



General Assembly

Distr.: General
7 July 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-third session (Geneva, 16–20 May 2022)*

Chair-Rapporteur: Zamir Akram

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



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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 on the Right to Development 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 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 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

4. In the same resolution, the Council also requested the United Nations High Commissioner for Human Rights to engage experts for their continued provision of necessary advice, inputs and expertise to the Chair-Rapporteur in the fulfilment of his mandate and the preparation of the revised draft of the convention on the right to development, to facilitate the participation of the experts in the twenty-third session of the Working Group, and to provide advice with a view to contributing to discussions on the elaboration of a draft convention on the right to development, as part of the implementation and realization of the right to development.

II. Organization of the session

5. The Working Group held its twenty-third session from 16 to 20 May 2022. The session was opened by the Chief of the Right to Development Section of OHCHR and addressed by the United Nations High Commissioner for Human Rights.² In her statement, the High Commissioner highlighted that challenges of rising inequalities, divergent economic recoveries from the coronavirus disease (COVID-19) pandemic, armed conflicts and the climate crisis had put into jeopardy significant development gains made over the past decades. The right to development contributed to the work of all human rights mechanisms, including the universal periodic review, the treaty bodies and the special procedures. The General Assembly had repeatedly called upon the Human Rights Council to ensure that the right to development was on par with all other human rights and fundamental freedoms. The adoption of a convention on the right to development would put an end to the debate about the legal status of that human right. It would also clarify the scope and content of the right and its

¹ See [A/HRC/WG.2/23/2](#) and [A/HRC/WG.2/23/2/Add.1](#).

² All statements are available at www.ohchr.org/EN/Issues/Development/Pages/23rdSession.aspx.

corresponding obligations, defining the right holders and duty bearers. The right to development was at the core of the calls for a human rights-enhancing economy; an economy that not only prioritized inclusive, sustainable economic growth, but that had people and their human rights as its focus. There was a strong need for transparency, accountability and a broad space for social dialogue, scrutiny and participation.

6. At its first meeting, on 16 May 2022, the Working Group re-elected by acclamation Zamir Akram as Chair-Rapporteur. In his opening statement, the Chair-Rapporteur stated that human rights violations constituted obstacles to the full realization of the right to development. States needed to take urgent resolute steps to eliminate massive and flagrant violations of human rights of peoples and human beings and to cooperate with each other in ensuring development and eliminating obstacles to development. He conveyed his regret that the European Union and several individual States had chosen not to participate in the discussion on the draft convention. He expressed appreciation to the Ambassador of Azerbaijan, who had organized, in his capacity as Chair of the Movement of Non-Aligned Countries, on 29 April, an informal discussion on the right to development, with a view to creating an enabling environment for a constructive dialogue during the twenty-third session of the Working Group.

7. The Working Group subsequently adopted its agenda³ and programme of work.

8. During the session, the Working Group heard general statements and held an interactive dialogue with the Special Rapporteur on the right to development and the Chair of the Expert Mechanism on the Right to Development. It also considered the revised 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 (also on behalf of the Movement of Non-Aligned Countries), Pakistan (also on behalf of the Organization of Islamic Cooperation (OIC)), Nepal, the Bolivarian Republic of Venezuela, Japan, Egypt, Cameroon, Malaysia, China, Nigeria, the Russian Federation, South Africa, Maldives, Chile, India, the Plurinational State of Bolivia, the Philippines, Mexico, Indonesia, Cuba, Uruguay, the United Kingdom of Great Britain and Northern Ireland, Argentina, the Islamic Republic of Iran and Algeria. A representative of the European Union also made a statement. Representatives of The South Centre, an intergovernmental organization, made a statement. The Independent National Human Rights Commission of Burundi also made a statement. Representatives of the following civil society organizations made statements: Associazione Comunità Papa Giovanni XXIII (on behalf of the Working Group on the Right to Development of the Forum of Catholic-Inspired NGOs in Geneva),⁴ Khmer National Liberation Front, International Human Rights Council, Centre Europe-tiers monde and Maat for Peace, Development and Human Rights Association.

10. 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, including through the elaboration of a convention on the right to development. The Movement of Non-Aligned Countries reiterated that all human rights and fundamental freedoms, including the right to development, were universal, indivisible, interdependent and interrelated, and there was an urgent need to make the right to development a reality for

³ [A/HRC/WG.2/23/1](#).

⁴ 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 (VIDES).

everyone. The Movement of Non-Aligned Countries expressed concern about the challenges and obstacles within the Working Group on the Right to Development, which for many years had made it impossible for the Working Group to fulfil its mandate. The Declaration on the Right to Development established a clear primary responsibility on the part of States to create favourable conditions for the realization of the right to development. As a complement to the efforts of least developed and developing countries, effective international cooperation was essential in providing those countries with appropriate means and facilities to foster their comprehensive development. A convention on the right to development could make development a reality for all, ensuring its operationalization as a priority to achieve the Sustainable Development Goals.

