



General Assembly

Distr.: General
27 June 2022

Original: English

Human Rights Council

Fifty-first session

12 September–7 October 2022

Agenda item 3

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

Report of the Working Group on the Right to Development on its twenty-second session (Geneva, 22–26 November 2021)*

Chair-Rapporteur: Zamir Akram

* The annex is being issued without formal editing, in the language of submission only.



Contents

	<i>Page</i>
I. Introduction	3
II. Organization of the session	3
III. Summary of proceedings.....	4
A. General statements.....	4
B. Interactive dialogue with the Chair of the Expert Mechanism on the Right to Development and the Special Rapporteur on the right to development.....	9
C. Consideration of the draft convention on the right to development.....	11
D. Consideration of the way forward for adopting the draft convention	17
IV. Conclusions and recommendations	17
A. Conclusions	17
B. Recommendations.....	18
Annex	
List of participants.....	20

I. Introduction

1. The present report was prepared pursuant to Human Rights Council resolution 9/3, in which the Council decided to renew the mandate of the Working Group until it had completed the tasks entrusted to it by the Council in its resolution 4/4, and that the Working Group should convene annual sessions of five working days and submit its reports to the Council.

2. The mandate of the Working Group on the Right to Development, as established by the Commission on Human Rights in its resolution 1998/72, is to monitor and review progress made in the promotion and implementation of the right to development as set out in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration; to review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development; and to present for the consideration of the Commission a sessional report on its deliberations, including advice to the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the implementation of the right to development and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development.

3. In its decision OS/14/101, the Human Rights Council noted that the twenty-first session of the Working Group could not be held as scheduled in the United Nations calendar of meetings for 2020 owing to the restrictions linked to the coronavirus disease (COVID-19) pandemic, and decided to postpone the organization of the twenty-first session of the Working Group until 2021, as well as its twenty-second session, also scheduled in 2021.

4. In its resolution 48/10, the Human Rights Council stressed the importance of the realization of the mandate of the Working Group, and recognized the need for renewed efforts with a view to overcoming the existing political impasse within the Working Group so that it might fulfil in a timely manner, its mandate as established by the Commission on Human Rights in its resolution 1998/72 and the Human Rights Council in its resolutions 4/4 and 39/9. The Human Rights Council also stressed the importance of constructive engagement at the twenty-second session of the Working Group, which would continue its consideration of the draft convention on the right to development submitted by the Chair-Rapporteur of the Working Group, and requested the Chair-Rapporteur to submit a revised draft convention to the Working Group at its twenty-third session.¹

II. Organization of the session

5. The Working Group held its twenty-second session from 22 to 26 November 2021. The session was opened by the United Nations Deputy High Commissioner for Human Rights. In her statement, she reaffirmed the importance of the right to development to the Office of the High Commissioner and underlined the Office's commitment to supporting the Working Group and other relevant mechanisms, including the Special Rapporteur on the right to development and the Expert Mechanism on the Right to Development. The right to development could be fulfilled only with effective international cooperation and multilateralism and with good governance at the national, regional and global levels. Inequality within and between nations had to be addressed in all its manifestations, through equitable and fair distribution of resources and benefits. The Deputy High Commissioner referred to the COVID-19 pandemic and the climate crisis as examples of transboundary obstacles to the realization of the right to development that required global responses. Communities, populations and countries most affected by such crises must be empowered partners in decision-making processes. International cooperation was needed to accelerate the building of their capacity to become stronger and equal partners.

¹ See [A/HRC/WG.2/21/2](#) and [A/HRC/WG.2/21/2/Add.1](#).

6. At its first meeting, the Working Group re-elected by acclamation Zamir Akram as Chair-Rapporteur. In his opening statement, the Chair-Rapporteur remarked on the unequal and uneven pace of recovery in response to the impacts of the pandemic, including the lack of access to vaccines and the high risk of populations falling back into poverty in many developing countries. He called on States to act urgently to change course to ensure an equitable recovery, the achievement of the 2030 Agenda for Sustainable Development and the realization of the right to development.

7. The Working Group subsequently adopted its agenda² and programme of work.

8. During the session, the Working Group heard general statements and held an interactive dialogue with the Chair of the Expert Mechanism on the Right to Development and the Special Rapporteur on the right to development. It continued to consider the draft convention on the right to development and the way forward to adopting it.

III. Summary of proceedings

A. General statements

9. Representatives of the following States made statements: Azerbaijan (on behalf of the Movement of Non-Aligned Countries), Bangladesh, Bolivia (Plurinational State of), Brazil, Cameroon (on behalf of the Group of African States), Chile, China, Cuba, Egypt, India, Indonesia, Iran (Islamic Republic of), Japan, Malaysia, Mexico, Nigeria, Pakistan (also on behalf of the Organization of Islamic Cooperation (OIC)), Panama, Qatar, Russian Federation, South Africa, Sri Lanka, United Kingdom of Great Britain and Northern Ireland, and Venezuela (Bolivarian Republic of). A representative of the European Union also made a statement. Representatives from the following national human rights institutions and non-governmental organizations made statements: Alliance Defending Freedom, Associazione Comunità Papa Giovanni XXIII (on behalf of the Working Group on the Right to Development of the Forum of Catholic-Inspired Non-Governmental Organizations in Geneva),³ Centre Europe-tiers monde, Finn Church Aid, Fundación Abba Colombia, International Human Rights Association of American Minorities, International Human Rights Commission Relief Fund Trust, International Human Rights Council, Maat for Peace, Development and Human Rights Association, Modern Advocacy Humanitarian Social and Rehabilitation Association, National Human Rights Commission of Mauritania, Organization for Defending Victims of Violence, Organisation mondiale des associations pour l'éducation prénatale and Sikh Human Rights Group.

10. Azerbaijan (on behalf of the Movement of Non-Aligned Countries) welcomed the continued elaboration of a draft convention on the right to development and expressed support for the mandates of the Chair-Rapporteur of the Working Group, the Special Rapporteur on the right to development and the Expert Mechanism on the Right to Development. The Movement of Non-Aligned Countries recognized the right to development as a universal and inalienable right and as an integral part of all universally recognized human rights and fundamental freedoms. It called on the Human Rights Council to ensure the operationalization of the right to development through a legally binding instrument. The Movement of Non-Aligned Countries urged States Members of the United Nations and organizations of the United Nations system to mainstream the right to development in their policies, as it was central to achieving the 2030 Agenda. It also called for the fair and equitable distribution of COVID-19 vaccines.

² [A/HRC/WG.2/22/1](#).

³ Associazione Comunità Papa Giovanni XXIII, Association Points-Cœur, Caritas Internationalis – International Confederation of Catholic Charities, Company of the Daughters of Charity of St. Vincent de Paul, Dominicans for Justice and Peace – Order of Preachers, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, International Organization for the Right to Education and Freedom of Education, International Movement of Apostolate in the Independent Social Milieus, New Humanity, Teresian Association and International Volunteerism Organization for Women, Education and Development.

11. Cameroon (on behalf of the Group of African States) recognized the right to development as a fundamental human right by virtue of which every human being and all peoples were entitled to participate in and contribute to economic, social, cultural and political development. Glaring inequalities persisted despite efforts by State and non-State actors. As illustrated by the COVID-19 pandemic at the international level, the right to development remained a soft law. That right correlated with genuine peace and stability, political, economic, social and cultural progress. International cooperation and solidarity were key to making it a real and effective right.

