United Nations A/HRC/58/45

General Assembly

Distr.: General
17 December 2024

Original: English

Human Rights Council
Fifty-eighth session
24 February–4 April 2025
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Biennial panel discussion of the Human Rights Council on the right to development

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report, submitted pursuant to Human Rights Council resolution 54/18, provides a summary of the biennial panel discussion on the right to development, held on 18 September 2024, during the fifty-seventh session of the Council. The discussion was focused on the theme "Realizing the right to development: the case for a United Nations framework convention on international tax cooperation". The panel discussion highlighted the interrelationship between the right to development and taxation and drew attention to the negative impact of tax abuses, such as tax evasion and avoidance, on the right to development. It analysed the potential of the proposed United Nations framework convention on international tax cooperation and protocols for the realization of the right to development. The participants identified principles and recommendations to inform the framework convention and protocols to ensure alignment with the right to development.

I. Introduction

1. In its resolution 42/23, the Human Rights Council decided to organize biennial panel discussions on the right to development, starting at its forty-fifth session, with the participation of Member States, relevant United Nations bodies, agencies and other stakeholders. The first such panel discussion was held on 17 September 2020[1] and the second on 15 September 2022.[2]

2. The third panel discussion was held on 18 September 2024 and was focused on the theme "Realizing the right to development: the case for a United Nations framework convention on international tax cooperation". The objectives of the discussion were: (a) to highlight the interrelationship between the right to development and taxation; (b) to draw attention to the negative impact of tax abuses, such as tax evasion and avoidance, on the right to development; (c) to analyse the potential of the proposed United Nations framework convention on international tax cooperation and protocols on specific issues, such as measures against tax-related illicit financial flows and the taxation of income derived from the provision of cross-border services for the realization of the right to development; and (d) to identify principles and recommendations to inform the framework convention and protocols to ensure alignment with the right to development.

3. The panel discussion was chaired by the President of the Human Rights Council, Omar Zniber. The United Nations High Commissioner for Human Rights made an opening statement. The panellists were the Special Rapporteur on the right to development, Surya Deva; the Head of the Macroeconomic and Development Policies Branch at the United Nations Conference on Trade and Development (UNCTAD), Anastasia Nesvetailova; the Senior Programme Officer of the Sustainable Development and Climate Change Programme at the South Centre, Abdul Muheet Chowdhary; and the Legal Adviser and Senior Researcher at the Third World Network, Sanya Reid Smith.

4. The opening statement and initial presentations by the panellists were followed by a two-part interactive discussion, involving representatives of States, international organizations and non-governmental organizations (NGOs). The panellists replied to the questions and comments raised from the floor and made concluding remarks.

5. The panel was recorded and posted as a webcast and was accessible to persons with disabilities.[3]

II. Opening of the panel discussion

6. The United Nations High Commissioner for Human Rights focused on the obstacles to realizing the right to development created by tax evasion. He noted the prediction that $2 trillion would be lost over the subsequent decade to tax evasion, a clear obstacle for Governments, particularly in developing countries, to effectively mobilize resources. Developing countries were currently losing what amounted to half of their public health budgets because of tax evasion, according to the High Commissioner, who emphasized that when wealth was shifted to low or no tax jurisdictions, the ability of Governments to fulfil their obligations under international human rights law was undermined. As such, the United Nations needed to establish principled and equitable investment strategies and regulations, mobilized at both the national and the international levels.

7. Combating tax evasion was central to the mission of the United Nations. Because tax evasion robbed the State of its financial capacities, it reduced the incentive of national Governments to cooperate internationally. That hindered the mission of the United Nations to achieve social progress across borders. Dismantling systemic obstacles to development was central to the Declaration on the Right to Development, which had been adopted by the General Assembly in 1986. Noting the importance of tackling cross-border tax issues, the

[1] See A/HRC/48/22.
[2] See A/HRC/52/51.
[3] See https://webtv.un.org/en/asset/k1n/k1nkm7zzm1.

High Commissioner praised the work of the African Group to promote more inclusive and effective international tax cooperation. In particular, the adoption of the terms of reference for the United Nations framework convention on international tax cooperation by the relevant ad hoc committee in August 2024 was an important step in that direction. The High Commissioner urged all States to support the initiative and encourage the full participation of NGOs and members of civil society. The proposal by Brazil for a global 2 per cent minimum tax rate on so-called super-rich individuals, a reform that was projected to mobilize $250 billion annually, was noted.

