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THE BRICS COMMITMENT IN THE PROMOTION OF EQUALITY BETWEEN WOMEN AND MEN: ANALYSIS FROM THE HUMAN RIGHTS AND PEACE PERSPECTIVE

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The contribution of women to peace has been very relevant throughout history. The full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields. Gender equality has always been seen as an endless project, which should be realized by everyone around the world. The long-term effects of conflict and militarization create a culture of violence that renders women especially vulnerable in a post-war scenario. The interest in involving women and girls in the peace processes often stems from their experiences of armed conflicts, whether primarily as victims or as armed participants. They are aware of the potentials for transformation and reform in periods of peacemaking. Since 2008, the Human Rights Council has been working on the 'Promotion of the right of peoples to peace.' Pursuant to resolutions 20/15 and 23/16, the Council decided firstly to establish, and secondly to extend the mandate of the open-ended working group (OEWG) aimed at progressively negotiating a draft United Nations declaration on the right to peace. The OEGW welcomed, in its second session (July 2014), the approach of the Chairperson-Rapporteur, which is essentially based on the promotion of equality between men and women, and the relationship between the right to life and human rights, peace and development.

Keywords: war and violence; BRICS; women; right of peoples to peace; Human Rights Council; General Assembly; Open-Ended Working Group; right to life in peace, human rights and development; equality.

1. Introduction

The paper will analyze the notion of equality between women and men, and the promotion of the right of peoples to peace at the Human Rights Council [hereinafter HRC], and in particular those of BRICS. The maintenance of peace and security is crucial for the protection of the human rights of women and girl children, as well as for the elimination of all forms of violence against them and of their use as a weapon of war. Afterwards, the role played by women in decision-making with regard to conflict prevention and resolution will be also studied in light of the current development of the Security Council Resolution 1325 and the text prepared by the Chairperson-Rapporteur. In addition, the gender mainstreaming in the field of disarmament, non-proliferation and arms control will be also analyzed. Finally, the elimination of all forms of violence against women as a means to strengthen world peace will also be studied. The paper will briefly refer to the other forms of violence against women, such as poverty, lack of access to education and discrimination based on the ground of sex. Particularly, the paper will take into account the situation of indigenous women and migrants.

2. Promotion of the Right of Peoples to Peace

Since 2008 the HRC has been working on the 'Promotion of the Right of Peoples to Peace' inspired by previous resolutions on this issue approved by the UNGA and the former Commission on Human Rights [hereinafter CHR], particularly GA Resolution 39/11 of November 12, 1984, entitled 'Declaration on the Right of Peoples to Peace' and the United Nations Millennium Declaration.

On June 17, 2010, the HRC adopted Resolution 14/3 on the right of peoples to peace, which explicitly requested the Advisory Committee, in consultation with Member States, civil society, academia and all relevant stakeholders, to prepare a draft declaration on the right of peoples to peace.

On July 5, 2012, the HRC adopted Resolution 20/15 on 'The Promotion of the Right to Peace.' The Resolution established an open-ended working group [hereinafter OEWG] with the mandate of progressively negotiating a draft UN Declaration on the right to peace on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals.

The OEWG concluded in its first session that there were some governmental delegations and other stakeholders that recognize the existence of the right to peace. They argued that this right was already recognized by soft-law instruments (such as UNGA Resolution 39/11 of 1984, entitled 'Declaration on the Right of Peoples to Peace'). On the other hand, several other delegations stated that a stand-alone 'right to peace' does not exist under international law. In their view, peace is not a human right, but a consequence of the full implementation of all human rights.

On June 13, 2013, the HRC adopted Resolution 23/16, at the initiative of the Community of the Latin American and Caribbean States [hereinafter CELAC] by

which the HRC requested the Chairperson-Rapporteur of the working group to prepare a new text on the basis of the discussions held during the first session of the working group and on the basis of the intersessional informal consultations to be held, and to present it prior to the second session of the working group for consideration and further discussion thereat.

The second session took place from June 30 to July 4, 2014, in Geneva. At the final meeting of this session, the OEWG, which is composed of all States, civil society organizations and other stakeholders, acknowledged the constructive dialogue, broad participation and active engagement of governments, regional and political groups, civil society and relevant stakeholders, and took note of the input received from them and finally welcomed the approach put forward by the Chairperson-Rapporteur.¹

The new approach proposed by the Chairperson-Rapporteur is based on the relationship between the right to life and human rights, peace and development; the protection of human beings of armed conflicts in light of UNGA Resolution 60/251 on the HRC of 2006; the content of the right of peoples to peace and the notion of human dignity, the role of women in the construction of peace and the importance of prevention of armed conflicts in conformity with the Charter of the United Nations. Additionally, this new approach has been inspired by the values and principles contained in the legal instruments on gender, and further elaborated upon in the United Nations.

On July 15, 2014, BRICS, which is composed by Brazil, Russian Federation, India, China, South Africa, approved at the Sixth Summit, Fortaleza Declaration, in Brazil by which they pledged

[T]o foster dialogue and cooperation on the basis of equality and mutual respect in the field of human rights both within BRICS and multilateral fora – including United Nations Human Rights Council where all BRICS serve as members in 2014 – taking into account the necessity to promote, protect and fulfill human rights in non-selective, non-politicized and constructive manner, and without double standards (¶ 28).