12. The European Union reaffirmed the commitment of its member States to eradicating poverty, achieving sustainable and inclusive development and promoting the full and equal enjoyment of all human rights by all individuals without discrimination on any ground. It was not in favour of the elaboration of a legally binding instrument as an appropriate mechanism to realize sustainable development. The European Union stressed that the text did not reflect its understanding of the right to development and lacked the fundamental alignment between that right and the 2030 Agenda. The text should not focus on obligations of industrialized countries towards developing countries or promote the narrative of international solidarity and economic and social development as prerequisites for the realization of human rights. In particular, it observed, *inter alia*: the lack of references to such internal obstacles to the realization of the right to development as corruption, authoritarianism and environmental degradation; the lack of definitions of the right to development and of sustainable development; the use of concepts with unclear meanings in international human rights law, such as “common concern of humankind”, “common but differentiated responsibilities” and “the right to regulate”; the inclusion of definitions on legal persons that appeared to be outside regular international practice; the inclusion of vague notions of extraterritorial obligations of States; the attribution to third parties of unclear obligations and responsibilities with respect to human rights; a failure to articulate the obligations of the primary duty bearer, the individual State, to respect, protect and fulfil; the false equation of coercive measures with violation of the right to development; the creation of a general duty for everyone to respect the right to development; the imposition of obligations on non-ratifying parties; provisions on “harmonious interpretation” that deviated from standard practice and created automatic precedence for the right to development; the establishment of international obligations for entities that did not have legal personality and of duties outside international human rights law, such as the duty to cooperate in solving international problems of economic and/or environmental order; and provisions on financing for development that promoted fragmentation within the United Nations system. In addition, the European Union rejected an obligation of mutual assistance among States. It reiterated its view on consensus as the only way to achieve the desired universality and ownership.

13. Pakistan (on behalf of the Organization of Islamic Cooperation (OIC)) reaffirmed the commitment of OIC to the realization of the right to development and called for its greater integration into the international human rights framework. The COVID-19 pandemic had exacerbated socioeconomic challenges and widened the global development deficit. OIC called for political will, fulfilment of commitments and a revisiting of the international economic and financial architecture to mobilize greater liquidity, debt sustainability and fiscal space.

14. Pakistan (in its national capacity) commended the draft convention which contextualized the right to development and incorporated important principles from the Universal Declaration of Human Rights and core human rights covenants, the Declaration on the Right to Development, the 2030 Agenda and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development. The right to development and other human rights had organic linkages and were mutually reinforcing. Pakistan was concerned over the lack of political will and commitment to mobilizing resources to address inequalities among and within societies and countries. Reduced fiscal space and illicit financial outflows undermined economic and social development in the global South.

15. South Africa noted that inequality, exacerbated by the COVID-19 pandemic, had reached crisis proportions worldwide, had disproportionately affected vulnerable populations and posed a growing threat to the promotion and protection of all human rights. The

elaboration of the legally binding instrument on the right to development was essential to comprehensive, multilateral, regional and national responses.

16. Nigeria underscored the importance of realizing the right to development as a precondition to attaining global peace and security, and emphasized the importance of international cooperation and concrete multilateral engagements to do so. Nigeria supported the draft convention but objected to certain non-consensual terms and language in the text, such as the concurrent use of the terms gender and sex.

17. The Bolivarian Republic of Venezuela said that the right to development was as an inalienable human right on which the enjoyment of all other fundamental rights depended. It was hampered by poverty, the negative consequences of the economic crisis generated by the predatory capitalist system, denial of resources, lack of technology transfer, foreign debt, the imposition of illegal unilateral coercive measures, foreign occupation and terrorism, and the impacts of the pandemic. The Bolivarian Republic of Venezuela made international cooperation and solidarity, and complementarity among the peoples of the South, the highest principles of its legal system. It supported the drafting of a legally binding instrument, which would help realize the 2030 Agenda.

18. The Plurinational State of Bolivia regretted the under-realization of the right to development. The COVID-19 pandemic had undermined economic and social development and the means of subsistence for millions. Indigenous peoples proved resilient with their good governance practices, ancestral medicine and traditional food practices. The Plurinational State of Bolivia called for an intersectional approach based on human rights, with a focus on indigenous peoples, women, girls, boys, adolescents, people of African descent, lesbian, gay, bisexual, transgender and intersex persons and older persons. The right to development was interlinked with sustainable development, the right to self-determination and the right of States to control their own resources. States had the duty to cooperate to establish an international order in which the right to development could be achieved. The Plurinational State of Bolivia appreciated the role played by the Expert Mechanism, the Special Rapporteur and the Working Group.

19. Chile reaffirmed its commitment to all human rights, including the right to development. It reiterated the need for broad international consensus on the necessity of a treaty and cautioned that the drafting process might weaken rather than strengthen this right. Owing to the lack of a clear consensus, Chile abstained from participating in the drafting process but remained supportive of the right to the development and the Working Group.

20. Qatar considered the right to development a pillar of the implementation of the 2030 Agenda. Its implementation at national and international levels required creating an enabling environment through national legislation, strategies and plans that ensured the participation of all in development. International cooperation policies should be based on equitable global partnerships, bridging the gap between developed and developing countries through unconditional development aid that was commensurate with the priorities and needs of those countries. Qatar had adopted national development and foreign policies to advance sustainable development.

21. The Islamic Republic of Iran reaffirmed the responsibility of States for development while emphasizing the importance of international cooperation and the commitment of the international community to make the right to development a reality for all nations. States should refrain from any measures that could directly or indirectly undermine other States' development efforts. Unilateral coercive measures negatively impacted the right to development and all human rights. The Islamic Republic of Iran called for human rights mechanisms to strengthen efforts toward fully realizing the right to development, and for all States to participate in the negotiations for the elaboration of a draft convention.

22. Cuba regretted the slow progress on the drafting of the convention on the right to development and the lack of political will from developed States. Inequality between rich and poor nations, with economic, social and cultural implications, was still one of the main obstacles that threatened the realization of the right to development. The economic, trade and finance embargo constituted a flagrant violation of the human rights of the Cuban people.

23. Mexico was committed to the full and inclusive development of all persons and had adopted national instruments to advance that agenda. Mexico reiterated its reservations concerning the usefulness of a legally binding instrument on the right to development since that right was already considered in other international instruments, legal assets to be protected were already protected by other human rights and international norms, and the convention would lack legal viability while requiring significant resources. The implementation of the 2030 Agenda should not be linked to a convention. Mexico expressed its concern over the increasing use of narratives that established the economic development of States and international solidarity as conditions for the realization of human rights.

24. India supported the full and effective implementation of the right to development. In addition to the national responsibility of States, international cooperation was key to creating a conducive environment for the realization of the right. Democracy, transparency, accountability and participatory governance could serve the best interests of the people in the implementation of the right to development by States. In India, inclusive and sustainable development guided development cooperation, which encompassed grants-in-aid, lines of credit, capacity-building, training and technical assistance, and the India-United Nations Development Partnership Fund. India supported the elaboration of a legally binding instrument, which would assist States in several areas, including financial assistance, equitable international trade, climate justice actions, access to technology and full realization of rights-based policies.

