

## **BUILDING HUMAN RIGHTS, PEACE AND DEVELOPMENT WITHIN THE UNITED NATIONS**

CHRISTIAN GUILLERMET FERNÁNDEZ,

Permanent Mission of Costa Rica in the United Nations in Geneva  
(San José, Costa Rica),

DAVID FERNÁNDEZ PUYANA,

Permanent Mission of Costa Rica in the United Nations in Geneva  
(Barcelona, Spain)

*War and peace have perpetually alternated in history. Consequently, peace has always been seen as an endless project, even a dream, to be in brotherhood realized by everyone across the earth. Since the XVII century the elimination of war and armed conflict has been a political and humanitarian objective of all nations in the world. Both the League of Nations and the United Nations were conceived with the spirit of eliminating the risk of war through the promotion of peace, cooperation and solidarity among Nations. The Universal Declaration of Human Rights and the subsequent human rights instruments were drafted with a sincere aspiration of promoting the value of peace and human rights worldwide. International practice shows the close linkage between the disregard of human rights and the existence of war and armed conflict. It follows that the role of human rights in the prevention of war and armed conflict is very important. Since 2008 the Human Rights Council has been working on the 'Promotion of the Right of Peoples to Peace.' Pursuant resolutions 20/15 and 23/16 the Council decided firstly to establish, and secondly to extend the mandate of the Open-Ended Working Group (OEWG) aimed at progressively negotiating a draft United Nations declaration on the right to peace. The OEWG welcomed in its second session (July 2014) the approach of the Chairperson-Rapporteur, which is basically based on the relationship between the right to life and human rights, peace and development.*

*Keywords: war; right of peoples to peace; Human Rights Council; General Assembly; Open-Ended Working Group; right to life in peace; human rights and development.*

## 1. Introduction

Last year 2014 Russia was commemorating the 150 Anniversary of the Judicial Reforms carried out by Alexander II. This judicial reform is generally considered as one of the most successful of all the legal reforms in Russia. A completely new court system and a completely new order of legal proceedings were established. In addition, Alexander II will be recalled as one of the most relevant statesmen of the XIX century who brought peace, prosperity and stability in the European continent. His vision about the creation of an international order based on cooperation, peace and friendly relations among nations decisively influenced the inception of the most important intergovernmental world organizations in the XX century (*i.e.* League of Nations and the United Nations).

In light of his approach about the promotion and strengthening of peace through the adoption of different laws and treaties, the article will analyze the outlaw of war and armed conflict during the latest centuries and how the outstanding endeavours of the peace movements have decisively framed the current international order. In particular, the Hague Conventions, the Covenant of the League of Nations, the Charter of the United Nations and the International Bill of Human Rights are considered relevant legal instruments whose main purpose is the realization of peace and consequently, the progressive elimination of war and armed conflict across the earth. Afterwards, the linkage between human rights and armed conflict in the context of the recent practice of the Security Council and the Human Rights Council [hereinafter HRC] will also be studied. In addition, the role played by respect of the human rights instruments in the prevention of war and armed conflict will also be analyzed. Finally, the promotion of the right of peoples to peace as a means to enforce the linkage between the right to life and the three pillars of the United Nations (*i.e.* human rights, peace and development) within the Human Rights Council will also be studied. In particular, the article will briefly refer to the approach proposed by the Chairperson-Rapporteur of the Open-Ended Intergovernmental Working Group on the Right to Peace, which is aimed at finding the necessary consensus among all different stakeholders on this topic within the United Nations.

## 2. The Outlaw of War and Armed Conflict

War became a part of human society a long time ago, and for many centuries it dominated historical records. Men became warriors because it went with the job of being a prince or lord, and foot soldiers because it went with the job of being a lord's servant. Because most people are peaceable and peace-loving, and no-one wants to be killed, anyone would think that war would be universally regarded as the human race's greatest tragedy.

As stated by Mr. Christian Guillermet-Fernández in the Conference Henri Lafontaine<sup>1</sup> held at the Uppsala University (Sweden) on December 11, 2013, the aspiration to create a society in which war plays little or no part in the life of our fellows have fired human imagination throughout the history of mankind. It follows that we are obliged to see that war and peace perpetually alternate and that peace is always an endless project, even a dream, to be in brotherhood realized by everyone over the earth.

In three thousand years, from 1,500 BC to 1860, eight thousand peace treaties have been signed.<sup>2</sup> The existence of a peace treaty is clear evidence that the total triumph of peace over conflict has still not occurred and that peace is always in a state of project and perspective. Therefore, the champions of peace have obtained only half-triumphs in their attempts to reach a more peaceful world, because 'peace has always conducted to a war.'<sup>3</sup>

Since the XVII<sup>th</sup> century the State-system in the world has developed through war and peace, and specially the signature of Treaties of Peace, which have had as their main purpose to conclude multiple wars. Well-known scholars, until the creation of the League of Nations there have existed three main periods of peace treaties,<sup>4</sup> namely: firstly, from Westphalia in 1648 to the recognition of American Independence in 1783, in which the treaties were focused on the interests of sovereigns and reigning families;<sup>5</sup> secondly, from 1793 to 1859, in which there was an increasing recognition of the rights of States<sup>6</sup> and thirdly, from 1859 to 1919, in which attention was paid to the new principles of international law (*i.e.* right of nationalities, not necessarily races, but populations whose languages, literature, habits and customs and religious worship, are different from surrounding populations).

Despite that there have been many attempts to achieve peace in different regions of the world, and in particular the European continent, there are only a few times the Europeans have enjoyed transient success.<sup>7</sup> Most wars in the latest centuries have

---

<sup>1</sup> Christian Guillermet-Fernández, *Peace as a Human Right?*, Conference Henri Lafontaine 'Challenges for a Peaceful World: An Agenda for the XXI<sup>st</sup> Century' (Uppsala universitet, Dec. 11–13, 2013).

<sup>2</sup> See George Valbert, *La guerre et la paix perpétuelle*, 1894(122) *Revue des Deux Mondes* 692, available at <[http://fr.wikisource.org/wiki/La\\_Guerre\\_et\\_la\\_Paix\\_perp%C3%A9tuelle](http://fr.wikisource.org/wiki/La_Guerre_et_la_Paix_perp%C3%A9tuelle)> (accessed Mar. 9, 2015).

<sup>3</sup> See Gaston Bouthoul, *Huit mille traités de paix 12–13* (René Julliard 1948).

<sup>4</sup> See Walter G.F. Phillimore, *Three Centuries of Treaties of Peace and Their Teaching 1–9* (Little, Brown & Co. 1919).

<sup>5</sup> Treaty of Pyrenees (1659): between Spain and France; Treaty of Oliva (1660): nations bordering on the Baltic; Treaties of Aix-la-Chapelle (1668), Nimeguen (1678) and Ryswick (1679): borders in France; Treaty of Utrecht (1713): it was one of the first treaties which dealt with the French colonial possessions in America; Treaty of Versailles (1783): it established the independence of the United States.

<sup>6</sup> Treaty of Campo Formio (1797): it divided the territories of Venice between Austria and France; Congress of Vienna (1815): it concluded a period of twenty-three years of warfare under the leadership of Napoleon I.

<sup>7</sup> See Phillimore, *supra* n. 4, at 1–9.

been caused because of the vanity of Heads of State to maintain in a thoughtless way the combative instinct of their peoples. All the glorious and provocative exhibitions of force and war have developed in the minds of the human population through the conquest of other territories.<sup>8</sup>

During the XIX<sup>th</sup> century outstanding endeavours were undertaken by the international community to limit the suffering caused to the wounded military personnel on the battlefields and to alleviate its effects. In 1864 the first treaty on the protection of military victims of warfare was drawn up and signed in Geneva on the initiative of Henry Dunant. All treaties and covenants on international humanitarian law later adopted throughout the XX<sup>th</sup> century were not focused on the real problems caused by armed conflicts or the multiple issues raised by war, but only in those rules needed to bring a better protection for the vulnerable victims of warfare.<sup>9</sup>

In 1899 the so-called 'The Peace Conference,' which took place at the Hague, adopted several important Conventions and Declarations<sup>10</sup> with the aim of strengthening the international mechanisms aimed at promoting the pacific settlement of disputes,<sup>11</sup> the regulation of the laws and customs of war by land,<sup>12</sup> maritime warfare<sup>13</sup> or the prohibition of some special projectiles, explosives and bullets.<sup>14</sup> Afterwards, the second conference, held again at the Hague in 1907, adopted thirteen treaties<sup>15</sup> and also did prefigure later XX<sup>th</sup>-century attempts at international cooperation.

---

<sup>8</sup> See Louis Eichner, *La paix des peuples ou essai d'une Confédération Internationale* 33–34 (Librairie Marcel Rivière 1922).

<sup>9</sup> In 1949 four Geneva Conventions, which are still in force today, were adopted, each of them dealing with the protection of a specific category of persons who are not, or are no longer, taking part in hostilities: first Convention – on the care of the wounded and sick members of armed forces in the field; second Convention – on the care of the wounded, sick and shipwrecked members of armed forces at sea; third Convention – on the treatment of prisoners of war; and fourth Convention – on the protection of civilian persons in time of war.

<sup>10</sup> See Thomas Barclay, *Problems of International Practice and Diplomacy with Special Reference to the Hague Conferences and Conventions and Other General Agreements* 1–21 (Sweet & Maxwell Ltd. 1907).

<sup>11</sup> Convention (I) for the Pacific Settlement of International Disputes.

<sup>12</sup> Convention (II) with Respect to the Laws and Customs of War on Land.

<sup>13</sup> Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864.

<sup>14</sup> Three Declarations on the following matters: 1) prohibition of the launching of projectiles and explosives from balloons or by other similar new methods; 2) prohibition of the use of projectiles the only object of which is the diffusion of asphyxiating or deleterious gases; and 3) prohibition of the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope, of which the envelope does not entirely cover the core, or is pierced with incisions.

<sup>15</sup> Convention (I) for the Pacific Settlement of International Disputes; Convention (II) Respecting the Limitation of the Employment of Force for Recovery of Contract Debts; Convention (III) Relative to the Opening of Hostilities; Convention (IV) Respecting the Laws and Customs of War on Land; Convention (V) Relative to the Rights and Duties of Neutral Powers and Persons in Case of War on Land; Convention (VI) Relative to the Legal Position of Enemy Merchant Ships at the Start of Hostilities; Convention (VII)

The Martens Clause,<sup>16</sup> introduced into the Preamble to the 1899 Hague Convention (II) on Laws and Customs of War on Land and after slightly modified in the 1907 Hague conventions, proclaimed that

[u]ntil a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

The clause, which was enunciated by Fyodor Fyodorovich Martens, the Russian delegate at the Hague Peace Conferences, was included in the additional protocols of 1977, and in particular in Art. 1(2) of Protocol I<sup>17</sup> (which covers international conflicts) and para. 4 of the Preamble to Protocol II<sup>18</sup> (which covers non-international conflicts).<sup>19</sup> In addition, although several national and international courts have considered the Martens Clause in their judgments,<sup>20</sup> in none of these cases have the laws of humanity

---

Relative to the Conversion of Merchant Ships into War-ships; Convention (VIII) Relative to the Laying of Automatic Submarine Contact Mines; Convention (IX) Concerning Bombardment by Naval Forces in Time of War; Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention (of 6 July 1906); Convention (XI) Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War; Convention (XII) Relative to the Establishment of an International Prize Court; Convention (XIII) Concerning the Rights and Duties of Neutral Powers in Naval War.