On September 25, 2014, the HRC approved, at the initiative of CELAC, Resolution 27/17 on ‘Promotion of the Right to Peace’ by 33 votes in favor,² 9 against³ and 5

¹ *Report of the Open-ended Intergovernmental Working Group on the Draft United Nations Declaration on the Right to Peace*, U.N. GAOR, Human Rights Council, 27th Sess., Agenda Item 5: Human Rights Bodies and Mechanisms, ¶ 93, U.N. Doc. A/HRC/27/63 (2014) (Chair-Rapporteur: Christian Guillermet-Fernández), at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-63_en.doc> (accessed Jan. 26, 2015).

² Algeria, Argentina, Benin, Botswana, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Cote D’Ivoire, Cuba, Ethiopia, Gabon, India, Indonesia, Kazakhstan, Kenya, Kuwait, Maldives, Mexico, Morocco, Namibia, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, United Arab Emirates, Venezuela and Viet Nam.

³ Austria, Czech Republic, Estonia, France, Germany, Japan, Republic of Korea, the United Kingdom and Northern Ireland, the United States of America.

abstentions.⁴ The BRICS, which represent the major emerging economies in the world, jointly supported the resolution along the lines of the Fortaleza Declaration. It is relevant to highlight that India changed from abstention to a vote in favor for the first time since the CHR and the HRC.

The Resolution requested to convene a third session of the OEWG on the right to peace with the purpose of finishing the Declaration and also requested the Chairperson-Rapporteur of the working group to prepare a revised text on the basis of the discussions held during the first and second sessions of the working group and on the basis of the intersessional informal consultations to be held.

The Fortaleza Declaration recalled that the BRICS have been guided by the overarching objectives of peace, security, development and cooperation. The promotion of social development and their contribution to the definition of the international agenda in this area, building on its experience in addressing the challenges of poverty and inequality will be a priority. In addition, they recalled that development and security are closely interlinked, mutually reinforcing and key to attaining sustainable peace. Additionally, they reiterated that the establishment of sustainable peace requires a comprehensive, concerted and determined approach based on mutual trust, equity and cooperation that addresses the root causes of conflicts. The importance of bringing gender perspectives to conflict prevention and resolution, peacebuilding, peacekeeping, rehabilitation and reconstruction efforts will be another objective to be achieved by the BRICS.

In line with the BRICS purposes, the gender approach to the notion of peace, human rights and development decisively framed the text prepared by the Chairperson-Rapporteur by including in its preambular ¶ 11 the preambular ¶ 12 of the Convention on the Elimination of All Forms of Discrimination against Women [hereinafter CEDAW], which proclaims that ‘... the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.’

3. Women in Times of War and Conflict

Inequality is particularly gendered in war and conflict which severely compromises women’s right to sustainable development. Even though women provide unpaid services in times of peace, such as the search for water, the preparation of food and energy conservation, inequality is intensified during conflict since the peacekeeping infrastructure is often destroyed.

Along with the deepening violence women experience during war, the long-term effects of conflict and militarization create a culture of violence that renders women especially vulnerable after war, because institutions of governance and law

⁴ Ireland, Italy, Macedonia, Montenegro and Romania.

are weakened and social fragmentation is pronounced. The maintenance of peace and security is crucial for the protection of the human rights of women and girl children, as well as for the elimination of all forms of violence against them and of their use as a weapon of war.⁵

The interest in involving women and girls in the peace processes often stems from their experiences of armed conflicts, whether primarily as victims or as armed participants. They are aware of the potentials for transformation and reform in periods of peacemaking. As the Platform for Action of Beijing indicated 'the girl child of today is the woman of tomorrow. The skills, ideas and energy of the girl child are vital for full attainment of the goals of equality, development and peace.'⁶

Women have a unique opportunity to become organized in peace movements to focus on shared social experiences. Women have common barriers based on cultural relativism and thus create networks of solidarity that are able to cross invisible borders. The Forward-looking Strategies on Equality, Development and Peace of Nairobi states that women should be completely integrated into the development process in order to strengthen peace and security in the world. Thus, the realization of equal rights for women at all levels and in all areas of life contributes to the achievement of a just and lasting peace.⁷

Ms. Rashida Manjoo, Special Rapporteur on violence against women, its causes and consequences, stressed in her annual report submitted to the HRC in 2011⁸ that if a woman experiences violence in her home and is then denied security and protection by the legal system, she is encountering more than one form of violence. In addition, she indicated that the response required to ensure that women's lives are free of violence must occur on multiple levels, from the individual to the institutional, from the local to the transnational, and from times of peace to times of post-conflict. Furthermore, she pointed out that many regions in the world are currently experiencing violence, both public and private – be it in actual military conflict and combat zones, or in the aftermath of conflicts, or during periods of supposed 'peacetime.' Conflict and post-conflict situations often exacerbate an environment of violence against women including through sexual violence, trafficking and forced prostitution.

