

Geneva, 18 March 2012

Letter addressed to all members of the Advisory Committee's drafting group on the right of peoples to peace

Re: Amendments to the second draft Declaration on the right to peace

Distinguished members of the drafting group,

I have the pleasure of writing to you on behalf of the 1116 CSO and Cities worldwide that signed the joint written statement contained in document A/HRC/AC/8/NGO/2 of 15 February 2012 and congratulating you again for your outstanding work in the codification process of a draft Declaration on the right to peace (document A/HRC/AC/8/2 of 12 December 2011).

Pursuant to recommendation 8/4 adopted by the Advisory Committee on 24 February 2012, the drafting group was “requested to finalize its work on the draft declaration on the right of peoples to peace in the light of the discussions held by the Advisory Committee at its eighth session, and to submit it to the Human Rights Council at its twentieth session” (paragraph 4).

In particular, paragraph 5 of the same recommendation requested the drafting group “to include in its revision, inter alia:

- (a) Reference to the link between the right to peace and all civil, political, economic, social and cultural rights in article 1;
- (b) Reference to the importance of citizen security and a preventive approach;
- (c) Strengthening of gender mainstreaming in article 8;
- (d) Reference to the right to truth in article 11;
- (e) More explicit wording on a monitoring mechanism in article 13”.

We strongly support AC recommendation 8/4 and would like to make specific recommendations on language to assist you in your important mandate:

- (a) Please also add reference to the right to development as established by the 1986 GA Declaration on the Right to Development and the 1993 Vienna Declaration;



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(d) Article 11 should include a new paragraph as follows: "The victims of human rights violations, the members of their families and society in general have the right to know the truth, not subject to statutory limitations";

(e) Article 13 should be revised along with Articles 14 and 15 of the *Santiago Declaration on the Human Right to Peace* (2010): **The GA Working Group on the Human Right to Peace.**

Moreover, we propose to recommend in the introduction of the forthcoming AC progress report that the Human Rights Council establish an **intergovernmental open-ended working group on standard setting** of the right to peace with the active participation of civil society organizations. The working group should propose to the General Assembly a draft Universal Declaration of the Human Right to Peace for its final adoption.

Additionally, we invite the drafting group to consider the following amendments as proposed in our joint written statement (A/HRC/AC/8/NGO/2 of 15 February 2012):

Title: Draft Declaration on the Human Right to Peace.

Preamble: To be completed by the Preamble of the *Santiago Declaration* (2010), since it included relevant universal and regional legal instruments providing background to the codification of the human right to peace.

Art. 1. Right to peace: principles.

Paragraph 1:

To add both **minorities and humankind** as additional right-holders of the human right to peace.

Paragraph 2:

To be completed by:

“All international actors have a duty to do everything in their power to ensure these rights and freedoms”.



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Art. 2. Human security.

Add the concept of right in the title of article

Art. 3. Disarmament.

Add the concept of right in the title of article

The equality between men and women as a major global strategy for the promotion of equality and human rights should include its relationship with the disarmament.

Paragraph 3

To be completed by:

“States are invited to consider the establishment and promotion of Peace Zones and of Nuclear Weapon Free Zones and to phase out progressively foreign military bases”.

Art. 4. Peace education and training.

Add the concept of right in the title of article

Two new paragraphs to be added, as follows:

“All persons should fully enjoy their freedom of thought, conscience, expression and religion, in conformity with international human rights law”

"All peoples and individuals have the right to be protected against any form of cultural violence”.

Art. 5. Conscientious objection to military service

The title of the article should be replaced by:

“Right to disobedience and to conscientious objection to military service”.

Paragraph 1:

To be replaced by:



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“Individuals, individually or as members of a group, have the right to civil disobedience and to conscientious objection against activities that entail a threat against peace”.

Three new paragraphs to be added at the end, as follows:

“Individuals, individually or as members of a group, have the right not to participate in, and to publicly denounce scientific research for the manufacture or development of arms of any kind”.

“Individuals, individually or as members of a group, have the right to object to participate in a working or professional capacity, and to oppose taxation for military expenditures connected with military operations in support of armed conflicts that violate international human rights law or international humanitarian law. States shall provide acceptable alternatives to tax payers who object to the use of their tax money for military purposes”.

“Individuals, individually or as members of a group, have the right to be protected in the effective exercise of their right to disobedience and conscientious objection”.

Art. 9. Development.

Add the concept of right in the title of article

Art. 11. Rights of victims and vulnerable groups

Five new paragraphs to be added or completed, as follows:

2. To add the redress precluded by the popular courts or tribunals of conscience and to institutions, methods, traditions or local customs of peaceful settlement of disputes.