25. Indonesia said that the broad impact of the pandemic on people's well-being and welfare highlighted the indivisibility, interdependency and interrelatedness of all human rights, including implementation of the right to development and its important role in pandemic recovery measures. International cooperation supported national efforts to operationalize the right to development and achieve development agendas.

26. Sri Lanka said that global circumstances, where millions were deprived of their right to health, education and an adequate standard of living, necessitated strengthened efforts towards fully operationalizing the right to development through the adoption of a legally binding instrument. That right should be utilized to ensure that no one and no nation was left behind during and after the pandemic. Sri Lanka highlighted the importance of addressing challenges surrounding production, distribution, deployment and acceptance of vaccines, lifting unilateral coercive measures that undermined effective responses to the pandemic and enhancing development financing. Sri Lanka remained committed to ensuring the right to development through its national development policies and programmes and in response to the impacts of the pandemic.

27. Malaysia reaffirmed that the full operationalization of the right to development would pave the way for people to enjoy other human rights and that inclusivity would ensure all citizens could benefit from the growth and development of a country. It would continue to promote resilient and sustainable development while safeguarding the welfare of its peoples. Malaysia emphasized that stronger regional and international cooperation and integration were necessary to provide a platform for the formulation of collective actions to further advance development and human rights. Malaysia supported the process of finalizing the convention on the right to development and continued to support the work of the Working Group and all mechanisms on the right to development.

28. China remarked that the COVID-19 pandemic had exacerbated inequalities between countries. It called on the international community to respect the right to development and regretted the lack of its recognition by some States. China welcomed the mandates of the Working Group, the Expert Mechanism and the Special Rapporteur. It called on the Human Rights Council to dedicate more human and financial resources to the right to development and to ensure that this right was at the heart of the work of the United Nations system.

29. Egypt regretted the lack of attention to the right to development. The successful implementation of the Sustainable Development Goals required the strengthening of a more equitable international order and the promotion and protection of all human rights and fundamental freedoms. Development would be facilitated by the elimination of such massive and flagrant violations of the human rights of peoples and individuals as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, and

foreign domination and occupation, as well as aggression and threats against national sovereignty, national unity and territorial integrity and threats of war. Egypt called on all members of the Movement of Non-Aligned Countries to contribute to a cohesive and effective convention that would be an important step towards addressing the systemic and structural causes of poverty, achieving the Sustainable Development Goals and strengthening the basis for inclusive growth by revitalizing the global partnership for development.

30. The United Kingdom, while recognizing the right to development, noted the importance of a rights-based approach to development, in line with the 2030 Agenda. It stressed that the primary obligation for ensuring the right to development was one owed by States to their people, and that a lack of development was not an excuse for the failure of States to meet their human rights obligations. The United Kingdom was not in favour of the elaboration of a legally binding instrument, as it did not believe it was the most appropriate mechanism to realize that right. It expressed concern over the current approach, which moved away from consensus and provided little clarity on what the right to development entailed and what obligations States might owe to their people under that right.

31. The Russian Federation considered the right to development as a separate set of rights that were related to the whole spectrum of human rights. The protection of the right to development was now needed more than ever owing to the exercise of unilateral coercive measures and to inequalities due to the COVID-19 pandemic and climate change issues. The Russian Federation did not agree with the approach taken in the proposed draft of the legally binding instrument, which drew from universal, regional, political and legal obligatory instruments in the area of human rights, and would lead to the adoption of unnecessary legal provisions. The proposed convention should first define its purpose and the format for the set of rights; prior to that, it would be problematic to start any negotiating process.

32. Bangladesh reaffirmed that the right to development was an inalienable right of all peoples and key to attaining the Sustainable Development Goals. Inequality, made worse by COVID-19, was a major obstacle to achieving the Goals and realizing human rights. States had the primary responsibility to create favourable conditions for the realization of the right to development and to cooperate to ensure development and eliminate obstacles to development. International mobilization of resources through the full implementation of the global commitments for financing for development was a fundamental requirement for realizing the right. Bangladesh called for the full realization of Sustainable Development Goal 17, including financial, technological and technical support and capacity-building. Integrating the right to development into a legally binding instrument would help to achieve the Goals.

33. Brazil was committed to the right to development and deemed that implementation of the 2030 Agenda was integral to the work of the Working Group. The Declaration on the Right to Development provided the legal framework for deliberations, and the Working Group had to strive to achieve the widest and the most inclusive agreement in terms of its contents and participation. That challenging goal required flexibility, cooperation and goodwill of all parties. The Working Group should be kept as the main locus for inter-State discussion on the subject, including during the elaboration of the legally binding instrument.

34. Panama reiterated its commitment to the promotion and protection of all human rights, including the right to development for all persons, without discrimination. In its view, any legally binding instrument should integrate a gender approach and the empowerment of diverse groups. Stressing the interdependence between peace, development, human rights, environmental protection and climate action, it supported the inclusion in the draft convention of articles on, *inter alia*, indigenous peoples, gender equality, and peace and international security.

35. Japan reiterated its commitment to the protection and promotion of all human rights. It stressed that States had the primary obligation to ensure the human rights of their citizens and that divergence in views on whether to acknowledge the right to development under a legally binding instrument persisted. Establishing a legally binding instrument would create a new form of collective human rights.

36. The Organisation Mondiale des associations pour l'éducation prénatale stressed the importance of setting up an educational system for parenthood in schools, universities, youth

centres, public and private institutions. The Associazione Comunità Papa Giovanni XXIII stated that the COVID-19 and climate change crises unveiled the international obstacles and asymmetries related to structural injustice, which impeded the realization of the right to development. That right required all States to assist other States in ensuring respect for human rights and sustainable development. The draft convention would reinforce the notion of international solidarity that must be translated into a duty to cooperate. Maat For Peace, Development and Human Rights emphasized the importance of pursuing the broadest and most inclusive agreement on a legally binding instrument, which required flexibility, cooperation and goodwill from all. Long-lasting conflicts had weakened the capacity of national institutions in conflict-affected countries, particularly affecting the provision of education, security and health care. The pandemic presented additional challenges for those countries to advance towards peace, self-determination and development. The Fundación Abba Colombia referred to the right to development as a continuous improvement of the well-being of all human persons and a fundamental priority for the full realization of all human rights. It recalled the right to self-determination and stressed that ending discrimination against women and girls was a priority.

37. Finn Church Aid expressed the view that the commitment to mainstreaming gender equality should be explicit throughout the convention. Discriminatory factors such as sex, age, gender, ethnicity, minority status and disability should be components of that mainstreaming. The convention should also give special emphasis to the most fragile States, including the least developed countries and their communities. The International Human Rights Association of American Minorities requested that the residual effects of colonialism be considered when further developing the legally binding instrument. The International Human Rights Council stated that the COVID-19 pandemic, alongside other factors, had widened the gap and inequalities between the rich and developed countries and poor and developing countries. It recommended, *inter alia*, paying attention to the development of human resources and enhancing the exchange of experiences with regard to development programmes. The Organization for Defending Victims of Violence reiterated that unilateral coercive measures were recognized as serious obstacles to realizing the right to development, which breached the rights to life and health, prevented international cooperation and undermined the rule of law. It proposed the specific prohibition of the use of unilateral coercive measures and the establishment of a compensation mechanism, and called for holding sanctioning countries responsible to compensate for the losses and human rights violations caused. It suggested recognizing that developing and sanctioned countries might require special or remedial measures to compensate victims whose rights had been adversely affected by unilateral coercive measures.

