Ziegler (Switzerland) and Ms Mona Zulfikar (Egypt).

Recommendation 8/4 reaffirmed the composition of the *drafting group* as follows: Mrs. Mona Zulfikar (Egypt, Chairperson), Mr Wolfgang Stefan Heinz (Germany, Rapporteur), Mr. Miguel D'Escoto Brockmann (Nicaragua), Mrs. Chinsug Chung (Korea), Mr. Latif Huseynov (Azerbaijan) and Mr. Shigeki Sakamoto (Japan).

Recommendation 8/4 *took note* of the progress report submitted by the drafting group to the Advisory Committee at its seventh session (A/HRC/AC/8/2) (paragraph 1); it *welcomed* the submissions and comments received during its eighth session by various stakeholders and members of the Advisory Committee (paragraph 2); it also *welcomed* the initiatives of civil society actors to organize discussions on the draft declaration of the Advisory Committee; (paragraph 3); it *requested* the drafting group to finalize its work on the draft declaration on the right of peoples to peace in the light of the discussions held by the Advisory Committee at its eighth session, and to submit it to the Human Rights Council at its twentieth session (paragraph 4); it also *requested* the drafting group to include in its revision, inter alia: (a) Reference to the link between the right to peace and all civil, political, economic, social and cultural rights in article 1; (b) Reference to the importance of citizen security and a preventive approach; (c) Strengthening of gender mainstreaming in article 8; (d) Reference to the right to truth in article. 11; (e) More explicit wording on a monitoring mechanism in article 13 (paragraph 5); it *expressed* the wish that a representative of the drafting group on the right of peoples to peace of the Advisory Committee be invited to participate in the discussions of the Human Rights Council on the draft declaration; (paragraph 6); it also *expressed* the wish that the drafting group be kept informed of the follow-up to the work of the Human Rights Council, and that it might be involved, in appropriate ways, in the ongoing debate (paragraph 7); and it *requested* the Office of the United Nations High Commissioner for Human Rights to provide the drafting group with all the assistance necessary to enable it to accomplish its task (paragraph 8).

**The participation of civil society in the general debate of the Advisory Committee on the right of peoples to peace was particularly relevant, highlighting the submission of the joint written statement entitled "Amendments to the (second) draft Declaration on the Right to Peace submitted by the Advisory Committee drafting group"(A/HRC/AC/8/NGO/2 of 15 February 2012). It was prepared by the SSIHRL and the IOHRP with the support of 1.116 civil society organizations and cities worldwide.**

In addition, the Japan Federation of Bar Associations submitted the written statement entitled "Opinion concerning the Declaration on the Right of Peoples to Peace"

(A/HRC/AC/8/NGO/1 of 6 February 2012); and the International Association of Democratic Lawyers submitted another written statement entitled "Opinion for the draft Declaration on the right to peace" (A/HRC/AC/8/NGO/3 of 15 February 2012)

In the general debate a representative of the SSIHRL and representatives of other CSO delivered oral statements on the right to peace, namely: the International Association of Democratic Lawyers, the Conscience and Peace Tax International at the United Nations, the United Network of Young Peace-builders, the Indian Council of South America, the Japanese Worker's Committee for Human Rights and the Japanese Federation of Bar Associations on behalf of 52 Lawyers Associations in Japan. In addition, an expert member of the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) actively participated at the general debate on the right to peace.

**On 24 February 2012 the SPT adopted by consensus a statement at its 16th session supporting the codification process of the right to peace by which urges the Advisory Committee to include in Article 11 of its draft Declaration a paragraph 4 on persons deprived of their liberty and their right to be treated humanely and to be protected by the State against all type of violence.**

### **3. General debate on the right of peoples to peace.**

On 20 February 2012, the 8th session of the Advisory Committee was opened by the President of the Human Rights Council, President of the Advisory Committee and the Director of the Human Rights Council and Special Procedures Division of the OHCHR.

**Mrs. Laura Dupuy**, President of the Human Rights Council and Permanent Representative of the Oriental Republic of Uruguay before the United Nations, stressed that one of the mandates of the Advisory Committee is to draft a Declaration on the right of peoples to peace.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson) recalled the resolution 17/16 of 17 June 2011 by which the HR Council requested the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to present a draft declaration on the right of peoples to peace, and to report on progress thereon to the Council at its twentieth session (in June 2012). In addition, he stressed that the drafting group took into account many of the valuable proposals that were made by the AC experts, States and NGO at the seventh session of the Advisory Committee.

The same day in the morning and afternoon sessions the Advisory Committee examined the issue of the draft declaration on the right to peace, along with the progress

report and the (second) draft Declaration prepared by the drafting group. The second draft Declaration was presented by **Mr. Wolfgang Stefan Heinz** (Rapporteur) and **Ms. Mona Zulficar** (Chairperson).

**Mr. Heinz** (Germany, rapporteur of the drafting group) indicated that according to resolution 17/16 of 17 June 2011 the HR Council requested the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to present a draft declaration on the right to peace, and to report on progress thereon to the Council at its twentieth session (in June 2012). He added that the drafting group took into account many of the valuable proposals that were made by the AC experts, States and NGO at the seventh session of the Advisory Committee.

He stressed that the draft declaration focused 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.

The speaker then summarized the main developments since the last session of the AC held in August 2011, namely: the organisation by the Spanish Society for International Human Rights Law, the World Council of Churches, the Japan Lawyers International Solidarity and the International Observatory on the Human Right to Peace of the *Second Consultation of members of the Advisory Committee with civil society experts on the right to peace* held on 19 February 2012 at the John Knox Center; the adoption of resolutions in support of the right to peace by the twenty-first Ibero-American Summit in Asunción, Paraguay (29 October 2011) and the Parliament of Spain (14 September 2011) .

As stressed by the Rapporteur, in the original mandate of the Human Rights Council, reference was made to “the right of peoples to peace” and to, in this regard, General Assembly resolution 39/11, which was adopted more than 25 years ago, in 1984. The Advisory Committee proposes the term “right to peace”, which was found to be more appropriate, and includes both the individual and collective dimensions.

