Legal Developments

Nordic Expert Consultation on the Right to Peace: Summary and Recommendations

Cecilia M Bailliet

Dr. jur Professor and Deputy Director of the Department of Public and International Law, University of Oslo. Email: c.m.bailliet@jus.uio.no

Kjetil Mujezinović Larsen

Ph.D Associate Professor, Norwegian Centre for Human Rights, University of Oslo. Email: k.m.larsen@nchr.uio.no

I. Introduction

In 2012, the UN Human Rights Council established an Intergovernmental Working Group to negotiate a draft UN declaration on the right to peace on the basis of a draft that has been prepared by the Human Rights Council's Advisory Committee.[1] The resolution establishing the Working Group divided the Human Rights Council, with the US voting against it, the European states abstaining, and the Asian, Middle Eastern, African, and Latin American states voting in favour.[2]

This initiative was promoted within civil society by the Spanish Society for International Human Rights Law, which called for regional seminars to disseminate the draft declaration. On January 29, 2013, the Norwegian Centre for Human Rights and the Department of Public and International Law at the University of Oslo responded to this call by hosting a Nordic Expert Consultation on the Right to Peace. Thirty experts in international public law, human rights law, humanitarian law, international criminal law, development law, and environmental law, gathered to conduct a review of the draft.[3]

Nordic societies have a deep appreciation of peace as a fundamental value, historically enjoying it within the region and promoting it abroad. Nordic legal scholars are known for their pragmatism and positivistic orientation. However, there was some skepticism among the group of Nordic experts as to the overall idea of adopting a declaration on the right to peace. Moreover, there was also concern that the draft version is problematic from the perspective of established international law. The consultation sought to identify strong and weak points of the normative language and provide suggestions for improvement. Without drawing any conclusions as to the advisability of adopting a declaration on the right to peace, the group of

[1] Report of the Human Rights Council Advisory Committee on the right of peoples to peace, 16 April 2012, UN doc. A/HRC/20/31, Annex <http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/20/31> (hereinafter referred to as "the draft").
[2] Human Rights Council resolution 20/15, 17 July 2012, UN doc. A/HRC/RES/20/15.
[3] The list of participants is included at the conclusion of this article.

Nordic experts undertook the challenge of improving the normative clarity, coherence, consistency, comprehensiveness, legitimacy, empowerment function, and implementation/enforceability potential of the document. They sought to simplify the language and distinguish between *lex lata* and *lex ferenda*. In the following, we provide a summary of the comments which were made by the experts both online prior to the seminar, and at the seminar itself. The summary highlights the key points of discussion (preserving anonymity of the individual opinions).

The summary is followed by concise Nordic Expert Recommendations on the Components of Peace. The recommendations and the comments have been submitted to the Chairman of the Intergovernmental Working Group.[4]

II. Summary

General Issues

The draft declaration contains no definition of "peace" for the purpose of the declaration. This was a matter of concern to the group, since this omission makes it unclear what a "right to peace" means. One suggestion was that it was a "meta right" rather than a justiciable right, while others saw it primarily as an obligation (or duty) for states, not as a right. This gave rise to a query of who the addressees of the declaration are; the relationship between rights-holders and duty-bearers may benefit from a clarification. With regard to the scope of "peace", the group discussed whether a "right to peace" should refer only to a negative concept of peace (defined as the absence of war/violence/structural violence) or to a positive concept of peace. The group was divided on this issue. A middle view was that if the declaration should refer to positive peace in addition to negative peace, the positive elements should be narrowed down to be more understandable. It was suggested that in order to really make a difference there is a need to develop clear guidelines on a narrow concept of peace. The perspective in favor of recognising a right to peace is based on the potential empowerment function of rights for individuals and groups in relation to states. There was also some acceptance of the possibility that it may not be possible to attain a clear definition of peace within such document.

