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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Christian Solidarity Worldwide, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2022]

* Issued as received, in the language of submission only.



Indigenous Peoples and the Right to Freedom of Religion or Belief

1. CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in the right to freedom of religion or belief (FoRB) for all. This submission seeks to bring the Council's attention to the situation of indigenous peoples in Colombia, Mexico and Viet Nam and their specific experiences of FoRB. While the attention to FoRB and indigenous rights in international instruments and declarations is commendable, analysis of the intersection between FoRB and indigenous rights still requires further study and recognition.

2. The role of national legislation in ensuring respect for the right of indigenous peoples and the right to FoRB remains crucial: incorporating international guarantees for these rights within domestic legal structures such as national constitutions is an important prerequisite for their effective realisation. Many challenges remain in this area. While many countries do recognise indigenous peoples in their constitutions, others continue to deny their existence and status as rights holders.¹ Conversely, CSW has occasionally received reports of situations where self-governance of indigenous communities has led to violations of the right to FoRB with impunity.

Colombia

3. Despite strong protections for FoRB in the constitution and in international treaties to which Colombia is party, Colombian courts have ruled that the individual right to FoRB does not extend to those living on indigenous lands where collective cultural rights take precedence. FoRB violations in indigenous communities are largely rooted in a 1998 Constitutional Court ruling that, in a split judgement, upheld the right of traditional authorities to enforce the observation of and participation in traditional religious beliefs and practices on indigenous reserves.

4. In some communities the traditional authorities have taken the 1998 Constitutional Court ruling to mean that they have the authority to define what traditional beliefs are, and to punish those who decline to profess or participate in their version of the traditional beliefs. Community members who have converted to other religions or beliefs or none, and away from the religious beliefs and practices promoted by their leaders, may be arbitrarily detained, attacked, excluded from certain benefits and forcibly displaced.

5. In 2022, CSW interviewed 16 religious minority individuals from 16 different ethnic groups, as well as three religious majority leaders and a representative from the Association of Indigenous Cabildos from the North of Cauca (ACIN). The interviewees belonging to the indigenous religious minority church affirmed that they have been excluded or rejected in various situations including in accessing education and the workplace, and in some cases they have been forcibly displaced. Most interviewees who were asked why the authorities disqualify their professed faith indicated that the traditional authorities fear that the indigenous people who convert will lose their identity and their spirituality.

6. Many Protestant Christians in indigenous Colombian communities are excluded from their right to primary, secondary and higher education and have experienced barriers to employment. Forced displacement and interreligious conflict are also common.

7. The non-Christian indigenous authority leaders interviewed by CSW consider that Christianity poses a threat to the conservation of ancestral knowledge-practices. An Arhuaco leader, an indigenous group from the Sierra Nevada de Santa Marta, affirmed that all religious missions are a direct threat to ancestral spirituality. The Kogui governor also articulated the dangers of other religions on the protection of their culture. The governors referred to the 1998 Constitutional Court decision as definitive justification for not permitting FoRB on indigenous reserves.

Mexico

8. Despite Mexico's strong legal protections for FoRB, state and federal governments often fail to acknowledge and respond adequately to acts of discrimination and violence targeting religion or belief groups.

9. The Law of Uses and Customs guarantees local and regional autonomy to members of indigenous communities and delegates considerable power to local authorities. It has been abused to justify human rights violations against religious minorities in indigenous populations where religious practice and governance are often deeply interlinked. In many indigenous communities, especially in remote areas, there is often no real state presence to monitor the implementation of the Law of Uses and Customs and ensure that it is practised in accordance with human rights guarantees in state and federal law. Many local leaders in communities functioning under the Law of Uses and Customs mandate religious uniformity and compel all community members to participate in the religious activities of the majority, usually Roman Catholicism, or face punishment.

10. The majority of violations of FoRB linked to the abuse of the Law of Uses and Customs are concentrated in the states of Chiapas, Guerrero, Hidalgo and Oaxaca, where there are significant indigenous populations. Cases have also been reported in Jalisco, Michoacán, Nayarit and Puebla.

