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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**

Preliminary study on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind

Prepared by the drafting group of the Advisory Committee

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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 and the report of the Office of the High Commissioner (OHCHR) containing the summary of its discussions held at the workshop. In resolution 16/3, the Council also 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, Dheerujlall Seetulsingh, Laurence Boisson de Chazournes, Shiqiu Chen and 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.

5. In pursuing its mandate, the drafting group is guided by 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. Definitions

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 in 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”.¹ 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 and having been adopted by consensus, “represents a common standard of achievement for all peoples and all nations”.²

8. The Special Rapporteur on violence against women, its causes and consequences, proposed a similar understanding in stating that 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.³

9. The Academic Jack Donnelly argued that human rights have both 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.⁴

10. Nevertheless, traditions are so varied and complex that, while some traditions conform to human rights norms, others are in conflict with or undermine 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.⁵

11. The Beijing Declaration and Platform for Action, in paragraph 124 (a), calls on Governments to refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to eliminating violence against women. In 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.”⁶ The preamble to the Convention on the Elimination of All Forms of Discrimination against Women affirms that “a change in the

¹ Human Rights Council resolution 16/3, preamble.

² A/HRC/16/37, para. 65 (b).

³ A/HRC/4/34, para. 23.

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

⁵ “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.

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

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

12. 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.

13. 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.”

14. Subsequent instruments, including 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 “dignity”, the concept is connected with equality and the idea that human dignity, which belongs to everyone equally, is the source of all rights.⁷

15. 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.”⁸ In the Convention on the Rights of Persons with Disabilities, dignity is linked to autonomy.⁹ United Nations treaty bodies regularly refer to dignity in connection with the prohibition of torture and other cruel, inhuman or degrading

⁷ Jeremy Waldron, “Dignity, Rank, and Rights: The 2009 Tanner Lectures at UC Berkeley”, 2009, pp. 5-6.

⁸ 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.

⁹ 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.

treatment or punishment,¹⁰ discrimination,¹¹ conditions of detention¹² and the right to an adequate standard of living.¹³

16. 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”.¹⁴

17. 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.¹⁵ For example, Justice Ngcobo of the Constitutional Court of South Africa wrote 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.”¹⁶ 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.¹⁷

C. Freedom

18. Human rights instruments typically refer to the “rights and freedoms” that they guarantee.¹⁸ 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

¹⁰ 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.

¹¹ 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.

¹² 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.

¹³ 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”.

¹⁴ Inter-American Court of Human Rights, *Atala v. Chile*, para. 79..

¹⁵ 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).

¹⁶ *Prince v. President of the Law Society of the Cape of Good Hope*, 2002, para. 49.

¹⁷ *Mullin v. The Administrator*, Union Territory of Delhi, 1981 (Supreme Court of India).

¹⁸ 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.

instruments denotes both the state or quality of being free and the absence of State interference in the exercise of rights.

19. 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.¹⁹

20. More broadly, freedom means that the exercise of these rights is not subject to unjustifiable restrictions or limitations imposed by the State.²⁰ 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”.²¹ A free press is one that is “uncensored and unhindered”.²² Freedom of opinion means that any “form of effort to coerce the holding or not holding of any opinion is prohibited”.²³ In general, rights can be characterized as “freedoms” when they impose on States the obligation to both refrain from interference and take some positive action, such as ensuring the necessary preconditions for the exercise of that right.²⁴

21. 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, the treaty bodies have carefully explained which restrictions are legitimate and have emphasized that the essence of the right must be preserved. Restrictions may not “put in jeopardy the right itself”.²⁵ 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”.²⁶

22. Furthermore, restrictions may never violate other rights guaranteed under international law, including the right to equality and non-discrimination on all grounds. In relation to article 18, for example, the Human Rights Committee explained that, in interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination. Limitations imposed must be established by law and not be applied in a manner that would vitiate the rights guaranteed. The Committee added that limitations may be applied only for those purposes for which they were prescribed, and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.²⁷

¹⁹ 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”.

²⁰ 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.