Additionally, there was criticism of the basic premises of the declaration and some of its conceptual vagueness. This document will not codify an existing right but create a new one, partly through fusion of existing human rights and partly by suggesting that individuals or groups have some form of standing regarding rules which until now have only applied between states. The group shared the opinion that the declaration made reference to too many rights and that this could result in a watering down of standards. Another query concerned when "peace" would be considered as being breached. When a state attacks another state? When a state decides to use force to defend its people? When it fails to defend its people? When a rebellion is instigated? When the state decides to quell the rebellion? There is a need for greater clarity as to what situations the declaration tries to address: international armed

[4] The text has been distributed to the Nordic experts for comments before being finalised. Nevertheless, the two authors bear the sole responsibility for the final text, and the inclusion of an individual in the annexed List of Participants may not be viewed as an endorsement of the final text by that individual.

conflicts, all armed conflicts, all forms of insecurity. Yet another query concerned the possibility of justified interferences with the right to peace. Under what conditions can one's right to peace plausibly be violated? The group expressed confusion as to the status of the right(s) in the declaration.

There was a juxtaposition of the perspective of absolute pacifism and pragmatic pacifism, assessing the Responsibility to Protect Doctrine and the Right to Self-Defence as possible exceptions. Further, there was a call to acknowledge the unique responsibility of the UN Security Council in maintaining peace.

It was noted that the declaration would be improved if it were set out in clearer terms which correspond to the well-established distinctions between the obligations to respect, protect, fulfill and promote. Many of the putative obligations concern the prevention of war, which amount to protection, fulfillment and/or promotion, rather than respect of the right. Failure to fulfill an "obligation to prevent" may constitute a breach of an international obligation, but not necessarily a violation of a human right if the failure to prevent has not led to a violation/abuse in the concrete instance.

The declaration focuses on state obligations. Some participants supported the view that other "organs of society" (corporations, non-state armed groups, etc.) should have duties and obligations. On the other hand, if the declaration were to cover non-state actors, it would actually implicitly include non-state armed groups under the use of force regime. This would create a significant shift in the current regime.

It was suggested that the "right to peace" initiative should be considered as a framework for discussing how to move forward (such as the Declaration on the Right to Development). The starting points should be the UN Charter article 2.4 and the Universal Declaration of Human Rights article 28. These were cited as opposite entry points to the discourse. Along similar lines, it was noted that "peace" has meaning on two levels – political and legal – and the declaration was qualified as having a quasi-legal function. It was noted that the empowerment potential must be taken into consideration. It was suggested that the declaration could pinpoint areas where expectations are not met by existing legal standards. It was advised that the focus must be on making progress from the status quo.

A general recommendation was made to change the language of the declaration from "shall" to "should", since this is more appropriate in declarations. The drafters were also invited to consider whether a number of articles would benefit from initial paragraphs that clarify the relationship between the articles' subject-matter and the relevant concept of "peace".

It was also observed that when one speaks of a "right", there must be a corresponding sanction for violations of the rights. If there is no sanction, different wording should be used.

Article 1: Right to Peace: Principles

The provision does not provide a definition of "peace". In the absence of a definition, it was argued that the provision could be amended to clarify that the "right to peace" referred to in

the first paragraph contains those elements that are covered by the declaration, since this would alleviate some confusion in other places where the term is used. It was discussed whether the extensive list of prohibited grounds for discrimination could be replaced with a simple "for any reason", but some participants worried that this might go too far as it might imply that no justified limitations may be envisaged.

The second paragraph was considered to be in line with traditional human rights law, but there was doubt as to whether the language is necessary. There was concern that it might have harmful effects, such as creating obstacles for placing duties on multinational corporations, etc. If there is a reference to "principal duty-holders", one needs to consider the position of "secondary" duty-holders. That states are the principal duty-holders does not necessarily exclude corporations and other entities from having obligations, but perhaps this should be made clearer. It is unclear whether other duty-holders may be responsible in addition to responsible states, or whether there may be situations in which only a non-state actor may be responsible, for example a non-state armed group that initiates an internal armed conflict?

