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**NOTE:**

**This is the advance unedited draft version of the report on the 23rd session of the Working Group on the Right to Development for comments by the concerned delegates and other participants, in particular on accuracy of the summary of their interventions. The comments should be limited to correcting factual errors or rephrasing the existing text within the word limits of the document. Comments should be sent, by Sunday, 5 June 2022, to** **OHCHR-R2D@ohchr.org****.**

**No amendments can be made to the agreed and adopted text of the conclusions and recommendations.**

**Human Rights Council**

**Fifty-first session**

12–30 September 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)**[[1]](#footnote-1)\*

*Chair-Rapporteur*: Zamir **Akram**

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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 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 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.[[2]](#footnote-2)

4. In the same resolution, the Council also requested the High Commissioner 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 on the Right to Development 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.[[3]](#footnote-3) In her statement, she highlighted that challenges of rising inequalities, divergent economic recoveries from COVID-19, armed conflicts, and the climate crisis have put into jeopardy significant development gains made over the past decades. The right to development contributes to the work of all human rights mechanisms, including the Universal Periodic Review, the Treaty Bodies and other Special Procedures. The General Assembly has repeatedly called upon the Human Rights Council to ensure the right to development is on par with all other human rights and fundamental freedoms. The adoption of a convention on the right to development will put an end to the debate about the legal status of this human right. It will also clarify the scope and content of the right and its corresponding obligations, defining the right holders and duty bearers. In its appeal for better governance of global economic frameworks, the right to development is at the core of the calls for a human rights-enhancing economy. An economy that not only prioritises inclusive, sustainable economic growth, but that has people and their human rights as its focus. There is 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 constitute obstacles to the full realisation of the right to development. States need 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 EU and several other States chose not to participate in the discussion on the draft convention. and expressed appreciation to the Ambassador of Azerbaijan, who organised, in his capacity as Chair of the Movement on 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 present session of the Working Group.

7. The Working Group subsequently adopted its agenda[[4]](#footnote-4) and a 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 (on behalf of the Movement of Non-Aligned Countries), Pakistan (on behalf of the Organization of Islamic Cooperation (OIC)), Pakistan, Nepal, Venezuela, Japan, Egypt, Cameroon, Malaysia, China, Nigeria, Russian Federation, South Africa, Maldives, Chile, India, Bolivia, Philippines, Mexico, Indonesia, Cuba, Uruguay, United Kingdom, Argentina, Iran, and Algeria. A representative of the European Union (EU) also made a statement. Representatives of the following civil society organizations made statements: The South Centre*,* 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)[[5]](#footnote-5), Khmer National Liberation Front, International Human Rights Council, CETIM (Centre Europe-Tiers Monde), and Maat for Peace, Development and Human Rights Association. The National Human Rights Commission of Burundi also made a statement.

10. Azerbaijan (on behalf of the Movement of Non-Aligned Countries) urged the UN 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. NAM reiterates that all human rights and fundamental freedoms, including the right to development, are universal, indivisible, interdependent, and interrelated, and there is an urgent need to make the right to development a reality for everyone. Expressed concern for the challenges and obstacles within the Working Group on the Right to Development, which for many years have made it impossible to fulfil its mandate. The Declaration on Right to Development establishes a clear primary responsibility on the part of States to create favourable conditions to the realisation of right to development. As a complement to the efforts of least developed and developing countries, effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development. A convention on the right to development can make the 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 realisation and enjoyment of the right to development by everyone, everywhere. The world is grappling with unprecedented socio-economic challenges exacerbated by COVID-19 pandemic as well as geopolitical developments. Efforts to rebuild economies and strengthen the resilience of societies demand greater international collaboration and scaled up investments to improve socio-economic indicators, sustainable infrastructure and human development. Dwindling levels of Official Development Assistance (ODA), rising debt burden and increased liquidity crisis run the risk of hindering progress towards sustainable development goals. The OIC believes that status quo is not an option and there is an urgent need for demonstration of political will to address structural flaws in the global economic, financial and taxation architecture that are impeding progress towards economic recovery and enhanced living standards.

12. The European Union (EU) stated their 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 EU will continue to engage in this Working Group despite the divergent views in the understanding of the right to development. In their view, the right to development is rooted in the universal, indivisible, interrelated, and interdependent nature of all human rights. States have the primary responsibility for the full realisation of human rights. The EU is not in favour of the elaboration of an international legal standard of a binding nature, arguing that this is not an appropriate and efficient instrument to realise sustainable development, especially considering the centrality of the 2030 Agenda for Sustainable Development.