<sup>16</sup> Friedrich Fromhold Martens was a diplomat and jurist in service of the Russian Empire who made important contributions to the science of international law. He represented Russia at the Hague Peace Conferences and helped to settle the first cases of international arbitration.

<sup>17</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), Jun. 8, 1977, 1125 U.N.T.S. 3.

<sup>18</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II), Jun. 8, 1977, 1125 U.N.T.S. 609.

<sup>19</sup> The wording in both is identical but slightly modified from the version used in the Hague Convention of 1907: 'Recalling that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience.'

<sup>20</sup> Decision of the US Military Tribunal III in Nuremberg on February 10, 1948, in the case *United States v. Krupp*; Decision of the Netherlands Court of Cassation on January 12, 1949, in the procedure against SS-Obergruppenführer Hanns Rauter, general commissioner for the safety organization in the Netherlands from 1940 to 1945; Decision of the Brussels Military Court in the *K.W.* case on February 8, 1950; Decision of the International Criminal Tribunal for the Former Yugoslavia on March 8, 1996, over the permission of the accusation during the process against Milan Martić; Decision of the Constitutional Court of Colombia of May 18, 1995, for the constitutionality of Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts; The International Court of Justice in the advisory opinion on the Legality of the Threat or Use of Nuclear Weapons, issued on July 8, 1996; Judgment of the German Federal Constitutional Court on October 26, 2004, for the compatibility of the expropriations in the former Soviet zone of occupation between 1945 and 1949 with international law.

or the dictates of the public conscience been recognised as a new and independent right. The clause has served as guideline to the understanding and interpretation of existing rules of international law.

The Hague Conventions of 1899 and 1907 continue to stand as symbols of the need for restrictions on war and the desirability of avoiding it altogether. After World War II, the judges at Nuremberg Trials found that by 1939, the rules laid down in the 1907 Hague Convention were recognised by all civilized nations and were regarded as declaratory of the laws and customs of war.

On June 28, 1919, the Peace Treaty of Versailles was signed as a conclusion of World War I. In accordance with its Preamble, the promotion of international co-operation and the achievement of peace and security in the world should be achieved by the following means: firstly, the acceptance of obligations not to resort to war; secondly, the prescription of open, just and honorable relations between nations; thirdly, the firm establishment of the understandings of international law as the actual rule of conduct among Governments; and fourthly, the maintenance of justice and a scrupulous respect for all treaty obligations. In addition, it was recognised in its Art. 8, in line with the first Hague Conference of 1899,<sup>21</sup> that 'the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.'

The Preamble of the Covenant of the League of Nations is still far from banning absolutely the phenomenon of war. The drafters of the Covenant of the League did not dare to condemn all wars, because they still conceived war as a means to reach other political interests.<sup>22</sup> The right to war was recognised and regrettably legitimized only in certain cases in the Covenant. The formal condemnation of war, as an indispensable condition for the maintenance of peace, was unfortunately muted.<sup>23</sup>

The Covenant only imposes Member States to respect the following obligations before resorting to war, namely: submission of the dispute to arbitration or inquiry to the Council,<sup>24</sup> establishment of a Permanent Court of International Justice<sup>25</sup> or good

---

<sup>21</sup> The first Hague Conference held in 1899 adopted unanimously the following resolution: 'The Conference is of opinion that the restriction of military budgets, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.'

<sup>22</sup> See Heinrich Rauchberg, *Les obligations juridiques des membres de la société des nations pour le maintien de la paix* (= 37 *Recueil des cours*) 66–67 (Académie de droit international 1932).

<sup>23</sup> See Ali A. Akhavi, *L'Échec de la S.D.N. dans l'organisation pratique de la paix ses causes, son avenir* 123–124 (Librairie du Recueil Sirey 1937).

<sup>24</sup> Article 12: 'The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council. In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.'

<sup>25</sup> Article 14: 'The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent

offices by the Secretary General.<sup>26</sup> In the case that some Member decides to resort to war in disregard of the previous provisions, then the League shall *ipso facto* condemn them for having committed an act of war against all other Members of the League.<sup>27</sup>

On January 16, 1920, the birth of the new world will be recorded in history, because the League of Nations held its first session and definitively substituted the reign of force by the rule of law. The fathers of the new political and juridical structure, among them President Woodrow Wilson, wanted to construe the architecture of the future humankind over the accumulated ruins derived from war.<sup>28</sup> As recalled by the participants at the Conference, '[w]e do not despair of constituting such a Society of Nations for the abolition of war. We hope, indeed, that something of the kind may be created in our own day. There is no need for haste . . .'<sup>29</sup>

On October 16, 1925, several nations<sup>30</sup> adopted the Treaty of Mutual Guarantee or the so-called Locarno Pact by which they mutually undertook in its Art. 2 that they will in no case attack or invade each other or resort to war against each other, with the exception of the following situations, namely: the right of legitimate defense, an action taken in pursuance of Art. 16 of the Covenant of the League of Nations or an action as the result of a decision taken by the Assembly or by the Council of the League of Nations. In this line, on September 24, 1927, the VIII Assembly of the League of Nations adopted a resolution by which Member States banned all wars of aggression and recalled their obligation to settle the disputes by peaceful means.

The renunciation of war as an instrument of national policy was successfully banned for the first time in history in 1928 thanks to efforts made by the Foreign Ministers of France and United States of America. Signatory states of the famous Briand-Kellogg Pact promised not to use war to resolve disputes or conflicts. Since this agreement was concluded outside the League of Nations, it still remains a binding

---

to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.'

<sup>26</sup> Article 15: '... Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof. For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible . . .'

<sup>27</sup> Article 16: 'Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13, or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nations and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not . . .'

<sup>28</sup> See Léon Bourgeois, *L'Œuvre de la Société des Nations (1920–1923)* 10–11 (Payot 1923).

<sup>29</sup> See Henry N. Brailsford, *A League of Nations* 15 (2<sup>nd</sup> ed., Macmillan Co. 1917), available at <<https://archive.org/details/cu31924007478658>> (accessed Mar. 9, 2015).

<sup>30</sup> Germany, Belgium, France, Great Britain and Italy.

treaty under international law. Indeed, the treaty is perpetual as it contains no clause of limitation and no provision for determination or denunciation.<sup>31</sup> It follows that the condemnation of war as a legal provision is currently in force and it should therefore be taken into consideration by the international community.

The Pact against war is one of the shortest international treaties in the contemporary diplomatic history. It is composed only by two main dispositions, the condemnation of war (Art. 1) and the obligation of States to settle their disputes by peaceful means (Art. 2). The selfish and voluntary war was totally outlawed by this international agreement. Nevertheless, in accordance with the treaty, the use of force would only be possible in case of self-defense or between those States signatories and no-signatories of the treaty. After its final adoption, sixty countries adhered to the treaty, which demonstrates that the peace hopes in that time were deeply rooted in the world.<sup>32</sup>

Additionally, on January 15–17, 1928, American States attending the Sixth International Conference held in La Havana (Cuba) also adopted a resolution which expressed unqualified condemnation of war as instrument of national policy.

At the opening session of the United Nations Conference, which took place in San Francisco (United States) on April 25, 1945, President Truman stated in his inaugural speech that '[i]f we do not want to die together in war, we must learn to live together in peace.' The United Nations is a response to the two world wars and the intention of the member States 'to save succeeding generations from the scourge of war . . .'<sup>33</sup>

In order to create a more peaceful world, the Charter of the United Nations established in its Arts. 1 and 2 the following 'Purposes and Principles,' *inter alia*: the prohibition of acts of aggression or other breaches of the peace, the development of friendly relations among nations, the self-determination of peoples, the enhancement of international co-operation, the promotion of human rights and fundamental freedoms, the settlement of international disputes by peaceful means, the prohibition of threat or use of force against the territorial integrity or political independence of any state. These Principles codified in the opening articles of the Charter constitute the basic foundational principles of the whole body of international law.

The Purposes and Principles of the UN Charter have been expressly included in the *Declaration on Preparation of Societies for Life in Peace*<sup>34</sup> of 1978, the *Declaration*

<sup>31</sup> See David Hunter Miller, *The Peace Pact of Paris: A Study of the Briand-Kellogg Treaty* 148 (G.P. Putnam's Sons 1928); André N. Mandelstam, *L'Interprétation du pacte Briand-Kellogg par les gouvernements et les parlements des États signataires* 1–24 (A. Pedone 1934).

<sup>32</sup> See Cécile Balbareu, *Le Pacte de Paris (pacte Briand-Kellogg sur la mise de la guerre hors la loi): Thèse de doctorat* 73–78 (Librairie universitaire J. Gamber 1929).

<sup>33</sup> U.N. Charter, Preamble, para. 1.

<sup>34</sup> 1) Qualification of the war of aggression as a crime against peace: UNGA Resolution 95 (I) on planning, preparation, initiation or waging of a war of aggression, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and the UNGA Resolution 3314 (XXIX) on the definition of aggression; 2) strengthening of the cooperation in peace: Charter of the

on the *Right of Peoples to Peace*<sup>35</sup> of 1984 and the *Declaration on a Culture of Peace*<sup>36</sup> of 1999. In addition, all these peace laws strongly demanded that the policies of States be directed toward the elimination and eradication of war,<sup>37</sup> the prohibition of propaganda for war,<sup>38</sup> and moral disarmament.<sup>39</sup>

On November 10, 1998, the UNGA adopted Resolution 53/25 'International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001–2010)<sup>40</sup> by which it stated (Preamble, para. 5):

---

United Nations; 3) respect of the right of self-determination of peoples, independence, sovereignty, territorial integrity and independence: Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on the Strengthening of International Security and the Declaration on the Deepening and Consolidation of International Détente.

<sup>35</sup> 1) Reaffirmation that the principal aim of the United Nations is the maintenance of international peace and security; 2) reaffirmation of the fundamental principles of international law set forth in the Charter of the United Nations; 3) it emphasizes that ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the U.N. Charter (Art. 3).

<sup>36</sup> 1) Recalled in its Preamble the Charter of the United Nations, including the purposes and principles embodied therein; 2) recognized also in its Preamble that peace not only is the absence of conflict, but also requires a positive, dynamic participatory process where dialogue is encouraged and conflicts are solved in a spirit of mutual understanding and cooperation; 3) a culture of peace is a set of values, attitudes, traditions and modes of behaviour and ways of life based on the 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; the respect for and promotion of all human rights and fundamental freedoms and the commitment to peaceful settlement of conflicts (Art. 1); 4) the fuller development of a culture of peace is integrally linked to the promotion of peaceful settlement of conflicts, mutual respect and understanding and international cooperation; the compliance with international obligations under the Charter of the United Nations and international law; the promotion and universal respect for and observance of all human rights and fundamental freedoms; development of dialogue, negotiation, consensus-building and peaceful resolution of differences and the realization of the right of all peoples, including those living under colonial or other forms of alien domination or foreign occupation, to self-determination (Art. 2).

<sup>37</sup> Declaration on the Right of Peoples to Peace, Preamble, para. 3: 'Expressing the will and the aspirations of all peoples to eradicate war from the life of mankind and, above all, to avert a world-wide nuclear catastrophe;' Art. 3: '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.'

