



OIDEL



**Interventions
Conseil des droits de l'homme
Mars 2012**

Joint written statement

Toward preserving the universality of human rights

OIDEL note the report of the High Commissioner for Human Rights on “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity” resulting from the study commissioned by HRC resolution 17/19. The resolution passed by a narrow vote of 23 countries in favour, 19 against and 3 abstentions, a clear indication of how sensitive, controversial and delicate is the debate on “sexual orientation and gender identity”.

Indeed, the extent and range of discrimination and violence worldwide reveals how far the human family is from honouring and respecting the inherent human dignity that characterises every human being. The above-mentioned study helps to bring to the surface this tragic reality.

In this regard, the co-signing NGOs re-affirm, that the intrinsic dignity of each person must always be respected in word, in action and in law. The co-signatories condemn any form of violence and discrimination against any person without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Duly recognizing the principle of subsidiarity, we maintain that issues of violence and discrimination against any human person are best addressed by integrating the principles of the Universal Declaration of Human Rights, on which are based many other human rights instruments enjoying significant international consensus, into national and local laws and policies; by educating all people about the inherent human dignity bestowed upon themselves and all members of the human family; by sensitizing them to respect differences among people; and by confronting unjust laws, policies, cultural practices, and attitudes while, at the same time, respecting religious and cultural beliefs that aim toward promoting the common good and recognizing both national sovereignty and local contexts.

The co-signatories do not believe that violence and discrimination can be addressed by inclusion of new terminology in international human rights and other documents issued by the United Nations or other inter-governmental structures. The term “sexual orientation” is both ambiguous and confusing; it is not defined in international law. Among its various purposes, international law aims to determine the meanings of undefined words in treaties and other legal texts. In order to do so, international law requires that words be understood in accordance with their ordinary meaning.

Sexual identity, either male or female, represents a scientific fact of biological sex. In this regard, the term “gender” has been defined clearly in international law. The Statute of the International Criminal Court states clearly, “For the

purposes of this Statute, it is understood that the term „gender“ refers to the two sexes, male and female, within the context of society. The term „gender“ does not indicate any meaning different from the above.” In inter-governmental fora, attempts to extend the commonly accepted meaning of “male” and “female”, and thus to insert the notion that so-called “gender identity” can be chosen, generally have been rejected. The call of the UN Charter’s preamble for “equality between women and men” is repeated in the preamble of the Universal Declaration of Human Rights, which, in article 2, prohibits discrimination on the grounds of sex, as does article 2 of the International Covenant on Civil and Political Rights.

Given the perspectives explained above, inclusion of terms such as “sexual orientation” and “gender identity” into binding UN documents would amount to an unprecedented departure from the universal and objective foundation of the International Bill of Human Rights.

Recognition of common truths and shared ethical values are possible because they are rooted in the nature of the person. Accordingly, the destruction of this bedrock obscures the universal nature of both human rights, and of the human person (male and female), who is subject to these rights. Furthermore, official recognition of the terms „sexual orientation“ and „gender identity“ as categories for measuring discrimination would require States on the international level – and thus also national legislatures – to revisit, as potentially discriminatory, a multitude of treaties, resolutions and so forth. This process undoubtedly would lead to the creation of new norms and rights, which, in turn, would lead to conflict between such “new rights” and those long recognized in existing international and national law and policies.

The co-signatories are concerned that efforts to promote “new rights” for particular groups in society will threaten the universality of human rights as well as national sovereignty. Moreover, such attempts will put into question the respect and protection for such foundational social institutions as the natural family, marriage between husband and wife, and the rights of the child (with particular adherence to the principle of the “best interests of the child”) that have been enshrined in human rights legislation and instruments since earliest times.