11. Pakistan (on behalf of OIC) reaffirmed its commitment to the realization and enjoyment of the right to development by everyone, everywhere. The world was grappling with unprecedented socioeconomic challenges, exacerbated by the COVID-19 pandemic, as well as geopolitical developments. Efforts to rebuild economies and strengthen the resilience of societies demanded greater international collaboration and scaled-up investments to improve socioeconomic indicators, sustainable infrastructure and human development. Dwindling levels of official development assistance, rising debt burden and increased liquidity crises ran the risk of hindering progress towards sustainable development goals. OIC believed that maintaining the status quo was not an option, and there was an urgent need for a demonstration of political will to address structural flaws in the global economic, financial and taxation architecture that were impeding progress towards economic recovery and enhanced living standards.

12. The European Union stated its strong commitment to achieving sustainable and inclusive development, and to promoting the full and equal enjoyment of all human rights by all individuals without discrimination on any ground. The European Union would continue to engage with the Working Group despite the divergent views in the understanding of the right to development. In the view of the European Union, the right to development was rooted in the universal, indivisible, interrelated and interdependent nature of all human rights. States had the primary responsibility for the full realization of human rights. The European Union was not in favour of the elaboration of an international legal standard of a binding nature, arguing that it was not an appropriate and efficient instrument to realize sustainable development, especially considering the centrality of the 2030 Agenda for Sustainable Development.

13. Pakistan stated that the text of the revised draft convention aptly contextualized all relevant aspects of the right to development, incorporated the essence of important universal principles, outlined pathways to overcome challenges and emphasized the significant role of international cooperation. It was aligned with principles enshrined in international human rights law. Persistent lack of political will and commitment to mobilize resources were impeding global progress towards sustained economic recovery, with severe consequences for the developing and small island developing States. Nepal stated that the right to development needed to be mainstreamed at all levels and treated on equal footing with civil, political, economic, social and cultural rights. States should mainstream the right to development in their policies and legislations for achieving the 2030 Agenda. To effectively implement that right, the national efforts of developing and least developed countries should be supported by adequate provision of international cooperation and assistance. The Bolivarian Republic of Venezuela noted that the right to development was linked to the creation of a democratic and equitable social and international order, in which all human rights could be fully realized. Poverty, the negative consequences of the economic crisis generated by the capitalist system, the denial of resources and lack of technology transfer, the heavy load of foreign debt, the imposition of unilateral coercive measures by some States, and foreign occupation all had negative impacts on developing and least developed countries, in addition to the impact of the COVID-19 pandemic. Cameroon stated that the draft convention was in line with the Sustainable Development Goals, the achievement of which by 2030 should constitute a dynamic transformation of the living conditions of hundreds of millions of people.

14. Japan stated its commitment to the realization of the Sustainable Development Goals, especially that of eradicating poverty. The primary obligation for ensuring the right to

development remained with the State, and only individuals could benefit from that right. Japan was not in favour of a legally binding instrument that might create new forms of collective rights. Malaysia expressed that the full operationalization of the right to development would pave the way for people to enjoy other human rights as they were afforded the opportunities to improve their overall well-being. Inclusivity was key to ensure that all citizens benefited from the growth and development of the country. The right to development should be integrated into States' plans, programmes and policies in implementing the Sustainable Development Goals. Among others, efforts should be enhanced to accelerate the shift to digitalization, to bolster the skilled workforce, to ensure quality foreign direct investments and to strengthen environmental, social and governance principles to ensure the implementation of the 2030 Agenda and the attainment of the Sustainable Development Goals. With the current geopolitical tensions, major ripple effects from higher food prices and other global spillovers would have a profound impact on the world, especially developing and least developed countries, who depended heavily on food imports. Food insecurity had insidious effects on the overall implementation and realization of the right to development.

15. Egypt pointed out that the right to development was deeply rooted in the Charter of the United Nations, the Universal Declaration of Human Rights and the two International Covenants on Human Rights. Since the adoption, in 1986, of the Declaration on the Right to Development, the right had been reaffirmed unanimously by all States in numerous declarations, resolutions and agendas. The elimination of massive and flagrant violations of human rights of peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances favourable to development. Nigeria stated that the draft convention undoubtedly provided a comprehensive and coherent set of standards, and strengthened the realization of the right to development, which would ensure peaceful, just, equitable and inclusive societies, anchored on respect for human rights, effective rule of law and good governance, in line with the Sustainable Development Goals. Nigeria stressed the importance of the realization of the right to development as a precondition for the enjoyment of socioeconomic and cultural rights. Given its universality and applicability, the responsibility to promote the right to development did not rest on any individual State.

16. China stated that development was the key to achieving the 2030 Agenda. The Global Development Initiative had been created to strengthen global development partnerships and international development cooperation and to achieve stronger, greener and healthier global development. States should commit to people-centred development and ensure that development was for the people and by the people, and that its fruits were shared among the people. China expressed its readiness to work with all stakeholders in implementing the right to development and called for further mainstreaming of the right to development within the United Nations system. The Russian Federation stressed the importance of international cooperation and emphasized that certain States were guided by self-interest rather than by promoting human rights, such as the right to development. The Russian Federation also expressed the need to carefully draft the convention ensuring that it did not undermine national or international law, or duplicate existing human rights treaties. South Africa emphasized that the COVID-19 pandemic had led to serious forms of poverty, undermining development, particularly in developing countries, and that it was crucial that States mainstreamed the right to development. The draft convention played a vital role in ensuring that development as human right was placed firmly on the international agenda. Maldives stressed that the right to development was recognized in several international documents. It highlighted the importance of international solidarity, and the right to a clean, healthy and sustainable environment as an integral part of development. Chile reiterated the necessity for strong consensus for the legally binding instrument on the right to development, as it was necessary for the international community to prepare a treaty on the matter. Otherwise, the elaboration process could have the consequence of weakening the right to development rather than strengthening it. Lack of consensus had motivated the decision of Chile to refrain from participating in the drafting process.

