


The 2016 UN General Assembly Declaration on the Right to Peace: A Step towards Sustainable Positive Peace within Societies?

Tuba Turan* 

ABSTRACT

In 2016, the UN General Assembly adopted the Declaration on the Right to Peace. This article examines whether the implementation of the Declaration can likely lead to the realization of the right to peace in a way that elicits sustainable peace within societies. Thus, diverging from earlier studies, it provides conceptual and practical critiques of the Declaration to evaluate the viability of the right. First, following an in-depth analysis of the Declaration, this article draws on peace and conflict studies to explain what sustainable intra-state peace entails. Second, it establishes that the liberal and positive elements of peace and the frameworks prescribed in the Declaration are inadequate to address horizontal inequalities across all relevant identity groups qua groups, which is required to elicit sustainable peace. Third, it proposes guiding principles to direct implementing institutions, particularly UN bodies and frameworks, towards diagnosing and tackling inequalities across collectivities, thereby complementing the prevailing individualistic human rights approach.

KEYWORDS: the right to peace, substantive equality, horizontal inequalities, intra-state armed conflict, lasting peace, group rights, conflict prevention, peacebuilding, UN peace, human rights and development pillars

1. INTRODUCTION

The UN General Assembly (UNGA) adopted the Declaration on the Right to Peace in 2016, following long-standing efforts since the 1970s to proclaim peace as a human right.¹ The 2016 Declaration proclaims both international peace and intra-state peace as human rights with individual and collective dimensions. The Declaration, which aims to prevent armed conflict and foster a culture of peace, can be considered part of wide-ranging UN initiatives aimed at sustaining peace. As the identical UN Security Council (UNSC) and UNGA resolutions of 2016 state, sustaining peace entails UN involvement in all cycles of conflicts, including

* Lecturer (Assistant Professor) at the University of Essex, School of Law, UK. Email: tturan@essex.ac.uk.

¹ UN Doc. A/RES/71/189 (19 December 2016), which followed UN Human Rights Council Resolution, A/RES/32/28 (1 July 2016).

Received: June 3, 2022. Revised: November 11, 2022. Accepted: December 23, 2022

© The Author(s) [2023]. Published by Oxford University Press. All rights reserved. For Permissions, please email: journals.permissions@oup.com

This is an Open Access article distributed under the terms of the Creative Commons Attribution NonCommercial-NoDerivs licence (<https://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial reproduction and distribution of the work, in any medium, provided the original work is not altered or transformed in any way, and that the work is properly cited. For commercial re-use, please contact journals.permissions@oup.com

pre-conflict contexts, and addressing the root causes of armed conflict through ‘political, developmental and human rights programmes and mechanisms’ that consider ‘the needs of all segments of society’.²

This article examines whether the implementation of the Declaration can contribute to sustaining peace, that is, the realization of the right to peace in a way that elicits sustainable or lasting peace within societies.³ Due to space constraints, it focuses on intra-state peace with the aim to contribute to scholarship and policy debates by examining the right’s understudied intra-state dimension in the literature and the Declaration. As the Declaration is soft law or in itself not legally binding, this article studies how it can be promoted and implemented through well-designed policies and programmes in the UN system.⁴ Its core aim is identifying the appropriate measures that UN bodies should take as prescribed under Article 3 of the Declaration to facilitate the full realization of the right to intra-state peace or to elicit sustainable positive peace. It considers that sustainable peace requires addressing the root causes of armed conflict, and distinguishes itself from mere stability or absence of armed conflict (negative peace), which may rely on coercion or repression without regard to just peace conditions.⁵ This article, however, conceptualizes sustainable positive peace as the presence of horizontal equalities among collectivities,⁶ building on the consensus in the vast majority of the literature that collective grievances (a sense of social injustices) due to horizontal inequalities across identity groups constitute the main drivers of intra-state armed conflict.⁷

The present study’s focus diverges from those in earlier studies regarding the idea of an individual right to peace. These examine the legal bases of the right, typically with a focus on its international dimension,⁸ or focus on efforts to codify or justify such a solidarity right.⁹ Although Philip Alston acknowledges that there is a human right to peace, he questions its viability or practical ‘usefulness’, given its uncertain content.¹⁰ This constitutes this article’s point of departure to discern the content and measures of the right prescribed in the 2016 Declaration, and determine whether these are sufficient for the right’s viable realization. As such, this article contributes to the scarce literature on the 2016 Declaration, as previous studies

² UNGA and UNSC Resolutions, Review of the United Nations Peacebuilding Architecture, A/RES/70/262 and S/RES/2282 (2016), preambular para 8, 12–13. For the Report of the Advisory Group of Experts (AGE) that the twin resolutions draw on, particularly for comprehensive peacebuilding also in pre-conflict contexts, see Challenge of Sustaining Peace: Report of the Advisory Group of Experts on the Review of the Peacebuilding Architecture, A/69/968–S/2015/490 (2015), para 26.

³ In this article, the terms lasting and sustainable are used interchangeably.

⁴ This builds on Sengupta’s argument on the right to development that rights do not have to become enforceable to be relevant, provided that they can be implemented through well-designed policies and frameworks to realize that right. Sengupta, ‘On the Theory and Practice of the Right to Development’ (2002) 24/4 *Human Rights Quarterly* 837 at 856–7, 861.

⁵ For a generic definition of lasting, negative peace as ‘bad stability’ relying on repression, and positive peace as ‘good stability’ based on human rights and social contract conditions, see Hvidsten and Skarstad, ‘Challenge of Human Rights for Peace Research’ (2018) 10/1 *International Theory* 98 at 100, 102.

⁶ For a detailed account, see Section 4.A. For an account of the understanding of the lasting positive peace of the Advisory Committee on the Right of Peoples to Peace, see *Progress Report on the Right of Peoples to Peace*, A/HRC/AC/6/CRP.3 (2010), para 21.

⁷ For accounts that collective grievances and HIs are the drivers of political violence, see Stewart (ed), *Horizontal Inequalities and Conflict: Understanding Group Violence in Multiethnic Societies* (2008) at 3–24, 285–300. Cederman, Gleditsch and Buhaug, *Inequality, Grievances, and Civil War* (2013) at 30–54.

⁸ For an overview of studies in 1980 by Stephen Marks and Richard Bilder that link the states’ right to international peace to individual civil and political rights, such as conscientious objection and freedom of expression and association, see Bailliet, ‘Normative Foundation of the International Law of Peace’, in Bailliet and Larsen (eds), *Promoting Peace Through International Law* (2015) at 55–6. See also Schabas, ‘The Human Right to Peace’, in Eide et al. (eds), *Making Peoples Heard: Essays on Human Rights in Honour of Gudmundur Alfredsson* (2011) at 43–57 (focusing on the right to life and pre-existing norms on the prohibition and crime of aggression). Zayas, ‘Peace’, in Schabas (ed), *The Cambridge Companion to International Criminal Law* (2015) at 97–113.

⁹ Alston, ‘Peace as a Human Right’ (1980) 11/4 *Security Dialogue* 319 at 325. Boven, ‘The Right to Peace as an Emerging Solidarity Right’, in Rieter and Waele (eds), *Evolving Principles of International Law* (2012) at 137–149. Hayden, ‘A Defense of Peace as a Human Right’ (2002) 21/3 *South African Journal of Philosophy* 147 at 150 (a right to peace premised on ‘human security and non-violence’). Roche, *The Human Right to Peace* (2003).

¹⁰ Alston, *ibid.*, 328.

were predominantly concerned with the historical evolution of the right and/or legal analysis of the Declaration.¹¹ Cecilia Bailliet's comprehensive analysis of the Declaration highlights that it includes positive and liberal components of intra-state peace.¹² Rather than taking these elements for granted as conducive to sustainable peace, this article critiques the Declaration's positive and liberal elements. It demonstrates that these elements of peace do not necessarily ensure that horizontal inequalities across identity groups as collectivities are addressed nor thereby render a sustainable positive peace a realistic possibility. This article therefore also provides a critical analysis of the (normative, conceptual and practical) links between human rights and peace as values in the context of a viable right to peace. Drawing on peace and conflict studies, it also advances knowledge on what fulfilling the right to (sustainable positive) peace warrants.¹³ Building on this, it offers guiding principles focused on horizontal or substantive equality between collectivities to direct the implementation of the right to peace towards sustainable positive peace.

At a time when the UN Human Rights Council (HRC) is exploring how the Declaration should be implemented,¹⁴ such a conceptually and normatively informed analysis of the viability of the right to peace is timely and significant. The article aims to contribute to academic and policy debates on the content and implementation of the right to peace as follows. First, by bridging the human rights field with peace and conflict studies, it provides a holistic examination of the right to peace with a focus on the effects of prevailing international human rights law (IHRL) practice on the drivers of violent conflict and lasting peace within societies. It thereby advances knowledge on the requisite content of the right to lasting positive peace. Second, it reveals a common misconception that peace simply premised on human rights and pursued through an individualistic human rights approach or liberal peacebuilding frameworks can necessarily address the main drivers of intra-state conflict, namely horizontal inequalities (HIs) across all spheres and groups holistically, in order to fulfil (the right to) lasting peace. Therefore, this article argues for a supplementary collectivist approach to guarantee elimination of HIs across collectivities. Third, this study may also contribute to policy debates in that it specifies the measures, policy objectives and principles necessary for realising the right to peace that is likely to elicit sustainable positive peace. The case study of HRC recommendations before the Arab Spring (reported in Section 5) shows that the proposed guiding principles can fill the vacuum left by the prevailing human rights approach. Lastly, this article may trigger further conceptual discussions in peace studies and human rights scholarship regarding the concept of peace to be pursued through a new right-to-peace framework or the current human rights, development and peacebuilding frameworks.

The article starts by outlining the historical development of the right to peace. Second, it analyses the novel aspects of the Declaration in reference to earlier relevant resolutions with a particular focus on the scope and nature of the right, and the right-holders and duty-holders. Third, drawing on peace and conflict studies, it discusses what lasting peace actually entails before analysing whether the Declaration suggests such conditions and measures. Lastly, it proposes guiding principles to direct potential implementing institutions towards achieving

¹¹ Guillermet-Fernández and Puyana, with Bose, *Right to Peace: Past, Present, Future* (2017) at 276, 282, 290, available at <https://digitallibrary.un.org/record/1645438?ln=en>. Guillermet-Fernández and Puyana, 'The Adoption of the Declaration on the Right to Peace by the United Nations: A Human Rights Landmark' (2017) 1/2 *Peace Human Rights Governance* 275. For an account depicting the Declaration as 'bland' for falling short of civil society expectations, see Zayas's Statement for the International Day of Peace, available <http://aaidh.org/wp-content/uploads/2016/10/Alfred-de-Zayas-3.pdf>.

¹² Bailliet (ed), 'Normative Evolution of the International Law of Peace in a post-Western Age', *Research Handbook on International Law and Peace* (2019) at 69–71, 81.

¹³ Hence, unlike Hvidsten and Skarstad, *supra* n 5, this article moves beyond bridging the fields for merely conceptualizing positive peace.

¹⁴ HRC Resolutions on the Promotion of the Right to Peace, A/HRC/RES/35/4 (2017) and A/HRC/RES/41/4 (2019).

substantive equality among identity groups as collectivities. It also sketches how their application can encompass situations that current frameworks presently overlook and discusses how UN bodies can utilize these principles to promote and facilitate the realization of the right to peace.

2. THE EVOLUTION OF THE RIGHT TO PEACE

Although the 1969 Istanbul Declaration of the 21st International Conference of Red Cross proclaimed that everyone ‘has the right to enjoy lasting peace’,¹⁵ it was not until the 2016 UNGA Declaration on the Right to Peace that peace was recognized as a human right by the UN. UN Resolutions until 2016, however, highlighted a right to international peace, linking it to the right to life and UN Charter principles, and conceptualized peace as a precondition for realising all human rights, albeit often without a separate human rights dimension. Furthermore, the right to peace has been recognized by regional organizations,¹⁶ such as the 1981 African Charter on Human and Peoples’ Rights¹⁷ and the 2012 Association of Southeast Asian Nations (ASEAN) Human Rights Declaration.¹⁸

In 1978, UNGA adopted the Declaration on the Preparation of Societies for Life in Peace, which proclaimed that ‘[e]very nation and human being has the inherent right to life in peace’.¹⁹ Although this declaration entails an individual human rights dimension,²⁰ it does not formulate peace as a separate human right. Rather, it highlights the importance of *international* peace for realizing the right to life, and ultimately aims at eliminating wars among States that endanger the individual’s right to life.²¹

The 1984 UNGA Declaration on the Right of Peoples to Peace²² recognizes that peoples have ‘a sacred right to peace’.²³ This right concerns international peace²⁴ based on UN Charter principles of non-use of force among States and peaceful settlement of international disputes.²⁵ As such, the 1984 Declaration conceptualizes peace broadly as a right of groups of individuals, including nations and States,²⁶ or as a collective right, underpinned by UN Charter principles, rather than an individual right premised on international human rights law (IHRL).²⁷ Subsequent resolutions of the then Commission on Human Rights (CHR) and UNGA on the Promotion of Peoples’ Right to Peace²⁸ simply reaffirm the right of peoples to international peace as incorporated in the 1984 Declaration.