²¹ Universal Declaration of Human Rights, arts. 13, 18, 19 and 20.

²² Human Rights Committee, general comment No. 34, para. 13.

²³ *Ibid.*, para. 10.

²⁴ Committee on Economic, Social and Cultural Rights, general comment No. 21, para. 6.

²⁵ See Human Rights Committee general comments No. 34, para. 21, and No. 31, para. 6. See also E/CN.4/1984/4, annex.

²⁶ General comment No. 14, para. 28.

²⁷ General comment No. 22, para. 8.

23. With regard to freedom of movement, the Human Rights Committee stated, in its general comment No. 27, 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.

24. 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 States or other actors.

D. Responsibility

25. As a norm of international law, responsibility refers not to the individual as a rights-holder, but to the State as duty-bearer. The State is responsible for promoting and protecting 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”.²⁸ 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.”²⁹

26. In general, the responsibility to guarantee human rights imposes three levels of obligations: to respect, to protect and to fulfil rights.³⁰ For example, the Committee on the Elimination of Discrimination against Women reminded a State party of its responsibility to fully ensure Government accountability for respecting, protecting and fulfilling women’s enjoyment of their human rights under the Convention.³¹

27. 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.³² 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 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.³³

28. Similarly, the Committee against Torture set forth the scope of State obligations and responsibility. In its general comment No. 2, it 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

²⁸ CRC/C/NGA/CO/3-4, para. 23.

²⁹ General Assembly resolution, 53/144, annex, preamble.

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

³¹ CEDAW/C/CUB/CO/6, para. 16. See also Committee general recommendation No. 28, para. 9.

³² General recommendation No. 19, para. 9.

³³ Communication No. 2/2003, views adopted on 26 January 2005.

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 consistently 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.³⁴

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.³⁵ In his commentary to the Guiding Principles on Business and Human Rights, prepared by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises,³⁶ 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.³⁷ 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.³⁸

30. The African Charter on Human and Peoples' Rights also refers to individuals' duties, which, as Steiner, Alston and Goodman observe, go beyond the conventional notion that duties may be correlative to rights.³⁹ Asian Confucian tradition emphasizes the responsibility of individuals, families and communities in caring for others. 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 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. Too much emphasis on individual responsibility in human rights law may, however, arouse controversy. The International Council on Human Rights Policy pointed out that no

³⁴ General comment No. 2, paras. 15 and 18. See also Human Rights Committee, general comment No. 31.

³⁵ 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).

³⁶ Endorsed by the Human Rights Council in its resolution 17/4.

³⁷ See A/HRC/17/31, para. 11.

³⁸ *Ibid.*, para. 13.

³⁹ Philip Alston, Ryan Goodman and Henry J. Steiner (ed.), *International Human Rights in Context: Law, Politics, Morals* (Oxford, Oxford University Press, 2008), p. 505.

new standards are needed, since international human rights law already reflects the fact that some, although 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.⁴⁰ In 2005, the Economic and Social Council voted against a proposal to develop a text on “human responsibilities” owing to views expressed by numerous States that human rights are inalienable and inherent in the human person, and that a focus on individual responsibilities could undermine the universality of human rights.⁴¹

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, but some have played a role to justify subordination of women and minority groups in the world, in both Western and non-western countries. International communities have 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 those efforts to implement or reinforce human rights.

A. 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”.⁴²

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

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

⁴¹ See Economic and Social Council, press release ECOSOC/6174, available from www.un.org/News/Press/docs/2005/ecosoc6174.doc.htm, and E/CN.4/2005/99.

⁴² 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 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.

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.”⁴³

35. Scholars have noted examples of traditional values reflected in international human rights law,⁴⁴ such as the concept of equality among the Akaamba of Kenya,⁴⁵ the high value placed on human dignity by the Akan of Ghana,⁴⁶ and the commitments to due process among the Amhara of Ethiopia and Kuba in the Democratic Republic of the Congo.⁴⁷ 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.⁴⁸ *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.⁴⁹ 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.⁵⁰ Sikhism emphasizes the principle of equality of all humans and rejects discrimination on the basis of caste, creed and gender.⁵¹

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 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.⁵²

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

⁴³ A/PV.180, 181, 182 and 183.

