

**Progress report of OEWG on the right to peace:
CSOs assessment
2013-0208-en-gl-HR**

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I.

On 5 July 2012, the Human Rights Council adopted resolution 20/15 on “The promotion of the right to peace” by a vote of 34 in favour, one against (United States) and 12 abstentions (European States and India). The resolution welcomed the contribution of CSOs and established an **open-ended working group** (OEWG) with the mandate of progressively negotiating a draft UN Declaration on the right to peace on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals¹.

The first session of the OEWG was held from 18 to 21 February 2013 in Geneva. At its 23rd session (June 2013), the HR Council has before it the first progress report of the OEWG². It should decide on the extension of the OEWG mandate to enable it to hold a second session in 2014.

In preparation of the 23rd session of the HR Council, the International Observatory of the Human Right to Peace (IOHRP) and the Spanish Society for International Human Rights Law (SSIHRL) in cooperation with Parliaments, Universities and CSOs organised or participated in the following expert meetings:

On 28 February 2013, the New York-based NGO Committee on Human Rights, in partnership with the International Peace Bureau and the Global Movement on Culture of Peace, organised a Panel on **The Human Right to Peace: Time to Mobilize** in the United Nations Church Center³.

On 5 March 2013, at the occasion of the 57th session of the UN Commission on the Status of Women, a Panel on **End to violence against women and the human right to peace** was co-organized in New York by the PM of Bangladesh, WUNRN and Global Movement for the Culture of Peace.

On 11 March 2013, at the occasion of the 22nd session of the HR Council in Geneva, an Expert Meeting took place on **CSOs assessment of the first session of the OEWG on right to peace**, which followed the 1,619 CSOs joint written statement on amendments to the draft declaration on the right to peace submitted by the Advisory

¹ See the report on the adoption of the resolution at <http://www.aedidh.org/sites/default/files/ReportHRCouncil.pdf>

² A/HRC/WG.13/1/2 of 26 April 2013, 17 p.

³ See program of the meeting at <http://www.aedidh.org/?q=node/2178>

Committee⁴. The outcome of the first session of the OEWG was assessed in a report prepared by the SSIHRL, IOHRP and IAPMC⁵.

Lectures on the human right to peace were delivered by the SSIHRL and the IOHRP at Licée Voltaire (Geneva, 25 February 2013), the Basque Country University (Bilbao, 4 March 2013) and the University Abat Oliba CEU (Barcelona, 18 April 2013)⁶.

On 22 April 2013, experts from Canada, United States and Venezuela met in a **Workshop on the draft UN Declaration on the right to peace** at the University of Notre Dame (Indiana, USA). It was co-sponsored by the Centre for Human Rights, the Kellogg Institute for International Relations and the Kroc Institute for International Peace Studies⁷.

On 6 May 2013 a new book on the activities carried out in 2011-2012 by the IOHRP and SSIHRL in the field of the human right to peace was printed out⁸. It will be presented to the public in Donostia-San Sebastian on 10 May 2013 (Aiete Palace, headquarters of the IOHRP) and the Basque Parliament (Vitoria, 13 May 2013). It will also be presented at the occasion of the 23rd session of the HR Council in the expert meeting on the right to peace to be organized in the Palais des Nations on 6 June 2013.

On 16 May 2013, experts from the Eastern European countries will meet in Oswiecim (Poland) for a **Workshop on the draft UN Declaration on the right to peace**. It is co-hosted by the Cities of Plonsk and Wielun and co-organized by the Poznan Human Rights Centre, the Institute of Legal Studies of the Polish Academy of Sciences and the University Abat Oliba (Barcelona), with the support of the IAPMC and the World Council of Churches (WCC).

On 23 May 2013, experts from United Kingdom and Netherlands will meet in a **Workshop on the draft UN Declaration on the right to peace** at the University of Middlesex (London). It is co-sponsored by the Women's International League for Peace and Freedom (WILPF) and the University Abat Oliba (Barcelona).