¹⁵ Available at https://www.loc.gov/law/mlr/pdf/RC_Nov-1969.pdf. See also Kaene, ‘UNESCO and the Right to Peace’, in Keane and McDermott (eds), *The Challenge of Human Rights* (2012) at 74.

¹⁶ Roche, ‘Peace: A Sacred Right’, in Weston and Grear (eds), *Human Rights in the World Community: Issues and Action* (2016) 255 at 256. See also Draft Declaration on the Right to Peace prepared by the Spanish NGO SSIHRL at 1, available at <http://aedidh.org/wp-content/uploads/2017/09/Draft-UN-Declaration-HRP-20.9.17.pdf>.

¹⁷ African Charter on Human and Peoples’ Rights (adopted in 1981) (1982) 21 ILM 58 (African Charter), Article 23.

¹⁸ Article 38. Declaration available at <https://asean.org/asean-human-rights-declaration/>.

¹⁹ A/RES/33/73 (1978), Part 1, para 1. Keane, supra n 15 at 78, 80.

²⁰ Available at <http://libraryresources.unog.ch/c.php?g=462687&p=3163270>.

²¹ Supra n 19, paras 2–8.

²² A/RES/39/11 (12 November 1984).

²³ *Ibid.*, preambular para 1.

²⁴ Guillermet-Fernández and Puyana, supra n 11 at 291. Schabas, supra n 8 at 44–7.

²⁵ A/RES/39/11 (12 November 1984), Article 3.

²⁶ For an interpretation of the UN Charter’s use of ‘peoples’ as ‘groups of human beings’ broadly, which may or may not include nations, whereas ‘nations’ as merely political entities, including colonies, States, and non/quasi-States, see Thornberry, ‘Self-Determination, Minorities, Human Rights: A Review of International Instruments’ (1989) 38/4 *International and Comparative Law Quarterly* 867 at 871.

²⁷ Guillermet-Fernández and Puyana (with Bose), supra n 11 at 129, 191. For a historical account of UNGA, Commission on Human Rights and HRC Resolutions, see also Schabas, supra n 8 at 38–41, 44–7.

²⁸ See CHR Resolutions 2001/69 (25 April 2001) and 2002/71 (25 April 2002); UNGA Resolution, A/RES/57/216 (18 December 2002).

An explicit link between international peace and human rights²⁹ has only been made since 2003 through the CHR and UNGA Resolutions on the Promotion of Peace as a Vital Requirement for the Full Enjoyment of All Human Rights by All.³⁰ These resolutions formulate peace as a vital and enabling condition for the full realization of human rights.³¹ Yet, drawing on the 1984 Declaration, they consider that the right to peace is conferred on peoples rather than individuals. In 1998, UNESCO also attempted to proclaim peace as a human right and duty of individuals, although this failed due to the global North's opposition.³² The idea of proclaiming a human right to peace only re-emerged after HRC Advisory Committee changed the title of the 2012 Draft Declaration, which was originally on the right of peoples to peace. The 2016 Declaration was the first to recognize peace as a separate human right, considering peace not only as a means to realizing human rights and development, but now also as an end.³³

The 2016 Declaration has various novel aspects compared to earlier UN declarations. First, it takes 'a human rights approach'³⁴ to the right to peace, deriving the right from inherent human dignity³⁵ and IHRL rather than only from UN Charter principles, such as the non-use of force against States' sovereignty and territorial integrity, and peaceful settlement of international disputes. Second, unlike earlier declarations, the 2016 Declaration considers peace as a separate human right rather than only a value, or a vital condition for realizing the right to life and all human rights.³⁶ Third, it is the first declaration that explicitly recognizes a right to intra-state peace alongside international peace.³⁷ Notably, however, the preambular and operational provisions of the Declaration predominantly concern the international dimension of the right to peace.³⁸ Fourth, the Declaration's conceptualization of peace goes beyond 'the absence of conflict'³⁹ or negative peace. Lastly, it confers the right to peace on peoples collectively as well as individuals separately.

3. THE 2016 DECLARATION ON THE RIGHT TO PEACE: RIGHT/DUTY HOLDERS AND THE NATURE AND SCOPE OF THE RIGHT

Having highlighted the novel aspects of 2016 Declaration, this section provides an in-depth analysis of its provisions to identify the right-holders and duty-holders. It also aims to clarify the unspecified content in the Declaration regarding the right and duties as well as the scope and nature of peace. This section thus lays the groundwork for a deeper analysis in later sections examining whether implementation of the Declaration can lead to lasting intra-state peace.

²⁹ Engdahl, 'Protection of Human Rights and the Maintenance of International Peace and Security: Necessary Precondition or a Clash of Interests?', in Bailliet (ed), *supra* n 12 (2019) 127 at 127.

³⁰ See CHR resolution 2003/61 (24 April 2003); 2005/56 (20 April 2005) [hereinafter *peace as a vital requirement*]. See subsequent UNGA Resolutions A/RES/58/192 (22 December 2003); A/RES/60/163 (16 December 2005), A/RES/62/163 (18 December 2007), A/RES/65/222 (21 December 2010), A/RES/67/173 (20 December 2012), A/RES/69/176 (18 December 2014), A/RES/73/170 (17 December 2018) and A/RES/75/177 (22 December 2020).

³¹ See also common Articles 5 and 7 of HRC Resolutions A/HRC/RES/14/3 (2010) and A/HRC/RES/17/16 (2011) on the promotion of peoples' right to peace that base international peace and security on human rights and development.

³² For the comprehensive Draft Oslo Declaration on the Human Right to Peace prepared at the meeting organised by the then Norwegian Institute for Human Rights, see UNESCO Resolution, 29 C/59 (29 October 1997), Annex II. See also Kaene, *supra* n 15 at 76–77, 81. Roche, *supra* n 16 at 257–58.

³³ For Bailliet (*supra* n 12 at 81), the Declaration formulates peace as 'a meta-right . . . or obligation'.

³⁴ Guillermet-Fernández and Puyana, *supra* n 11 at 279, 282.

³⁵ Preambular para 18. See also *ibid.*, 283 (that Article 2 of the Declaration essentially bases peace on human dignity).

³⁶ Common Article 3 of HRC Resolutions A/HRC/RES/14/3 (2010) and A/HRC/RES/17/16 (2011). See *supra* 30.

³⁷ Article 2 sets out the objective as 'build[ing] peace *within* and between societies' [emphasis added].

³⁸ For an argument that the Declaration prioritizes international peace over intra-state peace, see Engdahl, *supra* n 29 at 122–25, 142.

³⁹ Preambular para 17.

A. Right-Holders and the Content of the Right

The HRC Advisory Committee changed the title and thus the focus of its 2012 Draft Declaration from *peoples'* right to peace to a *human* right to peace to ensure 'both the individual and collective dimensions' of the right, thereby adding an individual dimension.⁴⁰ Thus, the 2016 Declaration extends the actors it designates as rights-holders, and thus beneficiaries, of the right to peace. This is reflected in the wording of Article 1, which states that '[e]veryone has the right to enjoy peace', referring to *individuals* separately as the right-holders. As such, it moves beyond the 1984 UNGA Declaration and subsequent UN resolutions that consider only peoples, that is, *individuals collectively*, as the right-holders.⁴¹

The term peoples in international and regional instruments ordinarily refers to a people or a group of individuals sharing particular characteristics, such as minorities or indigenous people within States, or nations, that is, 'the population of a State as a whole', especially in the context of a right to international peace.⁴² While the Declaration does not use the term peoples in its operative provisions but only in the Preamble,⁴³ Article 2 suggests peace also as a collective right by defining the scope of peace as 'within and between societies'. Therefore, although it is uncertain whether the term 'everyone' in Article 1 refers only to individuals separately as in human rights treaties or also extends to the international community,⁴⁴ the latter can be inferred due to the collective dimension of the right. This article maintains that the term 'everyone' also encompasses collectivities given that peace is considered among solidarity rights,⁴⁵ which refer to *group* rights that are beyond the sum of the individual rights of group members.⁴⁶ The following discussion focuses on right-holders of the right to peace while considering also the possible implications of the expansion of right-holders to individuals.

The Declaration suggests a right to both international and intra-state peace,⁴⁷ premised on UN Charter and international and regional human rights instruments.⁴⁸ By including individuals as right-holders and beneficiaries of peace, the Declaration further entrenches States' pre-existing obligations under the UN Charter with respect to maintaining international peace. These obligations include the prohibition of 'the threat or use of force against' both (1) 'the territorial integrity [and] political independence'⁴⁹ of other States and (2) intra-state peace of other States by 'organizing, instigating, assisting or participating in acts of civil strife or terrorist acts'.⁵⁰ In cases of non-defensive uses of force, such as wars of aggression (under

⁴⁰ A/HRC/RES/20/31 (2012), para 6. For a detailed account of the 2012 Draft Declaration, see Guillermet-Fernández and Puyana (with Bose), supra n 11 at 133–136. Zayas supra n 8 at 108. Bailliet, supra n 8 at 53–56.

⁴¹ Article 1, A/RES/39/11 (12 November 1984) and HRC Resolutions A/HRC/RES/14/3 (2010) and A/HRC/RES/17/16 (2011).

⁴² Thornberry, supra n 26 at 871. For an account of the meaning of 'peoples' entitled to the right to national and international peace under Article 23 of the African Charter on Human and Peoples' Rights, see Murray, *The African Charter on Human and Peoples' Rights: A Commentary* (2019) at 539, 540.

⁴³ Preambular para 4 recalls peoples' right to peace, whereas paras 34 and 36 highlight 'peace among peoples'. See also Article 5 basing the Declaration on purposes and principles of the UN that likewise envisage peace among States and nations and thus individuals collectively.

⁴⁴ Bailliet, supra n 12 at 72.

⁴⁵ Boven; Alston at 329, supra n 9. Macklem, 'Human Rights in International Law: Three Generations or One?' (2015) 3/1 *London Review of International Law* 61. Freeman, *Human Rights* (2011) at 52–3. Freedman and Lottholtz, 'Peace as a Hybrid Human Right: A New Way to Realise Human Rights, or Entrenching their Systematic Failure?', in Lemay-Hébert and Freedman (eds.), *Hybridity: Law, Culture and Development* (2017) at 44, 41–7.

⁴⁶ Wellman, 'Solidarity, the Individual and Human Rights' (2000) 22/3 *Human Rights Quarterly* 639 at 644.

⁴⁷ For both, see Article 2, and for the former, see also preambular paras 6, 7, 9–11 and 15. Engdahl, supra n 29 at 122–25.

⁴⁸ Article 5 of the Declaration.

⁴⁹ Article 2(4) of the UN Charter.

⁵⁰ UNGA Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, A/RES/2625(XXV) (1970). In its preambular para 6, the 2016 Declaration recalls the *Friendly Relations* declaration, which provides an authoritative interpretation of the prohibition on the use of force that the International Court of Justice (ICJ) utilised in its numerous rulings since the *Nicaragua* case. See *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. US) (Nicaragua)*, Merits, 27 June 1986, ICJ Reports (1986), para 190, p. 100.

point 1), individuals' right to international peace, alongside that of States, would be violated.⁵¹ Given that the prohibition of aggression is an *erga omnes* obligation owed to all States,⁵² by extension, aggression—and the resulting international armed conflicts—would also undermine international peace owed to all individuals rather than just the nationals of those victim and other States engaged in armed conflicts. The content of States' and individuals' right to international peace is essentially the same, deriving from UN Charter principles. Although States' pre-existing obligations regarding non-use of force⁵³ owed to States would not be automatically extended to individuals through the 2016 Declaration, these obligations could be further entrenched as a result of the wider beneficiaries of the right to international peace.