⁴⁴ 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).

⁴⁵ Mutua, “The Banjul Charter” (see footnote 44), p. 350.

⁴⁶ Wiredu, cited in Mutua, *ibid.*, pp. 348-354.

⁴⁷ Fernyhough, “Human Rights in Pre-colonial Africa” (see footnote 44), pp. 62.

⁴⁸ A/HRC/16/37, para. 17.

⁴⁹ Unto Tahtinen, *Ahimsa: Non-Violence in Indian Tradition*, London, Rider, 1976, pp. 116-124.

⁵⁰ 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.

⁵¹ Satvinder Singh Juss, “The Secular Tradition in Sikhism” in *Rutgers Journal of Law and Religion*, vol. 11, spring 2010, p. 270.

⁵² E/CN.4/2004/80, para. 67.

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”.

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”,⁵³ 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.⁵⁴

B. The negative impact of traditional values on women and minority groups, and efforts to overcome it

39. Special procedures mandate holders, treaty bodies and OHCHR have published many works that emphasize the importance of ensuring that “traditional values” are not elevated above universal human rights standards.⁵⁵ They highlighted the use of such terms to justify the marginalization of minority groups and for maintaining gender-based inequalities, discrimination and violence, and the corresponding need to situate these terms within a human rights context.

40. In the report on the OHCHR workshop on the traditional values of humankind, it was concluded that communities had divergent traditions that reflected different values within themselves by reflecting the views of the majority and/or power-holders on the one hand, and those of the more marginalized, including minorities, on the other. While concepts of human dignity were found in every society and tied to value systems, ways of living together and beliefs that came together in “culture”, it was equally necessary to recognize that some practices and attitudes at odds with human dignity also derived from traditional values. Attitudes of cultural communities towards particular individuals because of some distinctive characteristic or trait that they possessed could be hugely problematic, denying the human worth of such individuals who were treated without dignity and, sometimes, may even be deprived of life.⁵⁶

41. In the report, attention was drawn to the fact that perceptions of what constituted “traditional values” were highly subjective and dependent on societal power structures. 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 standards. Those who benefit most from the status quo are more likely to appeal to tradition to maintain power

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

⁵⁴ See www.unmultimedia.org/tv/webcast/2012/03/panel-discussion-sexual-orientation-and-gender-identity.html.

⁵⁵ 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,

⁵⁶ A/HRC/16/37, paras. 67-68.

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 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 protection or control of women.

42. 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.”⁵⁷ 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.⁵⁸ Similar analysis is reflected in paragraph 119 of the Beijing Declaration and Platform for Action and in OHCHR Fact Sheet No. 23 on harmful traditional practices affecting the health of women and children. 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.⁵⁹

43. It is important to note that those who challenge gender roles reinforced by values said to be traditional, cultural or religious are particularly subject to 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.⁶⁰

44. 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

⁵⁷ E/CN.4/2002/83, para. 1.

⁵⁸ 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.

⁵⁹ E/C.12/GC/21, para. 64.

⁶⁰ A/HRC/16/44, para. 23.

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.⁶¹

45. During the universal periodic review, one Government noted that “deeply rooted religious, cultural and moral values” were the primary obstacle to the recognition of the human rights of lesbian, gay and bisexual people in its country.⁶²

46. Many States have taken positive steps to bring laws based on traditional values into 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 hold 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.⁶³

47. Even though the “traditional” mindset is still one of the key obstacles to combat discrimination against Dalits,⁶⁴ 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.⁶⁵

48. The negative impact of traditional values can be felt not only in non-western countries. The Special Rapporteur on violence against women, its causes and consequences, warned against “orientalizing” cultures and traditions, and noted that traditional and cultural values in Western countries propagate harmful practices, such as domestic violence.⁶⁶

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

49. Effective strategies to overcome negative traditional values in terms of human rights have involved the derivation and application of positive elements of traditional values. For example, sociologist Daniel Bell argued that certain East Asian traditions may be effective in enhancing respect for human rights at the regional level.⁶⁷

50. 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 universally agreed 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

⁶¹ A/HRC/18/35/Add.5, para. 67.

