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## Human Rights Council

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Agenda items 3 and 5

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

**Human rights bodies and mechanisms**

## **Study of the Human Rights Council Advisory Committee on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind**

### *Summary*

In the present study, submitted pursuant to Human Rights Council resolution 16/3, the Advisory Committee examines how a better understanding and appreciation of the traditional values of dignity, freedom and responsibility could contribute to the promotion and protection of human rights. Mindful that discussions on the relationship between traditional values and human rights have revealed divided views, the Committee reflects on both the negative and the positive impact that traditional values may have on the effective implementation of human rights, analysing existing United Nations and other human rights-focused publications from all perspectives, including consideration of the role that traditional values may play in promoting respect for human rights, as well as the ways in which legitimate concerns may best be addressed.

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## I. Introduction

1. In its resolution 12/21, the Human Rights Council requested the United Nations High Commissioner for Human Rights to convene a workshop on how a better understanding of traditional values of humankind underpinning international human rights norms and standards could contribute to the promotion and protection of human rights and fundamental freedoms, and to present to the Council a summary of the discussions.

2. In its resolution 16/3, the Human Rights Council welcomed the holding of the above-mentioned workshop on 4 October 2010 and the report of the Office of the High Commissioner (OHCHR) containing the summary of its discussions held at the workshop. The Council affirmed that dignity, freedom and responsibility are traditional values, shared by all humanity and embodied in universal rights instruments, recognized that the better understanding and appreciation of these values contribute to promoting and protecting human rights and fundamental freedoms, and requested the Advisory Committee to prepare a study on how a better understanding and appreciation of traditional values of dignity, freedom and responsibility could contribute to the promotion and protection of human rights.

3. At its seventh session, the Advisory Committee adopted recommendation 7/1 by consensus, in which it established a drafting group consisting of the following members: Ahmer Bilal Soofi (Chairperson), Vladimir Kartashkin (Rapporteur), Obiora Chinedu Okafor, Anantonia Reyes Prado, Mona Zulficar, Dheerujall Seetulsingh, Laurence Boisson de Chazournes, Shiqiu Chen, Alfred Ntunduguru Karakora and Chinsung Chung. The Committee also requested the drafting group to prepare the above-mentioned study and to submit it to the Committee for consideration at its ninth session.

4. At its eighth session, the Advisory Committee adopted recommendation 8/6 by consensus, in which it took note of the comments and suggestions made during the discussions on the preliminary study prepared by Mr. Kartashkin, and requested the drafting group to submit a revised preliminary study to the Committee at its ninth session for further consideration. At its ninth session, the Committee considered the revised preliminary study and requested the drafting group to finalize it in the light of the discussions held. In its resolution 21/3, the Human Rights Council accorded the Committee additional time to finalize the study, in accordance with Committee recommendation 9/4.

5. In pursuing its mandate, the drafting group is guided by, inter alia, Human Rights Council resolution 6/30, in which the Council requested the Advisory Committee to regularly and systematically integrate a gender perspective into the implementation of its mandate, including when examining the intersection of multiple forms of discrimination against women, and to include in its reports information on and qualitative analysis of human rights of women and girls.

6. The Advisory Committee is mindful that discussions on the relationship between traditional values and human rights have revealed divided views, demonstrating the need to reflect on both the negative and the positive impact that traditional values may have on the effective implementation of human rights. Assessing how a “better understanding” of these values can contribute to human rights, as mentioned by the Human Rights Council in its resolution 16/3, involves analysis of existing United Nations and other human rights-focused publications from all perspectives, including consideration of the role traditional values may play in promoting respect for human rights, as well as the ways in which legitimate concerns may best be addressed.

## II. Concepts

### A. Traditional values of humankind

7. There is no agreed definition of the term “traditional values of humankind”. No such definition resulted from the discussions held by the Human Rights Council or the Advisory Committee. To the extent that humankind in its entirety can be said to share a common set of values, such values are those which “have made an important contribution to the development of international human rights norms and standards”.<sup>1</sup> As noted in the report on the OHCHR workshop on traditional values, such values were inscribed in the Universal Declaration of Human Rights that, having incorporated diverse, cultural and political traditions and perspectives, “represents a common standard of achievement for all peoples and all nations”.<sup>2</sup>

8. The term “traditional values” has been used in regional human rights instruments; for example, the African Charter on Human and Peoples’ Rights specifies in its article 17.3 that “the promotion and protection of morals and traditional values recognized by the community shall be the duty of the State”.

9. According to the Special Rapporteur on violence against women, its causes and consequences, the core values that human rights protect and promote, including dignity, equality and the notion of rights itself, have been articulated in an array of literatures, religions and cultural practices of people all around the world, and became formalized into international law through consensus decisions of representatives of States Members of the United Nations in multilateral negotiations and advocacy of civil society groups.<sup>3</sup>

10. Human rights have moral universality, since human rights are held universally by all persons “simply because one is a human being”, and international normative universality, meaning that human rights are universally accepted by Governments through their commitments and obligations under international human rights law.<sup>4</sup>

11. Nevertheless, traditions are so varied and complex that, while some traditions comply with human rights norms and contribute to their promotion and protection, others undermine or are in conflict with them. As seven special procedures mandate holders underlined in a joint statement, issues of culture and tradition must be addressed within a human rights framework:

Cultural diversity... can only thrive in an environment that safeguards fundamental freedoms and human rights, which are universal, indivisible, interconnected and interdependent. No one may invoke cultural diversity as an excuse to infringe on human rights guaranteed by international law or limit their scope, nor should cultural diversity be taken to support segregation and harmful traditional practices which, in the name of culture, seek to sanctify differences that run counter to the universality, indivisibility and interdependence of human rights.<sup>5</sup>

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<sup>1</sup> Human Rights Council resolution 16/3, preamble.

<sup>2</sup> A/HRC/16/37, para. 65 (b).

<sup>3</sup> A/HRC/4/34, para. 23.

<sup>4</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca and London, Cornell University Press, 2003), p. 1.

<sup>5</sup> “Human Rights are essential tools for an effective intercultural dialogue”, statement by a group of United Nations experts on the World Day on Cultural Diversity for Dialogue and Development, 21 May 2010.

12. In paragraph 38 of the Vienna Declaration and Programme of Action, the World Conference on Human Rights stressed the importance of working towards the elimination of the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism, and emphasized that, “while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”<sup>6</sup> The preamble to the Convention on the Elimination of All Forms of Discrimination against Women affirms that “a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women.” The Human Rights Council, in its resolution 16/3, in which it mandated the present study, similarly stressed that traditions should not be invoked to justify harmful practices violating universal human rights norms and standards.

## B. Dignity

13. Since ancient times, the definition of dignity has been a concern in many cultures, and has developed in several historical phases. For example, during the Renaissance, it was formulated to encompass three ideals: the right to dissent; respect for cultural and religious diversity; and the right to growth and enrichment of life.<sup>7</sup> Although there has always been a connection between the notion of dignity and the legal comprehension of human rights,<sup>8</sup> the concept has been further developed in modern times. In human rights law, dignity is an inherent aspect of being human. It is directly linked with the concept of equality and of each human being as worthy of respect.