⁵ *Report of the Fourth World Conference on Women (Beijing, Sept. 4–15, 1995)*, Annex 2: Platform for Action, ¶ 12, U.N. Doc. A/CONF.177/20, at <<http://www.un.org/documents/ga/conf177/aconf177-20en.htm>> (accessed Jan. 27, 2015) [hereinafter *Report of the Fourth World Conference on Women*].

⁶ *Report of the Fourth World Conference on Women*, *supra* n. 5, Annex 2: Platform for Action, ¶ 39.

⁷ *Implementation of the Nairobi Forward-looking Strategies for the Advancement of Women*, G.A. Res. 40/108, U.N. GAOR 3rd Comm., 40th Sess., Supp. No. 53, U.N. Doc. A/RES/40/108 (1985), at <<http://www.un-documents.net/a40r108.htm>> (accessed Jan. 27, 2015).

⁸ *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Rashida Manjoo*, U.N. GAOR, Human Rights Council, 17th Sess., Agenda Item 3: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, ¶¶ 66, 88, U.N. Doc. A/HRC/17/26 (2011), at <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-26.pdf>> (accessed Jan. 27, 2015).

The first thematic report submitted to the HRC by Ms. Rashida Manjoo, Special Rapporteur on violence against women, its causes and consequences,⁹ focused on the topic of reparations to women who have been subjected to violence in contexts of both peace and post-conflict. Section II.B of the report analysed the procedural and substantive considerations emerging in reparations initiatives responding to violence in conflict, post-conflict and authoritarian settings. Section II.C examined reparations to women and girls in contexts of 'peace' or consolidated democracies, by looking first at discriminatory practices against certain groups of women.

As indicated by Ms. Radhika Coomaraswamy, former Special Rapporteur on violence against women, its causes and consequences,¹⁰ when a peace agreement has been reached and the conflict brought to an end, women often face an escalation in certain gender-based violence, including domestic violence, rape, and trafficking into forced prostitution. Unfortunately, many of the peace agreements and processes of reconstruction after the conflict do not take note of these considerations. In addition, she noted that women may also be exposed to violence by the international authorities or forces assigned to protect them. There have been a growing number of reports of rape and other sexual abuse being committed by United Nations peacekeeping forces and staff. She proposed that the United Nations should ensure that women are represented in all ceasefire and peace negotiations, and that gender issues are an integral part of these processes. Special efforts should be made to engage local women's NGOs in the peace negotiations.

The role of men and boys is indispensable in achieving both gender equality in economic, social and cultural rights and the right to peace. The Charter of the United Nations was the first international instrument to recognize women's equal rights with men and has prompted / stimulated / motivated the provision of a legal codification of these rights in international human rights treaties and national laws. It follows that a transformed partnership based on equality between women and men is needed as a condition for people-centred sustainable development and world peace.

The most critical deterrent to the establishment of world peace is the inequality that remains in the mental attitudes and behaviour that perpetuate the notion of power that deprives others of the enjoyment of their basic human rights and human

⁹ *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Rashida Manjoo*, U.N. GAOR, Human Rights Council, 14th Sess., Agenda Item 3: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, U.N. Doc. A/HRC/14/22 (2010), at <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.22.pdf>> (accessed Jan. 27, 2015).

¹⁰ *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, Submitted in Accordance with Commission on Human Rights Resolution 2000/45. Violence against Women Perpetrated and/or Condoned by the State During Times of Armed Conflict (1997–2000)*, U.N. ESCOR, Commission on Human Rights, 57th Sess., Agenda Item 12(a): Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, ¶¶ 57, 58, 117, U.N. Doc. E/CN.4/2001/73 (2001), at <<http://www.awf.or.jp/pdf/h0015.pdf>> (accessed Jan. 27, 2015).

dignity. It follows that equality between women and men is a matter of human rights and a condition for social justice, as well as a necessary and fundamental prerequisite for equality, development and peace. The preamble of the CEDAW highlights that 'the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.'

4. Women and Peace

At the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi in July 1985, the issue of violence against women was only raised as an afterthought to issues of discrimination, health and economic and social issues.

In addition, ¶ 258 of the Nairobi Forward-Looking Strategies for the Advancement of Women, adopted by the World Conference, stated as follows:

Violence against women exists in various forms in everyday life in all societies. Women are beaten, mutilated, burned, sexually abused and raped. Such violence is a major obstacle to the achievement of peace and the other objectives of the Decade and should be given special attention. Women victims of violence should be given particular attention and comprehensive assistance.

The landmark Convention on the Elimination of Discrimination against Women is considered the primary document for women's human rights. Yet, it did not directly address violence against women. Nevertheless, it should be noted that the CEDAW Committee created the General Recommendation No. 12 on violence against women in its eighth session in 1989 as a component of Member State Reports to the CEDAW Committee.