<sup>38</sup> Declaration on Preparation on Societies to Life in Peace, Preamble: 'Further recalling the Universal Declaration of Human Rights, of 10 December 1948,/8 as well as the International Covenant on Civil and Political Rights, of 16 December 1966,/9 and bearing in mind that the latter states, inter alia, that any propaganda for war shall be prohibited by law;' Art. I(3): 'In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression;' Art. II(a)(2): 'Therefore, to discourage and eliminate incitement to racial hatred, national or other discrimination, injustice or advocacy of violence and war.'

<sup>39</sup> Declaration on a Culture of Peace, Preamble, para. 2: 'Recalling also the Constitution of the United Nations Educational, Scientific and Cultural Organization, which states that "since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed."

<sup>40</sup> G.A. Res. 53/25, U.N. GAOR, 53<sup>rd</sup> Sess., Supp. No. 49 I, U.N. Doc. A/RES/53/25 (1998), at <<http://www.un-documents.net/a53r25.htm>> (accessed Mar. 9, 2015).

*Aware* that the task of the United Nations to save future generations from the scourge of war requires transformation towards a culture of peace, which consists of values, attitudes and behaviours that reflect and inspire social interaction and sharing based on the principles of freedom, justice and democracy, all human rights, tolerance and solidarity, that reject violence and endeavour to prevent conflicts by tackling their root causes to solve problems through dialogue and negotiation and that guarantee the full exercise of all rights and the means to participate fully in the development process of their society.

The Charter of the United Nations states clearly that the threat or use of force against other States is unlawful. Since 1945, war has no longer been an acceptable way to settle differences between States. However, the Charter has not completely outlawed the use of force. Indeed, States retain the right to defend themselves, individually or collectively, against attacks on their independence or their territory, in response to a (legal or illegal) use of force. The Charter's prohibition of the use of force does not encompass internal armed conflicts (or civil wars). Chapter VII of the Charter allows member States the use of force in collective action to maintain or restore international peace and security.

According to Uppsala University's Conflict Data Program [hereinafter UCDP], in 2012 there were registered 32 active armed conflicts, which is a reduction by five since the year before. Six of these conflicts<sup>41</sup> reached the intensity of 'War'.<sup>42</sup> Despite this the total number of battle-related deaths increased dramatically during the year. Only at six times in the 24 years that have passed since the end of the Cold War has UCDP reported higher levels.

On January 20, 2014, the Permanent Mission of Costa Rica in Geneva stated in the context of the special session on the Republic of Central Africa that

a day like today we should ask the international community why they do not recognize by consensus a right to peace as it would enable us to act effectively in the prevention of human rights violations in situations, such as the RCA lives today. If it is not possible, unless the international community and in particular this Council should make efforts to work on the prohibition or progressive abolition of war and conflict as the best vaccine against the systematic violations of human rights in conflict situations. All human beings have the right to live in a context in which peace, human rights and development are fully respected.

---

<sup>41</sup> Afghanistan, Pakistan, Somalia, Sudan, Syria and Yemen.

<sup>42</sup> An 'armed conflict' is defined as 'a contested incompatibility that concerns government and / or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths in one calendar year'. If more than 1,000 battle-related deaths are recorded in one calendar year the conflict has reached the intensity of 'War'.

Since we have not yet developed a society that is prepared to acknowledge and entirely reject war as an option, the international community has always elaborated international rules which limit the effects of war. In the latest years, civil society movements have promoted the adoption of important legal instruments aimed at protecting the population in a context of warfare and also limiting the trade and use of certain arms.<sup>43</sup> Although the pacifist movements were not capable of avoiding World Wars in the XX<sup>th</sup> century or other wars during the Cold War times and after, they have been very successful in their efforts to limit certain effects derived from war.

Nowadays the international community has the legal resources to eliminate progressively war and armed conflicts over the earth through the respect of international law, the promotion of the culture of peace and the friendship among all peoples and nations. The United Nations should again proclaim that war is unlawful from the legal perspective, as well as totally incompatible with peace and a clear abuse of human rights, and in particular the right to life.

Additionally, taking into account that in a situation of armed conflict, fundamental freedoms are gravely violated, then the parties in conflict should respect the main ratified international human rights instruments during the military confrontation. To solve this matter on February 27, 2012, the UNGA adopted Resolution 66/99 on effects of armed conflicts on treaties (*i.e.* human rights law) by which the International Law Commission stated that '[t]he existence of an armed conflict does not *ipso facto* terminate or suspend the operation of treaties' (Art. 3); '[t]he existence of an armed conflict does not affect the capacity of a State party to that conflict to conclude treaties in accordance with international law' (Art. 8(1)) and '[t]he termination of or the withdrawal from a treaty, or the suspension of its operation, as a consequence of an armed conflict, shall not impair in any way the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law in dependently of that treaty' (Art. 10).

### 3. The Linkage between Human Rights and War and Armed Conflict

In accordance with the latest practices of the Security Council, the classical security threats have been principally focused on proliferation and arms control, terrorism, internal armed conflict and piracy. However, the protection of individuals has increasingly emerged as an additional goal. It follows that the Security Council has also begun to focus on particular groups of civilians, namely women and children, and their protection in armed conflict.<sup>44</sup>

<sup>43</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa, 1997); Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Paris, 1993) and the Arms Trade Treaty (New York, 2013).

<sup>44</sup> UNSC Resolution 1325 (October 31, 2000); UNSC Resolution 1820 (June 19, 2008); UNSC Resolution 1888 (September 30, 2009); UNSC Resolution 1960 (December 16, 2010); UNSC Resolution 1612 (July 26, 2005); and UNSC Resolution 1882 (August 4, 2009).

In regard to human rights violations, most of the commentators and States in the early years objected that such violations were considered as potential threats to peace. Currently, all cases involving large-scale violence do not lend themselves to broader conclusions on whether human rights violations in and of themselves can constitute threats to peace.<sup>45</sup>

However, the Security Council has recently recognised that non-military sources of instability should be also considered as threats to peace and security:

The absence of war and military conflicts among States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social and humanitarian and ecological fields have become threats to peace and security. The United Nations membership as a whole, working through the appropriate bodies, needs to give the highest priority to the solution of these matters.<sup>46</sup>

At the 2005 World Summit the world leaders reaffirmed their commitment to the universal and indivisible nature of human rights.<sup>47</sup> The increasing importance attributed to human rights within the constitutional structure of the United Nations is evidenced by the creation of the HRC alongside the Security Council and Economic and Social Council. Although the HRC was not elevated to a principal organ, its status was raised by establishing it as a subsidiary organ of the UNGA.

On January 1, 2014, His Holiness Pope Francisco stated in his message on the celebration of the world day of peace that

[w]e cannot however fail to observe that international agreements and national laws – while necessary and greatly to be desired – are not of themselves sufficient to protect humanity from the risk of armed conflict. A conversion of hearts is needed which would permit everyone to recognize in the other a brother or sister to care for, and to work together with, in building a fulfilling life for all.<sup>48</sup>

<sup>45</sup> See 2 The Charter of the United Nations: A Commentary ¶ 1.286 (Bruno Simma et al., eds.) (3<sup>rd</sup> ed., Oxford University Press 2012).

<sup>46</sup> *Note by the President of the Security Council*, at 3, U.N. Doc. S/23500 (1992), at <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/PKO%20S%2023500.pdf>> (accessed Mar. 9, 2015).

<sup>47</sup> *2005 World Summit Outcome*, G.A. Res. 60/1, U.N. GAOR, 60<sup>th</sup> Sess., Supp. No. 49 I, ¶ 121, U.N. Doc. A/Res/60/1 (2005), at <<http://www.refworld.org/docid/44168a910.html>> (accessed Mar. 9, 2015): 'We reaffirm that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, all States, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms.'

<sup>48</sup> *XLVII World Day of Peace 2014: Fraternity, the Foundation and Pathway to Peace*, <[http://www.vatican.va/holy\\_father/francesco/messages/peace/documents/papa-francesco\\_20131208\\_messaggio-xlviigiornata-mondiale-pace-2014\\_en.html#\\_ftn4](http://www.vatican.va/holy_father/francesco/messages/peace/documents/papa-francesco_20131208_messaggio-xlviigiornata-mondiale-pace-2014_en.html#_ftn4)> (accessed Mar. 9, 2015).

In accordance to the Preamble of Resolution 60/251 creating the HRC, development, peace and security and human rights are interlinked and mutually reinforcing.<sup>49</sup> However, the UNGA clearly decided that the Council should address situations of gross and systematic violations of human rights<sup>50</sup> and also contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies.<sup>51</sup>

Because of human rights violations in conflict situation, the HRC has convened several special sessions at the request of one third of the membership of the HRC.<sup>52</sup> Most of these sessions have finished with the adoption upon consensus of a resolution, by which the HRC decided to dispatch a fact-finding mission or independent commission of inquiry with the mandate to assess the human rights situation in the specific country in conflict. These missions are usually comprised by one or several highly qualified persons, whose are appointed by the President of the HRC after consulting with the members of the HRC.

In particular, the HRC has created upon consensus in its special sessions some human rights mechanisms to monitor the implementation of the respective resolutions in Darfur,<sup>53</sup> Myanmar,<sup>54</sup> Democratic Republic of the Congo,<sup>55</sup> Cote d'Ivoire,<sup>56</sup> Libyan Arab Jamahiriya<sup>57</sup> and Central African Republic.<sup>58</sup>

---

<sup>49</sup> G.A. Res. 60/251, U.N. GAOR, 60<sup>th</sup> Sess., Supp. No. 49 III, Preamble, para. 6, U.N. Doc. A/RES/60/251 (2006), at <[http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf)> (accessed Mar. 9, 2015): '[P]eace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being, and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing.'

<sup>50</sup> *Id.* ¶ 3.

<sup>51</sup> *Id.* ¶ 5(f).

<sup>52</sup> *Id.* ¶ 10.

<sup>53</sup> *Situation of Human Rights in Darfur*, U.N. Human Rights Council Dec. S-4/101, U.N. Doc. A/HRC/S-4/101 (December 13, 2006), at <[http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session4/dec\\_S\\_4\\_101\\_en.doc](http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session4/dec_S_4_101_en.doc)> (accessed Mar. 9, 2015).

<sup>54</sup> *Situation of Human Rights in Myanmar*, U.N. Human Rights Council Res. S-5/1, U.N. Doc. A/HRC/RES/S-5/1 (October 2, 2007), at <[http://responsibilitytoprotect.org/files/HRC\\_SpecialSession5ResolutionFinal\\_20Oct07.pdf](http://responsibilitytoprotect.org/files/HRC_SpecialSession5ResolutionFinal_20Oct07.pdf)> (accessed Mar. 9, 2015).

<sup>55</sup> *Situation of Human Rights in the East of the Democratic Republic of the Congo*, U.N. Human Rights Council Res. S-8/1, U.N. Doc. A/HRC/RES/S-8/1 (December 1, 2008), at <[http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_S8\\_1.doc](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_S8_1.doc)> (Mar. 9, 2015).

<sup>56</sup> *Situation of Human Rights in Cote d'Ivoire in Relation to the Conclusion of the 2010 Presidential Election*, U.N. Human Rights Council Res. S-14/1, U.N. Doc. A/HRC/RES/S-14/1 (December 23, 2010), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/101/53/PDF/G1110153.pdf?OpenElement>> (accessed Mar. 9, 2015).

