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Progress report of the Human Rights Council Advisory Committee on the right of peoples to peace*

* The annexes to the present report are circulated as received, in the language of submission only.

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I. Introduction¹

1. In its resolution 14/3, the Human Rights Council requested its 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.

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.² The drafting group, later expanded to include Shigeki Sakamoto and Latif Hüseyinoy, submitted a draft progress report to the Advisory Committee for consideration at its sixth session. The present report will be submitted to the Council for its consideration at its seventeenth session.

II. Right to peace in international law and practice

3. The Charter of the United Nations begins by proclaiming international peace and security as a common purpose, in Article 1; as a principle, in Article 2; and as the basis for dispute settlement in Chapter VI (Arts. 33-38). In Article 55, the Charter refers to the promotion of human rights as a necessary condition for peaceful and friendly relations between States. The right to peace is inherent in the Charter.

4. The United Nations plenary principal organ, the General Assembly, has recognized the right to peace in numerous resolutions, with a minority of Member States abstaining. Most notably, in the annex to its resolution 34/11, the Assembly proclaimed that “the peoples of our planet have a sacred right to peace”. This was reaffirmed in subsequent Assembly resolutions, in particular in resolutions 53/243, 57/216, 60/163 and 63/189. The right was also affirmed by the Commission on Human Rights in its resolutions 5 (XXXII) 76, 2000/66 and 2002/71, and by the Human Rights Council in its resolutions 8/9, 11/4 and 14/3. A number of countries have consistently abstained or voted against these resolutions.

5. The International Convention on the Elimination of All Forms of Racial Discrimination states in its preamble that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples.³

6. The International Covenant on Civil and Political Rights notes in its preamble that human rights are the foundation of peace in the world.⁴ In its general comment No. 6, the Human Rights Committee emphasizes the relationship between the right to life, prevention of war and the prohibition of propaganda for war, including the proliferation of nuclear weapons; in its general comment No. 14 on nuclear weapons and the right to life, it draws a clear link between the prohibition of war and the right to life.

7. The Convention on the Elimination of All Forms of Discrimination against Women states that the full and complete development of a country, the welfare of the world and the

¹ The Rapporteur thanks Lena Ebe M.A., intern at the German Institute for Human Rights, for her excellent support in the preparation of the first version of the present paper.

² Advisory Committee recommendation 5/2.

³ United Nations, *Treaty Series*, vol. 660, 195.

⁴ *Ibid.*, vol. 999, 171.

cause of peace requires the maximum participation of women on equal terms with men in all fields.⁵

8. The Convention on the Rights of the Child has an optional protocol on the involvement of children in armed conflict.⁶

9. The Convention on the Rights of Persons with Disabilities reaffirms the crucial role of human rights in general for creating fair and equal societies founded upon freedom, justice, development and peace.⁷

10. Article 23 of the African Charter on Human and Peoples' Rights unambiguously recognizes that all peoples "shall have the right to national and international peace and security".

11. The Charter of the Association of Southeast Asian Nations of 2007 reiterates the common desire of its member States to live in peace (in its preamble) and to maintain and enhance peace (several times in articles 1 and 2 and in its provisions calling for the peaceful settlement of disputes).

12. Civil society organizations, especially the Spanish Society for International Human Rights Law, and many other non-governmental organizations have also recognized the existence of a right to peace in numerous documents prepared by experts and endorsed by hundreds of non-governmental organizations. The Santiago Declaration on the Human Right to Peace of December 2010 was the result of a four-year world campaign of the Society that brought together inputs from all regions of the world. The initiative is noteworthy in its deliberate effort to seek universal values by drawing upon local and international law from Western and non-Western legal traditions. An international observatory of the human right to peace was also created. More than 900 civil society organizations and cities have endorsed the United Nations documents submitted through the Society.

13. In 1998, more than 200 non-governmental organizations drafted an Asian human rights charter over a three-year discussion process. The Charter asserts that "all persons have a right to peace so that they can fully develop all their capacities, physical, intellectual, moral and spiritual, without being the target of any kind of violence".⁸

III. Approach proposed by the Advisory Committee

14. In its resolution 14/3, the Human Rights Council requested the Advisory Committee to prepare a draft declaration on the right of peoples to peace, in consultation with Member States, civil society, academia and all relevant stakeholders.

15. In its resolutions 8/9, 11/4 and 14/3, the Council recognized the right to peace; a number of Member States voted against the resolution.

16. The Advisory Committee suggests a focused approach to clarify the right to peace and to enhance its implementation.

17. The Advisory Committee therefore proposes that peace should be conceived as both the absence of organized violence within a country or between countries and the

⁵ Ibid., vol. 1249, 13.

⁶ Ibid., vol. 2173, 222.

⁷ General Assembly resolution 61/106.

⁸ Miscellaneous authors, Asian Human Rights Charter, para. 4.1. Available from www.unhcr.org/refworld/docid/452678304.html.

comprehensive and effective protection of human rights, gender equality and social justice, economic well-being and free and widespread expression of different cultural values, without discrimination or restraints.

IV. Core dimensions

A. International peace and security

18. In its resolution 14/3, the Human Rights Council reaffirmed that the peoples of our planet have a sacred right to peace, and also that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of all States and stresses the importance of peace for the promotion and protection of all human rights for all. It reaffirmed standards from previous resolutions of the General Assembly and the Council, as well as articles from the Charter of the United Nations.

19. The purposes of the United Nations, as set out in Article 1 of the Charter, are to maintain international peace and security and to take appropriate measures to strengthen universal peace. Articles 55 and 56 of the Charter require the Organization and all its Member States with a view to the creation of stability and well-being, which are necessary for peaceful and friendly relations among nations, to promote universal respect for, and observance of, human rights and fundamental freedoms for all.

20. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations stresses the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for human rights.⁹

21. This right has been repeatedly reaffirmed by the General Assembly in its resolutions. For example, in 1978, the Assembly reaffirmed the right of individuals, States and all mankind to life in peace in its Declaration on the Preparation of Societies for Life in Peace.¹⁰ It added that every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace. Respect for that right, as well as for the other human rights, is in the common interest of all mankind and an indispensable condition of advancement of all nations, large and small, in all fields.

22. The Declaration of the Right of Peoples to Peace solemnly declared that the peoples of our planet have a sacred right to peace and that every State has a fundamental obligation to promote and implement this right.

23. At the 2010 Review Conference of the Rome Statute, held in Kampala, the State parties to the Rome Statute of the International Criminal Court agreed to add aggression to the Court's short list of prosecutable crimes. The members adopted by consensus amendments to the Rome Statute, including a definition of the crime of aggression and a regime establishing how the Court would exercise its jurisdiction over this crime.¹¹ An act of aggression is defined as the use of armed force by one State against another State without the justification of self-defence or authorization by the Security Council.¹²

⁹ General Assembly resolution 2625 (XXV), annex.

¹⁰ General Assembly resolution 33/73.

¹¹ "Delivering on the promise of a fair, effective and independent Court: the crime of aggression", available from www.iccnw.org/?mod=aggression.

¹² The definition, as well as the actions qualifying as acts of aggression contained in the amendments (for example, invasion by armed forces, bombardment and blockade), are influenced by General

Proposed standards

1. The peoples of our planet have a human right to peace.
2. The preservation, promotion and implementation of the right of peoples to peace constitute a fundamental obligation of all States.
3. Peace and development are fundamental human rights that are the pillars of the United Nations system and the foundations for human security and well-being;
4. Exercise of the right of peoples to peace and its promotion and implementation demand that the policies of States are directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use or threat of use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations;
5. All States shall promote the establishment, maintenance and strengthening of international peace and security 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;
6. All States shall respect and put into practice the Principles and Purposes of the Charter in their relations with all other States, irrespective of their political, economic or social systems or of their size, geographical location or level of economic development, particularly refraining from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations and further refraining from intervening in matters which are essentially within the domestic jurisdiction of any State;
7. All States, in accordance with the Principles of the Charter, shall use peaceful means to settle any dispute to which they are parties and the continuance of which is likely to endanger the maintenance of international peace and security, and encourages States to settle their disputes as early as possible, as an important contribution to the promotion and protection of all human rights of everyone and all peoples.¹³
8. To strengthen international rule of law, all States should strive to support the International Criminal Court and its work on crimes against humanity, war crimes, the crime of genocide and the crime of aggression.