It was considered that "severally and jointly" seem to be superfluous, but commentators suggested that "as part of multilateral organisations" was useful to clarify that states have obligations also as members of Intergovernmental organisations (IGOs). This also provides a useful framework for many other obligations in the draft, which concern prevention of violations of the right to peace.

The third paragraph was characterised as confusing, as the "right to peace" cannot be "interdependent and interrelated" with itself. There was confusion as to whether the article signals that all the elements that constitute the right to peace (i.e. all elements in the declaration) are interrelated etc., or that the right to peace is interrelated etc. with all other human rights. The paragraph should be revised.

It was considered odd that article 1 seems to focus on a construction of peace that emphasizes inter-state relations over that of peace within each state. Paragraphs 4 to 6 are important, but should be redrafted to correspond better with existing terminology in international law.

Commentators called for separation of the two levels, international and domestic, since the nature and scope of state obligations differs: At an international level, there is a shared responsibility to ensure the right to peace. At the domestic level there is a primary responsibility on the part of the state and a subsidiary responsibility on the part of the international community of states under the doctrine of the responsibility to protect. The draft refers only to duties of international organisations while others are referred to only as "entities". It is important to limit those entities' duties to their spheres of activity and abilities.

There was also a call for further examination of the relationship between the draft's references to peace and security and the role of the UN Security Council.

Article 2: Human Security

The group discussed whether is it helpful to add human security to this document, as it is a contentious term. The concept of human security is inherently vague and perhaps states may be deterred by its inclusion. It is relevant to mention that the right to peace is related to the other rights that are covered by the provision, but it is not helpful to subsume all of this under the heading of "human security", which is not defined under international law. The general impression seemed to be that much of this provision should be deleted or moved. However, some commentators considered human security to be an important element in a progressive document on the right to peace. It was noted that perhaps it would be better to refer to specific human rights. Yet, a benefit of this article is that it introduces the concept of "positive peace". Paragraph 7 was considered to be an important provision highlighting the need to address structural violence; nevertheless it was remarked that perhaps it is lost in this very long article.

With regard to the second paragraph, there was concern about the language that to "live in peace" is to not be "the target of any kind of violence". This definition is both over- and under-inclusive. It seems to cover any form of violence, including common crime. There were also raised doubts as to whether this provision is mainly about "living in peace" or about "develop fully all their capacities".

Under paragraph 3, it was recognised that states do have an obligation under international law to protect against genocide, war crimes and crimes against humanity; this follows from the duty to protect under human rights law. A topic of discussion was what it means to have a "right" to be protected against genocide. Furthermore, if there is an obligation to protect someone against illegal use of force, such an obligation is of a different nature and should not be juxtaposed with the other three. There was also confusion about the inclusion of R2P in this paragraph. What if the state is the perpetrator of the relevant crimes?

It was considered that paragraph 4 should not focus on the inclusion of issues in mandates, but rather on having the necessary means to implement the mandate. Also, this paragraph should be seen in relation with article 8 on peacekeeping.

Under paragraph 5, the question was raised as to why mediation of conflicts is limited only to states and civil society, without including other non-state actors.

The implications of paragraph 6 are very far-reaching, since they are not limited to any particular area of legal regulation, at least if "demand" has any legal implications. Since states are reluctant to accept provisions of unknown scope, this should be revised. But this "right" should not apply only towards your own government; everyone should be able to demand that any government respects the relevant obligations. This provision is unclear with regard to who the rights-holders are; who has the right to see justice be done to the society. Since this provision is not about what a government can provide but about what everyone can demand from the government, the question of rights-holders should be clarified.

It was suggested that the second sentence of paragraph 8 should be deleted, and the first few words in paragraph 9 are difficult to understand.

If a provision on human security is kept, it was suggested to include the active role of women in the beginning of article and not only in article 11 on victims.