Women's peace movements have raised major issues on war around the world, notably when war and conflict situations have increased. Without doubt, these movements to wage peace have been able to accomplish significant and historical inroads in impacting public opinion. For instance, Security Council resolutions 1325 (2000), 1820 (2008), 1888 and 1889 (2009) on women, peace and security, stated that bringing a gender perspective into peace negotiations is an evident outcome of this movement.

The UN Security Council 1325 covers a broad spectrum of violence against women and girls in conflict and specifically notes in the following terms:

expressing concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and recognizing the consequent impact this has on durable peace and reconciliation;

reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution; and reaffirming also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts.

This Council resolution recognized gender mainstreaming as a major global strategy for the promotion of gender equality by indicating that 'all those involved in the planning for disarmament, demobilization and reintegration should consider the different needs of female and male ex-combatants.'

5. Women and Approach to Disarmament

In accordance with Arts. 11 and 26 of the UN Charter, the United Nations is pursued to enhance the general principle of cooperation in the maintenance of international peace and security through the disarmament and regulation of armaments. Nevertheless, Member States have always been more interested in controlling or restraining the use and development of certain arms,¹¹ rather than promoting an effective disarmament at the highest level.¹² It follows that the number of victims of the countless international and national armed conflicts have dramatically increased since the end of the Cold War.

The continuing existence of nuclear weapons poses a threat to the world as their use would have catastrophic consequences for all life on Earth and humankind in general.¹³ The HRC recognized that the 'designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront humankind today.'¹⁴ As stated by the advisory opinion of the

¹¹ Limited Test Ban Treaty (1963), Nuclear Non-Proliferation Treaty (1968), Strategic Arms Limitation Treaty I (SALT I, 1972), Anti-Ballistic Missile Treaty (ABM, 1972), Threshold Test Ban Treaty (TTBT, 1974), Underground Peaceful Nuclear Explosions Treaty (PNE, 1976), SALT II (1979), Intermediate Nuclear Forces Treaty (INF, 1987), Strategic Arms Reduction Treaty (START, 1991–92), START II (1993), Comprehensive Test Ban Treaty (CTCBT, 1996), START III (1997).

¹² Antarctic Treaty (1959), Outer Space Treaty (1967), Treaty of Tlatelolco (1967), Seabed Treaty (1971), South Pacific Nuclear Free Zone (Treaty of Rarotonga, 1985), Southeast Asia Nuclear Weapons Free Zone (Treaty of Bangkok, 1995), African Nuclear Weapons Free Zone (Treaty of Pelendaba, 1996).

¹³ The Russell–Einstein Manifesto, London, Jul. 9, 1955, Resolution.

¹⁴ *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*, U.N. GAOR, Hum. Rts. Comm., 23rd Sess., ¶ 4 (1984), at <<http://www.refworld.org/docid/453883f911.html>> (accessed Jan. 27, 2015).

International Court of Justice (ICJ) on the Legality of the Threat or Use of Nuclear Weapons based on Art. 6 of the *Nuclear Non-Proliferation Treaty*,¹⁵ Member States are obligated to conduct negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

The final outcome of the International Conference on the Relationship between Disarmament and Development¹⁶ concluded that true and lasting peace and security in this interdependent world demand rapid progress in both disarmament and development, since they are the most urgent challenges facing the world today and the pillars on which enduring international peace and security should be built. As a consequence of the growing interdependence and interrelationship among nations and global issues, multilateralism provides the international framework within which the relationship between disarmament, development and security should be shaped.¹⁷

As the General Assembly underlines, excessive armament and military spending may have negative effects on development, because their spread and availability endanger stability and welfare and diminish social and economic confidence. Although disarmament does not necessarily lead to development, there is no doubt that disarmament may help to create more stable international, national and local situations favourable to development.¹⁸ Thus, the international community should devote part of the resources from the implementation of disarmament and arms limitation agreements, to economic and social development with a view to meeting the Millennium Development Goals (MDG).¹⁹

Paragraph 9 of the *2005 World Summit Outcome*²⁰ recognizes the linkage between peace, development and human rights as follows:

We acknowledge that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective

¹⁵ *Follow-up to the Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons*, G.A. Res. 54/54 Q, U.N. GAOR 1st Comm., 54th Sess., Supp. No. 49 I, U.N. Doc. A/Res/54/54 Q (1999), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/231/83/PDF/N0023183.pdf?OpenElement>> (accessed Jan. 27, 2015).

¹⁶ *Report of the International Conference on the Relationship between Disarmament and Development (New York, Aug. 24 – Sep. 11, 1987)*, U.N. Doc. A/CONF.130/39 (1987) [hereinafter *Report of the International Conference*].

¹⁷ *Report of the International Conference*, *supra* n. 16, at 19.

¹⁸ *Report of the Group of Governmental Experts on the Relationship between Disarmament and Development*, U.N. GAOR, 59th Sess., ¶ 18, U.N. Doc. A/59/119 (2004), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/402/50/PDF/N0440250.pdf?OpenElement>> (accessed Jan. 27, 2015).