As organizations that provide a wide range of health, social, development, and humanitarian aid services to many of the most poor and marginalized populations of the world, moreover, we also wish to articulate our serious concern that such proposed changes in human rights terminology and legislation could result in the consequent weakening of freedom of religion, conscience, thought and expression. When measured against these proposed new categories, such freedoms could be drastically restricted in regard to the legitimate transmission of religious and moral heritages that cannot accept certain sexual practices even though they respect the inherent dignity of persons who engage in them. In other words, despite the fact that freedom of religion, conscience, and thought find fundamental protection in many international legal

instruments, the application of potential laws and policies purportedly designed to protect “sexual orientation” and “gender identity” could render the former fundamental rights obsolete, and might even criminalize such religious beliefs and practices.

In conclusion, the co-signatories appeal to this Council to promote and monitor the implementation, by all UN Member States, of legislation and policies that recognize and defend the inherent dignity of each and every human person and that sanctions any discriminatory or violent behaviour towards them. We further urge this Council to safeguard the universality of human rights and to prudently avoid pressure that insists on the need to define special categories or rights which would reach beyond the long held and consensus-based rights so wisely articulated in the Universal Declaration of Human Rights and its derivative conventions, treaties, and instruments.

Joint written statement

Right to development: from rhetoric to action

OIDEL welcome the report of the Open-ended Working Group on the Right to Development on its twelfth session as well as the report of the Secretary General and High Commissioner for Human Rights on the same topic and the Summary of the Panel discussion “The way forward in the realisation of the Right to Development: between policy and practice”.

Having participated actively in the 12th session of the Open-ended Working Group, the cosignatories would like to comment particularly on the work of the High Level Task Force on the criteria and operational sub-criteria for the implementation of the Right to Development reflected in the document A/HRC/15/WG.2/TF/2/Add.2.

The Declaration on the Right to Development is based on the following principles: unity of origin and a shared destiny of the human family; equality among all persons and communities based on human dignity; the universal destination of the goods of the earth; the notion of integral development; and the centrality of the human person and solidarity.

The co-signing NGOs support the approach of the Task Force to promote a comprehensive human-centred development that implies the indivisibility and interdependence of all human rights as well as the relevance, not only of development outcomes, but also of the development realization process and of its sustainability.

Nevertheless, the attempt to summarise the Right to Development with the core norm described in the above-mentioned document defining the right to Development as “the right of peoples and individuals to the constant improvement of their well being and to a national and international enabling environment conducive to just, equitable, participatory and human centred development respectful of all human rights”, and the table provided, listing the attributes, criteria, sub-criteria and indicators, do not entirely reflect the peculiarity, the richness, and the vision of the right to development.

Furthermore, the concept of an enabling environment at national and global levels should be spelt out in greater detail and the national and international responsibilities should be better balanced.

It is fundamental that all States recognize the complementarity of the national and the international levels of the Right to Development. It is impossible to think that a state, on its own, especially if belonging to the least developed countries, can completely fulfil this right for its citizens. In fact, when other countries are not able to achieve this fundamental goal or when the international environment is hostile to its fulfilment, the international community should be called to act as required by the Millennium Development Goal 8, which aims at developing a

“global partnership for development.” It is a duty of cooperation based on articles 55 and 56 of the United Nations Charter.

Even if it remains a primary responsibility of a State to guarantee, within its own possibilities, the realization of the Right to Development to its citizens, and to remove obstacles to development due to the violation of human rights, the international community must support the development process, especially in the poorest countries and remove the structural economic, financial and political obstacles that exist at the international level.

There is no single model of development. It is up to all peoples and States, given their cultural and historical specificities, to choose the economic, political and social systems in which they want to live, work, and realize their full creative potential.

International solidarity and cooperation represent a shared responsibility of States to create the conditions that are necessary to make that right a reality.

In this context the principles of solidarity and subsidiarity are particularly relevant. Solidarity and subsidiarity can be viewed as complementary. While the former relates to the mobilization of financial and human resources for development and to fairness and sustainability in international relations, the latter helps to identify the most appropriate level of decision-making and intervention. The principle of subsidiarity, therefore, can be seen as a cross-cutting criterion for the creation of an enabling environment to facilitate fulfilment of the right to development and as the dividing line between national and international responsibilities.