Article 3: Disarmament

One general concern is that this article creates confusion about *lex lata*. It was noted that there is no legal obligation on the permanent members of the UN Security Council (P5) to disarm and the 4 countries outside the Non-Proliferation Treaty (NPT) all have nuclear weapons or are very close to acquiring them. The only binding restrictions on the nuclear forces of the P5 are the bilateral agreements between the United States and Russia. There is not yet a "right to live in a world free of weapons of mass destructions". Further, the statement: "weapons that damage the environment is contrary to international humanitarian law", is not a correct expression of *lex lata*. International humanitarian law establishes a higher threshold for unlawfulness than simply that of "damage" to the environment. The declaration may well express an ambition to prohibit such weapons, but this should not be done through inaccurate statements of *lex lata*.

The article was considered to be an aspirational statement, as it contains statements on the lawfulness of weapons use. The need (or right) for disarmament with respect to a particular kind of weapons is not necessarily predicated on the unlawfulness of its use. The pursuit of disarmament as a potential (human) right should be strategically decoupled from issues regarding the lawfulness of weapons use, lest the latter's intractability take the former hostage.

It was considered unclear why the drafters grouped together disarmament and international humanitarian law. There was a discussion on self-defence and use of weapons of mass destruction. The group recognised that self-defence cannot justify the use of prohibited weapons. There was citation of the International Court of Justice (ICJ) advisory opinion on the legality of nuclear weapons, in which the ICJ was not prepared to condemn the use of nuclear weapons in situations where the very existence of a state is in question. One cannot use the same logic with biological and chemical weapons because the later are explicitly prohibited while nuclear weapons are not. Hence, the ICJ's "permissive" approach is not applicable to other Weapons of Mass Destruction besides nuclear weapons.

It was suggested that it might be fruitful to construe wording of paragraph 3 closer to that of existing treaty provisions protecting the natural environment and humans. This could strengthen the formation of a customary rule which has been subject to some uncertainty. It was also pointed out that states that utilise such weapons are not only under the obligation to restore the condition of the environment – they are also under the obligation to prevent damage to the environment and humans, in addition to restoration once damage has occurred.

It is not clear what redistribution of natural wealth has to do in a provision on disarmament, cf. paragraph 5. There was a call for recognition of sanctions for illegal export of arms.

Article 4: Peace Education and Training

One concern is that this provision groups together a large number of issues, some of which have little to do with peace education and training.

The article also clashes with article 2.1 which seeks to guarantee the "freedom of thought, conscience, opinion, expression, belief and religion." The language on war propaganda and hate speech invites censorship and can be abused. The aims of this article can be achieved through different wording and a simplification of the article. There was a suggestion to refer to "Education for Peace" instead of "Peace Education". The education should refer to the components of peace and thereby lead to the exercise of right to peace. Article 13.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) was cited as a relevant model:

> They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Article 5: Conscientious Objection

Paragraph 1 was deemed to be clear, and there were no objections given the case law recognising the right to conscientious objection from the European Court of Human Rights and the UN Human Rights Committee.

The group suggested deleting paragraph 2 as it merges jus ad bellum with jus in bello. Further, it deals with different issues beyond conscientious objection which should be dealt with separately. It was noted that soldiers have a *duty* to disobey illegal orders, not a *right*. The word military should be deleted from "military superior orders" and "military offence". However, one commentator noted that the second paragraph should instead be retained and strengthened.

Article 6: Private Military and Security Companies

The article raises some questions concerning interpretation ("inherently", "security functions", etc.) that would benefit from clarification. The article was generally deemed vague and confusing as it refers to different legal regimes without any explanation.

The ban on outsourcing was considered imprecise and potentially very far-reaching, and the reference to universal jurisdiction for violations of "applicable national or international law" was deemed to be overly broad. Another point of critique is that the article focuses on the responsibilities of states, and it was suggested that there should be a new paragraph on the role and "responsibilities" of the private military and security companies (PMSCs). One point of concern was the accountability of host states and contracting states, as the provision of immunity in the former could result in de facto impunity. A question was

raised about attribution of conduct of PMSCs, and it was suggested that there is a need to address the direct liability of private companies.

