

## **Submission in follow-up to HRC resolution 15/25 “The Right to development”**

### **Egypt on behalf of the Non-Aligned Movement (NAM)**

1. As per Article 1 of the UN Declaration on the Right to Development, the right to development is an “inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development, in which all human rights and fundamental freedoms can be fully realized.”
2. Based on the above, the right to development is governed by the principle of the universality, indivisibility, interdependence, and interrelatedness of all human rights as outlined in paragraph 5 of the Vienna Declaration and Programme of Action, which further reaffirmed in paragraph 10 that the right to development is “a universal and inalienable right and an integral part of fundamental human rights.”
3. One conclusion to be drawn from this principle is the requisite translation of the normative framework of the right to development (Declaration on the right to Development) into an international legal framework to be on a par with other human rights.
4. As much as there is a need to adopt a holistic approach towards the right to development, there is also a need to examine its component parts. Drawing upon the principle mentioned in paragraph 2 above, all other rights cannot be approached in isolation of the right to development, as the principal elements of this right include an array of civil, cultural, economic, political and social rights. Hence, the right to development should be viewed as an overarching right without the realization of which the full enjoyment of all other human rights cannot be ensured.
5. The right to development is an individual and collective right entailing individual and collective responsibilities on states for the creation of an international and thereby a national environment favourable to the realisation of the right to development. Inherent therein is the state duty to cooperate, in fulfilment of the principle of mutual accountability and

responsibility, and whence springs the notion of international cooperation in the field of human rights.

6. In tandem with the concept of individual and collective responsibility come the notions of internal obligation of states towards their own populations and the external obligation towards other populations and hence the need to assess the external impact of a state's individual internal actions and policies on populations outside its territory. This has also to be coupled with the recognized need for national and international policy coherence.

### **Specific Comments**

A) *The criteria and sub-criteria for the Right to Development.*

The Non-Aligned Movement appreciates the efforts of the task force in completing its mandate.

The Movement disagrees with the reformulation of the scope and content of the right to development, and specially the overemphasis on national responsibilities, in neglect of the basic notion of international cooperation, for the purposes of creating an enabling environment. The task force went beyond its mandate in redefining the right to development, with a focus on some of its elements and leaving out others as they came in the UN Declaration on the Right to Development.

Having based the final refinement and elaboration of criteria and sub-criteria for the operationalisation of the right to development on an incomprehensive definition of this right, the taskforce presented the Working on the Right to Development with a set of criteria that adopted a human rights-based approach to development. Instead, the operationlisation and thereby the elaboration of a coherent set of standards culminating, in NAM's view, in an international standard of a legally-binding nature on the right to development requires a development approach to human rights.

The right to development criteria presented for consideration do not reflect adequately, in addition to the role of Governments at the national level, the

dimension of international cooperation, as well as the international responsibility for creating an enabling environment for the realization of the right to development.

Contrary to the spirit and content of the Declaration on the Right to Development, the criteria shifted the focus towards the state responsibility to create a national environment conducive to the realisation of the right to development, without addressing the global obstacles that go beyond the ability of a state to tackle on its own and thereby requiring a recognition of the notion of the collective responsibility and the state duty to cooperate and fulfil the principle of international cooperation in the field of human rights.

Instead, the criteria should address the structural imbalances and hence impediments to equitable development on a global scale. Such impediments lie in the mal-functioning of the international economic, financial and political systems, including the lack of democracy in global decision-making. In general terms, addressing those imbalances and impediments requires a more fair and just system governing trade, foreign direct investment, migration, intellectual property, flow of capital and labour. There is a need for a deeper reflection of how to address the concerns over inadequate resources, including the obstacles relating to the unfulfilled commitments towards aid, unsustainable debt burdens, and restrictions on labour flows from development to developed countries, and lack of technology transfer, in particular quality-wise. Issues that merit closer attention also include the lack of equitable participation of developing countries in international decision and policy making (lack of democracy in global governance), imbalances in global trade regimes, promoting conditions that sustain peace and security, and ensuring country ownership of development policies through, in alia, policy space.

