

The Fifth Session of the Expert Mechanism on the Right to Development
Concluding remarks by the Chair, Mr. Mihir Kanade
2 November 2022, Geneva

Excellencies,
Distinguished delegates,
Colleagues and friends,

The Expert Mechanism concludes its sixth session and thanks Member States, civil society, mandate holders, including five members of the Expert Mechanism on the Rights of Indigenous Peoples, and academics for their substantive engagement and the productive discussions undertaken. The Expert Mechanism welcomes the questions, answers, and suggestions made during these three days. They will help formulate the conclusions, outcome and recommendations of its annual report which will give account of the sixth and the seventh session that will be held in New York in April next year. The annual report will be submitted to the 54th session of the Human Rights Council in September 2023.

The Expert Mechanism welcomes the support expressed by many Member States and their appreciation for the work of the Mechanism towards the full realization of the right to development. Thirty-five years after the Declaration, there is still much to be achieved. The Mechanism notes the reiterated call for solidarity and international cooperation to overcome the multiple ongoing global crises and takes note that, while some Member States did not support the creation of the Mechanism, the commitment to put individuals and peoples at the centre of development is a common concern. The Expert Mechanism reaffirms that the implementation of the Right to Development cannot be seen purely from an economic dimension but should rather consider the constant improvement of the well-being of all individuals' and peoples' everywhere, where all human rights and fundamental freedoms are fully realized.

The Expert Mechanism was encouraged by the rich discussion that took place with the Chair-Rapporteur of the Intergovernmental Working Group on the Right to Development and the Special Rapporteur on Right to Development during the relevant coordination meeting. The three mechanisms discussed current gaps in operationalizing the right to development to leave no one behind and to address issues such as the climate crisis, including through exploring the possibility of coordinating the session of the Expert Mechanism and the future work of the Working Group and by going beyond the current political impasse and framing the right to development in a way that it directly intersects with the global challenges that affect both the global South and the global North alike.

The Expert Mechanism discussed the draft of the Commentary on article 1 (1) of the Declaration on the Right to Development (A/HRC/EMRTD/6/CRP.1), presented by Mr. Koen De Feyter. The Mechanism intends to adopt the Commentary in an informal meeting before the end of this year with as much input as possible collected at this 6th session and also the comments that will be received thereafter. It also plans to present this Commentary at the upcoming high-level segment of the Human Rights Council that will commemorate the 35th anniversary of the Declaration.

Several suggestions were made towards the Commentary, including the possibility for the Expert Mechanism to provide *Amicus Curiae* briefs, as a way to operationalize the right to development. Some suggested including the cultural, political and spiritual dimensions of development in addition to the explicitly mentioned economic, social and environmental ones in the study. Experts recommended addressing the three entitlements entailed by the right to development in accordance with Article 1(1), namely, the right to participate in, contribute to and enjoy development, and also provide illustrations to identify the circumstances in which this right might be violated. Experts also recommended broadening the spectrum of the in-focus groups referred to, from women and indigenous, to others in situations of vulnerability and marginalization. This would further ensure their full participation. Suggestions were also made towards mainstreaming a gender and multicultural approach.

The Expert Mechanism has also taken good note about the comments provided just few minutes ago by Member States on this issue and the request to provide stakeholders with a deadline for the submission of comments in writing, for the Expert Mechanism to consider before finalizing the Commentary.

The Expert Mechanism engaged in a stimulating interactive dialogue with members of Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). This aimed to better understand the EMRIP's experience in addressing and implementing its mandate to identify, disseminate and promote good practices and lessons learned, including through its country engagement mandate. EMRIP members highlighted their methods of work regarding the country engagement mandate which involved a series of steps to respond to requests, agree on terms of references with relevant parties, and further carry out the visit with very concrete deliverables and follow-up.