Paragraph 2 is largely superfluous. Some opined that there should be a reference to existing standards on PMSCs, such as the Montreaux Document of 2008.

In relation to paragraph 3, it was considered unclear how the redress for individuals is to be achieved. What is meant by "adequate mechanisms" – court procedures (civil/criminal)? Is there a call for state-created reparation mechanisms?

The group considered that there may be a need to reference mercenaries somewhere, but not necessarily here.

Article 7: Resistance and Opposition to Oppression

The group was largely negative to the inclusion of this article. The principle in paragraph 1 is expressed in different ways in international law, from paragraph 1(4) of Additional Protocol I to the Geneva Conventions, to the 1970 Declaration on Friendly Relations and the 1975 Helsinki Act. This right to resist and oppose is mainly related to the right to self-determination, but this provision is more open-ended. A reference to self-determination may be useful, perhaps as a non-prejudice clause. There is a continuous discussion about whether peoples pursuing their right of self-determination are entitled ad bellum to resort to force, and this provision would encounter the same challenge of interpretation.

There was also discomfort with the "dictatorial domination" concept, instead "domestic oppression" was deemed to be preferable. The wording of "resist and oppose" in this provision is vague, but it appeared that the distinction between "resist" and "oppose" was deliberate. If such a right to resist and oppose were to include violent means, the resolution would benefit from a further conditioning of the use of such means. Such means should only be used as a measure of last resort, i.e. after all other (peaceful) means to resist and oppose have been exhausted.

There is an issue as to whether and to what extent states should assist peoples and individuals that resist and oppose. This gives rise to the question of how the right of peoples and individuals to resist/oppose relates to the Responsibility to Protect (R2P) doctrine. The latter provides for an obligation on behalf of the international community to protect populations from war crimes, crimes against humanity and genocide (and ethnic cleansing). Such an obligation is subject to the caveat that the primary duty bearer (the territorial state) is unable or unwilling to fulfill its obligation to protect. How does such a residual obligation of the international community relate to the right to resist/oppose? Does the right of peoples and individuals "trump" the responsibility of the international community? This would mean that if a people is successful in its resistance and opposition without the assistance of the international community; the latter should/could not invoke R2P as a basis for its engagement. Do the people/individuals who suffer oppression have a right of initiative or a right to trigger R2P or call upon the international community to come to their aid? Or does the right to resist follow the reverse logic: only if and when the international community is

unwilling or unable to remove oppression will peoples and individuals have a right to resist/oppose.

Paragraph 2 also has an unclear scope. If one has the right to oppose any incitement to violations of the right to peace (defined as everything covered by the declaration), then one moves far beyond the "incitement to violence" exception to the freedom of expression which is generally recognized in human rights law. The provision is also quite similar to article 2, paragraph 3 (on human security), and these should be seen in connection. Participants discussed the issue that states should not repress non-violent dissent (or violate other human rights) in the name of maintaining the right to peace.

Article 8: Peacekeeping

One query concerned why the rule would be restricted to peacekeepers, which by ordinary terminology would exclude personnel in other types of operations. A provision dealing with peace operations should cover all international peace operations.

A number of concerns were raised about paragraph 1. First, when it discusses immunity, it enters into the authority of the UN Secretary General. Does the provision suggest an obligation to waive immunity? If so, in which situations? It was observed that this provision would seem to be primarily addressed to the organisation that leads the operation, and not to states. It would have little effect to waive immunity in relation to members of national contingents which come under the exclusive jurisdiction of their sending states. It is usually another situation, and more in line with the proposal, regarding civilian police and military observers. The group emphasised that there should be no confusion between immunity and impunity. There is jurisdiction to deal with immunity and there is jurisdiction to deal with impunity, and the lifting of immunity may not be so important.

