

The 23rd session of the Intergovernmental Working Group on the Right to Development

Statement by Mr. Mihir Kanade Chair of the Expert Mechanism on the Right to Development 15 May 2022, Geneva

Chair Rapporteur of the Working Group,
Special Rapporteur on the right to development,
Distinguished representatives,
Excellencies,
Colleagues and Friends,

It is a pleasure to address you on this occasion on behalf of the Expert Mechanism on the Right to Development. We are encouraged by the progress made under the chairmanship of Ambassador Akram within this Working Group in publishing the revised draft Convention on the Right to Development. This is without a doubt, a key advancement for the realization of the right to development.

During the 21st session of the Working Group, in May 2021, the Chair of the Expert Mechanism, Ms. Klentiana Mahmutaj, presented the elements that we consider essential in the legally binding instrument on the right to development. During the 22nd session, last November, Chair Mr. Koen de Feyter, recalled that the Expert Mechanism supports the draft convention as an instrument that should further the codification and legally binding nature of the right to development as a right held by both, individuals and peoples, in a way that entitles them to actively, freely and meaningfully participate both in decision-making on development and in the fair distribution of benefits therefrom.

On behalf of the Expert Mechanism, I would like to reiterate our support to the Convention on the Right to Development. We particularly appreciate and encourage the transparent and participatory process in which the elaboration of the draft Convention has been pursued and built on. We hope that at this session, Member States will agree on the process for moving forward with a view to its final adoption.

Excellencies,

The Expert Mechanism has been conducting thematic studies, looking for ways and spaces to better implement mechanisms for the realization of the right to development. The first of these studies has concluded and was presented at the 48th session of the Human Rights Council in September last year. It can be found as UN document A/HRC/48/63. This thematic study provides guidance to States and other stakeholders on operationalizing the right to development in achieving the Sustainable Development Goals incorporated in the 2030 Agenda for Sustainable Development, focusing on their means of implementation and the duty of States for international cooperation. It further highlights the heightened importance and urgency of bringing the 2030

Agenda back on track during and in the aftermath of the coronavirus disease (COVID-19) pandemic.

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. This study elaborates on the issues of anti-racism, non-discrimination and equality of opportunity for development as central pillars of the right to development. It examines racism and racial discrimination as barriers to the operationalization of the right to development in the context of State obligations, international cooperation, and global partnerships. The study provides guidance to States and other stakeholders on addressing the challenges and obstacles that racism and racial discrimination pose to operationalizing the right to development.

The third study on inequalities was initiated by our former colleague Mr. Armando De Negri Filho. Upon his resignation in January 2022, the study has been continuing under the lead research and work of member Mr. Bonny Ibhawoh. I would like to take this opportunity to express our sincere gratitude to Mr. De Negri Filho, for his remarkable job as member of the Expert Mechanism. It was unfortunate that he had to discontinue due to conflicting job profiles and we are now looking forward to welcoming and working closely with the new member from the Latin America and the Caribbean Region, to be appointed by the Human Rights Council in its 50th session in June-July 2022.

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 call for inputs and are currently in the process of gathering further inputs through country study visits. They will be presented, together with the study on inequalities, at the 54th session of the Human Rights Council in September 2023.

Colleagues and Friends,

Since its establishment, the Expert Mechanism has endeavoured to collaborate, explore synergies and strive for coherence vis-a-vis existing mechanisms on the right to development. We hold coordination meetings with the Chair-Rapporteur of this Working Group and the Special Rapporteur on the right to development at one of two sessions we hold annually, the next one taking place from 30 October to 1 November 2022. We highly appreciate their continuing participation and engagement and hope to further our mutual collaboration through all available fora, including these sessions of the Working Group.

We have also sought to coordinate our work with that of relevant mandate holders and independent experts. At our 5th session, that took place in March 2022, we held an interactive dialogue on the duty to cooperate with the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights, the Independent Expert on human rights and international solidarity and the Special Rapporteur on extreme poverty and human rights. Discussions involved issues such as the need for legality and humanitarian impact assessments prior to undertaking any sanction, the binding nature of the duty to cooperate as

enshrined in various international instruments, and the duty to negotiate in good faith as an element of the duty to cooperate.

At the same session, we held an engaging conversation on the right to health and the right to development in the pandemic era, with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. During this dialogue it was highlighted that the impact of the COVID-19 pandemic was determined less by biological factors and more by structural and socioeconomic inequality and public health policy and that the starting point of millions of people worldwide was already unequal. Therefore, discussions around any pandemic treaty should necessarily consider and address global socioeconomic inequalities as well as the systemic racism and structural discrimination worldwide, both deeply rooted in historical, neo-colonial, and current systems of oppression.

Distinguished representatives,

I am happy to share that the Expert Mechanism has endeavoured to commemorate the thirty fifth anniversary of the Declaration on Right to Development. During our 5th session, we devoted one afternoon to this celebratory event with a dedicated meeting with non-governmental organizations focused on the theme of the right to development and peace and security and discussions around the Expert Mechanism's proposal to develop commentaries to the various articles of the Declaration on the Right to Development.

Accordingly, the then Chair of the Expert Mechanism presented a first draft Commentary on article 1 (1) of the Declaration on the Right to Development (A/HRC/EMRTD/5/CRP.1) for initial discussion. The text was limited to the content of the particular provision contained in article 1 (1); it was not a comment on the Declaration as a whole, or on aspects of the Declaration that were dealt with in other parts, such as the typology of State obligations. In a first "General Part," the draft Commentary presented the purpose and background of this initiative, considering it was the first of its kind. The second part dealt with the meaning of development, the identification of the rights holders, and how the provision could be used to enhance the capacity of rights holders to claim the right to development.

Thirty-five years ago, the Declaration on the Right to Development provided the promise that everyone is entitled to participate in, contribute to and enjoy economic, social, cultural and political development. Today, we hope to count with broad participation of Member States, civil society and other stakeholders to provide input to the first Commentaries on the Declaration's Article 1(1).

The Expert Mechanism hopes that the long-awaited and much-needed transformation from a Declaration to a Convention on the Right to Development is realized through discussions at this session of the Working Group and the needed decision made on the process to move forward for the final adoption of the Convention. We convey our best wishes for productive discussions.

Thank you.