B. Interactive dialogue with the Chair of the Expert Mechanism on the Right to Development and the Special Rapporteur on the right to development

38. The Chair of the Expert Mechanism on the Right to Development recalled the elements that the Expert Mechanism considered essential in a legally binding instrument on the right to development. The instrument should reaffirm the Declaration on the Right to Development and further the codification of that human right as legally binding, held by individuals and peoples and entitling them to actively, freely and meaningfully participate in both decision-making on development and the fair distribution of benefits therefrom. The legally binding instrument should elaborate on the three levels of State obligations; elaborate on the duty to cooperate among States and between States and with other stakeholders, including intergovernmental organizations and economic actors; and foster the ability of grassroots organizations to use the right to development. The Chair encouraged States, civil society and grassroots organizations to bring their own practical experience into the deliberations. Those efforts would include, for instance, the experience of African States in implementing article 22 of the 1981 African Charter on Human and Peoples' Rights and article 19 of the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, the practice of Latin American States in tackling issues of domestic and global inequalities, the experience of Arab States in the practical implementation of article 37 of the 2004 Arab Charter on Human Rights and the experience of member States of the

Association of Southeast Asian Nations in respect of their Human Rights Declaration. The Chair encouraged European States and others to share their experiences in the area of international cooperation. The experience of recipients of overseas development assistance, including the least developed countries, and that of civil society were valuable for the drafting process.

39. The Special Rapporteur on the right to development appealed to participants to engage in the negotiations process of the draft convention in a constructive manner. He proposed organizing an event to commemorate the thirty-fifth anniversary of the adoption of the Declaration on the Right to Development to take stock of the progress made in promoting and protecting that right. He provided an overview of his work since the last session of the working group. In his thematic report to the Human Rights Council and the General Assembly in 2021, the Special Rapporteur considered the implementation of the right to development in climate action. The report called for a just transition from a carbon-based economy towards one based on sustainable development, human rights protection and the principle of leaving no one behind. Assisting countries in building climate-resilient economies would require significant funding for developing countries to adapt to climate change and adopt mitigation measures. The special rapporteur referred to the outcomes of the twenty-sixth Conference of the Parties to the United Nations Framework Convention on Climate Change and the policy brief he had issued on climate action and the right to development. He noted that he planned to devote his 2022 thematic report to the compliance of COVID-19 recovery plans with the right to development, and to undertake a stock-taking exercise of progress made by the mandate in the past five years.

40. Azerbaijan (on behalf of the Movement of Non-Aligned Countries), Cuba, the Islamic Republic of Iran, Malaysia, the Russian Federation and the Bolivarian Republic of Venezuela made statements, followed by the Associazione Comunità Papa Giovanni XXIII (on behalf of the Working Group on the Right to Development of the Forum of Catholic-Inspired Non-Governmental Organizations in Geneva). Several speakers reiterated their support for the mandate of the Special Rapporteur and the Expert Mechanism and welcomed their work on the right to development. Azerbaijan stressed the complementary contribution of the Special Rapporteur and the Expert Mechanism to the effective implementation of the work of the Working Group and encouraged Member States to cooperate with them in the fulfilment of their mandates. Malaysia also highlighted the complementary and distinctive contributions of the mechanisms to promoting the implementation of the right to development. Cuba, the Islamic Republic of Iran and the Bolivarian Republic of Venezuela referred to the impact of unilateral coercive measures on peoples' right to development, stressing the need for international cooperation. Cuba emphasized the contribution of the mechanisms to the identification of obstacles to the realization of the right to development and to the compilation of good practices. The Russian Federation shared the Expert Mechanism's view that States should approach more responsibly their responsibilities to cooperate in tackling global problems. Regarding the report of the Special Rapporteur on climate change in the context of the right to development, the Russian Federation observed that conflating the human rights agenda with issues related to climate change was unjustified, as climate change activities fell under the jurisdiction of the United Nations Framework Convention on Climate Change. The Associazione Comunità Papa Giovanni XXIII valued the thematic report of the Special Rapporteur and the synergies created with other special procedure mandate holders in producing joint statements and letters such as that on equal and universal access to COVID-19 vaccines, and expressed its appreciation for the effort to build a cooperative dialogue with civil society.

41. The Special Rapporteur welcomed the statements and reiterated that a draft convention would help to address many of the challenges in implementing the right to development. In response to questions, the Chair of the Expert Mechanism provided information on the process and envisaged structure of the study on the duty to cooperate, and recalled that the Expert Mechanism had called on all States and other stakeholders to participate in the negotiations since their experiences were essential to the drafting process of the convention. Special efforts were required to take into consideration the concerns of the least developed countries and ensure that they contributed to the legally binding instrument. Addressing a question about the key challenges in consolidating the divergent views of States on the convention, the Chair-Rapporteur reflected on his efforts to encourage greater

cooperation among Member States and on his cooperation with the experts supporting him to use language that already existed in the Charter of the United Nations and in other instruments to ensure that the draft convention was acceptable to Member States.

C. Consideration of the draft convention on the right to development

42. The Chair-Rapporteur delivered a statement to clarify some of the points raised in the general statement delivered by the European Union. He explained that, contrary to the European Union critique, the draft text of the convention reflected the 1986 Declaration on the Right to Development and reaffirmed the universality, indivisibility, interrelation and interdependence of all human rights, specifically in its preamble and in article 6. The preamble, article 3 (e) and article 22 aligned the right to development with the 2030 Agenda for Sustainable Development. The Chair-Rapporteur recalled that the draft convention recognized that human rights were central to all efforts to pursue development and that the definition of the right to development, as contained in draft article 4, made it clear that measures taken to advance development could not be used as a justification for violating human rights. The Chair-Rapporteur noted that the draft convention reflected the right to development as both an individual and a collective right, as recognized in the 1986 Declaration. Article 8 of the draft convention stipulated that human rights were inherent to all human beings, with no discrimination or distinction of any kind. The draft convention focused equally on all three dimensions of obligations of States: internal, external and collective. The internal obligations of States were reflected in draft articles 10, 11 and 12, among numerous other provisions. In addition, duties of cooperation applied to all States, not only to industrialized States. Regarding the concerns expressed by the European Union regarding the attribution to third parties of unclear obligations and responsibilities in the matter of human rights, the limitations clause and the use of such unclear concepts as “common concern of humankind”, “common but differentiated responsibilities” and “the right to regulate”, the Chair-Rapporteur referred the group to the commentaries to the draft convention, which provided definitions and explained the legal basis. Regarding the general duty for everyone to respect the right to development, he clarified that it was already established in international law, as explained in the commentaries to draft article 7. The draft convention did not impose obligations on anyone but the ratifying parties, nor did it create obligations for the international community of States as a whole. It also provided for harmonious interpretation with other international instruments without creating a hierarchy. The language of the draft convention on coercive measures as violations of the right to development was a verbatim reproduction of the best-known articulation of the principle as enshrined in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. The Chair-Rapporteur invited the European Union to specify the parts of the draft convention that in its opinion changed the nature of previously agreed language and introduced vague notions of extraterritorial obligations for States. Finally, the Chair-Rapporteur reiterated that the duty to cooperate was firmly established in international law and could be found, for example, in the Charter of the United Nations, the 1986 Declaration, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities, ratified by most countries in the European Union. In conclusion, the Chair-Rapporteur invited the European Union to conduct a thorough reading of the draft convention and the accompanying commentaries. He also invited the European Union to participate in the negotiation of the text to allow the drafting experts to address its concerns and bridge the existing gaps.

