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CONFERENCE ON THE RIGHT TO EDUCATION OF MINORITIES IN THE AMERICAS

OUTCOME STATEMENT

Cali & Bogotá, Colombia
September 16 & 21, 2009

INTRODUCTION

The Robert F. Kennedy Center for Justice and Human Rights (RFK Center) in partnership with Association NOMADESC, the Cornell Law School International Human Rights Clinic (Cornell Clinic), the University of Valle in Cali, Colombia, the University of Los Andes in Bogotá, Colombia, and the University of Virginia School of Law International Human Rights Clinic (UVA Clinic) convened the conference entitled “Conference on the Right to Education of Minorities in the Americas.” Day one of the Conference was held at the University of Valle in Cali on Wednesday, September 16, 2009, and day two was held at the University of Los Andes in Bogotá on Monday, September 21, 2009.

The purpose of this two-day, multi-city event was to continue an important dialogue among local, national and international leaders, remain accountable to local communities and promote grassroots advocacy to improve the right to education of minorities in the Americas. In addition, an in-depth report on the state of the right to education in the Americas entitled *Right to Education of Afro-descendant and Indigenous Peoples in the Americas* (Report) was launched at the Conference. The RFK Center, the Cornell Clinic and the UVA Clinic authored this Report and presented its findings at a thematic hearing on the subject before the Inter-American Commission on Human Rights in March 2008. The Report has also been submitted to the Preparatory Committee of the Durban Review Conference, the United Nations Forum on Minority Issues and the Right to Education, and the OAS Working Group responsible for the preparation of the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance. The Report addresses States’ obligations to fulfill the right to education without discrimination and examines the failure to meet those obligations within the Americas focusing on three specific countries: Colombia, Guatemala, and the Dominican Republic.

As a conference of regional dimension, it examined the state of the right to education of Afro-descendants and indigenous peoples in Colombia, Guatemala and the Dominican Republic as examples of violations of the right to education in the Americas. In addition, panelists highlighted the particular findings in Colombia and discussed specific impediments to the enjoyment of the right to education in the country. They addressed the issues facing internally displaced communities, as well as the Colombian Constitutional provision (Article 67) that allows the government to charge fees, even at the level of primary education. Most importantly, the RFK Center and its partners shared their report findings with affected communities and public officials who are in the position to improve access to education in the Americas generally and in Colombia specifically.

The two-day Conference was held in two cities to ensure maximum participation and wide dissemination of the Report. The Conference was an important forum to present the Report findings and recommendations to the affected communities, as well as to policy makers for comment and reform.

I. DAY 1: CALI EVENT, SEPTEMBER 16, 2009

A. KEYNOTE ADDRESS

United Nations Independent Expert on Minority Issues Gay McDougall delivered the keynote address on the opening day of the Conference. Among the audience members were representatives from local government agencies, academic institutions, and grassroots leaders of affected communities, as well as local and international advocacy organizations from countries in the Americas. Ms. McDougall's speech included many important points regarding minorities and the right to education

She began her address by stating that she came to speak not only as an expert, but also as a minority herself. First, Ms. McDougall spoke about the word "minorities," explaining that minorities are people or groups of people who are distinct from the majority based on their race, ethnicity, national origin, religion, or language. The term "minority" is not defined by the number of people with a certain characteristic; rather, it is related to unequal power distribution and oppression.

Additionally, Ms. McDougall asserted that the right to education is a global issue, one that is paramount to those who have been denied that right due to discriminatory structures, beliefs and practices. The provision of education to all children inexorably leads to empowerment and is the only way to break the cycle of poverty, exclusion and discrimination. Furthermore, she stated that education is a fundamental human right of every man, woman and child. Equal access to education, she declared, must be understood in the holistic sense with respect to the rights to non-discrimination and equality.

Ms. McDougall then observed that, worldwide, minority children suffer disproportionately from unequal access to quality education. Minority women and girls are disadvantaged on multiple levels, because they are discriminated against as members of a minority group and also by virtue of their sex. Some religious and social norms, she found, prevent women and girls from going to school. Therefore, she concluded that the issues of discrimination against minority girls and the right to education are inter-related and must be addressed concurrently because educated women are more likely to send their children—both girls and boys—to school.