The criteria and operational sub-criteria proposed in the above-cited document are lacking appropriate human rights language and focus more on the agenda of the Millennium Development Goals (MDGs): “food security” is mentioned rather than “the right to food”, “health” rather than “right to health” etc.

The co-signing NGOs believe that the concept of development proposed by the Task Force has been limited to its social and economic dimensions. However, the declaration of the Right to Development, in article 1, presents a broader definition of development – one that includes cultural and political development as well as the realisation of all human rights and fundamental freedoms. The same comprehensive concept of development was agreed upon at the 1995 Copenhagen Declaration on Social Development, one that, in fact, include political, economic, cultural, ethical and spiritual dimensions. Development of individuals and peoples encompasses all aspects of human life, including such spiritual and religious dimensions.

These qualitative dimensions should be reflected among the human-centred criteria of this right that are being elaborated by the Task Force.

Furthermore, education is a key component for the implementation of the right to development, in all its aspects. Special attention should be given to it. In fact, the improvement of education worldwide exerts a positive impact on key factors

for development and well-being. Education is an engine for social development since it promotes, inter alia, social mobility, citizenship building, social identity, and strengthening of social cohesion. At the same time, education expands the availability of work and the ability of individuals to secure an income to support themselves and their families, and promotes economic development that positively impacts on poverty reduction, productivity, sustainable agriculture, as well as integration and full participation of individuals in the global economy.

Since the criteria and sub-criteria should reflect the entirety of the Declaration on the Right to Development, the preamble of the declaration and its spirit also should be reflected in the criteria and sub-criteria. In this regard, the principle of international solidarity and the right to self determination of peoples presently are lacking in the table which groups together the criteria and operational sub-criteria, while the preamble of the Declaration itself clearly includes these principles.

The experience in the field of the co-signing NGOs, shows that the implementation of the right to development is successful if centred on the human person and on human communities, as the Declaration on the Right to Development states, and these should be the active participants and beneficiaries of this right.

The network of educational and health-care institutions and humanitarian assistance agencies, for instance, including those sponsored by faith-based organizations and benefiting mainly the poorest people of the world, proves to be a motor of change and empowerment principally because it focuses directly on the human person and is guided by an understanding of sustainable development that keeps a balanced relationship between the needs of individual persons and the communities they belong to and between people and the environment.

Thus, the co-signatories believe that an inclusive approach will take into account both "sound economic policies that foster growth with equity" and the priority that should be accorded to the human person as well as to human dignity and aspirations.

For the implementation of the Right to Development the first obstacle that urgently needs to be removed is the actual polarisation and politicisation of the debate that has emerged so clearly in the dynamics of the 12th session of the intergovernmental working group.

Today, the world is experiencing a historical period characterized not only by multiple crises but also by increased participation of peoples and entire nations that claim the recognition of human rights, freedom and democracy. It is a period of opportunities that should be seized for the very survival of humanity.

The time has come for Member States of different coalitions to go from rhetoric to action bearing in mind that the life, well-being and respect for the human rights of billions of people around the world, depend on the implementation of

the right to development and the establishment of an international social order (see article 28 of the UDHR) founded on justice, development and peace.

Joint oral statement

Right to Development: from rhetoric to action

The Declaration on the Right to Development is based on the following principles: unity of origin and a shared destiny of the human family; equality among all persons and communities based on human dignity; the universal destination of the goods of the earth; the notion of integral development; and the centrality of the human person and solidarity.

In our opinion, the document 1 of the High Level Task Force of the Working Group on criteria and operational sub-criteria does not entirely reflect the peculiarity, the richness, and the vision of the Right to Development.

The concept of an enabling international and national environment should be spelt out in greater detail and the national and international responsibilities should be better balanced.

Even if it remains a primary responsibility of a State to guarantee the realization of the Right to Development, the international community must support the development process by removing the international structural economic, financial and political obstacles and by acting accordingly to MDG 8 on global partnership for development.

The principle of solidarity can be seen as a cross-cutting criterion for the creation of an enabling environment to facilitate fulfilment of the right to development and the principle of subsidiarity as the dividing line between national and international responsibilities.