43. The Chair-Rapporteur invited delegates and other stakeholders to make comments and textual suggestions, going through the draft convention article by article, and to send them to the secretariat in writing. He also referred to the mandate given to him by Human Rights Council resolution 48/10, in which the Council requested the Chair-Rapporteur to submit a revised draft convention to the Working Group at its twenty-third session, scheduled to take place from 16–20 May 2022. The secretariat would compile the comments and textual suggestions and make them available at that session. The following summary of the

interactive discussion does not, therefore, include a comprehensive account of all comments and textual suggestions made.⁴

44. The drafting group comprised Mihir Kanade (India) as its Chair and Rapporteur, Makane Moïse Mbengue (Senegal), Koen de Feyter (Belgium), Diane Desierto (Philippines) and Margarette May Macaulay (Jamaica). Mr. Kanade provided an overview of the drafting process and the structure of the draft convention. He stressed that the language of the preamble and the text was based on existing international legal instruments, including human rights treaties and relevant declarations and resolutions adopted by States. No concepts, norms, rights or obligations had been created *de novo*. The draft convention brought together all the relevant norms under one framework and contextualized them with reference to the right to development. Mr. Kanade explained that while the draft convention drew on standard human rights treaty models that focused on human beings as the right holders and States as corresponding duty bearers, it also incorporated inter-State reciprocal obligations found in standard Statist-type treaties. Similarly, the draft convention borrowed significantly from features of framework conventions that focused on laying down principles, rights and general obligations; the details of regulation could be developed subsequently in a phased manner through a conference of States parties.

45. Azerbaijan (on behalf of the Movement of Non-Aligned Countries) urged the United Nations human rights machinery to ensure the operationalization of the right to development as a priority, through the elaboration of a convention on the right to development. Cuba appreciated the number of delegations that had been actively participating and supporting the negotiation of the draft convention. The Bolivarian Republic of Venezuela considered it an international legally binding instrument which took into account the challenges of reconstruction in post-crisis contexts necessary to address inequalities. The convention would need to address the effects of external debt and the adverse impact of unilateral coercive measures on the enjoyment of the right to development. Pakistan appreciated the draft convention as a major contribution towards the realization of the right to development and its operationalization. It suggested further elaboration on the importance of international cooperation regarding illicit financial flows, debt sustainability and mitigation of the adverse effects of climate change. Panama pointed out the interdependence of peace, development, human rights, environmental protection and climate action. The crises stemming from pollution, climate change, and biodiversity loss would impact future enjoyment of human rights, including the right to development. In that context, Panama enquired about the lack of a specific article on the environment and climate change.

46. The Associazione Comunità Papa Giovanni XXIII (on behalf of the Working Group on the Right to Development of the Forum of Catholic-Inspired Non-Governmental Organizations in Geneva) emphasized the urgent need for worldwide, interdependent collaborations to overcome the impacts of the pandemic and the ongoing climate change crisis. The Modern Advocacy Humanitarian Social and Rehabilitation Association underscored the importance of identifying obstacles that impeded development, particularly in developing countries, the need for integrating the rights of children, the international responsibility for managing global economic and social crises, the fundamentality of freedoms and inalienability of the right to development. It also highlighted the need for advancing peaceful growth, especially in the technology sector, and for a paradigm shift regarding values of tolerance, ethics of non-violent conflict resolution, environmental protection and protection of national sovereignty. The International Human Rights Council stated that international peace and security were essential for the realization of the right to development and reaffirmed the close relationship between disarmament and development. The International Human Rights Association of American Minorities noted that, to advance the right to development, the rights of peoples under colonial and foreign domination needed further elaboration and inclusion in the draft convention.

47. Mr. Kanade presented the preamble of the draft convention. He explained that it addressed the three major functions played by any preamble: to outline the considerations (moral, political, economic, cultural, legal) guiding the convention and its motivations; to

⁴ See <https://www.ohchr.org/en/comments-and-textual-suggestions-received-after-21st-session-working-group-right-development>.

trace the legal trajectory leading to the adoption of the convention; and to emphasize the objectives that it aimed to achieve. Draft paragraphs 1–8 captured the motivation for the convention; paragraphs 9–20 chronologically traced the legal trajectory at the international and regional levels; and paragraphs 21–26 reflected the objectives of the convention. He explained that suggestions received included adding references to poverty and pandemics, adding provisions that better reflected the role of civil society and reordering the preamble, so as to begin with the reference to the Charter of the United Nations and the legal trajectory.

48. Cuba asked to broaden the reference to poverty in all its dimensions, to include a reference to extreme poverty in the new version of the draft and to ensure a reference to unilateral coercive measures. The Bolivarian Republic of Venezuela supported the proposal by Cuba. Pakistan emphasized the need for generating international political will and commitment to address systemic political, social, economic and development challenges, including widening inequalities, debt burdens, lack of fulfilment of commitments and impediments to the capacity of States to operationalize the right to development. Panama suggested including references to discrimination, gender inequalities, health emergencies and pandemics, and the digital divide, and supported the proposal by the United Nations Educational, Scientific and Cultural Organization to include cultural diversity.⁵ It expressed concerns about the arms race, which would divert resources from human rights and development. It urged the drafting committee to look at the grounds listed in widely ratified treaties. South Africa supported broadening the scope of poverty and including a reference to extreme poverty. It also supported the suggestions of Panama to include references to digital divides and gender inequality. Namibia, while acknowledging that there had been an evolution in the grounds for non-discrimination, could only accept the grounds listed in treaties to which it was a party. China supported the urgency of operationalizing the right to development and the importance of the process of a legally binding document. Nigeria drew attention to considering the various international instruments adopted in realizing sustainable development, in particular the 2030 Agenda.

49. The Associazione Comunità Papa Giovanni XXIII proposed adding references to the right to self-determination, the role of human rights defenders, the role of women in development and issues related to globalization. The concept of sustainability should be clearly spelled out. The Sikh Human Rights Group suggested adding a reference to the role of transnational corporations. The School for the Study of Intuition Teaching of Values highlighted the need for unity to achieve results in the right to development through the study and integration of moral values through the intuition mechanism. The International Human Rights Commission Relief Fund Trust underscored the importance of governance, democratic institutions and freedom of expression.

50. Mr. Kanade presented part I of the draft convention, which comprised three opening provisions addressing the purpose of the convention, definitions for specific terms used and general principles that should guide the implementation of obligations by the duty bearers. He also addressed comments made by the European Union to the effect that the draft convention used concepts for which the meaning was unclear in the context of international human rights law, such as the right to regulate. He noted, *inter alia*, that the right to regulate had been explicitly recognized in the Comprehensive and Economic Trade Agreement between the European Union and Canada, and reaffirmed by the Committee on Economic, Social and Cultural Rights in its general comment No. 24 (2017). He then presented part II of the draft convention, which focused on the right to development and its right holders. The four provisions therein comprised the content of the right, its relationship with the right to self-determination and other human rights, and the general duty of everyone to respect human rights under international law.

