



General Assembly

Distr.: General
16 April 2012

Original: English

Human Rights Council
Twentieth session
Agenda item 5
Human rights bodies and mechanisms

Report of the Human Rights Council Advisory Committee on the right of peoples to peace

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 (A/HRC/17/39) to the Human Rights Council 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 (A/HRC/AC/7/3) to the Advisory Committee at its seventh session, in August 2007, where it was discussed comprehensively. A revised draft, presented to the Committee at its eighth session, in February 2012, was thoroughly discussed.
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 Advisory Committee worked towards a comprehensive, yet concise draft declaration, given that, the topic of peace may address many different issues (problem of determining boundaries instead of following an “include all issues” approach). 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.

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,

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

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,

Recalling also the African Charter on Human and Peoples' Rights, which states that all peoples have the right to national and international peace and security,

Recalling further that all Members shall refrain in their international relations 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,

Convinced that the prohibition of the use of force is the primary international prerequisite for the material well-being, development and 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:

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 abide by the legal obligation to renounce the use or threat of use of force in international relations.

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. The right to peace is related to all human rights, including civil, political, economical, 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 of the United Nations 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.

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. They should pursue people-oriented concepts of security, such as citizens' security.

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.

2. 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.

3. 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.

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

5. 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 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 of Action 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 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. Right to 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 a national and 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 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 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..

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. Right to 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 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. States have the responsibility to take action to guarantee these rights, including technology transfer in the field of climate change, in accordance with the principle of common but differentiated responsibility.

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 adaptation to climate change.

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 and not subject to statutory limitations, to know the truth, and 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, women suffering from violence and individuals deprived of their liberty, 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, 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. Special consideration should be given to challenges, such as the situation of war refugees and of refugees fleeing hunger.

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 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 special procedure to monitor respect for and the implementation of the right to peace and to report to relevant United Nations bodies.

Article 14. Final provisions

1. No provision of the present Declaration may be interpreted as conferring on any State, group or individual any right to undertake or develop any activity or carry out any act contrary to the purposes and principles of the United Nations, or likely to negate or violate any of the provisions of the Declaration or of those in international human rights law, international labour law, international humanitarian law, international criminal law and international refugee law.

2. The provisions of the present Declaration shall apply without prejudice to any other provision more propitious to the effective realization of the human right to peace formulated in accordance with the domestic legislation of States or stemming from applicable international law.

3. All States must implement in good faith the provisions of the present Declaration by adopting relevant legislative, judicial, administrative, educational or other measures necessary to promote its effective realization.