Finally, the Rapporteur underlined some of the amendments included in the (second) draft Declaration on the Right to Peace, *inter alia*: education and socialization for peace is a condition *sine qua non* for unlearning war and building identities disentangled from violence (art. 4.2); States shall take all the necessary measures to ensure development and protection of the environment, including disaster preparedness strategies, as their absence poses a threat to peace (art. 10.4); States should strengthen the effectiveness of the United Nations in its dual functions of preventing violations and protecting human rights and human dignity, including the right to peace. In particular, it is for the General Assembly, the Security Council, the Human Rights Council and other competent bodies to take effective measures to protect human rights from violations that may constitute a



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danger or threat to international peace and security (art. 13.5) and the Human Rights Council is invited to set up a body to continue discussion on and monitoring of the right to peace and to report to relevant United Nations bodies (art. 13.6).

**Ms. Zulficar** (Egypt, chairperson of the drafting group) welcomed the work performed by the Rapporteur and the value of the inputs received by the civil society organizations. She noted that there is currently a growing interest in the right to peace among governments and NGO and that this right has been included in the international agenda.

The speaker noted that the inclusion of a mechanism of monitoring and implementation in the draft Declaration is being discussed within the drafting group. However, she said that it would be very important to set up a mechanism, such as a working group or a special rapporteur, in order to implement the right to peace in all regions of the world and continue discussion and its further consideration.

In the subsequent discussion several members of the AC showed their support to the (second) draft Declaration on the right to peace.

**Mr. Dheerujall Seetulsingh** (Mauritius) proposed the following amendments:

Article 3.1 on disarmament: He believed that the illegal arms trade is important enough to deserve a separate article without being put together with the concept of disarmament.

Article 6.1 on private military and security companies: He asked about the activities that may be outsourced. According to him, it must be both a national regime and an international

Article 7.2 on resistance and opposition to oppression: He proposed to include a definition about the right to peace

Article 9 on development: He suggested that Article 9.4 should be given preeminence in the draft Declaration and that the contents of the first three paragraphs should be summarized to support the enunciation in paragraph 4.

Article 10 on environment: Similarly he suggested that this article may be redrafted to put the third paragraph first and to establish the causal relationship between war and the threat to the right to a safe environment mentioned in the first two paragraphs.

Article 12 on refugees and migrants: He suggested that greater emphasis should be placed on article 12.2, that is, refugees from war.

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Article 13.5 on obligations and implementation: The second sentence may require some redrafting to integrate it into the first sentence. Otherwise the statement does not sound strong enough.

**Mrs. Laurence Boisson de Chazournes** (France) stressed that the linkage between the right to peace and the respect of all human rights, including civil, political, economic, social and cultural rights, should be recognised in article 2.1 on human security. In addition, she recommended to include in the draft Declaration Principles 3 and 4 on sustainable development as adopted on the Rio Declaration on Environment and Development. Moreover, she considered that the principle of "common but differentiated responsibility" and the concept of technology transfer in the field of the climate change should be included in article 10.1 on environment.

**Mr. Jean Ziegler** (Switzerland) referred to article 12 on refugees and migrants, and in particular he proposed to include in this provision the refugees from hunger and the *non-refoulement* principle. According to him, this new type of refugees have not been recognised in the 1951 Convention relating to the status of refugees. He added that both himself as former special rapporteur of the HR Council on the right to food and the current special rapporteur Mr. Olivier De Schutter, tried to persuade the international community to recognise refugees from hunger as holders of the refugee status and entitled to a guarantee of provisional *non-refoulement*. The United Nations should re-negotiate the 1951 Convention in order to include these new kind of refugees. In addition, he referred to the charter of hunger prepared by the World Food Program to analyse the human rights situation of thousand of hungry people forced to flee from their poor regions in order to find a better life abroad.

**Mr. Victor Manuel Rodriguez Rescia** (Costa Rica), speaking on behalf of the UN Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("SPT") welcomed the work performed by the Advisory Committee in the field of the right to peace and thanked to all AC members for writing the history. In addition, the SPT would like to propose some points to be included in the draft Declaration, namely: firstly, the title of the Declaration should be "the human right to peace" to recognize the double dimension of the right to peace, both individual and collective; secondly, the Declaration should be a useful tool to promote social peace and combat the structural violence; thirdly, individuals deprived of their liberty and women that suffer from violence should be named as persons belonging to groups in situation of vulnerability (art. 11).

**Mr. José Antonio Bengoa Cabello** (Chile) stressed that the added value of this Declaration should be the involvement of civil society in its implementation. Currently, peoples and individuals are claiming for an implementation body. In addition, he considered that article 13.6 of the (second) draft Declaration on the right to peace was very



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weak. He stressed the significant contribution of civil society in this matter, which had presented valuable amendments to the full text in their joint written statement A/HRC/AC/8/NGO/2 of 15 February 2012. He proposed to incorporate in the draft Declaration the mechanism of monitoring laid down in the *Santiago Declaration*, and in particular the establishment of a working group on the human right to peace to be appointed by the General Assembly.

**Mr. Vladimir Kartashkin** (Russian Federation) considered that the right to peace enforced the international human rights law in general and that we need to be cautious about the linkage between ideas and norms.

**Ms. Anantonia Reyes Prado** (Guatemala) proposed to include the concept of citizen security as measure of prevention in article 6 of the draft Declaration.

**Mrs. Zulficar** (Egypt, chairperson of the drafting group) summing up the debate stressed that the drafting group has included the crimes against women and the Security Council resolution 1325 on women, peace and security in article 2 on human security. Moreover, she stressed the linkage between the international humanitarian law and the conscientious objection to military service (art. 5) in the context of the peaceful uprisings. Finally, she reiterated that a Declaration of this kind needs an effective and monitoring mechanism, such as a working group or a special rapporteur.

**Mr. Juan Antonio Quintanilla (Cuba)** thanked the Advisory Committee drafting group for the work done on the right to peace. Undoubtedly, the right to peace is a major issue for the Human Rights Council, where it has won a high interest among governments and civil society. The right to peace is a sacred right of peoples and its promotion and implementation is a primary obligation of the States. In accordance with the Universal Declaration of Human Rights, everyone is entitled to a social and international order in which all rights can be fully realized. Peace is, without doubt, an essential component of that order. Peace is an essential condition for the enjoyment of all human rights, above all the right to life. He added that there has been a progressive development of peace since the adoption of the 1984 Declaration on the Right of Peoples to Peace and the 2000 Millennium Declaration by the General Assembly.