In cases of indirect use of force (under point 2), alongside injured States (or *de jure* governments), individuals and societies as a whole would have their right to intra-state peace violated. Yet, such indirect uses of force would not only undermine the enjoyment of intra-state peace by individuals under the jurisdiction of the injured State but also everyone's enjoyment of international peace for the same reasons explained earlier. As such, the Declaration's conceptualization of international peace as a human right owed to everyone may affect entrenched constraints on States' use of force in their international relations, directly or indirectly. In short, UN Charter principles on the non-use of direct and indirect force constitute the content of the right to international peace of both States and individuals.

Furthermore, the Declaration confers everyone the right to intra-state peace. Similarly it suggests that individuals, both separately and collectively, including minorities and societies as a whole, are both right-holders and beneficiaries.⁵⁴ Although the Declaration is less explicit regarding the content of the right to intra-state peace,⁵⁵ it can be inferred to consist of the realization of Article 2 elements of 'equality and non-discrimination, justice and the rule of law, and . . . freedom from fear and want', all human rights and development as prescribed under Article 1, and peaceful means⁵⁶ and 'tolerance, dialogue, cooperation and solidarity'.⁵⁷ Furthermore, the Preamble endorses a positive peace notion beyond the absence of conflict, which is premised on 'socioeconomic development'.⁵⁸ Consequently, the threat or use of direct violence or armed force against individuals or particular groups would constitute a violation of the right to intra-state peace of everyone within and beyond that conflict society, given that (negative) peace is typically understood as the absence of violent conflict and threats of violence.⁵⁹ Furthermore, indirect or structural violence would also amount to violations of the right to intra-state (positive) peace.⁶⁰ Structural violence refers to social injustices that subject particular groups of individuals to harmful effects, such as premature loss of life due to systems and structures depriving individuals of adequate standards of living and socio-economic

⁵¹ Human Rights Committee (HRCte), General Comment No. 36: The Right to Life (Article 6), CCPR/C/GC/36 (2019), para 70 (that aggression is a 'systematic attack' to individuals' right to life). Schabas, *supra* n 8 at 53, 57 (that aggressive wars violate IHRL norms including the right to life). Zayas, *supra* n 8 at 110–111 (that IHRL norms under the ICCPR and ICESCR constitute the contents of threats to and violations of the right to peace).

⁵² For the International Law Commission (ILC)'s list of peremptory norms giving rise to *erga omnes* obligations, including prohibition on the use of force and aggression, see UNGA, Report of the ILC, A/74/10 (2019) at 173, 190, 205.

⁵³ For simplicity, only State obligations are discussed here, excluding the controversial extension of such obligations to non-state actors. For the latter, see Lanovoy, 'The Use of Force by Non-State Actors and the Limits of Attribution of Conduct' (2017) 28/2 *European Journal of International Law* 563 at 567–9.

⁵⁴ Boven, *supra* n 9 at 139. See also Sengupta, *supra* n 4 at 862–3 (that groups of individuals as beneficiaries of collective rights continue to be individual right-holders).

⁵⁵ For further elaboration, see Section 4.

⁵⁶ Preambular para 23.

⁵⁷ Article 4.

⁵⁸ Preambular para 17.

⁵⁹ Galtung, 'Violence, Peace, and Peace Research' (1969) 6/3 *Journal of Peace Research* 167 at 183.

⁶⁰ For positive peace as the absence of structural violence, see *ibid.*, 171

development.⁶¹ More particularly, structural violence may result from government policies and legislations that amount to nonfulfilment of the Declaration's aforementioned provisions or that enable violations of the right to equality and non-discrimination, freedom from fear and want, and equal socio-economic development for particular groups.

It should be noted that the recognition of the right to peace does not mean it can automatically be enforced or claimed by the aforementioned right-holders before all domestic or international judicial bodies.⁶² The right-holders could legally claim the right, insofar as the right to peace is crystallized as positive international law and/or is incorporated into the domestic law of the respective States, and right-holders have standing before the respective fora. However, the fact that the right to peace is neither justiciable globally⁶³ nor likely to become so in the near future does not make the present study redundant as it focuses on specifying necessary measures to facilitate its fulfilment through UN bodies and frameworks that do not depend on the right's justiciability.

B. Duty-Holders and the Content of the Duties

As is typical for third-generation or solidarity rights,⁶⁴ the 2016 Declaration entails a comprehensive list of the duty-holders beyond States akin to those of the right to development.⁶⁵ Article 3 lists the UN, its specialized agencies, including UNESCO, and States as the duty-holders that are to implement the Declaration through 'appropriate sustainable measures'. It also urges '[i]nternational, national, regional and local organisations and civil society' to facilitate the operationalization of the Declaration. With its emphasis on peace education and creating a culture of peace, the Declaration can be seen as implicitly recognizing an individual responsibility for peace.⁶⁶ This interpretation can be justified, given that solidarity rights generally ascribe duties and responsibilities to various actors, including individuals.⁶⁷ Furthermore, the Declaration relies on the UNGA Declaration and Programme of Action on a Culture of Peace, which construes that the creation of a culture of peace depends on peace-inducing 'values, attitudes, ... [and] behaviour[s]' among individuals thus suggesting both individual and collective responsibilities.⁶⁸

Neither Article 3 nor any provision of the 2016 Declaration specify the content of the duties beyond urging duty-holders to take necessary measures.⁶⁹ Although such measures are not explicitly stated in the Declaration, the standards and specific constraints⁷⁰ for facilitating the fulfilment of the right to peace, can be inferred from Articles 1, 2 and 5. The remainder of this

⁶¹ For a definition of structural violence, *ibid.*, 183.

⁶² Bailliet, *supra* n 12 at 81.

⁶³ Currently, only Article 23 of the African Charter on Human and Peoples' Rights provides for national peace as an enforceable right, see Murray, *supra* n 42. Bailliet argues that the 'rich jurisprudence' of the Inter-American Court of Human Rights of the Convention concerning human dignity, equality, and empowerment 'against oppression' reinforces 'the evolution of positive peace case law'. See Bailliet, *The Construction of the Customary Law of Peace* (2021) at 136–161.

⁶⁴ Accompanying text at *supra* 46.

⁶⁵ UNGA Declaration on the Right to Development, A/RES/41/128 (4 December 1986).

⁶⁶ Article 4, and preambular paras 23, 24, 26–29.

⁶⁷ Art 2(2) of the UNGA Declaration on the Right to Development ascribes responsibilities to individuals for development. For an overview of solidarity rights involving duties and responsibilities to extended actors, see Wellman, *supra* n 46 at 643–44.

⁶⁸ UNGA Declaration and Programme of Action on a Culture of Peace, A/RES/53/243 (1999), Article 2. The 2016 Declaration seems to adopt this in preambular paragraph 23, which urges construction of peace 'in the minds of human beings', which necessarily involves individual action for settling 'disputes through peaceful means'.

⁶⁹ None of the three sessions of the Inter-Governmental Working Group [hereinafter WG] that eventually informed the wording of the 2016 Declaration provide any guidance on what those appropriate measures are. For the outcome documents, see <https://www.ohchr.org/EN/HRBodies/HRC/RightPeace/Pages/WGDraftUNDeclarationontheRighttoPeace.aspx>. For reasons behind a concise, vague text compared to the 2012 Draft Declaration, see Bailliet, *supra* n 8 at 57; Guillermet-Fernández and Puyana (with Bose), *supra* n 11 at 266.

⁷⁰ This approach builds on Sengupta's (*supra* n 4 at 873, 857) methodology for specifying duties for the fulfilment of the right to development by focusing on the standards and constraints imposed by the 1986 Declaration.

section specifies the standards and constraints that the Declaration ascribes to duty-holders for implementing the Declaration.

As Chairperson-Rapporteur Guillermet-Fernández of the HRC's open-ended intergovernmental working group on the draft of the 2016 Declaration has pointed out, Article 1 of the Declaration, which bases peace on human rights and development, should be construed as prescribing a right to enjoy 'a life in dignity and without war . . .'.⁷¹ Although the standard of 'a life in dignity' is largely context-specific as it depends on the available resources of respective States, Article 1 nevertheless constrains which measures and policies can be used to implement the right to peace. That is, measures must not jeopardize individuals' enjoyment of human rights and development enshrined in international human rights instruments or agreed-upon soft laws, such as the targets of the Agenda 2030 for Sustainable Development that the Declaration reaffirms.⁷² Article 2 reaffirms the existing international human rights obligations of States with respect to realizing 'equality and non-discrimination, justice and the rule of law, and guarantee[ing] freedom from fear and want'. By extension, these elements constitute the standards of the measures to be taken by the UN to implement the Declaration, which UN peace, development and human rights pillars already pursue.

Furthermore, Article 5 reaffirms States' pre-existing UN Charter-based duties for maintaining international peace, including non-use of force in their international relations, whether directly or indirectly. Notably, given that the Declaration seeks 'to promote a culture of prevention of armed conflict',⁷³ underscores peaceful 'settlement of disputes or conflicts'⁷⁴ without typically specifying those as international ones, and urges States to elicit both international and intra-state peace, it can be interpreted as imposing standards and restraints on States' resort to armed force in intra-state contexts as well.

In short, although the Declaration does not specify the content of duties, it imposes generic constraints on measures aimed at implementing the Declaration, mostly by reaffirming States' pre-existing obligations under the UN Charter and IHRL. Nevertheless, the precise content of 'appropriate measures' that States and the UN are urged to take to implement the right remains unspecified, especially with respect to peace within societies. The following section examines what measures are necessary to facilitate the fulfilment of the right in its intra-state dimension.

4. FULFILLING THE RIGHT TO INTRA-STATE PEACE

Under IHRL, duty-holders, primarily States, have the obligation to respect, protect and fulfil legally binding rights.⁷⁵ Given that the human right to peace is yet to globally become a legally binding norm, this article does not focus on any of these State obligations.⁷⁶ Instead, as peace is a solidary right that also ascribes positive obligations to international institutions for its realization,⁷⁷ the present study focuses on the role that the UN can play as a

⁷¹ Report of WG, Third Session, A/HRC/29/45 (2015), para 57. Guillermet-Fernández and Puyana (with Bose), *supra* n 11 at 266, 267, 270.

⁷² Preambular para 3.

⁷³ *Ibid.*, 21.

⁷⁴ *Ibid.*, 10, 23.

⁷⁵ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 24: State Obligations in the Context of Business Activities, E/C.12/GC/24 (2017), para 10. See also Human Rights Committee (HRtC), General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), paras 3, 5, 7.

⁷⁶ This is, however, not to disregard that States may voluntarily incorporate soft laws into their domestic law and assume these obligations. Chinkin, 'The Challenge of Soft Law: Development and Change in International Law' (1989) 38/4 *ICLQ* 850 at 858–59.

⁷⁷ Macklem, *supra* n 45 at 70. *Supra* n 46.

duty-holder under Article 3 of the 2016 Declaration for fulfilling the right.⁷⁸ It examines specifically how the UN could ‘facilitate and promote’⁷⁹ the realization of the right to intra-state peace, and direct⁸⁰ States’ efforts accordingly.⁸¹ As Sengupta argues with respect to UNGA’s proclamation of the right to development,⁸² rights recognized in soft-law documents do not have to become justiciable or enforceable to have practical relevance so long as they can be implemented or there are well-designed policies for the full realization of those rights.⁸³ UN frameworks, particularly peacebuilding and development apparatuses, can introduce progressive policies and programmes to implement the 2016 Declaration despite its soft-law status, and direct States toward realizing the right to peace. Furthermore, UN Secretary-General (SG), UNGA and UNSC, as well as Charter- and treaty-based human rights bodies could also play a crucial role in promoting and facilitating the implementation of the right to intra-state peace.⁸⁴

This article conceptualizes the right to peace as a process, building on Sengupta’s conceptualization of the right to development as a process that requires implementing the policies that are most likely to bring about development.⁸⁵ The core aim of this section, and, overall, the article, is thus specifying the appropriate measures and policy objectives that the UN should pursue that can, with ‘high probability’,⁸⁶ lead to sustainable intra-state peace. As sustainable peace involves prevention of armed conflict and therefore addressing the root causes of conflict, this section first outlines the main drivers of intra-state armed conflict, drawing on peace and conflict studies. It also specifies necessary measures for lasting peace. It will then argue that the Declaration neither explicitly nor implicitly suggests measures required for fulfilling sustainable peace within societies with ‘high probability’, namely tackling horizontal inequalities across all spheres and identity groups.