8. The High Commissioner emphasized the importance of transparency in a new international tax architecture. Multinational corporations had to pay their fair share of tax in the country in which they operated, which could be realized by the elevation of the global minimum corporate tax rate, thus preventing the "race to the bottom" – the global competition for business by reducing statutory corporate tax. Other reforms could include the public reporting of corporate profits, curbs on the operation of tax havens and more efficient national tax regimes.

9. Referring to the Declaration on the Right to Development, the High Commissioner argued that a more inclusive and equitable international tax framework would be in the interests of all nations to enjoy the benefits of development. Inequality both within and among States would be reduced, promoting a more peaceful and stable world order.

III. Panel discussion

A. Contributions of panellists

10. The Special Rapporteur on the right to development commented that realizing the right to development was dependent on sustained resources, which taxation could provide. Reiterating the conclusion of the High Commissioner, he highlighted that tax evasion by large multinational corporations was a major barrier to development because it forced many States to lower taxes to attract foreign investment. Developing countries were disproportionately affected by that "race to the bottom"; since the world economy was interconnected, a global response was required.

11. Taxation was fundamentally a human rights issue. Who should be taxed and how the collected revenue should be spent had an impact on the realization of all human rights. Human rights should inform international tax reform in at least five ways. First, genuine international cooperation should be achieved, which the Special Rapporteur had shown to be key to the right to development and current commitments to sustainability. Article 3 (3) of the Declaration on the Right to Development stipulated that "States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development", while States had committed to scaling up international tax cooperation as part of the 2030 Agenda for Sustainable Development. Second, States should be willing to sacrifice an element of their sovereignty for the common good. Third, an international tax framework had to go beyond formal equal treatment. Different States had different needs, based on their stage of development, their size and their access to the sea. Fair distribution, as an overarching principle of the right to development as outlined in the Special Rapporteur's report to the Human Rights Council in 2023,[4] had to inform tax reform. The world's richest 1 per cent owned 59 per cent of all global financial assets and current frameworks had to account for that inequality gap. Fourth, raising resources to solve the growing planetary crisis had to be central to the framework. For example, a carbon tax on the net profit of fossil fuel companies could be introduced to generate the resources needed to address climate change. Fifth, people had a right to participate in how much revenue was spent on what. Active, free and meaningful participation as a requirement of the right to development became relevant in that context.

[4] A/HRC/54/27.

12. The Head of the Macroeconomic and Development Policies Branch at UNCTAD stated that the present international financial architecture was inadequate to accommodate the needs of developing countries. The United Nations framework convention on international tax cooperation had to be more inclusive and equitable and steps should be taken to eliminate the fragmented and skewed system of the Organisation for Economic Co-operation and Development (OECD), which enabled profit-shifting. She argued that tax was only part of the developmental challenge, using two case studies to illustrate the challenge of building capital, institutions and developmental resources in host economies, which affected developing countries the most.

13. The first case study proposed that foreign direct investment (FDI) of $500 million in a developing economy should stimulate growth and produce jobs. However, corporate transparency and accountability were required, underpinned by public reporting of profits, to ensure that the money was not being misused. The State also needed to ensure that it had the capacity to oversee the reporting of profits by multinational corporations in the host economy. A survey conducted by UNCTAD in 2022 had studied 200 multinational companies across the global South. In a quarter of the companies, the subsidiaries in the host economies had been phantom equity structures and had exhibited no apparent economic activity. They had merely registered a balance, and failed to demonstrate a relationship with local labour or the financial system, or any trading activities. The problem was not confined to the global South, however, in the global North: such subsidiaries accounted for less than 1 per cent of registered corporations. Such an example underscored the importance of corporate transparency and accountability in making sure that FDI was being used correctly.