11. One of the most common violations associated with attacks on FoRB in Mexico is the blocking of access to basic services, including water, electricity and sewerage. Denied access to water services seems to disproportionately impact women, who tend to be responsible for domestic tasks that rely on water, such as cooking and cleaning. A lack of clean water can lead to serious health issues such as parasitosis, amoebiasis, malnutrition, diarrhoea and gastrointestinal disorders.

12. In the most extreme cases, members of the religious minority are forcibly displaced from their indigenous community. Victims dispossessed of their land are often forced to take refuge in larger urban areas, where they have limited employment opportunities due to various factors including linguistic barriers and limited levels of education.

13. Indigenous religious minority families in Mexico are frequently unable to access justice following experiences of discrimination and/or violence. Local authorities are often the perpetrators of, complicit in or dismissive of these incidents. In one case, despite several complaints, municipal, state and federal authorities have failed to provide any lasting solutions for six Protestant Christian families and a single man from El Encanto, Las Margaritas Municipality, who are living without water, electricity or sewerage services.

Viet Nam

14. CSW continues to receive reports of FoRB violations against some communities from every major religion or belief in Viet Nam, including Buddhists, Catholics, Cao Daists, Hoa Hao Buddhists and Protestants.

15. While state restrictions apply to all religion or belief communities in the country, CSW's research into the intersection of FoRB and indigenous rights suggests that indigenous peoples and ethnic minorities in Viet Nam, including communities in the North Mountainous Region, the Central Highlands, and the Mekong Delta, including Khmer Krom Buddhists, Montagnard Protestants, and Hmong Protestants, are particularly vulnerable to specific forms of FoRB violations, and indeed the more severe violations of their rights and freedoms, including cultural rights.

16. Although there were differences between the groups' specific situations, the research found common experiences across the different communities, including restrictions on religious activities and teaching, and on the use of indigenous languages for religious activities. The research also found discrimination on the basis of religion affecting access to state benefits and in educational settings. The most severe violations often occurred when members of indigenous people groups peacefully protested against violations or opposed government restrictions in some way, or when they belonged to unregistered religious groups.

17. According to the findings of this research, other human rights violations experienced by religious communities belonging to indigenous people groups include: intrusive monitoring and interference regarding religious activities by state actors; confiscation or repurposing of land used for religious purposes; defamation; forced relocation in order to break up the community; police harassment and interrogation; house arrest and enforced social isolation; interrogation by police; travel bans (banned from travelling overseas); arbitrary detention without conviction or trial; beatings, physical and psychological torture, including electrocution, and deprivation of food and water in detention; solitary confinement in jail; and extra-judicial killing by police.

Recommendations

18. Call on states to revise all regulations and legislation to ensure they align with international standards, including Article 18 of the International Covenant on Civil and Political Rights (ICCPR), and to guarantee indigenous peoples' rights to FoRB in law and in practice.

19. Ensure that the right to freedom of religion or belief of indigenous peoples is consistently raised during bilateral exchanges, both in public and in private, as well as in multilateral forums such as the UN Human Rights Council.

20. Urge states to increase proactively efforts to address intolerance and discrimination based on religion or belief in indigenous communities, including by providing training for the judiciary and local authorities.

21. Urge all relevant UN mechanisms, including the Special Procedures and UN Treaty Bodies, to consider in their reporting the interrelatedness of the rights of indigenous peoples and the right to freedom of religion or belief, acknowledging the unique vulnerabilities faced by indigenous religious minorities.

22. Urge UN actors and state representatives to engage regularly with in-country civil society, including human rights defenders (HRDs) and NGOs, and to support civil society initiatives to promote FoRB in indigenous communities.

1. Food and Agriculture Organization of the United Nations (FAO), 'Indigenous Peoples' rights around the world', 4 March 2017 <https://www.fao.org/countryprofiles/news-article/en/c/198728/>