



# Report: Contribution of the Commonwealth to the reinforcement of the linkage between the right to life and peace, human rights and development within the Human Rights Council

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## 1. Introduction

In accordance with the Declaration of Commonwealth Principles signed by the Heads of Government in Singapore in 1971, 'the Commonwealth of Nations is a voluntary association of independent sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of their peoples and in the promotion of international understanding and world peace'. As also indicated in this Declaration, 'international peace and order are essential to the security and prosperity of mankind'.

Since the inception of the Human Rights Council in 2006 part of the international community, with the exception of the Group of Eastern and Western European and Others States, has been actively engaged in the promotion of the right of peoples to peace through the adoption of several resolutions. Although most of the Commonwealth States have supported the ongoing process, some of them have not recognized the existence of the right to peace under international law. In particular, the Western countries of this association have constantly showed their opposition to this UN process (i.e. Australia, Canada, New Zealand and United Kingdom and Northern Ireland) by arguing that this notion is not correctly linked to human rights. The purpose of this paper is to analyze this debate by taking into account the position showed by this group of States. Additionally, the linkage between the right to life and peace will be also studied in light of some constitutional legal systems and Commonwealth instruments on human rights. Finally, the paper will propose the notion of the right to life in a context of peace, human rights and development as a means to overcome the political differences among all regional groups and to elaborate this notion in the context of the current mandate of the Human Rights Council in the field of human rights.

## 2. Debate

The lively debate on the right to peace started at the Commission on Human Rights (hereinafter: CHR) in 2001 and afterwards continued at the Human Rights Council (hereinafter: HRC) in 2008. Throughout all these later years of intensive discussion, those countries and other stakeholders in favour of the right to peace could never convince those others, in particular some Commonwealth States, who did not recognize it.

This deep division has existed and currently exists even at the academic level. In fact, some well-known legal practitioners who participated at the Workshop on the right of peoples to peace held on 9-10 December 2009 in Geneva 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.

On 5 July 2012, the HRC adopted resolution 20/15 on '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 resolution further decided that the working group shall hold its first session for four working days in 2013, before the twenty-second session of the HRC (March 2013); and requested the President of the HRC to invite the Chairperson of the Advisory Committee's drafting group to participate in the first session of the working group.

In the concluding remarks of the above-mentioned session, United Kingdom and Northern Ireland made a statement on behalf of Canada, the Netherlands and themselves. They remained firmly of the view that 'the right to peace' does not exist under international law, whether as a collective or individual human right, or otherwise. As such, there is no justification for inter-governmental negotiations aimed at agreeing on a Declaration on the concept. They considered that the decision to establish a Working Group with this aim was an overly political step. Also, notwithstanding the lack of consensus, it is a highly expensive mechanism which will draw attention and funds away from other more important tasks of the HRC and the Office of the High Commissioner. According to them, the HRC had missed an opportunity for a fruitful discussion aimed at finding consensus over the value that the HRC can add in this area. A panel discussion on the relationship, or links, between peace and the full enjoyment of all human rights would have been such an opportunity, and one squarely within the mandate of the HRC. They indicated that they have closely studied the Advisory Group's 'draft Declaration on the Right to Peace'. They did not consider it a good starting point for any discussions of this nature, and in any event it is a deeply flawed document. In addition to their fundamental disagreement with the concept on which it is based, it was also potentially inconsistent with other relevant international norms, including the UN Charter. The absence of peace cannot justify failure to respect human rights.

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 (such as UNGA res. 39/11 of 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.

In particular, Australia stated within the OEWG that acknowledging a right to peace would overlook the fact that international law permits force to be used in certain circumstances—for example, individual or collective self-defense and in situations where the Security Council has authorized the use of force under Chapter VII of the UN Charter.

Afterwards, Canada stressed that they do not accept that a stand-alone right to peace exists under international law. As such they did not see the justification for negotiating a declaration on this concept. Peace is not a human right in and of itself. It is rather a goal that can be best realized through the enforcement of existing identifiable and distinguishable human rights. He said that they were concerned that projects such as this Declaration shift the attention away from what should be the proper focus of the HRC—which is to ensure that states are meeting their international human rights obligations.

In June 2013, the HRC adopted resolution 23/16 requesting 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.