14. The second study by UNCTAD had examined the food trade. The global food market was controlled by four large multinational corporations, only two of which were public. As the other two companies were private, they had no obligation to disclose their profits, although they controlled 70–90 per cent of the global food market. That led, during the coronavirus disease (COVID-19) pandemic, when many developing countries were facing acute food security crises, to profiteering on a par with that undertaken by major energy corporations. During the pandemic, there had been no mechanisms to regulate such profiteering, because the corporations were registered as industrial manufacturers, not financial institutions. However, most of their profits came from financial market operations during times of volatility. They invested in financial assets, they speculated in financial derivatives and they contributed to price instability. Most cost-crisis regulation had been focused on banks, not manufacturing corporations with financial activities, after the 2008 financial crash. UNCTAD recommended that, together with improved market standards and taxation initiatives, non-financial corporations had to be regulated during such crises. In that way, their profits could be monitored. That showed the importance of corporate arbitrage, under which tax arbitrage fell. Because there was no global tax and investment treaty, corporate arbitrage took advantage of various jurisdictional and thematic niches, such as regulatory arbitrage, reporting arbitrage, liability arbitrage and accounting arbitrage. The United Nations had to close those gaps within the trade and financial governance and architecture.

15. Mr. Chowdhary emphasized that the South Centre had played a critical role in elevating the importance of international tax regulation. It had supported its 55 member States, which were developing countries, in advocating for an intergovernmental tax body at the United Nations. Mr. Chowdhary welcomed the fact that the terms of reference for the United Nations framework convention on international tax cooperation had been adopted by the overwhelming majority of Member States. Despite decades of effort, OECD had failed to stop tax avoidance and illicit financial flows, which had impaired the realization of the right to development. In particular, the complexity of the OECD base erosion and profit-shifting action plan had benefited tax advisers and the four largest accounting firms more than developing countries.

16. He refuted the claim that the OECD global minimum tax would act as a disincentive to illicit financial flows, such as profit-shifting. The design of the rules made it clear that tax avoidance could continue under such a measure. Instead, the rules appeared to discourage multinational enterprises in developed countries from shifting operations to developing countries and to eliminate the ability of developing countries to offer tax holidays. Through

the OECD global minimum tax system of refundable tax credits, grants and subsidies were the only policy tools that remained available to attract investment, which benefited developed countries as they had the resources to offer such subsidies. That particularly inhibited the growth of high-value industries in developing countries, such as the technology sector. He outlined how a United Nations framework convention on international tax cooperation could fill those gaps and prohibit illicit financial flows by means of a protocol that contained the following elements: (a) a universally agreed definition of "illicit financial flows", which ought to include tax avoidance and transfer mispricing; (b) a solution for intragroup payments of royalties, interest, dividends and fees for services, which were among the most common means of profit-shifting (a new protocol on illicit financial flows had to broaden the definitions of royalties and fees for technical services, removing the existing exclusions); (c) a change to the inadequate rules governing the taxation of offshore indirect transfers, which mainly involved mergers and acquisitions through tax havens (article 13 (7) of the United Nations Model Double Taxation Convention between Developed and Developing Countries provided a starting point for that); (d) public country-by-country reporting, so that all multinationals publicly declared how much tax they were paying in each jurisdiction; (e) public, centralized registries of beneficial ownership in relation to all financial vehicles, as well as standards and guidelines on financial flows for professionals, such as lawyers and accountants, who had to commit to reporting aggressive tax planning schemes; and (f) transfer pricing comparable data should be made a public good. Present transfer pricing databases, such as Orbis, were prohibitively expensive for developing countries, which prevented their ability to curtail profit-shifting. Such databases should be transformed into global public goods and made available to developing countries for free.

17. A United Nations framework convention on international tax cooperation was critical for regulating the global digital economy. More than 12 years had been spent negotiating a solution at OECD, where one developed country had opposed its technology firms' being taxed by other countries, despite revenue being generated by them. The solution was also widely considered to be unlikely to be implemented owing to opposition from one developed country. The South Centre, in collaboration with the West African Tax Administration Forum, had shown that the combined 85 members of the African Union and the South Centre, as a whole, could expect between €7 billion and €10 billion in revenue from the OECD solution for taxing the digital economy, and between €20 billion and €35 billion from a 5 per cent digital service tax. Hence, digital service taxes, which were a commonly used national measure, could deliver more than three times the revenue of the OECD solution. To realize the right to development, the South Centre had advised that its member States cease negotiations at OECD and introduce digital service taxes.

