

Proposed draft declaration on the right of peoples and individuals to international solidarity*

The General Assembly,

Recalling the Charter of the United Nations, and in particular the determination of States expressed therein to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained. to promote social progress and better standards of life in larger freedom and to employ international machinery for the promotion of the economic and social advancement of all peoples,¹

Recognizing that one of the pillars upon which international solidarity is built is the Universal Declaration of Human Rights, in which the equal and inalienable rights of all members of the human family are recognized² and which states that all human beings are born free and equal in dignity and rights³ and affirms that everyone is entitled to a social and international order in which rights and freedoms can be fully realized,⁴

Recalling the overwhelming manifestation of international solidarity expressed by States⁵ in the multitude of commitments and promises relating to human rights and development, most notably the adoption of the Universal Declaration of Human Rights in 1948, the Declaration on the Right to Development in 1986, the Vienna Declaration and Programme of Action in 1993, the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development in 1995, the Beijing Declaration and Platform for Action in 1995 and the Millennium Declaration in 2000,

Recalling also that the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, contains various references to international cooperation and solidarity,

Affirming that international solidarity is a broad principle not limited to international assistance and cooperation, aid, charity or humanitarian assistance, and that it includes sustainability in international relations, especially international economic relations, the peaceful coexistence of all members of the international community, equal partnerships and the equitable sharing of benefits and burdens,⁶

Mindful that, while globalization has opened up new opportunities for economic growth and development, particularly in developing countries, it has also been accompanied by a widening of the gap between developed and developing countries, widespread poverty and inequality, unemployment, social disintegration and environmental risks, and that the challenge is how to manage those processes so as to enhance their benefits and mitigate their negative effects upon people,

* This document is the Annex of report A/HRC/26/34 of the Independent Expert on human rights and international solidarity, Virginia Dandan.

¹ Charter of the United Nations, preamble.

² Universal Declaration of Human Rights, preamble.

³ Ibid., art. 1.

⁴ Ibid., art. 28.

⁵ Human rights Council Resolution 15/13, para. 8.

⁶ Human rights Council Resolution 18/5. para. 2.

Acknowledging that the ongoing globalization of trade and capital contributes to the interconnectedness and interdependence of individuals and States, presenting challenges that demand increased coordination and collective decision-making at the global level,

Stressing that international solidarity is a fundamental concept of mutually reinforcing relations among persons, groups and nations, an essential binding element that underpins global partnerships, a key approach to poverty eradication, and an indispensable component of the efforts to realize all human rights, including the right to development, as well as the Millennium Development Goals,

Recognizing that the worldwide response to HIV/AIDS led by States joining together is one example of how international solidarity can overcome global challenges such as reducing global warming, eradicating poverty and hunger, especially among children, and combating diseases and violence against women,

Taking into account the emphasis placed by the General Assembly on the importance of cooperation in its resolution 60/251 of 15 March 2006, recognizing that the promotion and protection of human rights should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Considering that States are developing consensus around the notion of mutual accountability,⁷ described as the need for accountability to the intended beneficiaries of cooperation, and to their respective citizens, organizations, constituents and stakeholders,⁸

Emphasizing the affirmation of States, expressed in the last paragraph of the Millennium Declaration, that the United Nations is the indispensable common house of the entire human family, through which they will seek to realize their universal aspirations for peace, cooperation and development, and their pledge of unstinting support for those common objectives and their determination to achieve them,⁹

Convinced that overcoming the current global challenges and moving forward to achieve the United Nations development agenda beyond 2015, and achieving the full realization of human rights for all, critically rest on international solidarity,

Declares:

Article 1

1. International solidarity shall be understood as the convergence of interests, purposes and actions between and among peoples, individuals, States and their international organizations in order to preserve the order and ensure the very survival of international society and to achieve common goals which require international cooperation and collective

⁷ Office of the United Nations High Commissioner for Human Rights and Center for Economic and Social Rights, *Who will be accountable? Human Rights and the Post-2015 Development Agenda* (HR/PUB/31/1). Available from www.ohchr.org/Documents/Publications/WhoWillBeAccountable.pdf.

⁸ See The Busan Partnership for Effective Development Cooperation 2011 outcome document. Available from www.oecd.org/dac/effectiveness/49650173.pdf. See also Organization for Economic Cooperation and Development, Development Assistance Committee, "DAC action-oriented policy paper on human rights and development" (2007). Available from www.oecd.org/development/governance-development/39350774.pdf.