<sup>57</sup> *Situation of Human Rights in the Libyan Arab Jamahiriya*, U.N. Human Rights Council Res. S-15/1, U.N. Doc. A/HRC/RES/S-15/1 (February 25, 2011), at <[http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/HRC-S-15-1\\_AUV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/HRC-S-15-1_AUV.pdf)> (accessed Mar. 9, 2015).

<sup>58</sup> *Situation of Human Rights in the Central African Republic and Technical Assistance in the Field of Human Rights*, U.N. Human Rights Council Res. S-20/1, U.N. Doc. A/HRC/S-20/1 (January 20, 2014), at <<http://>

The positive added value of the HRC, and in particular its special sessions, is to focus on those who truly suffer in a conflict: human beings and peoples. It is a forum for dialogue, not confrontation, which always works by and for the victims.<sup>59</sup> Its primary objective is to safeguard the human rights of all persons<sup>60</sup> and to address the desperate human rights crisis.<sup>61</sup> It follows that the obligation of the HRC is to respond, examine, denounce, intervene and react to egregious human rights violations in concert with other UN bodies, putting an immediate end to ongoing violence<sup>62</sup> and finding a peaceful and durable solution to the specific conflict.<sup>63</sup> Furthermore, it is imperative of the HRC to have a greater understanding of the causes and consequences of conflict in order to decrease and alleviate the suffering of victims<sup>64</sup> through the adoption of particular recommendations.<sup>65</sup>

On the other hand, the Security Council is the only body competent to determine the existence of any threat to the peace, breach of the peace, or act of aggression and to make recommendations, or decide what measures to be taken.<sup>66</sup> Although the Security Council has recognised the increasing linkage between human rights and peace and security, the operative section of resolutions in Darfur,<sup>67</sup> Democratic

---

[www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session20/A-HRC-RES-S-20-1\\_en.doc](http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session20/A-HRC-RES-S-20-1_en.doc) (accessed Mar. 9, 2015).

<sup>59</sup> Statement delivered by Spain (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); Chile (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)).

<sup>60</sup> Statement delivered by Sierra Leone (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)); Philippines and Peru (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Mexico and Chile (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Nigeria on behalf of African Group and Spain (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)).

<sup>61</sup> Statement delivered by the European Union, African Group, Pakistan, France, New Zealand, Latvia (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Netherland and Republic of Korea (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Jordan, European Union, Sweden, Spain and Austria (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); France, Norway, Chile, Bulgaria, Honduras, Denmark, Belgium, Republic of Korea, Slovakia, United States of America, Thailand and United Kingdom (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Israel (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>62</sup> Statement delivered by Germany, Republic of Korea, Switzerland, Greece, Denmark, Liechtenstein (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Pakistan, the United Kingdom, Switzerland, Bolivia and Italy (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Peru, Republic of Korea and United Kingdom (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Iran and Canada (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Latvia, Liechtenstein and Thailand (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>63</sup> Statement delivered by Niger (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>64</sup> Statement delivered by Mexico (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)).

<sup>65</sup> Statement delivered by Argentina (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)).

<sup>66</sup> U.N. Charter, Art. 39.

<sup>67</sup> U.N. Security Council Res. 1714 (2006), U.N. Doc. S/RES/1714 (October 6, 2006), at <<http://daccess-ddsny.un.org/doc/UNDOC/GEN/N06/556/93/PDF/N0655693.pdf?OpenElement>> (accessed Mar. 9, 2015).

Republic of the Congo,<sup>68</sup> Cote d'Ivoire,<sup>69</sup> Libyan Arab Jamahiriya<sup>70</sup> and Central African Republic<sup>71</sup> has not focused on specific matters of human rights, with the exception of a reference to the obligation of States to protect women and children in armed conflict, or even the population in general. The main purpose of the above resolutions is to make a call for all parties to the conflict to end violence, strengthen dialogue, sign a peace agreement, foster a transition process or create humanitarian corridors to assist population.

As indicated by the HRC, in a context of war and armed conflict, there is always a gross and systematic violation of all human rights and fundamental freedoms,<sup>72</sup> including extrajudicial killings, summary executions, sexual violence, looting, forced displacement, large-scale of arrest, abductions, forced recruitment of children, beatings, disappearance, torture, arbitrary detention, forced labour practices or lack of fundamental economic rights (*i.e.* food, water, medicines).<sup>73</sup> In particular, the

<sup>68</sup> U.N. Security Council Res. 1857 (2008), U.N. Doc. S/RES/1857 (December 22, 2008), at <<http://www.worldlii.org/int/other/UNSC/2008/63.pdf>> (accessed Mar. 9, 2015).

<sup>69</sup> U.N. Security Council Res. 1962 (2010), U.N. Doc. S/RES/1962 (December 20, 2010), at <<http://www.refworld.org/pdfid/4d270ae12.pdf>> (accessed Mar. 9, 2015).

<sup>70</sup> U.N. Security Council Res. 2016 (2011), U.N. Doc. S/RES/2016 (October 27, 2011), at <<http://www.globalr2p.org/media/files/libya2016.pdf>> (accessed Mar. 9, 2015).

<sup>71</sup> U.N. Security Council Res. 2134 (2014), U.N. Doc. S/RES/2134 (January 28, 2014), at <<http://binuca.unmissions.org/Portals/binuca-eng/N1421894E.pdf>> (accessed Mar. 9, 2014).

<sup>72</sup> Statement delivered by Peru, Italy, Mexico, Greece, Norway, Chile (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Switzerland, African Union, Pakistan, United Kingdom, Ghana, Panama, Maldives, Belgium (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Jordan, Egypt, Sweden, Australia, European Union, Norway, United States of America, Maldives, Republic of Korea, Brazil, Burkina Faso, Mauritius (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Zambia, European Union, Indonesia, Switzerland, France, Malaysia, Argentina, Netherland, Azerbaijan, African Union, Estonia, United States of America (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); Norway, Japan, Malaysia, Belgium, Jordan, Republic of Korea, Guatemala, Germany, Honduras, Turkey, OIC, Liechtenstein, Romania, Afghanistan, African Union, Iran, Bulgaria, Canada, Lithuania, Costa Rica, Portugal, South Africa, Sweden, Luxembourg (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Peru, Chile, United Kingdom of Great Britain, Algeria, Germany, Gabon, Montenegro, United States of America, Japan, Italy, Morocco, Romania, Austria, Estonia, South Africa, Viet Nam, Republic of Congo, Brazil, Togo, Lithuania, Spain, Belgium, Norway, Canada, Hungary, Slovakia, Holy See, Luxembourg, Paraguay, Chad, Israel (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>73</sup> Statement delivered by France, Peru, Switzerland, Australia, Norway, Sweden, Luxembourg, Denmark, Finland, Czech Republic, Slovakia, Poland, Belgium (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Switzerland, United Kingdom, Zambia, Canada, Italy, Slovakia, Chile, Ghana, Argentina, Germany, Uruguay, Republic of Korea, Nigeria, Norway, Denmark, Holy See, Ireland, Panama, Finland, Israel, New Zealand, Maldives, Belgium (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Austria, Spain, European Union, United Kingdom, Norway, United States of America, Maldives, Republic of Korea, Brazil, Mauritius, Zambia, Switzerland, Mexico, Chile (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Sudan, Ghana, Germany, France, United Kingdom, Poland, Canada, UNFPA, Ireland, Albania, Sweden, Chad, UNICEF, Slovakia, Luxembourg, UNHCR, Slovenia, Norway (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); European Union, Nigeria, France, Poland, Maldives, Uruguay, Spain, Belgium, Jordan, Ireland, Netherland, Indonesia, Denmark, Liechtenstein, Romania, Bulgaria, Portugal, South Africa (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); African Union, European Union, Mexico, Argentina, France, Czech Republic, United Kingdom of Great Britain, Ireland, Germany, Montenegro, United States of America, Morocco, Austria, Mexico, Estonia,

right to life and security of people and their fundamental dignity is always under threat, even violated, in this type of dreadful situation.<sup>74</sup> To achieve a genuine peace and stability, the country in conflict should firstly immediately cease all type of violence (*i.e.* cease-fire).<sup>75</sup> Secondly, States should re-establish again the full respect and implementation of fundamental rights and freedoms<sup>76</sup> and thirdly, to identify the most appropriate solutions for a peaceful settlement of the crisis and to promote a national dialogue and reconciliation.<sup>77</sup>

---

South Africa, Viet Nam, African Union, Lithuania, Spain, Belgium, Australia, Norway, Hungary, Slovakia, Luxembourg, Croatia, Latvia, Paraguay, Poland, Niger, Liechtenstein, Switzerland (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>74</sup> Statement delivered by Romania, Netherland, Australia, Denmark, Colombia, Poland, Belgium (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Holy See (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Turkey, Switzerland, Mexico (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Zambia, Senegal, Albania, United States of America (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); European Union, Maldives, Norway, Jordan, Slovakia, Guatemala, Ecuador, Netherland, Germany, India, Australia, Turkey, Liechtenstein, New Zealand, Colombia, Iran, Lithuania (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Holy See (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>75</sup> Statement delivered by the United Kingdom, Germany, Romania, Indonesia, Mexico, Netherland, New Zealand, Finland, Chile, Poland (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Switzerland, Pakistan, India, United Kingdom, Canada, Italy, Angola, Ghana, Bangladesh, Germany, Uruguay, Indonesia, Nigeria, Norway, Holy See, Ireland, Finland, New Zealand (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Ecuador, Indonesia, Austria, Peru, Sweden, European Union, Norway, Maldives, Republic of Korea, Brazil, Malaysia (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Algeria, European Union, Switzerland, Malaysia, United Kingdom, Poland, India, Senegal, Azerbaijan, Egypt, Democratic People's Republic of Korea, Ireland, African Union, Luxembourg, UNHCR, Brazil, Australia, Chile, Iran, United States of America, Hungary, Norway (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); Pakistan, France, Poland, Norway, Chile, Japan, Malaysia, Angola, Belgium, Jordan, Slovakia, Netherland, Peru, OIC, Afghanistan, Colombia, African Union, Bulgaria, Canada, Lithuania, Costa Rica, Czech Republic, Sweden, Luxembourg (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); African Union, Republic of Congo, the United Kingdom, Indonesia, Germany, Italy, Estonia, Sierra Leone, Maldives, South Africa, Brazil, Turkey, Egypt, Tunisia, Croatia, Latvia, Thailand, Poland, UNICEF, Switzerland (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>76</sup> Statement delivered by Zambia, France, United Kingdom, Germany, Romania, Republic of Korea, Australia, Greece, New Zealand, Denmark, Slovakia, Colombia, Belgium, Estonia (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Netherland, Italy (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Ecuador (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Argentina, Iran (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); the United Kingdom, Mexico, Maldives, Chile, Argentina, Republic of Korea, United States of America, Thailand, Netherland, India, Indonesia, Australia, Holy See, Paraguay, Bolivia, Lithuania, Costa Rica, Czech Republic (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); European Union, Mexico, Indonesia, Germany, Egypt (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>77</sup> Statement delivered by Romania, Republic of Korea, Indonesia, Mexico, Netherland, Greece, Singapore, Thailand, Norway, Morocco, Denmark, Chile, Slovakia, Latvia, Poland, Belgium (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Holy See, New Zealand (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Indonesia, Maldives, Brazil, Chile (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); South Africa (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); Angola, Cuba, Switzerland, Bangladesh, Nicaragua, Indonesia, Turkey, Peru, New Zealand, Paraguay, Bolivia, Iran, Bulgaria, Portugal, South Africa, Sweden (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); African Union, Mexico, Argentina, Germany, Italy, Sierra Leone, Maldives, Mexico, Venezuela, Cuba, Republic of Congo, Brazil, African Union, Turkey, Tunisia, Spain, Angola, Canada, Slovakia, Thailand, Paraguay (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

At the 7015<sup>th</sup> meeting of the Security Council, held on August 6, 2013, in connection with the Council's consideration of the item entitled 'Cooperation between the United Nations and Regional and Subregional Organizations in Maintaining International Peace and Security,' the President of the Security Council stressed the importance of a coordinated international response to causes of conflict and recognized the need for the development of effective long-term strategies aimed to eradicating poverty, strengthening development cooperation and assistance and promoting respect for human rights and fundamental freedoms.<sup>78</sup>

Additionally, the HRC has stressed that the roots of conflicts which have recently shaken some specific countries, where population live below poverty, are not new.<sup>79</sup> In accordance with the statements delivered by the different stakeholders during the Special Sessions, States should apply long-term strategies for development,<sup>80</sup> reduce poverty,<sup>81</sup> finish with the impunity / rule of law<sup>82</sup> and strengthen international

---

<sup>78</sup> *Statement by the President of the Security Council*, at 2, U.N. Doc. S/PRST/2013/12 (2013), at <[http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_prst\\_2013\\_12.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_prst_2013_12.pdf)> (accessed Mar. 9, 2015).