A. Conditions for Sustainable Peace and Prevention of Intra-State Armed Conflict

Peace and conflict research suggest a consensus that the root causes of political violence, including armed conflict and rebellion, are grievances or perceived injustices across identity groups. Horizontal inequalities (HIs) theory argues that political, socio-economic and cultural inequalities across identity groups lead to collective grievances and thus violent mobilization and conflict.⁸⁷ HIs theory does not overlook that the socio-economic or political interests of collectivities, such as access to resources, may also drive conflicts. Rather, it argues that collective grievances stemming from HIs across identity groups are the main drivers of violent conflict, although the interests of the group or its individual members may also be motivating factors.

⁷⁸ The obligation of fulfil involves positive actions, including any appropriate ‘legislative, judicial, administrative, educative and other . . . measures’. HRCte, General Comment No. 31, supra n 75, para 7. See also Mégret, ‘Nature of Obligations’, in Moeckli et al. (eds), *International Human Rights Law*, 3rd edn (2017) at 98–99.

⁷⁹ Mégret, *ibid.*, 99. CESCR, General Comment No. 24, supra n 75, para 23.

⁸⁰ *Ibid.*, para 24.

⁸¹ For Bailliet (supra no 63 at 12–13), the 2016 Declaration requires States to promote the right to peace through ‘policy approaches’ rather than protecting it through judicial approaches.

⁸² UNGA Declaration on the Right to Development, A/RES/41/128 (4 December 1986).

⁸³ Sengupta, supra n 4 at 856–7, 861.

⁸⁴ I would like to thank anonymous reviewers for their inspiration of extending the present study to also include the roles that the UN bodies can play to promote and facilitate the fulfilment of the right to peace. For a sketch, see section 5.B(i).

⁸⁵ Sengupta, supra n 4 at 857, 873. This approach is justifiable, given that both rights are solidarity rights requiring efficient processes to achieve the long-term goals of peace and development.

⁸⁶ *Ibid.*

⁸⁷ Stewart, supra n 7 at 3–24. Ostby, ‘Inequalities, the Political Environment and Civil Conflict: Evidence from 55 Developing Countries’ (2008), in Stewart, supra n 7, at 136–159. Hillesund et al., ‘Horizontal Inequality and Armed Conflict: A Comprehensive Literature Review’ (2018) 39/4 *Canadian Journal of Development Studies* 463. For an account of grievance theory, from which HIs theory is derived, and their nuances, and for the competing greed/opportunity theory, see Cederman, Gleditsch and Buhaug, supra n 7 at 17–19 and Chapters 2, 3.

HIs theory presupposes that individuals fight ‘in the name of identity’,⁸⁸ seeking to remedy the ingroup’s collective grievances rather than to maximize personal interests.⁸⁹ Empirical studies also show that HIs theory can explain intra-state armed conflict and political violence better than greed and opportunities theories, which focus on individuals and their personal interests.⁹⁰ UN documents also acknowledge that HIs drive armed conflict and should be tackled for sustainable development.⁹¹

Given that sustainable peace requires addressing the drivers of armed conflict, this article builds on HIs theory of the causes of conflict to conceptualize sustainable positive peace as involving addressing HIs.⁹² Thus, it assumes that fulfilling the right to peace would require building intra-state peace through policies that address HIs—and grievances in addition to those aimed at realizing all human rights and development as prescribed in the Declaration.⁹³ Because addressing HIs requires a focus on identity groups as collectivities, it is necessary that measures devised to fulfil the right to peace incorporate a group perspective. More specifically, this requires considering identity groups collectively (1) as the basis of comparison for diagnosing and addressing HIs or unequal enjoyment of human rights and development and (2) as the beneficiaries of remedial programmes. The following section examines whether the Declaration provides for such conditions of sustainable intra-state peace when ordinarily interpreted.

B. Does the Declaration Suggest the Collective Measures Required for Lasting Intra-State Peace?

The 2016 Declaration does not explicitly refer to addressing the HIs of collectivities, although its preambular paragraphs refer to particular groups and possibly collective measures. This section examines the references in the Declaration that are commonly regarded as liberal and positive elements of peace, particularly the Declaration’s objective of realizing peace based on human rights, development, and equality and non-discrimination. It will argue that these references at best only suggest incomplete or ‘indirect measures’⁹⁴ for addressing HIs and are therefore insufficient to fulfilling the right to intra-state peace. In doing so, this section will prepare the ground for Section 5 that proposes additional guiding principles for UN bodies to direct the

⁸⁸ Kaldor, *New and Old Wars: Organised Violence in a Global Era*, 3rd edn (2012) at 2, 5.

⁸⁹ For the nexus between inequalities among groups/collectivities rather than individuals, and grievance and conflict, see Cederman, Gleditsch and Buhaug (2013), supra n 7 at 23, 39, 209.

⁹⁰ Ibid.

⁹¹ Kofi Annan’s statement before the UNSC meeting on conflict prevention in July 2000, available at <https://www.un.org/press/en/2000/20000720.sc6892.doc.html>. Sustainable Development Goal 10 aimed at reducing inequalities within and among countries also involves addressing HIs. See UNDESA, ‘Inequality and the 2030 Agenda for Sustainable Development’, Development Issues No. 4 (21 October 2015), available at http://www.un.org/en/development/desa/policy/wess/wess_dev_issues/dsp_policy_04.pdf. Increasingly, UN documents, such as those published by UN Department of Economic and Social Affairs (UNDESA) and UNDP, acknowledge the importance of addressing HIs for sustainable peace. See UNDESA/Work Bank Group, Expert Group Meeting Concept Note, ‘Sustainable Development Goal 10 – Reduced Inequalities: Progress and Prospects’ (2019) at 7, available at https://sustainabledevelopment.un.org/content/documents/21453SDG_10_EGM_2019_concept_note_30Jan_consolidated.pdf. See also UNDESA, ‘Integrated Policies to Tackle Inequalities’, Policy Brief (March 2016) at 5, available at <https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/publication/desa-policy-brief-inequality.pdf>. United Nations/World Bank, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (2018) at 109–140.

⁹² For a more comprehensive concept of positive peace focusing on social identity dynamics leading to HIs across groups, see Turan, *Positive Peace in Theory and Practice: Strengthening The United Nations’s Pre-Conflict Prevention Role* (2015). Turan, ‘Conceptualising Deep Positive Peace: Social Identity and Agential Lenses for Conflict Transformation’, [Manuscript submitted for publication].

⁹³ This article’s approach thus moves beyond prevailing approaches to peace grounded on ‘protecting equal individual rights’ by entailing direct or targeted collective measures for elimination of HIs. Cf. Skarstad, ‘Human Rights Violations and Conflict Risk: A Theoretical and Empirical Assessment’ (2019), in Bailliet (ed), supra n 12, at 160. See Section 4.B for further discussion.

⁹⁴ Indirect measures for tackling HIs consist of anti-discrimination legislations and generic human rights promotion/protection, see Stewart, Brown and Langer, ‘Policies towards Horizontal Inequalities’, in Stewart (ed.) supra n 7, at pp. 304, 311–12, 324.

promotion and implementation of the Declaration towards sustainable positive peace. As the Declaration reaffirms the existing international instruments,⁹⁵ the following analysis also draws on authoritative interpretations of the relevant provisions of those instruments, such as the International Covenant on Civil and Political Rights (ICCPR)⁹⁶ and International Covenant on Economic, Social and Cultural Rights (ICESCR),⁹⁷ and the relevant General Comments of the respective committees, while examining whether the Declaration suggests collective measures that guarantee elimination of HIs across all spheres and collectivities.

The Declaration's notion of peace is premised on 'socioeconomic development',⁹⁸ human dignity and all human rights,⁹⁹ and participatory processes and dialogue, or democratic governance as a means to conflict resolution by enhancing 'mutual understanding and cooperation' among parties.¹⁰⁰ This mirrors the approach enshrined in the 1993 Vienna Declaration and Programme of Action, which recognizes the interdependence of democracy, human rights and development.¹⁰¹ Furthermore, according to Article 2 of the Declaration, peace is based on liberal elements of 'equality and non-discrimination, justice and the rule of law, and . . . freedom from fear and want.' As such, the Declaration aims for a liberal peace.¹⁰² Liberal peace is generically defined by the activities pursued in the context of post-Cold War international (liberal) peacebuilding practice, namely the promotion of human rights, rule of law, democratic governance, the free market, and development.¹⁰³

Due to frequent onsets and recurrences of intra-state armed conflict,¹⁰⁴ the UN's current liberal peacebuilding practice has been criticized,¹⁰⁵ especially for failing to address root causes and produce a 'poor quality of peace'.¹⁰⁶ For example, Roland Paris's study of UN peacebuilding missions since 1989 shows that the UN's liberal peacebuilding practice is ineffective in addressing the root causes of armed conflict and eliciting sustainable peace.¹⁰⁷ Hence, *prima facie*, the prevailing liberal peacebuilding practice cannot be expected to facilitate the fulfilment of the right to peace so as to elicit sustainable intra-state peace.

The UN's current liberal peacebuilding approach is premised on Johan Galtung's concept of peacebuilding,¹⁰⁸ which refers to building structures 'that remove causes of wars'.¹⁰⁹ The

⁹⁵ Preambular paras 1–6. This was Chairperson-Rapporteur's strategy to ensure the adoption of the Declaration. See Guillermet-Fernández and Puyana (with Bose) supra n 11 at 163–4.

⁹⁶ International Covenant on Civil and Political Rights (1966), 999 UNTS, 171.

⁹⁷ International Covenant on Economic, Social and Cultural Rights (1966), 993 UNTS, 3.

⁹⁸ Preamble para 17.

⁹⁹ *Ibid.*, para 18.

¹⁰⁰ *Ibid.*, para 17.

¹⁰¹ A/CONF.157/23 (1993), para 8. See also preambular paras 2 and 16 of the 2016 Declaration.

¹⁰² For Bailliet (supra n 12 at 70), the Declaration includes liberal 'perspectives'. For an account that the liberal peace (building) model has dominated the international peace architecture since the 1920s, including in the UN system, see Richmond, 'The Evolution of the International Peace Architecture' (2021) 6 *European Journal of International Security* 379 at 382.

¹⁰³ Richmond, 'The Problem of Peace: Understanding the "Liberal Peace"' (2006) 6/3 *Conflict, Security & Development* 291 at 298. For Paris, the contemporary definition of liberal peace merely refers to current peacebuilding practices without regard to its nexus with the premises of political liberalism emphasising 'individual freedom'. Paris, 'Peacebuilding', in Weiss and Daws (eds.), *The Oxford Handbook on the United Nations*, 2nd edn (2018) at 491–92. For the nature of liberal peace pursued since 1990s, see Richmond, 'Peace in the Twenty-First Century' (2017) 14/6 *Globalizations* 1014 at 1024. The concept of peacebuilding was first introduced as a post-conflict measure in the Report of Secretary-General, *Agenda for Peace* (1992), paras 15–17, 55.

¹⁰⁴ Pettersson et al., 'Organized Violence, 1989–2020 with a Special Emphasis on Syria' (2021) 58/4 *Journal of Peace Research* 809 at 809–810. Davis, Pettersson and Öberg, 'Organized violence 1989–2021 and drone warfare' (2022) 59/4 *Journal of Peace Research* 593 at 594–95.

¹⁰⁵ For an overview of liberal peace critiques, see Richmond and Mac Ginty, 'Where Now for the Critique of the Liberal Peace?' (2014/2015) 50/2 *Cooperation and Conflict* 171.

¹⁰⁶ *Ibid.*, 171. See also *Progress Report on Prevention of Armed Conflict* (2003), para 84.

¹⁰⁷ Paris supra n 103 at 487, 491. See also Joshi and Wallensteen, 'Understanding Quality Peace: Introducing the Five Dimensions', in Joshi and Wallensteen (eds.), *Understanding Quality Peace: Peacebuilding After Civil War* (2018) at 3–25.