¹⁹ *Relationship between Disarmament and Development in the Current International Context*, G.A. Res. 61/64, U.N. GAOR 1st Comm., 61st Sess., Supp. No. 49 I, ¶ 4, U.N. Doc. A/Res/61/64 (2007), at <<http://www.worldlii.org/int/other/UNGARsn/2006/131.pdf>> (accessed Jan. 27, 2015).

²⁰ G.A. Res. 60/1, U.N. GAOR, 60th Sess., Supp. No. 49 I, U.N. Doc. A/Res/60/1 (2005), at <<http://www.refworld.org/docid/44168a910.html>> (accessed Jan. 27, 2015).

security and well-being. We recognize that development, peace and security and human rights are interlinked and mutually reinforcing.

Although gender and disarmament relationship are not immediately apparent, gender mainstreaming represents a different approach to the traditionally complex and politically sensitive fields of security, disarmament, non-proliferation and arms control.²¹ The Beijing Declaration and Platform for Action stated that full participation of women in decision-making, conflict prevention and resolution, and any other peace initiative are essential to the realization of lasting peace.²²

6. Other Forms of Violence against Women

6.1. Poverty

Extreme poverty is a universal and multidimensional phenomenon, which currently affects millions of people in both in rich and poor countries.²³ According to the World Health Organization statistics, about 1 billion people globally live in extreme poverty on an income of just \$1 a day and 270 million people, most of them women and children, have died as a result of poverty since 1990.²⁴ Thus, peace is not only economic and social justice, as important as it may be, it relies first on respect of the human dignity and self-esteem of the poor.²⁵

As Mr. Leandro Despouy stated in 1996²⁶ the lack of basic security, or the absence of one or more factors enabling families to assume basic responsibilities and to enjoy fundamental rights, leads to chronic poverty when it simultaneously affects several aspects of people's lives, when it is prolonged and when it severely compromises people's chances of regaining their rights and of reassuming their responsibilities in

²¹ Briefing Note Issued by the Office for Disarmament Affairs in Collaboration with the Office of the Special Adviser on Gender Issues and the Advancement of Women of the Department for Economic and Social Affairs (2008).

²² *Report of the Fourth World Conference on Women, supra* n. 5, Annex II: Platform for Action, ¶ 23.

²³ *Report Submitted by Ms. A.-M. Lizin, Independent Expert on the Question of Human Rights and Extreme Poverty Pursuant to Commission on Human Rights Resolution 2002/30*, U.N. ESCOR, Commission on Human Rights, 56th Sess., ¶¶ 10–11, U.N. Doc. E/CN.4/2000/52 (2000) [hereinafter *Report Submitted by Ms. A.-M. Lizin*].

²⁴ *Health Poverty and Millenium Development Goals*, Report of the WHO, Regional Office for the Western Pacific (2005).

²⁵ U.N. ESCOR, Commission on Human Rights, 59th Sess., 56th mtg. ¶ 1.a, U.N. Doc. E/CN.4/2003/L.11/Add.3 (2003).

²⁶ *The Realization of Economic, Social and Cultural Rights: Final Report on Human Rights and Extreme Poverty, Submitted by the Special Rapporteur, Mr. Leandro Despouy*, U.N. ESCOR, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, 48th Sess., Agenda Item 8: The Realization of Economic, Social and Cultural Rights, Annex 3, U.N. Doc. E/CN.4/Sub.2/1996/13 (1996), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G96/130/26/PDF/G9613026.pdf?OpenElement>> (accessed Jan. 27, 2015).

the foreseeable future. The lack of basic security destroys family ties and prevents people from taking responsibility for family planning and proper care of their children, thus increasing child mortality. Widespread extreme poverty inhibits the realization of human rights²⁷ in general and political, civil, economic, social and cultural rights in particular.²⁸

People affected by chronic extreme poverty are at risk of becoming socially excluded from full participation in the society in which they live. Usually the poor, the unemployed, people belonging to ethnic minorities and other vulnerable groups remain 'outsiders' and low in the social hierarchy.²⁹ Moreover, the poor may express their despair and trauma through physical violence or conflict.³⁰ Thus, as stated by the Secretary-General of the United Nations, full realization of political, economic and social rights of all people is the solid way to maintain the social balance which is vital for a society to develop in peace.

To establish lasting peace, the right to enjoy the highest attainable standard of physical, mental and spiritual health should be central to creating and sustaining the capabilities that the poor need to escape from the scourge of poverty. As stressed by Mr. Paul Hunt, United Nations Special Rapporteur on the right to the highest attainable standard of health, ill health destroys livelihoods, reduces worker productivity, lowers educational achievement, limits opportunities and reduces human development.³¹ A fundamental right which must be respected not only in times of peace but also in times of war, is the right to a minimum standard of living, including regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food supplies.³²

²⁷ Vienna Declaration and Programme of Action: World Conference on Human Rights (Vienna, Jun. 14–25 1993), ¶ 14, U.N. Doc. A/CONF. 157/23 (1993), at <http://www.ub.fu-berlin.de/service_neu/ubpubl/mitarbeiter/dbe/UDHR60/Vienna_declaration.pdf> (accessed Jan. 27, 2015).