<sup>79</sup> African Union, Pakistan, Bangladesh, Norway (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Brazil (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>80</sup> Sudan (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); Cuba, Mexico, Luxembourg (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Cuba, Bolivia, Algeria, Sudan (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Brazil (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Brazil (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Ireland, Cuba, Indonesia, Brazil, Canada, Holy See, Paraguay (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>81</sup> United Kingdom of Great Britain, Cuba, New Zealand (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Cuba, Bolivia (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Brazil, Angola, Cuba (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Central African Republic, Ireland, Cuba, Sierra Leone, Brazil (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>82</sup> Finland, Switzerland, France, Argentina, Finland, Netherland, Ireland, Slovakia, Luxembourg, Portugal, Estonia, United States of America, Slovenia, Hungary (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); European Union, Mauritius, Japan, Canada, Italy, Norway, Luxembourg, Liechtenstein, Cambodia (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Switzerland, United Kingdom of Great Britain, Canada, Chile, Mexico, Norway, Denmark, Holy See, Panama, New Zealand, Belgium (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Thailand, Jordan, Indonesia, Austria, Sweden, Australia, United Kingdom of Great Britain, Norway, Brazil, Burkina Faso, Switzerland, Mexico, Chile (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); France, the United Kingdom, Mexico, Maldives, Norway, Uruguay, Argentina, Japan, Malaysia, Belgium, Jordan, Slovakia, United States of America, Thailand, Germany, India, Peru, Liechtenstein, Afghanistan, Canada, Costa Rica, Portugal, Sweden (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); African Union, European Union, Republic of Congo, Argentina, France, Peru, Czech Republic, Germany, Montenegro, United States of America, Italy, Austria, Estonia, Maldives, South Africa, Republic of Congo, Egypt, Lithuania, Spain, Belgium, Australia, Norway, Hungary, Slovakia, Holy See, Slovenia, Luxembourg, Croatia, Thailand, Poland, Liechtenstein, UNICEF, Switzerland, Republic Democratic of Congo (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

cooperation with the human rights mechanism<sup>83</sup> and among nations<sup>84</sup> in order to reduce the cycle of violence and consolidate universal peace.

#### 4. The Role of Human Rights in the Prevention of War and Armed Conflict

On January 31, 1992, the first ever Summit Meeting of the Security Council was convened at the Headquarters of the United Nations in New York. Thirteen of the fifteen Heads of State and Government members of the Council attended the Summit.

As indicated by Boutros Boutros-Ghali, former Secretary-General of the United Nations, in his report on the Agenda for Peace, '[t]he January 1992 Summit therefore represented an unprecedented recommitment, at the highest level, to the Purposes and Principles of the Charter.'<sup>85</sup> He also stressed that the sources of conflict and war are pervasive and deep and that to eliminate them will require efforts to enhance respect of human rights and fundamental freedoms and also to promote the sustainable economic and social development for wider prosperity.<sup>86</sup>

Pursuant to the UNGA Resolution 47/120 'An Agenda for Peace: Preventive Diplomacy and Related Matters' of 1993, the building of peace and security can be only construed within the United Nations in an integrated manner:

[I]nternational peace and security must be seen in an integrated manner and that the efforts of the Organization to build peace, justice, stability and security

<sup>83</sup> Cuba, Finland, Pakistan, Indonesia, Switzerland, Romania, France, Malaysia, India, Canada, Egypt, Albania, Luxembourg, Italy (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); France, Italy, Mexico, Netherlands, Australia, Norway, Morocco, Liechtenstein, Chile, Poland, Viet Nam, Belgium, Cambodia, European Union (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Switzerland, Netherland, Canada, Slovakia, Chile, Mexico, Argentina, Uruguay, Republic of Korea, Algeria, Belgium (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Spain (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Malaysia, Paraguay, Bulgaria Sweden (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); European Union, Mexico, France, Peru, Germany, Japan, Italy, Estonia, Belgium, Australia, Hungary (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>84</sup> Cuba, Finland, Switzerland, Malaysia, United Kingdom of Great Britain, Canada, Nigeria, Uruguay, Senegal, Azerbaijan, Spain, Luxembourg, Chile (HRC 4<sup>th</sup> Spec. Sess. on Darfur (December 12, 2006)); European Union, African Union, Mauritius, Japan, Cuba, Switzerland (HRC 5<sup>th</sup> Spec. Sess. on Myanmar (October 2, 2007)); Zambia, Ghana, Bangladesh, Mexico, Cuba, Norway, Ireland, Finland, Maldives (HRC 8<sup>th</sup> Spec. Sess. on Democratic Republic of the Congo (November 28, 2008)); Thailand, Sweden, Republic of Korea, Brazil, Chile (HRC 14<sup>th</sup> Spec. Sess. on Cote d'Ivoire (December 23, 2010)); Bolivia (HRC 15<sup>th</sup> Spec. Sess. on Libyan Arab Jamahiriya (February 25, 2011)); Cuba, Morocco, Venezuela, Togo, Lithuania, Spain, Slovakia, Slovenia (HRC 20<sup>th</sup> Spec. Sess. on the Central African Republic (January 20, 2014)).

<sup>85</sup> *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping: Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992*, ¶ 2, U.N. Doc. A/47/277-5/24111 (1992), at <[http://www.unrol.org/files/A\\_47\\_277.pdf](http://www.unrol.org/files/A_47_277.pdf)> (accessed Mar. 9, 2015) [hereinafter *An Agenda for Peace*].

<sup>86</sup> *Id.* ¶ 5.

must encompass not only military matters, but also, through its various organs within their respective areas of competence, relevant political, economic, social, humanitarian, environmental and developmental aspects.<sup>87</sup>

The former Secretary-General of the United Nations highlighted that the United Nations was created with a great and courageous vision. According to him, now is the time, for its nations and peoples, to seize the moment for the sake of the future.<sup>88</sup>

Armed conflicts continue to bring fear and horror to humanity. Since the creation of the United Nations in 1945 until 1992, over 100 major conflicts have left some 20 million dead. In order to prevent, contain and bring conflicts to an end, the international community should respect – among other measures – the foundation stones of the United Nations, such as the principles of sovereignty and integrity of States and the full respect of human rights for all. In addition, Member States should bring their attention to the deepest causes of conflicts (*i.e.* economic despair and social injustice) as a means to prevent and resolve conflicts and preserve the universal peace in the world.<sup>89</sup>

In the supplement document to an Agenda for Peace of 1995, the Secretary-General of the United Nations stressed that '[d]emilitarization, the control of small arms, institutional reform, improved police and judicial systems, the monitoring of human rights, electoral reform and social and economic development can be as valuable in preventing conflict as in healing the wounds after conflict has occurred.'<sup>90</sup>

The Preamble of the UN Charter states that the cardinal mission of the United Nations remains 'to save succeeding generations from the scourge of war.' Additionally, as set forth in its Art. 1(1) Member States are obligated 'to take effective collective measures for the prevention and removal of threats to the peace . . .'

As indicated in the report 'Prevention of Armed Conflict' of 2001, the Secretary-General stressed that the Charter provides the United Nations with a strong mandate for preventing armed conflict. He added that the prevention is more desirable to ensure lasting peace and security than trying to stop it or alleviate its symptoms. It follows that conflict prevention becomes the cornerstone of the UN collective security system.<sup>91</sup>

<sup>87</sup> G.A. Res. 47/120A, U.N. GAOR, 47<sup>th</sup> Sess., Supp. No. 49 I, Preamble, para. 6, U.N. Doc. A/47/49 (1993), <<http://www1.umn.edu/humanrts/resolutions/47/120GA1992.html>> (accessed Mar. 9, 2015).

<sup>88</sup> *An Agenda for Peace*, *supra* n. 85, ¶ 86.

<sup>89</sup> *Id.* ¶ 13–18.

<sup>90</sup> *Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, ¶ 47, U.N. Doc. A/50/60-S/1995/1 (1995), <<http://www.un.org/documents/ga/docs/50/plenary/a50-60.htm>> (accessed Mar. 9, 2015).

<sup>91</sup> *Prevention of Armed Conflict: Report of the Secretary-General*, ¶¶ 18–19, U.N. Doc. A/55/985-S/2001/574 (2001), at <<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan005902.pdf>> (accessed Mar. 9, 2015) [hereinafter *Prevention of Armed Conflict*].

A new approach to the concept of peace has emerged in recent years because it has included a broader focus on the nature of sustainable peace, such as social and economic development, good governance and democratization, the rule of law and respect of human rights. The Secretary-General also stated that in the twenty-first century, collective security should imply an obligation to address tensions, grievances, inequality, injustice, intolerance and hostilities at the earliest stage possible, before the conflict erupts. He also indicated that this understanding brings the United Nations back to its roots as the Charter, and in particular Art. 55,<sup>92</sup> creates the basis for elaborating a more comprehensive and long-term approach to conflict prevention.<sup>93</sup>

Both the United Nations Millennium Declaration adopted by the UNGA in its Resolution 55/2 (2000)<sup>94</sup> and Resolution 1318 (2000) adopted by the Security Council<sup>95</sup> recognized the vital role of all parts of the United Nations system in conflict prevention, peaceful resolution of disputes, peacekeeping, post-conflict peace-building and reconstruction and also pledged to enhance the effectiveness of the United Nations in this field. Furthermore, in its Resolution 53/243 'Declaration and Programme of Action on a Culture of Peace,' the UNGA calls upon Member States, civil society and the whole United Nations system to promote activities related to conflict prevention.<sup>96</sup>

As recognised by the Secretary General, 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

---

<sup>92</sup> Article 55: 'With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.'

<sup>93</sup> *Prevention of Armed Conflict*, *supra* n. 91, ¶ 19.

<sup>94</sup> Paragraph 9: '... To make the United Nations more effective in maintaining peace and security by giving it the resources and tools it needs for conflict prevention, peaceful resolution of disputes, peacekeeping, post-conflict peace-building and reconstruction. In this context, we take note of the report of the Panel on United Nations Peace Operations and request the General Assembly to consider its recommendations expeditiously...'

