Foreword

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It is a great pleasure to write the Foreword to this Research Handbook on International Law and Peace in which the contributors examine the main avenues through international law towards sustainable peace, exploring its variety of meanings and priorities.

This Foreword draws on the approach to peace used in the recent UN Declaration on the Right to Peace (A/res. 71/189) adopted by the United Nations General Assembly on 19 December 2016. That Declaration states in its operative Article 1 that ‘Everyone has the right to enjoy peace such that all human rights are promoted and protected and development is fully realized.’ As a former Secretary-General of the International Peace Research Association and one of the founders of the Norwegian Centre for Human Rights at the University of Oslo, I warmly endorse this understanding of the essential substance of the right to peace.

Equating ‘peace’ with the promotion and protection of all human rights has a long and constructive legacy in the UN. Its roots go back to the dramatic years before the UN was established. It might indeed be argued that the conception used in the Declaration on the Right to Peace was already laid on January 6, 1941, through the State of the Union Address by the US president Franklin Delano Roosevelt. It is therefore useful to place this in a historical context, going back to the profound crisis in the world system in the early years of World War II.

On January 6, 1941, the then recently re-elected US president Franklin Delano Roosevelt addressed the US Congress in his State of the Union Address. In that speech, he presented a vision of a future world. In the vision he presented, the future world order would make it possible for all to enjoy four fundamental freedoms – freedom of speech, freedom of faith, freedom from want and freedom from fear. He envisioned a New Deal for the whole world where those rights could be enjoyed by everyone, everywhere in the world. Provided these four freedoms could be enjoyed by all, the main drivers and causes of war and violence would disappear.

Roosevelt’s Four Freedoms speech to the US Congress in 1941 was the origin of the establishment of the UN. Under Roosevelt’s leadership, the UN took shape during World War II and was constructed through a series of meetings between the Allies confronting the Axis Powers (Hitler’s Germany, Mussolini’s Italy and the militarized and aggressive Japan). The United Nations was finally established in 1945. The countries that had been members of the Axis Powers were by then thoroughly defeated (Japan holding out for some months more), but after their defeat, they went through a democratic transition and were welcomed as members of the UN.

Roosevelt’s Four Freedoms became the origin of the Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948. That date has since been celebrated as the Human Rights Day. Incidentally, it coincides with the date when the Nobel Peace Prize is annually awarded.
It is nevertheless important to note that the word ‘peace’ brings different associations to different people in different parts of the world. Europe has experienced centuries of war between major powers, culminating with massive bloodletting from 1933 where Europe was squeezed between Hitler and Stalin. The dominant concern in the European part of the world since 1945 has been to avoid a repetition of the history of wars. Western European countries have also sought to ensure joint protection against revival of authoritarian or totalitarian regimes, which spread to many parts of Europe before World War II.

Protection against war and re-emergence of authoritarian regimes has been achieved in several ways. It was done partly through European integration of the common market, thereby removing some causes of war, and partly through the ratification of human rights instruments of the Council of Europe and the machineries of implementation established by the UN ensuring rule of law and democracy, seeking safeguards against re-emergence of authoritarian and undemocratic regimes. Since the fall of the Berlin wall, the countries of Central and Eastern Europe have joined in these endeavours.

Other continents did not have quite the same experience, or only to a lesser extent. Latin America has had fewer inter-state wars, but has instead had a considerable number of military coups and has had serious difficulties in managing democratic nation-building and the maintenance of the rule of law. Some Latin American countries are also infested by drug-related wars. Particularly hit is Mexico. Latin America has, however, created its own regional human rights system, which is slowly showing the way towards a more sustainable peace by tackling some of the internal problems these states face.

Sub-Saharan Africa has gone through numerous internal wars as part of their nation-building processes during the postcolonial period. Through the African Union collaborative efforts, including collaboration in human rights, efforts are underway to improve the situation. Countries in the Middle East and Afghanistan, in particular, have been sites for numerous internal wars, several of them with substantial foreign involvement. Iraq was attacked on the false pretext of harbouring weapons of mass destruction. Since then, disorder has reigned. In Asia, the Indian subcontinent went soon after the end of World War II through a bloody separation splitting India and Pakistan, but the two states have since consolidated their nation-building.

In China, the peasant revolution around 1947–49 led to the establishment of an entirely new government. China went through its disastrous ‘Great Leap forward’, which resulted in severe famines, followed by the harmful Cultural Revolution. Since 1989, China has become one of the leading powers of the world and is a fervent supporter of globalization, while the US, until recently a main beneficiary of globalization, has become an opponent to it, with unpredictable consequences.

This brief reminder of political developments since the adoption of the Charter of the United Nations serves to remind of the great variety of experiences and the underlying preferences regarding peace.

For large parts of the non-Western world, the preference concerning ‘peace’ is to achieve an end of internal armed conflicts and to proceed with constructive nation-building through progressive realization of all human rights.
But in our increasingly globalized world, this requires also international cooperation in solving problems of an economic, social, cultural or humanitarian character, and in promoting nation-building guided by the whole range of human rights. Significant steps of cooperation have been made through the adoption and subsequent implementation of the Millennium Development Goals, and are now further pursued through the Sustainable Development Goals, where progress towards ‘peace’ is associated with promotion of social justice, human rights and legal security through rule of law.