On 9 May 2014, the Chairperson-Rapporteur held an informal consultation with governments, regional groups and civil society organizations, in which he disclosed the main points of concurrence among all delegations on this difficult topic. In addition, he stated that a resolution adopted by consensus would necessarily carry more weight than one supported by a majority of States. In addition, a future Declaration will be a useful tool to generate widespread and consistent State practice and/or provide evidence of *opinio juris* of customary rule. Additionally, soft-law instruments can be vehicles for focusing consensus on rules and principles, and for mobilizing a general response on the part of States.

### 3. Analysis

The United Nations is a response to the two world wars and the intention of the member States to suppress war.<sup>1</sup> The maintenance of international peace and security is the most important goal of the United Nations. As also indicated

<sup>1</sup> Sima, B., Khan, D.E. and Paulus, A., *The Charter of the United Nations, A commentary*, Oxford Commentaries on International Law, third edition, Volume II, November 2012, p. 102

by the Declaration of Commonwealth Principles, international co-operation is essential to remove the causes of war, promote tolerance, combat injustice, and secure development among the peoples of the world. Therefore, they were convinced that the Commonwealth is one of the most fruitful associations for these purposes.

Recent practice has stressed the strong linkage and interdependence of peace and security with broader conditions of social development and human rights. Article 1 (2) of the UN Charter proclaims that the purpose of the United Nations is to ‘...take other appropriate measures to strengthen universal peace’. In this provision peace or universal peace can be found separately from security.<sup>2</sup> The degree of overlapping between peace and security depends very much upon whether the term peace is narrowly or broadly defined. It could safely be concluded that the broader meaning of peace deals with the generic causes of conflict.<sup>3</sup>

The Declaration of Commonwealth Principles also indicated that this association supports the United Nations and seeks to strengthen its influence for peace in the world, and its efforts to remove the causes of tension between nations. It follows that Member States pledged to foster and expand human understanding and understanding among nations, assist in the elimination of discrimination based on differences of race, colour or creed, maintain and strengthen personal liberty.

The Preamble of the Universal Declaration of Human Rights recognizes that the inherent dignity and the equal rights of all persons is the foundation of freedom, peace and justice in the world. The declaration was inspired by a sincere desire for peace. The Declaration is based on the conviction that each man and woman must have freedom in order to develop one’s personality to the full, and have one’s dignity respected.

The Covenants on Civil, Political, Economic, Social and Cultural Rights textually adopted in their respective Preambles the first recital contained in the Preamble of the Universal Declaration of Human Rights. In addition, they expressly recognized the linkage between the UN Charter and the concept of peace and human rights understood in the line of the contributions received during the drafting process of the Charter and Declaration. In addition, other human rights instruments adopted by the General Assembly of the United Nations (hereinafter: UNGA) stated in their preambles that discrimination, development and human rights play a crucial role in creating fair and equal societies founded upon freedom, justice and peace.

In accordance with the Charter of the Commonwealth, Member States pledged to promote and respect the Universal Declaration of Human Rights and other relevant human rights covenants and international instruments. They also committed to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just and stable societies. They noted that these rights are universal, indivisible, interdependent and interrelated and cannot be implemented selectively.

The principles codified in Art. 2 of the Charter constitute the basic foundational principles of the whole body of international law (i.e. prohibition of the threat or use of force against the territorial integrity or political independence of any State; settlement of international disputes by peaceful means; prohibition to intervene in matters within the domestic jurisdiction; cooperation among States; self-determination of peoples and sovereign equality of States). The promotion of human rights and peace are considered as essential purposes, whose realization should be jointly promoted by Member States in conjunction with the full respect of those principles included in the UN Charter. All these main principles were properly recalled in the Declaration of Commonwealth Principles and the Harare Commonwealth Declaration, both of them important instruments of the Commonwealth.

In accordance with the legal measures contained in the Declaration of Commonwealth Principles, the promotion and respect of all human rights is a means to contribute to the enrichment of life for all, and provide a powerful influence for peace among nations. The linkage between the right to life and peace can again be found in the Harare Commonwealth Declaration, when the Heads of Government expressed their determination to renew and enhance the value and importance of the Commonwealth as an institution which can and should strengthen and enrich the lives of their members, peoples and community.