<sup>95</sup> Article II: '*Pledges* to enhance the effectiveness of the United Nations in addressing conflict at all stages from prevention to settlement to post-conflict peace-building...'

<sup>96</sup> Article 9(g): 'Actions to foster a culture of peace through education: ... g. Strengthen the ongoing efforts of the relevant entities of the United Nations system aimed at training and education, where appropriate, in the areas of conflict prevention and crisis management, peaceful settlement of disputes, as well as in post-conflict peace-building.'

human rights violations, wherever these occur. Efforts to prevent armed conflict should promote a broad range of human rights, including not only civil and political rights but also economic, social and cultural rights, including the right to development.<sup>97</sup>

On July 18, 2003, the UNGA adopted upon consensus the *Resolution 57/337 'Prevention of Armed Conflict'*, by which it recognized that 'the need for mainstreaming and coordinating the prevention of armed conflict throughout the United Nations system, and calls upon all its relevant organs, organizations and bodies to consider, in accordance with their respective mandates, how they could best include a conflict prevention perspective in their activities . . .'<sup>98</sup>

The *Vienna Declaration and Programme of Action* included a provision in which the Conference on Human Rights calls upon the UN Centre for Human Rights to provide technical assistance and qualified expertise in the field of prevention and resolution of disputes.<sup>99</sup> Afterwards, in its Resolution 48/141 (1993), the UNGA requested the Office of the United Nations High Commissioner for Human Rights to play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world.<sup>100</sup>

In the *report on the follow-up to the World Conference on Human Rights* presented before the Commission on Human Rights [hereinafter CHR], the High Commissioner stressed the importance of strengthening preventive strategies in many different areas of human rights (*i.e.* genocide, racism and racial discrimination, development, civil and political rights, slavery, impunity, women and children). In its concluding observations, the High Commissioner stated that '[t]he universal implementation of human rights, economic, social and cultural as well as civil and political, is the surest preventive strategy and the most effective way of avoiding the emergence of conflict.'<sup>101</sup>

---

<sup>97</sup> *Prevention of Armed Conflict*, *supra* n. 91, ¶ 94.

<sup>98</sup> G.A. Res. 57/337, U.N. GAOR, 57<sup>th</sup> Sess., Supp. No. 49 III, ¶ 11, U.N. Doc. A/RES/57/337 (2003), at <<http://www.un-documents.net/a57r337.htm>> (accessed Mar. 9, 2015).

<sup>99</sup> *Vienna Declaration and Programme of Action: World Conference on Human Rights (Vienna, Jun. 14–25 1993)*, ¶ 76, U.N. Doc. A/CONF. 157/23 (1993), at <[http://www.ub.fu-berlin.de/service\\_neu/ubpubl/mitarbeiter/dbe/UDHR60/Vienna\\_declaration.pdf](http://www.ub.fu-berlin.de/service_neu/ubpubl/mitarbeiter/dbe/UDHR60/Vienna_declaration.pdf)> (accessed Mar. 9, 2015).

<sup>100</sup> *High Commissioner for the Promotion and Protection of All Human Rights*, G.A. Res. 48/141, U.N. GAOR 3<sup>rd</sup> Comm., 48<sup>th</sup> Sess., Supp. No. 49 I, ¶ 4(f), U.N. Doc. A/RES/48/141 (1993), at <<http://www.un.org/documents/ga/res/48/a48r141.htm>> (accessed Mar. 9, 2015).

<sup>101</sup> *Report of the High Commissioner Submitted Pursuant to Commission Resolution 1999/54*, U.N. ESCOR, Commission on Human Rights, 56<sup>th</sup> Sess., Agenda Item 4: Report of the United Nations High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights, ¶ 92, U.N. Doc. E/CN.4/2000/12 (1999), <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/165/63/PDF/G9916563.pdf?OpenElement>> (accessed Mar. 9, 2015) [hereinafter *Report of the High Commissioner*].

Among the possible preventive measures in the field of human rights, the High Commissioner highlighted the following: urgent appeals by special Rapporteurs and thematic mechanisms; requests by treaty bodies for emergency reports; the indication of interim measures of protection under petition procedures for which treaty bodies are responsible; the urgent dispatch of personal envoys of the Secretary-General, the High Commissioner for Human Rights, or of other organizations; the urgent dispatch of human rights and humanitarian observers or fact-finders; the establishment of international courts; and proposals for the establishment of a rapid reaction force.<sup>102</sup>

The special procedures of the Council are a useful way 'to monitor the human rights situation in the countries and take all action to avoid a repetition of past patterns when conflicts ravaging a country have made international headlines, only to be forgotten until a new crisis emerges.'<sup>103</sup> Human rights violations are often a root cause of conflict and human rights are always an indispensable element in achieving peace and reconciliation. It follows that the failure to adequately address the root causes of the conflict will risk leading to further outbreaks of large-scale violence.<sup>104</sup> The priority of the special procedures is that the interests of justice are served and to assist in ensuring that all human rights are protected.<sup>105</sup>

By virtue of their independence and the nature of their mandates, the different mandate holders are 'well placed to function as early warning mechanisms, as alarm bells,' according to the High Commissioner for Human Rights, Navi Pillay.<sup>106</sup> Since those special procedures cover all types of human rights, they are able to help defuse tensions at an early stage. The mandates focus on specific situations and make recommendations to governments to address problems, wherever they occur in the world.

Finally, on February 21, 2014, the UNGA adopted upon consensus the Resolution 68/160 'Enhancement of International Cooperation in the Field of Human Rights,' by which considered that 'international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations

---

<sup>102</sup> *Report of the High Commissioner, supra* n. 101, ¶ 94.

<sup>103</sup> *Statement by Chaloka Beyani, Chairperson of the Coordination Committee of Special Procedures, Twentieth Special Session of the Human Rights Council on the Situation of Human Rights in the Central African Republic* (January 20, 2014), <<http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=14184&LangID=E>> (accessed Mar. 9, 2015).

<sup>104</sup> *Statement by Manuela Carmena Castrillo, Chairperson of the Coordination Committee of Special Procedures, Eight Special Session of the Human Rights Council on the Situation of Human Rights in the East of the Democratic Republic of Congo* (November 28, 2008), <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14867&LangID=E>> (accessed Mar. 9, 2015).

<sup>105</sup> *Statement by Jose Luis Gomez del Prado, Chairperson of the Coordination Committee of Special Procedures, Eight Special Session of the Human Rights Council on the Situation of Human Rights in the Libyan Arab Jamahiriya* (February 25, 2011), <<http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=10763&LangID=E>> (accessed Mar. 9, 2015).

<sup>106</sup> *Human Rights Experts Have a Key Role in Early Warning*, <<http://www.ohchr.org/EN/NewsEvents/Pages/KeyRoleEarlyWarning.aspx>> (accessed Mar. 9, 2015).

and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms.<sup>107</sup>

### **5. The Promotion of the Right of Peoples to Peace within the HRC**

Since 2008 the HRC has been working on the 'Promotion of the Right of Peoples to Peace' inspired by previous resolutions on this issue approved by the UNGA and the former CHR, particularly the GA Resolution 39/11 of November 12, 1984, entitled 'Declaration on the Right of Peoples to Peace' and the United Nations Millennium Declaration. The Group of Eastern<sup>108</sup> and Western European and Others States have continued with their traditional position of opposition showed at the CHR.

In 2008, the HRC reiterated the Office of the High Commissioner for Human Rights to convene a workshop on the right of peoples to peace, which was finally held on December 15–16, 2009 in Geneva. In this workshop the current deep division about the existence of the right to peace could be seen even at the academic level. In fact, some well-known legal practitioners who participated at the *Workshop on the Right of Peoples to Peace* stated that the right to peace had never been explicitly formalized into a treaty, including the UN Charter, and that the UN human rights instruments had not given proper expression to this enabling right.<sup>109</sup>

On June 17, 2010, the HRC adopted Resolution 14/3 on the right of peoples to peace, which explicitly 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.

On July 5, 2012, the HRC adopted Resolution 20/15 'The Promotion of the Right to Peace.' The resolution established an open-ended working group [hereinafter 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 proposals.

The OEWG concluded in its first session that there were some governmental delegations and other stakeholders that recognize the existence of the right to peace. They argued that this right was already recognized by soft-law instruments

<sup>107</sup> G.A. Res. 68/160, U.N. GAOR 3<sup>rd</sup> Comm., 68<sup>th</sup> Sess., Supp. No. 49 I, ¶ 6, U.N. Doc. A/RES/68/160 (2014), at <[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/160](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/160)> (accessed Mar. 9, 2015).

<sup>108</sup> With the exception of the Russian Federation, which supports the on-going process.

<sup>109</sup> *Report of the Office of the High Commissioner on the Outcome of the Expert Workshop on the Right of Peoples to Peace*, U.N. GAOR, Human Rights Council, 14<sup>th</sup> Sess., Agenda Items 2 and 3: Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General; Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, U.N. Doc. A/HRC/14/38 (2010), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/121/38/PDF/G1012138.pdf?OpenElement>> (accessed Mar. 9, 2015).

(such as UNGA Resolution 39/11 (1984) entitled 'Declaration on the Right of Peoples to Peace'). On the other hand, several other delegations stated that a stand-alone 'right to peace' does 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.

On June 13, 2013, the HRC adopted Resolution 23/16, which included the recommendations made by the Chairperson-Rapporteur, at the initiative of the Community of the Latin American and Caribbean States (CELAC) by 30 votes in favor,<sup>110</sup> 9 against<sup>111</sup> and 8 abstentions<sup>112</sup> by which the HRC 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 inter-sessional informal consultations to be held, and to present it prior to the second session of the working group for consideration and further discussion thereat.

The second session took place from June 30 to July 4, 2014, in Geneva. The preliminary ideas of the Chairperson-Rapporteur were included in a letter addressed to the members of the working group,<sup>113</sup> which circulated as an official document at the session. In accordance with the above letter, the following points of concurrence among all delegations were highlighted by the Chairperson-Rapporteur.

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, there is no possibility to exercise fundamental rights 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.

---

<sup>110</sup> Angola, Bangladesh, Benin, Botswana, Burkina Faso, Cameroon, Chile, Congo, Costa Rica, Djibouti, Ecuador, Guatemala, Indonesia, Jordan, Kuwait, Kyrgyzstan, Libya, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Nigeria, Peru, Philippines, Qatar, Saudi Arabia, Thailand, Uganda, Uruguay.

<sup>111</sup> Austria, Czech Republic, Estonia, Germany, Japan, Montenegro, Republic of Korea, Spain and the United States of America.

<sup>112</sup> India, Ireland, Italy, Kazakhstan, Poland, Republic of Moldova, Romania and Switzerland.

<sup>113</sup> *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*, U.N. GAOR, Human Rights Council, Open-Ended Intergovernmental Working Group on a Draft United Nations Declaration on the Right to Peace, 2<sup>nd</sup> Sess., U.N. Doc. A/HRC/WG.13/2/2 (2014), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/033/40/PDF/G1403340.pdf?OpenElement>> (accessed Mar. 9, 2015).

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 HRC, and some not.