As the first phase of this process is coming to an end before the Advisory Committee, it is time for direct action of States in relation to the draft Declaration. To this end, Cuba intends to propose the establishment of an intergovernmental open-ended working group of the HR Council at its 20th session (June 2012). In this context he requested the Advisory Committee to adopt a recommendation in favour of the establishment of such a working group, since it will be a boost to the issue and will reaffirm its importance.

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The speaker reiterated Cuba's commitment for the promotion of peace as a fundamental right to the full enjoyment of all human rights for all. In addition, he accepted the concept of the right to peace in its double dimension, individual and collective, in the title of the Declaration. However, the human security cannot be an excuse to introduce the theory of the responsibility to protect. It was also suitable to use the concept of development and not sustainable development; and to include in the draft Declaration a provision about the threat of nuclear weapons.

**Mr. Sami Bougacha (Tunisia)** before the UN in Geneva congratulated the drafting group for the work done on the right to peace. He announced the will of Tunisia to contribute in the codification process of the right to peace and actively participate in the work of the future intergovernmental open-ended working group at the HR Council. He recalled that article 23 of the African Charter on Human and Peoples' Rights stated that all peoples shall have the right to national and international peace and security. According to the speaker, the Declaration will be useful to strengthen peace and security in the world.

**Mrs. Lourdes Boné (Oriental Republic of Uruguay)** welcomed the progress report elaborated by the drafting group on the right to peace and noted with satisfaction that the drafting group has considered some of the comments and proposals made by her delegation at the Advisory Committee at its seventh session, such as reference to education and decent work.

In regards to the content of the draft Declaration, she made some preliminary comments and raised some questions, namely: the concept of national security and human security appears as two isolated concepts, when these concepts should be linked, since national security strengthens human security (art. 8.2); the gender approach to the maintenance of peace should go along with the suggestions provided by NGO<sup>3</sup>; discrimination as a source of structural violence should be also included to eliminate the causes of these phenomena (art. 2.7); the respect of civil and political rights should be linked with the promotion of development (art. 9); the concept of sustainable development should be used to take measures to prevent negative environmental impacts and provide appropriate safeguards and peaceful settlement of disputes (art. 10.3); the right to truth should be included in the draft Declaration as already suggested by NGO<sup>4</sup> and a reference to indigenous peoples as vulnerable groups should be understood merely as an example without excluding any other type of vulnerable groups (art. 11); forced movement of people and stateless persons should also be protected by the 1951 Geneva Convention relating to

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<sup>3</sup>Art. 12.3 of the Santiago Declaration: "States, international organizations, in particular the United Nations, and civil society shall facilitate the specific contribution of women to the prevention, management and peaceful settlement of disputes, and promote their contribution to building, consolidating and maintaining peace after conflicts. To this end, the increased representation of women shall be promoted at all levels of decision-making in national, regional and international institutions and mechanisms in these areas".

<sup>4</sup>Art. 11.3 of the Santiago Declaration: "The victims of human rights violations, the members of their families and society in general have the right to know the truth, not subject to statutory limitations"

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the status of refugees (art. 12); the regional organizations should be incorporated in the coordinated strategies among different international actors in line with the proposals received from by NGO<sup>5</sup> (art. 13).

**Mr. Christian Guillermet (Costa Rica)** congratulated all members of the drafting group for their work. He said that it is time for including the right to peace in the international agenda. He recognised the work performed by the Advisory Committee and civil society and supported the concept of the right to peace. He requested the Advisory Committee to adopt a recommendation in favour of the establishment of an intergovernmental open-ended working group of the HR Council at its 20th session (June 2012). It is the time for the intergovernmental negotiation to achieve the adoption of a Declaration on the right to peace by the General Assembly. Finally, he announced that Costa Rica is working to reach this aim through the consensus among all UN Member States.

**Mr. Manuel Alhama Orenes (Spain)** recalled the Preamble of the International Covenant on Civil and Political Rights stated that the 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. He considered that we need to go from ideals to particular legal standards in the right to peace. Finally, he reiterated the will of Spain to participate in a general reflection on this particular topic.

**Mr. Saeed Sarwar (Pakistan)** congratulated the drafting group for the work done. He took note of the draft Declaration and noted with satisfaction that the drafting group has considered some of the comments and proposals made by his delegation at the Advisory Committee at its seventh session. He announced the will of Pakistan to follow actively the process of the right to peace.

**Mr. Gonzalo Jordan (Argentina)** referred to the support of Argentina to the process of the right to peace initiated at the HR Council. He proposed the drafting group to further elaborate the concept of right to truth, justice and non-repetition in the article 11 of the draft Declaration.

**Mr. Alexey O. Goltyaev (Russian Federation)** thanked the drafting group for the work done and indicated that his delegation will support the right of peoples to peace as collective right. According to him, the right to peace is based on the three UN pillars, namely: human rights, peace and security and development. In addition, he considered that

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<sup>5</sup>Art. 13.6 of the Santiago Declaration: "The United Nations system must engage in a thorough and effective manner, through the United Nations Peace-building Commission, in cooperation with other entities of the United Nations and relevant regional and sub-regional organisations, in the elaboration of integrated strategies for peace and for the reconstruction of affected countries following the end of armed conflicts. Such strategies must ensure stable sources of financing and effective coordination within the United Nations system. In this context, the effective implementation of the Programme of Action on a Culture of Peace is underscored"

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the HR Council should not use the concept of human security to develop the responsibility to protect beyond the concept agreed on the 2005 Outcome Summit Document.

**Mr. Carlos Villán Durán** (speaking on behalf of 1.116 CSO and cities world-wide), referred to the joint CSO written statement submitted in document A/HRC/AC/8/NGO/2 of 15 February 2012. He congratulated the drafting group for its report (doc. A/HRC/AC/8/2) and referred to paragraph 6 according to which the original mandate received from the HR Council was on the "right of peoples to peace", but later the Advisory Committee proposed the term "right to peace", which was found to be more appropriate, and includes both the individual and collective dimensions. The speaker agreed with this proposal, but CSO insisted that the best title for the draft Declaration should be "the human right to peace" and it should also include minorities and humanity as right-holders.

The speaker invited the Advisory Committee to consider relevant amendments to the draft Declaration as provided by the joint CSO written statement in light with the *Santiago Declaration on the Human Right to Peace*, adopted by the international civil society on 10 December 2010.