There is a lack of clarity on the three sub-levels of the criteria and on the monitoring instances of the implementation of the right to development. There is need to reach a clear agreement on the criteria and to clarify the rights of peoples.

NAM has great concerns on the elaboration of indicators. Elaborating indicators was not part of the mandate of the taskforce. In this regard, the

taskforce has gone beyond its mandate and relied in its work on the process undertaken by the OHCHR on the development of human rights indicators, a process regarding which States have differing views. Those indicators seem to represent a tool to assess the performance of governments at national level in the realization of political, economic, social and cultural rights, overlooking the role of international community. As such, use of indicators would further marginalize developing countries by emphasizing national responsibilities while not guaranteeing fulfillment of international obligations and a proper enabling environment. Therefore, NAM deems it unfeasible to consider the list of indicators presented by the taskforce.

*B) Consolidation of findings of the high-level task force on the implementation of the right to development*

Regarding the lessons drawn by the task force based on its consolidated findings, NAM appreciates the task force's efforts to reflect a proper balance between national and international responsibilities by looking at sustainable development through international cooperation. Nevertheless this balance was not achieved.

Despite the work of the task force considering many important aspects of international economic relations of concern to developing countries, including debt sustainability; national ownership of development policies; protection against volatility of international commodity prices; bilateral, regional and multilateral trade rules; ODA flows; use of Trade-Related Aspects of Intellectual Property Rights (TRIPS) flexibilities and equitable sharing of environmental burdens; the conclusions reached were too limited.

These findings and lessons failed in taking into consideration that efforts of developing countries to achieve development were restrained by obstacles at the international level that were beyond their control and included, for example, the adverse effects of globalization, the protectionist barriers imposed by developed countries, the non-fulfilment of commitments on official development assistance (ODA) and the unsustainable external debt burden. The task force couldn't give the appropriate consideration to the lack of democratization, transparency and accountability of international

financial institutions that profoundly affect the possibilities towards development of developing countries.

Many recent international developments and the confluence of global crises have re-emphasized the relevance of the right to development and the need for its operationalisation.

In this context, NAM considers that despite the relevance given by the task force to the need of developing countries to enjoy access to medicines, knowledge, technology and ability to use flexibilities in protecting intellectual property rights, the task force gave has not clearly identified the division of roles and responsibilities among states for this purpose. The task force should have acknowledged, for example, that green technology is becoming a barrier to development, whereas it should be generational, accessible and not a means of discrimination.

NAM disagrees with the notion that operationalising the right to development is about mainstreaming all human rights into the development process. Instead, it is about mainstreaming and implementing development-oriented policies at all levels, in order to further improve the capacity of States to ensure the full enjoyment of all human rights.

The balance between national and international responsibilities is essential, together with the notion of shared responsibility and ensuring access to resources by developing countries, as well as their participation in global decision-making for the realization of the right to development.

The lessons reached by the task force on the strengths and weaknesses of the Millennium Development Goals, structural impediments to economic justice, the resistance to addressing trade and lending from a right to development perspective, the imperative and pitfalls of measurement tools, the ambiguity of “global partnership”, the lack of policy coherence and incentives to move from commitment to practice, and the necessary balance between national and international responsibilities seem to justify the lack of political commitment of developing countries for addressing the collective responsibility dimension of the right to development are insufficient and limited and hence do not provide the rationale and the basis for the suggestions for future work of the task force.

The collective responsibility dimension, particularly in creating an enabling environment for development, is essential for the realization and implementation of the right to development. This dimension needs to be considered to develop proper criteria, sub-criteria.