⁴ Doc. A/HRC/22/NGO/156, 27 February 2007

⁵ See Analysis of the first session of the OEWG on the draft declaration on the right to peace. SSIHRL, IOHRP, IAPMC, Geneva, March 2013, 16 p. Available at <http://www.aedidh.org/sites/default/files/analysis.pdf>

⁶ See the outcome at <http://www.aedidh.org/?q=node/2188>

⁷ See the programe at <http://www.aedidh.org/?q=node/2187>

⁸ C. VILLÁN DURÁN and C. FALEH PÉREZ (Directors), The International Observatory of the Human Right to Peace. Luarca, SSIHRL, 2013, 547 p. See also (in Spanish) C. VILLÁN DURÁN and C. FALEH PÉREZ (Directors), El derecho humano a la paz. De la teoría a la práctica. Madrid, CIDEAL, 2013, 216 p.

II.

The undersigned CSOs invite the HR Council to endorse the AC declaration and to take into consideration 15% of the standards contained in the 2010 *Santiago Declaration* that were not accepted by the AC. We also invite the OEWG to clarify the legal content of the emerging human right to peace. We trust that States will be respectful of the established IHRL standards related to the human right to peace. Moreover, the on-going standard-setting process should take into account some elements of progressive development of IHRL, as proposed by relevant human rights protection mechanisms or by CSOs.

In particular, the OEWG should consider the following human rights standards:

A. Title: Draft UN Declaration on the right to peace

The title should add the concept of "human" to the right to peace, following the UN Declaration on the Right to Development⁹. In addition, the right to peace has a solid foundation in the UN Charter, whose main purpose is the maintenance of international peace and security. Moreover, the concept of the right to peace has been recognized in both international¹⁰ and regional human rights instruments¹¹.

B. Preamble

The Preamble should also make a clear reference to the main legal standards of the UN Charter; Constitutions of the UN Specialized Agencies¹² and other legal instruments¹³.

⁹ Art. 1.1 of the 1986 GA Declaration on the Right to Development states that "the right to development is 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".

Art. 2.2 states that "the **human** right to development also implies...."

¹⁰ The GA Declaration on the Preparation of Societies for Life in Peace (res. 33/73 of 15 December 1978) and the GA Declaration on the Right of Peoples to Peace (res. 39/11 of 11 November 1984)

¹¹ The 1982 African Charter on Human and Peoples' Rights, the 2005 Ibero-American Convention on Young People's Rights and the Declaration on Human Rights adopted on 18 November 2012 by the Association of Southeast Asian Nations (ASEAN).

¹² The Constitution of International Labour Organisation (ILO) says that "lasting peace can be established only if it is based on social justice".

The Constitution of the Food and Agriculture Organization (FAO) states that it is aimed to the improvement of the levels of life and nutrition of all peoples, as well as to the eradication of hunger.

The Constitution of the World Health Organization (WHO) states that "the health of all peoples is fundamental to the attainment of peace and security".

The Preamble to the Constitution of the United Nations Educational, Scientific and Cultural Organization (UNESCO) states that "since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed".

¹³ The African Charter on Human and Peoples' Rights of 1982, the Ibero-American Convention on Young People's Rights of 2005 and the 2012 Declaration on Human Rights adopted by the Association of Southeast Asian Nations (ASEAN).

Para. 32 of the 2000 UN Millennium Declaration states that the United Nations is the common house of the entire human family, where it should realize its universal aspirations for peace, cooperation and development.

The Preamble should also pay tribute to peace movements and ideas that have marked over the history of humankind¹⁴.

C. Right to peace: Principles (article 1)

Individuals, peoples, minorities and humankind should be recognised as right-holders of the human right to peace in accordance with the preamble of the UN Charter¹⁵ and other different human rights instruments¹⁶.

