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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Joint written statement* submitted by International Alliance of Women (IAW), Commission of the Churches on International Affairs of the World Council of Churches (CCIA/WCC), Brahma Kumaris World Spiritual University (BKWSU), International Association of Soldiers for Peace, Zonta International, International Federation of Settlements and Neighbourhood Centres (IFS), International Council Of Women (ICW-CIF), World Young Women's Christian Association, International Federation of Business and Professional Women, International Youth and Student Movement for the United Nations (ISMUN), International Association for Religious Freedom (IARF), Soroptimist International (SI) nongovernmental organizations in general consultative status, Conscience and Peace Tax International (CPTI), Dominicans for Justice and Peace (Order of Preachers), Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos (España), Interfaith International, Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students), Temple of Understanding (TOU), Women's International League for Peace and Freedom (WILPF), Women's World Summit Foundation (WWSF), World Organization Against Torture (OMCT), International Federation of University Women (IFUW), Femmes Africa Solidarité (FAS), Lutheran World Federation (LWF), Worldwide Organization for Women (WOW), Anglican Consultative Council (ACC), Union of Arab Jurists, Rencontre Africaine pour la Defense des Droits de l'Homme (RADDHO), Foundation for the Refugee Education Trust (RET), International Bridges to Justice (IBJ), Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC), International Association for the Defence of Religious Liberty, American Association of Jurists (AAJ), Lassalle-Institut, UNESCO Centre of Catalonia, Anti-Racism Information Service (ARIS), Colombian Commission of Jurists (CCJ), Pan Pacific and South East Asia Women's Association (PPSEAWA), Ius Primi Viri International Association (IPV), Permanent Assembly for Human Rights (APDH),

International Movement for Fraternal Union Among Races and Peoples (UFER), Women's International Zionist Organization (WIZO), International Federation of Women Lawyers (FIDA), International Federation of Women in Legal Careers (FIFCJ), Canadian Federation of University Women (CFUW), International Association for Women's Mental Health (IAWMH), European Union of Women (EUW), European Women's Lobby, International Women's Year Liaison Group (IWYLG), African Services Committee, Inc., International Federation of Family Associations of Missing Persons from Armed Conflict (IFFAMPAC), Institute of International Social Development, African Action on AIDS, International Society for Traumatic Stress Studies (ISTSS), Lama Gangchen World Peace Foundation (LGWPF), Pax Christi International, International Catholic Peace Movement, the Syriac Universal Alliance (SUA), Tandem Project, Al-Hakim Foundation, Canadian Voice of Women for Peace (VOW), Organization for Defending Victims of Violence (ODVV), Solar Cookers International (SCI), Medical Women's International Association (MWIA), World Federation for Mental Health (WFMH), United States Federation for Middle East Peace, Susila Dharma International Association, Network Women in Development Europe, Congregation of Our Lady of Charity of the Good Shepherd, International Council of Jewish Women, Nord -Sud XXI, General Arab Women Federation, Comite National d'Action pour les Droits de l'Enfant et de la Femme (CADEF), Endeavour Forum, ITTIJAH: Union of Arab Community based Organizations, United Towns Agency for North-South Cooperation, International Indian Treaty Council, World Association for the School as an Instrument of Peace, International Organization for the Elimination of All Forms of Racial Discrimination, Latin American Committee for the Defense of Women's Rights (CLADEM), African Women's Association (AWA), United Nations Association of Spain (ANUE), Maryknoll Fathers and Brothers, Maryknoll Sisters of St. Dominic, International Forum for Child Welfare, BADIL Resource Center for Palestinian Residence and Refugee Rights, Virginia Gildersleeve International Fund, nongovernmental organizations in special consultative status, Institute for Planetary Synthesis (IPS), International Peace Bureau (IPB), International Society for Human Rights (ISHR), International Women's Tribune Centre, UNESCO Centre Basque Country (UNESCO ETXEA), 3HO Foundation (Healthy, Happy, Holy Organization), Dzeno Association, Country Women Association of Nigeria (COWAN), International Movement against all Forms of Discrimination and Racism (IMADR), Association Nigérienne des Scouts de l'Environnement (ANSEN), United Nations Association of Hungary, Association of World Citizens, non-governmental organizations on the Roster