13. Pakistan stated that the revised draft text aptly contextualises all relevant aspects of the right to development, incorporates the essence of important universal principles, outlines pathways to overcome challenges and emphasizes the significant role of international cooperation. It is aligned with principles enshrined in international human rights law. Persistent lack of political will and commitment to mobilize resources are impeding global progress towards sustained economic recovery with severe consequences for the developing and Small Island Developing States (SIDS). Nepal stated that the right to development needs to be mainstreamed at all levels and be treated on equal footing as civil, political, economic, social and cultural rights.States should mainstream the right to development in their policies and legislations for achieving the 2030 Agenda for Sustainable Development. To effectively implement this right, the national efforts of developing and least developed countries should be supported by adequate provision of international cooperation and assistance. Venezuela noted that the right to development is linked to the creation of a democratic and equitable social and international order, in which all human rights can be fully realised. Poverty, the negative consequences of the economic crisis generated by the capitalist system; denial of resources and lack of technology transfer; the heavy load of foreign debt; the imposition of unilateral coercive measures by some States; foreign occupation negatively impact developing and least developed countries, in addition to the impact of the COVID-19 pandemic. Cameroon stated that the draft convention is 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 realisation of the Sustainable Development Goals, especially that of eradicating poverty. The primary obligation for ensuring the right to development remains with the State, and only the individuals can benefit from this right. Japan is not in favour of a legally binding instrument which may create new forms of collective rights. Malaysia expressed that the full operationalisation of the right to development will pave the way for people to enjoy other human rights as they are afforded the opportunities to improve their overall well-being. Inclusivity is key to ensure all citizens benefit 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 digitalisation, skilled workforce, quality foreign direct investments and strengthening of environmental, social and governance principles to ensure the attainment of the 2030 Agenda for Sustainable Development and Sustainable Development Goals. In the current geopolitical tensions, major ripple effects from higher food prices and other global spillovers will profoundly impact the world, especially developing and least developed countries, who depend heavily on food imports. Food insecurity has insidious effects towards the overall implementation and realisation of the right to development.

15. Egypt pointed out that the right to development is deeply rooted in the United Nations Charter, Universal Declaration of Human Rights and the two Covenants. Since the adoption of the 1986 Declaration, it has 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 favourable circumstances to development. Nigeria stated that the draft convention undoubtedly provides a comprehensive and coherent set of standards, and strengthens the realisation 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 2030 Sustainable Development Goals. Nigeria stressed the importance of the realisation of the right to development as a precondition for the enjoyment of socio-economic and cultural rights. Given its universality and applicability, the responsibility to promote the right to development does not rest on any individual State.

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

17. India emphasized the indivisibility of all human rights and reiterated its support to the right to development as fundamental in the realization of the sustainable development goals. It expressed support for the elaboration of the draft convention. Bolivia stated that different mechanisms created by the United Nations, the 2030 Agenda, and many multilateral fora reaffirmed that the right to development is a universal and inalienable human right, and that it must be carried out in a way that is compatible with all other human rights. Consequently, this right cannot be realised without considering the specific challenges facing developing countries. 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 is 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 this 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. This instrument demands the significant allocation of human and financial resources, at a time when these resources are 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 organisations and relevant human rights mechanisms with the mandate on the right to development. The 35th anniversary of the Declaration on the Right to Development could serve as a catalyst to further elevate the development agenda at the multilateral level. Encouraged all mandate holders to support development efforts through genuine and constructive dialogue in strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all.

18. Cuba expressed that the inequality between rich and poor nations, and its economic, social and cultural implications, is still one of the main obstacles that threaten the realisation of the right to development. The process for preparing the draft convention continues to advance slowly, and it is unfortunate that it does so without the effective and committed participation of all the delegations. The lack of political will of many developed countries, and even some developing States deny the collective right to development, and hinder progress towards its implementation and its legal recognition in international organisations. 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. The right to development is only possible if the enjoyment of civil and political rights and economic, social and cultural rights is guaranteed, for which the international community already has the two Covenants that establish the main State obligations in these areas. The UK recognised the right to development as it recognises 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 is the most appropriate mechanism to realise the right to development. In its view, the purpose of any treaty is to bring agreement among States on a way to address a problem. It questioned the usefulness of this instrument given there is no agreement on the need for a treaty.