⁶² A/HRC/WG.6/10/LCA/1, para. 123.

⁶³ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 38 (A/56/38)*, para. 323.

⁶⁴ CERD/C/452/Add.2.

⁶⁵ E/CN.4/Sub.2/2001/16, para. 22 (a).

⁶⁶ A/HRC/4/34, para. 47.

⁶⁷ Daniel Bell, “The East Asian Challenge to Human Rights: Reflections on an East West Dialogue”, *Human Rights Quarterly*, vol. 18, August 1996.

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.⁶⁸

51. 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”,⁶⁹ 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.⁷⁰

52. The above positive examples of using local culture and tradition to promote respect for human rights illustrate the role that traditional values consistent with 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

53. 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.

54. 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.⁷¹

55. 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 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.

⁶⁸ A/HRC/4/34, paras. 52-53.

⁶⁹ *Ibid.*, para. 56.

⁷⁰ *Ibid.*, paras. 53-55.

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

56. 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.⁷² In its general comment No. 1, the Committee also pointed out that appropriate methods for States to adopt with regard to human rights education included research on and adoption of whatever educational techniques might have a positive impact in achieving the rights recognized in the Convention.

57. 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."⁷³ 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."⁷⁴ 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.⁷⁵

B. Social institutions and the transmission of values

58. In its resolution 16/3, the Human Rights Council noted the important role of family, community, society and educational institutions in upholding and transmitting these values, which contributes to promoting respect for human rights and increasing their acceptance at the grass roots, and called upon all States to strengthen this role through appropriate positive measures.

59. It must first be emphasized that families themselves are diverse and that, as the General Assembly noted, "in different cultural, political and social systems, various forms of the family exist."⁷⁶ In its general recommendation No. 21, under the heading "Various forms of family", the Committee on the Elimination of Discrimination against Women similarly recognized that the form and concept of the family may vary from State to State,

⁷² CRC/C/GTM/CO/3-4, para. 29.

⁷³ UNFPA, "Promoting International Development Through a Cultural Lens" 21 April 2010. Available from, www.unfpa.org/public/home/news/pid/5392

⁷⁴ World Plan of Action on Education for Human Rights and Democracy, available from www.unesco.org/webworld/peace_library/UNESCO/HRIGHTS/342-353.HTM

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

⁷⁶ General Assembly resolution 65/277, para. 43. See also Assembly resolutions 59/147 and S-26/2, para. 31.

and even between regions within a State. “Whatever form it takes, and whatever the legal system, religion, custom or tradition within the country, the treatment of women in the family both at law and in private must accord with the principles of equality and justice for all people, as article 2 of the Convention requires”.

60. 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 family, the extended family, and other traditional and modern community-based arrangements, provided these are consistent with children’s rights and best interests.⁷⁷

61. 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. For example, in her report on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity and submitted to the Human Rights Council pursuant to its resolution 17/19, the United Nations High Commissioner for Human Rights noted that, while families and communities are often an important source of support, discriminatory attitudes within families and communities can also inhibit the ability of LGBT people to enjoy the full range of human rights. “Such discrimination manifests itself in various ways, including through individuals being excluded from family homes, disinherited, prevented from going to school, sent to psychiatric institutions, forced to marry, forced to relinquish children, punished for activist work and subjected to attacks on personal reputation”.⁷⁸

62. In its general recommendation No. 19, the Committee on the Elimination of Discrimination against Women noted 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, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes.”⁷⁹

63. 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.⁸⁰

64. 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

⁷⁷ General comment No. 7, para. 15.

⁷⁸ A/HRC/19/41, paras. 66-67.

⁷⁹ 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.

⁸⁰ A/HRC/17/26/Add.3, para. 64.

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.

