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for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Joint written statement* submitted by Caritas Internationalis (International Confederation of Catholic Charities), New Humanity, non-governmental organizations in general consultative status, the Association Points-Coeur, the Associazione Comunità Papa Giovanni XXIII, the Company of the Daughters of Charity of St. Vincent de Paul, the Dominicans for Justice and Peace - Order of Preachers, the International Organization for the Right to Education and Freedom of Education (OIDEF), the World Union of Catholic Women's Organisations, non-governmental organizations in special consultative status

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

[13 February 2012]

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

Toward preserving the universality of human rights

The Associazione Comunità Papa Giovanni XXIII, Caritas Internationalis (International Confederation of Catholic Charities), New Humanity, Association Points-Coeur, Company of the Daughters of Charity of St. Vincent de Paul, Dominicans for Justice and Peace (Order of Preachers), International Organization for the Right to Education and Freedom of Education, and World Union of Catholic Women's Organisations 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.
