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## Human Rights Council

Open-ended intergovernmental working group  
on a draft United Nations declaration on the right to peace  
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### **Letter from the Chairperson-Rapporteur of the open-ended intergovernmental working group on a draft United Nations declaration on the right to peace, Christian Guillermet- Fernández, addressed to the members of the working group**

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In June 2013, the Human Rights Council adopted resolution 23/16, in which it requested the Chairperson-Rapporteur of the working group to prepare a new text on the basis of the discussions held during the first session of the working group and on the basis of the intersessional informal consultations held.

The open-ended working group concluded at its first session that there were some governmental delegations and other stakeholders that recognized the existence of the right to peace. They argued that this right had already been recognized by “soft law” instruments (such as General Assembly resolution 39/11 entitled “Declaration on the Right of Peoples to Peace”). On the other hand, several other delegations stated that a stand-alone “right to peace” did not exist under international law. In their view, peace is not a human right, but a consequence of the full implementation of all human rights.

The Chairperson-Rapporteur of the working group nonetheless considers the following to be points of concurrence among all delegations:

1. The declaration should be short and concise, and should provide an added value to the field of human rights on the basis of consensus and dialogue;
2. The declaration should be guided by international law, basing itself on the Charter of the United Nations and the promotion of human rights and fundamental freedoms;
3. The legal basis of the human rights legal system is the concept of human dignity;
4. Human rights and fundamental freedoms, in particular the right to life, are massively violated in the context of war and armed conflict; in addition, fundamental rights cannot be exercised in a context of armed violence;
5. Cooperation, dialogue and the protection of all human rights are fundamental to the prevention of war and armed conflict;
6. The promotion, protection and prevention of violations of all human rights would make a profound contribution to peace;
7. Human rights, peace and development are interdependent and mutually reinforcing;
8. Many concepts of human rights included in the draft declaration elaborated by the Advisory Committee are new and unclear, which results in the risk that the current process will become an unproductive, futile and frivolous exercise. Many notions have already been addressed in other more appropriate forums, some under the Human Rights Council, and some not.

Having identified the above points of concurrence, the Chairperson-Rapporteur considers that the information below could be acceptable to all members of the working group.

## **I. General ideas**

### **A. Purposes and principles of the Charter of the United Nations**

As enunciated in Article 1, paragraphs 2 and 3 of the Charter of the United Nations, the concepts of both peace and human rights are recognized as the main purposes and principles of the United Nations. Article 38.1 of the Statute of the International Court of Justice recognizes international conventions, international custom and “general principles” as the main sources of international law. General principles are complementary to treaty

law and a supplement to it. They can guide lawmakers and shape the content of both soft and hard law (namely, freedom, justice and equality).

**B. The determination of the peoples of the United Nations to live together in peace with one another as good neighbours in order to save succeeding generations from the scourge of war, and to take appropriate measures to strengthen universal peace**

The maintenance of international peace and security is the most important goal of the United Nations. Article 1, paragraph 2 of the Charter proclaims that the purpose of the United Nations is to “take other appropriate measures to strengthen universal peace”. Therefore, this notion is often considered vital in that it includes the positive notion of peace, which goes beyond the negative concept of the absence of the use of force. In accordance with international legal practitioners, the notion of universal peace opens the door to establishing the linkage between peace and human rights.

**Sources:** Charter of the United Nations, preamble and Art. 1, para. 2.

**C. Friendly relations among nations are based on respect for the principle of equal rights and self-determination of peoples, and international cooperation to solve international problems of an economic, social, cultural or humanitarian character and to promote and encourage respect for human rights and fundamental freedoms for all**

In general international law, the above-mentioned principles have been seen as playing a major role in forming the “constitutional principles” of the international community. These principles were extensively elaborated in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

**Sources:** Charter of the United Nations, Art. 2, and General Assembly resolution 60/251 (on the Human Rights Council), first preambular paragraph.

**D. The inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world**

This paragraph of the Universal Declaration of Human Rights tells the reader that those who aspire to a world with freedom, peace and justice must recognize that all members of the human family have inherent dignity. Rights are inherent and inalienable; therefore, our recognition thereof will help humankind to attain the desired freedom, justice and peace in the world.

**Sources:** Universal Declaration of Human Rights, first preambular paragraph (direct quotation).

**E. Disregard and contempt for human rights have resulted in barbarous acts that have outraged the conscience of mankind**

The promotion and protection of all human rights is an important legal tool aimed at preventing armed conflicts in the world. Sustainable and long-term prevention of armed conflict must include a focus on strengthening respect for human rights and addressing core issues of human rights violations, wherever they occur. Efforts to prevent armed conflict should also entail the promotion of a broad range of human rights; not only civil and political rights, but also economic, social and cultural rights, including the right to development.

**Sources:** Universal Declaration of Human Rights, second preambular paragraph (direct quotation).

**F. Everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized**

In accordance with this doctrine, all human rights should be progressively elaborated in international law with the purpose of creating the conditions to promote world peace.