18. Having a wide diversity of digital service taxes could increase compliance costs and uncertainty for business and for that reason a protocol to the United Nations framework convention on international tax cooperation on taxing income from cross-border services could provide a standardized and harmonized approach to digital service taxes. First, there had to be a common understanding of the definition of digital automated services. The bulk of the income of technology companies was derived from automated digital services, such as online advertising, search engines and platform intermediation. There had to be a broad understanding of the services to be covered. Article 12B (6) of the United Nations Model Double Taxation Convention between Developed and Developing Countries provided a starting point. Second, there had to be a common understanding of the applicable rates. The protocol could prescribe an acceptable range of rates; the commentary to article 12B suggested 3–4 per cent, and that could be a starting point for negotiations. Third, there had to be a common understanding of what counted as a taxable presence. The protocol could provide a mechanism for modifying existing tax treaties to incorporate the principle of "significant economic presence", so that digitized multinationals had a taxable presence in the countries from which they derived revenues regardless of a physical presence. Fourth, there had to be an understanding of the elimination of double taxation. There had to be a commitment from countries whereby if a company had paid a digital service tax that met that common understanding, then that payment would be provided tax relief. For example, if technology companies were headquartered in developed countries and they paid the appropriate digital service taxes, then States could provide tax relief to eliminate double taxation. Importantly, if a country abstained from that system, its companies would suffer

double taxation and would become less competitive. That approach could incentivize the participation of all countries.

19. Ms. Smith noted how a United Nations framework convention on international tax cooperation would address key issues, such as the digital economy, the abuse of transfer pricing rules, tax evasion and a wealth tax on high-net-worth individuals, which could raise significant revenues for developing countries, supporting the right to development and the realization of the Sustainable Development Goals. However, current trade and investment treaty negotiations could undermine the effectiveness of such a convention. Regarding the digital economy, for example, the current multilateral moratorium at the World Trade Organization (WTO) on imposing customs duties on downloading electronic transmissions, such as streaming services, was scheduled to expire, at the latest, by March 2026. That moratorium had been calculated by a United Nations economist to have cost Thailand $3.6 billion, Mexico $2.6 billion and India $1.5 billion in revenue in 2020 alone. However, 91 WTO members had chosen to negotiate a plurilateral e-commerce agreement or Joint Statement Initiative on Electronic Commerce, which included a permanent and enforceable ban on customs duties on such electronic transmissions. Its acceptance had been portrayed as a fait accompli by the co-convenors, despite the objections of 20 of the participants. Some free trade agreements, such as the proposal by the European Union to Indonesia, also included a permanent ban on e-commerce customs duties. Ms. Smith underscored the significance of digital service taxes. However, the United States was currently suing Canada, under the Agreement between the United States of America, the United Mexican States, and Canada, claiming that the digital service tax of Canada on revenue from online marketplaces, advertising and social media platforms violated its national treatment provisions in the services and investment chapters.

20. Trade and investment treaty provisions might also undermine a United Nations framework convention on international tax cooperation if they attempted to prevent abuse of transfer pricing rules. For example, the Andean Community did not allow the exchange of royalties between related firms and India had capped royalty payments until 2009. When the cap was removed, royalty payments to overseas parent companies had increased fivefold, reaching up to 33 per cent of its FDI inflows. If a Government wished to limit the abuse of transfer pricing, by capping voluntary licence royalties, that could be restricted by performance requirements in bilateral investment treaties or the investment chapters of free trade agreements. The European Union had proposed a ban on capping royalties, except in preapproved exempted sectors, in its free trade agreement negotiations with India. Such treaties might also undermine a framework convention if they attempted to prevent tax evasion. For example, Governments such as New Zealand required tax records, which were stored in the cloud, to be stored on a server in New Zealand, so the Government could easily check for tax evasion, without resorting to a mutual legal assistance treaty, which could be slow, expensive or unsuccessful. However, there were cross-border data flow proposals in some free trade agreements, such as the proposal by the European Union to Indonesia, and those might come back in future negotiations on the Joint Statement Initiative on Electronic Commerce, which could prevent requirements to store data locally. Some Governments, such as that of the United States, also checked the source code in software that had been used in the preparation of tax returns, compliance and planning to make sure that the claims on those returns were correct.