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

[25 August 2008]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Indigenous peoples and the human right to peace¹

I

The Spanish Society for International Human Rights Law (SSIHRL) adopted on 30 October 2006 the “Luarca Declaration on the Human Right to Peace” as the culmination of a process of extensive consultations with Spanish civil society, with the support of the Catalanian Agency for Cooperation to Development.

Following the adoption of the Luarca Declaration, the SSIHRL has continued in all regions of the world the process of consultations with civil society through the organization of conferences and expert meetings on the human right to peace². In 2010 the SSIHRL will call for a World NGO Conference to analyse and incorporate the inputs received from international civil society and to adopt the final text of the Universal Declaration on the Human Right to Peace which will be submitted to the HR Council, urging its Member States to initiate the official codification of the human right to peace.

On 15 March 2007 the Luarca Declaration on the Human Right to Peace was presented to the fourth session of the Human Rights Council in an oral statement delivered by UNESCO Etxea on behalf of SSIHRL. Since then several parallel meetings have taken place at the Palais de Nations in Geneva during the following sessions of the Human Rights Council³

II

According to the latest world estimations, the number of indigenous groups globally exceeds 5.000, representing as many as 370 millions of human beings in more than 70 countries. As emphasized by the President of the General Assembly, “we need indigenous peoples in our midst as part of our global efforts to bring peace, promote sustainable

1 NGOs without status consultative in ECOSOC that endorse the statement: Centre for Organisation Research and Education (India), Juventud Indígena (Argentina), Global Compliance Research Project (Canada) and Institute for Defense Security and Peace Studies (Indonesia)

2 Conferences and expert meetings have already taken place in Bilbao and Geneva (November 2006); Mexico (December 2006), Bogotá, Barcelona and Addis Ababa (March 2007); Caracas and Santo Domingo (April 2007), Morelia (Mexico, 12 May 2007), Bogotá (12 May 2007), Oviedo and Santa Fe (New Mexico, USA, 16-17 May 2007); Washington (14 June 2007), Nairobi (15 June 2007), Geneva (28 June 2007), Feldkirch (Austria, 31 August 2007), Geneva (11, 12 and 21 September 2007), Luarca (28 September 2007), Madrid (23 October 2007), Monterrey (1st November 2007), Mexico DF, Geneva, Las Palmas de Gran Canaria, Zaragoza and Navía, Asturias (December 2007), the UN Commission on the Status of Women, New York (February 2008), Geneva (March 2008), Parliament of Catalonia, Barcelona, Geneva, Dakar, Madrid, Valencia (April 2008), Rome and Gwangju, Republic of Korea (May 2008), Geneva, Bilbao (June 2008), Cartagena and Geneva (July 2008), Paris, Geneva, Montevideo (September 2008). For more information on these meetings, please see <http://www.aedidh.org>

3 15 March 2007, both the SSIHRL and the International Society of Human Rights (Frankfurt) convened an open *Information Meeting on the Luarca Declaration*; on 16 March 2007, the SSIHRL organised a *Technical Meeting* with NGO and human rights experts with a view to building a common strategy for a world-wide campaign on the human right to peace; 11 June 2007, both UNESCO Etxea and SSIHRL organised an additional parallel meeting on the relationship between peace and solidarity rights; 12 September 2007, the SSIHRL in collaboration with the UNESCO Liaison Office in Geneva organised a Roundtable on the legal content of the human right to peace; 21 September 2007, the SSIHRL organised the commemoration of the United Nations International Day of Peace in the Council Chamber of the Palais de Nations; 7 March 2008, the SSIHRL, the International Society of Human Rights (Frankfurt) and UNESCO Etxea organised a Roundtable on the relationship between extreme poverty and the human right to peace; 4 June 2008, the SSIHRL and UNESCO Etxea organised a Roundtable on the right to education on peace and human rights.

development, eradicate poverty and strengthen democracy, as well as to preserve cultural diversity”⁴. Although the indigenous peoples’ spirituality or religion has been put down over the centuries, their traditional concept of life based on peace and mutual respect has survived until recent years⁵.