17. India emphasized the indivisibility of all human rights and reiterated its support for the right to development as fundamental in the realization of the Sustainable Development Goals. It expressed support for the elaboration of the draft convention. The Plurinational State of Bolivia stated that different mechanisms created by the United Nations, the 2030 Agenda and many multilateral forums reaffirmed that the right to development was a universal and inalienable human right, and that it had to be implemented in a way that was compatible with all other human rights. Consequently, that right could not be realized without considering the specific challenges facing developing countries. The Philippines echoed calls for the full operationalization of the right to development and for cooperation among States. Mexico reiterated its commitment to sustainable development and in the fight against poverty and inequalities. The promotion of sustainable development was key to achieving a prosperous and harmonious world. It stated reservations about the usefulness of adopting a legally binding instrument on the right to development, since the right was already protected in other human rights and international norms, and the legal assets to be protected were already protected by other human rights norms. The instrument demanded the significant allocation of human and financial resources, at a time when those resources were scarce. Indonesia addressed the need for comprehensive discussions on the implementation of the right to development with the involvement and contribution of States, civil society organizations and relevant human rights mechanisms with the mandate on the right to development. The thirty-fifth anniversary of the Declaration on the Right to Development could serve as a catalyst to further elevate the development agenda at the multilateral level. Indonesia encouraged all mandate holders to support development efforts through genuine and constructive dialogue on strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all.

18. Cuba stated that the inequality between rich and poor nations, and its economic, social and cultural implications, was still one of the main obstacles that threatened the realization of the right to development. The process for preparing the draft convention continued to advance slowly, and it was unfortunate that it did so without the effective and committed participation of all of the delegations. The lack of political will of many developed countries, and even some developing States, denied the collective right to development, and hindered progress towards its implementation and its legal recognition in international organizations. Uruguay reiterated its firm commitment to the promotion and respect of all human rights, including the right to development, highlighting its universality, interdependence and indivisibility. Enjoyment of the right to development was possible only if the enjoyment of civil and political rights and economic, social and cultural rights was guaranteed, for which the international community already had the two International Covenants on Human Rights that established the main State obligations in those areas. The United Kingdom of Great Britain and Northern Ireland recognized the right to development, as it recognized the indivisibility, interdependence and universality of all human rights. It was not in favour of the elaboration of a legally binding instrument, since it did not believe that it was the most appropriate mechanism to realize the right to development. In its view, the purpose of any treaty was to reach agreement among States on a way to address a problem. It questioned the usefulness of the instrument, given there was no agreement on the need for a treaty.

19. The Islamic Republic of Iran stated that the right to development was the only human right explicitly referred to in the mandate of the United Nations High Commissioner for Human Rights. According to various relevant agreed documents, including the Proclamation of Teheran (adopted at the International Conference on Human Rights in 1968), the achievement of lasting progress in the implementation of human rights was dependent upon sound and effective national and international policies of economic and social development. Imbalances and inequities in the international order constituted obstacles to development and directly affected the national policies of States. Unilateral coercive measures and blockage of developing countries' assets were, among others, obstacles that needed to be addressed during the deliberation of draft convention. Having a binding instrument was critical for the full realization of the right to development globally, which should not be limited to the Sustainable Development Goals only. Algeria expressed concerns about the difficulties faced by most developing countries in realizing the right to development, which could be overcome through increased global support, new methods and mechanisms, and indicators that focused on fragility rather than mere economic growth. Financing for development also needed new

indicators to assess policies for resource mobilization and international cooperation. Foreign funding and international cooperation to facilitate capacity-building and technology transfer were essential for low- and middle-income countries to realize economic, social and cultural rights. Argentina stated that much of the language used in the revised draft convention was not clear. International instruments should use clear and simple language that was less likely to be interpreted in different ways. Argentina mentioned that the draft instrument did not have a concept of people and peoples and included several inconsistencies or vague statements. It stressed its doubts about the advisability of promoting the legally binding instrument.

20. The South Centre stated that the realization of the right to development had been slow and uneven. Misinterpretation of that right and inertia with regard to reforming the international governance altogether made its realization challenging. With the still lingering COVID-19 pandemic, a weakened multilateral system and increased geopolitical tensions, new obstacles to its realization had emerged. At the same time, the pandemic crisis had vindicated the relevance of that right, as it had shown that development, as a comprehensive economic, social, cultural and political process, was key for the realization of human rights. Although increased international efforts were needed to effectively realize the right to development, there seemed to be insufficient engagement by many countries in the relevant intergovernmental processes. Therefore, it was of the utmost importance to encourage and mobilize the participation of all countries in such processes. Broader engagement and participation by civil society, think tanks, and academia could contribute to improve awareness of the right to development. The Independent National Human Rights Commission of Burundi highlighted key areas that needed to be addressed for the implementation of the right to development nationally, including the improvement of access to basic social services, particularly education, health care and social protection, the continuation of environmental protection and land-use planning programmes, and the development of regional and international partnerships.