B. Disarmament

24. The manufacture of weapons, arms races and the excessive and uncontrolled traffic of all kinds of arms jeopardize international peace and security. The failure of States to observe the obligations laid down in the relevant treaties in the field of disarmament, including the Treaty on the Non-Proliferation of Nuclear Weapons, and the possession, deployment and threat of use of weapons impedes respect for human rights.

25. The continuing existence of nuclear weapons poses a permanent threat to world peace, as their use would have catastrophic consequences for all life on earth and humankind in general.¹⁴ The Human Rights Committee has recognized that the designing,

Assembly resolution 3314 (XXIX). See "US opposes ICC bid to make 'aggression' a crime under international law", *CSMonitor*, 15 June 2010.

¹³ See General Assembly resolution 39/11 (1984), Human Rights Council resolutions 8/9 (2008), 11/4 and 14/3 (paras. 6-10), and Article 2 of the Charter.

¹⁴ The Russell-Einstein Manifesto, London, 9 July 1955, resolution.

testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront humankind today.¹⁵ In its advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons* of 8 July 1996, the International Court of Justice unanimously concluded that article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and other international commitments required States to “pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control”. An annual General Assembly resolution welcoming the Court’s conclusion calls for negotiations on a convention prohibiting and eliminating nuclear weapons globally as the means of meeting the obligation.¹⁶

26. Weapons of mass destruction, including nuclear, chemical and biological weapons, do not only have an instant negative effect on peoples and individuals and the enjoyment and exercise of a variety of their human rights. The development, production, stockpiling and use of weapons of mass destruction or of indiscriminate effect may also imply unforeseeable, uncontrollable and long-term and cross-border effects on the environment threatening the livelihood of succeeding generations.

27. The Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques¹⁷ states in article 1 that each State party to the Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State party.

28. The final outcome document of the International Conference on the Relationship between Disarmament and Development¹⁸ concluded that true and lasting peace and security in this interdependent world demanded rapid progress in both disarmament and development as two of the most urgent challenges facing the world today.

29. The Secretary-General has underlined that disarmament contributes to creating a more stable international and national order that is favourable to development and human rights.¹⁹ Several initiatives by the United Nations have also addressed the international arms trade and illegal arms trade.²⁰

30. The right to full disarmament must be understood to be part of the right of peoples to live in peace. The right to disarmament should be a component of the right of peoples to peace as well as part of the right to international solidarity.²¹

¹⁵ General comment No. 14 on nuclear weapons and the right to life (Art. 6), 1984, para. 4.

¹⁶ See for example General Assembly resolution 64/55. It is significant that, at the 2010 Treaty Review Conference, for the first time, the Action Plan on Nuclear Disarmament, in the final document, affirms that “all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons.” It then notes the Five-Point Proposal for Nuclear Disarmament of the Secretary-General, proposing, inter alia, consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments, backed by a strong system of verification. The 2010 Review Conference thus acknowledged that elimination of nuclear weapons would require a global institutional and legal system.

¹⁷ United Nations, *Treaty Series*, vol. 1108, p. 151.

¹⁸ A/CONF.130/39.

¹⁹ See A/59/119.

²⁰ For example, the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and the work of the Open-ended Working Group towards an Arms Trade Treaty.

²¹ *Colloquium on the New Human Rights*, Matias Romero Institute of Diplomatic Studies of the

Proposed standards

1. All peoples and individuals have the right to demand from all States that they urgently eliminate all weapons of mass destruction or of indiscriminate effect, including nuclear, chemical and biological weapons. States shall engage actively in the strict and transparent control of arms trade and 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.²²

2. 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, aiming to put an end to inequalities, social exclusion and extreme poverty.²³

3. All peoples and individuals have the right to live in a sustainable and safe environment as a foundation for peace and for the survival of mankind.

4. All peoples and individuals have a right to live in a world free of weapons of mass destruction. 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 the environment and the human right to peace. Such weapons must be urgently eliminated and prohibited, and States that utilize them have the obligation to restore the previous condition of the environment by repairing all damage caused.

C. Human security

31. The right to peace includes the element of human security. Human security focuses on the basic needs of the human being. It includes both the twin values of freedom from fear and freedom from want.²⁴ The first refers to threats from conflicts and the protection of non-combatants during war, such as nuclear, chemical and biological threats; the second, to the challenges of economic insecurity and inequity, access to food, water, housing and adequate health care, and the elimination of illiteracy.²⁵

32. Human security addresses the structural causes of instability and conflict, such as poverty, inequality and lack of economic opportunity. Human security requires economic development and enhancing social justice.²⁶ According to the Declaration and Programme of Action on a Culture of Peace,²⁷ peacebuilding strategies must assure equity in development and food security.

Secretariat for the External Affairs of Mexico, United Nations Educational, Scientific and Cultural Organization SS-80/CONF.806/4, 1980.

²² See for instance General Assembly resolutions 1653 (XVI), 2444 (XXIII), 2826 (XXVI), 2936 (XXVII) and 47/39, annex, and A/CONF.95/15, annex I.

²³ See Asian Charter, "The enormous expenditures on arms have diverted public revenues from programmes for the development of the country or the well-being of the people" (para. 4.5).

²⁴ In larger freedom: towards development, security and human rights for all (A/59/2005), paras. 25-126.

²⁵ "Human security now", final report of the Commission on Human Security, Communications Development incorporated in Washington, D.C., with direction by its British partner Grundy and Northedge, New York, 2003, pp. 94-124.

²⁶ McFarlane, H. and Foong Khong, Y., *Human security and the UN: A critical history*. Bloomington, Ind.: Indiana University Press, 2006, p. 151.

²⁷ General Assembly resolution 53/243.

33. In the 2005 World Summit Outcome,²⁸ world leaders affirmed their commitment to work towards a security consensus based on the recognition that many threats are interlinked, that development, peace, security and human rights are mutually reinforcing, that no State can best protect itself by acting entirely alone and that all States need an effective and efficient collective security system pursuant to the purposes and principles of the Charter.

34. The objective of lasting and just peaceful coexistence can only be achieved by recognizing the human security element of the right to peace.

Proposed standards

1. Individuals have the right to human security, including freedom from fear and from want, both being elements of positive peace. This includes the right to an adequate standard of living, including adequate food, water, housing, health care, education and social security.

2. All peoples and individuals have the right not to be regarded as enemies by any State.²⁹

3. All peoples and individuals have the right to live in an environment that is safe and healthy, including an atmosphere that is free from dangerous interference, and to be protected against any act or threat of physical or psychological violence, whether originating from State or non-State actors.

4. All peoples and individuals have the right to be protected from genocide, war crimes, wars of aggression, ethnic cleansing and crimes against humanity. If Member States are unable to prevent these crimes from occurring within their own borders, they should call on the United Nations to fulfil that responsibility in keeping with the Charter and international law.³⁰

5. All peoples and individuals have the right to demand from their Governments the effective observance of the norms of international law, international human rights law and international humanitarian law.³¹

6. All peoples and individuals have the right to democratic governance of military and related budgets, to an open debate about national and human security needs and policies, defence and security budgeting, as well as to accountability of decision makers to democratic oversight institutions.³²

D. Resistance to oppression

35. The preamble to the Universal Declaration of Human Rights recognizes that, “whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to

²⁸ General Assembly resolution 60/1, para. 72.