The speaker focused on article 13 of the draft Declaration, suggesting that it should be divided into three articles following the *Santiago Declaration*, namely: article 13 ("Obligations for the realization of the human right to peace"); article 14 ("Establishment of the Working Group on the Human Right to Peace"); and article 15 ("Functions of the Working Group").

The speaker disagreed with the current wording of article 13.6 of the draft Declaration which "invites the HR Council to set up a body to continue discussion on and monitoring of the right to peace and to report to relevant United Nations bodies". The article might lead to confuse two bodies of different nature, namely:

1. An intergovernmental open-ended *working group on standard setting* to continue the codification process of the human right to peace upon receipt of the AC draft Declaration (with active participation of civil society). The Advisory Committee should include a recommendation in favour of the working group in the **introduction of its report** to the HR Council.

2. A *working group on the human right to peace* to monitor the implementation of the Declaration (independent experts), to be appointed by the General Assembly. The Advisory Committee should follow the model set up at articles 14 and 15 of the *Santiago Declaration*. The system of special procedures of the HR Council provides many examples of extra-conventional mechanisms established for the protection of human rights that have assumed the implementation of several Declarations adopted by the General Assembly on

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topics such as torture, enforced or involuntary disappearances, human rights defenders, or violence against women. Therefore, a new special procedure should be established in order to ensure the promotion and protection of the human right to peace, as defined in the Declaration once it will be approved by the General Assembly. The working group's functions should follow the best practices adopted by the special procedures of the HR Council.

Finally, the speaker urged the Advisory Committee to add in the draft Declaration three Final Provisions set up in the *Santiago Declaration* aiming at preserve the integrity of the international human rights law, the principle *pro persona*, and the States' obligation "to implement in good faith the provisions of the Declaration by adopting relevant legislative, judicial, administrative, educational or other measures necessary to promote its effective realization".

**Mr. Jun Sasamoto** (International Association of Democratic Lawyers) stated that article 2.2 of the draft Declaration contained the right to live in peace, but in a passive meaning. An additional step forward is needed. Japan and Costa Rica are good examples. The Japanese Constitution clearly defined the right to live in peace and the right to renounce war. The Costa Rican Constitution established the abolishment of the army. On the other hand, article 3 on disarmament should include this provision: "States shall adopt effective and coordinated measures in order to progressively phase out their armies and foreign military bases" (art. 7.1 of the *Santiago Declaration*). Finally, article 3.2 should widen its scope say: "free of weapons, particularly weapons of mass destruction". He concluded that the draft Declaration is too narrow, since the UN Charter established in 1945 the States' obligation to reduce their armaments, which unfortunately has not yet been honoured.

**Mr. Akira Maeda** (Japanese Workers' Committee for Human Rights) recalled that article 9 of the Japanese Constitution proclaimed the renouncement of war and abandonment of any army. In addition, the Preamble of that same Constitution read: "We, Japanese people, recognize that all peoples of the world have the right to live in peace, free from fear and want". On 17 April 2008, the Nagoya High Court found that the right to live in peace is a concrete right. Paragraph on "peace zones and nuclear weapon-free zone" in article 3 on disarmament was welcomed. In 2004 Japanese people started the new Peace Zone Campaign to ask local governments to create demilitarised zones, according to article 59 of the First Protocol of 1949 Geneva Conventions of 1977. Currently, there are 27 countries without armies in the world.

**Mr. Yasushi Higashizawa** (Japanese Federation of Bar Associations) stressed his support to the right to peace. He proposed to include an additional clause on the prohibition of discrimination in article 1.1 of the draft Declaration. Moreover, the right to peace has to be in conformity with international human rights law instruments. Finally, the speaker

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proposed to include a provision on the need to enforce judicial remedies in the implementation of the right to peace.

**Mr. Oliver Rizzi** (United Network of Young Peace-builders) expressed his appreciation for the work of the drafting group, and especially the inclusion of Article 4 on peace education and training. According to him, peace and the enforcement of peace may be contradictory, so that education is fundamental for the realization of peace. Regarding Article 4.2, the first sentence read as follows: "Everyone has the right to demand and obtain the competences needed to participate in the creative and non-violent resolution or, failing that, transformation, of conflicts throughout their life." However, "conflict resolution" and "conflict transformation" are specific concepts, so that "resolution" may not be better than "transformation" and they should be switched. If the structure of the sentence is to be kept, then he suggested the sentence be rewritten to read as follows: "Everyone has the right to demand and obtain the competences needed to participate in the creative and non-violent transformation or, failing that, resolution, of conflicts throughout their life."

**Mr. Derek Brett** (Conscience and Peace Tax International) congratulated the drafting group since the draft Declaration represented a considerable improvement on earlier documents, and could go forward to the Council as it stands, although it will be good if consensus can be achieved on some of the amendments to further strengthening the text as proposed by CSO.

The speaker was pleased with the separation of the right of conscientious objection to military service – which is a fundamental component of the right to peace – from other issues. This right stems from the freedom of thought, conscience and religion, but it sat uneasily in last year's draft alongside a paragraph about religious intolerance and the persecution of persons on the basis of their actual or perceived religious identity.

The link to the specific disobedience of illegal orders is a more direct one. Rarely does a person faced with such an order have the ability or the time to produce solid authority for its illegality before having to make the choice between obedience and disobedience. So the test for the exercise of this right has to be akin to that for the sincerity of a conscientious objection. That said, the reservations which were raised this morning about Article 5.2, that it conflicts with the duty of obedience implicit in military service, overlook the fact that the Article refers only to manifestly illegal orders to disobey, which is arguably a superior duty imposed by the Nuremberg Principles and International Humanitarian Law.

The title of Article 5 is "conscientious objection to military service". Not only is conscientious objection to military service more directly pertinent to right to peace than other manifestations of freedom of conscience; it is specifically the right of conscientious



objection to military service, because of its link to the obligation to use lethal force<sup>6</sup>, which is ever more firmly established in international and regional human rights jurisprudence. Notably, last year, in the case *Bayatyan v Armenia*,<sup>7</sup> the Grand Chamber of the European Court of Human Rights reviewed its early jurisprudence, which had allowed States a wide margin of appreciation in this area, and the Court has subsequently issued several further judgements upholding the rights of conscientious objectors to military service.<sup>8</sup> Last year also, the UN Human Rights Committee found that the right of conscientious objection to military service *inhered* in the freedom of thought, conscience and religion.<sup>9</sup> This means that the question does not even arise of which limitations States might legitimately impose on the right.