With regard to states and their obligations to respect, protect and fulfill the right to education, she asserted that a lack of resources cannot be used as an excuse for the denial of the rights of minorities to equality in education. Equality in education has budgetary implications that must be seen as necessary to meet the state's international legal responsibilities. Moreover, she stated that quality of educational outcomes must also be equal. Minorities must graduate at the same rates and must have the same literacy levels as non-minorities. The state, therefore, must be held responsible for disproportionate drop-out rates and low achievement levels of minority children.

Ms. McDougall explained that entire societies and cultures are harmed when people are denied access to an education. Each year that education is denied to children, a country is denied the opportunity to develop its future leaders. Only through education, she concluded, can individuals and communities realize their full potential.

Finally, in response to a question from the audience, Ms. McDougall responded that the right to education includes the right to nurture and celebrate identity. She found that neglecting the cultures, histories and languages of minority children in schools is failing to respect and ensure their right to enjoy their own cultures and use their own languages.

B. PANELS & DISCUSSION

1. Introductory Remarks

First, **Martha Gómez**, the Vice Dean of the University of Valle, welcomed participants and panelists to the Conference on the Right to Education of Minorities in the Americas. She stressed that the University of Valle is trying to guarantee the human rights of all minorities—including social, cultural, and economic rights—by providing a forum for social activism in Colombia. Notably, the University not only recognizes the importance of access to education, but it also recognizes its responsibility to ensure that individuals complete their education. To fulfill these responsibilities and graduate students, especially minorities, universities need more economic and social support from public and private institutions, as well as the state.

Next, **Marselha Gonçalves-Margerin**, Advocacy Director for the Robert F. Kennedy Center for Justice and Human Rights, spoke about the reasons for holding such a conference: to share the Report findings; to listen to community concerns and recommendations; and to promote state compliance with international legal obligations to protect the right to education of minorities in the Americas. **Berenice Celeyta**, President of Association NOMADESC and RFK Center Human Rights Award Laureate, followed Ms. Gonçalves-Margerin by raising some of the issues and concerns that Colombians face regarding access to quality education, including the privatization of educational institutions and lack of appropriate cultural sensitivity in educational systems.

Finally, **Daniel Atchebro**, Cali Regional Representative of the Office of the UN High Commissioner for Human Rights in Colombia, addressed the importance of protecting all fundamental rights within the human rights framework. In particular, he stressed the importance of framing the Conference in light of the international legal obligations of states to respect, protect and fulfill the right to education for all equally and without discrimination.

2. Session 1 – The State of the Right to Education in the Americas:

During Session 1, panelists discussed problems, issues and concerns regarding the right to education in the Americas. Notably, many similarities existed across the experiences of different minority groups in the three countries represented: the Dominican Republic, Guatemala and Colombia. With regard to education, minorities across the Americas experience discriminatory practices, face barriers to physical and economic access, and recognize state failures to adequately adapt to the cultural needs of minorities in education systems.

The first panelist, RFK Center Human Rights Award Laureate **Sonia Pierre** from the Haitian-Dominican Women's Movement (*Movimineto de Mujeres Dominico-Haitianas—MUDHA*), spoke about the specific issues facing Dominicans with regard to the right to education. In particular, her concerns included the fact that the Dominican government does not prioritize education as evidenced by low levels of government spending and lack of strategic government planning. Additionally, she recounted that children study in terrible conditions: their schools are dilapidated and unsanitary and their teachers receive inadequate pay and training. Finally, she described the systematic discrimination faced by children of Haitian descent. Even those born in the Dominican Republic are denied education because the government refuses to give them the identification documents necessary to enroll in school.

The second panelist, **Victor Cristales**, from Guatemala and a member of the Latin American Coalition for the Right to Education (CLADE), related the issues and concerns facing minority populations, especially indigenous populations, in his country. Although Guatemala has

numerous cultures and languages, classes are taught only in Spanish and ethno-education¹ is not part of the curriculum. Other problems Mr. Cristales recounted involved the physical and economic inaccessibility of education in Guatemala. For instance, many universities and secondary schools charge students and, like the majority of primary schools, are located in urban areas and are not accessible to indigenous communities. Moreover, it is difficult for many students to complete their education because it is too expensive.