²⁹ Santiago Declaration on the Human Right to Peace, adopted by the International Congress on the Human Right to Peace, adopted on 10 December 2010 at the World Social Forum on Peace Education, Santiago de Compostela, Spain, art. 5, para. 1.

³⁰ General Assembly resolution 60/1, paras. 138-139.

³¹ See Santiago Declaration, art. 3 para. 3.

³² Since the 1990s, the Security Council has often expressed the need for a reform of the security sector, including gender issues, in its resolutions. See for example “Security Council urges security sector reform ahead of Central African polls”, press release, 21 December 2009, and Council resolutions 1509 (2003), 1833 (2008), 1902 (2009) and 1906 (2009).

rebellion against tyranny and oppression, that human rights should be protected by the rule of law". The General Assembly has affirmed the right of all peoples to resist colonial or alien domination.³³

36. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations recognizes the importance of peace to human rights, as well as the realization that "the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security". At the same time, the Declaration also recognized that every State "has the duty to refrain from any forcible action which deprives peoples ... of their right to self-determination" and that peoples subjected to such violence have a right to take "actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination" and to "seek and to receive support as determined by the General Assembly".³⁴

37. The right to resist and oppose oppression is essential to achieving and maintaining a just peace.

Proposed standards

1. All peoples and individuals have the right to resist and oppose oppressive colonial or alien domination that constitutes a flagrant violation of their human rights, including the right of peoples to self-determination, in accordance with international law.

2. All individuals have the right to oppose war crimes, genocide, aggression, apartheid and crimes against humanity, violations of other universally recognized human rights, any propaganda in favour of war or incitement to violence and violations of the human right to peace, as defined in the present declaration.³⁵

E. Peacekeeping

38. Peacekeeping operations relate to the protection of human rights at least in two ways. First, they focus on the physical protection of civilians in post-conflict environments, which is a key component of human security. The second way relates to alleged violations by peacekeepers and/or associated personnel and their immunity under operational command of the United Nations. Local populations should have appropriate avenues for making complaints and receiving a response.³⁶

Proposed standard

States and the United Nations shall include the comprehensive and effective protection of civilians as a priority objective into mandates of peacekeeping operations. 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 committed off-duty, to allow local population recourse to legal

³³ See General Assembly resolution 37/35.

³⁴ General Assembly resolution 2625 (XXV), annex.

³⁵ See Santiago Declaration, art. 6, para. 2. See also Asian Charter, para. 3.4.

³⁶ See resources on webpage "Protection from sexual exploitation by UN and related personnel", with available from www.un.org/en/pseataaskforce/tools_manage.shtml. See also Marten Zwanenburg, *Accountability of Peace Support Operations*, Leiden, Boston 2005, and Keith J. Allred, "Human Trafficking and Peacekeepers", in Cornelius Friesendorf (ed.), "Strategies against Human Trafficking. the Role of the Security Sector", Vienna and Geneva, 2010, pp. 299-328.

proceedings and redress. Troop-contributing States should take every measure to investigate effectively comprehensively complaints against members of their national contingents.

F. Right to conscientious objection and freedom of religion and belief

39. Conscientious objection to military service is recognized by the United Nations, as reflected in statements made by the Human Rights Committee and the Commission on Human Rights. It derives from the right to freedom of thought, conscience and religion, and applies to both conscripts and volunteers.

40. The Human Rights Committee has recognized the right of conscientious objection to military service as part of the right to freedom of thought, conscience and religion enshrined in article 18 of the International Covenant on Civil and Political Rights. In its general comment No. 22,³⁷ the Committee stated that no discrimination was permitted among conscientious objectors on the basis of the nature of their particular beliefs. Moreover, it has also addressed the issue in many of its concluding observations on State reports and in its cases, most significantly in the case of *Yeo-Bum Yoon and Myung-Jin Choi v Republic of Korea* and thereafter in 11 communications from conscientious objectors of different backgrounds in the same country.³⁸

41. In its resolution 1995/83, the Commission on Human Rights stated that persons performing military service should not be excluded from the right to have conscientious objections to military service. It also welcomed the fact that some States accept claims of conscientious objection as valid without inquiry, and called for independent and impartial decision-making bodies where this was not the case.³⁹ The Human Rights Committee expressed concern about determinations by military judicial officers in individual cases of conscientious objection, and encouraged placing the assessment of applications for conscientious objector status under the control of civilian authorities.⁴⁰

42. Furthermore, in its resolution 1998/77, the Commission on Human Rights stated that there was a right to object military service on conscientious reasons, as that objection was a legitimate expression of the freedom of thought, conscience and religion, and that States should refrain from punishing or discriminating against conscientious objectors.

43. Regionally, there is also some support for respecting conscientious objection to compulsory military service.⁴¹

44. Discrimination and violence in the name of religion or belief is at the heart of many conflicts based on religious issues, often intertwined with ethnic, national, political or historical backgrounds. In its resolution 4/10, the Human Rights Council recognized that the disregard for and infringement of human rights and fundamental freedoms, in particular

³⁷ CCPR/C/21/Rev.1/Add.4, para. 11.

³⁸ The Committee identified conscientious objection to military service as a protected form of manifestation of religious belief under article 18(1) of the Covenant, and held that the Republic of Korea had violated article 18 by not providing for conscientious objection to military service for these two Jehovah's Witnesses. In the other cases, see communications Nos. 1593 to 1603/2007.

³⁹ Ibid. See also Commission on Human Rights resolutions 2000/66 and 2002/71.

⁴⁰ CCPR/CO/78/ISR, para. 24, and CCPR/CO/83/GRC, para. 15.

⁴¹ See for example Council of Europe, "Conscientious objection to compulsory military service", Strasbourg 2007, and the Permanent Council of the Organization of American States, working group to prepare the draft American declaration on the rights of indigenous peoples, Outcomes of the Tenth Meetings of Negotiations in the quest for points of consensus, La Paz, – 23-27 April 2007, art. XXX, para. 4 e.

the right to freedom of thought, conscience, religion or belief, continued to bring, directly or indirectly, wars and great suffering to humankind.

Proposed standards

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 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.⁴²

3. Individuals have the right to expect that States pay special attention to help solve conflicts related to religious and ethnic issues in cooperation with civil society.

G. Private military and security companies

45. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination recommended in July 2010 that its draft proposal for a possible new international legal instrument regulating private military and security companies be carefully considered. The draft of a possible convention on private military and security companies defines in article 3 as its scope of application States and intergovernmental organizations within the limits of their competence with respect to private military and security companies, their activities and personnel. It would apply to “all situations whether or not the situation is defined as an armed conflict”.

46. Pursuant to its resolution 15/26, the Human Rights Council has set up an open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies.

Proposed standards

1. States shall refrain from outsourcing inherently State military and security functions to private contractors. States shall establish an international regime with clear rules regarding the functions, oversight and monitoring of existing private military and security agencies.

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 human rights and humanitarian 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

⁴² See Santiago Declaration, art. 5, para. 4.

private military or security company is independent of and does not eliminate the responsibility that a State or States may incur.⁴³

V. Other dimensions

A. Peace education

47. The right to peace is inconceivable without a comprehensive, serious commitment to education, both formal and non-formal. Concepts of long-standing historical threats to a country, of adversaries and enemies, glorification of violence, racist attitudes towards foreigners and even foreign nations and many other perceptions, often misguided by the media and political and other interest groups, can profoundly undermine any serious attempt to create a culture of peace. Conversely, serious professional education and media reporting can greatly enhance a culture of peace and diminish racist, aggressive, discriminatory and violent attitudes. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has been very active in this field since the 1970s.