The right to peace as a fundamental human right has been recognized in the United Nations Declaration on Human Rights of Indigenous Peoples by indicating that the indigenous peoples have the right to live in freedom, peace and security⁶. It was followed by the draft American Declaration on the Rights of Indigenous Peoples. The Working Group drafting the former Declaration recognised that the right to peace is a collective right with an individual dimension⁷. Furthermore, the OAS Working Group of the above mentioned draft declaration underlined that indigenous peoples have both the right to peace and security, and the right to recognition and respect of their own institutions for the maintenance of international peace and security⁸. Nevertheless, the persistent plight of indigenous peoples in many parts of the world continues to be an affront to humanity. It follows that the realization of the rights contained in the current human rights instruments, including the UN Declaration on Human Rights of Indigenous Peoples, could become a useful means so that an increasing number of the world’s indigenous peoples can truly live in dignity and peace⁹.

In the recent decades Constitutions of numerous States have recognised indigenous peoples as specific groups of national population. In other States special laws have been enacted to protect their specificity. However, indigenous peoples are still being subject to forced assimilation, integration and the denial of their rights. As acknowledged by the Programme of Action of the International Conference on Population and Development (Cairo, 1994), the situation of indigenous peoples, which is often characterized by discrimination and oppression, has in many instances become institutionalized in laws and governance structures.

Racial discrimination and other human rights abuses which indigenous peoples have endured and continue to suffer – including extrajudicial killings, enforced disappearance, torture, intimidation or harassment¹⁰-, have resulted in their marginalisation and social exclusion. As observed by José Martínez Cobo, the Special Rapporteur of the former Sub-Commission on the problem of discrimination against indigenous populations, “in many countries indigenous peoples are at the bottom of the socio-economic scale”¹¹. To close the

4 Assembly President Stresses Importance of Indigenous Peoples in Efforts to Bring Peace, Promote Sustainable Development, Eradicate Poverty, UNIS/GA/1667, 8 August 2000

5 Report by the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, Mission to Colombia, E/CN.4/2005/88/Add.2, 10 November 2004

6 Article 7 of the United Nations Declaration on Human Rights of Indigenous People, as adopted by resolution A/Res/61/295, of 2 October 2007

7 Commission on Human Rights, Working Group on Indigenous People, Chairperson-Rapporteur: Luis Enrique Chávez (Peru), E/CN.4/2002/98, 6 March 2002, par. 56-59

8 Article 30 of the draft *American Declaration on the Rights of Indigenous People*

9 OHCHR, statement by Acting High Commissioner for Human Rights Kyung-Wha Kang, and S. James Anaya, the Special Rapporteur on human rights and fundamental freedoms of indigenous people on commemoration of the International Day of the World’s Indigenous People, 9 August 2008

10 Report of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, A/HRC/4/32, 27 February 2007, par. 53

11 José R. Martínez Cobo, Study of the problem of discrimination against indigenous populations (E/CN.4/Sub.4/1986/7 and Add.1-4. Addendum 4, containing the conclusions, proposals and recommendations of the Special

gap as regards the disparities in human development, the Durban Declaration and Plan of Action urges States and international financial and development institutions to ensure that their policies and practices contribute to the eradication of racism through inclusive participation of all communities and groups in development projects¹².