*C) Conclusions and recommendations of the task force, particularly regarding the suggestions related to further action on the criteria; thematic areas of international cooperation for consideration; and mainstreaming the right to development.*

- Suggestions for further action on the criteria

First of all, on the preparation of a reporting template, NAM has concerns with criteria, sub-criteria and indicators, not yet considered or endorsed by States, to be transformed into a reporting template for countries. This implies in fact the establishment of mechanisms for monitoring States regarding their human rights commitments when there are already intergovernmental mandated mechanisms for reviewing State's duties and responsibilities on human rights matters. There is a risk in creating such a problem with the preparation of a reporting template based on indicators for measuring Member States performance on matters already subject to the scrutiny of appropriate United Nations human rights entities in accordance with their obligations.

Instead NAM is more open to the suggestion of holding initiatives and senior-level consultations with regional institutions mentioned in the report on the integration of right to development concerns and criteria into their policies and activities. However, this has to be preceded by refining the criteria to be in line with the parameters of the right to development as they came in the UN Declaration on the Right to Development and relevant UNGA, Commission on Human Rights, and Human Rights Council resolutions. If further future action is to be taken along the lines of holding consultations with regional institutions, NAM would suggest organizing these regional meetings through the assistance of the Office of the High Commissioner Human Rights, in full coordination and consultation with States. This will guarantee the participation of all Member States in the different regions. These consultations should be held to reflect concretely

on how to promote the effective realization of the right to development, based on a correct and comprehensive understanding of the normative framework and contents of this right.

Based on relevant Human Rights Council resolutions, the ultimate use of the criteria, and sub-criteria, where appropriate, after their refinement and endorsement by States, is the elaboration of a comprehensive and coherent set of standards on the right to development that should form the basis of an international legally-binding instrument on the right to development. For the Movement, this follow-up work should be undertaken at the intergovernmental level, with the mentioned goal in perspective and duly reflecting the principles, balance and elements set out in the Declaration on the Right to Development. It also has to take into consideration that the right to development is not limited to the fulfilment of the MDGs or the partnerships identified in MDG8. Such a framework was used as an operational framework that should have served only as an example, upon the basis of which lessons would be drawn to be reflected in the criteria and operational sub-criteria in a more expansive translation. Among the conclusions of the Working Group on the Right to Development, reflected in HRC Resolution 12/23, the taskforce was mandated to go beyond MDG8 and address “the priority concerns of the international community beyond those enumerated in Millennium Development Goal 8” for a better refinement and finalisation of the criteria and operational sub-criteria. However, such a mandate has not been thoroughly fulfilled. Therefore, NAM deems it premature to suggest any dissemination or circulation of the criteria and sub-criteria in their current format.

- Thematic areas of international cooperation for consideration

Most of the areas suggested by Working Group for future priority consideration are not really part of international cooperation. They rather form part of national development strategies, social progress, social justice and inclusion, and sustainable development. The only 2 suggested areas that have merits to be considered are an enabling international environment and reducing inequality between countries.

- Mainstreaming the right to development

NAM supports the target of integrating and mainstreaming the right to development in the activities of the OHCHR, the work of United Nations agencies, funds, programmes and specialized agencies, as well as development agencies and the international development, financial and trade institutions. However, any initiatives to be taken in this regard have to be based on the core parameters and elements of the right to development, as outlined in the UN Declaration on the Right to Development and relevant UNGA, Commission on Human Rights and Human Rights Council resolutions.

NAM is willing to consider the inclusion of the right to development as part of the work of UN human rights bodies and mechanisms and, in this regard, recommends that treaty bodies and other relevant human rights bodies, mechanisms and procedures include the right to development, where relevant, in their work. Nevertheless this does not entail supporting the inclusion of the suggested reporting template and a specific reference to the right to development and the criteria developed by the taskforce in their own reporting guidelines.

NAM believes it premature to include the right to development as part of the UPR process, which exposes it to the risk of being limited to national responsibilities in fulfilling individual human rights rather than an international responsibility to fulfil a collective right.

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