48. In 1974, UNESCO adopted its Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms, in which it stressed the importance of education to both peace and human rights.

49. The Millennium Development Declaration states that human beings must respect each other, in all their diversity of belief, culture and language. Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity. A culture of peace and dialogue among all civilizations should be actively promoted.⁴⁴

50. In its resolution 14/3, the Human Rights Council called upon States and relevant United Nations bodies to promote effective implementation of the Declaration and Programme on a Culture of Peace.

51. Many General Assembly and Human Rights Council resolutions on the right to peace contain provisions supporting peace education.⁴⁵

Proposed standards

1. All peoples and individuals have a right to comprehensive peace education. Such education 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 a culture of peace.⁴⁶

2. All peoples and individuals have a right to demand and obtain the competences needed to participate in the creative and non-violent resolution or, failing that,

⁴³ A/HRC/15/25, annex, art. 5.

⁴⁴ General Assembly resolution 55/2, para. 6.

⁴⁵ For example, General Assembly resolution 53/243A, and Human Rights Council resolutions 8/9, para. 9, 11/4, para. 10, and 14/3, paras. 10-11.

⁴⁶ Santiago Declaration, art. 2, para. 2.

transformation, of conflicts throughout their life. These competencies should be accessible through formal and informal education.⁴⁷

3. The glorification of violence and its justification shall be prohibited.⁴⁸

4. All peoples and individuals have the right to have access to access 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.⁴⁹

5. All peoples and individuals have the right to denounce any event that threatens or violates the human right to peace, and to freely participate in peaceful political, social and cultural activities or initiatives for the defence and promotion of the human right to peace, without interference by Governments or the private sector.⁵⁰

6. States have the obligation:

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

(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 adopt legislation that addresses domestic violence, the trafficking of women and girls and gender-based violence.⁵¹

B. Development

52. The right to development addresses many ingredients of a positive peace, such as improving the living conditions of the mainstream population, proactive protection of all economic, social and cultural rights, and gender-specific support for vulnerable groups. It is suggested that it take up selected crucial standards rather than attempting to repeat the long list of existing standards developed by relevant United Nations Organs and agencies.⁵²

53. The Declaration on the Right to Development⁵³ recognizes the interlinked and mutually reinforcing character of development and peace, declaring that the elimination of

⁴⁷ Ibid., art. 2, para. 3.

⁴⁸ Ibid., art. 6, para. 2. Article 20 of the International Covenant on Civil and Political Rights states that "Any propaganda for war shall be prohibited by law" and that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." See also Asian Charter, para. 3.4.

⁴⁹ Santiago Declaration, art. 8, para. 1.

⁵⁰ Ibid., art. 8, para. 2.

⁵¹ A/63/127, para. 66.

⁵² For example, the Working Group on the Right to Development, the high-level task force on the implementation of the right to development, special procedures mandate holders, such as the Special Rapporteurs on the right to food and on foreign debt, and the work of United Nations agencies such as the Food and Agricultural Organization of the United Nations, the International Labour Organization, the World Health Organization, the United Nations Development Programme and the United Nations Children's Fund.

⁵³ General Assembly resolution 41/128, annex.

threats of war would contribute to the establishment of circumstances propitious to development, and that international peace and security are essential elements for the realization of the right to development.

54. Furthermore, States should take steps to eliminate obstacles to development resulting from failure to observe civil and political and economic, social and cultural rights, and should use resources freed by disarmament for comprehensive development.⁵⁴

55. In 1999, the General Assembly adopted the Declaration and Programme of Action on a Culture of Peace,⁵⁵ which served as the basis for the International Year for the Culture of Peace and the International Decade for a Culture of Peace and Non-violence for the Children of the World. Member States were encouraged to take actions to promote a culture of peace at the national level, as well as at the regional and international levels. Civil society was to be involved at all levels to widen the scope of activities on a culture of peace.

56. The Millennium Development Declaration contains various references to peace as an important objective of the United Nations. In particular, section II emphasizes the nexus between peace, security and disarmament as well as between human rights, democracy and good governance. In the Declaration, Member States agreed to ensure greater policy coherence and better cooperation between the United Nations, its agencies, the Bretton Woods Institutions and the World Trade Organization, as well as other multilateral bodies, with a view to achieving a fully coordinated approach to the problems of peace and development.⁵⁶ This corresponds to Millennium Development Goal targets 8 B and C, which demands that States deal comprehensively with the debt problems of developing countries through national and international measures. Furthermore, States undertook the obligation to develop an open, rule-based, predictable, non-discriminatory trading and financial system that includes a commitment to good governance, development and poverty reduction – both nationally and internationally.⁵⁷

Proposed standards

1. Peoples and individuals have a right to State policies that 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 towards disarmament, and the free and meaningful participation of the entire population in this process.

2. The realization of the human right to peace and the eradication of structural violence require that all individuals and peoples enjoy the inalienable right to participate in economic, social, cultural and political development, in which all human rights and fundamental freedoms may be fully exercised, as well as to contribute to and enjoy that development.⁵⁸

3. All peoples and individuals should enjoy freedom from want in order to live in peace. They should enjoy the right to sustainable development and economic, social and cultural rights and, in particular:

⁵⁴ Ibid., arts. 3 (3) and 7.

⁵⁵ General Assembly resolution 53/243 (1999).

⁵⁶ General Assembly resolution 55/2, sect. VIII.

⁵⁷ Ibid., paras. 13 and 16.

⁵⁸ Santiago Declaration, art. 4, para. 1.

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

(b) The right to 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.⁵⁹

4. 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, because they generate poverty and social exclusion. States and the United Nations system shall fully cooperate in order to remove such obstacles, both internationally and domestically.⁶⁰

C. The environment, in particular climate change

57. The environment is a crucial aspect of the right to peace. An area of particular relevance is climate change.⁶¹

58. Climate change has a negative impact on a variety of human rights, ranging from the right to life, food, water, health, housing and shelter through to the right to self-determination of peoples and rights relating to livelihood and culture, migration and resettlement and personal security in cases of conflict.⁶² Furthermore, the historical contribution to and the share of the burden caused by climate change are distributed highly unevenly.⁶³ Adaptation and mitigation policies and long-term protection, however, may also have adverse effects.⁶⁴

59. In 2008, the Human Rights Council, in its resolution 7/23, requested OHCHR to undertake a study on human rights and climate change. The study⁶⁵ was presented in 2009 and deals with, inter alia, the impact of climate change-induced displacement and conflict. It also analyses the consequences of climate change on relevant obligations under international human rights law. According to the Special Rapporteur on the right to food, land degradation has prompted, together with other factors, fights over resources in the conflict in the Darfur region of the Sudan and in other conflicts in Africa.⁶⁶ The non-governmental organization Alert International has identified 46 countries with a high risk of armed conflict owing to climate change and 56 States threatened by political instability.⁶⁷

⁵⁹ Ibid., art. 3, para. 4.

⁶⁰ Ibid., art. 4, para. 2.

⁶¹ The United Nations Framework Convention on Climate Change defines climate change or “global warming” as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods” (art. 1, para. 2).

⁶² “Climate Change and Human Rights: A Rough Guide”, International Council on Human Rights Policy, p. 1, available from http://www2.ohchr.org/english/issues/climatechange/docs/submissions/136_report.pdf. See also Human Rights Council resolution 7/23, first preambular paragraph.

⁶³ A/HRC/10/61; see also article 3 of the Framework Convention.

⁶⁴ See International Council on Human Rights Policy, “Climate Change and Human Rights”, pp. 1–2.

⁶⁵ A/HRC/10/61.

⁶⁶ A/HRC/7/5.