14. Dignity is first mentioned at the beginning of the Charter of the United Nations: “We the peoples of the United Nations determined 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...” The preamble to the Universal Declaration of Human Rights states, “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Article 1 of the Universal Declaration provides that “all human beings are born free and equal in dignity and rights.”

15. Subsequent instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination against Women, the Convention on the Rights of the Child and the Vienna Declaration and Programme of Action, refer to these statements. The preambles to both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights state that “these rights derive from the inherent dignity of the human person”. In these uses of the word

<sup>6</sup> A/CONF.157/23, part II, para. 38, and part I, para. 5.

<sup>7</sup> Pico della Mirandola, Giovanni, *Oration on the Dignity of Man (De hominis dignitate)*. See also *El derecho a ser hombre*, antología preparada bajo la coordinación de Jeanne Hersch. Ediciones Sigueme, UNESCO, Colsubsidio. Salamanca, Paris, Bogotá.1973.

<sup>8</sup> Habermas, Jürgen. “The concept of human dignity and the realistic utopia of human rights”, *Metaphilosophy*, vol. 41, No. 4, July 2010, pp. 464-480.

“dignity”, the concept is connected with equality and the idea that human dignity, which belongs to everyone equally, is the source of all rights.<sup>9</sup>

16. Dignity is not just a ground of rights, but also an aspect of the content of certain rights. Dignity appears in specific articles of the Universal Declaration of Human Rights, such as articles 22 and 23, where it is connected with economic rights, including the right to social security and just remuneration. It is associated with conditions of detention in article 10 of the International Covenant on Civil and Political Rights, which provides that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”<sup>10</sup> In the Convention on the Rights of Persons with Disabilities, dignity is linked to autonomy.<sup>11</sup> United Nations treaty bodies regularly refer to dignity in connection with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment,<sup>12</sup> discrimination,<sup>13</sup> conditions of detention<sup>14</sup> and the right to an adequate standard of living.<sup>15</sup>

17. Dignity also appears in many regional instruments. For instance, the Charter of the Organization of African Unity (now the African Union) states that “freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples.” Article 5 of the African Charter on Human and Peoples’ Rights connects respect for dignity with the prohibitions of slavery, torture and cruel, inhuman or degrading treatment or punishment. A similar link is established in articles 5 (torture) and 7 (forced labour) of the American Convention on Human Rights. According to the Inter-American Court of Human Rights, the concept of equality is “inseparable from the essential dignity of the person”.<sup>16</sup>

18. Dignity is a fundamental principle in national constitutions and jurisprudence in diverse regions, including Canada, India, Poland, South Africa and Uganda. Courts in Canada and South Africa in particular link dignity with the idea of equality.<sup>17</sup> For example,

<sup>9</sup> Jeremy Waldron, “Dignity, Rank, and Rights: The 2009 Tanner Lectures at UC Berkeley”, 2009, pp. 5-6.

<sup>10</sup> For other references to dignity, see the International Covenant on Economic, Social and Cultural Rights, art. 13(1) (education), and the preambles to the Convention on the Elimination of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture, the Convention on the Elimination of Racial Discrimination and the Convention on the Rights of Persons with Disabilities.

<sup>11</sup> See Convention on the Rights of Persons with Disabilities, arts. 3, 16, 24 and 25. See also Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights”, *European Journal of International Law*, vol. 19, no. 4, 2008, pp. 655, 691 and 706.

<sup>12</sup> On the prohibition of torture and cruel, inhuman or degrading treatment, see CAT/C/LIE/CO/3, CAT/C/CHE/CO/6, CRC/C/SLE/CO/2, CRC/C/JOR/CO/3, CCPR/CO/80/UGA and CCPR/CO/71/UZB. On corporal punishment, see CRC/C/15/Add.168, CRC/C/15/Add.259, CRC/C/15/Add.135, CRC/C/ETH/CO/3, CRC/C/15/Add.121, CRC/C/15/Add.139 and CRC/C/THA/CO/2.

<sup>13</sup> See CRPD/C/TUN/CO/1, CCPR/C/JPN/CO/5, CCPR/CO/83/UZB, CCPR/CO/82/MAR, CCPR/C/PRY/CO/2, CCPR/C/KWT/CO/2, CEDAW/C/IND/CO/3, CEDAW/C/AZE/CO/3, CAT/C/AUT/CO/4-5, CERD/C/BOL/CO/17-20 and CRC/C/CMR/CO/2.

<sup>14</sup> See CCPR/CO/82/ALB, CCPR/C/UKR/CO/6, CCPR/C/JAM/CO/3, CRC/C/CHN/CO/2, CRC/C/DJI/CO/2, CAT/C/GUY/CO/1 and CAT/C/RUS/CO/4.

<sup>15</sup> See E/C.12/COD/CO/4 and E/C.12/1/Add.60. See also E/C.12/1999/5, para. 4, in which the Committee on Economic, Social and Cultural Rights notes that the right to adequate food is “indivisibly linked to the inherent dignity of the human person”.

<sup>16</sup> Inter-American Court of Human Rights, *Atala v. Chile*, para. 79.

<sup>17</sup> See *Egan v. Canada*, 1995 (Supreme Court of Canada); *Vriend v. Alberta*, 1998 (Supreme Court of Canada); *Nat'l Coal. For Gay & Lesbian Equal. v. Minister of Justice*, 1998 (Constitutional Court of South Africa); and *Minister of Home Affairs v. Fourie*, 2006 (Constitutional Court of South Africa).

the Constitutional Court of South Africa confirmed that “the protection of diversity is the hallmark of a free and open society. It is the recognition of the inherent dignity of all human beings. Freedom is an indispensable ingredient of human dignity.”<sup>18</sup> In Uganda, the Constitution provides that “laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status are prohibited by this Constitution.” In India, dignity is associated with the right to an adequate standard of living.<sup>19</sup>

### C. Freedom

19. Human rights instruments typically refer to the “rights and freedoms” that they guarantee.<sup>20</sup> International law guarantees “rights” – such as the right to liberty and security of the person or the right to life – and also guarantees “freedoms”, which essentially means the right to do something (for example, movement) or have something (for example, belief) free from State interference. Freedom as referred to in international human rights instruments denotes both the state or quality of being free and the absence of State interference in the exercise of rights.

20. Article 1 of the Universal Declaration of Human Rights affirms that all human beings are born “free and equal” in dignity and rights. In this sense, freedom is the original condition. It is the property of all human beings from birth, endowed with dignity and rights.<sup>21</sup>

21. Freedom may also refer to the enjoyment of economic, social and cultural rights. According to the Universal Declaration of Human Rights, the ideal of free human beings enjoying “freedom from fear and want” can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights.

22. More broadly, freedom means that the exercise of these rights is not subject to unjustifiable restrictions or limitations imposed by the State.<sup>22</sup> It denotes the absence of coercion or interference; it is thus possible to speak of “freedom of movement”, “freedom of thought, conscience and religion”, “freedom of opinion and expression” and “freedom of peaceful assembly and association”.<sup>23</sup> Freedom of opinion means that any “form of effort to coerce the holding or not holding of any opinion is prohibited”.<sup>24</sup> In general, rights can be characterized as “freedoms” when they impose on States the obligation both to refrain from interference and to take some positive action, such as ensuring the necessary preconditions for the exercise of that right.<sup>25</sup>

<sup>18</sup> *Prince v. President of the Law Society of the Cape of Good Hope*, 2002, para. 49.