Article 5 of the draft declaration is there to affirm this specific right of conscientious objection to military service, not to address for instance the situation of a medical practitioner who has a conscientious objection to participating in a family planning programme. Any such confusion would be removed if the opening words of Article 5.1 were changed to accord with the title, so that it would read: “Individuals have the right of conscientious objection to military service ...”

**Mr. Shiqiu Chen** (China) expressed his sincerest thanks to the drafting group for the work done in regards to the draft Declaration. He recognised the difficulties to work on this topic and stressed the need to set up a monitoring body in the draft Declaration. In order to achieve the accomplishment of the right to peace, States are obliged to promote this right and, besides, it is necessary to know how to assure the implementation of this right. He raised some concerns related to the right to peace, such as the role of the military regional organizations, the obligations of the Security Council or the right to self-defence.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson) informed that the list of speakers had been concluded and also thanked all stakeholders for their contributions.

Next, **Mr. Heinz** (Germany, rapporteur of the drafting group) stated that he could not respond to all questions and suggestions proposed by AC experts, NGO representatives and governments. However, he acknowledged that article 13 on obligation and implementation needed further development; the human rights approach to the right to peace is vital; the open-ended working group on standard setting could be a useful tool to

<sup>6</sup> See Human Rights Committee, General Comment No. 22: The right to freedom of thought conscience and religion ) Article 18), 30<sup>th</sup> July 1993, Para 11.

<sup>7</sup> Application No.23459/03, Grand Chamber Judgment of 7<sup>th</sup> July, 2011.

<sup>8</sup> *Ercep v Turkey*, Application No.43965/04, Chamber Judgment of 22<sup>nd</sup> November 2011; *Bukharatzen v Armenia*, Application No. 37819/03, Chamber Judgment of 10<sup>th</sup> January 2012; *Tsaturyan v Armenia*, Application No. 37821/03, Chamber Judgment of 10<sup>th</sup> January 2012; *Feti Demirtas v Turkey*, Application No. 5260/07, Chamber Judgment of 17 January, 2012

<sup>9</sup> Human Rights Committee, Views adopted 24<sup>th</sup> March 2011, Communications Nos. 1642 to 1741, *Min-Kyu Yeong et al v Republic of Korea*, (CCPR/C/D/1642-1741), Para 7.3.

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find a common ground on this topic; and finally, he expressed his wish not to go back to past discussions and divisions on this matter.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson) informed that the drafting group will take some time to finalize its work and subsequently, submit the final Declaration to the AC Secretariat.

**Mr. Heinz** (Germany, rapporteur of the drafting group) informed that on 24 February the AC will adopt a procedural recommendation and expressed the need of the drafting group to sit down again to study carefully all suggestions.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson) again repeated that the drafting group needs time to finalize its work.

**Mrs. Zulficar** (Egypt, chairperson of the drafting group) agreed about the need to have more time to finalize the drafting group's work and to assimilate all inputs.

**Mr. José Antonio Bengoa Cabello** (Chile) indicated that it was very difficult for the AC to adopt the final Declaration by either not being present. He proposed to the drafting group to include in the recommendation to be adopted on 24 February those crucial legal standards or points which could be accepted by the AC.

After, **Mr. Heinz** (Germany, rapporteur of the drafting group) accepted to include the main points in the draft recommendation and explained that the drafting group needed more time to finalize its work. According to him, other human rights instruments adopted by the AC also needed more time in order to include the inputs received during the AC session.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson) stated that it was impossible to end the work this week and proposed to the drafting group to include in the draft recommendation the main points on which there was an agreement within the AC.

**Ms. Halima Embarek Warzazi** (Morocco) stressed her agreement with Mr. Bengoa's proposal.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson), concluded by stating that the drafting group would include in the draft recommendation the main points on which there was an agreement within the AC and will also have more time to finalize its work. Finally, he closed the general debate on the right of peoples to peace.

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#### **4. Action on draft recommendation A/HRC/AC/8/L.4 by the Advisory Committee.**

On 24 February 2012, **Mr. Shigeki Sakamoto** (Japan, member of the drafting group) submitted to the AC the draft recommendation on the right of peoples to peace and warmly thanked to all governments and civil society representatives for their valuable work and inputs. He read out the main paragraphs contained in the draft recommendation, in particular paragraphs 3 -on civil society contribution- and 4 -on the obligation to submit it to the HRC at its twentieth session-.

**Mr. José Antonio Bengoa Cabello** (Chile) asked Mr. Sakamoto if the drafting group could have enough time to transmit the Declaration to the HRC at its twentieth session.

**Mr. Shigeki Sakamoto** (Japan, member of the drafting group) replied that the drafting group could not postpone the submission of the Declaration beyond the 20<sup>th</sup> session of the HRC as it was mandatory.

**Ms. Laura Dolce Kannan** (Secretary of the AC) informed that the drafting group had to submit the final Declaration to the Secretariat by 2 April 2012.

**Mr. Latif Huseynov** (Azerbaijan, Chairperson) declared then the recommendation approved without a vote.

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## Annex I

### **Recommendation 8/4 adopted by the Advisory Committee on 24 February 2012**

#### **8/4. Drafting group on the promotion of the right of peoples to peace**

*The Human Rights Council Advisory Committee,*

*Recalling* Human Rights Council resolution 14/3 of 17 June 2010, in which the Council requested the Advisory Committee to prepare a draft declaration on the right of peoples to peace,

*Recalling* also that, at its fifth session, the Advisory Committee designated Chinsung Chung, Miguel d'Escoto Brockmann, Wolfgang Stefan Heinz and Mona Zulficar as members of the drafting group, which subsequently elected Ms. Zulficar as Chairperson and Mr. Heinz as Rapporteur, and that Shigeki Sakamoto and Latif Hüseyinov joined the drafting group at the sixth session of the Committee,

*Recalling* further that the Human Rights Council, in its resolution 17/16 of 17 June 2011, requested the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to present a draft declaration on the right of peoples to peace and to report on progress thereon to the Council at its twentieth session,

1. *Takes note* of the progress report on the right of peoples to peace submitted by the drafting group to the Advisory Committee at its eighth session;