21. The Associazione Comunità Papa Giovanni XXIII expressed its hope that 2022 would mark the delivery of a cohesive and comprehensive convention on the right to development, which would constitute a great step in making the implementation of that right a reality for everyone. The current conflict in Ukraine, the COVID-19 pandemic, the climate change threat, the collapse of multilateralism and the increase of inequities were a call to reaffirm the vision of the Charter of the United Nations and the International Bill of Human Rights. The Khmer National Liberation Front appealed for further support and assistance from the United Nations and the international community to help to bring peace, freedom and democracy as per the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict (Paris Peace Agreements) of 1991. The International Human Rights Council stated that development cooperation had to be respectful of human rights and in accordance with national priorities and local contexts. Centre Europe-tiers monde stated that the draft convention should enshrine among its provisions the establishment of a democratic and equitable international order, effective international cooperation for the constant improvement of social well-being and the equitable distribution of wealth, the realization of all human rights and the right to development.

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

22. In his statement, the Special Rapporteur on the right to development stressed that he had been working to ensure that the right to development and all human rights were recognized as an integral part of the sustainable development discourse, emphasizing that development should happen in accordance with human rights principles and with the goal of achieving the realization of the right to development for all, rather than simply for economic growth. He identified the following as challenges to the implementation of the right to development: the politicization (regarding the nature of the duties of States to realize the right to development and on the relative emphasis to be placed on the national dimension of State obligations); the low level of engagement (of United Nations entities and civil society in

promoting, protecting and fulfilling the right to development); and adverse global trends (including the global financial and economic crisis, the energy and climate crisis, the increasing number of natural disasters, the new global pandemics, the increased automation in many sectors, corruption, illicit financial flows, the privatization of public services, and austerity measures). He planned to devote his 2022 thematic report to the compliance of COVID-recovery plans with the right to development. The Special Rapporteur referred to the COVID-19-related concerns identified in his previous thematic reports, including the inadequate degree of international cooperation among nations, and that financing and liquidity facilities to respond to the COVID-19 crisis would be conditioned on imposing austerity policies. Sustained increases in and the rapid disbursement of budget support and fiscal stimulus in the form of unconditional grants to developing countries were necessary. States and development finance institutions should place individuals and communities at the centre of decision-making processes about financing for development and uphold their commitments to providing official development assistance and direct aid to those most in need. Governments should allocate most resources to the poorest regions and vulnerable populations, including persons with disabilities, women, children and young people, minorities, indigenous peoples, people of African descent and members of other marginalized groups.

23. In his statement, the Chair of the Expert Mechanism on the Right to Development reiterated the Expert Mechanism's support of the revised draft convention on the right to development. The Expert Mechanism had concluded its first thematic study, which had been presented at to the Human Rights Council at its forty-eighth session. The thematic study contained guidance for States and other stakeholders on operationalizing the right to development in achieving the Sustainable Development Goals, focusing on their means of implementation and the duty of States regarding international cooperation. The second study, on racism, racial discrimination and the right to development, would be presented to the Human Rights Council at its fifty-first session, in September 2022. The third study, on inequalities, which was initiated by Armando De Negri Filho before his resignation, had been continuing under the lead research of Bonny Ibhawoh. The fourth and fifth thematic studies would elaborate on the right to development and international investment law, and on non-State actors and the duty to cooperate. The latter two studies were currently being developed following respective calls for inputs. The members responsible were in the process of gathering further inputs through country study visits. Those studies would be presented, together with the study on inequalities, to the Human Rights Council at its fifty-fourth session, in September 2023. The Chair encouraged broad participation of Member States, civil society and other stakeholders to provide inputs to the first commentary on article 1 (1) of the Declaration on the Right to Development, which the Expert Mechanism was preparing.

24. Azerbaijan (on behalf of the Movement of Non-Aligned Countries), the Bolivarian Republic of Venezuela, Malaysia, Egypt, the Russian Federation and the Islamic Republic of Iran 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 NGOs). Several speakers reiterated their support for the mandates of the Special Rapporteur and the Expert Mechanism, and welcomed the thematic studies being conducted by the Expert Mechanism.

25. Azerbaijan (on behalf of the Movement of Non-Aligned Countries) requested the Special Rapporteur and the Expert Mechanism to identify best practices and share them with Member States to promote the implementation of the right to development worldwide. Member States and the relevant bodies of the United Nations system were encouraged to cooperate with the Expert Mechanism in the fulfilment of its mandate. The convention on the right to development would contribute to making development a reality for all, with the cooperation of the members of the international community towards favourable international conditions for the realization of the right to development, in accordance with the mandate of the Working Group on the Right to Development, and on the basis of the principles enunciated in the Declaration on the Right to Development.