65. Under international human rights law, 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. To this end, the Committee on the Elimination of Discrimination against Women called upon States, in developing and putting 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."⁸¹

C. Good practices

66. There are various examples from around the world of States and other bodies developing human rights education programmes that acknowledge the role that the institutions identified above 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.

67. 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.⁸²

68. By engaging such stakeholders in the process, the Working Group was rewarded with their support, as a result of which the stakeholders were trained under the programme to use the curricula that have been developed. The aim is for the population to attain a better understanding of human rights concepts through both the use of values with which they are already familiar and the promotion of human rights on the basis of those 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.

69. 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.

70. In Cambodia, the Human Rights Teaching Methodology Programme, launched by the Cambodian Institute of Human Rights and the Cambodian Ministry of Education,

⁸¹ CEDAW/C/NGA/CO/6.

⁸² 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.

Youth and Sports, uses values identified with Buddhism as tools for explaining international human rights standards.⁸³ The Programme is being implemented in educational institutions, specifically primary and secondary schools.⁸⁴ 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.⁸⁵ 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.⁸⁶

71. Young children are particularly susceptible to absorbing values from their families, communities and educational institutions. In a statement on cultural diversity 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.⁸⁷

72. 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.⁸⁸ 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

⁸³ 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.

⁸⁴ *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.

⁸⁵ *Human Rights Education in Asian Schools*, vol. I, "Human Rights Education in Cambodian Schools: The Experience of the Last Three Years". Available from 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

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

⁸⁷ "Human Rights are essential tools for an effective intercultural dialogue", 21 May 2010, statement by the independent expert on cultural rights, the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the rights of indigenous peoples, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the right to Education and the Special Rapporteur on freedom of religion or belief.

⁸⁸ OHCHR, "Teaching Human Rights. Practical activities for primary and secondary schools", 2004. Available from www.ohchr.org/Documents/Publications/ABCChapter1en.pdf.

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.

73. A study paper by the United Nations Development Programme on the role of informal justice systems provides numerous examples of initiatives designed to strengthen respect for international standards within informal and traditional justice systems by situating human rights learning within a local context.⁸⁹

74. 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 and acceptable to individuals and communities could be a tool for introducing and implementing international human rights standards, but those traditional values must never be presented as a substitute for international standards, given the generally vague, subjective and unclear framing of values when compared with human rights.

V. Conclusions and recommendations

75. **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 where States from different civilizations 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.**

76. **The international community has reached consensus that each and every person, regardless of that person's socio-economic, cultural and personal identity, belief, political views or physical location 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.**

77. **In international human rights law, responsibility describes the State's obligation to promote and protect all human rights for all people. States have a responsibility to take sustained and systematic action to modify or eliminate stereotypes and negative traditional values and practices, and are encouraged to**

⁸⁹ UNDP, *Doing Justice: How Informal Justice Systems can Contribute*, 2006, pp. 33-35.

identify progress in this regard when reporting to international human rights monitoring mechanisms. Individuals may also be encouraged, particularly through human rights education, to exercise responsibility to strive for the promotion and observance of human rights.

78. Traditional values upholding freedom, human dignity and the other values enshrined in the Universal Declaration of Human Rights can be instrumental in implementing international human rights in diverse social and cultural contexts. Human rights education and training through such traditional values can be effective in the implementation of human rights promotion and protection in local contexts.

79. Families, communities, societies and educational institutions may impart both positive and negative values, and 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. It is important to promote pluralism to recognize the diversity that exists within communities and societies, and the contributions to the social and cultural fabric of society of all groups, including of those that are marginalized.

80. In order to build consensus and ensure that a better understanding and appreciation of such traditional values can contribute to the promotion and protection of human rights, the distinctive features of different cultures and religions should be accorded respect, so long as these are consistent with international human rights standards. To that end, there must be a constant dialogue between different countries and peoples, and respect shown for their customs and individual paths of development, while recognizing the responsibility of all States to promote and protect human rights for all. Such an approach is an important step towards preserving the cultural diversity of our world, preventing conflict and ensuring the universal application of human rights.