This Commonwealth conception on the relationship between the right to life and peace was elaborated in the Declaration on the Preparation of Societies for Life in Peace of 1978, which was adopted by 138 votes to none, with two abstentions.<sup>4</sup> It reaffirms and makes reference to the existing United Nations accomplishment aimed at fostering the principle of friendly relations and co-operation among States. In addition, it spells out the eight main principles, which will guide Member States in the preparation of societies for life in peace.<sup>5</sup> Both this Declaration and

2 Sima, B., Khan, D.E. and Paulus, A., *op.cit.*, note 4, p.109-110

3 Linarelli, J., ‘Peace-building’, *Denver Journal of International Law and Policy*, Vol. 24, 1996, p.253-83

4 United States of America and Israel.

5 Recognition of the right to live in peace; qualification of wars of aggression as a crime against peace; prohibition of the propaganda of war; strengthening of the cooperation on peace; respect of the right of self-determination of peoples, independence, sovereignty, territorial integrity and independence; elimination of the threat inherent in the arms race; discouragement of all manifestation and practices of intolerance, racism, racial discrimination, colonialism, apartheid and other human rights and fundamental freedoms and discouragement of

the Universal Declaration of Human Rights share the same legal ways aimed at widely promoting the peace values and principles contained in human rights law, by proclaiming teaching and education as key elements to develop more peaceful societies. The human rights dimension is a key element in the Declaration. This human rights component can be found in its Art. 1, which recognises that 'Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace'.

It should be recalled that most of the Commonwealth States also supports the Declaration of the Right of Peoples to Peace, which was adopted by the General Assembly in 1984 by 92 to none and 34 abstentions.<sup>6</sup> Twenty-nine States were absent from the vote<sup>7</sup> and two countries (i.e. Malaysia, member of the Commonwealth) did not participate, because both of them disagreed with the initiative. The supporters of this Declaration stated that the right of peoples to peace was 'implicitly' recognised by the international community in accordance with the UN Charter. In order to protect and promote this right, they proposed that States should effectively implement and respect the set of principles contained in Art. 2 of the Charter of the United Nations. In addition, they also stressed that the respect of the latter principles should help to eliminate the scourge of war. Other governmental delegations stated that while peace is an indispensable condition of human survival, it cannot be peace at any price. The human rights component, including individual or collective rights, was not properly reflected in the text. This Declaration is principally devoted to the relationship among countries and the condemnation of war.

The recent States' practices have not been of much help in the direction of strengthening the human rights dimension of this concept. The notion of the right to peace has been explicitly included in seven domestic Constitutions (i.e. Bolivia, Burundi, Cameroon, Japan, Republic of Congo, Peru and Guinea Bissau).<sup>8</sup> However, these constitutional texts have elaborated this concept by taking into account a conception based only on the relationships between States and without referring to human rights issues, with the exception of Peru.<sup>9</sup> These legal instruments have continued by using the notion of the right to peace in connection with the principles of friendly relations among nations, the peaceful settlement of disputes, the territorial integrity and the prohibition of the *threat* or *use of force*.

In addition, there are some regional instruments, which have explicitly recognized the right to peace as a collective right and always in connection to principles contained in Art. 2 of the UN Charter (i.e. African Charter on Human and Peoples' Rights,<sup>10</sup> the Human Rights Declaration,<sup>11</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa<sup>12</sup> and the Ibero-American Convention on Young People's Rights<sup>13</sup>). Most of the Commonwealth States have ratified the previous regional human rights instruments. Furthermore, there is an increasing case law on the right to peace developed by some national Courts.<sup>14</sup> However, the claimants who brought the case to the Court focused their attention only on the use of force by some specific States in a context of war or conflict. The component of human rights was not properly included. The concept of the right to peace included in both Constitutions and regional instruments, and used in some domestic Courts, is clearly elaborated in light of the 'right of peoples to peace', elaborated by the 1984 Declaration.

In order to elaborate the right to peace in light of human rights, the Director-General of UNESCO introduced in 1997 the Draft Declaration on the Human Right to Peace as the Foundation of the Culture of Peace. The result

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advocacy of hatred and prejudice.

6 Australia, Austria, Belgium, Brunei, Darussalam, Cameroon, Canada, Cape Verde, Denmark, Finland, France, Gabon, Germany, Federal Republic of, Greece, Grenada, Guinea-Bissau, Iceland, Ireland, Italy, Japan, Luxembourg, Malawi, Netherlands, New Zealand, Niger, Norway, Philippines Portugal, Saint Christopher and Nevis, Senegal, Spain, Sweden, Turkey, United Kingdom and United States.