⁹ General Assembly resolution 55/2, para. 32.

action,¹⁰ based on the international normative system of duties which they implement and practise to foster peace and security, development and human rights.

2. International solidarity shall be made evident in the collective actions of States that have a positive impact on the exercise and enjoyment of human rights by peoples and individuals within and outside of their respective territories, notably in the ratification of the United Nations international human rights treaties and international labour standards and the adoption of commitments and decisions agreed upon voluntarily between and among States at the regional and international levels.

Article 2

International solidarity shall be founded on the following principles:

- (a) The purposes and principles of the Charter of the United Nations in the true spirit of unity and fraternity;
- (b) Justice, equity, peaceful coexistence, non-interference, self-determination, mutual respect and accountability in international relations;
- (c) The permanent sovereignty of each State over its own natural wealth and resources and to determine freely, with its peoples, their own objectives of social development, to set their own priorities and to decide, in conformity with the principles of the Charter of the United Nations, the means and methods of achieving those objectives, without any external interference;¹¹
- (d) The right to development as a common concern of humanity;
- (e) Equitable, just and fair partnerships of States as the basis of international cooperation;
- (f) Good practices of collective action on the ground, whether among peoples, individuals or States, that give rise to desirable outcomes in advancing respect for and protection and fulfilment of human rights and fundamental freedoms for all individuals, without distinction as to sex, age, ethnicity, disability or other status;
- (g) The accountability of States to their peoples with regard to the implementation of their foreign policy and their bilateral, regional and international agreements and partnerships;
- (h) The accountability of States for the actions of the international organizations of which they are members, which should be consistent with the States' international human rights obligations,¹² including their extraterritorial obligations;
- (i) The accountability of States for the actions and omissions of the private sector within their jurisdiction, including when operating outside their national boundaries;
- (j) Mutual respect and accountability in all global partnerships for sustainable development, among and between States and/or non-State actors.

Article 3

The core features of international solidarity shall be that:

¹⁰ Based on Human rights and international solidarity (A/HRC/4/8), para. 12.

¹¹ Final paper on human rights and international solidarity (A/HRC/21/66), para. 22 (e).

¹² Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 50.

(a) Preventive solidarity, characterized by collective actions to safeguard and ensure the fulfilment of all human rights, implies for States to fully respect and comply with their obligations under international law, and in the case of peoples, individuals, civil society and their organizations, to complement the efforts of States through their activities in that regard. Preventive solidarity is essential to achieving both intergenerational and intra-generational solidarity and is a vital component of the duty of States to provide and seek international cooperation and assistance in the implementation of their human rights obligations, particularly their core obligations;

(b) International cooperation rests on the premise that some members of the international community may not possess the resources necessary for the full realization of the rights set forth in international human rights treaties. States in a position to do so should provide international assistance, acting separately and jointly, to contribute to the fulfilment of human rights in other States in a manner consistent with the fundamental principles of international law and international human rights law.

Article 4

1. International solidarity shall be a new foundational principle underpinning contemporary international law, responding to the need for transformative change encompassing the objectives of equity, equality in outcome, sustainability, security, social justice and empowerment, applicable to all developing and developed countries alike.

2. As such, the general objective of international solidarity shall be to create an enabling environment in which all human rights, including the right to development, can be progressively realized for all peoples and individuals through international cooperation and preventive solidarity measures undertaken by States, international organizations, civil society and all other stakeholders who constitute international society, in active partnerships with each other, with a view to:

(a) Preventing and removing the fundamental causes of the asymmetries and inequalities between developed and developing countries and populations and the structural obstacles and factors that generate and perpetuate poverty worldwide;

(b) Engendering trust and mutual respect between State and non-State actors in creating an enabling environment for realizing the right to development;

(c) Fostering the equitable, just and fair distribution of benefits in a globalized world through the protection and fulfilment of all human rights for all.

Article 5

1. The right to international solidarity shall be understood as a fundamental human right by which peoples and individuals have the freedom to enjoy, on the basis of equality and non-discrimination, the benefits of a harmonious international society with a just and fair international political and economic order, in which all human rights and fundamental freedoms may be fully realized.¹³

2. Human rights, a birthright which everyone holds in common, binding peoples and individuals together in solidarity across cultural diversities and variations in language, religion, national or social origin, property, birth or other status, shall entitle everyone to the freedom to exercise and enjoy the right to international solidarity, and to participate in and contribute to its full realization in accordance with applicable international human rights standards.