21. Foreign investors had used investor-State dispute settlement mechanisms specified in bilateral investment treaties and free trade agreements to challenge taxes, such as those on capital gains, windfall profits and royalties. There had been 165 cases challenging tax measures as of 2021 – 15 per cent of the known investor-State dispute settlement cases – brought against 47 countries. Some 90 per cent of the cases had been brought by investors from developed countries. India calculated, for example, that a foreign investor owed it $6 billion in taxes, but the foreign investor did not wish to pay and successfully sued India using the investor-State dispute settlement mechanism and was awarded $1.2 billion. Some countries, such as those in the European Union, were still proposing investor-State dispute settlement mechanisms in their free trade agreements, for example with Indonesia, despite the European Union itself withdrawing from the Energy Charter Treaty because it was worried that its investor-State dispute settlement mechanism restricted the ability of member States to take climate change response measures.

22. Most free trade agreements usually required the removal of most tariffs on imports and those joining WTO after 1995 were usually required to lower their tariffs widely. For example, as part of its recent accession to WTO, Timor-Leste was required to set all its tariffs at an average rate of 11 per cent. In contrast, Myanmar did not have to go through the accession process and only had to set 19 per cent of its tariffs at an average rate of 83 per cent. In free trade agreements, developed countries often required the removal of tariffs on all exports of raw materials, which many developing countries had been using to raise revenue. WTO optional plurilateral agreements on investment and services also restricted the ability to use licensing fees to raise revenue at all levels of government. Those licensing fees were often used by Governments to pay for public health programmes, refuse collection and other public services. The United Nations framework convention on international tax cooperation could be an important enabler of the right to development; however, it was already being undermined by provisions negotiated in trade and investment agreements enforceable through investor-State dispute settlement mechanisms and by States suing each other before an international tribunal, with the winning party being able to raise the tariffs on goods and services from the losing party until it changed its tax laws to comply.

B. Interactive discussion

23. Representatives of the following Member States took the floor during the interactive discussion: Algeria, Bahamas, Belarus, Botswana, Burkina Faso, China, Colombia, Egypt, France, Honduras, India, Indonesia (on behalf of the Association of Southeast Asian Nations), Iran (Islamic Republic of), Iraq, Lao People's Democratic Republic, Luxembourg, Maldives, Malaysia, United Arab Emirates (on behalf of the Group of Arab States), Uganda (on behalf of the Movement of Non-Aligned Countries), Panama, Philippines, Tunisia, United Republic of Tanzania, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe. Representatives of the European Union also made a statement. The Russian Federation was unable to make a statement owing to lack of time.[5]

24. Representatives of the following NGOs took the floor: Amnesty International, Association of Iranian Short Statured Adults, Associazione Comunità Papa Giovanni XXIII, Beijing Guangming Charity Foundation, Beijing NGO Association for International Exchanges, Environment Conservation Organization – Foundation for Afforestation, Wild Animals and Nature (ECO-FAWN), Global Institute for Water, Environment and Health, International Youth and Student Movement for the United Nations, Rahbord Peimayesh Research & Educational Services Cooperative, Rajasthan Samgrah Kalyan Sansthan and Shaanxi Patriotic Volunteer Association.[6]

25. Several speakers noted that the right to development was a fundamental human right that could not be divorced from other human rights. One delegation suggested that human rights should inform development, rather than development informing human rights. One Member State noted that they were in the third year of a five-year development plan and were fully committed to the promotion of the right to development as a human right because of its inalienability. The economic impact of the COVID-19 pandemic, which had stifled economic growth for developing countries and limited national budgets for public projects, was noted. Speakers noted the importance of multilateral cooperation in realizing the right to development, with one delegation emphasizing that because inequality was a global issue, a global response was required, particularly one that involved support for developing countries from the global North. True partnerships had to be built and the realization of the right to development required the removal of all obstacles. Another delegation emphasized how it sought to foster cross-border dialogue on best practices for international tax reform, in particular one that accounted for the technical capacities of each State. As a result, there was wide-ranging support for both the recommendations of the panellists and the proposed United Nations framework convention on international tax cooperation. One Member State proposed that any instrument on international tax cooperation had to enable three areas,

[5] See the complete list of statements on the Human Rights Council extranet, available at https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/57/Pages/Oral statements.aspx.