7 Those absent included Iran, Israel, Morocco, Saudi Arabia and several developing countries.

8 Bolivia – 'Bolivia is a pacifist State that promotes the culture of peace and the right to peace ...' (art. 109); Burundi – 'All Burundians have the right to live in Burundi within peace and within security. They must live together in harmony, while respecting the human dignity and tolerating their differences' (art. 14); Cameroon – 'All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States' (art. 23); Japan – '... we recognize that all peoples of the world have the right to live in peace, free from fear and want...' (Preamble); Republic of Congo – 'all Congolese have the right to peace and security on the national as well as on the international level' (art. 52) and Guinea Bissau – '...proclaims her eternal gratitude to those fighters who, through their voluntary sacrifice, guaranteed the liberation of the Homeland from foreign domination, by re-winning national dignity and our people's right to freedom, progress, and peace' (art. 5).

9 Peru – 'every individual has the right to peace, tranquility, enjoyment of leisure time, and rest, as well as to a balanced and appropriate environment for the development of his life' (Art. 2.22)

10 Art. 23: '1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States', Doc. OUA CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (27 June 1982).

11 Art 38: 'Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realised. To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region'.

12 Art. 10: 'Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace...'

13 Art. 4: 'This Convention proclaims the right to peace, a life without violence and fraternity and the duty of encouraging them through education and programmes and initiatives which conduct youth solidarity and cooperation energies...'

14 Colombia, Costa Rica, Japan and South Korea

of the International Conference held at the UNESCO headquarters in Paris was absolutely unsatisfactory for many stakeholders, because there was not sufficient support to recognise the human right to peace. Nevertheless, during the general debate, Member States were unanimous regarding the existence of an indivisible link between all human rights and peace and also recognized that the Draft Declaration to be prepared would primarily be an ethical document designed to proclaim principles. In his opening remarks, the UN Secretary-General stated that ‘respect for human rights is the best guarantee of peace and the establishment of a durable peace is a condition of the respect for human rights’ and also that ‘the struggle for peace is the struggle for human rights and the struggle for human rights is the struggle for peace’.<sup>15</sup>

During the International Year of Culture of Peace proclaimed for 2000,<sup>16</sup> CHR adopted its resolution 2000/66 by which it requested the OHCHR to organize a panel/forum on a culture of peace, with participation open to Governments, non-governmental organizations and other interested organizations, focusing on the contribution of the promotion, protection and realization of all human rights to the further development of a culture of peace. The Expert Seminar on Human Rights and Peace was held in Geneva on 8 and 9 December 2000. The report prepared by the OHCHR concluded that ‘human rights should become the fundamental guiding principle for sound economic and social development and for the anticipation and prevention of conflict and for the reconstruction and rehabilitation of post-conflict societies’.<sup>17</sup>

In addition, it should be noted that all the main legal standards proposed by the Human Rights Council Advisory Committee in its draft Declaration on the right to peace were already included in the Declaration and Program of Action of Culture of Peace. In particular, all the main concepts (i.e. human security and poverty,<sup>18</sup> disarmament,<sup>19</sup> education,<sup>20</sup> development,<sup>21</sup> environment,<sup>22</sup> vulnerable groups,<sup>23</sup> refugees and migrants<sup>24</sup>) proposed by the Advisory Committee were already included and later elaborated in the Declaration and Program of Action of Culture of Peace. In addition, the previous elements were also included in the Charter of the Commonwealth and other important instruments of this multinational association.<sup>25</sup> It follows that in spite of including in the future Declaration concepts, which are being currently dealt in other competent bodies, the international community should progressively elaborate these notions by taking into account agreeable Declarations already adopted by the General Assembly, such as the Declaration and Program of Action of Culture of Peace.

In order to progressively eliminate armed conflict and war across the earth and consequently to live in a context of peace, the protection of human rights, development and dignity should be at the centre of all decision-making processes at both the national and international levels. It follows that different stakeholders should adopt positive measures in

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15 Report by the Director-General on the results of the international consultation of governmental experts on the human right to peace, op. cit, note 544, Annex IV, p. 18-19

16 Doc. A/RES/52/15, Proclamation of the year 2000 as the International Year for the Culture of Peace, 15 January 1998

17 Doc. E/CN.4/2001/120, report of the Expert Seminar on Human Rights and Peace prepared by the OHCHR, 23 January 2001, p. 3

18 Art. 3: ‘The fuller development of a culture of peace is integrally linked to: ... (f) Eradicating poverty and illiteracy and reducing inequalities within and among nations’; art. 10: ‘(a) Undertak[ing] comprehensive actions on the basis of appropriate strategies and agreed targets to eradicate poverty through national and international efforts, including through international cooperation’.

19 Art. 16.a: ‘promote general and complete disarmament under strict and effective international control, taking into account the priorities established by the United Nations in the field of disarmament’.