¹³ Final paper on human rights and international solidarity (A/HRC/21/66), para. 7.

3. The right to international solidarity shall be drawn from the freedoms and entitlements already codified in international human rights treaties reflecting core economic, social and cultural rights, civil and political rights, the right to development and international labour standards, complemented by other responsibilities arising from voluntary commitments and decisions in the various relevant fields at the bilateral, multilateral, regional and international levels.

Article 6

1. The rights-holders of the right to international solidarity shall include individuals, peoples, such as indigenous peoples and minorities, and civil society groups and organizations within the population who are either self-identified and/or identified as such by others, including States.

2. Rights-holders shall also include those who are outside dominant paradigms, but who nevertheless share similar values and concerns and are structured in some way,¹⁴ such as:

(a) Local and grass-roots communities which are unable to represent themselves or are underrepresented in and isolated from larger civil societies and organizations;

(b) Groups in social spheres that transcend national borders, such as transnational and diaspora communities;

(c) Transnational advocacy networks, including those that simultaneously participate in both domestic and international activities, that are bound by shared values and discourses and that engage in dense exchanges of information and services;¹⁵

(d) Virtual communities of individuals that may be geographically separated, but are nevertheless connected through the Internet and digital media and who together develop similar world views.

Article 7

Peoples and individuals, regardless of sex, age, ethnicity, disability or other status, shall have the right, individually and in association with others within or beyond their territories and national boundaries, and as provided for in human rights and other applicable international instruments:

(a) To seek, obtain, receive and impart to others, information about their right to international solidarity, and to have access to knowledge about how this right and its related freedoms are given effect in domestic and international legislative, judicial or administrative systems;

(b) To establish forums and platforms, domestically or transnationally, in which actors in different situations and geographic locations can peacefully share, discuss and disseminate information, interact with each other, negotiate – formally or informally – and advance their social, cultural and political interests, in order to foster respect, protection and fulfilment of all human rights for all on the basis of equality and non-discrimination;

(c) To form, join, interact with and participate in organizations, associations, networks and groups, on the local, regional and international levels, for the purposes of

¹⁴ Newman, D. As cited in De Feyter, K., *Towards a Framework Convention on the Right to Development* (Geneva, Friedrich Ebert Stiftung, 2013).

¹⁵ Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (New York, Cornell University Press, 1998).

advocating and influencing policy decisions and outcomes that affect them, and of monitoring compliance by States with their international human rights obligations and non-State actors with their ethical responsibilities and codes of conduct;

(d) To be informed in a timely manner by relevant State agencies of the commitments and decisions agreed upon by their government representatives at the bilateral, regional and international levels;

(e) To participate and be adequately consulted in decision-making for development, especially in matters affected by regional and international trade, investment and other relevant agreements;

(f) To share in the social, economic and cultural benefits arising from the international trade, investment and other relevant agreements entered into by their governments on the bilateral, regional and international levels;

(g) To contribute, individually or in association with others, to the development of the cultural life of the communities to which they freely choose to belong, at the national, regional and international levels;

(h) To seek and obtain redress before national and international human rights mechanisms, where failure by States to fulfil their commitments made at the national, regional and international levels results in the denial and/or violation of human rights; and,

(i) To seek and obtain redress before national and international human rights mechanisms, where the actions and omissions of non-State actors at the national, regional and international levels adversely affect the exercise and full enjoyment of their human rights.

Article 8

1. The duty-bearers of the right to international solidarity shall be primarily States and non-State actors that work with peoples and individuals and, as such, also bear responsibilities, many of which may be similar and complementary to the duties of States.

2. States shall adhere to their obligations in accordance with the international human rights treaties they have ratified and to the commitments and decisions they have agreed to at the regional and international levels.

3. Non-State actors shall abide by their ethical responsibilities and codes of conduct and shall respect the right of peoples and individuals to international solidarity.

4. States and non-State actors alike shall be guided by the principles on which international solidarity is founded.

Article 9

1. In the elaboration and implementation of international agreements and related standards, States shall ensure that the procedures and outcomes are fully consistent with their human rights obligations in matters pertaining to, *inter alia*, international trade, investment, finance, taxation, climate change, environmental protection, humanitarian relief and assistance, development cooperation and security.