The Beijing Declaration and Platform for Action of the Fourth UN World Conference on Women of 1995 recognized the need to ensure full respect for the human rights of all women in general, including indigenous women. As stressed by the former Special Rapporteur on indigenous peoples, "the threefold discrimination women suffer (for being women, indigenous and poor) marginalizes even further regarding economic and political sphere"¹³. Currently, many indigenous women are submitted to discriminatory practices within communities, such as forced marriages, frequent domestic violence, dispossession of property and other forms of male patriarchal domination. Moreover, women are often excluded from participative processes and decision-making on development projects and programmes in indigenous communities¹⁴. Thus, taking into account that the realization of equal rights for women at all levels and in all areas of life contributes to the achievement of a just and lasting peace¹⁵ their marginalization and discrimination impedes the social, economic and cultural development of the indigenous peoples as a whole.

As included by the Preamble of the UN Convention on the right of the child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth". A succession of UN Special Rapporteurs on the Sale of Children, Child Prostitution and Child Pornography¹⁶ as well as two World Congresses against the Commercial Sexual Exploitation of Children - respectively Stockholm 1996 and Yokohama 2001- has amply demonstrated the vulnerability of indigenous children to all forms of sexual and labour exploitation.

Since Education is an indispensable tool that can help humankind, including indigenous peoples in particular, to move towards the ideals of peace, freedom and social justice¹⁷, cultural diversity should be given paramount importance in any formal or informal educational system. Nevertheless, culture, languages, traditions and knowledge of indigenous peoples continue to be discriminated in the programmes, curricula and teaching methods of many countries. In addition, indigenous communities are occasionally forced to sacrifice important aspects of their identity and, in some cases, the underlying goal of State educational systems is to assimilate indigenous peoples into the dominant group¹⁸. As

Rapporteur, was issued as a United Nations Publication, Sales No. E.86.XIV.3

12 A group of NGO entitled World Agency Racism Network (WARN), based on Geneva, is supporting the objective of the Durban Declaration and Programme of Action to promote global mobilisation against racism. They have included among objectives the promotion of the human right to peace.

13 Report of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, supra n. 10, par. 67

14 Report of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, A/HRC/6/15, 15 November 2007, par. 55

15 Decade for women: Equality, Development and Peace, *Implementation of the Nairobi Forward-looking Strategies for the Advancement of Women*, A/RES/40/108, adopted on 13 December 1985

16 Report submitted by Juan Miguel Petit, UN Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, E/CN.4/2004/9, 5 January 2004, p. 118

17 Report of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, E/CN.4/2005/88, 6 January 2005, par. 14

18 *Ibidem*, par. 41-43

stated by the UNESCO Universal Declaration on Cultural Diversity, “the respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of international peace and security”. In conclusion, not only should indigenous education be broadened at all levels of national education with anti-racist and multicultural methods that reflect respect for cultural, ethnic diversity and gender equality, but fair and equal access to a quality education should be provided to all.

The spiritual and cultural link between the cultural identity of indigenous communities and their ancestral lands is often misunderstood by non-indigenous persons and is frequently ignored in the decision-making of many governments in the process of development. As stated by the Human Rights Committee (General Comment on Article 27 of ICCPR), “culture manifest itself in many forms, including a particular way of life associated with the use of land resources, especially in the cases of indigenous peoples”¹⁹.

Although international human rights instruments recognise relationship between indigenous peoples and their lands, territories and resources, the insecurity of their land rights continues to be one of the major causes of instability among indigenous communities, in particular due to illegal practices by outside private corporations that usurp indigenous lands without negotiation, compensation and lack of social responsibility. As stressed by the Committee on the Elimination of Racial Discrimination, the world indigenous peoples have been, and are still being, deprived of their land and resources to commercial companies and State enterprises²⁰. The rapid deterioration of indigenous societies in many countries is due to the adoption of governmental practices which prioritize the economic or financial investment over the interests of the indigenous people. Therefore, as stated by article 32 of the United Nations Declaration “states should consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories”.