**Sources:** Universal Declaration of Human Rights, art. 28 (direct quotation).

**G. The International Bill of Human Rights as a common standard of achievement for all peoples and all nations**

The International Bill of Human Rights comprises the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Both Covenants textually feature in their preamble the first preambular paragraph of the Universal Declaration of Human Rights. In addition, they expressly recognize the linkage between the Charter and the concept of peace and human rights understood in accordance with the contributions received during the drafting process of the Charter and Declaration.

**H. All human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and must be treated in a fair and equal manner, on the same footing and with the same emphasis**

Human rights are universal and inalienable, indivisible, interdependent and interrelated. They are universal because all persons are born with and possess the same rights, regardless of where they live, their gender or race, their religious, cultural or ethnic background. They are inalienable because people's rights can never be taken away. They are indivisible and interdependent because all rights – political, civil, social, cultural and economic – are equal in importance, and none of them can be fully enjoyed without the others.

**Sources:** General Assembly resolution 60/251, third preambular paragraph (direct quotation).

**I. Peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being; development, peace and security and human rights are interlinked and mutually reinforcing**

In the report on the seminar on the relations between human rights, peace and development (ST/HR/SER.A/10), participants in the seminar concluded that the latter concepts are interrelated and interdependent and that the fostering of one promotes the enhancement of the others.

**Sources:** General Assembly resolution 60/251, sixth preambular paragraph (direct quotation).

**J. The Human Rights Council shall contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies**

The purpose of this language is to highlight the preventive purpose of the Human Rights Council as defined in its mandate.

**Sources:** General Assembly resolution 60/251, para. 5 (f) (direct quotation).

**K. The Declaration and Programme of Action on a Culture of Peace should be recalled**

The standards included in the draft declaration and those outlined in the Declaration and Programme of Action on a Culture of Peace prepared by the Advisory Committee are closely linked. In particular, all the main concepts (namely, human security and poverty, disarmament, education, development, the environment, vulnerable groups, refugees and migrants) proposed by the Advisory Committee had already been included and subsequently elaborated in the Declaration and Programme of Action.

**L. All stakeholders should be guided in their activities by the recognition of the supreme importance of practicing tolerance, dialogue, cooperation and solidarity among all peoples, individuals and nations through the enhancement of human rights and international humanitarian law as a means to end, to reduce and prevent progressively war and armed conflicts around the world**

This provision describes some possible means aimed at enhancing human rights and international humanitarian law with the purpose of ending conflicts.

**II. Substantive ideas****A. Everyone has the right to live in a context in which human rights, peace and development are fully promoted, protected and respected**

This language is proposed by the Chairperson-Rapporteur to add value to the draft declaration. There is a consensus on the recognition of the right to life. Human rights, peace and development are interrelated and mutually reinforcing, and the fostering of one promotes the enhancement of the others. It follows that the linkage between the three elements and the right to life should be strengthened in order to guarantee that everyone may live in a more dignified manner.

**B. All parties to conflict shall promptly allow rapid, safe and unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners, in order to ensure that humanitarian assistance reach people in need through the most direct routes**

Human rights and fundamental freedoms, in particular the right to life, are massively violated in a context of war and armed conflict. In order to provide a victim-oriented approach, we need to ensure that humanitarian assistance reach the victims.

**Sources:** Fourth Geneva Convention (arts. 59 and 108), Protocol I additional to the Geneva Conventions (art. 61), and common article 3 to the Geneva Conventions (inspiring language).

**C. Every State shall provide conditions adequate to ensure that all persons may live free from fear and from want, with equal and non-discriminatory enjoyment of all their rights and fundamental freedoms, and conditions in which access to justice and the rule of law are strengthened**

In the view of the Chairperson-Rapporteur, the principles of equality and non-discrimination, freedom from fear and want, and justice and the rule of law inspired the draft declaration elaborated by the Advisory Committee. In this sense, it is important to reiterate the commitment of every State to the enhancement of these principles in the realization of peace.

- D. Every State, the United Nations and its specialized agencies, as well as other interested international and national organizations, and civil society shall take all possible concerted actions with the purpose of implementing, strengthening and elaborating the principles enshrined in the present Declaration**

Active steps to promote a better life for all are required to attain peace throughout the world. In order to eliminate progressively armed conflict and war around the world and consequently to live in a context of peace, the protection of human rights should be at the centre of all decision-making processes at both the national and international levels. It follows that different stakeholders should take positive measures on peace matters through the promotion of human rights and development.

- E. The Declaration shall be interpreted in the light of the Charter of the United Nations, the Universal Declaration of Human Rights and other international instruments ratified by countries**

This language is aimed at guaranteeing the human rights approach of the draft declaration.

### **III. Conclusions**

The Chairperson-Rapporteur suggests that the level of implementation of a declaration will always depend on the degree of consensus on it. The degree of support is always significant. A resolution adopted by consensus will necessarily carry more weight than one supported by a majority of States. The declaration will be a useful tool to generate widespread and consistent State practice and/or provide evidence of *opinio juris* of customary rule. In addition, soft law instruments can be vehicles for focusing consensus on rules and principles and for mobilizing a general response from States. Furthermore, in many cases, it may be advantageous for States to reach agreements with each other or through international organizations that reflect a political intention to act in a certain way. The declaration to be adopted by the Human Rights Council and eventually by the General Assembly can be understood as an authoritative interpretation by the Assembly of the various principles of the Charter of the United Nations.