The third and fourth panelists recounted the issues and concerns of Colombian minorities. In particular, **Victor Hugo Vidal** from the *Proceso de Comunidades Negras (PCN)* spoke about the experience of Afro-descendants in Colombia. He noted that Afro-descendants are a marginalized and impoverished minority group because of systemic discrimination throughout the country. He also explained the importance of improving literacy levels and stressed the need to incorporate cultural teachings that include more than a historical mention of slavery in schools.

Finally, **Arquimedes Vitonaz**, Coordinator of the University for Indigenous Peoples of Cauca, addressed the exclusion of indigenous peoples from the education system in Colombia. Regarding the right to education, he stated that “a right unused is a right lost.” He expressed the importance of ethno-education to focus on specific vocational and cultural needs that have been neglected due to systemic discrimination. Indeed, he stated that education must not discriminate against the cosmovision of indigenous peoples; rather, it must integrate their beliefs, such as the importance of a collective existence, and not focus only on transmitting Western ideas.

3. Session 2 – The Framework of the Right to Education

In Session 2, panelists discussed the scope of the right to education with specific reference to the Right to Education “4-A” Framework developed by former UN Special Rapporteur Katarina Tomasevski² and the modified “5-A” Framework originally proposed by the Woodrow Wilson School of Public and International Affairs³ and developed by the Report launched at the Conference. Under the “4-A” Framework, in order to guarantee the right to education, governments must ensure that education is: 1) available (*i.e.*, adequate number of schools, programs and facilities, which means having bathrooms for both sexes, safe drinking water, trained teachers, books, etc.); 2) accessible (*i.e.*, physically close and economically affordable to everyone without discrimination, even if that requires providing transportation or building new schools in indigenous and/or rural communities); 3) acceptable (*i.e.*, good quality education that has meaning to students, communities and society, which requires that schools use materials that include content on students’ cultural, language and social backgrounds); and 4) adaptable (*i.e.*, flexible education that responds to students’ needs, even if that means developing customized school curricula to keep students in school). The “5-A” Framework adds that governments must be accountable, which means they must have systems in place that allow individuals to fight for their rights if they feel the government has wronged them.

Panelists also examined various government obligations as laid out by the “5-A” Right to Education Framework to protect the right to education in the Americas. In particular, speakers pointed out the need to ensure the availability, accessibility, acceptability (quality), adaptability and accountability of education and gave examples of the specific needs of minority communities within the framework of the right to education.

First, panelist **Marselha Gonçalves Margerin**, Advocacy Director of the Robert F. Kennedy Center for Justice and Human Rights, discussed the methodology and framework for analysis used in the Report, *The Right to Education of Afro-descendants and Indigenous Peoples in the Americas*.

¹ Ethno-education is defined as education for ethnic groups or communities that have their own indigenous cultures, languages, and traditions.

² See, e.g., KATARINA TOMASEVSKI, HUMAN RIGHTS OBLIGATIONS IN EDUCATION: THE 4-A SCHEME 47 (2006) (discussing the “4-A” Right to Education Framework to measure the scope of the right to education).

³ See PRINCETON UNIVERSITY WOODROW WILSON SCHOOL OF INTERNATIONAL AFFAIRS, FREE TO LEARN: A RIGHTS BASED APPROACH TO UNIVERSAL PRIMARY EDUCATION IN KENYA 30 (2006), available at http://www.princeton.edu/research/final_reports/f05wws591i.pdf.

She defined and described the scope of the right to education and explained the need to ensure that education is available, accessible, acceptable, adaptable and accountable to all equally and without discrimination. Ms. Gonçalves-Margerin further discussed how the Report integrates the “5-A” Right to Education Framework with the Structure-Process-Outcome Framework to identify violations of economic, social and cultural rights used by the Inter-American Commission on Human Rights in its Guidelines on monitoring economic, social and cultural rights.⁴ She concluded her talk by encouraging community members to implement this methodology and utilize the Report framework to assess and ensure government compliance with the right to education in their respective communities.

Next, panelist **Ulises Márquez** of CLADE addressed the responsibility of governments to provide education and noted that providing education requires much more than simply building a school and making education merely available in theory. Governments are also obligated to ensure that education is adaptable to students’ needs by, for example, providing ethno-education. The third panelist, **Carlos Gonzalez** of the National Union of University Employees and Workers in Colombia (*SINTRAUNICOL*), added that economic accessibility is part of the government’s obligation to fulfill the right to education and that social and economic rights must be included and prioritized in government budgets.