26. The Bolivarian Republic of Venezuela reiterated its call for multilateralism and peace diplomacy, emphasizing that unilateral coercive measures against any State had devastating consequences on the enjoyment of human rights, especially the right to development,

seriously affecting the progress of international trade, peace and security, and the well-being of humanity. Malaysia commended the commitment of the mechanisms dedicated to addressing the right to development and stressed their complementary and distinctive contributions to promote the implementation of the right to development. Malaysia raised questions about the impact of war on the realization of the right to development and requested advice on how to encourage States to implement the outcome of the thematic studies. Egypt asked the Special Rapporteur for ways to deal with increasing nationalism. The Russian Federation agreed on the importance of the draft convention to give impetus to the fulfilment of the right to development. It expressed hope that the Expert Mechanism and the Special Rapporteur would bring the draft into alignment with international law and treaties. The Islamic Republic of Iran stated that it attached great importance to the mandates of the three bodies, recognizing their complementary relationship. The right to development should be given a higher profile and greater support with binding instruments. The Associazione Comunità Papa Giovanni XXIII inquired about how the Expert Mechanism could further contribute to overcoming the challenges mentioned by the Special Rapporteur, and on the role of civil society in that regard.

27. The Special Rapporteur welcomed the statements made and called on States to actively support the work of his mandate. In reply to questions, the Chair of the Expert Mechanism explained the scope of the thematic study on the operationalization of the right to development. He spoke about the extraterritorial obligations of States and the need to consider all three levels of State obligations with respect to the right to development. He gave an example of access to vaccines to illustrate the impact of increased nationalism, particularly on least developed countries. He also highlighted the formal and informal consultations held between the Expert Mechanism and civil society organizations.

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

28. The Chair-Rapporteur spoke about the process undertaken to revise the draft convention.⁵ He reiterated that it was not possible to reflect all comments and textual suggestions in full in the body of the annual report to the Human Rights Council. The Secretariat had made available all submissions received, including the comments made during the previous two sessions of the Working Group, on the OHCHR website dedicated to the Working Group.⁶

29. The Chair-Rapporteur stated that the Working Group would first hear introductory remarks of a general and cross-cutting nature, followed by introductory remarks by the members of the drafting group of experts,⁷ on the various parts of the revised draft convention. Participants could then make comments and textual suggestions on the revised draft and ask the experts questions. He also invited participants to submit their comments and textual suggestions in writing to the Secretariat.

30. Ms. Desierto provided an overview of the revision process and the main comments received. In reviewing the submissions, the drafting group had adopted the following considerations: (a) proposed revisions or amendments that strengthened and improved the text consistently with existing international law had been accepted, and recommendations that ultimately weakened the text due to inconsistency with existing international law, or by introducing further challenges to the effective implementation of the draft convention, had been cautiously reviewed; (b) proposed revisions that simply repeated or duplicated provisions in the draft convention had not been accepted, and any proposed revisions that would be contrary to existing international law or would result in a conflict or outright breach of existing international law had been avoided as much as possible; (c) proposed revisions

⁵ See [A/HRC/WG.2/23/2/Add.1](#).

⁶ See <https://www.ohchr.org/EN/Issues/Development/Pages/Comments.aspx> and <https://www.ohchr.org/en/hrc-subsiadiaries/iwg-on-development/comments-and-textual-suggestions-received-after-22nd-session-working-group-right-development>.

⁷ The drafting group of experts is composed of Diane Desierto, Mihir Kanade, Koen De Feyter, Makane Mbengue and Margarete Macaulay.

that sought contextual elaboration of the draft had been noted for possible inclusion in the commentaries to the revised draft convention. Ms. Desierto also outlined some of the general contours of the revisions.

31. The Bolivarian Republic of Venezuela noted that it was imperative to advance in elaborating the legally binding instrument on the right to development, stressing the importance of such an instrument in addressing global crises, such as the COVID-19 pandemic. The future convention needed to address the negative effects of external debt and unilateral coercive measures on the realization of the right to development, notably affecting peoples of the South. Azerbaijan, on behalf of the Movement of Non-Aligned Countries, underlined the need for a greater acceptance, operationalization and realization of the right to development and urged all States to undertake mutual international cooperation.

32. China highlighted the importance of providing adequate assistance to developing countries to ensure protection of all rights and in fulfilling State obligations. Differentiating the roles of States and non-State parties and the mandate of the States parties were some areas requiring improvement in the draft. The Russian Federation noted positively that the draft was based on international human rights law, but pointed out that several elements were recommendatory in nature. It stated the need to take human rights treaties as the basis of the work, and to have a clear definition of the right to development identifying different subjects of international law that would be covered by the convention. Pakistan noted positively the draft text, notably in implementing the Charter of the United Nations and in stressing the critical need for international cooperation to ensure sustainability, and to enhance international climate finance. The Islamic Republic of Iran stressed the need to finalize a binding instrument on the right to development as soon as possible, and further underscored the need for international engagement and cooperation.

33. The Associazione Comunità Papa Giovanni XXIII noted positively that several United Nations agencies had participated and contributed comments. The International Human Rights Association of American Minorities stated that the process had revealed the lack of implementation mechanisms and remedies for human rights violations.

34. Ms. Desierto presented the draft preamble, the comments received, and the revisions made, noting that they related mainly to the instrument's structure and sequencing.