<sup>19</sup> *Mullin v. The Administrator*, Union Territory of Delhi, 1981 (Supreme Court of India).

<sup>20</sup> See the Universal Declaration of Human Rights, art. 2, and the preamble to the International Covenant on Civil and Political Rights. See also the European Convention for the Protection of Human Rights and Fundamental Freedoms.

<sup>21</sup> Consistent with this understanding, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, states in its preamble that “freedom is the birthright of every human being”.

<sup>22</sup> See the Universal Declaration of Human Rights, arts. 1, 2, 4, 13, 16 (2), 18, 19, 20(1), 21(1), 23(1) and 27(1); the International Covenant on Civil and Political Rights, arts. 1, 12, 18, 19 and 22; and the International Covenant on Economic, Social and Cultural Rights, arts. 1 and 6.

<sup>23</sup> Universal Declaration of Human Rights, arts. 13, 18, 19 and 20.

<sup>24</sup> *Ibid.*, para. 10.

<sup>25</sup> Committee on Economic, Social and Cultural Rights, general comment No. 21, para. 6.

23. Although some rights and freedoms, such as the prohibition on torture, are absolute, others may, in certain circumstances, be restricted. For those that may be restricted by State action, as explained by the treaty bodies, the essence of the right must be preserved. Restrictions may not “put in jeopardy the right itself”.<sup>26</sup> The right is the norm and the restriction is the exception. The Committee on Economic, Social and Cultural Rights emphasized that “the Covenant’s limitation clause, article 4, is primarily intended to protect the rights of individuals rather than to permit the imposition of limitations by States”.<sup>27</sup> Furthermore, restrictions may never violate other rights guaranteed under international law, including the right to equality and non-discrimination, on any grounds.

24. With regard to freedom of movement, the Human Rights Committee stated, in its general comment No. 27, paragraph 14, that restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument among those which might achieve the desired result; and they must be proportionate to the interest to be protected.

25. Freedom is therefore closely linked with both dignity and equality; it is an essential quality to the pursuit by each individual of his or her aspirations and self-fulfilment, in dignity and rights, free from unjustifiable interference by the State or by other actors.

#### **D. Responsibility**

26. According to the norms of international law, the notion of responsibility refers primarily to the State. The State is responsible for the promotion, protection and fulfilment of all human rights for all persons. For example, the Vienna Declaration and Programme of Action emphasizes “the responsibilities of all States, in conformity with the Charter of the United Nations, to develop and encourage respect for human rights and fundamental freedoms for all”. The Committee on the Rights of the Child described the responsibility of the State party as “the primary duty-bearer for the realization of the rights guaranteed under the Convention”.<sup>28</sup> While the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms recognizes the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels, it stresses that “the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State.”<sup>29</sup>

27. In general, the responsibility to guarantee human rights imposes three levels of obligations: to respect, to protect and to fulfil rights.<sup>30</sup> States bear the responsibility to ensure that private actors do not impair rights. The Committee on the Elimination of Discrimination against Women noted that, under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.<sup>31</sup> In the case of *A.T. v. Hungary*, the Committee found that Hungary had violated the rights of a woman who had been subject to repeated

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<sup>26</sup> See Human Rights Committee general comments No. 34, para. 21, and No. 31, para. 6. See also E/CN.4/1984/4, annex.

<sup>27</sup> General comment No. 14, para. 28.

<sup>28</sup> CRC/C/NGA/CO/3-4, para. 23.

<sup>29</sup> General Assembly resolution, 53/144, annex, preamble.

<sup>30</sup> Committee on Economic, Social and Cultural Rights, general comment No. 16, para. 17.

<sup>31</sup> General recommendation No. 19, para. 9.

abuse and physical assaults by her common-law husband. Specifically, the State did not afford her sufficient protection from domestic violence at the hands of a private actor.<sup>32</sup>

28. Similarly, the Committee against Torture, in its general comment No. 2, clarified that the Convention imposed obligations on States parties, not on individuals. States bore international responsibility for the acts and omissions of their officials and others, including agents, private contractors and other persons acting in an official capacity or on behalf of the State, in conjunction with the State, under its direction or control, or otherwise under colour of law. The Committee added that it had made clear that, where State authorities or others acting in an official capacity or under colour of law knew or had reasonable grounds to believe that acts of torture or ill-treatment were being committed by non-State officials or private actors and they failed to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors in accordance with the Convention, the State bore responsibility and its officials should be regarded as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts.<sup>33</sup>

29. In certain circumstances, non-State actors may also have responsibilities in international human rights law, particularly when they are acting in the place of the State or fulfilling the functions of the State.<sup>34</sup> In his commentary to the Guiding Principles on Business and Human Rights, the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises<sup>35</sup> affirmed that the responsibility to respect human rights is a global standard of expected conduct for all business enterprises, wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.<sup>36</sup> The Special Representative added that the responsibility to respect human rights requires that business enterprises:

(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.<sup>37</sup>

30. The African Charter on Human and Peoples' Rights also refers to individuals' duties, which go beyond the conventional notion that duties may be correlative to rights.<sup>38</sup> Asian Confucian tradition emphasizes the responsibility of individuals, families and communities in caring for others, which is consistent with the notions of respect and solidarity in the culture of certain indigenous peoples. Similarly, the preambles to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights recognize that the individual is "under a

<sup>32</sup> Communication No. 2/2003, views adopted on 26 January 2005.

<sup>33</sup> General comment No. 2, paras. 15 and 18. See also Human Rights Committee, general comment No. 31.

<sup>34</sup> See Andrew Clapham, *Human Rights Obligations of Non-State Actors* (Oxford, Oxford University Press, 2006), and Philip Alston (ed.), *Non-State Actors and Human Rights* (New York, Oxford University Press, 2005).

<sup>35</sup> Endorsed by the Human Rights Council in its resolution 17/4.

<sup>36</sup> See A/HRC/17/31, para. 11.

<sup>37</sup> *Ibid.*, para. 13.

<sup>38</sup> Philip Alston, Ryan Goodman and Henry J. Steiner (ed.), *International Human Rights in Context: Law, Politics, Morals* (Oxford, Oxford University Press, 2008), p. 505.

responsibility to strive for the promotion and observance of the rights recognized in the present Covenant”. Thus, although it should be emphasized that human rights are inalienable and inherent in the human person, and are not conditional upon “responsible behaviour”, individuals may be regarded as having a responsibility to promote respect for human rights, and not to cause human rights violations against other individuals.