The criteria and operational sub-criteria are lacking appropriate human rights language. The declaration of the Right to Development presents a broader definition of development and not just an economic and social dimension. The political, economic, cultural, ethical and spiritual dimensions of development should also be reflected among the criteria and operational sub-criteria, as well as the right to self determination of peoples included in the preamble of the Declaration.

The time has come for Member States of different coalitions to go from rhetoric to action bearing in mind that the life, well-being and respect for the human rights of billions of people around the world, depend on the implementation of the right to development and the establishment of an international social order founded on justice, development and peace.

Joint oral statement

Implementation of the UN Declaration on Human Rights Education and Training

This statement reflects views of NGOs expressed in discussions facilitated by the NGO Working Group on Human Rights Education and Learning of the Conference of NGOs (CoNGO) and through an international network, Human Rights Education Associates (HREA).

We welcome that on 19 December, 2011, the United Nations Declaration on Human Rights Education and Training was adopted by the General Assembly.

We uphold human rights education as fundamental long-term activity to prevent human rights violations and to strengthen equality and fundamental freedoms.

The Declaration, through its 14 articles, guides and provides principles for: human rights education and training; State responsibilities; the role of non-State actors; international, regional and national coordination and cooperation; and implementation and follow-up.

Madame President,

We call upon all Member States: first, to disseminate the Declaration including its translation into the national language; second, to create a safe and enabling environment to the maximum of their available resources for the engagement of all stakeholders in human rights education and training; third, to ensure adequate training in human rights of State officials, civil servants, law enforcement personnel including the military and police; and fourth, to develop national policies and action plans to implement human rights education in the framework of the World Programme for Human Rights Education.

These efforts of States must be reported and evaluated through the mechanisms such as UPR, Treaty bodies and the Special Procedures. This is envisaged by the Declaration, in particular, Article 13. Member States should, for example, include their activities on human rights education within their periodic reports to the Treaty bodies.

We will monitor such efforts and actions of States as actual proof of their commitment to human rights education that they have expressed and accumulated over the past decades.

Joint oral statement

UNIVERSAL PERIODIC REVIEW HAITI

IIMA, au nom d'une coalition des ONG, salue avec satisfaction l'attitude d'Haïti lors de l'Examen Périodique Universel et reconnaît les efforts accomplis par le gouvernement haïtien dans les différentes phases de la reconstruction suite au tremblement de terre du 12 janvier 2010.

IIMA se félicite pour la finalisation du très détaillé Plan Opérationnel (PO) 2010-2015 du Ministère de l'Éducation Nationale et de la Formation Professionnelle (MENFP) « Vers la Refondation du Système Éducatif Haïtien » et qui montre la volonté du gouvernement de répondre d'une façon ambitieuse et concrète aux besoins d'un système éducatif encore fragmenté.

IIMA souhaite aussi que le gouvernement haïtien puisse mettre en place ce Plan Opérationnel dans le plus court délai afin d'assurer l'accès gratuit et obligatoire de tous les enfants à l'éducation fondamentale ainsi que améliorer la qualité de l'éducation à tous les niveaux d'enseignements d'ici au 2015.

IIMA recommande le gouvernement haïtien de tenir compte de l'approche fondé sur le droit de l'homme dans toutes ses initiatives afin d'assurer une reconstruction équitable et d'établir une société plus juste basée aussi sur l'intégration dans le système éducatif des groupes les plus vulnérables notamment les filles, les handicapés, les plus pauvres, les enfants sans papier et ceux qui vivent dans les zones rurales.

Dans cette phase de reconstruction une attention particulière devrait être accordée aux enfants qui sont devenus handicapés suite au tremblement de terre et qui nécessitent au même temps d'un soutien psychologique pour s'adapter à leur nouvelle condition et surtout d'être réintégrés dans leurs anciennes écoles dont ils connaissent l'entourage et non d'être résiliés dans des écoles spéciales.