2. *Welcomes* the submissions and comments received during its eighth session by various stakeholders and members of the Advisory Committee;

3. *Also welcomes* the initiatives of civil society actors to organize discussions on the draft declaration of the Advisory Committee;

4. *Requests* the drafting group to finalize its work on the draft declaration on the right of peoples to peace in the light of the discussions held by the Advisory Committee at its eighth session, and to submit it to the Human Rights Council at its twentieth session;

5. *Also requests* the drafting group to include in its revision, inter alia:

- (a) Reference to the link between the right to peace and all civil, political, economic, social and cultural rights in article 1;
- (b) Reference to the importance of citizen security and a preventive approach;
- (c) Strengthening of gender mainstreaming in article 8;
- (d) Reference to the right to truth in article. 11;
- (e) More explicit wording on a monitoring mechanism in article 13;

6. *Expresses* the wish that a representative of the drafting group on the right of peoples to peace of the Advisory Committee be invited to participate in the discussions of the Human Rights Council on the draft declaration;

7. *Also expresses* the wish that the drafting group be kept informed of the follow-up to the work of the Human Rights Council, and that it might be involved, in appropriate ways, in the ongoing debate;

8. *Requests* the Office of the United Nations High Commissioner for Human Rights to provide the drafting group with all the assistance necessary to enable it to accomplish its task.



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## **Annex II**

### **Draft Declaration on the right to peace submitted by the drafting group on 12 December 2011**

#### **Progress report prepared by the drafting group of the Advisory Committee.**

1. In its resolution 14/3, the Human Rights 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 and to report thereon to the Council at its seventeenth session.
2. In its recommendation 5/2, the Advisory Committee designated Chinsung Chung, Miguel d'Escoto Brockmann, Wolfgang Stefan Heinz (Rapporteur) and Mona Zulficar (Chairperson) as members of the drafting group, which was later expanded to include Shigeki Sakamoto and Latif Hüseyinov.
3. The Advisory Committee presented a progress report to the Human Rights Council (A/HRC/17/39) and prepared a questionnaire to consult with Member States and other stakeholders. In the responses to the questionnaire prepared by the Committee, considerable support was expressed for the basic approach and standards proposed by the Committee, as were certain criticisms and suggestions to change the proposed standards and to add others. Responses to the questionnaire received have been posted on the Extranet page of the Advisory Committee.
4. In its resolution 17/16, the Human Rights Council requested the Advisory Committee to continue its work and to present a draft declaration to the Council at its twentieth session, in June 2012.
5. The drafting group submitted a first draft declaration on the right of peoples to peace to the Advisory Committee at its seventh session, in August 2007 (A/HRC/AC/7/3), where it was discussed comprehensively.
6. In the original mandate of the Human Rights Council, reference is made to “the right of peoples to peace” and to, in this regard,



General Assembly resolution 39/11, which was adopted more than 25 years ago, in 1984. The Advisory Committee proposes the term “right to peace”, which was found to be more appropriate, and includes both the individual and collective dimensions.

7. The drafting group took into account many of the valuable proposals that were made at the seventh session of the Advisory Committee. 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 (see annex).

8. The second, revised draft declaration, annexed to the present document, will be discussed by the Advisory Committee at its eighth session, then submitted to the Human Rights Council at its twentieth session. The drafting group expresses its gratitude for the comments and observations received since August 2011, particularly those from civil society. It also welcomes the support for the right to peace expressed recently at the twenty-first Ibero-American Summit in Paraguay<sup>10</sup> and by the Parliament of Spain.<sup>11</sup>

## Annex

### Draft declaration on the right to peace

#### Preamble

*The Human Rights Council,*

*Reaffirming* the common will of all people to live in peace with each other, without violence and with respect for all human rights and fundamental freedoms,

*Reaffirming also* that the principal aim of the United Nations is the maintenance of international peace and security,

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<sup>10</sup> Comunicado Especial sobre el Derecho a la Paz (<http://segib.org/cumbres/xxi-asuncion-paraguay>- octubre-2011/).

<sup>11</sup> De Apoyo al derecho humano a la paz, Cortes Generales, Diario de Sesiones del Congreso de los Diputados. Comisiones. Asuntos Exteriores, Año 2011, IX Legislatura Núm. 831, 14 September 2011, pp. 19-22.

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*Bearing in mind* the fundamental principles of international law set forth in the Charter of the United Nations,

*Recalling* General Assembly resolution 39/11 of 12 November 1984, in which the Assembly proclaimed that the peoples of our planet have a sacred right to peace,

*Convinced* that the prohibition of the use of force is the primary international prerequisite for the material well-being, development and the progress of countries, and for the full implementation of the human rights and fundamental freedoms proclaimed by the United Nations,

*Expressing the will* of all peoples that the use of force must be eradicated from the world, including through full nuclear disarmament, without delay,

*Adopts* the following Declaration on the Right to Peace:

### **Article 1. Right to peace: principles**

1. Individuals and peoples have a right to peace. This right shall be implemented without any distinction or discrimination for reasons of race, descent, national, ethnic or social origin, colour, gender, sexual orientation, age, language, religion or belief, political or other opinion, economic situation or heritage, diverse physical or mental functionality, civil status, birth or any other condition.

2. States, severally and jointly, or as part of multilateral organizations, are the principal duty-holders of the right to peace.

3. The right to peace is universal, indivisible, interdependent and interrelated.

4. States shall urgently pursue the renunciation of the use or threat of use of force in international relations, particularly the elimination of nuclear weapons.

5. All States, in accordance with the Principles of the Charter of the United Nations, shall use peaceful means to settle any dispute to which they are parties.

6. All States shall promote the establishment, maintenance and strengthening of international peace in an international system 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.

## **Article 2. Human security**

1. Everyone has the right to human security, which includes freedom from fear and from want, all constituting elements of positive peace, and also includes freedom of thought, conscience, opinion, expression, belief and religion, in conformity with international human rights law. Freedom from want implies the enjoyment of the right to sustainable development and of economic, social and cultural rights.

2. All individuals have the right to live in peace so that they can develop fully all their capacities, physical, intellectual, moral and spiritual, without being the target of any kind of violence.

3. Everyone has the right to be protected from genocide, war crimes, the use of force in violation of international law, and crimes against humanity. If States are unable to prevent these crimes from occurring within their jurisdiction, they should call on Member States and the United Nations to fulfil that responsibility, in keeping with the Charter and international law.