The fourth panelist, **Jose Domingo Caldón**, former Head of the Indigenous University, stressed the importance of having the national government recognize the Indigenous University as a way for indigenous peoples to enjoy the right to education.

Finally, panelist **José Darwin Lenis Mejía**, Under-Secretary of Pedagogical Development in the Office of the Secretary of Education in Cali, spoke to the various shortcomings in Colombia’s education system, especially with regard to acceptability and adaptability, for minority groups. He found that, although there has been legislation to plan future education strategies, structural problems in schools still exist and teachers do not receive adequate training. He also stressed that education must incorporate different cultures and backgrounds and can be an effective tool for combating violence in the Colombia context.

4. Session 3 – The Right to Education for Internally Displaced Persons (IDPs) in Colombia

The goal of the third session was to examine displacement and its effects on the right to education. Panelists discussed the problems, challenges and recommendations for the protection and promotion of the right to education of Afro-descendants and indigenous peoples who are disproportionately displaced in Colombia. In turn, participants voiced their concerns, especially with respect to the IDP context.

The first panelist, **Marcos Yatacuc** of the Association of Indigenous Councils of the North of Cauca (ACIN), recounted the history of violence and displacement in Colombia. He stressed the importance of having accurate and reliable data on the number of internally displaced persons, as well as the need for indigenous peoples’ participation in educational reform. Next, **Ivette Mina** from the United Nations High Commissioner for Refugees (UNHCR) in Colombia discussed the role of the UNHCR in protecting victims of forced displacement, as well as the structural, political, economic, cultural and social barriers that IDPs face in accessing services and realizing rights, including the right to education.

Finally, the third panelist, Cali Mayoral Representative **David Matias**, spoke about a National Apprenticeship Program in universities that is available to minorities in Colombia. He explained that despite the existence of the program, minority students often do not meet the

⁴ See INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, GUIDELINES FOR PREPARATION OF PROGRESS INDICATORS IN THE AREA OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS, OEA/Ser/L/V/II.129 (Doc. 5), at ¶¶ 30–32 (Oct. 5, 2007), available at <http://www.cidh.oas.org/pdf/%20files/Guidelines%20final.pdf>.

minimum requirements for enrollment due to poor quality education received at the primary and secondary education levels.

II. DAY 2: BOGOTÁ EVENT, SEPTEMBER 21, 2009

A. PRESENTATION: FINDINGS AND RECOMMENDATIONS IN THE REPORT, *THE RIGHT TO EDUCATION OF AFRO-DESCENDANTS AND INDIGENOUS PEOPLES IN THE AMERICAS*

Dr. Daniel Bonilla, Associate Professor and Director of the Public Interest Group of the University of Los Andes Law School, opened the conference with a brief discussion about the right to education within the context of society and culture. He then provided an overview of the structure of the Bogotá Conference: first, the authors and contributors would present the Report—its goals, methodology, findings and recommendations; second, experts would provide their commentary; and finally, participants would share their concerns and ideas about what can be done to fulfill the right to education in the Americas.

Marselha Gonçalves Margerin, Advocacy Director of the Robert F. Kennedy Center for Justice and Human Rights, began by discussing the concept of the project on the right to education of Afro-descendants and indigenous peoples in the Americas, as well as the research methodology and implementation. In addition, she discussed the various ways the Report has been used: in a presentation at a thematic hearing before the Inter-American Commission on Human Rights, as a submission presented at the Durban Review Conference, as part of a presentation at the United Nations Forum on Minorities and the Right to Education, and as part of recommendations presented to the OAS Working Group on the Draft Convention on Racism and All Forms of Discrimination and Intolerance. Finally, she related the important issues discussed and recommendations made at the Cali Conference.

Next, **Sital Kalantry**, Associate Law Professor and Director of the International Human Rights Clinic at Cornell Law School, discussed the scope of the right to education within the “5-A” Framework of the Report. She also highlighted salient issues in Colombia with regard to the right to education, including Colombia’s failure to provide free education to all. Specifically, she mentioned that Article 67 of the Colombian Constitution requires that individuals who can afford to pay for education must pay for it, which is contrary to Colombia’s obligations under international law.