²⁸ *Human Rights and Extreme Poverty*, G.A. Res. 53/146, U.N. GAOR 3rd Comm., 53rd Sess., Supp. No. 49 I, ¶ 3 (1999), U.N. Doc. A/RES/53/146, at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/771/01/PDF/N9977101.pdf?OpenElement>> (accessed Jan 27, 2015).

²⁹ *Report of the Independent Expert on the Question of Human Rights and Extreme Poverty, Arjun Sengupta*, U.N. ESCOR, Commission on Human Rights, 61st Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 14, U.N. Doc. E/CN.4/2005/49 (2005), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/108/86/PDF/G0510886.pdf?OpenElement>> (accessed Jan. 27, 2015).

³⁰ *Human Rights and Extreme Poverty: Report Submitted by Ms. A.-M. Lizin, Independent Expert, Pursuant to Commission Resolution 2000/12*, U.N. ESCOR, Commission on Human Rights, 57th Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 93, U.N. Doc. E/CN.4/2001/54 (2001), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G01/112/93/PDF/G0111293.pdf?OpenElement>> (accessed Jan. 27, 2015).

³¹ *The Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health: Report of the Special Rapporteur, Paul Hunt, Submitted in Accordance with Commission Resolution 2002/31*, U.N. ESCOR, Commission on Human Rights, 59th Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 45–46, U.N. Doc. E/CN.4/2003/58 (2003), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/109/79/PDF/G0310979.pdf?OpenElement>> (accessed Jan. 27, 2015).

³² *Report by the Special Rapporteur on the Right to Food, Mr. Jean Ziegler, Submitted in Accordance with Commission on Human Rights Resolution 2001/25*, U.N. ESCOR, Commission on Human Rights, 58th Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 72, U.N. Doc. E/CN.4/2002/58 (2002), at <<http://www.righttofood.org/wp-content/uploads/2012/09/ECN.4200258.pdf>> (accessed Jan. 27, 2015).

International human rights law is concerned particularly with vulnerable marginalised and minority groups who live in extreme poverty. The exponential increase in prostitution and trafficking of women and children is a perceptible reflection of the spread of poverty.³³ People's security also deals with international and states' legislation prohibiting and punishing violence in particular in relation to women and the girl child, and taking action against trafficking and sexual exploitation of women and children. The extremely poor, especially women, children elderly and disabled persons, should be the main targets of anti-poverty strategies. To be successful in these strategies, children's right to food needs to be respected in order to combat hunger and guarantee peace.³⁴ And as many empirical studies demonstrate women's full enjoyment and participation in all human rights is a precondition to the full realization of the right to peace and has a major impact on the enjoyment of these rights for society as a whole.

The International Peace Conference held in The Hague in 1899 concluded that peace finds its roots in the 'consciousness of the world.' Those who live in extreme poverty, in special poor rural women, understand better than we realize what is at stake in wars and who ultimately benefits from them. They therefore are in a position to demand a redistribution of the world's priorities and resources.³⁵

6.2. Lack of Access to Education

The right to education requires enforceable individual entitlements to education, safeguards for human rights in education and instrumentalization of education to the enjoyment of all human rights through education. As stated by UNESCO, 'the inclusion of human rights in education is a key element of a quality education.'³⁶ Thus, richly endowed education systems may be faulted for their failure to halt intergenerational transmission of racism or xenophobia.³⁷ It follows that a successful human rights education system should be able to eliminate any and all types of

³³ *Report Submitted by Ms. A.-M. Lizin, supra n. 23, ¶ 58.*

³⁴ *Report of the Special Rapporteur on the Right to Food, Jean Ziegler, U.N. GAOR, Human Rights Council, 4th Sess., Agenda Item 2: Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled 'Human Rights Council', ¶ 4, U.N. Doc. A/HRC/4/30 (2007), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/103/43/PDF/G0710343.pdf?OpenElement>> (accessed Jan. 27, 2015).*

³⁵ *Human Rights and Extreme Poverty: Report Submitted by Ms. A.-M. Lizin, Independent Expert, U.N. ESCOR, Commission on Human Rights, 60th Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 79, U.N. Doc. E/CN.4/2004/43 (2004), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/111/24/PDF/G0411124.pdf?OpenElement>> (accessed Jan. 27, 2015).*

³⁶ *Elements for an Overall UNESCO Strategy on Human Rights, UNESCO Executive Board, ¶ 31, U.N. Doc. 165 EX/10 (2002), at <http://www.fau.edu/divdept/schmidt/unesco/hr_strategy_paper.pdf> (accessed Jan. 27, 2015).*

³⁷ *The Right to Education: Report Submitted by the Special Rapporteur, Katarina Tomaševski, U.N. ESCOR, Commission on Human Rights, 60th Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 53, U.N. Doc. E/CN.4/2004/45 (2004), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/103/32/PDF/G0410332.pdf?OpenElement>> (accessed Jan. 27, 2015).*

inequality, exclusion or discrimination based on prejudices, bias and discriminations transmitted from generation to generation.