19. Iran stated that the right to development is the only human right explicitly referred to in mandate of the High Commissioner. According to various relevant agreed documents including the Proclamation of Tehran (International Conference on Human Rights in 1968), the achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development. Imbalances and inequities in the international order constitute obstacles to development and directly affect the national policies of States. Unilateral coercive measures and blockage of developing countries’ assets are, among others, obstacles that need to be addressed during the deliberation of draft convention. Having a binding instrument is critical for the full realisation 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 of developing countries in realising the right to development which can be overcome through increased global support, new methods and mechanisms, and indicators that focus on fragility rather than mere economic growth. Financing for development also needs new indicators to assess policies for resource mobilization and international cooperation. Foreign funding and international cooperation to facilitate capacity building and technology transfer are essential for low- and middle-income countries to realize economic, social and cultural rights. Argentina stated that the language used in the revised draft convention is not often clear. International instruments should use clear and simple language that is less likely to be interpreted in different ways. Argentina mentioned that that the draft instrument does not have a concept of people and peoples and includes several inconsistencies or vague statements. It stressed its doubts about the advisability of promoting the legally binding instrument.

20. South Centre stated that the realization of the right to development has been slow and uneven. Misinterpretation of this right and inertia to reform the international governance altogether have made its realisation challenging. With the still lingering COVID 19 pandemic, a weakened multilateral system and increased geopolitical tensions, new obstacles for its realization have emerged. At the same time, the pandemic crisis has vindicated the relevance of this right as it has shown that development, as a comprehensive economic, social, cultural and political process, is key for the realization of human rights. Although increased international efforts are needed to effectively realize the right to development, there seems to be insufficient engagement by many countries in the relevant intergovernmental processes. Therefore, it is of 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 on the right to development. The National Human Rights Commission of Burundi highlighted issues that need strong attention for the implementation of the right to development nationally, including the improvement of access to basic social services, particularly education, health and social protection, the continuation of environmental protection and land-use planning programs, and the development of regional and international partnerships.

21. Associazione Comunità Papa Giovanni XXIII expressed its that hope that 2022 will mark the delivery of a cohesive and comprehensive Convention on the right to development, which will constitute a great step in making the implementation of this 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 are a call to reaffirm the vision of the United Nations Charter 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 Paris Peace Agreement of 1991. The International Human Rights Council stated that development cooperation must be respectful of human rights and in accordance with national priorities and local contexts. CETIM (Centre Europe-Tiers Monde) stated that the draft convention should enshrine among its provisions the establishment of an order democratic and equitable international community, 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. The Special Rapporteur on the right to development in his statement stressed he has 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 as challenges to the implementation of the right to development, the politicisation (on 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 agencies 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 privatisation of public services, and austerity measures). He informed of his plans 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 previous thematic reports including inadequate degree of international cooperation between nations, and conditionalities on imposing austerity policies for financing and liquidity facilities to respond to the COVID-19 crisis. Sustained increases in and the rapid disbursement of budget support and fiscal stimulus in the form of unconditional grants to developing countries is 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 marginalised groups.

23. The Chair of the Expert Mechanism on the Right to Development (EMRTD) in his statement reiterated support to the draft Convention on the Right to Development. He reported that the EMRTD concluded its first thematic study which was presented at the 48th session of the Human Rights Council. This thematic study provides guidance to 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 for international cooperation. The second study on Racism, Racial Discrimination and the Right to Development will be presented at the 51st session of the Human Rights Council in September 2022. The third study on inequalities, which was initiated by Mr. Armando De Negri Filho before his resignation, has been continuing under the lead research of member Mr. Bonny Ibhawoh. The fourth and fifth thematic studies will elaborate on the right to development and international investment law, and on non-state actors and duty to cooperate. Both studies are currently being developed following respective calls for inputs. Responsible members are in the process of gathering further inputs through country study visits. These studies will be presented together with that on inequalities at the 54th session of the Human Rights Council 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, which the Expert mechanism is working on.

24. Azerbaijan (on behalf of NAM), Venezuela, Malaysia, Egypt, Russian Federation, Iran made statements, followed by the Associazione Comunità Papa Giovanni XXIII (on behalf of the Working Group of Catholic Inspired NGOs on the Right to Development). Several speakers reiterated their support for the mandate of the Special Rapporteur and the Expert Mechanism, and welcomed the thematic studies being conducted by the Expert Mechanism.