Finalement, IIMA recommande au gouvernement haïtien de planifier et établir un système de control direct sur le plus de 90% des écoles privées, complètement autonomes et indépendantes l'une de l'autre, qui sont actuellement présentes dans le pays. En particulier IIMA suggère l'uniformisation des programmes et manuels scolaires, de la formation des enseignants, ainsi que de la qualité de l'enseignement et de l'apprentissage.

Joint oral statement

UNIVERSAL PERIODIC REVIEW TIMOR LESTE

IIMA, on behalf of a coalition of NGOs, welcomes the attitude of the Timor Leste delegation during the full UPR process and the acceptance of a great number of recommendations. IIMA recognizes the great efforts of the government in promoting and protecting human rights, especially children's rights and welcomes with satisfaction the National Strategic Plan for Education 2011-2015 that marks a historical shift by placing the child's physical, psychological, social and academic well-being at the centre of school decision making.

Nevertheless major efforts are required especially in guaranteeing children's rights, in particular their enjoyment of the Right to Education. In fact, IIMA notes different problems in the accessibility, availability and acceptability of education.

IIMA strongly suggests to the Timor Leste government to fully implement the National Strategic Plan for Education and article 28 of the Convention on the Rights of the Child of which Timor Leste is a part. Moreover, IIMA encourages the Timor Leste government to guarantee a free, compulsory and quality education to all, without discrimination of any kind, and to modernize the educational system through infrastructural investments (in building new schools), providing economic subsidies for the poorest families and preparing sufficient number of professionally trained teachers, especially in primary schools.

Furthermore, IIMA notes the persistence of child labour, sexual exploitation, child trafficking and violence against children in the country. Despite the efforts of the Timor Leste government more measures should be taken to ensure that every child is protected from all forms of physical, sexual and mental abuse or exploitation and prosecute severely the perpetrators of these crimes.

Finally IIMA is concerned with some of the provisions of the legislation which seem to infringe upon human rights principles, in particular the best interest of the child.

For this reason IIMA encourages the Timor Leste government to use the principle of the "best interests of the child" as a guide for the development of juvenile justice law and policy and to put in place prevention programs to reduce juvenile delinquency.

Joint oral statement

UNIVERSAL PERIODIC REVIEW TOGO

IIMA, au nom de plusieurs ONG, se félicite de l'attitude constructive du Togo à toutes les étapes du processus et pour l'adoption du Plan d'action national des recommandations issues de l'EPU du 2 mars dernier.

De plus, IIMA exprime sa satisfaction pour la décision prise déjà en 2008 par le gouvernement togolais en faveur de l'éducation primaire gratuite. Néanmoins, les nouvelles statistiques concernant les taux de scolarité présentées par le gouvernement lors de l'EPU ne décrivaient pas la réalité car malgré l'art 373 du Code de l'enfant togolais, presque 40% des enfants ne sont pas encore enregistrés à la naissance.

IIMA se félicite aussi pour l'acceptation du gouvernement togolais des recommandations concernant la consolidation du système éducatif et l'engagement pris en faveur de la lutte contre l'exclusion des personnes handicapées dans le domaine scolaire et social. Toutefois, IIMA note le manque actuel d'une politique de planification, responsable de la carence des infrastructures scolaires, du nombre insuffisant des enseignants (pas toujours qualifiés), du surpeuplement des classes, ainsi que de la mauvaise gestion d'établissements scolaires qui a favorisé une prolifération incontrôlée d'écoles privées payantes où seulement les familles les plus aisées peuvent y accéder.

IIMA recommande au gouvernement togolais d'assurer l'enregistrement de tous les enfants à la naissance afin de planifier une réforme du système scolaire globale basée sur des données réelles et de garantir une éducation inclusive aux enfants handicapés afin qu'ils puissent recevoir une instruction dans des conditions d'égalité avec les autres enfants.

Deuxièmement, IIMA note que les efforts accomplis par le Togo pour combattre la violence contre les enfants, l'exploitation économique des enfants, ainsi que le tragique phénomène des enfants dit sorcier ne sont pas encore suffisants.