[6] Ibid.

namely: (a) the encouragement of inclusiveness; (b) the sharing of best practices; and (c) the instrument's operation in favour of all nations. Some Member States voiced concern over the state of multilateralism with reference to the framework convention. One suggested that, while it supported the proposals for the international framework and valued inclusivity and equity, it rejected its exclusion from the negotiations on the draft text. That undermined both multilateralism and the right to development, which mandated the active, free and meaningful participation of all peoples in development. Another Member State argued that the imposition of unilateral coercive measures by another State inhibited its pursuit of the right to development. Sanctions should have been a topic covered by the panellists, because their removal before discussing procuring adequate tax revenues was essential. Another delegation suggested that unilateral sanctions violated the duty to cooperate internationally, which had been established not only in the Declaration on the Right to Development but also in the Charter of the United Nations.

26. Delegates recognized that the current global financial architecture was inadequate, in particular for countries from the global South. Most Member States noted the significant losses to public budgets as a result of tax evasion and holes in the current financial architecture. One delegation suggested that Africa was losing $88.6 billion a year because of illicit financial flows, which outweighed what the continent received in development assistance. The issue of transparency was raised in line with the contributions of the panellists, as companies were not legally mandated by international law to publicly report their profits. The current system therefore encouraged profiteering and corruption. One State expressed support for the Special Rapporteur on the right to development and the Expert Mechanism on the Right to Development, arguing that their research into international tax reform and the right to development were complementary, not identical, and that the work of those two mechanisms should not be undermined, restricted or reduced. Concerns were raised by one delegation about the inadequacies of the present international tax system dominated by OECD, in particular because it had failed to manage the unique problems facing the global South. Another delegation emphasized that, because trust needed to be restored in public finance, it had been working closely, since January 2024, with the Group of 20 and the European institutions with the goal of establishing a minimum tax rate. One delegation specifically referred to strengthening the commitment to the international financial system of OECD, suggesting that a United Nations framework convention on international tax cooperation should not impose any extra commitment, or expect extra expertise, to that already found within the OECD system.

27. Many speakers reaffirmed that a United Nations framework convention on international tax cooperation would only work successfully if it accounted for national and regional variations. One Member State suggested that the proposed framework convention was fundamentally an extra-economic question of justice and sovereignty, namely, to safeguard the rights of States to fairly tax its citizens and corporations and receive a public income. Another Member State framed it within the language of the rule of law. Because the current OECD system failed to account for the unique challenges facing the global South, international tax reform was required to combat the disasters produced by climate change and historic economic inequality within those countries. Some economies in the global South were also more vulnerable to global shocks, such as the COVID-19 pandemic, and current tax policies benefited developed countries more in those contexts. Several delegations noted the financial demands facing their economies. One delegation emphasized that it was providing official development assistance to developing countries at a rate of more than 1 per cent of its gross domestic product, and discussions for more progressive measures were taking place. It mentioned that it applied the OECD framework to prevent the transfer of benefits, and it had the best corporate transparency in the world, emphasizing that it was not gatekeeping its finances. It also identified measures against financial corruption. Of particular importance to the discussion was the implication of reforming national public health budgets. One Member State highlighted that public healthcare projects were the most heavily affected by tax evasion. It had lost $12 billion due to tax, corporate, transborder and extraterritorial abuse, which was why a framework convention was required.

28. Several delegations highlighted the unique measures that had been taken within their own countries to realize the right to development, only some of which focused on tax evasion. Other delegations argued that they were already on the road to fulfilling the right to

development without reforms to the financial architecture. One Member State suggested that financial reform had been key to protecting its economy as an archipelagic State reliant on revenue from tourists and foreign investment. Having the requisite infrastructure to tax those foreign citizens was key to procuring an adequate public income. The State had recently implemented a green tax to fund its climate initiatives, which were key to realizing the Sustainable Development Goals. One delegation asked the panel how smaller States could effectively leverage a United Nations framework convention on international tax cooperation, given their limited resources, which remained an issue. Other delegations suggested that the unique cultural values of their own countries created fertile conditions for the realization of the right to development. One mentioned that the essence of the right to development was unlocking the potential of both men and women, which its country had exhibited throughout history. Each individual had unique traits, which the country encouraged. Leadership among all people, which had been fostered by a centuries-long civilizational continuity, had been incentivised regardless of their gender. Another delegation argued that a travel permit between the "mainland" of the country and its islands had fostered economic prosperity and cultural dialogue across the country, which had facilitated development nationwide. That aligned with the principle of active, free and meaningful participation in development, as enshrined in the Declaration on the Right to Development.