31. In 2005, the Economic and Social Council voted against a proposal to develop a text on “human responsibilities” owing to concerns that this could undermine the principle of universality. For example, in a report addressing the issue of honour crimes, the Special Rapporteur on violence against women, its causes and consequences, noted that, in patriarchal and patrilineal societies, maintaining the honour of the family is a woman’s responsibility, and explained that this contributed to the concept of women as commodities, expected to be obedient and passive, and not as human beings endowed with dignity and rights equal to those of men.<sup>39</sup> There is no need for new standards on individual responsibility, as international human rights law already reflects the fact that some – though not all – rights may be subject to limitations that are provided for by law and necessary for certain permissible purposes, such as protecting the rights of others.<sup>40</sup>

### **III. Relationship between traditional values and human rights**

32. The relationship between traditional values and human rights is complex; diverse traditional values are at the root of universal human rights, although some traditional values have contributed to justifications for the subordination of women and minority groups in both Western and non-western countries. The international community has made efforts to respect traditional values and, at the same time, to abolish, correct or adjust traditional values and practices that have a harmful impact on human rights. Traditional values have been applied to support efforts to implement and reinforce human rights.

#### **A. The roots of universal human rights in diverse traditional and cultural contexts**

33. As was noted by many States during the adoption of the Universal Declaration of Human Rights, the values underpinning the Declaration reflected diverse cultures and societies. For example, Ecuador stated that the “multiplicity of origin of human rights could be detected in reading the articles of the Declaration”. Pakistan affirmed its full support for article 19, quoting from the Koran, stating that Islam “had unequivocally proclaimed the right to freedom of conscience and had declared itself against any kind of compulsion in matters of faith or religious practices”. China stressed that Chinese thought had influenced the evolution of ideas of the rights of man in the Western world. Brazil stated that “the Declaration did not reflect the particular point of view of any one people or of any one group of peoples, neither was it the expression of any particular political doctrine or philosophical system. It was the result of the intellectual and moral cooperation of a large number of nations; that explained its values and interest and also conferred upon it great moral authority”.<sup>41</sup>

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<sup>39</sup> E/CN.4/2002/83, para. 27.

<sup>40</sup> International Council on Human Rights Policy, “Taking Duties Seriously: Individual Duties in International Human Rights Law”, 1999, preface, pp. 40-42.

<sup>41</sup> See A/PV.180, 181, 182 and 183. According to the United Nations Development Programme (UNDP), the “common set of values” of humankind are those inscribed in the Universal Declaration of Human Rights, which, having incorporated diverse cultural and political traditions and perspectives

34. It was also clear that the Declaration was meant to be forward-looking, in part advancing rights that had not previously been protected. As the delegate of India noted, “earlier declarations had not mentioned rights such as the right to equal pay for equal work; the right of mothers and children to social protection, whether the children were born in or out of wedlock; the right to education; equality of rights for men and women. Those rights were the expression of a new social order, of true democracy based on social justice.”<sup>42</sup>

35. Scholars have noted examples of traditional values reflected in international human rights law,<sup>43</sup> such as the concept of equality among the Akaamba of Kenya,<sup>44</sup> the high value placed on human dignity by the Akan of Ghana,<sup>45</sup> and the commitments to due process among the Amhara of Ethiopia and Kuba in the Democratic Republic of the Congo.<sup>46</sup> In addition, the indigenous Andean concept of *sumak kawsay* bases the notion of well-being not in the isolated individual but in the relationship between the individual, the community and nature.<sup>47</sup> *Ahimsa*, a tenet of some Indian religions such as Hinduism, Jainism and Buddhism, is a term meaning non-violence. Mohandas Karamchand Gandhi successfully promoted the principle of *ahimsa* by applying it to all spheres of life, particularly to politics.<sup>48</sup> His non-violent resistance movement had an immense impact in India, impressed public opinion in Western countries and influenced the leaders of various civil and political rights movements, including Martin Luther King and Nelson Mandela.<sup>49</sup> Sikhism emphasizes the principle of equality of all humans and rejects discrimination on the basis of caste, creed and gender.<sup>50</sup>

36. The Special Rapporteur on the rights of indigenous peoples has researched customary laws and the administration of justice among indigenous societies around the world. In a report submitted to the Commission on Human Rights in 2004, the Special Rapporteur wrote that indigenous customary law was rooted in local traditions and customs and usually answered the needs of indigenous communities regarding the maintenance of social order and harmony, the solution of conflicts of various kinds and the process of dealing with offenders. He added that countries that had been able to incorporate respect for customary indigenous law in their formal legal systems found that justice was handled more effectively, particularly when dealing with civil and family law, but also in certain areas of

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and having been adopted by consensus, “represents a common standard of achievement for all peoples and all nations.” See UNDP, “Doing justice: how informal justice systems can contribute”, December 2006, pp. 33-35.

<sup>42</sup> A/PV.180, 181, 182 and 183.

<sup>43</sup> See Makau Mutua, “The Banjul Charter and the African Cultural Fingerprint: an Evaluation of the Language of Duties”, *Virginia Journal of International Law*, vol. 35, 1995, p. 346; Timothy Fernyhough, “Human Rights in Pre-colonial Africa” in Ronald Cohen, et al., eds., *Human Rights and Governance in Africa* (Florida, University Press of Florida, 1993); and Kwasi Wiredu, “An Akan Perspective on Human Rights”, in Abdullahi Ahmed An-Na’im and Francis M. Deng (eds.), *Human Rights in Africa: Cross-Cultural Perspectives* (Washington, D.C., Brookings Institution, 1990).

<sup>44</sup> Mutua, “The Banjul Charter” (see footnote 44), p. 350.

<sup>45</sup> Wiredu, cited in Mutua, *ibid.*, pp. 348-354.

<sup>46</sup> Fernyhough, “Human Rights in Pre-colonial Africa” (see footnote 44), pp. 62.

<sup>47</sup> A/HRC/16/37, para. 17.

<sup>48</sup> Unto Tahtinen, *Ahimsa: Non-Violence in Indian Tradition*, London, Rider, 1976, pp. 116-124.

<sup>49</sup> See Placido P. D’Souza, “Commemorating Martin Luther King Jr.: Gandhi’s influence on King” SF Gate (*San Francisco Chronicle*), 20 January 2003; and Nelson Mandela, “The Sacred Warrior: The liberator of South Africa Looks at the Seminal Work of the Liberator of India”, *Time*, 31 December 1999.

<sup>50</sup> Satvinder Singh Juss, “The Secular Tradition in Sikhism” in *Rutgers Journal of Law and Religion*, vol. 11, spring 2010, p. 270.

criminal law, so that a kind of legal pluralism appeared to be a constructive way of dealing with diverse legal systems based on different cultural values.<sup>51</sup>

37. According to the American Anthropological Association, “people and groups have a generic right to realize their capacity for culture ... so long as such activities do not diminish the same capacities of others.” As such, they affirm the importance of human diversity. In its Declaration on Anthropology and Human Rights, the Association also noted that it had “long been, and should continue to be, concerned whenever human difference is made the basis for a denial of basic human rights”.<sup>52</sup>

38. Explaining international human rights principles in ways that resonate in diverse cultures and traditions may assist in promoting respect for human rights. For example, during a panel discussion at the Human Rights Council on the theme “discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity”,<sup>53</sup> the Ambassador of South Africa, as moderator of the panel, invoked the doctrine of *Ubuntu*:

What Ubuntu essentially says is, “I am because you are”. And in that, it conveys that we are all linked in our common humanity, and therefore we have a responsibility to protect each other according to the basic principles that in fact underlie our concepts of human rights.<sup>54</sup>

## **B. The negative impact of traditional values on vulnerable groups**

39. Special procedures mandate holders, treaty bodies and OHCHR have published many works that emphasize the importance of ensuring that “traditions”, “attitudes” and “customary practices” are not elevated above universal human rights standards.<sup>55</sup> They highlighted the fact that such terms are often used to justify the marginalization of minority groups and gender-based inequalities, discrimination and violence, and that there is a need to situate these terms within a human rights context.