25. Azerbijan (on behalf of NAM) requested identifying and sharing best practices with Member States to promote the implementation of the right to development worldwide. Member States and the relevant bodies of the United Nations system are encouraged to cooperate with the Expert Mechanism in the fulfilment of its mandate. The convention on the right to development will contribute to make 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, and on the basis of the principles enunciated in the Declaration on the Right to Development.

26. Venezuela reiterated its call for multilateralism and peace diplomacy emphasizing that unilateral coercive measures against any State have devastating consequences on the enjoyment of human rights, especially the right to development, seriously affecting the progress of international trade, peace, 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 on the impact of war on the realisation of the right to development and requested advise 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 hoped that the Expert Mechanism and the Special Rapporteur would bring the draft into alignment with international law and treaties. Iran attaches great importance to the mandate of the three bodies, recognizing its complementary relationship. The right to development should be given a higher profile and greater support with binding instruments. APG 23 inquired about how the Expert Mechanism can further contribute to overcoming the challenges mentioned by the Special Rapporteur, and on the role of civil society in this 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 operationalisation of the right to development. He addressed the extraterritorial obligations of States and the need to consider all three levels of State obligations on the right to development. He brought the example of access to vaccines to illustrate the impact of increased nationalism particularly on LDC. He also highlighted the formal and informal consultations held between the Expert Mechanisms and civil society organizations.

 **C. Consideration of the draft Convention on the right to development**

28. The Chair-Rapporteur informed on the process undertaken to revise the draft convention.[[6]](#footnote-6) 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 has made available all submissions received, including the comments made during the last two sessions on OHCHR’s website dedicated to the Working Group.[[7]](#footnote-7)

29. The Chair-Rapporteur proposed that the Working Group would first hear introductory remarks of a general and cross-cutting nature, followed by introductions by the members of the drafting group of experts[[8]](#footnote-8) who supported the Chair, on the various parts of the revised draft convention. Participants could then make comments and textual suggestions on the revised draft and ask questions to the experts. 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 adopted the following considerations: (1) proposed revisions or amendments that strengthened and improved the text consistently with existing international law were accepted. 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, were cautiously reviewed; (2) proposed revisions that simply repeated or duplicated provisions in the draft Convention were not accepted. Any proposed revisions that would be contrary to existing international law or would result in a conflict or outright breach of existing international law were avoided as much as possible; (3) proposed revisions that sought contextual elaboration of the draft were noted for possible inclusion in the commentaries to the revised draft Convention. She finally outlined some of the general contours of the revisions.

31. Venezuela noted that it is imperative to advance in elaborating legally binding instruments on the right to development, stressing the importance of such instruments in addressing global crisis such as the COVID-19 pandemic. The future convention needs to address the negative effects of external debts and unilateral coercive measures on the realisation of the right to development, notably affecting peoples of the South. Azerbaijan on behalf of NAM, underlined the need for a greater acceptance, operationalization, and realisation 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 role of States and non-State parties and the mandate of the State parties are some areas requiring improvement in the draft. The Russian Federation noted positively that the draft is based on the international human rights law but pointed out that several elements were recommendatory in nature. It stated the need to take human rights treaties as basis of the work, and to have a clear definition of the right to development identifying different subjects of international law that will be covered by the convention. Pakistan noted positively the draft text, notably in implementing the United Nations Charter and in stressing the critical need for international cooperation to ensure sustainability, and to enhance international climate finance. Iran stressed the need to finalise a binding instrument on the right to development as soon as possible, and further underscored the need for international engagement and cooperation.

33. Associazione Comunita Papa Giovanni XXIII positively noted that several United Nations agencies participated and contributed comments. The International Human Rights Association of American Minorities stated that this process has revealed the lack of implementation mechanisms and procedures that would provide relief to the violations of human rights.

34. Ms. Desierto presented the draft preamble, the comments received, and the revisions made, noting that they mainly relate to its structure and sequencing.

35. The Russian Federation, Argentina, Uruguay, Maldives, Panama, Pakistan and Brazil made comments and suggestions to the draft preamble. The Russian Federation suggested *inter alia* deletion of the paragraph on good governance, of references to working with civil society (since States already actively work with them), and of paragraph 25 noting that it contradicts 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 with confusing reference in paragraph 16. Uruguay supported simplifying the language of the draft. It suggested using the phrase “without distinction of any kind” throughout the text. Maldives proposed to include a reference to resolution 48/13 on the human right to a clean, healthy and sustainable environment.