35. The Russian Federation, Argentina, Uruguay, Maldives, Panama, Pakistan and Brazil made comments and suggestions on the draft preamble. The Russian Federation suggested, *inter alia*, deleting the preambular paragraph on good governance; the references to working with civil society, since States already actively worked with such actors; and the twenty-fifth preambular paragraph, noting that it contradicted the paragraph on the primary responsibility of States. Argentina reiterated the need for more clarity in the language used and noted again that the draft did not define the concept of people and peoples. Uruguay supported simplifying the language of the draft. It suggested using the phrase "without distinction of any kind" throughout the text. Maldives proposed including a reference to Human Rights Council resolution 48/13 on the human right to a clean, healthy and sustainable environment.

36. Panama proposed modifying the title to read "international covenant on the right to development" to reinforce the relationship between development and civil, political, economic, social and cultural rights. It proposed dividing the fourth preambular paragraph into two sections (one on treaties and one on human rights declarations), deleting a reference to Sustainable Development Goals in the sixth preambular paragraph, including the American Convention on Human Rights in the tenth preambular paragraph, adding references to the digital divide, climate change and environmental crises, and gender inequalities in the fourteenth preambular paragraph, and to replace "human person" with "individual". It suggested adding a paragraph on the close relationship between disarmament and development, and one on integrating disability and gender perspective in the realization of the right to development. Pakistan reiterated its suggestion of the title: "International Covenant to Development" and proposed shortening the draft preamble by aligning its language with the human rights covenants to reflect the binding nature of the convention. Brazil stated that mentioning general resolutions of the General Assembly and the Human Rights Council might not reflect the views of States since not all of the resolutions were adopted by consensus.

37. Associazione Comunita Papa Giovanni XXIII supported the reference to the Charter of the United Nations at the beginning of the preamble and stronger references to the Universal Declaration of Human Rights. The International Human Rights Association of American Minorities stated that Non-Self-Governing Territories, and references to apartheid and colonialism, should be included. Centre Europe-tiers monde suggested including references to International Labour Organization norms and to “decent” employment, and maintaining the reference to the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

38. Mr. Kanade presented part I of the draft convention, and introduced the comments and amendments made to part II of the revised text, which described the right to development and specified its relationship with other human rights, in particular the right to self-determination.

39. The Russian Federation, China, Argentina, Panama and Uruguay made comments and suggestions. The Russian Federation reiterated the need for clarity on the parties to the draft convention, suggesting the deletion of international organizations. China did not agree with putting either development or human rights under each other. Panama proposed changing “human persons” to individuals in some articles. Uruguay raised a concern about the lack of a definition of the right to development. Some States expressed concern that there was no agreement on the specified scope of “human rights-based development”.

40. Associazione Comunità Papa Giovanni XXIII suggested changing the chapeau for article 3 (d) to “Enjoyment of all human rights”. Centre Europe-tiers monde suggested clarifications and additions regarding the concept of development.

41. In response to comments, Mr. Kanade stated that the experts supporting the Chair-Rapporteur had tried to provide accurate positions of international law. He clarified that some comments had been addressed, and stressed that the definition of international organizations that had been used had come from the International Law Commission.

42. Ms. Desierto introduced draft articles 8 to 12 of part III, and the amendments made. Mr. De Feyter presented the amendments made to draft articles 13 to 15 of part III. The drafting group had considered all suggestions received to ensure that the provision on the duty to cooperate was fully in line with existing international law, particularly with articles 1 (3) and 55 of the Charter of the United Nations. He noted the addition of the term “least developed countries” to several paragraphs, emphasizing the importance of fully reflecting their needs in the draft convention. The title of draft article 15 now read “Specific and remedial measures” instead of “Special measures”.

43. Egypt, the Russian Federation, Nigeria, China, South Africa, Pakistan and Argentina made comments and suggestions. Egypt and the Russian Federation addressed concerns on article 8 (1) regarding discrimination. Egypt suggested referring to equality between women and men. The Russian Federation suggested referring to discrimination “of any kind” and reiterated the importance of referring to norms of international human rights law. The Russian Federation also commented on the lack of a definition of the term “international organization” and questioned the extraterritorial application of provisions. It also mentioned that States had the obligation to respect, protect and promote human rights, while international organizations had separate responsibilities. Nigeria reiterated its request that article 8 (1) be aligned with the International Covenant on Civil and Political Rights. South Africa stressed that comments on climate change should be aligned with relevant United Nations documents.

44. The Associazione Comunità Papa Giovanni XXIII suggested the removal of the word “gender” in article 8. Centre Europe-tiers monde raised concerns about debt issues of developing and least developed countries and requested adding to draft article 13 the possibility of cancelling odious and illegitimate debts.

45. After clarifications made by Ms. Desierto and Mr. De Feyter, Ms. Desierto presented the amendments made to draft articles 16 to 17 of part III. Suggestions were made to use the wording “equality between men and women” as a title in order to avoid confusion with the word “gender”. Ms. Desierto then presented the amendments made to draft articles 18 to 20 of part III.