¹⁰⁸ UN Peacebuilding Orientation Brochure, 45–46, available at http://www.un.org/en/peacebuilding/pbs/pdf/peacebuilding_orientation.pdf.

¹⁰⁹ Galtung, 'Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding' (1976) 1/2 *Impact of Science on Society* 282 at 302, 298, available at https://www.galtung-institut.de/wp-content/uploads/2016/06/galtung_1976_three_approaches_to_peace.pdf.

UN's peacebuilding practice mostly relies on building liberal institutions that promote human rights and democracy.¹¹⁰ Liberal institution- and peace-building, however, does not necessarily involve addressing HIs, given this requires attention to *horizontal* (substantive) equalities between identity groups *qua* groups, whereas liberal institutions and frameworks focus primarily on individual rights and, by extension, *vertical* equality between individuals.¹¹¹ Liberal institution-building per se cannot guarantee a liberal culture,¹¹² inter-group reconciliation,¹¹³ or the cultural and social change necessary for such institutions to function as intended to bring about peace.¹¹⁴ Empirical studies show that in the absence of a liberal culture, liberal institution-building or democratization often leads to semi-democratic regimes or non-inclusive electoral governance, which are more conflict prone. Election-related violence, such as that seen in Iraq, Ivory Coast, and Kenya, are cases in point.¹¹⁵ In short, liberal institutions per se, especially when newly built in divided societies lacking a liberal culture, cannot guarantee lasting peace or address HIs. The above *prima facie* conclusion can therefore be confirmed. That is, the promotion of the right to peace through the UN's current liberal peacebuilding practice cannot guarantee sustainable peace with 'high probability'.

The remainder focuses on whether the Declaration can be construed as prescribing collective measures that can be expected to contribute to addressing HIs among *all* relevant identity groups. In particular, it considers whether the Declaration allows a group-oriented approach to realize all human rights, especially the standalone right to equality and non-discrimination, and thereby inductively the right to peace, considering groups as beneficiaries *collectively*. The preambular paragraphs that emphasize the 'realization of the rights of *persons* belonging to national or ethnic, religious and linguistic minorities'¹¹⁶ and the furtherance of 'equal social development of . . . victims of racism'¹¹⁷ refer to specific minority and victim groups, albeit exhaustively. While the particular minorities listed in the Preamble often constitute those identity groups across which HIs and discrimination develop, such a restrictive definition of minorities in IHRL, as Geoff Gilbert argues, may not reflect a minority group's 'full "identity"'.¹¹⁸ That is, individuals discriminated against on grounds of other characteristics would not necessarily be extended minority protections. Such an approach overlooks other identity markers, such as ideological or other social status, which can prompt discrimination, HIs, and ultimately conflict.¹¹⁹ This conclusion is also valid for the Declaration's goal of 'equal social development of . . . victims of racism' as it likewise only aims to improve conditions for a limited category of people. However, sustainable peace requires the equal social development of all segments of society suffering from the effects of past and/or current discrimination and HIs *qua* group. As such, these references

¹¹⁰ For the mandate of the UN Peacebuilding Commission in post-conflict societies involving institution-building, see Article 2 (b) of UNGA and UNSC Resolutions, A/RES/60/180 and S/RES/1645 (2005).

¹¹¹ Vertical and horizontal (in)equalities differ whether they are relative to other individuals or groups, respectively, see Stewart, *supra* n 7 at 12. Hillesund et al., *supra* 87 at 464.

¹¹² Paris, *At War's End: Building Peace After Civil Conflict* (2004) at 6, 45, 179–187.

¹¹³ For an account that liberal peacebuilding practice amounts to state-building rather than peacebuilding due to its disregard of reconciliation among the conflicting parties, see Campbell and Peterson, 'Statebuilding', in Mac Ginty (ed), *Routledge Handbook of Peacebuilding* (2013) at 339, 343. See also Richmond and Franks, *Liberal Peace Transitions* (2009) at 181.

¹¹⁴ For an account that established democratic institutions in divided societies cannot necessarily prevent armed conflict, see Stewart and O'Sullivan, 'Democracy, Conflict and Development—Three Cases', in Ranis et al. (eds), *The Political Economy of Comparative Development into the 21st Century* (1999).

¹¹⁵ Marshall and Elzinga-Marshall, 'Global Report 2017: Conflict, Governance, and State Fragility', available at <http://www.systemicpeace.org/vlibrary/GlobalReport2017.pdf>.

¹¹⁶ Para 34.

¹¹⁷ Para 35.

¹¹⁸ Gilbert argues that focusing merely on these enumerated features may be 'wholly' insufficient for fulfilling the obligation of preserving minorities' identity. Gilbert, 'The Cultural and Political Autonomy of Minorities', *L'Observateur des Nations Unies*, 23 (2007), ISSN 1281–3389, 225 at 229.

¹¹⁹ Brown and Langer, 'Horizontal Inequalities and Conflict: A Critical Review and Research Agenda' (2010) 10/1 *Conflict, Security & Development* 27 at 46, 48–9 (on the salience of ideology and HIs rather than ethnic identity in the Guatemalan conflict).

cannot be construed as suggesting a clear focus on *all* possible identity groups as beneficiaries of the collective measures necessary for effectively realizing the right to peace.

These references *prima facie* can neither be taken to guarantee that groups *collectively* will be considered as beneficiaries, given that the Declaration reaffirms the prevailing individualist-orientation¹²⁰ of international human rights instruments. This is evident with respect to its reference to minorities as the Human Rights Committee's (HRCte) jurisprudence confirms that individuals are the beneficiaries of minority rights protection.¹²¹ This is not to ignore the more recent HRCte Views that emphasises the collective nature of minority rights to protect groups' identity, especially in conjunction with the rights to participation in political and public affairs under Article 25, and internal self-determination, drawing also on collective indigenous rights.¹²² The Committee, however, essentially confirms that individual minority rights can also be enjoyed collectively to ensure internal self-determination of particular peoples rather than minority rights being possessed by collectivities. The 2016 Declaration notably does not explicitly reaffirm the 2007 UN Declaration on the Rights of Indigenous Peoples which construes collectivities as right-holders.¹²³ Therefore, its reference to minority rights per se cannot be considered as a guarantee for a focus on collectivities' equal enjoyment of rights relative to other collectivities, which is required for a HIs-reduction approach.

In contrast, the Declaration's reference to 'furthering equal social development' of victims of racism may be construed as permitting collectivities to be considered as beneficiaries, drawing on measures and policies for eliminating racial discrimination enshrined in Article 2(1) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Under ICERD, States are to ensure 'the adequate development' of disadvantaged racial groups *qua* groups.¹²⁴ While the relevant reference in the 2016 Declaration may allow collective measures and thus possibly HI-reduction, this is limited to groups based on 'race, colour, descent, or national or ethnic origin'.¹²⁵ Therefore, this reference is not an adequate guarantee of HIs-reduction across *all* possible identity groups; rather, it is only a partial measure for achieving sustainable peace.

Lastly, it is crucial to discuss whether the reference to equality and non-discrimination¹²⁶ in Article 2 of the Declaration can be understood to guarantee the elimination of HIs or horizontal equality across political, socio-economic and cultural status spheres and across all identity groups. This is warranted to demonstrate that the proposed direct (targeted) collective measures in the present study are indeed necessary to facilitate the fulfilment of the right to peace. Equality and non-discrimination as a standalone right under Article 26 of the ICCPR,¹²⁷ like 'the vast

¹²⁰ Boven, 'Categories of Rights', in Moeckli et al. (eds), *International Human Rights Law*, 3rd edn (2017) at 137.

¹²¹ HRCte, *Apirana Mahuika et al. v. New Zealand* (547/1993), Views, CCPR/C/70/D/547/1993 (2000) at paras 9.2 and 9.4. HRCte, *Tiina Sanila-Aikio vs Finland* (2668/2015), Views, CCPR/C/124/D/2668/2015 (2018) at para 6.9. See also Boven, *ibid.*, 138; McCorquodale, 'Group Rights', in Moeckli et al. (eds), *ibid.*, (2017 & 2022) at 360–361 and 375. Wipman, 'The Evolution and Implementation of Minority Rights' (1997) 66/2 *Fordham Law Review* 597 at 604, 609, 623. See also HRCte, General Comment No. 23: Article 27 (Rights of Minorities), CCPR/C/21/Rev.1/Add.5 (1994), para 9. UNGA Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, A/RES/47/135 (18 December 1992). For an account that minority collective claims can be realized through individual minority rights drawing on Yoram Dinstein (1976), see Loper, 'Substantive Equality in International Human Rights Law and Its Relevance for the Resolution of Tibetan Autonomy Claims' (2011) 37/1 *N.C.J. Int'l L. & Com. Reg.* at 8.

¹²² HRCte, *Tiina Sanila-Aikio v Finland*, *ibid.*, para 6.9.

¹²³ A/RES/61/295 (2007). See also Boven, *supra* n 120 at 138.

¹²⁴ International Convention on the Elimination of All Forms of Racial Discrimination (1965), 660 UNTS, Articles 2 (1)(c), (d) and 2(2).

¹²⁵ For the definition of racial discrimination, see *ibid.*, Article 1(1).

¹²⁶ For Moeckli, despite being traditionally used interchangeably, the term 'non-discrimination' has recently been construed as referring to 'formal equality' whereas 'equality' refers to *substantive equality*'. See Moeckli, 'Equality and Non-Discrimination', in Moeckli et al. (eds), *International Human Rights Law*, 4th edn (2022) at 152. Conversely, for Guillemet-Fernandez and Puyana, the principle refers to equal treatment; see 'Implementing the Declaration on the Right to Peace in the World' (2017) 3 *European Human Rights Review* at 289.

¹²⁷ *Supra* n 96. Moeckli, *ibid.*, 155–56.

majority of human rights' in IHRL,¹²⁸ typically refers to the individual as the right-holder. Although equality may also be enjoyed in groups and asserted by groups on behalf of individual group members, as a collective right it simply refers to 'the sum' of the right to equality enjoyed by each member of the group.¹²⁹ It should therefore be distinguished from collective rights enjoyed by groups *qua* groups¹³⁰ requisite for the equal status of groups.¹³¹ While violations of the right to equality may be linked to the emergence of HIs and collective grievances,¹³² this link is only true with respect to collectivities. The full realization of an individual right to equality may not necessarily guarantee horizontal equality among identity groups,¹³³ particularly if entrenched disadvantages suffered *qua* groups are overlooked.

Furthermore, individual complaint procedures in UN treaty bodies—and regional mechanisms—typically concern violations of individual rights enshrined in the respective instrument. The scope of the mandates of treaty bodies such as HRCtE and the Committee on Economic, Social and Cultural Rights (CESCR) exclude a focus on violations of rights not covered in the respective instrument, even if these violations are interrelated and perpetuate violations of rights in the respective instrument.¹³⁴ Consequently, the requisite holistic focus on pervasive disadvantages and 'multidimensional'¹³⁵ HIs suffered across political, socio-economic and cultural status spheres *qua* groups is not guaranteed. Yet, studies show that political HIs or political exclusion and violations of political rights perpetuate socio-economic and cultural status HIs, while the latter also further entrenches political HIs.¹³⁶ Therefore, the protection of the individual right to equality through international protection mechanisms, including domestic anti-discrimination laws,¹³⁷ would be inadequate to address multidimensional HIs and relative disadvantages suffered by collectivities,¹³⁸ and consequently to prevent violent conflict.

This is not to overlook the growing adoption of a more comprehensive understanding of equality, that is, substantive equality in IHRL that can potentially facilitate the

¹²⁸ McCorquodale, *supra* n 121 at 344. See also Boven, *supra* n 120 (who argues that individuals separately are beneficiaries of rights under IHRL).

¹²⁹ Sanders, 'Collective Rights' (1991) 13/3 *Human Rights Quarterly* 368 at 369.

¹³⁰ For example, peoples' right to self-determination, minorities' cultural-language rights that render collectivities as beneficiaries. For an account of the nuances of group and collective rights, and individual and collective rights, see *ibid.*, 370, 374, 382. For Miller, conceptually group/collective rights are not reducible to individual human rights but protect collectivities' essential interests. Miller, 'Group Rights, Human Rights and Citizenship' (2002) 10/2 *European Journal of Philosophy* at 184–5. This article also distinguishes collective rights enjoyed *qua* groups from individual rights, which may be also enjoyed in a group—i.e. by a group of individuals as a sum of each individual's right. See also Wellman, *supra* n 46.