Inequality is a cross-cutting variable that affects all social strata. Women constitute a main group affected by this inequality as shown by the increasing number of women victims of violence. Other groups seriously affected are children, indigenous people, disabled persons, the elderly, minorities, displaced or people infected or suffering from AIDS. Patriarchy and all other practices based on the idea of inferiority and / or superiority among human beings are not structures of autonomous oppression but an undifferentiated set of oppressive factors deriving from race, gender, ethnic origin, economic and social background. As stated by the current Special Rapporteur on the Right to Education, gender inequality and other forms of social, religious, ethnic and racial discrimination impede social mobility and impact negatively on the full realization of all human rights, including development, peace and security.³⁸

Educational statistics demonstrate how discrimination based on gender, race, ethnicity, religion, or language, combines to trap new generations of people in a vicious downward cycle of denied rights, where the lack of access to education leads to exclusion from the labour market, which then results in perpetuating and increasing impoverishment.³⁹ As stressed by the United Nations, the exclusion of the poorest from education perpetuates social inequalities in many parts of the world.⁴⁰ Denial of the right to education leads to denial of other human rights and the perpetuation of poverty. It could be concluded that the recognition and enforcement of this fundamental human right is vital to creating stable and prosperous societies.

6.3. Racism and Discrimination on the Ground of Sex

Racism, racial discrimination, xenophobia and related intolerance manifest themselves in an aggravated and differentiated manner for women and girls causing their living standards to deteriorate, generating multiple forms of violence and limiting or denying them the exercise of their human rights . . .⁴¹ As affirmed by the Beijing Declaration and Programme of Action, all forms of gender-based violence

³⁸ *Girls' Right to Education: Report Submitted by the Special Rapporteur on the Right to Education, Mr. V. Muñoz Villalobos*, U.N. ESCOR, Commission on Human Rights, 62nd Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 18, U.N. Doc. E/CN.4/2006/45 (2006), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/106/70/PDF/G0610670.pdf?OpenElement>> (accessed Jan. 27, 2015).

³⁹ *Annual Report of the Special Rapporteur on the Right to Education, Katarina Tomaševski, Submitted in Accordance with Commission on Human Rights Resolution 2000/9*, U.N. ESCOR, Commission on Human Rights, 57th Sess., Agenda Item 10: Economic, Social and Cultural Rights, ¶ 45, U.N. Doc. E/CN.4/2001/52 (2001), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G01/101/77/PDF/G0110177.pdf?OpenElement>> (accessed Jan. 27, 2015).

⁴⁰ United Nations, 1985 Report on the World Social Situation at 34, U.N. Doc. ST/ESA/165, U.N. Sales No. E.85.IV.2 (1985).

⁴¹ *Id.* at 43 (¶ 29).

should be eliminated. Moreover, gender-based violence, such as battering and other domestic violence, sexual abuse, sexual slavery and exploitation, and international trafficking in women and children, prostitution, pornography and sexual harassment, are often aggravated by or resulting of racism, cultural prejudice, racial discrimination and xenophobia.⁴² The CEDAW, as well as its Committee's General Recommendations, in particular GR 19 (1992) on violence against women, including older and immigrant women, should also be stressed.

A transformed partnership based on equality between women and men is needed as a condition for people-centred sustainable development and world peace.⁴³ In addition, the role played by men and boys in advancing gender equality is vital, as recognized both by the Beijing Declaration and the Commission on the Status of Women.⁴⁴ Therefore leaders at all levels, as well as parents and educators, should promote positive male role models that facilitate boys to become gender-sensitive adults and enable men to support, promote and respect women's rights.⁴⁵

Equality before the law and non-discrimination in the enjoyment of human rights are structural principles of international human rights law which reaffirm the principle of dignity of human beings and are indispensable for establishing the international human rights law system. The Inter-American Court of Human Rights stated that the latter principles are norms of '*jus cogens*, because the whole legal structure of national and international public order rests on it and it is a fundamental principle that permeates all laws.⁴⁶

6.3.1. Indigenous Women

The *Beijing Declaration and Platform for Action of the Fourth UN World Conference on Women* of 1995 recognized the need to ensure full respect for the human rights of all women in general,⁴⁷ including indigenous women. As stressed by the former Special Rapporteur on indigenous peoples, 'the threefold discrimination women

⁴² *Report of the Fourth World Conference on Women, supra* n. 5, Annex 2: Platform for Action, ¶ 224.

⁴³ *Id.* at ¶¶ 1, 131.

⁴⁴ *The Role of Men and Boys in Achieving Gender Equality: Report of the Expert Group Meeting (Brasilia, Brazil, Oct. 21–24, 2003)*, U.N. Division of Advancement of Women, U.N. Doc. EGM/MEN-BOYS-GE/2003/REPORT (2004), at <<http://www.un.org/womenwatch/daw/egm/men-boys2003/reports/Finalreport.PDF>> (accessed Jan. 27, 2015); *Thematic Issue before the Commission: The Role of Men and Boys in Achieving Gender Equality: Report of the Secretary-General*, U.N. ESCOR, Commission on the Status of Women, U.N. Doc. E/CN.6/2004/9 (2003), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/671/62/PDF/N0367162.pdf?OpenElement>> (accessed Jan. 27, 2015).