36. Panama proposed to modify the title to “international covenant on the right to development” to reinforce the relationship between development and civil, political, economic, social, and cultural rights. It proposed to divide paragraph 4 into two sections (one on treaties and one on human rights mechanisms), add a reference to Sustainable Development Goals in paragraph 6, include the “American Convention on Human Rights” in paragraph 10, add references to digital divide, climate change and environmental crisis, and gender equality in paragraph 14, 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 equality in the realization of the right to development. Pakistan reiterated its suggestion of the title as “International Covenant to Development”, and proposed to shorten the draft preamble by aligning its language to 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 may not reflect the views of States since not all of them were adopted by consensus.

37. Associazione Comunita Papa Giovanni XXIII supported the reference to the UN Charter at the beginning of the preamble and stronger references to the Universal Declaration on Human Rights. International Human Rights Association of American Minorities stated that non-self-governing territories, and references to apartheid and colonialism should be included. CETIM suggested including references to “decent” employment and of the declaration on the rights of peasants.

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 describes the right to development and specifies 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 organisations. China expressed caution about putting either development or human rights under each other. Panama proposed changing “human persons” to individuals in some articles. Uruguay raised concern on the lack of a definition of the right to development. Some States expressed that there is no agreement on the specified scope of ‘human rights-based development’.

40. Associazione Comunita Papa Giovanni XXIII suggested the title ‘enjoyment of all human rights’ to article 3(d). CETIM suggested clarifications and additions regarding the concept of development.

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

42. Ms. Desierto introduced draft articles 8-12 of Part III, and the amendments made. Mr. De Feyter presented the amendments made to draft articles 13-15 of Part III. The drafting group 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 UN Charter. He noted the addition of the term “least developed countries” to several paragraphs, emphasising the importance of fully reflecting their needs in the draft Convention. The title of draft article 15 now reads ‘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 Russia addressed concerns on article 8(1) regarding discrimination. Egypt suggested referring to equality between women and men. Russia suggested referring to discrimination “of any kind”, and reiterated the importance to refer to norms of international human rights law. The Russian Federation also commented the lack of definition of international organisation and questioned the extraterritorial application of provisions. It also mentioned that States have the obligation to respect, protect, and promote human rights, while international organisations have separate responsibilities. Nigeria reiterated its request that article 8(1) be aligned with the International Covenant on Civil and Political Rights. China suggested adding reference to enhancing capacity building. South Africa stressed that comments on climate change should be aligned with relevant United Nations documents.

44. Associazione Comunita Papa Giovanni XXIII suggested the removal of the word “gender” in article 8. The CETIM raised concerns about debt issues of developing and least developed countries and requested its consideration in the language of draft article 13.

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

46. The Russian Federation suggested, on draft article 16, to remove the words “all” (as is repeated), and “everywhere” (avoiding extraterritorial jurisdiction). Nigeria supported it. Russia also requested deletion of article 16.2 and references to “online and offline” as there is no clear understanding of these aspects. Also suggested to delete the terms gender perspectives, and align the language of draft article 21 with article 31 of the Convention on the Rights of Persons with Disabilities. Panama suggested to return to the original wording of the title on Article 16 as “gender equality” since it is a well-established term of the United Nations. Nigeria proposed aligning article 16 with CEDAW. Argentina supported Panama’s comments and proposed replacing “empowerment” with “autonomy”. It questioned references to indigenous people’s representative institutions in the text. Egypt supported comments by Russia on article 16.2. South Africa supported Panama’s comments on draft article 16 and requested adding a paragraph on enhanced reinforcement of financial integrity. Iran proposed replacing the word “gender” with “relevant perspectives”.

47. Associazione Comunita Papa Giovanni XXIII suggested modifications to draft article 16(f). Alliance Defending Freedom supported the deletion of words “full” and “everywhere in Article 16.1 and the removal of the terms “gender perspectives”. It proposed referring to “all forms of discrimination against women and girls”. CETIM suggested to add “judicial or legal assistance and other technical assistance” to draft article 18. International Human Rights Association of American Minorities mentioned contradictions on allusions to control over indigenous peoples by domestic laws.

48. Ms. Desierto reflected *inter alia* on the discussions about draft article 16, and she offered clarifications on comments related to indigenous peoples stressing that the draft respects self-determination and the right to development of indigenous peoples. Comments on the provisions on human rights impact assessment and data collection were noted.

49. Mr. Kanade presented an overview of the revisions to draft articles 22-24. He mentioned that the articles did not introduce anything new noting the change of the word “existing international law” in the second paragraph.