¹³¹ For the prevailing individualistic practice of minority protection despite 'the collective rights overtones' of minority rights, see Wippman, *supra* n 121 at 609. See also Gilbert, 'Individuals, Collectivities and Rights', in Ghanae-Hercock and Xanthaki (eds.), *Minorities, Peoples and Self-Determination* (2004) 139.

¹³² Gurr (2000) explains that economic and social discrimination (and inequalities) experienced as groups provoke the collective grievances that mainly drive armed conflict, cited in Østby, 'Polarization, Horizontal Inequalities and Violent Civil Conflict' (2008) 45/2 *Journal of Peace Research* 143 at 149.

¹³³ For Sanders (*supra* n 129 at 374), 'individual and collective rights [are not] necessarily interdependent'; nor does the former guarantee the latter. See also Raz cited in Miller, *supra* n 130 at 184.

¹³⁴ Article 5 of CERD and generally CEDAW articles are exceptions by explicitly listing the prohibition of racial and gender discrimination, respectively, in the enjoyment of both civil and political, and economic, social, and cultural rights.

¹³⁵ Stewart, *supra* n 7 at 12.

¹³⁶ Stewart, Brown and Langer, *supra* n 94 at 287–93, 296–97.

¹³⁷ See also Waldorf, 'Legal Empowerment and Horizontal Inequalities after Conflict' (2019) 55/3 *The Journal of Development Studies* 437 at 443 (that legal empowerment involving litigation-based rights enforcement is focused more on vertical than horizontal inequalities because it typically aims to enforce individual rights and tackle inter-personal disputes rather than collective rights and inter-group disputes). For an account that substantive equality is warranted to avoid the pitfalls of litigation-based protection of (formal) equality typically adopted in anti-discrimination laws, disregarding group disadvantages, see Freedman, 'Substantive Equality Revisited' (2016) 14/3 *International Journal of Constitutional Law* 712 at 718–19. Freedman, *Discrimination Law*, 2nd edn (2011), Chapter 1.

¹³⁸ On the insufficiency of focusing on non-discrimination in one sphere only, e.g. housing, education, or health, for eliminating perpetuating conditions of extreme poverty, see UN Human Rights Council, Report of the Special Rapporteur on extreme poverty and human rights, 19 July 2021, A/76/177, paras 54, 55 (hereinafter SR report).

elimination of HIs across collectivities.¹³⁹ UN human rights bodies and special procedures—as well as domestic and regional mechanisms—increasingly supplement a formal equality or equal treatment perspective by taking into account persistent disadvantages affecting individuals' enjoyment of human rights.¹⁴⁰ Notably, CESCR General Comment No. 20 urges States to address *systemic* discrimination (pervasive 'relative disadvantages') suffered by groups alongside conditions that perpetuate *substantive (de facto)* discrimination and *indirect* discrimination that has a 'disproportionate impact' on the enjoyment of rights.¹⁴¹ However, there is no agreed-upon definition of substantive equality.¹⁴² The content of requisite special measures for bringing about substantive equality typically remain unspecified in treaty bodies' views and concluding observations, although these often emphasise addressing pervasive disadvantages suffered *qua* groups.¹⁴³

States' positive actions aiming to guarantee non-recurrence and remedy of violations may potentially render groups of individuals as beneficiaries. Yet, these groups typically consist of those persons who suffer the same disadvantaging conditions and violations of the right in question as the author of the respective individual communication. Thus, such a substantive equality perspective per se is not a guarantee for an attention on all multidimensional disadvantages and HIs suffered by all groups. Although treaty bodies also focus on broader issues affecting the enjoyment of rights in their concluding observations while exercising their periodic monitoring mandate for State parties, the highlighted violations are typically in relation to marginalized groups suffering from issues like extreme poverty and exclusion,¹⁴⁴ and persons with recognised protected characteristics.¹⁴⁵ Among special measures that treaty bodies frequently urge is establishing quotas to increase underrepresented or marginalized group members' access to jobs, higher education and services as an immediate and effective solution for substantive equality.¹⁴⁶ However, such quotas per se do not necessarily render groups as collective beneficiaries since they essentially apply to qualified persons without due regard to the collective disadvantages suffered by group members in acquiring the requisite merit to be entitled to quotas in the first place. Tackling such pervasive interrelated disadvantages rather requires supplementary policies

¹³⁹ CESCR, General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3), E/C.12/2005/3 (2005), paras 15, 7, 8(b) (that '[t]he principles of equality and non-discrimination by themselves are not always sufficient to guarantee true equality').

¹⁴⁰ Moekli, supra n 126 at 164–66. For an overview of relevant instruments, special procedures and general comments, see Fredman and Goldblatt, Gender Equality and Human Rights, UN Women Discussion Paper No. 4 (2015) at 12–14 (regarding gender equality), available at <https://www.unwomen.org/en/digital-library/publications/2015/7/dps-gende-r-equality-and-human-rights>. Loper, supra n 121 at 8–30 (regarding collective minority rights). For the application of substantive equality to the same protected groups under EU anti-discrimination law, see Vos, 'The European Court of Justice and the March towards Substantive Equality in European Union Anti-Discrimination Law' (2020) 20/1 *International Journal of Discrimination and the Law* at 69. For examples of the application of substantive equality at the domestic level, see Fredman (2016), supra n 137. Blaker, 'Non-Discrimination and Equality as the Foundation of Peace' (2019) 285, in Bailliet (ed.) supra n 12.

¹⁴¹ CESCR, General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (Art. 2(2)), E/C.12/GC/20 (2009), paras 12, 8(b), 10(b).

¹⁴² Fredman (2016), supra n 137 at 720.

¹⁴³ This is the case even in the area of gender discrimination that includes a well-developed substantive equality perspective, see Fredman and Goldblatt, supra n 140 at 19.

¹⁴⁴ Most recent CESCR and HRCte concluding observations for post-conflict States parties show that they mostly focus on the victims of extreme or absolute disadvantages and minority and indigenous rights. See CESCR, 'Concluding observations Sri Lanka', E/C.12/LKA/CO/2–4 (2010), para 13; and E/C.12/LKA/CO/5 (2017), para 15, focusing on remedies for 'plantation Tamils' in extreme poverty. CESCR, 'Concluding observations of on the sixth periodic report of Colombia', E/C.12/COL/CO/6 (2017), para 23, recommending (unspecified) special measures to address structural discrimination, extreme poverty, and exclusion of indigenous and Afro-Colombian peoples. CESCR, 'Concluding observations on the fourth periodic report of Iraq', E/C.12/IRQ/CO/4 (2015), paras 25–26, urging protection of minority rights and promotion of reconciliation among ethnic-religious groups. CESCR, 'Concluding observations of Syrian Arab Republic', E/C.12/1/Add.63 (2001), para 30; HRCte, 'Concluding observations of Syrian Arab Republic', CCPR/CO/84/SYR (2005), para 18, on the minority rights of Kurds. See also, infra n 149 (for Guatemalan examples).

¹⁴⁵ See Section 5.A for further discussion about the need to extend the focus beyond these protected groups.

¹⁴⁶ For example, see HRCte, 'Concluding observations on the fourth periodic report of Guatemala', CCPR/C/GTM/CO/4 (2018), paras 8–9 (for increasing the representation of women, indigenous persons and persons of African descent).

for transforming structures that perpetuate systemic disadvantages and HIs across groups.¹⁴⁷ Examination of HRCte and CESCR concluding observations for selected post-conflict States, however, shows that the Committees overlook the relative disadvantages of groups vis-à-vis other identity groups (i.e. HIs), focusing instead exclusively on regional disparities, and/or the disadvantages suffered by marginalized, vulnerable, minority or indigenous groups.¹⁴⁸ The prevailing approach may ensure a focus on redressing HIs and relative disadvantages suffered by groups constituting conflict parties only if they fall under these vulnerable categories, or HIs are between groups that are concentrated in different regions. Guatemala exemplifies this in that indigenous peoples were mobilized in the civil war—albeit, on leftist ideological rather than ethnic grounds.¹⁴⁹ Overall, the current IHRL practice cannot guarantee redressing HIs suffered by all identity groups beyond the most marginalised or regionally clustered groups. This is, however, insufficient to prevent armed conflict and fulfil the right to peace within societies,¹⁵⁰ given that relative rather than extreme deprivations drive armed mobilization and conflict.¹⁵¹

In sum, this section demonstrated that fulfilling the right to peace as a process that can likely bring about sustainable positive peace requires addressing HIs among collectivities. It showed that the Declaration's references to minority and victim groups would be insufficient to provide for a focus on all identity groups *qua* groups. Furthermore, it showed that the current IHRL practice for protecting the individual right to equality, even if understood in its comprehensive substantive variant, is limited to guaranteeing a holistic focus on and redress of interrelated HIs across all identity groups. Overall, this section revealed that it is a misconception that peace premised on liberal (peacebuilding) elements and human rights per se is sufficient for achieving sustainable positive peace within societies. Against this background, this article argues for measures and mechanisms that focus on collectivities for diagnosing and redressing HIs in all spheres directly and holistically to complement existing universal measures for protecting individual human rights.¹⁵² The fact that the Declaration does not explicitly or implicitly prescribe addressing HIs, however, is not an impediment to such approaches, given that Article 3 gives the UN the flexibility to take measures it deems necessary for fulfilling the right to peace. The following section offers guiding principles that can direct UN bodies at addressing HIs as a means to fulfilling the right to peace.

¹⁴⁷ Fredman (2016, *supra* n 137 at 722, 724, 729–30) argues that substantive equality's first dimension of redressing disadvantage requires 'removing obstacles to genuine choice' and capabilities, and structural changes that cannot be achieved through quotas only. See also SR Report, *supra* n 138 at para 60, that affirmative actions should be supplemented by structural transformation.

¹⁴⁸ For reports on Sri Lanka and Columbia that overlook HIs or disadvantages across (former) conflict parties, see *supra* n 144. While CESCR acknowledges the role of extreme inequalities and social injustices in driving conflict, it nevertheless focuses on redressing extreme disadvantages of victims of conflict than social injustices across conflict parties, e.g. CESCR, 'Concluding observations of on the sixth periodic report of Colombia', E/C.12/1/Add.74 (2001), paras 8, 22, 30. Similarly, while the Committee and Special Rapporteur acknowledge inequalities as root causes of conflict in CAR, both reports highlight 'inequalities of treatment' across regions and population rather than substantive equality (necessary to encompass HIs), see CESCR, 'Concluding observations concerning the initial report of the Central African Republic', E/C.12/CAF/CO/1 (2018), para 10. HRC, 'Report of the Independent Expert on the situation of human rights in the Central African Republic', A/HRC/45/55 (2020), paras 63, 78.

¹⁴⁹ Like the CESCR recommendations, Guatemala's practice consisted of universal indirect measures, which were found to have contributed to HIs-reduction in education but not to reconciliation among conflict parties. See Caumartin and Sánchez-Ancochea, 'Explaining a Contradictory Record: The Case of Guatemala', in Stewart et al. (eds), *Horizontal Inequalities and Post-Conflict Development* (2011) at 161–62, 165. See also CESCR, 'Concluding observations on the third periodic report of Guatemala', E/C.12/GTM/CO/3 (2014), paras 9 and 25 (urging for targeted approach to address indigenous peoples' school drop-out in rural areas).

¹⁵⁰ For a detailed account, see Section 5.B.

¹⁵¹ Alcorta, Smits, and Swedlund, 'Inequality and Ethnic Conflict in Sub-Saharan Africa' (2018) 97/2 *Social Forces* 769 at 785–6, that the extremely deprived groups lack resources and opportunities for resorting to armed conflict, whereas disparities among similarly wealthy groups do drive conflict. See Gurr (2000) cited in Østby, *supra* n 132 at 145, 147.

¹⁵² For an account arguing for a universal (indirect) human rights approach, see Skarstad, *supra* n 93.

