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Requests addressed to the Advisory Committee

stemming from Human Rights Council resolutions:

Requests currently under consideration by the Committee:

Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind

Joint written statement* submitted by the International Commission of Jurists and International Service for Human Rights, non-governmental organization in special consultative status

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

[23 July 2012]

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

Study on traditional values

The ISHR and the ICJ welcome the revised study on traditional values. We believe it reflects hard work and considerable effort on the part of the drafting group and represents an attempt to integrate concerns raised by States and civil society at the last session of the Advisory Committee. In particular, we appreciate that the revised study examines the concept of “traditional values” from a variety of viewpoints. This is necessary in order to respond to the question of how a better understanding of traditional values can contribute to the promotion and protection of human rights. Traditional values mean many things to many people and there are legitimate concerns, often raised by members of treaty bodies and special rapporteurs, about the ways that states have invoked traditional values as a defense against the application of human rights law.

Regarding responsibility, the revised draft correctly states that it is States as duty-bearers who carry responsibility for promoting and protecting human rights and that human rights are not conditioned on the responsible behavior of individuals. We also welcome the inclusion of a reference to the last time the matter of individual responsibility came before the Commission on Human Rights and was voted down by ECOSOC. In this regard we would suggest rephrasing the first sentence of paragraph 31. We agree that it is highly controversial to import the notion of individual responsibility into human rights. Even more importantly we must highlight that human rights law is premised on state responsibility, and, in limited contexts, those of other powerful organized entities such as transnational corporations. Individual responsibility mainly comes into play in respect of the conduct of individuals acting in their capacity as agents of states or entities. Individuals do not carry separate responsibilities under international human rights law outside of such contexts. Individual responsibility for wrongful acts is properly the subject of criminal law. Human rights law already provides that some rights may be limited for a variety of permissible purposes, including protecting the rights of others. That itself should be the end of the discussion.

While we believe that the revised report does an admirable job of responding to the mandate, we wish to reiterate our concern about Resolution 16/3. We believe that emphasising traditional values could lead to undermining the universality of human rights. International human rights law must take primacy over traditional values, and not the other way around. For these reasons, we believe that any future work on this issue should be recast as the implementation of human rights in diverse traditional and cultural contexts. In other words, the emphasis must remain on the implementation of universal human rights norms. When one comes into conflict with the other, it is traditional values that must give way. We believe that the Conclusions and Recommendations should make specific reference to the fact that while traditional values may be used to help implement human rights, they must never be used to reinterpret human rights.