As stated by Article 8 (j) of the UNESCO Convention on Biological Diversity, the conservation and sustainable use of biological diversity depends on knowledge, innovations and practices of indigenous and local communities. Thus, States should recognize the vital role of indigenous peoples in the environmental management and conservation of biological diversity, and foster their knowledge and their traditional methods of work in the sustainable use of biological resources. According to Principle 25 of the Rio Declaration on Environment and Development, adopted together with Agenda 21 by the Rio Earth Summit in 1992, “peace, development and environmental protection are interdependent and indivisible”.

Most peace negotiations with indigenous communities have only dealt with superficial issues. The roots of conflicts are seldom addressed and remain hidden only to re-emerge at

19 Human Rights Committee, General Comment No. 23 on Article 27 of the International Covenant on Civil and Political Rights (CCPR/C/21/Rev.1/Add.5) adopted at its 1314th meeting (fiftieth session), 6 April 1994

20 CERD, General Recommendation XXIII on Indigenous People, adopted in 1997, p. 3

a later time²¹. The historical situation of land dispossession and social exclusion is not only the result of a larger picture of complex social problems related to a history of discrimination and marginalization, including poverty and unemployment²², but also the cause of tensions and conflict in many indigenous communities. To overcome these problems, the former Special Rapporteur on indigenous peoples indicated that “a fair and effective justice system is crucial in fostering reconciliation, peace, stability and development among indigenous peoples”²³.

As stated in Article 14 of the Luarca Declaration on the Human Right to Peace, adopted on 30 October 2006,

“All persons belonging to vulnerable groups have the right to an analysis of the specific effects on enjoyment of their rights of the different forms of violence to which they are subject, and to the adoption of measures in that respect, including recognition of their right to participate in the adoption of those measures”

Conclusions

We therefore urge the Human Rights Council to promote the rights of indigenous peoples to social justice and equity, non-discrimination and gender equality, respect of all human rights, cultural diversity, linguistic rights, solidarity, peace and friendly relations among all nations, races, ethnicities or religions.

We also encourage Member States to implement the relevant norms and set up appropriate mechanisms to recognize the negative impact of the assimilationist educational systems based on intolerance, discrimination and inequality among races, sexes, ethnicities and social backgrounds in the enjoyment of the human right to peace.

We further request Member States to take the necessary measures towards the realization of the fundamental rights of indigenous peoples as contained in the UN Declaration on Human Rights of Indigenous Peoples, the Programme of Action of the International Conference on Population and Development, the Durban Declaration and Plan of Action, the UNESCO Universal Declaration on Cultural Diversity, the Convention on Biological Diversity, the Declaration on Environment and Development, the Vienna Declaration and Programme of Action and the [ILO Convention No. 169 on the Rights of Indigenous and Tribal Peoples in Independent Countries](#).

We also urge Member States to recognize the need to ensure full respect for the human rights of indigenous women as provided in the Beijing Declaration and Platform for Action of the Fourth World Conference on Women in 1995 and to promote their participation in all levels of decision making on peace and security issues as provided in UN Security Council Resolution 1325.

21 See reports of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, on Guatemala (A/CN.4/2003/90, Add. 2, 24 February 2003), Mexico (A/CN.4/2004/80, Add. 2, 23 December 2003) and Colombia (A/CN.4/2005/88, Add. 2, 10 November 2004)

22 Report of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, A/CN.4/2006/78, Add. 4, 26 January 2006, par. 16

23 Report of the former Special Rapporteur on human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, A/CN.4/2004/80, 26 January 2004, par. 6

We further encourage Member States to ensure that indigenous children enjoy their own culture, profess and practise their own religion, use their own language and have access health care or education as stipulated by the UN Convention on the Rights of the Child.

Finally, we request all international actors to fully participate at the Workshop on the right of peoples to peace, to be organized by the High Commissioner further to Council resolution 8/L.13, adopted on 18 June 2008.