At the final meeting of its second session, on July 4, 2014, the OEWG welcomed the participation of the Director of the HRC and Special Procedures Division on behalf of the UN High Commissioner for Human Rights and the President of the HRC; acknowledged the constructive dialogue, broad participation and active engagement of governments, regional and political groups, civil society and relevant stakeholders, and took note of the input received from them and finally welcomed the approach put forward by the Chairperson-Rapporteur.<sup>114</sup>

As stressed, the new approach proposed by the Chairperson-Rapporteur was welcomed by the OEWG, which is composed of all States, civil society organizations and other stakeholders. This approach was accepted by the majority of participants and afterwards, adopted 'ad referendum' by all as the correct way to find the necessary consensus in this difficult topic. In particular, the approach is based on the five main ideas.

Firstly, unlike the Security Council, the HRC is not the competent body to deal with matters linked to the maintenance of international peace and security in the world. Pursuant to UNGA Resolution 60/251 (2006), the HRC is trusted to work in some of the purposes and principles contained in the UN Charter (*i.e.* friendly relations among nations, self-determination of peoples, international cooperation and promotion of human rights and fundamental freedoms for all),<sup>115</sup> but never on matters related to breach of peace, the use or threat of force or the crime of aggression. The HRC is exclusively focused on those who truly suffer in a conflict: human beings and peoples.

Secondly, since the mandate of the HRC is to promote and protect human rights, peace should be elaborated in light of some fundamental human right, which has already been recognised by the international community as a whole, such as the right

---

<sup>114</sup> *Report of the Open-Ended Intergovernmental Working Group on the Draft United Nations Declaration on the Right to Peace*, U.N. GAOR, Human Rights Council, 27<sup>th</sup> Sess., Agenda Item 5: Human Rights Bodies and Mechanisms, ¶ 93(c), U.N. Doc. A/HRC/27/63 (2014) (Chair-Rapporteur: Christian Guillermet-Fernández), at <[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-63\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-63_en.doc)> (accessed Mar. 9, 2015) [hereinafter *Report of the Open-Ended Intergovernmental Working Group*].

<sup>115</sup> G.A. Res. 60/251, *supra* n. 49, Preamble, para. 1.

to life. Therefore, instead of re-creating new rights without the necessary consensus or unanimity, the international community should progressively elaborate existing and already consolidated rights in international law. The linkage between the right to life and peace was unanimously recognised in Art. 1 of the *Declaration on the Preparation of Societies for Life in Peace* as follows: 'Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace.'

The most reluctant countries expressed support about the linkage between life and peace as follows: 'They . . . were supportive of the new approach, focusing on the right to life and peace.'<sup>116</sup> Additionally, on July 3 the non-governmental organizations<sup>117</sup> delivered a joint oral statement in support of this approach by which they made an appeal 'to all delegations to take a leap forward with the declaration by endorsing the right to life in peace, in line with article 1 of the Declaration on the Preparation of Societies for Life in Peace.'<sup>118</sup>

Thirdly, the added value of the new Declaration is not only to recall again the linkage between the right to life and peace, but also to elaborate the right to life in connection to peace, including also human rights and development, which has not still elaborated in international law.

Fourthly, the HRC calls upon all stakeholders not only to apply some specific measures aimed at preserving the right of peoples to peace, but also to promote other matters which are directly linked to current mandate on the right to peace trusted to the HRC. In particular, the other topics in which Member States could work without disregarding the current Council mandate on the right of peoples to peace are the following: 1) the Principles of the Charter of the United Nations, such as the peaceful settlement of disputes, international cooperation and the self-determination of peoples; 2) the elimination of the threat of war; 3) the three pillars of the United Nations (*i.e.* peace, human rights and development); 4) the eradication of poverty and promotion of sustained economic growth, sustainable development and global prosperity for all; 5) the wide diffusion and promotion of education on

---

<sup>116</sup> *Report of the Open-Ended Intergovernmental Working Group, supra* n. 114, ¶ 22.

<sup>117</sup> United Network of Young Peacebuilders, Spanish Society for International Human Rights Law, Associazione Comunità Papa Giovanni XXIII, Brahma Kumaris World Spiritual University, Japan Federation of Bar Associations, Nonviolent Peaceforce, International Fellowship of Reconciliation, International Peace Bureau, International Society for Human Rights, Women's International League for Peace and Freedom, People's Solidarity for Participatory Democracy, International Association of Peace Messenger Cities, International Observatory of the Human Right to Peace, Canadian Voice of Women for Peace, *Ius Primi Viri*, Make Mothers Matter, Pax Romana, Institute for Planetary Synthesis and Institute for Global Education, APRED – Participative Institute for the Progress of Peace, Japanese Association of Democratic Lawyers, Zonta International, Badil Resource Center for Palestinian Residency and Refugee Rights, Arab Group Tamkeen, Graines de Paix International and Youth and Student Movement for the United Nations.

<sup>118</sup> *Report of the Open-Ended Intergovernmental Working Group, supra* n. 114, ¶ 89.

peace; and 6) the strengthening of the Declaration and Programme of Action on a Culture of Peace in the field of human rights and fundamental freedoms.

Fifthly, the approach builds upon the notions of human dignity, the role of women in the construction of peace and the importance of prevention of armed conflicts in conformity with the Charter and the contribution of the Human Rights Council to the prevention of violations of human rights and its response to human rights emergencies.

## 6. Conclusions

Since we have not yet developed a society that is prepared to acknowledge and entirely reject war as an option, the international community has always elaborated international rules which limit the effects of war. In the latest years, civil society movements have promoted the adoption of important legal instruments aimed at protecting the population in a context of warfare and also limiting the trade and use of certain arms. Nowadays the international community has the legal resources to eliminate progressively war and armed conflicts across the earth through the respect of international law, the promotion of the culture of peace and the friendship among all peoples and nations.

The promotion and protection of all human rights is an important legal tool aimed toward 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 these occur. Efforts to prevent armed conflict should promote a broad range of human rights, including not only civil and political rights but also economic, social and cultural rights, including the right to development.

Since the establishment of the HRC in 2006 part of the international community, with the exception of the Group of Eastern<sup>119</sup> and Western European and Others States, has actively been engaged in the promotion of the right of peoples to peace through the adoption of several resolutions. It should be noted that the elaboration of this notion within the UN human rights bodies started at the CHR in 2001. Although many of the States have supported the on-going process, some of them have not recognized the existence of the right of peoples to peace under international law. In particular, the Western States and associated countries have constantly showed their opposition to this UN process by arguing that this notion is not correctly linked to human rights.

The new approach proposed by the Chairperson-Rapporteur was welcomed by the OEWG on July 4, 2014. His argument is based in the fact that the right to life has properly been characterized as the supreme human right, since without effective guarantee of this right, all other rights of the human being would be devoid of

---

<sup>119</sup> With the exception of the Russian Federation, which supports the on-going process.

meaning. Since the right to life should not be narrowly interpreted, it has traditionally been linked to peace and security matters. As for the positional relationship between the right to life and peace, it appears to have been correctly stated in the Preamble to the Universal Declaration of Human Rights and the Declaration on the Preparation of Societies for Life in Peace. It follows that the right to life is not only the legal foundation for other rights, but also an integral part of all the rights which are essential to guaranteeing a better life for all human beings.

To finalize this article, we should remember that Alexander II will be forever a constant source of inspiration for all those people whose work for the strengthening of the linkage between peace, human rights and development across the Earth. As recalled, he was the father of the Russian Renaissance, which brought about a great spiritual awakening. He deeply reformed Russian life by changing the justice system and putting an end to a thousand years of slavery.

## ANNEX

NEW TEXT BY THE CHAIR-RAPPORTEUR PRESENTED  
ON 24 JUNE 2014 TO THE WORKING GROUP IN ACCORDANCE  
WITH HUMAN RIGHTS COUNCIL RESOLUTION 23/16<sup>120</sup>

[UNITED NATIONS DECLARATION ON THE RIGHT TO PEACE]

### **Preamble**

*The General Assembly,*

*Guided* by the purposes and principles of the Charter of the United Nations,

*Guided* also by the Universal Declaration of Human Rights and the International Covenants on Civil, Political, Economic, Social and Cultural Rights as a common standard of achievement for all peoples and all nations,

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

*Recalling* that the 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,

---

<sup>120</sup> *Report of the Open-Ended Intergovernmental Working Group, supra* n. 114, Annex II, at 17.

*Recalling also* that 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,

*Recalling* that disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind,

*Recalling in particular* that 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,

*Recalling* that the Vienna Declaration and Programme of Action stated that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis,

*Recalling* that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being, and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing,

*Recalling* the world commitment to eradicate poverty and promote sustained economic growth, sustainable development and global prosperity for all,

*Recalling* that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

*Recalling* the importance of prevention of armed conflict in accordance with the purposes and principles of the Charter and the commitment to promote a culture of prevention of armed conflict as a means of effectively addressing the interconnected security and development challenges faced by peoples throughout the world,

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

*Recalling also* that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern,

*Recalling* the United Nations Declaration on Human Rights Education and Training, which proclaimed that everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training,

*Recalling* the Declaration and Programme of Action on a Culture of Peace, which recognized that culture of peace is a set of values, attitudes, traditions and modes of behaviour and ways of life based on, among others, the full respect for and promotion of all human rights and fundamental freedoms,

*Inviting solemnly* all stakeholders to guide themselves in their activities by recognizing the supreme importance of practicing tolerance, dialogue, cooperation and solidarity among all stakeholders as a means to promote world peace through human rights and to end, reduce and prevent progressively war and armed violence, in particular, by observing the following:

#### **Article 1**

Everyone is entitled to the promotion, protection and respect for all human rights and fundamental freedoms, in particular the right to life, in a context in which all human rights, peace and development are fully implemented.

#### **Article 2**

States should enhance the principles of freedom from fear and want, equality and non-discrimination and justice and rule of law as a means to build peace within societies. In this regard, States should undertake measures to bring about, maintain and enhance conditions of peace, particularly to benefit people in need in situations of humanitarian crises.

#### **Article 3**

States, the United Nations including its specialized agencies, as well as other interested international, regional, national and local organizations and civil society, should adopt all possible actions with the purpose of implementing, strengthening and elaborating this Declaration, including the establishment and enhancement of national institutions and related infrastructures.

#### **Article 4**

The provisions included in this Declaration shall be interpreted in light of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments ratified by countries.

### **References**

2 The Charter of the United Nations: A Commentary ¶ 1.286 (Bruno Simma et al., eds.) (3<sup>rd</sup> ed., Oxford University Press 2012).

Akhavi, Ali A. L'Échec de la S.D.N. dans l'organisation pratique de la paix ses causes, son avenir 123–124 (Librairie du Recueil Sirey 1937).

*An Agenda for Peace: Preventive Diplomacy and Related Matters*, G.A. Res. 47/120A, U.N. GAOR, 47<sup>th</sup> Sess., Supp. No. 49 I, Preamble, para. 6, U.N. Doc. A/47/49 (1993), <<http://www1.umn.edu/humanrts/resolutions/47/120GA1992.html>> (accessed Mar. 9, 2015).

*An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping: Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992*, ¶¶ 2, 5, 13–18, 86, U.N. Doc. A/47/277-S/24111 (1992), at <[http://www.unrol.org/files/A\\_47\\_277.pdf](http://www.unrol.org/files/A_47_277.pdf)> (accessed Mar. 9, 2015).

Balbareu, Cécile. *Le Pacte de Paris (pacte Briand-Kellogg sur la mise de la guerre hors la loi): Thèse de doctorat 73–78* (Librairie universitaire J. Gamber 1929).