Secondly, what are the "legal proceedings and redress" that the provision addresses? The wording of the redress entitlement here is different from that in article 6 (on private military and security companies). The difference in wording, if not inadvertent, suggests a difference of approach. Here, victims are expressly to be given recourse to legal proceedings, whereas article 6 speaks of establishment of "adequate mechanisms".

Thirdly, it was unclear what is meant with "professional conduct". Furthermore, the provision avoids the delicate question as to whether and to what extent peacekeeping operations under UN control and authority are legally bound by human rights law and international humanitarian law.

The provision would benefit from identifying a formal obligation of the international community to act to protect civilians. Another suggestion was that the declaration should instead call on states to contribute resources and personnel to peacekeeping. It was further noted that it was important to include a reference to peace building commissions.

Paragraph 2 is addressed to states and not to international organisations. It doesn't explicitly acknowledge the practical obstacles concerned with investigating wrongdoings in the area of deployment. From the point of view of a troop-contributing state, it is presumably

a good thing that nothing is said about investigations carried out by the authorities in the host state, but does that correspond well to the "obligation to waive immunity" in paragraph 1?

Article 9: Development

The group discussed the lack of a direct link between development and peace, as well as the lack of clarity as to whether this provision is legal or political in nature. Development is a primary objective of human rights, not a right in itself. This article, and declaration as a whole, does not seem to add anything substantial to relevant existing rights apart from weakening the duty of the state and blurring the nature of the primary duty-bearers.

It was suggested that the provision should simply be replaced by a reference to the right to development as defined in international law.

Furthermore, while international human rights conventions place the main duty and responsibility on the state, the wording of article 9 suggests that the major duty/obstacle to development is on foreign states. Domestic obstacles to development and the duty of the domestic states are barely mentioned in paragraph 3. This is highly problematic, as it easily can lead to blaming foreign influence/state and a disregard of own responsibilities. It appears that "all peoples" is likely to be interpreted as "all states", since it talks of a right to the elimination of foreign debt burdens. The state is thus the holder of the right, which transforms the right into a political mechanism. In other words, the state holds a right against another state. There was recognition of Galtung's "economic dimension of peace" – however it was noted that establishing a "human right to delete foreign debt" could cause states to abstain from the document. The wording "unjust" or "unsustainable" foreign debt burden is not precise. External debt is part of the world economy, and it is problematic to create a general provision about deleting foreign debt based on vague wording.

There was suggestion that this article should refer to "capacity development" more generally. This would seem to be more inclusive of the personal level/dimension of the right to develop (which would be more inclusive of children also) as well as the broader social dimensions.

The article includes a selection of economic, social and cultural (ESC) rights, without particular explanation or precision. It was suggested that this should be replaced with a simple reference to the enjoyment of ESC rights. The "duty to cooperate" could perhaps be replaced with a provision more similar to article 2.1 ICESCR. Another problem is the lack of limitation clauses. As they appear now, the rights are absolute. On this aspect it diverges from the same rights in ICESCR, which contains several limitation clauses.

Furthermore, it was noted that "human person" may be used by countries that drafted this to exclude certain parts of society. Some countries, such as Iran, use the term "human person" as a concept relating to legal capacity. A "human person" is thus a person that holds all capacities. This excludes peoples who are deemed apostates or for other reasons deemed not worthy of holding all capacities. It was therefore suggested that "human person" should be replaced by "individuals".

Article 10: Environment

The group was concerned about the article's merger of human rights, humanitarian law, environmental law, climate change, and disaster law. The link between environment and peace requires the positive concept of peace.

There seemed to be a bias in the article that refers to a certain state's environment, hence it was suggested to change it to "the environment". There was recognition of a need for shared responsibility between the states, multinational enterprises with regards to the protection of environment and humans. There was admonition to maintain proportionality between different articles. There was call for a new article defining the relationship between good environmental conditions and peace, as well as the link between environmental deterioration, depletion of natural resources, sustainable development, and conflict.