4. States and the United Nations shall include in mandates of peacekeeping operations the comprehensive and effective protection of civilians as a priority objective.

5. States, international organizations, in particular the United Nations, and civil society shall encourage an active and sustained role for women in the prevention, management and peaceful settlement of disputes, and promote their contribution to building, consolidating and maintaining peace after conflicts. The increased representation of women shall be promoted at all levels of decision-making in national, regional and international institutions and mechanisms in these areas. A gender perspective should be incorporated into peacekeeping operations.

6. Everyone has the right to demand from his or her Government the effective observance of the norms of international law, including international human rights law and international humanitarian law.

7. Mechanisms should be developed and strengthened to eliminate inequality, exclusion and poverty, as they generate structural violence, which is incompatible with peace. Both State and civil society actors should play an active role in the mediation of conflicts, especially in conflicts relating to religion and/or ethnicity.

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8. States should ensure democratic governance of military and related budgets, an open debate about national and human security needs and policies, defence and security budgeting, as well as accountability of decision makers to democratic oversight institutions.

9. To strengthen international rule of law, all States shall strive to support international justice applicable to all States equally and to prosecute the crime of genocide, crimes against humanity, war crimes and the crime of aggression.

### **Article 3. Disarmament**

1. States shall engage actively in the strict and transparent control of arms trade and the suppression of illegal arms trade. Furthermore, States should proceed in a joint and coordinated manner and within a reasonable period of time to further disarmament, under comprehensive and effective international supervision. States should consider reducing military spending to the minimum level necessary to guarantee human security.

2. All peoples and individuals have a right to live in a world free of weapons of mass destruction. States shall urgently eliminate all weapons of mass destruction or of indiscriminate effect, including nuclear, chemical and biological weapons. The use of weapons that damage the environment, in particular radioactive weapons and weapons of mass destruction, is contrary to international humanitarian law, the right to a healthy environment and the right to peace. Such weapons are prohibited and must be urgently eliminated, and States that have utilized them have the obligation to restore the environment by repairing all damage caused.

3. States are invited to consider the creation and promotion of peace zones and of nuclear weapon-free zones.

4. All peoples and individuals have the right to have the resources freed by disarmament allocated to the economic, social and cultural development of peoples and to the fair redistribution of natural wealth, responding especially to the needs of the poorest countries and of groups in situations of vulnerability.

### **Article 4. Peace education and training**

1. All peoples and individuals have a right to a comprehensive peace and human rights education. Such education

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should be the basis of every educational system, generate social processes based on trust, solidarity and mutual respect, incorporate a gender perspective, facilitate the peaceful settlement of conflicts and lead to a new way of approaching human relationships within the framework of the Declaration and the Programme on a Culture of Peace and dialogue among cultures.

2. Everyone has the right to demand and obtain the competences needed to participate in the creative and non-violent resolution or, failing that, transformation, of conflicts throughout their life. These competencies should be accessible through formal and informal education. Human rights and peace education is essential for the full development of the child, both as an individual and an active member of society. Education and socialization for peace is a condition sine qua non for unlearning war and building identities disentangled from violence.

3. Everyone has the right to have access to and receive information from diverse sources without censorship, in accordance with international human rights law, in order to be protected from manipulation in favour of warlike or aggressive objectives. War propaganda should be prohibited.

4. Everyone has the right to denounce any event that threatens or violates the right to peace, and to participate freely in peaceful political, social and cultural activities or initiatives for the defence and promotion of the right to peace, without interference by Governments or the private sector.

5. States undertake:

(a) To increase educational efforts to remove hate messages, distortions, prejudice and negative bias from textbooks and other educational media, to prohibit the glorification of violence and its justification and to ensure the basic knowledge and understanding of the world's main cultures, civilizations and religions and to prevent xenophobia;

(b) To update and revise educational and cultural policies to reflect a human rights-based approach, cultural diversity, intercultural dialogue and sustainable development;

(c) To revise national laws and policies that are discriminatory against women, and to adopt legislation that addresses domestic violence, the trafficking of women and girls and gender-based violence.

## **Article 5. Conscientious objection to military service**

1. Individuals have the right to conscientious objection and to be protected in the effective exercise of this right.

2. States have the obligation to prevent members of any military or other security institution from taking part in wars of aggression or other armed operations, whether international or internal, which violate the Charter of the United Nations, the principles and norms of international human rights law or international humanitarian law. Members of any military or other security institutions have the right to disobey orders that are manifestly contrary to the above-mentioned principles and norms. The duty to obey military superior orders does not exempt from the observance of these obligations, and disobedience of such orders shall in no case constitute a military offence.

## **Article 6. Private military and security companies**

1. States shall refrain from outsourcing inherently State military and security functions to private contractors. For those activities that may be outsourced, States shall establish an international regime with clear rules regarding the functions, oversight and monitoring of existing private military and security companies. The use of mercenaries violates international law.

2. States shall ensure that private military and security companies, their personnel and any structures related to their activities perform their respective functions under officially enacted laws consistent with international humanitarian law and international human rights law. They shall take such legislative, administrative and other measures as may be necessary to ensure that such companies and their personnel are held accountable for violations of applicable national or international law. Any responsibility attributable to a private military or security company is independent of and does not eliminate the responsibility that a State or States may incur.

3. The United Nations shall establish, together with other international and regional organizations, clear standards and procedures for monitoring the activities of private military and security companies employed by these organizations. States and the United Nations shall strengthen and clarify the relationship and accountability of States and international organizations for human rights violations perpetrated by private military and security



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companies employed by States, intergovernmental and international non-governmental organizations. This shall include the establishment of adequate mechanisms to ensure redress for individuals injured by the action of private military and security companies.

**Article 7. Resistance and opposition to oppression**

1. All peoples and individuals have the right to resist and oppose oppressive colonial, foreign occupation or dictatorial domination (domestic oppression).

2. Everyone has the right to oppose aggression, genocide, war crimes and crimes against humanity, violations of other universally recognized human rights, and any propaganda in favour of war or incitement to violence and violations of the right to peace, as defined in the present declaration.

**Article 8. Peacekeeping**

1. Peacekeeping missions and peacekeepers shall comply fully with United Nations rules and procedures regarding professional conduct, including the lifting of immunity in cases of criminal misconduct or the violation of international law, to allow the victims recourse to legal proceedings and redress.