⁴⁵ Special Session of the UN General Assembly on Population and Development, held in New York in June/July 1999, ¶ 50.

⁴⁶ *Juridical Condition and Rights of Undocumented Migrants*, Advisory Opinion OC-18/03, Inter.-Am. Ct. H.R. (ser. A) No. 18, ¶ 101, at <http://www.corteidh.or.cr/docs/opiniones/seriea_18_ing.pdf> (accessed Jan. 27, 2015).

⁴⁷ See the Convention on the Elimination of All Forms of Discrimination against Women.

suffer (for being women, indigenous and poor) marginalizes even further regarding economic and political sphere.⁴⁸

Currently, many indigenous women are submitted to discriminatory practices within communities, such as forced marriages, frequent domestic violence, dispossession of property and other forms of male patriarchal domination. Moreover, women are often excluded from participative processes and decision-making on development projects and programmes in indigenous communities.⁴⁹ Thus, taking into account that the realization of equal rights for women at all levels and in all areas of life contributes to the achievement of a just and lasting peace⁵⁰ their marginalization and discrimination impedes the social, economic and cultural development of the indigenous peoples as a whole.

6.3.2. Women Migrants

Women and children constitute two groups particularly vulnerable to human rights violations when they become migrants. The Fourth World Conference on Women in 1995 examined the situation of migrant women and called upon States to recognize their vulnerability as a consequence of violence and other forms of abuses.⁵¹ The CHR indicated that both origin and destination countries should take appropriate legal measures against intermediaries that deliberately promote the clandestine movement of workers. According to this human rights body, intermediaries not only exploit women migrant workers but also violate their human dignity.⁵² The General Assembly recalled that States should promote and safeguard human rights and fundamental freedoms of all migrants in accordance with international human rights law, whatever their immigration status, especially those of women and children.⁵³

The former Special Rapporteur on the human rights of migrants stressed the problem of violence against women migrant workers due to their double

⁴⁸ *Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, Rodolfo Stavenhagen*, U.N. GAOR, Human Rights Council, 6th Sess., Agenda Item 3: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, ¶ 67, U.N. Doc. A/HRC/6/15 (2007), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/149/23/PDF/G0714923.pdf?OpenElement>> (accessed Jan. 27, 2015).

⁴⁹ *Id.* at ¶ 55.

⁵⁰ G.A. Res. 40/108, *supra* n. 7.

⁵¹ *Report of the Fourth World Conference on Women*, *supra* n. 5, at ¶ 46.

⁵² *Violence against Women Migrant Workers*, U.N. ESCOR, Commission on Human Rights Res. 2002/58, 58th Sess., Supp. No. 3, ¶ 4, U.N. Doc. E/2002/23-E/CN.4/2002/200 (2002), at <<http://www.un.org/en/terrorism/pdfs/2/G0215272.pdf>> (accessed Jan. 27, 2015).

⁵³ *Protection of Migrant Workers*, G.A. Res. 60/169, U.N. GAOR 3rd Comm., 60th Sess., Supp. No. 49 I, ¶ 5, U.N. Doc. A/RES/60/169 (2006), at <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/60/169> (accessed Jan. 27, 2015).

marginalization as women and as migrants.⁵⁴ There exist a high number of women who are obliged to cross borders and make long distances to engage in poorly paid work at home. It follows that they have a high risk of suffering situations of isolation and subordination, including physical or psychological violence. The kinds of abuse and violence suffered by women migrant workers include the withholding of their wages, acts of physical and sexual violence, undernourishment, the seizure of their passports, and the lack of medical and health care, among other abuses.⁵⁵

7. Conclusion

The Fortaleza Declaration indicated that BRICS shall promote gender perspectives in conflict prevention and resolution. As recognised by the UN practice, the maintenance of peace and security is crucial for the protection of the human rights of women and girl children, as well as for the elimination of all forms of violence against them. The role played by women in decision-making with regard to conflict prevention and resolution is a fundamental element in the Security Council Resolution 1325 and the text prepared by the Chairperson-Rapporteur. In addition, the gender mainstreaming in the field of disarmament, non-proliferation and arms control should also be taken into account in the context of peace. The elimination of all forms of violence against women is a clear means to strengthen world peace. In particular, the paper referred to the other forms of violence against women, such as poverty, lack of access to education and discrimination based on the ground of sex and gender. Particularly, the paper took into account the situation of discrimination suffered by indigenous women and migrants.

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⁵⁴ *Report of the Special Rapporteur, Ms. Gabriela Rodríguez Pizarro, Submitted Pursuant to Commission on Human Rights Resolution 1999/44*, U.N. ESCOR, Commission on Human Rights, 56th Sess., Agenda Item 14(a): Specific Groups and Individuals: Migrant Workers, ¶¶ 55–56, U.N. Doc. E/CN.4/2000/82 (2000), at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G00/100/36/PDF/G0010036.pdf?OpenElement>> (accessed Jan. 27, 2015).

⁵⁵ *Id.* at ¶ 63.

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