5. GUIDING PRINCIPLES FOR IMPLEMENTING AND PROMOTING THE RIGHT TO PEACE TOWARDS SUSTAINABLE POSITIVE PEACE

To implement the right to peace, institutions need 'specific' guidance and a clear definition of peace.¹⁵³ The previous section established that fulfilling the right to peace as a process requires policies and frameworks that are likely to bring about lasting peace. It also argued that sustainable positive peace as the absence of the root causes of armed conflict requires tackling HIs rather than merely promoting liberal institutions or human rights. Such a concept of peace can provide specific guidance for the implementing institutions. To offer further specific guidance for fulfilling the right to peace, this article draws on Sandra Fredman's comprehensive concept of substantive equality as a basis for addressing HIs. Her concept entails redressing disadvantages, including underlying prejudices and perpetuating attitudes, through proactive, inclusive, transformative and redistributive policies that benefit disadvantaged groups collectively.¹⁵⁴ Such a notion of substantive equality would therefore be well-suited as the core objective of policies and measures designed to fulfil the right to peace as a process. Accordingly, this section proposes guiding principles that can help steer the Declaration's implementation towards lasting positive peace. The proposed principles draw on or extend principles, goals, and aspirations already agreed on by States, whether in the Declaration or other international instruments. This section also sketches how the guiding principles would apply and can help fill the gaps in prevailing measures and approaches.¹⁵⁵ Although addressing HIs through targeted rather than universal or generic measures may have adverse effects on social cohesion and risk (re)lapses into violence,¹⁵⁶ it is beyond the scope of this article to discuss such effects and how to offset them.

A. Guiding Principles: Diagnosis and Reduction of HIs across 'Relevant' Identity Groups

The previous sections concluded that an individual rights-based approach focusing on the protection of the persons belonging to a minority or vulnerable group would not be sufficient to address HIs across all identity groups nor therefore for ensuring sustainable prevention of armed conflict and fulfilling the right to peace. This article thus argues that the right-to-peace frameworks should incorporate a focus on conflict-prone situations and HI-reduction to complement the prevailing peacebuilding and human rights practices that the 2016 Declaration suggests.

To this end, this article proposes three principles to guide UN bodies and measures for fulfilling the right to peace to extend a focus on substantive equality between all relevant identity groups *qua* groups. The first guiding principle entails addressing HIs and unequal development experienced by identity groups *distinguished on any grounds of othering*. The second principle qualifies what elimination of HIs entails, namely substantive equality between advantaged and disadvantaged identity groups in the enjoyment of all human rights and development. Attaining these targets requires determining *relevant* groups and comparators. Therefore, the third principle guides institutions to focus on divisions in respective societies across which polarization exist as the basis for specifying relevant groups or HIs.

¹⁵³ Alston, *supra* n 9 at 325. Bailliet, *supra* n 12 at 82.

¹⁵⁴ For an account of substantive equality entailing 'social justice-led' approach beyond typical judicial and positive actions, see Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (2008) at 189, 190–91; Fredman (2011 and 2016), *supra* n 137.

¹⁵⁵ This is not to ignore that such gaps exist due to the non-intervention principle under Article 2(7) of the UN Charter limiting the UN from engaging with matters like historical injustices that are politicised and considered as internal affairs by States. Yet, as next Section demonstrates, the momentum regarding recognising substantive equality and comprehensive peacebuilding, alongside existing positive and soft laws, provide reasonable bases for the proposed guiding principles.

¹⁵⁶ Stewart, *supra* n 7. Waldorf, *supra* n 137.

Overall, these guiding principles permit a focus on any identity group that experiences HIs and discrimination based on *any* ground of othering collectively. As such, they extend the beneficiaries of the right to peace to any disadvantaged collectivity across fault lines, particularly beyond recognized minorities,¹⁵⁷ vulnerable or marginalized groups, such as the elderly, or refugees. These principles also provide further guidance for implementing institutions for reducing HIs. Addressing HIs entails seeking substantive equality for disadvantaged groups and raising their conditions to the level enjoyed by advantaged groups. This goal differs from seeking liberal institution-building or individual equality of treatment, results, or opportunities per se because it involves a particular focus on the social and structural changes required to eliminate conditions perpetuating HIs and disadvantages that would benefit disadvantaged groups *qua* groups.¹⁵⁸

The third guiding principle facilitates the diagnosis of relevant HIs, namely those that are likely to cause armed conflict or undermine the fulfilment of the right to intra-state peace, rather than all existing HIs suffered based on generation or gender, among other inter-sectional identities. This is to ensure a targeted approach for eliciting peace and preventing armed conflict that complements the Declaration's rights-based approach to the right to peace. This also requires a focus on identifying the divisions in the respective societies beyond traditional ethnic-religious fault lines¹⁵⁹ by considering broadly any contradictions between advantaged and disadvantaged groups that create divisions or polarization. Put differently, diagnosing relevant HIs entails taking the conditions of the advantaged group as the standard of comparison to measure the discrepancies or deprivations endured by disadvantaged groups. For example, groups divided by political right and left ideologies, secular and religious world views, or simply as the oppressed subjects (or regime opponents) versus the ruling elite (or regime base) can thereby become a concern of programmes designed to fulfil the right to peace.¹⁶⁰ This enables the HIs of any disadvantaged group positioned opposite an advantaged rival group to be captured. Such a flexible approach in specifying identity groups for the purposes of HI-reduction and fulfilling the right to peace is essential as part of an all-encompassing framework that can tackle likely causes of armed conflict. In this proposed approach, the identity groups of concern do not necessarily warrant rigid protection for 'survival'¹⁶¹ as required for peoples to enjoy the prohibition of genocide, the right to self-determination or minority and indigenous rights. Nor are they likely to be as cohesive and salient collectivities as indigenous peoples or ethnic, religious, or linguistic minorities. Hence, the proposed flexible approach is both necessary and viable.

These guiding principles are based on the 2016 Declaration as it urges the pursuit of 'appropriate sustainable measures' in Article 3, and equality and non-discrimination, and freedom from fear and want in Article 2. While these provisions, ordinarily construed, do not necessarily guarantee addressing HIs as elaborated in the previous sections, the wordings are generic enough to permit the adoption of such guiding principles, which are essentially directed at eliminating fear of violent conflict, and want in the form of relative deprivation and disadvantage by seeking substantive equality for the disadvantaged segments of conflict-prone societies as collectivities. Furthermore, the principles have a soft-law basis derived from CESCR General Comment No. 20, which recommends addressing systemic and indirect discrimination endured by groups

¹⁵⁷ For an example of limited recognition of minorities, see CESR, 'Concluding Observations: Turkey', E/C.12/TUR/CO/1 (2011), para 10.

¹⁵⁸ Fredman (2011), *supra* n 137 at 25–33.

¹⁵⁹ This article's focus is thus broader than that of HIs scholarship that predominantly focus on racial/ethnic, religious and language-based groups. See Hillesund et al., *supra* n 87 at 464. Brown and Langer, *supra* n 119 at 28. Stewart, *supra* n 7 at 7, 12–13.

¹⁶⁰ See also Iris Marion Young's non-fixed description of groups cited in Fredman (2011), *supra* n 137 at 111.

¹⁶¹ Sanders, *supra* n 129 at 370. See also McCorquodale, *supra* n 121.

collectively.¹⁶² To the extent of tackling discrimination experienced by ethnic or racial groups *qua* groups, they have a positive-law basis derived from ICERD.¹⁶³ The collectivist remedial approach entailed in the proposed principles can be also seen in the emerging practice of collective reparations as part of transitional justice measures whereby victims as collectivities benefit from remedial measures in post-violence transitioning societies.¹⁶⁴ Yet, such collective reparations practice can only provide an established basis for the principles' application in post-conflict contexts. On the other hand, States' positive duties under IHRL to ensure non-recurrence of violations may also provide an established basis for the proposed collectivist remedial approach for addressing HIs. Although current IHRL practice, as elaborated earlier, typically focuses on redressing absolute disadvantages suffered by marginalized groups,¹⁶⁵ this could be extended to benefit *all* collectivities suffering HIs if a broader concern for 'other status' were taken in conjunction with an attention to non-extreme relative disadvantages. Indeed, the principles' focus on tackling discrimination on all grounds of othering, including non-conventional ones, have a legal basis derived from IHRL prohibition of discrimination on the grounds of broader 'other status' and 'political opinion' categories.¹⁶⁶

The goal of addressing HIs also has a soft-law basis in UN development policies. In particular, Target 10.2 of the Sustainable Development Goals (SDG), which aims at the 'social, economic and political inclusion of *all*', in combination with references to HIs in UN documents¹⁶⁷ urging a focus on HIs for fulfilling SDGs, would provide a consensual basis¹⁶⁸ for the proposed principles. Furthermore, an established basis for addressing HIs may be derived from the existing focus in IHRL on regional disparities in the enjoyment of human rights,¹⁶⁹ albeit only to the extent of HIs across regions and not necessarily across all groups horizontally within regions or societies. In short, the proposed principles are relevant in that they extend established understandings and applications of substantive equality to permit a holistic approach to addressing HIs across *all* (socio-economic, political and cultural status) spheres and collectivities. That is, they shift the attention beyond prevailing concerns for vulnerable groups, and extreme and regional marginalization in IHRL.

B. A Sketch of the Application of the Guiding Principles

This section discusses how implementing the Declaration through the proposed principles can allow situations to be addressed that current UN human rights frameworks overlook. In particular, it illustrates how the guiding principles apply and counterfactually discusses how the principles could have contributed to giving more attention to situations in Egypt, Libya and Syria, which were overlooked by the Human Rights Council's Universal Periodic Review (UPR) mechanism before the eruption of the Arab Spring. This analysis focuses on UPR mechanism, because its monitoring mandate is more encompassing than that of treaty bodies, involving all international human rights obligations and pledges of States under review.¹⁷⁰

¹⁶² *Supra* n 141.

¹⁶³ *Supra* n 124.

¹⁶⁴ UNGA Resolution on Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147 (16 December 2005), Article 13. For an account that collective reparations are symbolic rather than 'substantive redress', see Moffett and Sandoval, 'Tilting at Windmills: Reparations and the International Criminal Court' (2021) *Leiden Journal of International Law* 1 at 12–13. See also Rosenfeld, 'Collective Reparation for Victims of Armed Conflict' (2010) 92/879 *International Review of the Red Cross* 731.

¹⁶⁵ See discussion accompanying from *supra* n 134 in Section 4.B.

¹⁶⁶ Fredman (2011), *supra* n 137 at 125.

¹⁶⁷ *Supra* n 91.

¹⁶⁸ Preambular para 3 and Article 1 of the Declaration emphasize SDGs and development for achieving peace, respectively.

¹⁶⁹ CESCR, 'Concluding observations on the initial report of South Africa', E/C.12/ZAF/CO/1 (2018), para 17(b). CESCR, 'Concluding observations of Sri Lanka', E/C.12/LKA/CO/2–4 (2010), para 30.

¹⁷⁰ HRC Resolution on Institution-Building of the United Nations Human Rights Council, A/HRC/RES/5/1 (2007), para 1.

Just before the Arab Spring uprisings erupted in the Middle East and North Africa region, the bulk of the recommendations in the UPR first-cycle reports for Egypt and Libya emphasized protection of the rights of vulnerable groups, such as women, children, persons with disabilities, minorities, refugees, and migrant workers.¹⁷¹ UN bodies and the majority of the literature acknowledge that mass protests erupted in the region due to discontent, particularly due to repression, high youth unemployment, exclusion and underdevelopment endured by wider segments in the respective societies.¹⁷² Neither of the country reports emphasizes these factors or the fault lines around which social conflict erupted in Arab Spring societies. Indeed, each report includes less than five recommendations (out of approx. one hundred) pertaining to equal development and wealth redistribution to marginalised groups, including tackling youth unemployment.¹⁷³ The vast majority of recommendations focus instead on protecting vulnerable groups and improving their conditions, incorporating the same concerns and approaches in the relevant reports of the treaty bodies.¹⁷⁴ This is not to argue that these protections were irrelevant. Rather, this is to highlight that frameworks for the fulfilment of the right the peace warrant also a distinct approach that includes a direct focus on divisions, exclusion, and socio-economic, political, and cultural status HIs and disadvantages across all segments, beyond minorities, and marginalized and vulnerable groups.