By establishing the UN in 1945, the international community sought to promote three main purposes, intended to promote a sustainable international peace. The primary purpose of the Charter is to maintain international peace by preventing international wars (UN Charter Article 1.1) including prohibition of the use of unlawful use of force (UN Charter Article 2.4). The use of force against other states is unlawful except in self-defence or authorized by the UN Security Council.

The second purpose listed in the UN Charter (Article 1.2) is to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

The third purpose set for the UN in the Charter (Article 1.3) is to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

Provided these three inter-related purposes are promoted in a balanced way, they reduce the likelihood of large-scale violence and contribute towards positive peace. The challenge is to find the most constructive approaches to implement these purposes while respecting the framework of international law. For the avoidance of major wars, the overriding principle is to respect the territorial integrity and political independence of states, but the promotion of sustainable positive peace also requires increased cooperation in solving or mitigating common problems of an economic, social, cultural or humanitarian character and by promoting the realization of all human rights.

The world has significantly changed since Roosevelt’s speech in 1941, more than 77 years ago. Empire-formation and Empire-defence that previously had been a cause of many wars, has now become irrelevant. World trade arrangements provide opportunities for access to resources, globalization of investments, and allow for worldwide marketing. The maintenance of colonies no longer serves any meaningful purpose. The process of decolonization and dissolution of federations has led to a world situation where there are now 193 member states of the United Nations, nearly a quadrupling from the 50 states that attended the San Francisco conference in 1945.

Among Roosevelt’s four freedoms was also ‘the freedom from fear’, which he explained in this way: ‘The fourth is freedom from fear, which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor—anywhere in the world.’

In January 1941, the US was still not in war, but became so when attacked by Japan in Pearl Harbour on December 7, 1941. The dynamics of World War II made it urgent to pre-empt the possibility that the state of the Axis, in particular Germany, might be
able to develop a nuclear armament capacity. The US therefore launched the Manhattan project and became the first state to develop nuclear armaments. At the end of World War II, nuclear weapons had been added to the arsenal of weapons that could lead to mass destruction.

These weapons were used in Hiroshima and Nagasaki at the end of World War II, causing the capitulation by Japan, but a new dimension of fear had been introduced and a greater scare had emerged. Several other states have now developed nuclear weapon capacity. The vision of a worldwide reduction of armaments set out in Roosevelt’s speech as the fourth freedom has become increasingly difficult. This Foreword is written at a time when there appear to be some prospects for denuclearization of the Korean peninsula. This might become a first step in the elimination of all nuclear weapons, but the prospects are not promising.

Global cooperation and friendly relations between states is required in the pursuit of policies aimed at better enjoyment for all of human rights in their entirety. The Declaration on the Right to Peace can therefore be seen as a future-oriented project where the progressive implementation of human rights is given a primary role. This is emphasized in the Declaration on the Right to Peace in its Article 2: ‘States should respect, implement and promote equality and non-discrimination, justice and the rule of law, and guarantee freedom from fear and want as a means to build peace within and between societies.’

The Universal Declaration of Human Rights was proclaimed in 1948

as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms, and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Promotion of the whole range of human rights – civil, political, economic, social and cultural – is a long and gradual process. There is much ground for optimism, and the contributions to this handbook describe many international efforts made towards this goal. But it cannot be achieved without extensive international cooperation. The Declaration on the Right to Peace emphasizes this point in its Article 3: ‘States, the United Nations and specialized agencies should take appropriate sustainable measures to implement the present Declaration.’

Steven Pinker in his new book *Enlightenment Now – The Case for Reason, Science, Humanism, and Progress* (Viking and Penguin 2018) has shown statistically that we live in an increasingly peaceful and less violent world. He explains that on many important indicators, there is substantial reduction in violence in spite of the rapid growth of the world population.

While the 19th century and the first 45 years of the 20th century were extremely violent, the long-range trend since 1945 is a long, favourable development with substantial reduction of all indicators of violence. This is partly a result of greater global accommodation, partly facilitated through activities in the United Nations.

One reason of the improvements is that the world has become more rights-oriented. The dignity of every human being is more broadly recognized than a century ago.
Discriminations on grounds of race and gender, which were widespread in the 19th and the first half of the 20th century, are now increasingly discontinued. While violence continues in the form of terrorism and other ways and through internal and drug-related wars, the intensity and scope of these activities are much reduced compared to the amount of violence in previous centuries. Prospects for constructive handling of these problems are improving.

One major problem of the future is to achieve a full recognition of the global boundaries to development and to find ways to deal with them. Traditional patterns of development have to be substantially changed. It can be hoped that this can be achieved without massive violence. Highly encouraging was the 2015 Paris agreement on Climate Change, in spite of the withdrawal by the US administration. It shows that there is a wide recognition of the climate crisis and the need to find new sources of energy instead of carbon. Other global boundaries that have to be tackled include the acidification of oceans, challenges to freshwater consumption caused in part by climate change and population growth, land system changes including massive deforestation, and several other factors related to the traditional approaches to development resulting from the industrial revolution which started in the second half of the 18th century.

The Declaration on the Right to Peace in its Article 4 calls for the establishment of international and national institutions of education for peace to be promoted in order to strengthen among all human beings the spirit of tolerance, dialogue, cooperation and solidarity. Many independent national human rights institutions have been established since the World Conference on Human Rights in 1993 recommended their establishment. Their cooperation will be an important factor in the global pursuit for sustainable peace.

The Declaration on the Right to Peace reiterates in its Article 5 that the provisions of the Declaration are to be understood in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and relevant international and regional instruments ratified by states. This concept has also been the basis of this Foreword.