20 Art. 4: ‘education at all levels is one of the principal means to build a culture of peace. In this context, human rights education is of particular importance’.

21 Art. 1: ‘a culture of peace is a set of values, attitudes, traditions and modes of behaviour and ways of life based on ... (f) Respect for and promotion of the right to development’.

22 Art. 1.e: ‘a culture of peace is a set of values, attitudes, traditions and modes of behaviour and ways of life based on ... efforts to meet the developmental and environmental needs of present and future generations’, Art. 10. f: ‘incorporate capacity-building in development strategies and projects to ensure environmental sustainability, including preservation and regeneration of the natural resource base’.

23 Art. 12.f and 14.d: ‘actions to advance understanding, tolerance and solidarity: ... support actions that foster understanding, tolerance and solidarity throughout society, in particular with vulnerable groups’ and ‘actions to ensure equality between women and men: ... provision of support and assistance to women who have become victims of any forms of violence, including in the home, workplace and during armed conflicts’.

24 Art. 12.f and 14.f, 16.f and g.: ‘actions to advance understanding, tolerance and solidarity: ... support actions that foster tolerance and solidarity with refugees and displaced persons, bearing in mind the objective of facilitating their voluntary return and social integration; support actions that foster tolerance and solidarity with migrants’ and ‘actions to promote international peace and security ... support initiatives, at the national, regional and international levels, to address concrete problems arising from post-conflict situations, such as demobilization, reintegration of former combatants into society, as well as refugees and displaced persons, weapon collection programmes, exchange of information and confidence-building’.

25 Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Langkawi Declaration on the Environment, the Millbrook Action Programme, the Latimer House Principles, the Aberdeen Agenda, the Trinidad and Tobago Affirmation of Commonwealth Values and Principles, the Munyonyo Statement on Respect and Understanding, the Lake Victoria Commonwealth Climate Change Action Plan, the Perth Declaration on Food Security Principles, and the Commonwealth Declaration on Investing in Young People.



the economic, social and cultural fields on peace matters through the promotion of human rights and human dignity. It should be noted that human rights, peace and development are interdependent and mutually reinforcing and that in a context of war and armed conflict all human rights, in particular the right to life, are gravely violated.

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 creation of the United Nations, the UNGA has adopted several key Declarations and resolutions, by which it solemnly appeals to all States so that they resolve conflicts and disputes by peaceful means and it also reminds them of their obligations under the Charter. Outstanding endeavours have been undertaken by the international community to create an international order free of wars through the strengthening of mechanisms aimed at promoting the pacific settlement of disputes. During the negotiation process of the Universal Declaration of Human Rights all governmental delegates recognized that the violation of human rights is one of the main causes 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 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.

#### 4. Domestic Constitutions

The legal basis of peace as a basic human right emanates, among other rights, from the human right to life of each individual person. Many scholars recognize either explicitly or implicitly that the right to life is the basis of peace. In particular, John of Salisbury recognized that a peaceful life is a necessity; and Hiram M. Chittenden stated that life is man's most sacred possession.

Consequently, the promotion, strengthening and protection of the right to life and its connection with the enhancement of peace has been a driving principle in the drafting process of some Constitutions of Commonwealth States (i.e. Australia, Canada, New Zealand and United Kingdom of Great Britain and Northern Ireland).

In accordance with some constitutions, peace is one of the most important topics at the international level. Therefore, countries are invited to adopt legal measures to strengthen peace across the earth.<sup>26</sup> Unlike the Australia and New Zealand Constitutions, the universal value of peace has not been incorporated in other national constitutions or legal systems (i.e. Canada and United Kingdom of Great Britain and Northern Ireland). Nevertheless, they have declared in their Constitution that everyone is endowed with certain inalienable rights, and that among these are life or liberty. In particular, the Constitution of Canada states that 'everyone has the right to life, liberty and security of the person'.

The concept of the right to life is central to debates on the issues of self-defense and war. As indicated by the Human Rights Committee in its general comment 6 on the right to life of 1982, 'war and other acts of mass violence continue to be a scourge of humanity and take the lives of thousands of innocent human beings every year...'.<sup>27</sup> Consequently, the HR Committee considered that 'States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life. Every effort they make to avert the danger of war, especially thermonuclear war, and to strengthen international peace and security would constitute the most important condition and guarantee for the safeguarding of the right to life'.