While multiple factors may explain the mobilization of diverse identity groups and the escalation into violence, drawing on the explanations of grievance and HIs theories of armed conflict, this article argues that fulfilling the right to peace requires attention to the collective grievances or social injustices caused by relative socio-economic and political deprivations, underdevelopment and exclusion, alongside other factors. In Egypt, which did not experience armed conflict but political violence in the form of a coup d'état in 2013, the diverse identity groups that participated in the Arab Spring protests in 2010 shared anti-regime sentiment or grievances due to relative underdevelopment, including inadequate and undignified living standards. Relative underdevelopment and deprivation refer to perceived or actual discrepancies regarding, such as the capabilities, opportunities, or enjoyment of all human rights, compared with the advantaged group(s). In Egypt's case, the comparator should be the ruling military-secular elites and their base. Similarly, in Libya and Syria, the oppressed masses experienced collective grievances due to relative deprivations in their enjoyment of human rights and development compared to the ruling class and its base in each country.¹⁷⁵

Admittedly, these cases may not provide the best examples where HIs and grievances can be diagnosed or the proposed guiding principles can be applied straightforwardly. This is because diagnosing relevant HIs ideally requires not only a privileged identity group as a standard of comparison but also relatively stable and salient identity groups that are disadvantaged compared to the former. This is typically more straightforward if social divisions are mostly based on salient grounds like ethnic or religious differences. Arguably, therefore, it is easier to diagnose

¹⁷¹ See Reports of the Working Group on the Universal Periodic Review for Egypt, A/HRC/14/17 (26 March 2010), paras 108, 57 (Copts); for Libya, A/HRC/16/15 (4 January 2011), paras 93.63 and 93.65.

¹⁷² For the protesters' slogan 'Bread, freedom, social justice and human dignity' and the roots of protests, see Ghanem, *The Arab Spring Five Years Later: Toward Great Inclusiveness* (2015) at 39, 46, 49–50. See also OHCHR in the field: *Middle East and North Africa* (2011) at 356, available at https://www2.ohchr.org/english/ohchrreport2011/web_version/ohchr_report2011_web/allegati/25_MENA.pdf. See also Turan, 'The UN's Response to the Underlying Causes of the Arab Spring Before and After the Eruption of Events' (2018) 54/4 *Middle Eastern Studies* 683 at 684–87.

¹⁷³ For exceptions, see Libya report, supra n 171, recommendation 93.45, which urges Libya to pursue 'efforts aimed at improving the standard of living of its population, taking into consideration the equitable distribution ... among all segments and groups in society and among various regions'. Egypt report, supra n 171, para. 95.54, which urges Egypt to improve 'wealth distribution and poverty eradication, especially assistance to the marginalized and disadvantaged groups'.

¹⁷⁴ As the UPR review relies on the compilation of treaty bodies' reports (supra n 170, para 15(b)), it is inevitably vulnerable to the same limitations of treaty bodies' practice in addressing HIs as proposed in this article, see discussion accompanying from supra n 134 in Section 4.B.

¹⁷⁵ For the divisions in MENA societies, see also Ghanem, supra n 172 at 7–14.

HIs in societies that experience high polarization between salient ethnic-religious groups, such as the Sunni, Shia and Kurds in Iraq.¹⁷⁶ Nevertheless, the absence of such ideal conditions for measuring and monitoring HIs¹⁷⁷ does not necessarily render the application of the proposed guiding principles or their core aim of reducing HIs redundant. Rather, their application would be more important in cases like Egypt or Libya where mass protests have been mostly driven by fluid political identity, such as secular–religious or militarist–non-militarist (pro-democracy) dichotomies, rather than ethno-religious identity.¹⁷⁸ Identifying these conflict-prone polarizations is crucial if frameworks designed to fulfil the right to peace are to address the reasons for, and prevent, mass mobilizations by non-salient or non-conventional identity groups and violent government responses. The proposed third guiding principle is formulated precisely for this reason, that is, to enable a focus on HIs experienced by non-conventional identity groups, taking into consideration the divisions in the respective societies.¹⁷⁹

The necessity and feasibility of the proposed third guiding principle can be further justified by drawing on the complexities relating to the conflict parties in Syria during the Arab Spring uprisings and subsequent civil war. Although the Syrian armed conflict is often portrayed as a sectarian conflict, the conflicting parties could not always be distinguished by sectarian characteristics. Rather, their identities were mostly fluid, as in most societies, and economic benefits also motivated their recruitment to both the regime and opposition side during the protests and civil war, regardless of sect.¹⁸⁰ Application of the third guiding principle would allow institutions to devise appropriate policies and measures, despite the complexities in identifying salient disadvantaged groups, such as in Syria, Libya and Egypt. Specifically, it would allow targeting of collective grievances and HIs by focusing on conflict-prone core issue(s) around which polarization could develop or already exists, without the need to identify salient identity groups. Focusing on patterns of discrepancies in the enjoyment of a dignified life and human development while taking the advantaged group's standards of living as the benchmark can help diagnose and target relevant HIs even when identity groups are fluid or non-salient.¹⁸¹ Relevant deprivations can be measured by simply comparing the standards of living between the ruling or advantaged identity group(s) and the others *qua* groups conceived broadly, taking account core issues and fault lines. This would permit the capturing of situations like those in the pre-Arab Spring Syria that evidently threaten the enjoyment of the right to lasting peace within societies.

In short, these guiding principles aim to direct UN bodies towards diagnosing and addressing relevant HIs, which are the main drivers of intra-state armed conflict, by first identifying relevant identity groups or the core issues around which polarization develop. Overall, these principles provide for a comprehensive root-cause approach that can capture conflict-prone situations, which current human rights bodies overlook, by directing UN bodies to problematize HIs and pursue substantive equality across groups beyond the extreme marginalized. Such frameworks can therefore facilitate fulfilling with high probability the Declaration's objectives of conflict prevention and freedom from fear and want, and thereby the right to peace as a process.

¹⁷⁶ For examples of specific groups that resorted to conflict due to HIs, see Stewart, *supra* n 7 at 12.

¹⁷⁷ For difficulties in measuring HIs as even the seemingly most salient groups are fluid, see Brown and Langer, *supra* n 119 at 35.

¹⁷⁸ For the salience of political identity in the Guatemalan conflict, see *ibid.*, 46, 48–9.

¹⁷⁹ See text accompanying *supra* n 159.

¹⁸⁰ Phillips, 'Sectarianism and Conflict in Syria' (2015) 36/2 *Third World Quarterly* 357.

¹⁸¹ Directing the focus onto relevant HIs may also help avoid the consequences of targeted HI-reduction policies (entrenchment of identity groups and disintegration) that Stewart, Brown, and Langer warn against, *supra* n 94 at 323.

(i) Operationalization across the UN system

The proposed guiding principles can be operationalized through the UN's peace(-building), human rights and development pillars. This would ensure that HIs-elimination across all spheres becomes a goal of all measures that is applied to all identity groups *qua* collectivities, considered as the units of analysis and beneficiaries of policies and programmes of each pillar.¹⁸² In particular, the UN Secretary-General could promote the right to peace alongside the UN's sustaining peace efforts, specifying requisite measures based on the guiding principles. Accordingly, the UN's peacebuilding apparatuses, including the Department for Political and Peacebuilding Affairs (DPPA) under UN Secretariat, and UN Development Programme (UNDP), which promote and protect human rights and development, could also monitor situations in line with the criteria suggested by the guiding principles and undertake to promote the right to peace by pursuing measures guided by the proposed principles. This could further reinforce the links between these pillars while increasing the prospects of fulfilling the right to peace.¹⁸³

UNGA and Third Committee resolutions and studies regarding situations of human rights in specific countries could also incorporate the right to sustainable peace dimension. Similarly, UN human rights bodies, including OHCHR, HRC and its UPR mechanism, and country-specific and thematic special procedures¹⁸⁴ may incorporate the proposed principles in exercising their mandates. A new thematic special procedure mandate could be established to elaborate requisite measures for fulfilling the right to peace or existing mandate holders could incorporate the right to peace dimension. OHCHR could also take account in all its activities of the right to peace interpreted through the prism of the guiding principles.¹⁸⁵ Furthermore, CESCR and HRCte, among other treaty bodies, could add a right to peace perspective premised on the proposed guiding principles in exercising their mandates. Treaty bodies in particular could rely on a comprehensive understanding of substantive equality in conjunction with the proposed principles, which have some established basis,¹⁸⁶ in their concluding observations, general comments and views. By applying these principles while interpreting rights in respective treaties, treaty bodies can contribute to fulfilling the right to intra-state peace. However, it would still be essential to adopt a holistic approach to addressing HIs across political, socio-economic, and cultural spheres and all relevant groups beyond the most marginalized ones. This could be undertaken by the UPR mechanism compiling separate treaty body reports in view of the right to peace and the proposed principles. Furthermore, UNSC could also incorporate in activities of its peacekeeping missions the promotion and protection of the right to peace based on the proposed principles.

6. CONCLUSIONS

This article provided an in-depth analysis of the 2016 UNGA Declaration on the Right to Peace with a focus on its viability for eliciting lasting peace within societies. More specifically, it offered a conceptual critique of the Declaration by examining the positive and liberal elements of the peace it prescribes *vis-à-vis* eliciting the requisite conditions for sustainable positive peace, namely addressing HIs among identity groups as the main drivers of collective grievances and intra-state armed conflict. This laid the groundwork for a practical critique, namely the

¹⁸² Due to space constraints, this study cannot focus on the precise practical aspects of operationalizing these three pillars.

¹⁸³ For Alston (*supra* n 9, 325), fostering the interlinkages between the pillars is crucial for a viable right to peace.

¹⁸⁴ This was recommended by Mr. Guillermet-Fernández at the HRC workshop on the implementation of the 2016 Declaration, see Report of the United Nations High Commissioner for Human Rights, 'Summary of the intersessional workshop on the right to peace', A/HRC/39/31 (2018), paras 13, 68.

¹⁸⁵ *Ibid.*, para 13. HRC requested OHCHR to consider the right to peace in its activities, see HRC Resolution, Promotion of the right to peace, A/HRC/RES/41/4 (2019), para 6.

¹⁸⁶ See discussion in Section 5.A.

probability of fulfilling the right to peace in a way that contributes to sustainable positive peace, and a normative discussion about how this may be ensured.

This three-pronged analysis contributes to scholarship on the right to peace in several ways. First, it advances knowledge and adds to the scarce literature on the 2016 Declaration by providing a textual analysis of the provisions and identifying the scope, content and nature of the right to peace, and the right-holders and duty-holders, thereby highlighting the Declaration's novel aspects.

Second, the article provides an original examination of the viability of the proclaimed right by linking human rights scholarship and peace and conflict studies, with a particular focus on HIs theory regarding the root causes of armed conflict. As such, it offers a unique critique of the Declaration by covering conceptual, normative and practical aspects of the proclaimed right. Drawing on Sengupta's approach regarding the right to development, it posits that the test of viability of the right to peace entails examining whether the Declaration suggests measures that are likely to lead to the fulfilment of the right, namely bringing about positive intra-state peace. The article tests the assumption that the Declaration's liberal and positive elements (by premising peace on human rights, development, equality and non-discrimination, participatory governance, and minority and victim rights) per se can produce sustainable positive peace or fully realize the right to peace. It ascertains that these elements underpinned by, and typically pursued through, a predominantly individualistic rights-based approach are insufficient to holistically address HIs across all dimensions and all identity groups. Given that HIs are the main drivers of intra-state armed conflict, it concludes that the Declaration does not guarantee sustainable peace and prevention of armed conflict within societies. Thus, this article may contribute to further rethinking about the assumptions regarding the nexus between positive or liberal elements of peace pursued through a human rights approach and achieving sustainable positive peace, as well as about the adjustments or supplements needed in the prevailing approaches and measures to realize the right to intra-state peace.

Third, this article developed guiding principles to direct the implementation of the Declaration towards sustainable positive peace with a view to complementing the prevailing international human rights, peacebuilding and development practices. These principles aim at diagnosing and addressing relevant or conflict-prone HIs and involve a targeted (direct) approach that considers disadvantaged groups—beyond the most marginalized and vulnerable—*collectively* as the beneficiaries of remedial measures for substantive equality. These principles would complement universal (indirect) measures involving a human rights approach predominantly focused on individual rights and remedies. Hence, this article aims to contribute to both academic and policy debates on implementing the right to peace. Future research is needed on the viability, detailed application and possible adverse effects of the proposed targeted approach.

ACKNOWLEDGEMENTS

The author wishes to thank Clara Sandoval, Lars T. Waldorf, HRLR editors and anonymous reviewers, and Essex Law School REF reading group anonymous reviewers for helpful comments and suggestions on the earlier versions of this article.