D. Human security (article 2)

Development, peace, security and human rights are mutually reinforcing and peace and justice encompass an economic dimension in accordance with several Declarations¹⁷. In addition, It should be recalled the UN Secretary-General reports on this topic¹⁸

The 2005 World Summit Outcome Document
Security Council resolutions 1325 (2000), 1820 (2008), 1888 and 1889 (2009) on women, peace and security

¹⁴ the 1999 Hague Agenda for Peace and Justice for the Twenty-first Century; the 2000 Earth Charter; and the 2010 Universal Declaration of the Rights of Mother Earth

¹⁵ The Preamble of the UN Charter states that "...to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to **mankind**".

¹⁶ The Preamble of the UDHR states that "whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and **peace** in the world".

The Preamble of both the ICCPR and ICSCR states that "...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and **peace** in the world".

The Preamble of the 1978 Declaration on the Preparation of Societies for Life in Peace says that "The General Assembly... (...) Reaffirming the right of **individuals, States and all mankind** to life in peace... **Every nation and every human being**, regardless of race, conscience, language or sex, has the inherent right to life in peace.

The 1984 Declaration on the Right of Peoples to Peace "...1. Solemnly proclaims that the **peoples** of our planet have a sacred right to peace; 2. Solemnly declares that the preservation of the right of **peoples** to peace and the promotion of its implementation constitute a fundamental obligation of each State;..."

Art. 38 of the ASEAN Declaration on Human Rights states that "**Every person and the peoples** of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realized..."

¹⁷ Principle h) of the 1974 Universal Declaration on the Eradication of Hunger and Malnutrition states that "... **Peace and justice** encompass an economic dimension helping the solution of the world economic problems, the liquidation of under-development, offering a lasting and definitive solution of the food problem for all **peoples**..."

Paragraph 72 of the the 2005 Outcome World Summit Document states 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"

¹⁸ Paragraphs 43-44 of the "An agenda for peace. Preventive diplomacy, peacemaking and peacekeeping" indicated that an integrated approach to human security would be related to the deepest causes of war, such as economic despair, social injustice and political oppression.

In paragraph 25-126 of "In Larger Freedom: Towards Development, Security and Human Rights for All" the former Secretary-General stated that this concept is linked to the twin values of freedom from fear and freedom from want.

E. Disarmament (article 3)

There is a close relationship between right to disarmament and IHRL. The Human Rights Committee recognized (General Comment No. 14 on article 6 ICCPR of 9 November 1984) the relationship between nuclear weapons and the right to life¹⁹. This approach also finds expression in the UN Charter²⁰ and other human rights instruments²¹.

In addition, States should focus on the efforts towards general and complete disarmament, under effective international control²². Furthermore, it should be recognized the establishment of Peace Zones free from nuclear weapons²³, as well as the women's contribution to disarmament.²⁴

F. Peace education and training (article 4)

¹⁹ The HR Committee stated that the “designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront humankind today”. It also stated that “the development and proliferation of weapons of mass destruction not only threaten human life but also absorb resources that could otherwise be used for vital economic and social purposes, particularly for the benefit of developing countries, and thereby for promoting and securing the enjoyment of human rights for all ».

²⁰ Article 26 of the UN Charter envisages an international system based on the “least diversion for armaments of the world’s human and economic resources”.

²¹ The Preamble of the Declaration on the Right to Development reaffirmed that “there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries”. In addition, article 7 states that “all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries”.

The 1987 International Conference on the Relationship Between Disarmament and Development was the basis to define the relationship between disarmament and development; examine the magnitude and consequences of military expenditure on the world economy and on development; and explore ways to release resources for development through disarmament.

²² Art. 6 of the Declaration on the Preparation of Societies for Life in Peace states that “a basic instrument of the maintenance of peace is the elimination of the threat inherent in the arms race, as well as efforts towards general and complete disarmament, under effective international control...”

Art. 3 of the Declaration on the Right of Peoples to Peace emphasizes that “ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the 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”.

²³ The current treaties establishing peace zones free of nuclear weapons are the following: Antarctic (1961); Outer Space (1967); Tlatelolco (Latin America and Caribbean, 1969); Seabed (1972); Rarotonga (South Pacific, 1986); Bangkok (ASEAN, 1997); MNWFS Mongolia (2000); Semei (Central Asia, 2009) and Pelindaba (Africa, 2009).