40. In the report of the OHCHR workshop on the traditional values of humankind, attention was drawn to the fact that perceptions of what constituted “traditional values” were highly subjective and dependent on societal power structures. It was noted that some practices and attitudes at odds with human dignity were derived from traditional values. Tradition is often invoked to justify maintaining the status quo, failing to take into account the reality that traditions, cultures and social norms have always evolved and will continue to change with time; a human rights-based approach, by contrast, often requires changes to the status quo in order to ensure compliance with international human rights standards. Those who benefit most from the status quo are more likely to appeal to tradition to maintain power and privilege, and also to speak on behalf of tradition, while those most marginalized and disenfranchised have the most to lose from a traditional values approach to human rights. In its general recommendation No. 19, the Committee on the Elimination

<sup>51</sup> E/CN.4/2004/80, para. 67.

<sup>52</sup> See [www.aaanet.org](http://www.aaanet.org).

<sup>53</sup> Held pursuant to Human Rights Council resolution 17/19, para. 2.

<sup>54</sup> See [www.unmultimedia.org/tv/webcast/2012/03/panel-discussion-sexual-orientation-and-gender-identity.html](http://www.unmultimedia.org/tv/webcast/2012/03/panel-discussion-sexual-orientation-and-gender-identity.html).

<sup>55</sup> See E/CN.4/2006/61/Add.5, paras. 9, 20, 76 and 80; A/HRC/4/34, para. 47; A/HRC/18/35/Add.5, para. 67; Committee on the Elimination of Discrimination against Women, general recommendations No. 19, paras. 11 and 23, and No. 21, art. 16, paras. 21 and 22; Beijing Declaration and Platform for Action, para. 119; and OHCHR, “Harmful Traditional Practices Affecting the Health of Women and Children”, Human Rights Fact Sheet No. 23, 1995.

of Discrimination against Women stated that traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may thus justify gender-based violence as a form of subordination or control of women.

41. The Special Rapporteur on violence against women, its causes and consequences, noted that cultural relativism is often an excuse to allow for inhumane and discriminatory practices against women in the community, and that, “in the next century, the problem posed by cultural relativism, and the implications for women’s rights, will be one of the most important issues in the field of international human rights.”<sup>56</sup> The Committee on the Elimination of Discrimination against Women has consistently expressed concern about the persistence of practices, traditions, patriarchal attitudes and deep-rooted stereotypes that perpetuate discrimination against women, and continues to express concern at States’ failure to take effective and systematic action to modify or eliminate stereotypes and negative traditional values and practices.<sup>57</sup> Similar analysis is reflected in paragraph 119 of the Beijing Declaration and Platform for Action.<sup>58</sup> In the context of the right to take part in cultural life, the Committee on Economic, Social and Cultural Rights emphasized the responsibility of States “to combat practices harmful to the well-being of a person or group of persons”, including female genital mutilation and allegations of witchcraft.<sup>59</sup>

42. It is important to note that those who challenge the social constructions of gender on the basis of values said to be traditional, cultural or religious are particularly exposed to the risk of violence and abuse of human rights. In a report on human rights defenders working on gender-related issues, the Special Rapporteur on human rights defenders noted that women defenders were more at risk of suffering certain forms of violence and other violations, prejudice, exclusion and repudiation than their male counterparts, owing to the fact that women defenders were perceived as challenging accepted socio-cultural norms, traditions, perceptions and stereotypes about femininity, sexual orientation and the role and status of women in society.<sup>60</sup> The Special Rapporteur in the field of cultural rights stressed that cultural rights include the right not to participate in specific traditions, customs and practices, particularly those that infringe on human rights and dignity, and to revise and (re)negotiate existing traditions, values or practices, regardless of their provenance.<sup>61</sup>

43. Such violations justified by traditional, cultural or religious values are often targeted against minority or disenfranchised groups that are not in a position to shape the dominant discourse defining the values of the overarching society or community. In a report to the Human Rights Council in 2011, the Special Rapporteur on the rights of indigenous peoples observed that the master-slave relationships persisting in one country reflected the structural inequities that result from deeply engrained discriminatory attitudes about indigenous peoples. These attitudes appeared to have been internalized by both indigenous

<sup>56</sup> E/CN.4/2002/83, para. 1.

<sup>57</sup> CEDAW/C/LSO/CO/1-4, CEDAW/C/EGY/CO/7, CEDAW/C/USR/CO/7, CEDAW/C/ZAF/CO/4, CEDAW/C/LAO/CO/7, CEDAW/C/UZB/CO/4, CEDAW/C/LBR/CO/6, CEDAW/C/PNG/CO/3, CEDAW/C/BFA/CO/6, CEDAW/C/TUV/CO/2, CEDAW/C/TZA/CO/6, CEDAW/C/DJI/CO/1-3, CEDAW/C/TCD/CO/1-4, CEDAW/C/CIV/CO/1-3.

<sup>58</sup> See also OHCHR Fact Sheet No. 23 on harmful traditional practices affecting the health of women and children.

<sup>59</sup> E/C.12/GC/21, para. 64.

<sup>60</sup> A/HRC/16/44, para. 23.

<sup>61</sup> A/67/287, paras. 25 and 28.

and non-indigenous segments of society to a significant extent, leading to acquiescence to these destructive power dynamics between the stronger and weaker elements of society.<sup>62</sup>

44. The negative impact of traditional practices arises not only in non-Western countries. The Special Rapporteur on violence against women, its causes and consequences, warned against mystifying and reducing non-Western culture to its symbolic, ritualized or supposedly “traditional” manifestations.<sup>63</sup>

### C. Application of traditional values in the implementation of human rights

45. Strategies to promote human rights and eliminate harmful practices can be more effective if they use the positive elements of traditional values as a basis for their arguments. Certain East Asian traditions, for example, may be effective in enhancing respect for human rights at the regional level. If the ultimate aim of human rights diplomacy is to persuade others of the value of human rights, then this is an argument more likely to be won if it builds on, rather than challenges, local cultural traditions. Building human rights practices on traditional values is more likely to lead to long-term commitment to human rights ideas and practices through the building of ownership of those norms.<sup>64</sup>

46. In this regard, the Special Rapporteur on violence against women acknowledged that such an approach revalidates and harnesses the positive elements of local culture, stating that successfully upholding universal values requires systematic engagement in a “cultural negotiation” whereby positive cultural elements are emphasized and oppressive elements in culture-based discourses are demystified. Contrary to what some may claim or fear, such an engagement with culture did not erode or deform local culture, but rather challenged its discriminatory or oppressive aspects. She added that negotiating culture with human rights concerns contributed to harnessing the positive elements of local culture to advance human rights and gender equality, a process that also revalidated culture itself.<sup>65</sup>