46. With regard to draft article 16 (1), the Russian Federation suggested removing the word “all”, as it was repeated, and “everywhere”, with a view to avoiding extraterritorial jurisdiction. It also requested the deletion of article 16 (2) and references to “online and offline”, as there was no clear understanding of those aspects. It also suggested deleting the term “gender perspectives” and aligning the language of draft article 21 with article 31 of the Convention on the Rights of Persons with Disabilities. Panama suggested returning to the original wording of the title of draft article 16 – “Gender equality” – since it was a well-established term used by the United Nations. Nigeria proposed aligning draft article 16 with the Convention on the Elimination of All Forms of Discrimination against Women. Argentina supported the comments made by Panama and proposed replacing “empowerment” with “autonomy”. It questioned references to indigenous people’s representative institutions in the text. South Africa supported the comments made by Panama on draft article 16 and requested the addition of a paragraph on enhanced reinforcement of financial integrity. The Islamic Republic of Iran proposed replacing the word “gender” with “relevant perspectives”.

47. Associazione Comunità Papa Giovanni XXIII suggested modifications to draft article 16 (2) (f). Alliance Defending Freedom supported the deletion of the words “full” and “everywhere” in draft article 16 (1) and the removal of the terms “gender perspectives”. It proposed referring to “all forms of discrimination against women and girls”. Centre Europe-tiers monde suggested adding “judicial or legal assistance and other technical assistance” to draft article 18. The International Human Rights Association of American Minorities mentioned contradictions with regard to allusions of control over indigenous peoples by domestic laws.

48. Ms. Desierto reflected, *inter alia*, on the discussions about draft article 16, notably on comments relating to indigenous peoples, stressing that the draft respected self-determination and the right to development of indigenous peoples. She took note of the comments on the provisions on human rights impact assessments and data collection.

49. Mr. Kanade presented an overview of the revisions to draft articles 22 to 24. He mentioned that the articles did not introduce anything new, noting the change to the wording “existing international law” in draft article 24 (2) .

50. Mr. De Feyter presented the comments and textual suggestions on and revisions to the institutional provisions of the draft convention, contained in part IV, which established two bodies: the conference of States parties and the implementation mechanism. It remained close to the initial version of the draft. There had been suggestions to replace the current proposal by a treaty monitoring body that followed the model of existing human rights treaties. He recalled that the normative part of the convention was, to a very large extent, based on existing international law, including international human rights law.

51. Ms. Desierto presented part V of the draft convention, on the closing provisions, as well as the comments and textual suggestions made and the proposed revisions. She stated that there were only two main revisions in that part: a renumbering and a new provision, which replicated, and followed interpretations of, the Vienna Convention on the Law of Treaties.

52. The Russian Federation, Argentina, Panama, China, Brazil, Egypt, Pakistan and Nigeria made comments and suggestions on various articles, taking note of the presentation of the experts. The Russian Federation suggested using the wording “non-proliferation of nuclear weapons” instead of complete disarmament, while Panama supported retaining the reference to complete disarmament, in accordance with the twelfth preambular paragraph and article 7 of the Declaration on the Right to Development. Panama suggested that resources from disarmament could be used for development, including in the recovery from the COVID-19 pandemic. Egypt, Pakistan and the Russian Federation shared concerns about using new language for addressing climate change, expressing a preference for using existing language, such as that of the Paris Agreement. Some States raised several concerns about and provided suggestions for draft article 25, regarding the conference of parties and the implementation mechanism. China, Argentina, the Russian Federation and Egypt expressed concerns about the implementation mechanisms.

53. Associazione Comunità Papa Giovanni XXIII proposed modelling the implementation mechanism on the human rights treaty bodies. Alliance Defending Freedom

noted that the express recognition of an institutional competence on the part of the implementation mechanism to assist in the interpretation of the provisions of the treaty had no precedent in any international human rights instrument adopted within the framework of the United Nations, and that none of the existing core international human rights instruments made provision for general comments or observations to formulate interpretations of treaty provisions, nor for such comments or observations to bear a normative guidance role with regard to their implementation. It further stressed that without an express conferral of competence to consider the periodic reports submitted by States parties, and in the absence of an explicit requirement that the content of general comments or recommendations be based on the information contained in such reports, the implementation mechanism would not only lack the necessary experience, but also the legitimacy to issue general comments or recommendations of any kind.

54. Mr. Kanade responded to the comments, stating that international law had fragmented regimes. The convention needed to address how to overcome obstacles, such as conflicts, in order to realize the right to development. Regarding draft article 22, the Charter of the United Nations and bodies such as the World Trade Organization explicitly used the term “sustainable development”. Mr. De Feyter addressed comments on the implementation mechanisms. Cooperation was one main feature of the right to development, which he asked for strong agreement on. The group of experts had proposed an implementation mechanism that prioritized and operated on the basis of the duty to cooperate, and which could be adapted and renewed considering all suggestions and necessities in the future.

D. Consideration of the way forward for adopting the revised draft convention

55. The Chair Rapporteur expressed his appreciation to all delegations that had participated in the discussions on the revised draft convention, and thanked the group of experts for their exceptional work. He welcomed the inputs received and the extensive discussions held. He recalled the mandate given to the Chair-Rapporteur by the Human Rights Council in its resolution 48/10.