²⁴ Beijing Declaration and Platform for Action: “The full participation of women in decision-making, conflict prevention and resolution and any other peace initiative are essential to the realization of lasting peace”. The United Nations Fourth World Conference on Women: *Action for equality, development and peace*, Beijing, China, September 1995, par. 22.

Security Council resolution 1325 (2000) on women, peace and security.

The right to education on peace and human rights is deeply rooted in both international²⁵ and regional human rights instruments²⁶.

G. Right to conscientious objection to military service (article 5)

Human Rights Council decision 2/102 of 6 October 2006²⁷ and Commission on Human Rights resolutions 2004/35 of 19 April 2004²⁸ and 1998/77 of 22 April 1998²⁹,

²⁵ Article 26.2 of the Universal Declaration of Human Rights states that "education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace".

Article 29 of the UN Convention on the Rights of the Child states that children's education should develop each child's personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people. Children have a particular responsibility to respect the rights their parents, and education should aim to develop respect for the values and culture of their parents.

Article 13 of the International Covenant on Economic, Social and Cultural Rights states that "... recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace".

Article 1 of the Declaration on the Preparation of Societies for Life in Peace states that ".... to ensure that their policies relevant to the implementation of the present Declaration, including educational processes and teaching methods as well as media information activities, incorporate contents compatible with the task of the preparation for life in peace of entire societies and, in particular, the young generations".

²⁶ Goal 6 of the 2000 Dakar Framework for Action, Education for All states that "Education, both formal and non-formal, is therefore a key element to achieving sustainable development, peace and stability within and among countries, by fostering social cohesion and empowering people to become active participants in social transformation".

Article 13 of the Protocol of San Salvador on Economic, Social and Cultural Rights states that "... education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and **peace**. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace".

²⁷ On 6 October 2006, the HR Council decided without a vote "to transmit the views of the Sub-Commission on Promotion and Protection of Human Rights on the Human Rights Council's future expert advice mechanism to the Working Group established pursuant to Human Rights Council decision 1/104"

²⁸ Paragraph 3 "calls upon States that have not yet done so to review their current laws and practice in relation to conscientious objection to military service...."; and paragraph 4 "encourages States, as part of post-conflict-peace building, to consider granting and effectively implementing amnesties and restitutions of rights, in law and practices, for those who have refused to undertake military services on grounds of conscientious objection".

²⁹ The preamble of the resolution recognized that conscientious objection to military service derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives and that persons performing military service may develop conscientious objections. Paragraph 4 reminded "States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a noncombatant or civilian character, in the public interest and not of a punitive nature".

recognized the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in several human rights instruments³⁰.

H. Private military and security companies (article 6)

The PMSCs should be accountable for human rights violations in accordance with the international human rights law³¹. In addition, related national legislation will never be successful without a coordinated response by the international community to the increasing role of the private sector in war and peace.

I. Resistance and opposition to oppression (article 7)

Resistance to oppression is founded in the Preamble of the UDHR³² and was developed by the Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations (General Assembly res. 2625 (XXV) of 24 October 1970) and other human rights

³⁰ Article 18 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".

Art. 18 of the International Covenant on Civil and Political Rights states that "1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice". In addition, Article 19.1 ICCPR states that "Everyone shall have the right to hold opinions without interference".

Paragraph 11 of the General Comment No. 22 (1993) of the Human Rights Committee states that "Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief...."

³¹ The UN Code of Conduct for Law Enforcement Officials of 1979; the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted in the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana from 27 August to 7 September 1990; the OUA Convention for the elimination of mercenarism in Africa of 1997; the UN non-binding Guidelines on the Use of Military and Armed Escorts for Humanitarian Convoys of 2001 and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law of 2005.