47. While noting that, as cultural relativist discourses strengthen, “we need unashamedly to invoke universal human rights and defend the principles for which women around the world have struggled with more pride, not less”,<sup>66</sup> the Special Rapporteur provided a number of examples in which women’s rights activists had successfully mobilized artistic and symbolic expressions of culture, including local women’s movements in the north of Mexico incorporating human rights language with symbolic actions to counter a culture of impunity and violence against women; women in France dressing as “Marianne”, the iconic symbol of French liberation, to draw attention to gender violence; and a meeting in Cairo of a group of Islamic scholars, who issued a set of recommendations recognizing female genital mutilation as a “deplorable inherited custom” incompatible with their understanding of Islamic teachings.<sup>67</sup>

48. Human rights and traditional values may interface in various ways. The international instruments that protect human rights and the conventions and recommendations of the International Labour Organization have promoted social dialogue as a means to strengthen human dignity and the freedom of workers. In this way, traditional values may be vehicles for promoting and implementing human rights.

<sup>62</sup> A/HRC/18/35/Add.5, para. 67.

<sup>63</sup> A/HRC/4/34, para. 46.

<sup>64</sup> Daniel Bell, “The East Asian Challenge to Human Rights: Reflections on an East West Dialogue”, *Human Rights Quarterly*, vol. 18, August 1996.

<sup>65</sup> A/HRC/4/34, paras. 52-53.

<sup>66</sup> *Ibid.*, para. 56.

<sup>67</sup> *Ibid.*, paras. 53-55.

49. Many States have taken positive steps to adopt laws based on traditional and religious values in order to introduce changes in conformity with international human rights standards. In Egypt, the women's movement succeeded in having a law passed in 2000 giving women the right to unilaterally terminate their marriage contracts by repudiation, based on the right to *khul*, a sharia law concept, thus achieving equality with men, who held the right to unilaterally terminate marriage contracts by divorce. The law, which respects women's dignity, has been subject to extensive judicial and constitutional challenges, and recently to parliamentary attempts to drop it. Nevertheless, it has remained in force and is helping to promote equality primarily because it is based on the traditional values admitted by sharia law.<sup>68</sup>

50. Even though the "traditional" mindset is still one of the key obstacles to combat discrimination against Dalits,<sup>69</sup> the Governments of India, Nepal and Sri Lanka have taken several steps to prohibit the practice of untouchability; for example, the Constitution of India has special provisions that are directed at the practice of caste discrimination, and the Government has passed several laws, including the Protection of Civil Rights (Anti-Untouchability) Act.<sup>70</sup>

51. The above positive examples of using local culture and tradition to promote respect for human rights and to eliminate harmful practices and prejudice illustrate the role that traditional values supporting and underpinning international standards may play in the promotion and protection of human rights.

## **IV. Promotion and protection of human rights through traditional values**

### **A. Role of human rights education through traditional values**

52. Treaty bodies have repeatedly emphasized the importance of human rights education as a means to implement human rights. In its general comment No. 3, the Committee on Economic, Social and Cultural Rights stated that educational measures were among the steps that States should take to meet their obligation to implement the rights in the Covenant. Similarly, the Human Rights Committee, in its general comment No. 28, stated that measures by States to achieve equal rights between men and women must include public education.

53. In resolution 49/184, in which the General Assembly proclaimed the United Nations Decade for Human Rights Education, the Assembly noted that education for human rights and democracy was itself a human right and a prerequisite for the realization of human rights, democracy and social justice. Furthermore, in the United Nations Declaration on Human Rights Education and Training, the Assembly declared that everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training.<sup>71</sup>

54. Article 29 of the Convention on the Rights of the Child provides that goals of education include respect for human rights, peace, tolerance and equality, as well as respect

<sup>68</sup> *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 38 (A/56/38)*, para. 323.

<sup>69</sup> CERD/C/452/Add.2.

<sup>70</sup> E/CN.4/Sub.2/2001/16, para. 22 (a).

<sup>71</sup> General Assembly resolution 66/137, annex, art. 1.

for the national values of the country in which the child lives. In its general comment No. 1, the Committee underlined the need to view rights within their broader ethical, moral, spiritual, cultural or social framework and the fact that most children's rights, far from being externally imposed, are embedded within the values of local communities.

55. In its general comment No. 1, the Committee on the Rights of the Child also pointed out that education should familiarize the child with the values of human rights, and that this is a life-long process, starting with reflection on human rights in daily life and within the child's own experience. The responsibility to relate human rights to personal experience is also reflected in the Committee's recommendation that States should develop creative methods, in particular at the local level, when promoting awareness of human rights.<sup>72</sup>

56. Within the context of the obligation placed on States, the concept of "traditional values" could have a role to play. In article 5, paragraph 3, of the United Nations Declaration on Human Rights Education and Training, the General Assembly stated that human rights education and training should embrace and enrich, as well as draw inspiration from, the diversity of civilizations, religions, cultures and traditions of different countries, as it is reflected in the universality of human rights. In a statement made on the International Year for the Rapprochement of Cultures, the Executive Director of the United Nations Population Fund (UNFPA) noted that his organization's work on culture was based on principles, inter alia, that "human rights can be recognized and internalized through a culturally sensitive approach that gives social basis and support to the legal approach and that builds on positive cultural values and religious interpretations that strengthen human rights principles."<sup>73</sup> The World Plan of Action on Education for Human Rights and Democracy also states that "a key challenge for the future is to enhance the universality of human rights by rooting these rights in different cultural traditions."<sup>74</sup> Thus, a better appreciation of diverse cultural and traditional contexts can enhance understanding of the international human rights framework; where traditional or cultural values are inconsistent with international human rights law, however, human rights education can assist States in fulfilling their responsibility to modify or eliminate harmful prejudices or stereotypes.<sup>75</sup>

## **B. Social institutions and the transmission of values**

57. In its resolution 16/3, the Human Rights Council noted the important role of family, community, society and educational institutions in upholding and transmitting traditional values, which contributes to promoting respect for human rights and increasing their acceptance at the grass roots.

58. It must be emphasized that families themselves are diverse and that, as the General Assembly noted in its resolution 59/147, "in different cultural, political and social systems, various forms of the family exist."<sup>76</sup> The Committee on the Rights of the Child has also noted that, within the Convention, the "family" refers to a variety of arrangements that can provide for young children's care, nurturance and development, including the nuclear

<sup>72</sup> CRC/C/GTM/CO/3-4, para. 29.

<sup>73</sup> UNFPA, "Promoting International Development Through a Cultural Lens" 21 April 2010. Available from, [www.unfpa.org/public/home/news/pid/5392](http://www.unfpa.org/public/home/news/pid/5392)

<sup>74</sup> World Plan of Action on Education for Human Rights and Democracy, available from [www.unesco.org/webworld/peace\\_library/UNESCO/HRIGHTS/342-353.HTM](http://www.unesco.org/webworld/peace_library/UNESCO/HRIGHTS/342-353.HTM)

<sup>75</sup> See for example the Convention on the Elimination of All Forms of Discrimination against Women, art. 5.