Deena Hurwitz, Associate Law Professor and Director of the International Human Rights Clinic at the University of Virginia School of Law, later emphasized that the right to education and non-discrimination and the rights of Afro-descendant and indigenous peoples are firmly developed in both inter-American regional law and international human rights law. She introduced the Report’s findings on Guatemala, noting that the legal framework in that country is quite strong. Nevertheless, Guatemala has some of the worst education statistics in the region, particularly with respect to indigenous peoples. The problem in Guatemala is one of implementation, i.e., of committing the funds and putting in place educational programs and mechanisms, as well as effective measures to address discrimination that fulfill its international obligations.

The next panelist, **Angélica Macario Quino**, a human rights activist associated with the Runujel Junam Council of Ethnic Communities in Guatemala, transitioned the discussion from a technical dialogue to a personal conversation by recounting her own experiences and the obstacles she faced in accessing quality education without discrimination as an indigenous woman in Guatemala. For example, Ms. Quino spoke about the distance she had to travel to school, the language barriers she encountered, and her inability to attend university due to her low entrance exam scores, which resulted from poor quality education at the primary and secondary levels. Ms.

Quino further noted that the obstacles of indigenous peoples in Colombia are similar to those faced by indigenous peoples in Guatemala.

Finally, **Berenice Celeyta**, President of Association NOMADESC and Robert F. Kennedy Human Rights Award Laureate from Colombia, followed by examining the issues salient to Afro-descendants and indigenous peoples in Colombia. She spoke of the need to transform minority communities through the realization of the right to education. Similarly, Ms. Celeyta argued that education is the only way to transform a country like Colombia from a state of war to a state of peace.

B. COMMENTARY: OBSERVATIONS BASED ON THE REPORT'S FINDINGS AND RECOMMENDATIONS

Following the presentation of the Report and Cali Conference findings, expert panelists presented their commentary with regard to the methodology, findings and recommendations of the Report. They also discussed possible future challenges in implementing reforms and pursuing advocacy work.

Dr. Libardo José Ariza Higuera, Constitutional Law Professor at the University of Los Andes Law School, challenged one aspect of the Report by arguing that it unnecessarily analyzes the right to education through the lens of discrimination. In his view, the failure to receive an education is predicated on a lack of resources, not on discrimination; thus, most children, not only minority children, are unable to exercise their right to education. He concluded that if minorities were able to improve their economic status, then they would be able to fully enjoy the right to education.

In addition, Dr. Ariza Higuera expressed doubt that Afro-descendants and indigenous peoples would be able to improve their economic status and thus achieve the right to education because they do not participate in the majority market economy. Indeed, he found that the problems of recognition and redistribution of resources are apparent in the case of the right to education of Afro-descendants and indigenous peoples in Colombia. He argued that the conceptual and practical challenge to fulfilling the right to education of minorities is related to improving their socio-economic status—a goal that requires them to enter the majority market economy. However, in his view, adopting such a goal would contradict these groups' arguments related to cultural difference. According to indigenous peoples, for example, their distinct cosmovision includes the recognition and support of subsistence economies, environmental conservation and community, rather than economic exploitation of resources. Mr. Ariza Higuera concluded that ensuring minorities the right to education would transform their communities and society as a whole.

Finally, Dr. Ariza Higuera noted that the structural differences between the applicable laws of Afro-descendent and indigenous peoples must be established. Each group possesses distinct characteristics, which must be taken into account when discussing each group's rights.

Santiago A. Canton, the Executive Director of the Inter-American Commission on Human Rights, continued by attributing current problems with education, poverty, and public health to decades of government neglect and the historical legacy of colonialism. He noted that the Inter-American human rights system has, from the beginning, focused on promoting legal rights by denouncing grave violations of human rights in the Americas. Its case system has been successful in changing laws, both criminal and civil. The Commission, along with international instruments that protect the right to education, has the potential to change the way states view this right.

Mr. Canton found the Report to be very well researched and well written. He recommended that more reports be created that focus on case studies of violations of the right to education. In his experience, reports such as this have been effective mechanisms for motivating communities, states, and international organizations to work together to protect civil society. He explained that there are many issues relating to discrimination and inequality and that these issues are perfect for litigation.

Finally, Mr. Canton stated that the recommendations in the Report, as well as in similar reports, must be implemented in those countries. Although the Inter-American Commission on Human Rights does not have a strong record regarding the enforcement of economic, social and cultural rights, he is hopeful for the future.