29. Many participants stressed the need to think about the impact of technology on the right to development. One delegation suggested that the ease with which money could be digitally transferred across borders had encouraged illicit financial flows, base erosion and profit sharing. However, delegations often stressed that technology could make public finances more transparent and more efficient, creating a business-friendly environment that incentivised tax compliance. In search of that, multilateral cooperation was emphasized as a means to share knowledge of best practices in taxation of the digital economy. One delegation noted that, at the national level, its Government's revenue service was in the process of implementing an electronic invoicing system to ensure effective value-added tax collection; the first phase of the three-year project was scheduled for completion in December 2024. The country was also simplifying its online tax filing system, creating online customs declarations, and regulating electronic payments and fund transfers. A proposed United Nations convention on tax had to integrate those digital aspects of the economy at the national, regional and international levels. Another delegation noted that the State concerned was "dematerializing" and digitalizing its tax payment system for corporations by introducing online digital platforms.

30. Some States emphasized the need to consider, alongside any question of international tax reform, climate change as a potential barrier to the right to development. One delegation stressed that rapid development in some countries had led to environmental challenges, affecting long-term sustainability and resident well-being. It was also recognized that global warming affected developing countries in the global South to a greater degree and tax reform was required to raise the requisite public revenue to implement green initiatives. One State mentioned that it had already begun implementing a green tax to fund its climate change initiatives, which were pivotal in achieving the Sustainable Development Goals in the country.

31. Many representatives of civil society organizations highlighted the underlying principles of the right to development, such as equity and fairness across the world. While noting the significant monetary losses that developing countries faced, the right to development was not always framed as a problem unique to the global South. Many delegates emphasized that, as a result of increasing globalization and interconnectedness, it was a problem that affected all countries. Not only were countries of the global North legally obligated by international law to cooperate, but it was in their own interests to help others develop as they had. Often the question of the right to development was framed not as a question of geography, but of gender and socioeconomic status, as well as political ideology. One delegation mentioned that, despite the work of the United Nations to realize the right to development across the world, significant gaps remained based upon those distinctions. In some countries, migrant workers were denied the same rights as domestic workers, particularly in situations in which such migrants made up the majority of the workforce. Similarly, there also remained significant economic and social barriers for women, which prevented them from taking on leadership roles. Some delegations also suggested that,

because freedom of expression and association had not been granted to all, limits were placed on civic freedom and public participation in the right to development was undermined. It was suggested that labour systems that encourage the sponsorship of visas by host companies for migrant workers should be banned; gender inequality initiatives and protections should be extended; and restrictions on freedom of expression and association should be abolished to encourage active, free and meaningful participation in development. Those were important prerequisites for sustainable and equitable development across the world.

32. One civil society organization noted the threat of artificial intelligence and argued that, while artificial intelligence promised efficiency, it threatened job security. It emphasized that there was a periodic tension between development and human rights, as employees faced the threat of redundancy as the pace of technological advancement outstripped the rate at which workers could retrain. Governments had to play a role in providing access to education and training if artificial intelligence continued to advance at its current pace.

33. Participants posed questions to panellists, including on: how smaller developing countries could leverage their resources through an international tax framework to achieve the right to development and the Sustainable Development Goals; how technology could be used to streamline tax reporting and make compliance more business-friendly; and how multilateralism could be encouraged through the framework to mitigate the consequences of globalization that had led to cross-border tax abuse.