⁶⁷ For information on indicators and criteria used for country assessment, see “A climate of conflict: the links between climate change, peace and war”, International Alert, November 2007, pp. 18–19,

Proposed standards

1. All peoples and individuals have the right to live in an environment that is safe and healthy, including an atmosphere that is free from dangerous man-made interference, and to be protected against any act or threat of physical or psychological violence, whether originating from State or non-State actors.

2. All peoples and individuals have the right to be protected from genocide, war crimes, ethnic cleansing, crimes of aggression and crimes against humanity.⁶⁸

3. States affirm that the adverse impacts of man-made climate change interfere with the enjoyment of human rights, in particular economic, social and cultural rights, and thereby threaten domestic and international development, stability, peace and security. Consequently, States must assume responsibility for 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.

4. All peoples and individuals have a human right to participate in sustainable development and the implementation of policies to mitigate and adapt to environmental destruction, especially climate change, and free and meaningful participation in the development and implementation of such mitigation and adaptation policies.

5. All States shall be held responsible for the environmental impact of war, including environmental modifications, whether deliberate or unintentional, that result in long-lasting or severe effects, cause lasting destruction, damage or injury to another State.

D. Victims and vulnerable groups

60. All individuals share the same human dignity and have an equal right to protection. Nevertheless, there are certain groups with specific vulnerability who deserve special protection. These include women in particular situations, children, victims of enforced or involuntary disappearance, disabled, elderly and displaced persons, migrants, refugees and indigenous peoples, and minorities stereotyped with endangering national security.

61. In 2000, in its resolution 1325 (2000), the Security Council recognized for the first time the strong link between women, peace and security, and stressed the need to address gender-based violence and gender inequality in conflict and post-conflict situations, and the importance of women's equal participation in all efforts to maintain and promote sustainable and just peace and security. States obligations include protection of women and girls from rape, forced pregnancy, and the use of women as instruments of war and sexual slavery. Security Council resolutions 1888 (2009) and 1889 (2009) introduced new approaches to integrate gender into all aspects of peace and security.

62. When looking at individuals and groups that are particularly vulnerable to violence and armed conflict, it is clearly visible that those individuals and groups have previously experienced, in many cases, discrimination, exclusion and marginalization in political, social, economic or other ways. States should be aware of this connection and consequently perceive the fight against discrimination as one preventive measure against the breakout and deterioration of violence and armed conflict, allowing all individuals, groups and peoples to enjoy their right to peace.

available from www.international-alert.org/pdf/A_Climate_Of_Conflict.pdf.

⁶⁸ General Assembly resolution 60/1, paras. 138-139.

63. All victims of human rights violations have a right to remedy, non-repetition and accountability of perpetrators,⁶⁹ as well as the right to recognition of their status as victims, without discrimination.⁷⁰ On the rights of victims particularly vulnerable and their right to remedies, the Human Rights Committee, in its general comment No. 31 on the nature of the general legal obligation imposed on States parties to the International Covenant on Civil and Political Rights, advocated for such remedies being appropriately adapted so as to take account of the special vulnerability of certain categories of person, including, in particular, children.⁷¹

64. With regard to the past of an armed conflict or national emergency situation, mechanisms such as truth commissions have proven to be useful means to achieve peace in post-conflict societies and to ensure that the rights of victims are protected. Another second important issue is the right to compensation, which includes not only financial reparation, but also acknowledgment of past violations or accountability for perpetrators. The right to participate in such processes is important and all groups need to be included.

Proposed standards

1. 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 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.⁷²

2. 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 effective and complete 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.⁷³

3. 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.

4. All individuals and peoples subjected to aggression, genocide, 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 human right to peace.⁷⁴

⁶⁹ See in particular the Universal Declaration of Human Rights, art. 8; the International Covenant on Civil and Political Rights, art. 2; the International Convention on the Elimination of All Forms of Racial Discrimination, art. 6; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14; the Convention on the Rights of the Child, art. 39; the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), art. 3; Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, art. 91; and the Rome Statute of the International Criminal Court, arts. 68 and 75.

⁷⁰ General Assembly resolution 60/147, para. 21.

⁷¹ CCPR/C/21/Rev.1/Add. 13, para. 15.

⁷² See Convention on the Rights of Persons with Disabilities, preamble.

⁷³ *Ibid.*, art. 11, para 4.

⁷⁴ Santiago Declaration, art. 1, para. 3.

VI. Obligations of States

65. According to the Draft Articles on the Responsibility of States for Internationally Wrongful Acts of the International Law Commission, States that have committed an internationally wrongful act are liable to make reparation for any injury, whether it be material or moral, caused by the internationally wrongful act of a State.⁷⁵ Such an internationally wrongful act (action or omission) must be attributable to the State and further constitute a breach of an international obligation of the State.⁷⁶ Clearly, such obligations arise through a number of treaties and conventions as well as customary international law on the topic, referring both to peace and war times.⁷⁷

66. The Santiago Declaration reflects the obligations of States. Article 13 provides that:

(a) The effective and practical realization of the human right to peace necessarily entails duties and obligations for States, international organizations, civil society, peoples, individuals, corporations the media and other actors in society and, in general, the entire international community;

(b) The fundamental responsibility for preserving peace and protecting the human right to peace lies with the States and also with the United Nations as the most universal body harmonizing the concerted efforts of nations to realize the purposes and principles proclaimed in the Charter of the United Nations;

(c) States should take all the necessary measures to ensure the development and protection of the environment, including disaster preparedness strategies, as their absence poses a threat to peace, and have the obligation to cooperate in all necessary fields in order to achieve the realization of the human right to peace, in particular by implementing their existing commitments to promote and provide increased resources to international cooperation for development;

(d) States are also required to take measures to build and consolidate peace, and have the responsibility to protect humankind from the scourge of war. This, however, should not be interpreted to imply for any State any entitlement to intervene in the territory of other States;

(e) To guarantee the human right to peace, Member States are called on to strive for reform of the Security Council in order to reflect and better ensure a fair and balanced representation of today's international community. The methods of work of the Security Council must be transparent and allow civil society and other actors to participate in its debates.

VII. Monitoring and implementation

67. Three new mechanisms have been proposed.

⁷⁵ General Assembly resolution 56/83, annex, art. 31.

⁷⁶ *Ibid.*, art. 2.

⁷⁷ For example, the UNESCO World Heritage Convention, the obligations of the Rio Declaration on Environment and Development, principles 2, 14, 18, 19 and 24, and Additional Protocol I to the 1949 Geneva Conventions, articles 55 and 56.

A new special procedure

68. At the expert workshop on the right of peoples to peace, convened by OHCHR in Geneva on 15 and 16 December 2009, an expert suggested creating the mandate of Special Rapporteurs or independent expert on the right to peace.⁷⁸

A new working group

69. The Spanish Society for the Advancement of Human Rights Law suggested setting up a working group as a monitoring mechanism. The Santiago Declaration mentions in article 15 a working group on the human right to peace, which would be composed of 10 members, with the functions of promoting the observance and implementation of the Declaration. In its mandate, the working group would have the competences (a) to promote worldwide observance and awareness of the human right to peace; (b) to gather, assemble and respond effectively to any relevant information from States, international organizations and their organs, civil society organizations, national human rights institutions, concerned individuals and any other reliable source; (c) to carry out *in loco* investigations concerning violations of the human right to peace and to report to the pertinent bodies; (d) to address recommendations, appeals and urgent actions to the States Members of the United Nations, requesting them to take appropriate measures for the effective realization of the human right to peace, giving due consideration to those recommendations and appeals; (e) to draw up, on its own initiative or at the request of the General Assembly, the Security Council or the Human Rights Council, the reports it deems necessary in the event of an imminent threat to or serious violation of the human right to peace; (f) to present an annual report of its activities to the General Assembly, the Security Council and the Human Rights Council; (g) to contribute to the elaboration of definitions and norms concerning the crime of aggression and the limits of legitimate self-defence; and (h) to submit to the Prosecutor of the International Criminal Court or other competent international criminal tribunals reliable information about any situation in which it would appear that crimes falling within the jurisdiction of the Court or of another international criminal tribunal have been committed.