56. As for next steps, the Chair-Rapporteur invited all delegations and other relevant stakeholders to send further comments and textual suggestions on the revised draft convention⁸ to the Secretariat by the end of June 2022. He would then prepare a second revised draft, with the support of the group of experts. The Human Rights Council would have to decide on the way forward. He stressed that he had worked for and tried to promote consensus within the Working Group since the process started, while repeatedly requesting all Member States to participate in the negotiation of the draft convention. Some States, however, had decided not to do so. He invited those States to also convey their views before the end of June 2022, as mentioned above.

57. The Chair-Rapporteur expressed his view that the Working Group should not engage in an endless process of negotiating the draft convention, and stressed the need to bring deliberations to a close and submit a text to the Human Rights Council as soon as possible. Conclusive negotiations and adoption of the draft convention would have to be done in the appropriate forum, which was the General Assembly. The Working Group had managed to put together a text that was comprehensive and detailed and covered every aspect of the right to development. He emphasized that in keeping with his directive, the group of experts had prepared a draft convention based on the language that had already been accepted and agreed by Member States by consensus in numerous relevant intergovernmental documents and in international law. He reiterated that the Working Group’s endeavour should now be to prepare a draft that was acceptable to the majority of the Member States, if not by consensus.

58. Pakistan and the Islamic Republic of Iran noted the different views of States on some parts of the draft convention and considered the negotiations as an important milestone towards the realization of the right to development. They mentioned that the convention would help effectively implement the right to development. The Russian Federation

⁸ [A/HRC/WG.2/23/2](#).

commended the involvement of many States in the discussions, which would help to bring them together in the future. It added that a future legally binding document that had the support of most States should be based on international treaties, especially those on human rights.

59. Associazione Comunità Papa Giovanni XXIII, the Women's Federation for World Peace International and the International Human Rights Association of American Minorities called for more engagement of States and stressed the urgent need to adopt a legally binding instrument on the right to development. They noted that the convention would build necessary momentum towards achieving the Sustainable Development Goals.

IV. Conclusions and recommendations

60. **At the final meeting of its twenty-third session, held on 20 May 2022, 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.**

61. **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

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

63. **The Working Group took note with appreciation of the opening remarks made by the 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.**

64. **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 revised 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.**

65. **The Working Group also expressed its appreciation for the interactive dialogue held with the Special Rapporteur on the right to development and the Chair of the Expert Mechanism on the Right to Development, which had provided an opportunity to exchange views on the revised 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.**

66. **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.**

67. **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. The majority of the States participating in the session also highlighted the need to promptly finalize and adopt the convention on the right to development and to operationalize this right for all.**

68. The Working Group took note of the divergent views on the revised 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. Those States are of the view 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. Several States emphasized that the provisions of the convention needed to be in line with international human rights law. As some States neither supported nor engaged in the negotiations on the draft convention, the outcome of those negotiations did not necessarily reflect their views.

69. 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 United Nations 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

70. 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, United Nations agencies, 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-third 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 Special Rapporteur and the Chair of the Expert Mechanism 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-third 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

Argentina, Armenia, Bolivia (Plurinational State of), Brazil, Cameroon, China, Cuba, Finland, France, Honduras, India, Indonesia, Japan, Kazakhstan, Luxembourg, Malaysia, Mexico, Namibia, Nepal, Pakistan, Paraguay, Poland, Qatar, Republic of Korea, Russian Federation, Senegal, Sudan, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of)

States Members of the United Nations

Algeria, Angola, Azerbaijan, Bangladesh, Belgium, Bhutan, Burundi, Cambodia, Chile, Colombia, Djibouti, Ecuador, Egypt, Ghana, Guyana, Haiti, Iran (Islamic Republic of), Iraq, Ireland, Maldives, Myanmar, Nigeria, Panama, Philippines, Saudi Arabia, Slovenia, South Africa, Spain, Switzerland, Syrian Arab Republic, Tunisia, Türkiye, United Republic of Tanzania, Uruguay

Non-member observer States

Holy See, State of Palestine

Intergovernmental organizations

European Union, Food and Agriculture Organization of the United Nations, International Telecommunication Union, Organization of Islamic Cooperation, Organization for Security and Co-operation in Europe, South Centre, United Nations Conference on Trade and Development

National human rights institutions

People's Advocate Institution of Albania, Commission Nationale Indépendante des Droits de l'Homme du Burundi, Public Defender's Office of Georgia, National Human Rights Committee of Qatar

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

Action on Smoking and Health, Alliance Defending Freedom, Association "Paix" pour la lutte contre la Contrainte et l'injustice, Association nationale de promotion et de protection des droits de l'homme, Association Points-Cœur, Association pour l'Éducation et la Santé de la Femme et de l'Enfant (AESFE), Associazione Comunita Papa Giovanni XXIII, AVSI Foundation, Brain Sluice Africa Child's, Centre Europe - tiers monde, Club Ohada Thies, Convention pour le bien être social, Fondation pour l'étude des relations internationales et du développement, Human Rights Sanrakshan Sansthaa, International Association of Democratic Lawyers (IADL), International Human Rights Association of American Minorities (IHRAAM), International Human Rights Council, International Youth and Student Movement for the United Nations, Khmer National Liberation Front, Maat for Peace, Development and Human Rights Association, New Humanity, Soka Gakkai International, Women's Federation for World Peace International