51. South Africa proposed changes to the definition of international organizations and expressed its appreciation for the inclusion of the duty to cooperate. China and Cuba expressed concerns over the human rights-based approach in the context of the right to development. Cuba also reaffirmed the importance of talking about self-determination of peoples and sovereign control over natural resources. The Russian Federation remarked on the absence of a clear definition of the term “right to development” or its constituent

⁵ *Ibid.*

elements, and also expressed concerns over the terms “right to regulate” and “international legal personality”.

52. The Associazione Comunità Papa Giovanni XXIII proposed the rule of law as a universal principle. The National Human Rights Commission of Mauritania stated that the right to development was an inalienable human right, reaffirming its support for the Working Group and the process of drafting a convention. The Centre Europe-tiers monde focused on the human rights obligations of transnational corporations, noting the ongoing process in respect of an international treaty on transnational corporations. It distinguished the human rights obligations of States and transnational corporations and recalled the exclusive prerogative of States to elaborate and implement the laws in the matter. The School for the Study of Intuition Teaching of Values emphasized that developing the intuitive capacity of individuals would help to change individualistic behaviours to achieve human rights and development.

53. Ms. Desierto introduced draft articles 8–12, explaining that they referred to general obligations in relation to the right to development, consistent with the nine core international human rights treaties and with General Assembly resolution 60/147. Draft article 8 specified the general obligations of States Parties to respect, protect and fulfil the right to development, and the common duty under international human rights law that public authorities and institutions act in accordance with the convention. The prohibited grounds of discrimination included those recognized in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, with the addition of gender identity, sexual orientation, nationality and statelessness. Draft article 9 specified that international organizations had the negative obligation to refrain from conduct that aided, assisted, directed, controlled or coerced a State or another international organization to breach obligations relating to the right to development. Draft article 10 set out the States parties’ obligation to respect the right to development by refraining from conduct of four types: nullification or impairment of the enjoyment or exercise of the right to development within or outside their territory; impairment of the ability of other States or international organizations to comply with the obligations on the right to development; aiding, assisting, directing, controlling or coercing another State or international organization to breach their obligations relating to the right to development; and causing an international organization of which it is a member to commit an act that would constitute a breach of that State’s obligation under the convention. Draft article 12 addressed the obligation to fulfil the right to development.

54. Mr. De Feyter presented draft articles 13–15. Draft article 13 reaffirmed the duty to cooperate included in the Charter of the United Nations and gave it effect in the context of the right to development. It included the States’ duty to cooperate with each other, in ensuring development and eliminating obstacles to it. The draft article focused on the concrete steps that States should undertake, including through cooperation with intergovernmental organizations and in partnership with civil society. It further addressed cooperation to ensure that no actors impaired the enjoyment of the right to development, the integration of the right to development into international legal instruments, policies and practices, and the duty to ensure that financing for development measures were consistent with the right to development. Draft article 13 also contained a non-exhaustive list of measures to create a social and international order enabling the realization of the right to development. Draft article 14 on coercive measures reproduced relevant provisions of the Declaration on Friendly Relations, which was widely recognized as an authoritative interpretation of the Charter. Draft article 15 addressed special and remedial measures related to both right holders and duty bearers.

55. Egypt, Indonesia, Nigeria and the Russian Federation expressed concerns over references to gender. Cuba stressed the importance of the draft article on coercive measures, and supported the suggestion by the Centre Europe-tiers monde in regard to transnational corporations. Nigeria emphasized that States had the right to make proposals and note any language contrary to their interests. Namibia stated that only the prohibited grounds of discrimination in international treaties should be included, and recalled that treaty bodies repeatedly called for reservations to be lifted. The Russian Federation expressed reservations about the extraterritorial obligations of States and sought further clarification on the

obligation to cooperate. It also objected to references to the rules-based trading system. Pakistan echoed comments made by Namibia, the Russian Federation and South Africa, stating that prohibited grounds of discrimination in article 8 should be consistent with the international covenants. Indonesia stressed that any negotiation should aim to reach as much consensus as possible. Panama supported maintaining references to gender throughout the text and emphasized that the draft should reflect the evolution of international law. It expressed reservations to including references to transnational corporations in the light of ongoing discussions relating to an international instrument addressing their responsibilities. Egypt asked that the word “vulnerability” be deleted in the first paragraph of article 15 of the draft convention and asked to delete the word “all” in reference to “... the empowerment of all women and girls at all levels” in article 16, paragraph 2 (c).

56. The Women’s Federation for World Peace International reflected on the need to build the capacity of local governments and communities to claim the right to development. The Centre for Health Science and Law focused on preventable diseases related, *inter alia*, to access to water, water management, food, nutrition and impacts of toxic pollutants, which impeded development. The Sikh Human Rights Group suggested references to stress differences in cultures, traditions, and customs. Regarding discussions among States on entering reservations to the convention, the Alliance Defending Freedom emphasized the role of the Working Group in building consensus among States. The International Human Rights Association of American Minorities stressed the need for specific references to the rights of peoples under colonial and foreign occupation and for ensuring that existing violations be addressed.

57. Ms. Desierto noted that the comments would be considered. She clarified that her presentation was based on the commentaries on the draft convention and not on any other document. Mr. De Feyter expressed thanks for all additions to articles 13, 14 and 15. Regarding remarks on article 13 and the duty to cooperate, he clarified that the first paragraph of article 13 was taken from article 55 of the Charter of the United Nations, which described the objectives of economic and social cooperation. He confirmed that the policies and practices that constituted obstacles to the right to development were not identified and stated that the lack of a specific definition of developing countries had not impeded the development of a variety of treaties referring to them. The language in article 13 was based on the 2030 Agenda (Goal 17, target 17.10), with the only difference being that the 2030 Agenda added “under the World Trade Organization”. Including that wording would provide a way to address the concerns expressed.

58. Mr. Kanade presented draft articles 16–17 on behalf of Ms. Macaulay. He reported that a number of suggestions had been received and were reflected in the compilation. He noted that there was indeed a gap between the title (gender equality) and the substantive provisions (restricted to equality between women and men). The experts would await more suggestions. Mr. Kanade then explained that specific provisions on indigenous peoples had been included, in view of the prominent inclusion of the right to development in the United Nations Declaration on the Rights of Indigenous Peoples and in jurisprudence from regional mechanisms. He also explained the reference to “tribal peoples” in draft article 17.

59. Ms. Desierto presented draft articles 18–20. Draft article 18 made it clear that only existing limitations from human rights law could constitute limitations to the enjoyment of the right to development. Draft article 19 provided for a soft obligation on the part of States to take appropriate steps to establish legal frameworks for conducting assessments of actual and potential risks and impacts of laws and practices, in compliance with the draft convention. That left flexibility for States to define appropriate mechanisms and legal frameworks for such impact assessments. Draft article 20 continued with a soft obligation to collect appropriate information and data, also leaving the design of a particular process for data collection to the prerogative of the State. None of those mechanisms were new to States.

60. The Russian Federation expressed concerns over articles pertaining to gender equality, tribal peoples and the limitation clause. South Africa supported draft articles 16 and 17. Panama also supported article 16 as drafted and emphasized that gender equality was an integral part of the United Nations system and of the Sustainable Development Goals. Nigeria drew attention to draft article 16, proposing that “gender equality” be substituted by “equality

of rights” as in the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.