³² The Preamble states that "... Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to **rebellion against tyranny and oppression**, that human rights should be protected by the rule of law..."

instruments, which recognised inter alia the duty of every State to promote the realization of the right of peoples to self-determination³³.

J. Peacekeeping (article 8)

States, the UN, its members and entities as well as the international community should recognize, scale up and support **unarmed civilian peacekeeping**. Civilians under threat of violent conflict have the right to physical protection and shall be offered unarmed civilian peacekeepers for their protection and in support of violence deterrence.

K. Right to development (article 9)

Several declarations and instruments support the relationship between development and peace³⁴. A transformed partnership based on **equality between women and men** is needed as a condition for people-centred sustainable development and **world peace**³⁵. In addition, the role played by men and boys in advancing gender equality is vital³⁶.

L. Environment (article 10)

³³ The Declaration of Principles of International Law Concerning Friendly Relations states that "...Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and **self-determination of peoples**, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle".

Common article 1 of ICCPR and ICESCR states that "All peoples have the **right of self-determination**. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".

Article 1.2 of the Declaration on the Right to Development states that "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".

³⁴ Paragraph 32 of the Millennium Declaration states that United Nations is the common house of the entire human family, where it should realize its universal aspiration for **peace, cooperation and development**

Preamble of the Declaration on the Right to Development states that "international peace and security are essential elements for the realization of the right to development". Furthermore, article 1.1. indicates that "the right to development is 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".

The 2005 World Summit Outcome Document restated that **human rights, peace and development** are **interrelated and interdependent** and that the fostering of one promotes the realization of the others.

³⁵ Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), paragraphs 1 and 132

³⁶ Report of the Expert Group Meeting that took place in Brasilia, Brazil from 21 to 24 October 2003: The role of men and boys in achieving gender equality. United Nations Division of Advancement of Women, EGM/MEN-BOYS-GE/2003/REPORT, 12 January 2004; Report of the Secretary General, Thematic issue before the Commission: the role of men and boys in achieving gender equality, Commission on the Status of Women, E/CN.6/2004/9, 22 December 2003.

The relationship between right to peace, development and right to environment, as well as the obligation to ensure to present and future generations a life in peace and in harmony with nature, was recognised in several instruments³⁷.

M. Rights of victims and vulnerable groups (article 11)

To be completed with the following standards from IHRL: the right of victims to an effective remedy³⁸; rights of victims of enforced or involuntary disappearances which may amount to a crime against humanity³⁹; the right of all persons deprived of their liberty to have the right to be treated humanly and to save conditions of living, under judicial

³⁷ Goal 6 of the 1972 Stockholm Declaration states that "... for the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of **peace** and of worldwide economic and social development".

The Preamble of the 1982 World Charter for Nature states that "competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the maintenance of **peace** and cannot be achieved until mankind learns to live in peace and to forsake **war and armaments**."

Principle of the the 1992 Rio Declaration on the Environment and Development 25 states that "**Peace**, development and environmental protection are interdependent and indivisible"

Principle 35 of the 2002 Johannesburg Declaration on Sustainable Development states that "we commit ourselves to act together, united by a common determination to save our planet, promote human development and achieve universal prosperity and **peace**".

Principle 8 of the outcome document of the 2012 Conference on Sustainable Development (« The future we want ») states that "we also reaffirm the importance of freedom, **peace** and security, respect for all human rights, including the right to development and the right to an adequate standard of living, including the right to food, the rule of law, gender equality, women's empowerment and the overall commitment to just and democratic societies for development".

³⁸ Article 8 UDHR states that "Everyone has the **right to an effective remedy** by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law".

Art. 2.3 ICCPR states that "Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an **effective remedy**, notwithstanding that the violation has been committed by persons acting in an official capacity"

Article 6 of the **International Convention on the Elimination of All Forms of Racial Discrimination** states that "States Parties shall assure to everyone within their jurisdiction **effective protection and remedies**, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals **just and adequate reparation or satisfaction** for any damage suffered as a result of such discrimination."