Article 11: Rights of Victims and Vulnerable Groups

The group expressed confusion about the scope of this provision. For example, do the words "in accordance with international human rights law" imply that the provision merely reinforces norms already in force, or is it meant to be an independent right? Another example concerns the statement that all victims of "xenophobia" would be entitled to full redress. As paragraph 1 prohibits statutory limitations, the provision suggests that all historical injustices can be converted into legal claims. In paragraph 2, it was unclear what "special attention" means. The article selects some vulnerable categories, but not others, such as children, minorities, internally displaced people (IDPs) and people with disabilities. A query was raised as to what does "women in particular situations" refer to? Further, the wording "States shall ensure that the specific effects … are taken fully into account" in paragraph 3 is also unclear. It was suggested that the right to participate in decisions concerning remedial measures is a positive measure, though perhaps this "right" should be broader and include the right to participate "in decisions concerning them", or similar wording. It was noted that there was a lack of reference to remedies, and that in criminal justice there is no "right" to obtain redress.

It was suggested that it could be wise to turn it into a provision concerning victims of violations of the "right to peace" instead of violations of all kinds of human rights, and move it to the end of the declaration. Further, it was suggested that one should delete the prohibition on statutory limitations.

Article 12: Refugees

The group expressed concern that the draft lacks a reference to contemporary protection categories including internal displacement, climate/environmental refugees, persons fleeing state failure, armed conflict, gender related persecution, etc. There was a call for a broadened refugee definition. Alternatively, reference to displaced persons, refugees, asylum seekers and migrants could be made within a non-discrimination standard and/or the article on victims and vulnerable groups. There was mention of the possibility of including an introductory paragraph which would describe the relationship between refugees and the right to peace. It was noted that prior civil society declarations on the right to peace include recognition of non-discrimination in relation to women, migrants, indigenous peoples,

minorities, etc. as a component of the right to peace. A problem with the current draft is that it includes a non-discrimination standard in relation to implementing the right to peace. It was suggested that there should be a specific non-discrimination provision addressing enjoyment of human rights and freedoms, highlighting particular vulnerable categories.

It was observed that the right to seek refugee status for activities supporting peace, opposing war or promoting human rights correlates with language from national legislation, and it links refugee protection directly to peace. Additional categories should expand the definition to meet current theory and themes. Victims of armed conflicts are particular cases, especially those who refuse to take part in armed conflict.

There was query as to what is the relationship of refugees and peace and which group of refugees will be the bearer of the rights. It was noted that refugees are the consequence of breaches of peace. Further, if someone is persecuted on account of his actions or beliefs in favor of peace, then it is arguable that that the person may be recognised as a refugee. There was a question as to whether the concept of refugee would include "prima facie" refugees and it was noted that a reference to "place of origin" (as opposed to country of asylum) would be a radical suggestion, as it would open for the right of IDPs to enjoy asylum.

It was suggested that refugees should be entitled to enjoy the right to peace, not only in the country of origin, but also in the new country where they hold their status as a refugee.

It was observed that there are actually three durable solutions – return, resettlement, and integration – and that the draft declaration focuses only on return. This creates difficulties, as the issue is complex.

Nordic Expert Consultation Recommendations on the Components of Peace[5]

Components of Peace

1. States should promote the maintenance of peace by seeking to resolve their internal and international disputes in a non-violent manner and refraining from the threat or use of force against the territorial integrity or political independence of any state, in accordance with the UN Charter.

2. Structural violence is incompatible with peace. States should seek to eliminate inequality, exclusion, and poverty among and within states.

Preconditions for Peace

3. Peace is strengthened by the recognition that everyone is entitled to a social and international order in which they are able to enjoy human rights and fundamental freedoms without discrimination.

[5] We suggest that the term "right to peace" may be replaced with "components of peace" in order to increase state acceptance of the declaration. This would be in keeping with the notion of peace as being a meta-right, where reference to related human rights are used to explain its scope (similar to other solidarity rights, such as the right to a clean environment and the right to development).