61. The Associazione Comunità Papa Giovanni XXIII, the Organisation mondiale des associations pour l'éducation prénatale and the Women's Federation for World Peace International suggested nuances to article 16. The International Human Rights Association of American Minorities highlighted the need to consult with indigenous peoples for recommendations.

62. Mr. Kanade presented an overview of draft articles 21–23. Draft article 21 was necessary in view of article 7 of the 1986 Declaration. It comprised two paragraphs to ensure precision and compatibility of language with existing obligations of States under international law. Article 22 addressed sustainable development. Draft article 23, entitled “Harmonious interpretation”, followed the principle of harmonization elaborated by the International Law Commission in its 2006 study on the fragmentation of international law.

63. Mr. De Feyter introduced the proposed institutional provisions of the draft convention, which established two bodies: a conference of States parties and an implementation mechanism. The proposed conference of the parties was designed as an inclusive institution that would encourage global dialogue among States and between States and other stakeholders, so that the understanding of and support for the right to development could gradually grow. The implementation mechanism offered the opportunity for better awareness of real-life obstacles in realizing the right to development on the ground, which should be addressed by improved international cooperation.

64. Mr. Kanade presented part V of the draft convention, the closing provisions, which were similar to those found in most treaties. Draft article 27 was on signature and article 28 dealt with the means of expressing consent to be bound by the treaty. The draft convention opened the possibility for international organizations to be parties to it. Draft article 29 on international organizations was almost identical to article 44 of the Convention on the Rights of Persons with Disabilities, but with broader scope. Draft article 30 on entry into force was analogous to article 45 of the Convention on the Rights of Persons with Disabilities, while draft articles 31 and 32 on amendments and denunciation corresponded to articles 47 and 48 of the Convention on the Rights of Persons with Disabilities. Draft article 33 incorporated a procedure for dispute settlement between States parties, which applied to inter-State disputes, disputes between States and international organizations and disputes between international organizations, provided they were all parties to the convention. Draft article 34 on the availability of the text in accessible formats corresponded to article 49 of the Convention on the Rights of Persons with Disabilities.

65. Cuba suggested references to complete disarmament and balanced gender and geographical representation. Pakistan suggested the inclusion of non-discriminatory measures and a reference to different legal systems. The Russian Federation drew attention to the obligation of States to take measures towards complete disarmament. It expressed concerns over the implementation mechanism and the participation of international organizations, and objected to investigations of violations committed by third parties. Panama strongly supported article 21 and noted the historic relationship between disarmament and development. China supported the comments by the Russian Federation regarding articles 21 and 33. Nigeria noted that in the interpretation of provisions the sovereignty of States should not be undermined.

66. The Associazione Comunità Papa Giovanni XXIII expressed support for article 21 and asked whether the full language of article 7 of the 1986 Declaration could be reflected in the draft convention. It proposed periodic reports to the conference of States parties, including on the clear composition and role of the implementation mechanism. The International Human Rights Association of American Minorities reiterated that consultations should be made with indigenous peoples. The Alliance Defending Freedom echoed concerns raised by the Associazione Comunità Papa Giovanni XXIII about the periodic review process.

D. Consideration of the way forward for adopting the draft Convention

67. The Chair-Rapporteur expressed his appreciation to the group of experts for putting together the draft convention, and acknowledged the divergent views on the convention. He reflected on the importance of understanding and ensuring a consensual adoption and acceptance of the draft convention. He reiterated that it did not introduce any new concepts or obligations in terms of the right to development and recalled the goal of finalizing the deliberation, as requested by the Human Rights Council. The revised version would be introduced at the next session of the Working Group in May 2022.

68. The European Union restated its position of not being in favour of the elaboration of an international legal standard of a binding nature. The 2030 Agenda would be a more appropriate or efficient mechanism to realize sustainable development and promote the full and equal enjoyment of all human rights by all individuals. The European Union reaffirmed its commitment to play a substantial role in supporting efforts to build back better and leave no one behind after the COVID-19 crisis. It also reiterated that a consensual approach which fostered the desired universality and ownership was the only way forward.

69. The Russian Federation noted the significant value added and accumulation of information that helped to assess the main approaches of States and non-governmental organizations in preparing the convention and reiterated its belief that the notion of the right to development should be clearly defined in the draft convention.

70. The Associazione Comunità Papa Giovanni XXIII supported the views of the Chair-Rapporteur, noted that divergences in views had continued to prolong the negotiations on the draft convention and suggested that the text be transmitted to the Human Rights Council. The Modern Advocacy Humanitarian Social and Rehabilitation Association emphasized the need to act in truth and ethics to build the future we wanted. Finn Church Aid restated the belief that development was a right that needed enforcement and highlighted the value of the convention and of arriving at a consensus. The International Human Rights Association of American Minorities supported the statement of Finn Church Aid and reaffirmed the importance of further discussions and informal consultations as key means to driving dialogue and consensus.

IV. Conclusions and recommendations

71. **At the final meeting of its twenty-second session, held on 26 November 2021, the Working Group adopted by consensus the present conclusions and recommendations, in accordance with its mandate as established by the Commission on Human Rights in its resolution 1998/72.**

72. **In his concluding remarks, the Chair-Rapporteur thanked all those involved in the Working Group's session and outlined the way forward. Concluding statements were made by Azerbaijan, on behalf of the Movement of Non-Aligned Countries.**

A. Conclusions

73. **The Working Group expressed its appreciation to all those who contributed to the proceedings of its twenty-second session.**

74. **The Working Group took note with appreciation of the opening remarks made by the Deputy High Commissioner, in which she reiterated the full support of OHCHR for the Working Group and for the full realization of the right to development.**

75. **The Working Group welcomed the re-election of the Chair-Rapporteur and commended him for his able stewardship in guiding the deliberations during the session. It also expressed gratitude and appreciation to the Chair-Rapporteur and the experts who supported him in the elaboration of the draft convention on the right to development and the commentary thereto submitted at the request of the Human Rights Council. In that context, the Working Group expressed its appreciation for the interaction with the experts.**

76. The Working Group also expressed its appreciation for the interactive dialogue held with the Chair of the Expert Mechanism on the Right to Development and the Special Rapporteur on the right to development, which had provided an opportunity to exchange views on the draft convention, the benefits of the operationalization of the right to development and the ways to overcome the obstacles and challenges to the full enjoyment of that right.

77. The Working Group expressed concern about the negative impact on the economy and society and the consequent exacerbation of inequalities within and between countries due to the COVID-19 pandemic. It stressed the need for States to take collective action in responding to pandemics and other health emergencies, and the socioeconomic consequences thereof, and in advancing sustainable development and the realization of all human rights, including the right to development.

78. The Working Group discussed how a legally binding instrument might contribute to making the right to development a reality for all by creating conditions, at the national and international levels, conducive to its realization and to halting all measures that might have an impact on the right to development, in accordance with the Charter of the United Nations, the Declaration on the Right to Development and other relevant international instruments and documents.