A new open-ended working group

70. At the above-mentioned expert workshop, one expert suggested an open-ended working group of Member States, open to the participation of civil society organizations.⁷⁹

71. The Advisory Committee does not recommend a specific mechanism at this time, electing rather to await comments and proposals arising from the discussion.

VIII. Conclusion

72. **The present report proposes more than 40 possible standards for inclusion in the draft declaration on the human right of peoples to peace, specific rationale for including them and relevant legal standards.**

73. **After its sixth session, the Advisory Committee invited stakeholders to comment on the present report in a questionnaire, as is the custom in all study projects.**

74. **In the light of discussions held by the Human Rights Council and of responses from stakeholders, at its upcoming meetings the Advisory Committee will work on a**

⁷⁸ A/HRC/14/38, para. 54.

⁷⁹ *Ibid.*, para. 57.

draft declaration. The ultimate aim is to produce a document that helps to promote freedom, peace and security and which will be valuable in the promotion of the human rights agenda and the right to peace.

Annex I

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Resolution 14/3 (2010)	Promotion of the right of peoples to peace

Human Rights Council Advisory Committee

- Recommendation 4/2 Draft United Nations declaration on human rights education and training, 20.1.2010
- Recommendation 5/2 Drafting group on promotion of the right of peoples to peace
- Recommendation 6/3 Drafting group on promotion of the right of peoples to peace

UNESCO

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Convention on the Prohibition of Military or Any Hostile Use of Environmental Modification Techniques of 10 Dec 1976

Convention on Biodiversity of 5 June 1992;

Rio Declaration on the Environment and Development of 14 June 1992;

United Nations Framework Convention on Climate Change of 9 May 1992

United Nations Convention of 14 Oct 1994 to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa;

Kyoto Protocol of 11 Dec 1997;

Convention of Aarhus of 25 June 1998 on access to information, public participation in decision-making and access to justice in environmental matters;

Johannesburg Declaration on Sustainable Development of 4 Sept 2002

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Annex II

Some pointers on concepts of peace

This appendix intends to give a brief overview over different dimensions and approaches on peace and a right thereof.

It mainly focuses on who may be right holders and duty bearers, whether a right to peace can be perceived as an individual and/or collective right and on the prospect of a juridification of a right to peace. Further, it focuses on the relationship of a right to peace to other human rights and introduces the notion of human security.

A. Negative and positive peace

1. A key issue, abundantly discussed in academic debate is what constitutes peace or absence of peace. Negative peace is often understood to signify the absence of direct, physical violence.

2. In contrast, the understanding of positive peace goes beyond strict absence of armed conflict and is associated with the elimination of all kinds of violence and effective respect for all human rights. Only in peaceful environments, the conditions for satisfying the basic needs of human beings are met.^a Naturally, notions of positive peace differ considerably in states and societies over time, but there are certainly some common elements. To give just one example, the Kroc Institute of International Peace Studies at the University of Notre Dame asserts that ‘peace’ within peace studies,

“is defined not just as the absence of war (negative peace), but also the presence of the conditions for a just and sustainable peace, including access to food and clean drinking water, education for women and children, security from physical harm, and other inviolable human rights (positive peace). This idea is rooted in the understanding that a “just peace” is the only sustainable kind of peace; an approach that seeks merely to “stop the guns” while ignoring the denial of human rights and unjust social and political conditions will not work in the long run”.^b

3. Another perspective is Johan Galtung’s approach:

“The basic point is that peace is a relation, between two or more parties. The parties may be inside a person, a state or nation, a region or civilization, pulling in different directions. Peace is not a property of one party alone, but a property of the relation between parties. Saying that in no sense belittles the significance of the party’s intent and capability to build peaceful relations. But, like a marriage, it is not the sum of the capabilities of the parties. Which is why we can have lovely people related in a less-than-lovely marriage. And vice versa.

What kind of relations can we have? Three types, it seems:

- (a) Negative, disharmonious: what is bad for one is good for the Other.
- (b) Indifferent: a non-relation, they do not care about the Other.

^a We just recall here the debate about (structural) violence, use of force, war, right of self-determination, right of resistance to cite only a few aspects of a complex issue.

^b The Kroc Institute of International Peace Studies at the University of Notre Dame, “What is peace studies?”, <http://69.5.8.7/node/312>, retrieved at 12 Oct 2010.

- (c) Positive, harmonious: what is bad-good for one is bad-good for Other.

In the real world relations may be mixes of all three. When the negative relation is brought about with intent, the party is an actor, we talk about direct violence, or harm, and about war if the actor is collective. If the violence to a party is not intended (but watch out for acts of commission, more or less intended!) it maybe referred to as indirect, often caused by inequitable structures producing harm - structural violence. And then the role of culture legitimizing either or both types of violence: cultural violence.

From this follow two concepts of peace:

- (a) Negative Peace: the absence of violence, like a cease-fire, like keeping them apart, not negative but indifferent relations.

- (b) Positive Peace: the presence of harmony, intended or not. They are as different as negative health, the absence of (symptoms of) illness and positive health, the feeling of wellness and the capacity to handle some illness.”^c

B. The collective and individual dimension: peoples and individuals should be rights holders

4. At the OHCHR Workshop (2009) an expert noted that there was a tendency to perceive the right to peace primarily from the perspective of collective rights. Yet, he argued that peace was also a personal right, prior to and indispensable to other rights. He indicated that peace must be seen as an enabling right empowering individuals to enjoy civil, political, economic, social and cultural rights. Moreover, one should not be limited to considering peace as the absence of war. Humanity needed to ensure positive peace in the form of social justice. He stated that the right to peace must be understood and implemented in a holistic manner, among other things, through, respect for civil and political rights and must include a focus on the obligations that peace imposes both on States and on individuals.^d

5. Another expert at the workshop noted that the “right to peace had a definite individual dimension, which was assessed through the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.”^e

6. An expert mentioned that there is a generally accepted principle of dual ownership of the human right to peace. He noted that peace was indivisible, and thus manifested itself as a collective right of the human community of peoples and States while, at the same time, directly affecting each human being as an individual right.^f

7. Another expert held that the meaning given to the term “peoples” for the purposes of peoples’ right to peace still remained unclear, leading to an uncertainty as to the rights holders. The term “peoples” might have different meanings for the purposes of different

^c Johan Galtung, “A mini theory of peace”, http://www.transnational.org/Resources_Treasures/2007/Galtung_MiniTheory.html, retrieved at 12 Oct 2010.

^d OHCHR Workshop (2009), para 15.

^e OHCHR Workshop (2009), para 27.

^f *Ibid.*, para 29.

rights of peoples. The question was whether the duty bearers were individual States, States acting collectively through the United Nations, or the international community as a whole.^g

C. Other collective rights

8. If one looks at other collective rights, such as the right to development and the Declaration on the Rights of Indigenous Peoples, those clearly include collective as well as individual rights.

9. The UN Declaration on the Right to Development (1986)^h, for example, states in article 1 (a)

“an inalienable human right by virtue of which 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.”

10. In article 2, it specifies that the human person is the central subject of development and should be the active participant and beneficiary of the Right to Development.

“The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

11. The United Nations Declaration on the Rights of Indigenous Peoples (2007)ⁱ combines collective and individual rights:

Article 7

(a) Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

(b) Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. ...

Article 17

(a) Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic law.

(b) States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from

^g Ibid., para 10. See also Santiago Declaration (2010), Article 1 para 2.

^h GA Resolution 41/128, “United Nations Declaration on the Right to Development” (1986).