2. Troop-contributing States shall take appropriate measures to investigate effectively and comprehensively complaints against members of their national contingents. Complainants should be informed about the outcome of such investigations.

**Article 9. Development**

1. Every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

2. Everyone shall enjoy the right to sustainable development and economic, social and cultural rights and, in particular:

(a) The right to adequate food, drinking water, sanitation, housing, health care, clothing, education, social security and culture;

(b) The right to decent work and to enjoy fair conditions of employment and trade union association; the right to equal remuneration among persons who perform the same occupation or

function; the right to have access to social services on equal terms; and the right to leisure;

(c) All States have an obligation to cooperate with each other to protect and promote the right to development and other human rights.

3. All peoples and individuals have the right to the elimination of obstacles to the realization of the right to development, such as the servicing of unjust or unsustainable foreign debt burdens and their conditionalities or the maintenance of an unfair international economic order that generates poverty and social exclusion. States and the United Nations system shall cooperate fully in order to remove such obstacles, both internationally and domestically.

4. States should pursue peace and security and development as interlinked and mutually reinforcing, and as serving as a basis for one another. The obligation to promote comprehensive and sustainable economic, social, cultural and political development implies the obligation to eliminate threats of war and, to that end, to strive to disarmament and the free and meaningful participation of the entire population in this process.

## **Article 10. Environment**

1. Everyone has the right to a safe, clean and peaceful environment, including an atmosphere that is free from dangerous man-made interference, to sustainable development and to international action to mitigate and adapt to environmental destruction, especially climate change. Everyone has the right to free and meaningful participation in the development and implementation of mitigation and adaptation policies.

2. States have the responsibility of mitigating climate change based on the best available scientific evidence and their historical contribution to climate change in order to ensure that all people have the ability to adapt to the adverse effects of climate change, particularly those interfering with human rights, and in accordance with the principle of common but differentiated responsibility. States, in accordance with United Nations Framework Convention on Climate Change, with the resources to do so, have the responsibility for providing adequate financing to States with inadequate resources for adaption to climate change.

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3. States, international organizations, corporations and other actors in society are responsible for the environmental impact of the use of force, including environmental modifications, whether deliberate or unintentional, that result in any long-lasting or severe effects or cause lasting destruction, damage or injury to another State.

4. States shall take all the necessary measures to ensure development and protection of the environment, including disaster preparedness strategies, as their absence poses a threat to peace.

**Article 11. Rights of victims and vulnerable groups**

1. Every victim of a human rights violation has the right, in accordance with international human rights law, to the restoration of the violated rights; to obtain the investigation of facts, as well as identification and punishment of those responsible; to obtain effective and full redress, including the right to rehabilitation and compensation; to measures of symbolic redress or reparation; and to guarantees that the violation will not be repeated.

2. Everyone subjected to aggression, genocide, foreign occupation, racism, racial discrimination, xenophobia and other related forms of intolerance or apartheid, colonialism and neo-colonialism deserve special attention as victims of violations of the right to peace.

3. States shall ensure that the specific effects of the different forms of violence on the enjoyment of the rights of persons belonging to groups in situations of vulnerability, such as indigenous peoples, are taken fully into account. They have the obligation to ensure that remedial measures are taken, including the recognition of the right of persons belonging to groups in situations of vulnerability to participate in the adoption of such measures.

**Article 12. Refugees and migrants**

1. All individuals have the right to seek and to enjoy refugee status without discrimination, if there is a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of one's nationality and is unable or, owing to such fear, is unwilling to avail oneself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it.

2. Refugee status should include, inter alia, the right to voluntary return to one's country or place of origin or residence in dignity and with all due guarantees, once the causes of persecution have been removed and, in case of armed conflict, it has ended.

3. States should place migrants at the centre of migration policies and management, and pay particular attention to the situation of marginalized and disadvantaged groups of migrants. Such an approach will also ensure that migrants are included in relevant national plans of action and strategies, such as plans on the provision of public housing or national strategies to combat racism and xenophobia. Although countries have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfil the human rights of all individuals under their jurisdiction, regardless of their nationality or origin and regardless of their immigration status.

### **Article 13. Obligations and implementation**

1. The preservation, promotion and implementation of the right to peace constitute a fundamental obligation of all States and of the United Nations as the most universal body harmonizing the concerted efforts of the nations to realize the purposes and principles proclaimed in the Charter of the United Nations.

2. States should cooperate in all necessary fields in order to achieve the realization of the right to peace, in particular by implementing their existing commitments to promote and provide increased resources to international cooperation for development.

3. The effective and practical realization of the right to peace demands activities and engagement beyond States and international organizations, requiring comprehensive, active contributions from civil society, in particular academia, the media and corporations, and the entire international community in general.

4. Every individual and every organ of society, keeping the present Declaration constantly in mind, shall strive to promote respect for the right to peace by progressive measures, national and international, to secure its universal and effective recognition and observance everywhere.

5. States should strengthen the effectiveness of the United Nations in its dual functions of preventing violations and protecting human rights and human dignity, including the right to peace. In particular, it is for the General Assembly, the Security Council, the



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Human Rights Council and other competent bodies to take effective measures to protect human rights from violations that may constitute a danger or threat to international peace and security.

6. The Human Rights Council is invited to set up a body to continue discussion on and monitoring of the right to peace and to report to relevant United Nations bodies.

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### **Annex III**

#### **Statement in support of the right to peace adopted by the the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 24 February 2012**

"The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("SPT") greatly appreciates the draft Declaration prepared by the Advisory Committee on the Right to Peace at its 8th session (20-24 February 2012). In this connection, during its 16th session, the SPT discussed the importance of codifying the right to peace as a human right. The SPT would like to congratulate the Advisory Committee for referring to the structural violence as incompatible with positive peace. In view of the SPT, structural violence affects in a glaringly apparent way persons deprived of liberty as a vulnerable group and because they are subjected to the structural violence of the State that often leads to torture and cruel, inhuman or degrading treatment or punishment. In this regard, the SPT urges the Advisory Committee to include in Article 11 of its draft Declaration a paragraph 4 on persons deprived of their liberty and their right to be treated humanely and to be protected by the State against all type of violence. This proposal is also valid for other vulnerable groups that could be incorporated to the same Article 11."