3. To keep Article 12.1 of the *Santiago Declaration*¹.

4. Please note that UN Sub-Committee on the Prevention of Torture urged on 24 February 2012 the Advisory Committee to include “a paragraph 4 on persons deprived of their liberty and their right to be treated humanely and to be protected by the State against all type of violence”. Therefore, we propose to keep Article 12.4 of the *Santiago Declaration*².

¹Article 12.1 of the SD states: "All individuals share the same human dignity and have an equal right to protection. Nevertheless, there are certain groups in situations of specific vulnerability who deserve special protection. Among them are women in particular situations, children, victims of enforced or involuntary disappearances, persons with diverse physical or mental functionality, elderly persons, displaced persons, migrants, minorities, refugees and indigenous peoples".

² Article 12.4 of the SD (revised) states: “All persons deprived of their liberty have the right to be treated humanely and to safe conditions of living under judicial supervision. They should always be considered as right-holders. Detention of children should be imposed exclusively as a last resort and be limited to



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5. To keep Article 12.5 of the *Santiago Declaration*³.
6. To keep Article 12.6 of the *Santiago Declaration*⁴.

Art. 12. Refugees and migrants.

Add the concept of right in the title of article

Two new paragraphs to be added after paragraph 2, as follows:

“All individuals have the right of freedom of movement and to emigrate if their right to human security or to live in a safe and healthy environment, as stipulated in this Declaration, is seriously threatened”.

"All individuals and peoples subjected to forced migration deserve special attention as victims of violations of the human right to peace".

Art. 13. Obligations and implementation.

It should be divided into three Articles, namely:

Art. 13. Obligations for the realization of the right to peace.

1. To keep Article 13.4 of the *Santiago Declaration*⁵.
2. To keep Article 13.6 of the *Santiago Declaration*⁶.

exceptional cases. Detention of persons awaiting trial should be limited to necessary cases and for a reasonable period of time”.

³ Article 12.5 of the SD states: “The enforced or involuntary disappearance of individuals constitutes a crime against humanity. Their victims have the rights to the recognition of their detention, to regain their freedom and to obtain complete, effective, fair and adequate reparation”.

⁴ Article 12.6 of the SD states: “Indigenous peoples have all the rights guaranteed to them by international human rights law, particularly the right to live on their lands, to enjoy their natural resources and to the effective protection of their cultural heritage”.

⁵ Article 13.4 of the SD states: “States are also required to adopt measures to build and consolidate peace and have the responsibility to protect humankind from the scourge of war. This, however, shall not be interpreted to imply for any State any entitlement to intervene in the territory of other States”.

⁶ Article 13.6 of the SD states: “The United Nations system must engage in a thorough and effective manner, through the United Nations Peace-building Commission, in cooperation with other entities of the United Nations and relevant regional and sub-regional organizations, in the elaboration of integrated strategies for peace and for the reconstruction of affected countries following the end of armed conflicts. Such strategies must ensure stable sources of financing and effective coordination within the United Nations system. In this context, the effective implementation of the Program of Action for a Culture of Peace is underscored”.



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3. To keep Article 13.7 of the *Santiago Declaration*⁷.

4. To keep Article 13.8 of the *Santiago Declaration*⁸.

“5. States are encouraged to become parties to the Rome Statute of the International Criminal Court and to the amendments which will enable the ICC to exercise its jurisdiction over the crime of aggression”⁹.

Art. 14. Establishment of the Working Group on the Human Right to Peace.

To keep Art. 14 of the *Santiago Declaration*.

Art. 15. Functions of the Working Group.

To keep Art. 15 of the *Santiago Declaration*.

⁷ Article 13.7 of the SD states: “Any military action outside the framework of the UN Charter is unacceptable, constitutes a most grave violation of the principles and purposes of the UN Charter, and is contrary to the human right to peace. The so-called “preventive war” constitutes a crime against peace”.

⁸ Article 13.8 of the SD states: “In order to better guarantee the human right to peace, the composition and procedures of the Security Council shall be reviewed so as to reflect and better ensure the representation of today’s international community. The methods of work of the Security Council must be transparent and allow a meaningful participation in its debates by civil society and other actors”.

⁹The amendments to the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to the crime were adopted at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010.



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Final Provisions

To keep the Final Provisions contained in the *Santiago Declaration*¹⁰.

We trust that this could be useful in carrying out your important work.

Sincerely yours,

Carlos Villán Durán
President

¹⁰ Final Provisions of the SD are as follows: “1. No provision of this Declaration may be interpreted as meaning that it confers on any State, group or individual any right to undertake or develop any activity, or carry out any act contrary to the purposes and principles of the United Nations.

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

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



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