ⁱ GA Resolution 61/295 (2007), “United Nations Declaration on the Rights of Indigenous Peoples”.

performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

(c) Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

D. A legal standard, an emerging standard, not yet a human rights standard

12. At the OHCHR Workshop (2009), different opinions were voiced by experts whether a right to peace (a) existed, (b) was an emerging right or (c) represented rather an aspiration.^j For the purpose of this progress report the question of legal status is less important. There is a request by the Human Rights Council for a draft declaration, so there is obviously a political will to strengthen a soft law standard.

13. Regarding the question of assertion of peoples' right before contemporary international courts and tribunals, former judge Cançado Trindade spoke at the OHCHR Workshop (2009) about his experience at two such tribunals in which he had served or was currently serving as a judge, namely, the Inter-American Court of Human Rights and the International Court of Justice. That experience showed that the rights of peoples had been acknowledged and asserted before contemporary international tribunals. It indicated that there had been clear advances in the realization of international justice in recent years, in cases of factual and evidentiary complexities.^k

E. Relationship of an emerging right to peace to other human rights, especially the right to solidarity

14. At the OHCHR Workshop (2009), an expert suggested that the right to peace could be addressed within international human rights law from three perspectives: (1) as part of the emerging right to international solidarity; (2) as part of the right of all people and all peoples for a democratic and equitable international order; and (3) as an essential element of the right of peoples to peace. Thus, in the work of the Human Rights Council the right to peace should be linked in its material formulation to emerging rights or solidarity, in

^j OHCHR Workshop (2009), para 14, 56.

^k Judge Cançado Trindade reported: "The Inter-American Court of Human Rights, in the case of the *Community Mayagna (Sumo) Awas Tingni v. Nicaragua* (2001), had extended protection to the right of all the members of an indigenous community to their communal property of their historical lands. Furthermore, three other decisions had had a direct bearing on the rights of peoples, their cultural identity and their very survival, namely, in *Yakye Axa Indigenous Community v. Paraguay* (2005–2006), *Sawhoyamaya Indigenous Community v. Paraguay* (2005–2006), as well as in *Moiwana Community v. Suriname* (2005–2006), which had ruled on the case of the Moiwana massacre. Mr. Cançado Trindade added that such late jurisprudential development would have been unthinkable for the draftsmen of the American Convention on Human Rights. Massacres no longer fell into oblivion. Atrocities victimizing whole communities, or segments of the population, were being brought before contemporary international tribunals, for the establishment not only of the international criminal responsibility of individuals, but also of the international responsibility of States" (OHCHR 2009 Workshop, para 36).

particular the right to international solidarity, the right to a democratic and equitable international order as well as to the traditional right of peoples to peace.¹

15. The independent expert on human rights and international solidarity, Rudi Muhammad Rizki, has argued in a report that “some respondents viewed solidarity as a principle born together with international human rights law through the pursuit of peace among nations. However, it lacks visibility in current human rights instruments because it has no binding force. International solidarity is the only way to alleviate poverty, including extreme poverty.” In the context of Third generation rights, and recognizing that solidarity rights are Third generation rights, he mentioned, the right to economic and social development, the right to participate in and benefit from the “common heritage of mankind”, the right to peace, the right to a healthy and sustainable environment, the right to humanitarian disaster relief and the right to communication.^m

F. Human security

16. It is interesting to look at the relationship of a right to peace to human security. The concept of human security is of particular relevance here. Since its first appearance in the 2004 World Development Report of UNDP, a major effort has been undertaken to develop the understanding of security beyond the military aspect. Instead with the concept of human security, one looks at multi-faceted possible threats against the population. Hence, the understanding of security has become much broader and much deeper, which inevitably has also given rise to criticism in the academic debate that the concept of human security lacks a clear focus and “borders”.

17. The General Assembly has asked the Secretary-General to report on progress in the area of human security.ⁿ His last report on human security emphasized

(a) Broadly defined, human security encompasses freedom from fear, freedom from want and freedom to live in dignity. Together, these fundamental freedoms are rooted in the core principles of the Charter of the United Nations. They are also reflected in the many human security-related initiatives and activities undertaken by United Nations agencies, funds and programmes and by intergovernmental organizations as outlined in the compendium^o submitted to the General Assembly. ...

(b) Calls for such a broader concept of security are rooted in the common issues faced by all Governments. No matter how powerful or seemingly insulated Governments may be, today’s global flow of goods, finance and people increase the risks and uncertainties confronting the international community. It is in this interconnected environment that Governments are invited to consider the survival, livelihood and dignity of individuals as the fundamental basis for their security. (...)

18. In the summary of the report, it is noted that

“(h)uman security is based on a fundamental understanding that Governments retain the primary role for ensuring the survival, livelihood and dignity of their citizens. It is an invaluable tool for assisting Governments in identifying critical and pervasive threats to the welfare of their people and the stability of their sovereignty. It

¹ OHCHR Workshop (2009), para 56.

^m United Nations, “Report of the independent expert on human rights and international solidarity, Rudi Muhammad Rizki”, UN doc. A/HRC/15/32 (2010), para. 13, 20.

ⁿ United Nations, “Human Security - Report of the Secretary-General”, UN doc. A/64/701 (2010).

^o For an overview of human security-related initiatives and activities by members of the Friends of Human Security and United Nations agencies, funds and programmes, see Annex of A/62/695 (2008).

advances programmes and policies that counter and address emerging threats in a manner that is contextually relevant and prioritized. This helps Governments and the international community to better utilize their resources and to develop strategies that strengthen the protection and empowerment framework needed for the assurance of human security and the promotion of peace and stability at every level – local, national, regional and international.”

19. Regarding national sovereignty, the document argues that

(a) “the Charter also gives equal weight to the sovereignty of States as well as to the livelihood and dignity of people everywhere. As articulated in the preamble and in Articles 1 and 2 of the Charter, the international community cannot have peace and security unless the rights of individuals and their fundamental freedoms are supported. In this context, human security, by addressing the varied aspects of insecurity and by focusing on the respective roles of individuals, communities and Governments, provides the analytical framework for the creation of genuine possibilities for partnership between Governments and citizens. As a result, the application of human security is expected to reinforce the stability and security of both, as well as that of the international community.”

(b) “Common to all the above definitions are three essential components that encompass the principles of human security and help further explore the added value of the concept. First, human security is in response to current and emerging threats – threats that are multiple, complex and interrelated and can acquire transnational dimensions. Second, human security calls for an expanded understanding of security where the protection and empowerment of people form the basis and the purpose of security. Third, human security does not entail the use of force against the sovereignty of States and aims to integrate the goals of freedom from fear, freedom from want and freedom to live in dignity through people-centred, comprehensive, context-specific and preventive strategies.”

(c) “The human security concept derives much of its strength from a dual policy framework that rests upon the mutually reinforcing pillars of protection and empowerment. Application of this framework offers a comprehensive approach that combines top-down norms, processes and institutions, including the establishment of early warning mechanisms, good governance and social protection instruments, with a bottom-up focus, in which participatory processes support the important role of individuals and communities as actors in defining and implementing their essential freedoms. As a result, human security not only promotes a framework under which people are protected and empowered, and are therefore in a better position to actively prevent and mitigate the impact of insecurities, but it also helps in establishing a social contract among various actors in a given society by cultivating public discourse, promoting local ownership and strengthening States (...).”

Annex III

UNESCO: Brief history of the concept of a culture of peace

A. Origin of the concept at UNESCO

1. The concept of a Culture of Peace arose at the end of the Cold War. For the first time, the objective for which the United Nations was founded, the abolition of war, had become feasible. The United Nations Organization for Education, Science and Culture, UNESCO, had engaged in activities to promote a Culture of Peace from its beginnings, when it was founded in the aftermath of the Second World War to construct the defences of peace in the minds of men and women.