<sup>76</sup> See also General Assembly resolutions 65/277, para. 43, and S-26/2, para. 31, and Committee on the Elimination of Discrimination against Women general recommendation No. 21, para. 13.

family, the extended family, and other traditional and modern community-based arrangements, provided these are consistent with children's rights and best interests.<sup>77</sup>

59. The institutions that form the context within which an individual lives his or her life socialize a person and mould his or her values. At the same time, it has been noted that these institutions can transmit positive values consistent with international human rights, but may also be sites for the transmission of negative values that undermine human rights.<sup>78</sup>

60. Young children are particularly susceptible to absorbing values from their families, communities and educational institutions. In a statement on the occasion of the World Day on Cultural Diversity for Dialogue and Development, seven special procedures mandate holders declared that:

States should adopt measures conducive to the creation and preservation of open spaces necessary for the exercise of cultural freedoms and for enabling individuals and groups to address and manage cultural changes in a participatory way and to safeguard, develop and transmit their cultural heritage. In this regard, educational institutions play a vital role since they can either inculcate a spirit of tolerance or promote tensions, even at an early age. Therefore, emphasis must be placed on enlightened education that teaches children to recognize and to appreciate the diversity that exists.

61. In its general recommendation No. 19, the Committee on the Elimination of Discrimination against Women observed that family violence was one of the most insidious forms of violence against women, and that it was prevalent in all societies. "Within family relationships, women of all ages are subjected to violence of all kinds, which are perpetuated by traditional attitudes."<sup>79</sup>

62. In certain country visits, the Special Rapporteur on violence against women, its causes and consequences, found that sociocultural constraints linked to family structure, religion and tradition acted as an important deterrent for women to report violence, especially when it occurred in the home, and that domestic violence was often accepted as a normal part of family life, mainly because of entrenched perceptions of the preservation of family honour, the social and economic subordination of women to their husbands and male relatives, and the fear of becoming outcasts from the family and community if the violence was reported.<sup>80</sup>

63. It is therefore particularly important that States take steps to ensure that the values instilled by core social institutions are consistent with human rights. The power of these institutions, and the role that they play in shaping values, is recognized in the Beijing Declaration and Platform for Action, where it states, in paragraph 120, that:

Developing a holistic and multidisciplinary approach to the challenging task of promoting families, communities and States that are free of violence against women is necessary and achievable. Equality, partnership between women and men and respect for human dignity must permeate all stages of the socialization process. Educational systems should promote self-respect, mutual respect and cooperation between women and men.

<sup>77</sup> General comment No. 7, para. 15.

<sup>78</sup> See for example A/HRC/19/41, paras. 66-67.

<sup>79</sup> See also *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 38* (A/47/38), para. 23, A/HRC/13/39/Add.3, para. 37, and E/CN.4/1997/47, para. 8.

<sup>80</sup> A/HRC/17/26/Add.3, para. 64.

64. States have the responsibility not only to take proactive measures to educate individuals about human rights but also to ensure that those institutions that frame every individual's outlook transmit values that are consistent with international human rights standards. Thus, while the Committee on the Rights of the Child recognized that the primary responsibility for the upbringing and development of the child lies with the parents or with legal guardians, it also emphasized the ultimate responsibility of States to ensure that the rights of the child are protected by taking all appropriate legislative, administrative, social and educational measures to protect the child from violence, abuse (including sexual abuse), neglect, maltreatment and exploitation while in the care of parents or legal guardians. As noted by the the Committee on the Elimination of Discrimination against Women, States should develop and put into practice educational programmes to promote human rights, to "intensify cooperation ... with civil society organizations, women's groups and community leaders, traditional and religious leaders, as well as teachers and the media."<sup>81</sup>

### C. Good practices

65. In order to achieve universal observance of human rights, it is particularly important that awareness and ownership of human rights are promoted in all their dimensions. The history of human rights itself shows that these are the result of the growing awareness of human dignity. For example, feminist criticism made a significant contribution to a greater understanding of human rights. The promotion of human rights requires a holistic view, with the resources offered by new technologies and the mechanisms of education in a way that promotes participatory and democratic learning. The methods should be consistent with the content of human rights. There are various examples from around the world of States and other bodies developing human rights education programmes that acknowledge the role that social institutions play in transmitting values, and that strive to ensure that the values transmitted are those that promote and protect human rights, thereby contributing to the implementation of human rights standards on the ground.

66. In Indonesia, the National Working Group for Human Rights Dissemination and Promotion was assigned the task of creating a national framework for the domestic promotion of the international human rights system. Recognizing the important role played by key opinion leaders in the community in transmitting values, the Working Group worked closely with these actors to identify universal values familiar in Indonesian cultural and religious traditions that could be used as a basis for introducing and promoting international human rights standards in a way that connected to the experiences and understanding of the local population.<sup>82</sup>

67. By engaging such stakeholders in the process, the Working Group was rewarded with their support; as a result, the stakeholders were trained under the programme to use the curricula that were developed. The aim is for the population to attain a better understanding of human rights concepts through both the use of traditional values with which they are already familiar and the promotion of human rights on the basis of such values by multiple significant actors within their communities. The programme takes seriously the importance of families, societies, communities and educational institutions in transmitting values, and directs its energies towards ensuring that the values transmitted will promote and protect human rights.

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<sup>81</sup> CEDAW/C/NGA/CO/6.

<sup>82</sup> Mashadi Said, "Human Rights Advocacy Utilizing Religious Perspectives and Opinion Leaders: Promoting National Human Rights Education in Indonesia", p. 24, available from [www.newtactics.org/sites/newtactics.org/files/Said\\_Advocacy\\_update2007.pdf](http://www.newtactics.org/sites/newtactics.org/files/Said_Advocacy_update2007.pdf).

68. The programme was significant because of its engagement with Muslim religious leaders, some of whom believed that human rights did not need to be taught specifically, given the alignment that they saw between human rights and the values found within Islam. While there are indeed common values, framing those values in the language of human rights ensures universal protection for all individuals.

69. In Cambodia, the Human Rights Teaching Methodology Programme, launched by the Cambodian Institute of Human Rights and the Cambodian Ministry of Education, Youth and Sports, uses values identified with Buddhism as tools for explaining international human rights standards.<sup>83</sup> The Programme is being implemented in educational institutions, specifically primary and secondary schools.<sup>84</sup> The Institute set out to train all of the country's more than 70,000 primary and secondary school teachers in teaching human rights according to the methodology.<sup>85</sup> In this way, the Programme aims to create a community of human rights educators. By focusing on school children, the Institute also hopes that the human rights message will be transmitted to families and the community at large. The Programme recognizes that schools are central to the development of society, and that by developing the potential of learners, schools empower individuals for life in society.<sup>86</sup>

70. Educational programmes that promote and protect human rights should be developed. The programmes would give children the confidence to claim their own rights, but also the skills and means to promote and protect the rights of others. OHCHR has developed guidelines for teaching children that take into account the emphasis of the Committee on the Rights of the Child that such education should be centred on the child's experience, by connecting human rights to values that the child is able to understand.<sup>87</sup> The guidelines suggest that the foundation for teaching human rights should be an examination of the values of life, freedom, justice and equality, and of the destructive nature of deprivation, suffering and pain. Through the discussion of such universal values, the idea of human rights can be gradually introduced to pupils in a way that bases those rights upon these universally understood values. Where relevant, the values can be mediated through local culture and tradition in order to provide local illustration and ownership of the universal values of human rights. This can help each and every person to identify himself or herself as someone who bears those values, and to be motivated to defend and promote them.