2. States shall take appropriate, transparent and inclusive action to consult their populations and fully inform them of the decisions agreed upon at the national, bilateral, regional and international levels, in particular on matters that affect their lives.

3. States shall adopt and effectively implement policies and programmes targeted at the protection and promotion of, *inter alia*, the rich variety and diversity that exists in the cultures of peoples and individuals who make up international society and the reciprocal

influences they exert on each other; the right to participate fully and freely in decision-making from the local to the international levels; unimpeded access to communication, to actual and virtual spaces where peoples and individuals can freely exchange information without unnecessary restrictions; and the privacy of the individual.

4. States shall cooperate with each other and with non-State actors to take all necessary actions to put an end to extreme poverty, hunger, illiteracy, preventable deaths and contemporary slavery in all its forms, including human trafficking and sexual exploitation in cyberspace, paying particular attention to, inter alia, children in situations of poverty and hunger, the intersection of gender-based discrimination, poverty, socioeconomic marginalization and violence, and the links between trafficking in human beings, corruption, terrorism, militarism, trade in arms and gender-based violence; and shall devote sustained and consistent attention to the issue of women and girls in all situations of vulnerability and multiple forms of discrimination, who are particularly at risk of gender-based violence.

5. States shall protect and promote good practices of peaceful and productive collective action — whether among individuals, peoples or States — that give rise to desirable outcomes in advancing all human rights and fundamental freedoms for all.

Article 10

1. States shall establish an appropriate institutional framework and adopt domestic measures to give effect to the right of peoples and individuals to international solidarity, in particular by ensuring and facilitating access for everyone to domestic and international legislative, judicial or administrative mechanisms:

(a) When failure of States to fulfil their commitments made at the regional and international levels results in denials and violations of human rights; and

(b) When actions and omissions by non-State actors adversely affect the exercise and full enjoyment of their human rights.

2. States shall promote and prioritize support for micro, small and medium community-based and cooperative enterprises which generate the majority of jobs around the world, including through national and international grants and concessional loans.

3. States shall be guided by International Labour Organization Recommendation No. 202 (2012) concerning National Floors of Social Protection, with a view to securing universal access to social services.

Article 11

1. States shall implement a human rights-based approach to international cooperation and all partnerships in responding to global challenges such as those relating to:

(a) Global governance, regulation and sustainability in the areas of climate change, protection of the environment, humanitarian relief and assistance, trade, finance, taxation, debt relief, technology transfer to developing countries, social protection, universal health coverage, reproductive and sexual health, food security, management of water and renewable energy resources, social standards, free education for all, human rights education, migration, and labour, and in countering dumping of toxic wastes, and transnational organized crime, such as terrorism, human trafficking, piracy and proliferation of arms;

(b) Participatory global governance in order to address structural inequalities including gender power relations; and

(c) Creating a global enabling environment for development that is centred on peoples and individuals.

2. States shall establish and implement appropriate mechanisms to ensure that international cooperation is based on equal partnerships and mutual commitments and obligations, where partner States are accountable to each other, as well as to their respective constituents at the national level, for the outcomes of policies, strategies and performance, whether at the bilateral, regional or international level, which shall reflect the best interests of their citizens and all others within their jurisdiction, in accordance with international human rights principles and standards.

3. States shall give effect to the establishment of a fair, inclusive and human rights-based international trade and investment regime where all States shall act in conformity with their obligation to ensure that no international trade agreement or policy to which they are a party adversely impacts upon the protection, promotion and fulfilment of human rights inside or outside of their borders

4. International cooperation shall be targeted to the primary responsibility of each State to implement its human rights obligations on the national level, both in the immediate fulfilment of core obligations as a priority, and in the concrete, deliberate and targeted progressive realization of all human rights, including the right to development.

Article 12

The right to international solidarity shall impose on States particular negative obligations, required by applicable international human rights instruments, including:

(a) Not adopting free trade agreements or investment treaties that would undermine peoples' livelihoods or other rights;

(b) Not imposing conditionalities in international cooperation that would hinder or make difficult the exercise and enjoyment of human rights;

(c) Not denying anyone access to life-saving pharmaceuticals and to the benefits of medical and scientific progress;

(d) Not engaging in irregular weapons trading;

(e) Not impeding access to information and communications technology;

(f) Not increasing or contributing to global warming;

(g) Not causing the depletion of or irreparable damage to natural resources;

(h) Not damaging the common heritage of humankind;

(i) Not undermining the rights of future generations.