2. The concept of a Culture of Peace was formulated by the International Congress on Peace in the Minds of Men that was held in Africa (Yamoussoukro, Côte d'Ivoire, 1989). In its final declaration, the Congress invited "States, intergovernmental and non-governmental organizations, the scientific, educational and cultural communities of the world, and all individuals to "[...] help construct a new vision of peace by developing a peace culture based on the universal values of respect for life, liberty, justice, solidarity, tolerance, human rights and equality between men and women."^a

3. The term peace culture was inspired by the 1986 educational initiative *Cultura de paz* in Peru and by the Seville Statement on Violence, elaborated by scientists from around the world, which stated scientifically and categorically that war is not determined by genes, violent brains, human nature or instincts, but was rather a social invention. Therefore, "the same species that invented war is capable of inventing peace."^b

B. National programmes for a culture of peace

4. In 1992, UNESCO's Executive Board requested a specific programme for a Culture of Peace as a contribution to United Nations peacekeeping efforts. Reasoning that peacekeeping operations alone might assure the absence of war but could not by themselves bring a positive, dynamic peace, UNESCO argued in 1992 that this could be done best by engaging those who had been in conflict in common ventures of human development. Acting primarily in the fields of education, science, culture and communication, UNESCO offered its services in post-conflict peace-building. National programmes were undertaken in a number of countries of Central America and Africa, as well as in collaboration with the Government of the Philippines.

C. UNESCO's medium term strategy

5. A major turning point came in 1995 when the General Conference of UNESCO dedicated the Organization's Medium-Term Strategy for the years 1996 – 2001 to a Culture of Peace. The General Conference stated that

^a <http://www.unesco.org/cpp/uk/declarations/yamouss.pdf>, Part II a), retrieved 22 Oct 2010.

^b http://portal.unesco.org/education/en/ev.php-URL_ID=3247&URL_DO=DO_TOPIC&URL_SECTION=201.html, retrieved 22 Oct 2010.

“the major challenge at the close of the twentieth century is to begin the transition from a culture of war to this culture of peace:

- (a) a culture of social interaction and sharing, based on the principles of freedom, justice and democracy, tolerance and solidarity,
- (b) a culture that rejects violence, endeavours to prevent conflicts by tackling their roots and to solve problems through dialogue and negotiation,
- (c) a culture which guarantees everyone the full exercise of all rights and the means to participate fully in the endogenous development of their society.”

D. Transdisciplinary project

6. UNESCO then established a transdisciplinary project in which its various sectors, including education, culture, communication and social science, contributed in a co-ordinated way to this challenge.

E. UN General Assembly

7. Recognizing the importance of the UNESCO experience with a Culture of Peace, the 52nd United Nations General Assembly meeting in the fall of 1997 established a separate agenda item entitled “Towards a Culture of Peace” and requested the Secretary-General, in co-ordination with the UNESCO Director-General, to submit a report on its transdisciplinary project along with a draft declaration and programme of action on a Culture of Peace. The General Assembly also responded to the recommendation of the Economic and Social Council (ECOSOC) and proclaimed the Year 2000 as the International Year for the Culture of Peace with UNESCO as the focal point.

F. The UNESCO Executive Board

8. Meeting in Tashkent at the invitation of the President of the Republic of Uzbekistan during its 155th session in November 1998, the UNESCO Executive Board adopted the “Tashkent Declaration for the Culture of Peace and UNESCO’s Action in Member States”. Aware of the “great responsibility that will devolve upon UNESCO during the International Year for the Culture of Peace” as well as the International Decade for a Culture of Peace and Non-violence for the Children of the World, the Executive Board issued an invitation to the Member States, the United Nations System and other intergovernmental and non-governmental organizations to celebrate the Year. It invited them to take “all necessary steps to ensure the success of the Year and thus to affirm the values of tolerance and mutual understanding and the values of combating poverty and exclusion, all of which are actions that will primarily be of benefit to women, young people and the least developed countries.”

G. Beyond the year to a decade

9. In the fall of 1998, the 53rd General Assembly approved an ECOSOC recommendation, based on a proposal coming from all of the Nobel Peace Prize Laureates, to proclaim the decade of 2001 – 2010 as the International Decade for a Culture of Peace and Non-violence for the Children of the World. Thus, the Year 2000 should be seen as a new departure towards a long-term process of transformation.

H. Declaration and programme of action

10. Following nine months of debate the UN General Assembly adopted on 13 September 1999 a “Declaration and Programme of Action on a Culture of Peace”.^c The first article of the declaration provides the most complete definition to date of the Culture of Peace:

“A culture of peace is a set of values, attitudes, traditions and modes of behaviour and ways of life based on:

- (a) Respect for life, ending of violence and promotion and practice of non-violence through education, dialogue and cooperation;
- (b) Full respect for the principles of sovereignty, territorial integrity and political independence of States and non-intervention in matters which are essentially within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations and international law;
- (c) Full respect for and promotion of all human rights and fundamental freedoms;
- (d) Commitment to peaceful settlement of conflicts;
- (e) Efforts to meet the developmental and environmental needs of present and future generations;
- (f) Respect for and promotion of the right to development;
- (g) Respect for and promotion of equal rights of and opportunities for women and men;
- (h) Respect for and promotion of the rights of everyone to freedom of expression, opinion and information;
- (i) Adherence to the principles of freedom, justice, democracy, tolerance, solidarity, cooperation, pluralism, cultural diversity, dialogue and understanding at all levels of society and among nations; and fostered by an enabling national and international environment conducive to peace”.

Source: http://www3.unesco.org/iycp/kits/uk_concept.pdf (accessed on 1st March 2011)

^c GA Resolution 53/243 (1999).

Annex IV

Asian Human Rights Charter (1998, extract)

The right to peace

1. All persons have the right to live in peace so that they can fully develop all their capacities, physical, intellectual, moral and spiritual, without being the target of any kind of violence. The peoples of Asia have suffered great hardships and tragedies due to wars and civil conflicts which have caused many deaths, mutilation of bodies, external or internal displacement of persons, break up of families, and in general the denial of any prospects of a civilized or peaceful existence. Both the state and civil society have in many countries become heavily militarized in which all scores are settled by force and citizens have no protection against the intimidation and terror of state or private armies.

2. The duty of the state to maintain law and order should be conducted under strict restraint on the use of force in accordance with standards established by the international community, including humanitarian law. Every individual and group is entitled to protection against all forms of state violence, including violence perpetrated by its police and military forces.

3. The right to live in peace requires that political, economic or social activities of the state, the corporate sector and the civil society should respect the security of all peoples, especially of vulnerable groups. People must be ensured security in relation to the natural environment they live in, the political, economic and social conditions which permit them to satisfy their needs and aspirations without recourse to oppression, exploitation, violence, and without detracting from all that is of value in their society.

4. In fighting fascist invasion, colonialism, and neo-colonialism, Asian states played a crucial role in creating conditions for their peoples to live in peace. In this fight, they had justifiably stressed the importance of national integrity and non-intervention by hegemonic powers. However, the demands of national integrity or protection against the threats of foreign domination cannot now be used as a pretext for refusing to the people their right to personal security and peaceful existence any more than the suppression of people's rights can be justified as an excuse to attract foreign investments. Neither can they justify any refusal to inform the international community about the individual security of its people. The right of persons to live in peace can be guaranteed only if the states are accountable to the international community.

5. The international community of states has been deeply implicated in wars and civil conflicts in Asia. Foreign states have used Asian groups as surrogates to wage wars and have armed groups and governments engaged in internal conflicts. They have made huge profits out of the sale of armaments. The enormous expenditures on arms have diverted public revenues from programmes for the development of the country or the well-being of the people. Military bases and other establishments (often of foreign powers) have threatened the social and physical security of the people who live in their vicinity