79. The Working Group took note of the divergent views on the draft convention on the right to development and of the fact that a number of States continued to engage in the Working Group by restating their position that they were not in favour of an international legal standard of a binding nature on the right to development, as they did not believe that this was an appropriate and efficient mechanism to realize sustainable development, and that at this stage States must concentrate their efforts on the effective implementation of the 2030 Agenda, which comprises a wide and comprehensive range of consensual commitments. As they neither supported nor engaged in the negotiations on the draft convention, the outcome of those negotiations did not necessarily reflect their views.

80. The Working Group encouraged the relevant bodies of the United Nations system, within their respective mandates, including the specialized agencies, funds and programmes of the United Nations system, and other relevant international organizations and stakeholders, including civil society organizations, to give due consideration to the right to development in the implementation of the 2030 Agenda, to contribute to the work of the Working Group and to cooperate with the High Commissioner for Human Rights, the Expert Mechanism and the Special Rapporteur in the fulfilment of their mandates with regard to the implementation of the right to development.

B. Recommendations

81. The Working Group made the following recommendations:

(a) The High Commissioner and OHCHR should take the measures necessary to ensure a balanced and visible allocation of resources and pay due attention to the visibility and effective implementation and mainstreaming of the right to development by systematically identifying and undertaking tangible projects dedicated to that right, and should continue to update the Human Rights Council and the Working Group on progress in that regard;

(b) The Working Group should continue to implement its mandate through a collaborative process of engagement, in accordance with Commission on Human Rights resolution 1998/72 and other relevant resolutions of the Human Rights Council and the General Assembly;

(c) The Chair-Rapporteur of the Working Group should conduct further consultations with all Member States, international organizations, the Expert Mechanism, the Special Rapporteur, OHCHR, agencies of the United Nations system, regional economic commissions and other organizations on the realization of the right

to development, including for the elaboration of a draft convention on the right to development, taking into account the discussions held at the twenty-second session of the Working Group and the presentations made by the experts invited thereto;

(d) The High Commissioner should include in her next annual report an analysis of the realization of the right to development, taking into account existing challenges and obstacles to the realization of that right, and make recommendations on how to overcome them and concrete proposals for supporting the Working Group in fulfilling its mandate;

(e) The Working Group should invite the Chair of the Expert Mechanism and the Special Rapporteur to continue to contribute to the work of the Working Group;

(f) The High Commissioner should continue to facilitate the participation of experts in the future sessions of the Working Group and to provide advice with a view to contributing to the negotiations of the draft convention on the right to development;

(g) The Chair-Rapporteur should present the report of the Working Group on its twenty-second session to the General Assembly at its seventy-seventh session and report on activities to promote the integration of the right to development in efforts to implement the 2030 Agenda.

Annex

List of participants

States Members of the Human Rights Council

Armenia, Austria, Bangladesh, Bolivia (Plurinational State of), Brazil, Cameroon, China, Cuba, Czech Republic, India, Indonesia, Japan, Malawi, Mauritius, Mexico, Namibia, Nepal, Pakistan Republic of Korea, Russian Federation, Sudan, Togo, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of).

States Members of the United Nations

Algeria, Angola, Azerbaijan, Barbados, Belgium, Brunei Darussalam, Burundi, Cabo Verde, Chile, Colombia, Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, Ethiopia, Haiti, Honduras, Iran (Islamic Republic of), Iraq, Jamaica, Kuwait, Lao People's Democratic Republic, Luxemburg, Malaysia, Mozambique, Myanmar, Nicaragua, Nigeria, Panama, Peru, Portugal, Qatar, Rwanda, Saudi Arabia, Slovakia, South Africa, Sri Lanka, State of Libya, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Uganda, Zambia.

Non-member observer States

Holy See (Vatican City State), State of Palestine.

Intergovernmental organizations

European Union, Organization of Islamic Cooperation (OIC), South Centre, United Nations Conference on Trade and Development.

Non-governmental organizations in consultative status with the Economic and Social Council

ABC Tamil Oli, Action Citoyenne pour l'Information et l'Education au Developpement Durable, Action pour l'Education et la Promotion de la Femme, Action pour la protection des droits de l'homme en Mauritanie, Alliance Defending Freedom, Alliance Vita, Anciens Esclaves Nouveaux Citoyens, Apostolic Ministerial International Network (AMIN), Association "Paix" pour la lutte contre la Contrainte et l'injustice, Association canadienne pour le droit et la vérité, Association mauritanienne pour la promotion des droits de l'homme, Association nationale de promotion et de protection des droits de l'homme, Association pour la Diffusion des Droits Humains aux Peuples Autochtones (Humanitarian Law Agency), Associazione Comunita Papa Giovanni XXIII, Buddies Association of Volunteers for Orphans, Disabled and Abandoned Children, Bureau Pour la Croissance Intégrale et la Dignité de L'enfant, Centre du Commerce International pour le Développement, Centre Europe – tiers monde, Centre for Health Science and Law (CHSL), Club Ohada Thies, Comité des observateurs des droits de l'homme, Corporation of Opportunity and Jointly Action Opcion – OPCION CORPORATION, Deutsche Gesellschaft für die Vereinten Nationen e.V., DRCNet Foundation, Inc., Escuela del Estudio de la Intuición Enseñanza de Valores, Asociación Civil Sin Fines De Lucro, Fondation des Oeuvres pour la Solidarité et le Bien Etre Social – FOSBES ONG, Fondation pour un Centre pour le Développement Socio-Eco-Nomique, Foundation for the Social Promotion of Culture (Fundacion Promocion Social de la Cultura), Fundación Abba Colombia, Future Hope International, Genève pour les droits de l'homme: formation internationale, Global Helping to Advance Women and Children, Hamraah Foundation, Human Rights Sanrakshan Sansthaa, Initiative d'opposition contre les discours extrémistes, International Association of Democratic Lawyers (IADL), International Council of Women, International Eurasia Press Fund, International Federation

for Human Rights Leagues, International Human Rights Association of American Minorities (IHRAAM), International Human Rights Commission Relief Fund Trust, International Human Rights Council, International Organization for the Right to Education and Freedom of Education (OIDEL), International Relief Services, Interregional Public Charitable Organization of Assistance to Persons with Disabilities “SAIL OF HOPE”, Iran Autism Association, Istituto Diplomatico Internazionale, Kejibaus Youth Development Initiative, Kirkon Ulkomaanavun Säätiö, Liberian United Youth for Community Safety and Development, Ligue Mauritanienne pour l’appui aux initiatives associatives, Maat for Peace, Development and Human Rights Association, Migrant Forum in Asia (MFA) Inc., Modern Advocacy, Humanitarian, Social and Rehabilitation Association, Mouvement International d’Apostolate des Milieux Sociaux Independants, New Humanity, Organisation Futur Rayonnant, Organisation Mondiale des associations pour l’éducation prénatale, Organization for Defending Victims of Violence, Osservatorio per la Comunicazione Culturale e l’Audiovisivo nel Mediterraneo e nel Mondo, Peace Corps of Nigeria, Peace Society of Kenya, Peace Worldwide, People for Successful Corean Reunification, Project 1948 Foundation, Rebirth Charity Society, Rotary International, Salesian Missions, Inc., Shia Rights Watch Inc, Sikh Human Rights Group, The Union of Arab Banks, Voie éclairée des enfants démunis (V.E.D.), Women’s Federation for World Peace International, World Federation of Trade Unions, World Youth Alliance.