IV. Concluding remarks by panellists

34. **The Special Rapporteur on the right to development expressed appreciation for the many insightful statements from delegates articulating the centrality of international cooperation in a United Nations framework convention on international tax cooperation. He proposed four themes for international financial reform: cooperation, coherence, collaboration and "creative compliance". Regarding cooperation, there was an almost universal consensus among the delegations on the need for a framework convention, although questions remained about achieving consensus when States had diverse needs and interests. That consensus could be achieved by developing a common understanding based on common values and human rights, including the right to development. States would also need to "give and take" because cooperation only worked when accommodation was possible and the framework convention had to be responsive to the needs of small island developing States. Flexibilities had to be built into the system, because not all States could generate the same resources. Regarding coherence, it had been explained how there could be potential conflict between a framework convention and trade and investment treaties, or initiatives to attract foreign direct investment. On collaboration, a global common tax framework was required to prevent a "race to the bottom". Regarding "creative compliance", corporations were skilled at "ticking boxes" and fictitiously complying with tax regulations. Corporations should not be able to continue doing that under the new convention.**

35. **The Head of the Macroeconomic and Development Policies Branch at UNCTAD welcomed the fact that several delegations supported the United Nations framework convention on international tax cooperation, alongside an acknowledgment of the challenges presented by corporations, their lack of transparency and the penetration of global business networks. She agreed with the Special Rapporteur on the right to development that cooperation required coordination, accommodation and consent, but noted that it would be extremely effective for development broadly if there were agreement that corporate activity and arbitrage, including tax arbitrage, were tracked nationally and regionally, even at the level of subsidiaries. It was not enough to look at a headquarters or a body that represented a particular global business, it also mattered what those corporations did in individual, host economies. It was within the power of sovereign States to enquire and control them. A granular, local approach to tax reform had to coexist alongside any United Nations framework convention on international tax cooperation.**

36. **Mr. Chowdhary noted that it was necessary for developing countries to push for the principle of democratic decision-making in the United Nations framework convention on international tax cooperation, moving beyond the existing frameworks of OECD and searching for more radical solutions to tax evasion and avoidance, which resulted in the loss of public revenue. In response to the question posed during the discussion on how small developing States could leverage their limited resources, Mr. Chowdhary used an example from the operations of a major fossil fuel company. On its website, the company had declared that it had derived $120 million in revenue from the Plurinational State of Bolivia, on which it had paid zero taxes. When large fossil fuel companies continued to receive excess revenue from tax avoidance, they were enabled to continue their polluting activities. As a result, there should, at a minimum, be public country-by-country reporting on all fossil fuel companies and high-emission industries on how much tax each company was paying and the jurisdiction in which they operated. That should be part of the protocol on illicit financial flows, which all developing countries, notably small island developing States, should push for, as they were the countries most affected by climate change and global warming. For developing countries, there had to be better coordination between diplomats and tax officials in national and local areas. Going forward during the negotiations on the framework convention, the South Centre strongly encouraged delegations from developing countries to contact their tax officials and maintain regular dialogue, so that they could be easily consulted. There were two areas that developed countries would push for, which the global South had to be aware of: consensus and complementarity with the work of OECD. Consensus was designed to directly neutralize the numerical majority of the global South, so the decision-making process of the United Nations framework convention on international tax cooperation should be based upon the democratic principle of voting. Moreover, developed countries would push for complementarity with the work of OECD, which would limit the scope of such a framework convention. Developing countries should push for the framework convention to have an open-ended scope because of the inadequacy of the OECD framework for countries from the global South.**

37. **Ms. Smith noted that it was imperative to understand that digital trade negotiations might undermine the proposed United Nations framework convention on international tax cooperation. Many speakers had commented on the significance of addressing tax evasion and money laundering, without an understanding of digital trade or ecommerce provisions proposed in various trade negotiations. Those could exempt corporations from storing data locally, which inhibited Governments from checking for money-laundering. Regulatory officials in developing countries might be able to spot money-laundering, but because data were often stored abroad, they would require information from another country to establish the money-laundering offence. Requests could be sent in accordance with a mutual legal assistance treaty, but replies were not always given. Although climate change was accorded central importance in the discussion, the fact remained that fossil fuel companies often sued Governments through investor-State dispute settlement mechanisms. Trade and investment treaty negotiations had to be more coherent and aligned with the proposals for a framework convention if tax evasion were to be successfully curtailed.**