71. A study paper by the United Nations Development Programme on the role of informal justice systems provides numerous examples of initiatives designed to strengthen

<sup>83</sup> Viola B. Georgi and Michael Seberich (eds.), "International Perspectives in Human Rights Education" 2004. Available from [www.bertelsmann-stiftung.de/bst/de/media/xcms\\_bst\\_dms\\_14994\\_14995\\_2.pdf](http://www.bertelsmann-stiftung.de/bst/de/media/xcms_bst_dms_14994_14995_2.pdf).

<sup>84</sup> *Human Rights Education in Asian Schools*, vol. II, "Human Rights Teaching Methodology in Cambodian Primary and Secondary Schools". Available from [www.hurights.or.jp/archives/human\\_rights\\_education\\_in\\_asian\\_schools/section2/1999/03/human-rights-teaching-methodology-in-cambodian-primary-and-secondary-schools.html](http://www.hurights.or.jp/archives/human_rights_education_in_asian_schools/section2/1999/03/human-rights-teaching-methodology-in-cambodian-primary-and-secondary-schools.html).

<sup>85</sup> *Human Rights Education in Asian Schools*, vol. I, "Human Rights Education in Cambodian Schools: The Experience of the Last Three Years". Available from [www.hurights.or.jp/archives/human\\_rights\\_education\\_in\\_asian\\_schools/section2/1998/03/human-rights-education-in-cambodian-schools---the-experience-of-the-last-three-years.html](http://www.hurights.or.jp/archives/human_rights_education_in_asian_schools/section2/1998/03/human-rights-education-in-cambodian-schools---the-experience-of-the-last-three-years.html)

<sup>86</sup> United Nations Educational, Scientific and Cultural Organization, *Guidelines on Intercultural Education*, p. 10, Available from <http://unesdoc.unesco.org/images/0014/001478/147878e.pdf>.

<sup>87</sup> OHCHR, "Teaching Human Rights. Practical activities for primary and secondary schools", 2004. Available from [www.ohchr.org/Documents/Publications/ABCChapter1en.pdf](http://www.ohchr.org/Documents/Publications/ABCChapter1en.pdf).

respect for international standards within informal and traditional justice systems by situating human rights learning within a local context.<sup>88</sup>

72. When developing programmes that introduce the concept of human rights by means of familiar traditional values, it is important that those values serve the goal of promoting and protecting human rights. As illustrated above, traditional values can be misapplied to justify discrimination or subjugation of minority or marginalized groups. Care must be taken to ensure that international human rights standards remain paramount when developing a programme of human rights education. The use of traditional values that may be more familiar to individuals and communities should be a tool for introducing and promoting the acceptability and implementation of international human rights standards; those traditional values must never, however, be presented as a substitute for international standards, given the generally subjective and unclear framing of values when compared with human rights.

## V. Conclusions and recommendations

73. **Realizing the rights proclaimed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other international instruments has been a challenging and continuing process in which States from diverse cultural and religious backgrounds have to cooperate at a universal level. There is a growing understanding and reflection of universal human rights standards in the policies and activities of regional organizations, which have adopted universal mechanisms for the protection of human rights. Such organizations have established not only commissions but also courts, thus making it possible to consider reports from State parties as well as individual complaints, while still taking the distinctive features of their countries' cultures, religions and traditions into account.**

74. **Increasing people's awareness, acceptance and implementation of universal human rights norms and standards at the grass-roots level has been a particularly difficult process; a better understanding and the promotion of positive traditional values underpinning such universal norms and standards could have a useful role to play in it.**

75. **The international community has reached consensus that each and every person is entitled to all the rights and freedoms recognized in the Universal Declaration of Human Rights. Under international law, all States, regardless of their political, economic and cultural systems, have the responsibility to promote and protect all human rights and fundamental freedoms for all. Dignity is inherent to the human person, and is inextricably related to equality and non-discrimination. Freedom is the sphere of the individual's actions, beliefs and opinions, free from State interference.**

76. **States, and in some cases non-State actors, have a responsibility to take sustained and systematic action to modify or eliminate stereotypes and negative, harmful and discriminatory practices justified by traditional values, and are encouraged to identify progress in this regard when reporting to international human rights monitoring mechanisms. Individuals may also be encouraged, particularly**

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<sup>88</sup> Ewa Wojkowska, "Doing Justice: How informal justice systems can contribute", UNDP, December 2006, pp. 33-35.

through human rights education, to exercise responsibility by striving for the promotion, respect and observance of human rights for all.

77. Traditional values consistent with the Universal Declaration of Human Rights can be instrumental in the promotion, protection and implementation of international human rights in diverse social and cultural contexts. Human rights education and training through such traditional values can be effective in the local context by rooting human rights in such familiar positive traditional values, thus enhancing their acceptability and eliminating the negative perception that human rights are foreign or alien concepts. It is important to recognize and safeguard the links between positive traditional values and human rights to strengthen universal respect for and implementation of human rights.

78. Families, communities, societies and educational institutions have an important role to play in upholding and transmitting the universal values of humankind as outlined in the Universal Declaration of Human Rights through human rights education and training. Positive traditional values that underpin and support human rights may be instrumental in increasing acceptability and implementation at the grass-roots level. States should respect the cultural diversity and pluralism that exist within communities and societies as a source of enrichment and value added to the social and cultural fabric of those communities and societies, as well as of marginalized and vulnerable groups; this should not, however, justify any breach of universal human rights and fundamental freedoms.

79. Although human rights have been for many years recognized as universal, inalienable and indivisible according to many international human rights instruments, their realization has faced obstacles, especially in certain areas where the population continues to live according to centuries-old traditions and customs in conditions of poverty and deprivation. Regional, cultural and religious specificities that are consistent with universal human rights may be instrumental in promoting the awareness, acceptability and implementation of human rights in diverse local contexts. This must not, however, prejudice the responsibilities of States to promote, protect and fulfil universal human rights in their respective countries and to cooperate at the international level.

80. In order to ensure that a better understanding and appreciation of traditional values of dignity, freedom and responsibility may contribute to the promotion, protection and fulfilment of human rights at the regional, national and grass-roots levels, the distinctive features of different cultures and religions should be accorded respect, on the condition that they are consistent with international human rights standards. To that end, there should be a constant dialogue between different countries and peoples, and respect shown for positive customs and diverse paths of development, while recognizing the responsibility of all States to promote and protect human rights for all. Such an approach would be an important step towards preserving the cultural diversity of our world, preventing conflict and ensuring the universal application of human rights.

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