The linkage between the concept of life and peace was included for the first time in a speech delivered by President Roosevelt on 4 March 1933 before the United States Capitol in Washington.<sup>28</sup> This elaboration was later inserted in both the Preamble of the UN Charter<sup>29</sup> without being discussed in substance in the San Francisco Conference and the North Atlantic Treaty.<sup>30</sup>

26 The Constitution of Australia recognized that the 'Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth' (Art. 51). Finally, the rules or practices of New Zealand proclaimed that the Government has as a purpose to develop public policy, propose legislation, coordinate the delivery of public services, and keep the peace.

27 Moller, J., and Zayas, A., *United Nations Human Rights Committee Case Law 1977-2008: a Handbook*, Engel Publisher, 2009, p. 144

28 'In the field of world policy I would dedicate this Nation to the policy of the good neighbor — the neighbor who resolutely respects himself and, because he does so, respects the rights of others — the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbours'. Statement delivered in the First inaugural Address on 3 March 1933. See [http://en.wikisource.org/wiki/Franklin\\_Roosevelt%27s\\_First\\_Inaugural\\_Address](http://en.wikisource.org/wiki/Franklin_Roosevelt%27s_First_Inaugural_Address)

29 Preamble, paragraph 5: '...to practice tolerance and live together in peace with one another as good neighbours...'

30 Preamble, paragraph 1: 'The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and

## 5. Conclusions

Pursuant to the Harare Commonwealth Declaration signed in Zimbabwe in 1991 by the Heads of Government, Member States of Commonwealth pledged to support the United Nations and other international institutions in the world's search for peace and in the promotion of international consensus on major global political, economic and social issues. In order to reach this aim, the signatory parties to the Charter of the Commonwealth emphasized the need to promote tolerance, respect, understanding, moderation and religious freedom which are essential to the development of free and democratic societies, and recalled that respect for the dignity of all human beings is critical to promoting peace and prosperity.

As previously indicated, the constitutional legal system of some Commonwealth States did not include the notion of peace among the objectives to be achieved. However, in accordance with some provisions included in their domestic constitutions, this notion could be elaborated through well established rights, such as the right to life. In fact, the right to life is a fundamental right recognised in the constitutional and legal system of all the Commonwealth States.

In accordance with the resolution 60/251, the HRC is exclusively focused on those who truly suffer in conflict: human beings and peoples. It is a forum for dialogue, not confrontation, which always works by and for the victims. In accordance to its Preamble, development, peace and security and human rights are interlinked and mutually reinforcing. However, the UNGA clearly decided that the Council should address situations of gross and systematic violations of human rights and also contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies. Additionally, in accordance with the operative section of the resolution, the mandate of the HRC is to promote and protect human rights, but not directly peace. It follows that 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 to life.

The right to life in peace is more linked to human rights than the so-called right to peace in both its individual and collective dimension. It follows that the linkage between the right to life and peace could be much more acceptable for all countries. 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 in the line of the Commonwealth experience. As indicated previously, 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.

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. The United Nations does not need to re-invent the wheel, but only to strengthen the right to life linked to peace, human rights and development. Therefore, the recognition of the right to life and the affirmation of the right to live in peace, human rights and development are intended to ensure that the authorities take measures to guarantee that life may be lived in a natural and dignified manner and that the individual has every possible means for this purpose. The elaboration of the right to life in this direction would help to further develop the right of everyone to live in a context in which the three pillars of the United Nations is fully respected. In fact, the right to live in peace is a holistic concept which goes beyond the strict absence of armed conflicts. It is also positive, since it is linked to the eradication of structural violence as a result of the economic and social inequalities in the world and to the effective respect for all human rights without discrimination.

The sustainable development is a vital element within the Charter of the Commonwealth, by considering that it can help to eradicate poverty by pursuing inclusive growth whilst preserving and conserving natural ecosystems and promoting social equity. In addition, the engagement of the Commonwealth in the protection and promotion of all human rights, in particular civil, political, economic, social and cultural rights, is another of the important elements laid down in the Charter.

The elaboration of the right to live in a context of peace, human rights and development will surely contribute to the strengthening of international cooperation and multilateralism and will also influence the current objectives of the United Nations and Commonwealth as a fundamental step towards the promotion of peace, tolerance, friendship and brotherhood among all peoples. Today the obligation of the international community is to hear the voice of the voiceless, which strongly demands the right to live in a world free of wars and conflicts.

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their desire to live in peace with all peoples and all governments...', signed in Washington on 4 April 1949. See [http://www.nato.int/cps/en/natolive/official\\_texts\\_17120.htm](http://www.nato.int/cps/en/natolive/official_texts_17120.htm)