Manuel Restrepo, a representative from the Office of the High Commissioner for Human Rights in Colombia, praised the Report, explaining that the addition of “accountability” as part of the “5-A” Framework was key to furthering the analysis. He further emphasized the state’s responsibility to provide education to everyone, not just to minorities. However, Mr. Restrepo also explained that the government must adopt a different approach with respect to the education of Afro-descendant and indigenous peoples based on their specific cultural and educational needs. For example, the humanitarian crisis currently facing Afro-Colombians requires that their right to education be linked with their right to life. Finally, Mr. Restrepo stated that even though the 1991 Colombian Constitution is a multicultural constitution, the state has failed to effectively implement its laws relating to minorities’ rights.

Dr. Daniel Garcés Aragón, Professor at the University of Cauca, argued that discrimination in Colombia stems from its colonial roots and is manifested in how Colombia’s laws are implemented. This type of structural discrimination still affects the relationship between the state and its minority populations.

Based on a study of fifteen school textbooks in Colombia, Dr. Garcés Aragón found that Afro-Colombians are consistently misrepresented and that many schoolbooks do not even mention Afro-Colombian history.⁵ This state failure to address Afro-Colombian heritage is a form of discrimination that serves to further perpetuate racism in Colombia.

The final commentator, **Mr. Jesús Bermúdez**, a teacher and member of the Association of Indigenous Councils of Northern Cauca (ACIN), began his remarks by greeting the audience in his native indigenous language. Mr. Bermúdez discussed the concerns he encounters in his community and educational system regarding the loss of indigenous culture and language. He expressed disappointment that the 1991 Constitution and subsequent laws guaranteeing indigenous people the right to speak their own language have not been implemented. These laws recognize the right to teach their own culture within their communities; however, the state does not respect the curriculum they teach. Accordingly, once indigenous people leave their communities and enter society, universities, employers and the government often do not recognize the education they have obtained.

Although the Colombian Minister of Education was invited to participate in the event, she was unable to attend. Instead, the Director of Quality in the Office of the Vice Minister of Preschool, Primary and Secondary Education, **Mónica López Castro**, sent written comments on the Colombia section of the Report on behalf of the Minister of Education.⁶ These written comments address each of the Report’s recommendations to the Colombian government. Notably, the Ministry of Education has stated that Colombian policies with respect to access and retention recognize the weaknesses caused by the constitutional mandate in its Article 67, which requires those who can pay for education to do so.

C. DISCUSSION:

Important points regarding the right to education in general and regarding the Report in particular were highlighted, including the following:

⁵ Daniel Garcés Aragón. *La Educación Afrocolombiana. Escenarios Históricos y Etnoeducativos 1975- 2000*, (Instituto de Investigaciones Ambientales del Pacífico, ed., 2008).

⁶ Letter from Mónica López Castro, Director of Quality Office Manager for the Vice Minister of Preschool, Primary, and Secondary Education, to Monika Kalra Varma, Director of the Robert F. Kennedy Center for Justice and Human Rights, Sept. 23, 2009, *available at* http://www.rfkmemorial.org/human_rights/CompleteReport031108FINAL.pdf.

- The Report treats the right to education as a fundamental right, and poverty is the result of structural discrimination, not the other way around.
- There is an important movement toward ensuring that the right to education is justiciable (demandable). States should have to make this right available and accessible.
- The right to life and the right to education are interconnected. For instance, if indigenous people are unable to share their culture, then their culture will die out. The Commission has been working to address the right to cultural history.
- The Organization of American States is about to assemble a Working Group to Examine the Periodic Reports of the States Parties to the Protocol of San Salvador⁷ to evaluate country progress reports on economic, social and cultural rights in accordance with Article 19 of the Protocol of San Salvador.

D. CLOSING: RESPECTING, PROTECTING AND COMPLYING WITH THE RIGHT TO EDUCATION: THE WAY FORWARD

Dr. Camilo Ernesto Castillo Sánchez, Professor of Law and Attorney Advocate from the Colombian non-governmental organization *DeJusticia*, provided concluding remarks at the end of the open dialogue. He began by disagreeing with Dr. Ariza Higuera. In his view, the Report was correct to deal with both Afro-descendants and indigenous peoples because it was an effective way to compare the different obstacles each group faces. Dr. Castillo Sánchez affirmed that the Report helps to break down the myth of nondiscrimination in Colombia and throughout the Americas. However, he also noted that it would be informative to compare the stated education needs of different indigenous groups.