Article 14.1 of the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** states that "Each State Party shall ensure in its legal system that the victim of an act of torture obtains **redress** and has an enforceable **right to fair and adequate compensation**, including the means for as full rehabilitation as possible...."

Article 83 of the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** states that "Each State Party to the present Convention undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an **effective remedy**..."

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, 16 December 2005)

³⁹ **International Convention for the Protection of All Persons from Enforced Disappearance**, Articles 18.2, 20.2 and 22.

supervision⁴⁰; the protection of indigenous peoples⁴¹; and reference to the popular courts or tribunals of conscience and to institutions, methods, traditions or local customs of peaceful settlement of disputes⁴².

N. Refugees and migrants (article 12)

Migration and peace are closely related in accordance with international practice⁴³. In addition, **equality before the law** and **non-discrimination** in the enjoyment of human rights are structural principles of IHRL⁴⁴. Finally, the **Fourth World Conference on Women** in 1995 examined the situation of migrant women⁴⁵.

O. Obligations and implementation (article 13)

Progressive development of the human right to peace should include the following issues: Reform of UN Security Council; prohibition of preventive wars as crimes against peace; strengthening the UN Peace-building Commission; effective implementation of the Program of Action for a Culture of Peace; further ratification of the Rome Statute of the ICC; and establishment of a working group on the human right to peace to monitor the implementation of the future Declaration⁴⁶.

⁴⁰ Contribution of the **Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment** to the Advisory Committee, 23 February 2013.

⁴¹ Article 40 of the **UN Declaration on the Rights of Indigenous Peoples** states that “indigenous peoples have the right... to **effective remedies** for all infringements of their individual and collective rights.

⁴² Article 164.f of the **Programme of Action on a Culture of Peace** states that the “access to legal remedies should be facilitated for victims of discrimination and, in this regard, the innovation of conferring a capacity on national and other institutions, as well as relevant non-governmental organizations, to assist such victims should be seriously considered, and programmes should be developed to enable the most vulnerable groups to have access to legal system”. In addition, article 164.g states that “**new and innovative methods and procedures of conflict resolution, mediation and conciliation** between parties involved in conflicts or disputes based on racism, racial discrimination, xenophobia and related intolerance should be explored and, where possible, established”.

Article 40 of the **UN Declaration on the Rights of Indigenous Peoples** states that “Indigenous peoples have the right... to effective remedies.... Such a decision shall give due consideration to the **customs, traditions, rules and legal systems** of the indigenous peoples concerned and international human rights.”

⁴³ International Conference on Population and Development: “poverty and environmental degradation, combined with the absence of peace and security, human rights violations and the varying degrees of development of judicial and democratic institutions are all factors affecting international migration”. Doc. A/CONF.171/13, Cairo, 5-13 September 1994.

⁴⁴ Reference to these principles is to be found in the International Covenants on Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ILO Conventions No. 143 and 151 on migrant workers, ILO Convention concerning Migration for Employment, the UN Convention against Transnational Organized Crime and the outcome of the Durban Review Conference.

⁴⁵ Beijing Declaration and Platform of Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), para. 46.

⁴⁶ It will be composed of ten independent experts elected by the General Assembly, with functions inspired in the best practices developed by the Human Rights Council special procedures.

P. Final provisions (article 14)

The final provisions should ensure that nothing within the Declaration goes against the principles of the United Nations or the IHRL, including the principle *pro persona*. The Declaration aims to encourage the enjoyment of human rights and not to be an obstacle to them.

In conclusion, the legal content of the human right to peace should be further clarified by the OEWG. To this purpose, CSOs invite the HR Council at its 23rd session (June 2013) to extend the mandate of the OEWG for an additional year, to enable it to achieve consensus with CSOs in the language of the future UN declaration of the human right to peace. The Chairperson-rapporteur should also be authorized to call on informal consultations between the OEWG sessions, with full participation of CSOs, with a view to submit to the OEWG at its second session a consolidated draft Declaration that should take into account legal standards established in IHRL and elements of progressive development as requested by UN human rights bodies and CSOs.