4. The illegal arms trade is a threat to peace and requires suppression in the order to prevent the illegal use of force and violations of human rights and international humanitarian law. States should maintain strict and transparent control of the arms trade.

5. a. A safe, clean, and productive environment is conducive to peace and human security. States should preserve and protect the environment, based among others on the principle of sustainable and equitable use of natural resources, as well as other principles of international law.

   b. States should consider the creation and promotion of peace zones and nuclear weapon free zones. The use of weapons that cause widespread and severe damage to the environment, in particular radioactive and weapons of mass destruction, is contrary to international law. Such weapons must be urgently prohibited. States that utilise them have the obligation to prevent damage to the environment, in case of unavoidable damage, to restore the previous condition of the environment.

Individual Participation in the Promotion and Safeguarding of Peace

6. Individuals, groups, institutions, transnational corporations, and non-governmental organisations have an important role to play and a responsibility in safeguarding peace. Everyone has the right, individually and in association with others, to promote and to strive for the realisation of peace at the national and international levels. Individuals have the right to freely seek, obtain, receive, publish or disseminate information to/from others on peace, human rights, and fundamental freedoms without censorship.

7. States should promote increased representation and participation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict and peace processes.

8. a. Individuals have the right to conscientious objection and to be protected in the effective exercise of this right.

   b. Conscientious objectors and peace or human rights activists subject to well-founded fear of persecution on account of their actions or beliefs have the right to seek and to enjoy refugee status.

Protection of Victims of Breaches of Peace

9. 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 from discrimination and effective remedies. Among them are children, victims of enforced disappearances or arbitrary detention, elderly persons, persons with disabilities, displaced persons, asylum seekers, migrants, refugees, indigenous peoples and minorities.

10. Breaches of the peace result in displacement of individuals and groups. Persons shall have the right to seek and enjoy refugee status if they have fled their country or place of

origin on account of a well-founded fear of persecution by State or non-State agents, on grounds of race, sex, religion, nationality, sexual orientation, membership in a particular social group, or political opinion; or because of a risk to life, security or liberty on account of generalized violence, foreign aggression, internal conflict, massive violation of human rights, or natural or human-made disasters, or other circumstances that seriously disturb public order.

Education on the Components of Peace

11. All individuals should receive education on human rights, fundamental freedoms, non-violent dispute resolution, and protection of the environment as components of peace.

Participants: Cecilia M Bailliet, University of Oslo; Morten Broberg, University of Copenhagen; Sevda Clark, University of Oslo; Asbjørn Eide, University of Oslo, Ola Engdahl, Swedish National Defense Academy; Ole Kristian Fauchald, University of Oslo; Hans Morten Haugen, Diakonhjemmet University College; Nobuo Hayashi, International Law and Policy Institute; Cecilie Hellestveit, International Law and Policy Institute; Maja Janmyr, University of Bergen; Kiki A Japutra, University of Oslo; Sigrid Redse Johansen, Norwegian Defense University College; Astrid Kjeldgaard-Pedersen, University of Aarhus; Jann K Kleffner, Swedish National Defense Academy; Edda Kristjánsdóttir, University of Amsterdam; Kjetil M Larsen, University of Oslo; Kristoffer Lidén, Peace Research Institute Oslo; Said Mahmoudi, University of Stockholm; Joanna Nicholson, University of Oslo; Simon O'Connor, The Norwegian Red Cross; Kristin B Sandvik, Peace Research Institute Oslo; Kjersti Skarstad, University of Oslo; Maria D Sommardahl, Nansen Peace Centre; Katinka Svanberg, University of Stockholm; Azin Tadjdini, University of Oslo; Jens Vedsted-Hansen, University of Aarhus; Christina Voigt, University of Oslo; René Värk, Tartu University; Pål Wrange, University of Stockholm; Gentian Zyberi, University of Oslo.