Dr. Castillo Sánchez further stressed that communities need to be involved with the planning and implementation of ethno-education and that the government needs to take into account their concerns. The public as a whole, however, also needs to have a say as to how public education is developed and administered. The government is closing schools and isolating communities at a time when they need to be more integrated and work together to affect change.

III. RECOMMENDATIONS

Conference participants made important recommendations for legal and public policy reform to improve the right to education of minorities in the Americas. The following were among the most commonly expressed:

- States must ensure that educational institutions at the primary, secondary and tertiary levels be available, accessible, acceptable and adaptable to all in accordance with international obligations.
- States in the Americas should immediately implement effective affirmative action programs to address structural discrimination and improve access to education for minorities.
- States must ensure that children, especially minority children, are not excluded from education systems for any reason, including distance, poverty, discrimination, language barriers, etc.
- States must provide free essential early childhood and adult education equally and without discrimination.
- States must improve conditions in schools, especially by ensuring safe and sanitary conditions, educational materials and teacher training.
- States must design and implement curricula that are respectful and inclusive of all cultures in society.

⁷ OAS Working Group to Examine the Periodic Reports of the States Parties to the Protocol of San Salvador on Economic, Social and Cultural Rights, *available at* <http://www.cidh.oas.org/Comunicados/English/2010/17-10eng.htm>.

- States must protect their diverse multicultural heritages by providing bilingual education in public schools and recognizing indigenous universities.
- Similarly, states should ensure that ethno-education becomes a part of the national curricula. Minority cultures should be studied in universities, and higher education should create spaces for minority students to succeed and thrive.
- States should give special protection and assistance to internally displaced persons and other marginalized populations that are excluded from the education systems and denied the right to education.
- States should develop mechanisms to ensure that the Ministries of Education are meeting their obligations to all citizens.
- States should sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- The international community should investigate and report on violations of the right to education of minorities in the Americas with the goal of bringing attention to the issue and encouraging advocacy toward full realization of the right.
- The Inter-American Commission on Human Rights should establish an Inter-American Special Rapporteurship on Economic, Social, and Cultural Rights to ensure the protection and fulfillment of economic, social and cultural rights in the Americas and to investigate violations of the right to education for Afro-descendants and indigenous peoples, commencing with investigations of the situations in Colombia, Guatemala and the Dominican Republic.
- The Inter-American Commission on Human Rights should adopt a framework that uses availability, accessibility, acceptability, adaptability, and accountability as measures for assessing violations of the right to education in addition to the structural, process, and outcome indicators that the Commission proposes for analyzing economic, social, and cultural rights.
- The United Nations Special Rapporteurs on Discrimination, the Right to Education, and the United Nations Independent Expert on Minority Issues should jointly visit Colombia, Guatemala and the Dominican Republic to assess state compliance with the right to education, non-discrimination and equality obligations under international law.

IV. FUTURE ADVOCACY DIRECTION

The right to education is a fundamental human right, and its fulfillment is necessary for the enjoyment of other human rights. Despite the importance of education, millions of children throughout the hemisphere, especially impoverished minority children, are excluded from educational institutions and denied the right to an education that is available, accessible, acceptable and adaptable. Throughout the Americas, states are not complying with their international, regional and domestic obligations to ensure the right to education of all equally and without discrimination. Although laws exist to respect, protect and fulfill the right to education, states are not implementing those laws to ensure enjoyment of the right.

In an effort to fully realize the right to education of minorities in the Americas, the Robert F. Kennedy Center for Justice and Human Rights will continue to explore ways to protect and defend the right to education. In addition, the RFK Center will continue promoting right to education compliance in partnership with RFK Center Human Rights Award Laureates Sonia Pierre from the Dominican Republic, Berenice Celeyta from Colombia and Amilcar Mendez from Guatemala.

To read the full Report, visit:

http://www.rfkcenter.org/files/20090907_rt2ed_ENG.pdf

<http://www.lawschool.cornell.edu/academics/clinicalprogram/int-human-rights/upload/Right-to-Education-RFK-Full-Report-ENG-09-07-09.pdf>