IIMA encourage le gouvernement togolais à prendre les mesures pour une application plus efficace de la loi n. 376 du Code de l'Enfant togolais et surtout des mesures plus sévères pour punir les auteurs des actes de violence physique et maltraitance à l'égard des enfants.

Joint oral statement

UNIVERSAL PERIODIC REVIEW THAILAND

IIMA, on behalf of the co-signing NGOs, welcomes the constructive participation of Thailand at the Universal Periodic Review.

Nevertheless, we remain concerned about the existence of both direct and indirect discrimination against children belonging to ethnic minorities and children with disabilities.

Despite the fact that Thailand has withdrawn its reservation on article 7 of the Convention on the Rights of the Child¹, we note with concern the difficulty in ensuring the birth registration of the most vulnerable children, especially those belonging to ethnic minorities in the North and North-East regions. This adversely affects the enjoyment of their basic rights and renders them vulnerable to abuse, trafficking and exploitation.

Moreover, disparities between main cities and remote areas of the country still persist regarding the access to basic social services, especially education.

While recognizing the Government's initiatives to improve the situation of children with disabilities, we note that they often encounter serious barriers to the full enjoyment of their rights. In particular, children with disabilities in remote villages do not have access to adequate services for physical therapy, psychological assistance, special education and recreational activities. The number of public infrastructures conducive for children with disabilities is insufficient. These factors prevent them from attaining complete social integration and physical and intellectual development, violating article 23 of the Convention on the Rights of the Child and article 7 of the Convention on the Rights of Persons with Disabilities.

With regard to education, we perceive major issues such as: firstly, the persistence of tuition fees, which prevents free education for all; secondly, inadequate qualification of teachers, especially those working in rural and indigenous schools; and thirdly, bilingual education has not yet been fully achieved.

Therefore, we recommend Thailand to:

- Take all measures to integrate into the education system children belonging to the most vulnerable groups, in particular those living in rural areas;
- Take all necessary measures to improve the quality of education for all children including those belonging to ethnic minorities and children with disabilities.

Joint oral statement

UNIVERSAL PERIODIC REVIEW VENEZUELA

VIDES International, por parte de la coalición de ONG confirmatorias de esta intervención, agradece la República Bolivariana de Venezuela por su actitud constructiva y participativa al Examen Periódico Universal. En particular, celebramos que la totalidad de las recomendaciones sobre pueblos indígenas cuentan con el apoyo del gobierno venezolano, y muchas de ellas se consideran en proceso de aplicación.

Sin embargo, se expresa profunda preocupación por la situación vivida por el pueblo Yanomani, que constituye la comunidad indígena más numerosa en el Estado Amazonas. Se reporta un total de casi 10.000 Yanomani, cuyo territorio abarca el 33% de la superficie total del Estado. Debido a que se trata de áreas de muy difícil acceso, los Yanomani no cuentan con los servicios básicos, como agua y saneamiento, educación y salud. Se señala asimismo la ausencia de un registro civil de nacimientos: los Yanomani que viven en el interior de la selva nacen y mueren sin un registro que los identifique como ciudadanos de Venezuela. Con respecto al derecho a la salud, se constatan carencias a nivel de medicamentos y de personal médico permanente. En el territorio Yanomami hay un ambulatorio médico del gobierno, que a menudo falta de agua, combustible, y generador de energía.

No obstante los esfuerzos cumplidos por el Estado, la deficiencia nutricional constituye una de las causas principales de la mortalidad infantil, que lamentablemente incide con mayor intensidad en las áreas indígenas.

Por consiguiente, recomendamos que Venezuela:

- a) garantice a los pueblos indígenas, y en particular al pueblo Yanomami, todos los servicios básicos;
- b) prosiga sus esfuerzos para que todos los niños indígenas que viven en zonas de difícil acceso sean registrados;
- a) siga en su reforma sanitaria, en particular en lo que respecta a la lucha contra la desnutrición y la mortalidad infantil.