50. Mr. De Feyter presented the comments and textual suggestions and revisions to the institutional provisions of the draft Convention, contained in Part IV, which established two bodies: the Conference of the Parties and the Implementation Mechanism. It remains close to the initial version of the draft. He informed about suggestions to replace the current proposal by a treaty monitoring body that follows the model of existing human rights treaties. He recalled that the normative part of the Convention is 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, the comments and textual suggestions made and the proposed revisions. She stated there are only two main revisions in this part: a clerical revision (renumbering), and a new provision the which replicates and follows interpretations of the 1969 Vienna Convention the Law of treaties.

52. The Russian Federation, Argentina, Panama, China, Brazil, Egypt, Pakistan and Nigeria made comments and suggestions to different articles noting the presentation of the experts. The Russian Federation suggested using “non-proliferation of nuclear weapons” instead of complete disarmament, while Panama encouraged referring to complete disarmament. Panama stated that in accordance with articles 7 and 12 of the Declaration on the Right to Development. Panama, resources from disarmament can be used for development including in the recovery from the COVID-19 pandemic. Egypt, Pakistan and Russia shared concerns about using new language for addressing climate change, expressing its preference to use existing language such as the Paris Agreement. Some States also raised several concerns and provided suggestions regarding article 25, regarding the Conference of Parties and the implementation mechanism. China requested for clarifications regarding the right holders in article 27 while Argentina, Russia and Egypt expressed concerns about the implementation mechanisms.

53. Associazione Comunita Papa Giovanni XXIII proposed modelling the implementation mechanism on the human rights treaty-bodies’ committees. Alliance Defending Freedom shared suggestions on the effectiveness of the implementation mechanisms and expressed concerns regarding article 27.

54. Mr. Mihir Kanade responded to comments stating that international law has fragmented regimes. This Convention needs to discuss how to overcome obstacles such as conflicts to realise the right to development. Regarding article 22, the United Nations Charter and bodies such as the World Trade Organisation explicitly use the term “sustainable development”. Mr. De Feyter addressed comments on the implementation mechanisms. Cooperation is one main feature of the right to development, which he asked strong agreement for. He explained that the group of experts proposed an implementation mechanism that prioritises and operates on the basis of the duty to cooperate, which can be renewed and adopted considering all suggestions and necessities in the future.

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

55. The Chair Rapporteur expressed his appreciation to all delegations that participated in the discussions on the 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 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 convention[[9]](#footnote-9) to the Secretariat by the end of June 2022. He will then prepare a second revised draft, with the support of the group of experts. The Human Rights Council will have to decide on the way forward. He stressed that he has 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, have decided not to do so. He invited these states to also convey their views before the end of June 2022 as mentioned above.

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

58. Pakistan and Iran (Islamic Republic of) noted the different views of States on some parts of the Convention and considered the negotiations as an important milestone towards the realization of the right to development. They added that long deliberations helped in addressing social and economic challenges that impede the realization of this right. They mentioned that the Convention would help effectively implement the right to development. The Russian Federation commended the involvement of many States in the discussions, which will help to bring them together in the future. It added that a future legally binding document that has the support of most States should be based on international treaties especially those on human rights.

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

 **IV. Conclusions and recommendations**

**60. ...**

 **A. Conclusions**

**62. ...**

 **B. Recommendations**

**70. The Working Group made the following recommendations:**

 **(a) ….**

**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, Turkey, United Republic of Tanzania, Uruguay

 **Non-member observer States**

Holy See, State of Palestine

 **Intergovernmental Organizations**

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

1. \* The annex is being issued without formal editing, in the language of submission only. [↑](#footnote-ref-1)
2. See A/HRC/WG.2/23/2 and Add.1. [↑](#footnote-ref-2)
3. All statements are available at www.ohchr.org/EN/Issues/Development/Pages/23rdSession.aspx. [↑](#footnote-ref-3)
4. A/HRC/WG.2/23/1. [↑](#footnote-ref-4)
5. 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). [↑](#footnote-ref-5)
6. A/HRC/WG.2/23/2/Add.1 [↑](#footnote-ref-6)
7. See https://www.ohchr.org/en/hrc-subsidiaries/iwg-on-development [↑](#footnote-ref-7)
8. The drafting group of experts is composed of Ms. Diane Desierto, Mr. Mihir Kanade, Mr. Koen De Feyter, Mr. Makane Mbengue, and Ms. Margarette Macaulay. [↑](#footnote-ref-8)
9. A/HRC/WG.2/23/2 [↑](#footnote-ref-9)