Barclay, Thomas. *Problems of International Practice and Diplomacy with Special Reference to the Hague Conferences and Conventions and Other General Agreements 1–21* (Sweet & Maxwell Ltd. 1907).

Bourgeois, Léon. *L'Œuvre de la Société des Nations (1920–1923) 10–11* (Payot 1923).

Bouthoul, Gaston. *Huit mille traités de paix 12–13* (René Julliard 1948).

Brailsford, Henry N. *A League of Nations 15* (2<sup>nd</sup> ed., Macmillan Co. 1917), available at <<https://archive.org/details/cu31924007478658>> (accessed Mar. 9, 2015).

Eichner, Louis. *La paix des peuples ou essai d'une Confédération Internationale 33–34* (Librairie Marcel Rivière 1922).

*Enhancement of International Cooperation in the Field of Human Rights*, G.A. Res. 68/160, U.N. GAOR 3<sup>rd</sup> Comm., 68<sup>th</sup> Sess., Supp. No. 49 I, ¶ 6, U.N. Doc. A/RES/68/160 (2014), at <[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/160](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/160)> (accessed Mar. 9, 2015).

*High Commissioner for the Promotion and Protection of All Human Rights*, G.A. Res. 48/141, U.N. GAOR 3<sup>rd</sup> Comm., 48<sup>th</sup> Sess., Supp. No. 49 I, ¶ 4(f), U.N. Doc. A/RES/48/141 (1993), at <<http://www.un.org/documents/ga/res/48/a48r141.htm>> (accessed Mar. 9, 2015).

*Human Rights Council*, G.A. Res. 60/251, U.N. GAOR, 60<sup>th</sup> Sess., Supp. No. 49 III, Preamble, para. 6, U.N. Doc. A/RES/60/251 (2006), at <[http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf)> (accessed Mar. 9, 2015).

*Human Rights Experts Have a Key Role in Early Warning*, <<http://www.ohchr.org/EN/NewsEvents/Pages/KeyRoleEarlyWarning.aspx>> (accessed Mar. 9, 2015).

Hunter Miller, David. *The Peace Pact of Paris: A Study of the Briand-Kellogg Treaty 148* (G.P. Putnam's Sons 1928).

*International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001–2010)*, G.A. Res. 53/25, U.N. GAOR, 53<sup>rd</sup> Sess., Supp. No. 49 I, U.N. Doc. A/RES/53/25 (1998), at <<http://www.un-documents.net/a53r25.htm>> (accessed Mar. 9, 2015).

*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, U.N. GAOR, Human Rights Council, Open-Ended Intergovernmental Working Group on a Draft United Nations Declaration on the Right to Peace, 2<sup>nd</sup> Sess., U.N. Doc. A/HRC/WG.13/2/2 (2014), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/033/40/PDF/G1403340.pdf?OpenElement>> (accessed Mar. 9, 2015).

Mandelstam, André N. *L'Interprétation du pacte Briand-Kellogg par les gouvernements et les parlements des États signataires* 1–24 (A. Pedone 1934).

*Note by the President of the Security Council*, at 3, U.N. Doc. S/23500 (1992), at <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/PKO%20S%2023500.pdf>> (accessed Mar. 9, 2015).

Phillimore, Walter G.F. *Three Centuries of Treaties of Peace and Their Teaching* 1–9 (Little, Brown & Co. 1919).

*Prevention of Armed Conflict*, G.A. Res. 57/337, U.N. GAOR, 57<sup>th</sup> Sess., Supp. No. 49 III, ¶ 11, U.N. Doc. A/RES/57/337 (2003), at <<http://www.un-documents.net/a57r337.htm>> (accessed Mar. 9, 2015).

*Prevention of Armed Conflict: Report of the Secretary-General*, ¶¶ 18–19, 94, U.N. Doc. A/55/985-S/2001/574 (2001), at <<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan005902.pdf>> (accessed Mar. 9, 2015).

Rauchberg, Heinrich. *Les obligations juridiques des membres de la société des nations pour le maintien de la paix* (= 37 Recueil des cours) 66–67 (Académie de droit international 1932).

*Report of the High Commissioner Submitted Pursuant to Commission Resolution 1999/54*, U.N. ESCOR, Commission on Human Rights, 56<sup>th</sup> Sess., Agenda Item 4: Report of the United Nations High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights, ¶¶ 92, 94, U.N. Doc. E/CN.4/2000/12 (1999), <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/165/63/PDF/G9916563.pdf?OpenElement>> (accessed Mar. 9, 2015).

*Report of the Office of the High Commissioner on the Outcome of the Expert Workshop on the Right of Peoples to Peace*, U.N. GAOR, Human Rights Council, 14<sup>th</sup> Sess., Agenda Items 2 and 3: Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General; Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, U.N. Doc. A/HRC/14/38 (2010), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/121/38/PDF/G1012138.pdf?OpenElement>> (accessed Mar. 9, 2015).

*Report of the Open-Ended Intergovernmental Working Group on the Draft United Nations Declaration on the Right to Peace*, U.N. GAOR, Human Rights Council, 27<sup>th</sup> Sess., Agenda Item 5: Human Rights Bodies and Mechanisms, ¶¶ 22, 89, 93(c), Annex II, at 17, U.N. Doc. A/HRC/27/63 (2014) (Chair-Rapporteur: Christian Guillermet-Fernández), at <[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-63\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-63_en.doc)> (accessed Mar. 9, 2015).

*Situation of Human Rights in Cote d'Ivoire in Relation to the Conclusion of the 2010 Presidential Election*, U.N. Human Rights Council Res. S-14/1, U.N. Doc. A/HRC/RES/S-14/1 (December 23, 2010), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/101/53/PDF/G1110153.pdf?OpenElement>> (accessed Mar. 9, 2015).

*Situation of Human Rights in Darfur*, U.N. Human Rights Council Dec. S-4/101, U.N. Doc. A/HRC/S-4/101 (December 13, 2006), at <<http://www.ohchr.org/Documents/>

HRBodies/HRCouncil/SpecialSession/Session4/dec\_S\_4\_101\_en.doc> (accessed Mar. 9, 2015).

*Situation of Human Rights in Myanmar*, U.N. Human Rights Council Res. S-5/1, U.N. Doc. A/HRC/RES/S-5/1 (October 2, 2007), at <[http://responsibilitytoprotect.org/files/HRC\\_SpecialSession5ResolutionFinal\\_2Oct07.pdf](http://responsibilitytoprotect.org/files/HRC_SpecialSession5ResolutionFinal_2Oct07.pdf)> (accessed Mar. 9, 2015).

*Situation of Human Rights in the Central African Republic and Technical Assistance in the Field of Human Rights*, U.N. Human Rights Council Res. S-20/1, U.N. Doc. A/HRC/S-20/1 (January 20, 2014), at <[http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session20/A-HRC-RES-S-20-1\\_en.doc](http://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session20/A-HRC-RES-S-20-1_en.doc)> (accessed Mar. 9, 2015).

*Situation of Human Rights in the East of the Democratic Republic of the Congo*, U.N. Human Rights Council Res. S-8/1, U.N. Doc. A/HRC/RES/S-8/1 (December 1, 2008), at <[http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_S8\\_1.doc](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_S8_1.doc)> (Mar. 9, 2015).

*Situation of Human Rights in the Libyan Arab Jamahiriya*, U.N. Human Rights Council Res. S-15/1, U.N. Doc. A/HRC/RES/S-15/1 (February 25, 2011), at <[http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/HRC-S-15-1\\_AUV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/HRC-S-15-1_AUV.pdf)> (accessed Mar. 9, 2015).

*Statement by Chaloka Beyani, Chairperson of the Coordination Committee of Special Procedures, Twentieth Special Session of the Human Rights Council on the Situation of Human Rights in the Central African Republic* (January 20, 2014), at <<http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=14184&LangID=E>> (accessed Mar. 9, 2015).

*Statement by Jose Luis Gomez del Prado, Chairperson of the Coordination Committee of Special Procedures, Eight Special Session of the Human Rights Council on the Situation of Human Rights in the Libyan Arab Jamahiriya* (February 25, 2011), at <<http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=10763&LangID=E>> (accessed Mar. 9, 2015).

*Statement by Manuela Carmena Castrillo, Chairperson of the Coordination Committee of Special Procedures, Eight Special Session of the Human Rights Council on the Situation of Human Rights in the East of the Democratic Republic of Congo* (November 28, 2008), at <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14867&LangID=E>> (accessed Mar. 9, 2015).

*Statement by the President of the Security Council*, at 2, U.N. Doc. S/PRST/2013/12 (2013), at <[http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_prst\\_2013\\_12.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_prst_2013_12.pdf)> (accessed Mar. 9, 2015).

*Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, ¶ 47, U.N. Doc. A/50/60-S/1995/1 (1995), <<http://www.un.org/documents/ga/docs/50/plenary/a50-60.htm>> (accessed Mar. 9, 2015).

U.N. GAOR, Human Rights Council, 14<sup>th</sup> Sess., Agenda Items 2 and 3: Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office

of the High Commissioner and the Secretary-General; Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, U.N. Doc. A/HRC/14/38 (2010), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/121/38/PDF/G1012138.pdf?OpenElement>> (accessed Mar. 9, 2015).

U.N. Security Council Res. 1714 (2006), U.N. Doc. S/RES/1714 (October 6, 2006), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/556/93/PDF/N0655693.pdf?OpenElement>> (accessed Mar. 9, 2015).

U.N. Security Council Res. 1857 (2008), U.N. Doc. S/RES/1857 (December 22, 2008), at <<http://www.worldlii.org/int/other/UNSC/2008/63.pdf>> (accessed Mar. 9, 2015).

U.N. Security Council Res. 1962 (2010), U.N. Doc. S/RES/1962 (December 20, 2010), at <<http://www.refworld.org/pdfid/4d270ae12.pdf>> (accessed Mar. 9, 2015).

U.N. Security Council Res. 2016 (2011), U.N. Doc. S/RES/2016 (October 27, 2011), at <<http://www.globalr2p.org/media/files/libya2016.pdf>> (accessed Mar. 9, 2015).

U.N. Security Council Res. 2134 (2014), U.N. Doc. S/RES/2134 (January 28, 2014), at <<http://binuca.unmissions.org/Portals/binuca-eng/N1421894E.pdf>> (accessed Mar. 9, 2014).

*Vienna Declaration and Programme of Action: World Conference on Human Rights (Vienna, Jun. 14–25 1993)*, ¶ 76, U.N. Doc. A/CONF. 157/23 (1993), at <[http://www.ub.fu-berlin.de/service\\_neu/ubpubl/mitarbeiter/dbe/UDHR60/Vienna\\_declaration.pdf](http://www.ub.fu-berlin.de/service_neu/ubpubl/mitarbeiter/dbe/UDHR60/Vienna_declaration.pdf)> (accessed Mar. 9, 2015).

### Information about the authors

**Christian Guillermet Fernández (San José, Costa Rica)** – Deputy Permanent Representative of Costa Rica to the United Nations in Geneva and Chairperson-Rapporteur of the Working Group on the Right to Peace (23 Rue de France, Geneva, 1202, Switzerland; e-mail: christian.guillermet@ties.itu.int).

**David Fernández Puyana (Barcelona, Spain)** – PhD (European Mention), Legal Assistant of the Chairperson-Rapporteur at the Permanent Mission of Costa Rica in the United Nations in Geneva (23 Rue de France, Geneva, 1202, Switzerland; e-mail: costaricanmissionpeace@gmail.com).