The two Expert Mechanisms also discussed interlinkages between the Declaration on the Rights of Indigenous Peoples and the Declaration on the Right to Development. EMRIP members stressed the fundamental role of the right to development in the realization of other rights of indigenous peoples, including their right to self-determination, but also their concern about the lack of specific references in the Declaration on the Right to Development of indigenous peoples and the context in which their rights are realized. This makes indigenous peoples to rely on creatively applying their voice to those generic rights included in the Declaration of the Right to Development, such as the right to participate through the right to free, prior and informed consent. The interlinkages between the two Declarations require the constant and active awareness of the context in which indigenous rights should be promoted and protected and this could be done by the joint work of the two Mechanisms. The experts discussed the importance of differentiating indigenous peoples as rights holders from others in the local communities, based on the specific significance of the right to self-determination and the right to free, prior and informed consent to the former

The Expert Mechanism had an interesting dialogue with civil society organizations in the promotion, protection and operationalization of the right to development. Civil society organizations highlighted the importance of avoiding limiting the discussion to the 2030 Agenda and connecting the right to development with the rights of peasants and transnational corporations as well. They also highlighted the importance of solidarity, accountability as well as active, free, and meaningful participation for progressive social development. These three elements are addressed by the right to development framework. Civil society representatives further highlighted the failure of the dominant development paradigm and the

need to look for alternative ways and the importance to acknowledge that human beings have to live in harmony with nature.

Some of the challenges identified by civil society speakers were the shrinking of the civic space, heightened by the pandemic and economic crises as well as the gap between institutional policies and responses and the need and priorities of people. Other challenges mentioned were the (mis)understanding of “development” as mere economic growth, seen by grass-root communities as an instrument for exploitation often linked to the work of the private sector in detriment of human rights.

The Expert Mechanism acknowledges the obstacles that civil society face in their efforts to participate in, and contribute to, the realization of the right to development and stresses that it is a collective job to ensure that the right to development means that the rights holders have the right to determine what development means to them and dispel all the doubts and uncertainties revolving about the word development. The Expert Mechanism welcomes future collaboration with civil society organizations, including grassroot organisations, trade unions, non-governmental organizations and reassures its support to continue engaging and assisting them in their national and international advocacy to contextualize and operationalize the right to development.

The Expert Mechanism held an encouraging discussion on Least Developed Countries where speakers highlighted the obstacles and challenges faced by these countries, not only from the recent multifaceted crises including the pandemic, but also from structural impediments to sustainable development, such as the lack of national resources and capacities, climate vulnerability, indebtedness, limited export market access, lack of food, health and energy security, as well as the need for an enabling international environment. During the discussion, the importance of international cooperation in achieving development through the duty of international cooperation was stressed. A clear message from this dialogue was that the Doha Programme of Action is an important but only the first step for ensuring that the Least Developed Countries are not left behind. The implementation of the Doha Programme will need to be based on operationalizing the right to development, especially the duty to cooperate. It was stressed by various speakers that the Expert Mechanism can play an important role in establishing the linkages between the right to development and the Doha Programme of Action. The Expert Mechanism takes good note of suggestions from panellists to elaborate studies to develop an accountability framework on partnership for the Doha Programme of Action and on graduation criteria for the Least Developed Countries.

The Expert Mechanism thanks Mr. Bonny Ibhawoh for presenting the progress update on the study on “Inequality and social protection systems in operationalizing the right to development.” As was noted, this study was initiated and led by our former member Mr. Armando De Negri Filho and benefited from consultations with a wide range of civil society organizations through, among others, Mr. Ibhawoh’s study visit to Mexico in the context of the Social World Forum. The study is sixty percent developed and the Expert Mechanism looks forward to contributions from Member States, international organizations and other stakeholders through a new call for input that will be issued in the coming days.

Experts provided comments including considering addressing the shift from efficiency to resilience in the global economy and addressing the specific needs and context of in-focus groups that may face structural challenges in realizing their right to development because of their very specific needs or invisible barriers and differential impact such as discrimination or

stereotypes. Participants also highlighted the importance to equally distribute the benefits of development within and among countries as well as the need to include dimensions of employment, participation, empowerment and accountability as necessary elements to address inequalities. Specific recommendations were made for the study to focus not only on economic inequalities, based on social protection floors, but also on inequalities related to the participation of peoples and those present in institutional settings, including the United Nations, as well as to consider the differential impact of inequalities among countries.

Other suggestions were also received from civil society organizations that included recommendations such as consideration of the right to care and the right to be cared for and also the right to development of those whose work is unpaid. It was also recommended that more focused be paid on the rights of women and other vulnerable persons and groups.

During the sixth session, a proposal was made that the Expert Mechanism may request the Human Rights Council to supplement its mandate so that, upon the request of Member States, acting individually or jointly, of the rights holders and/or the public sector, the Expert Mechanism engages and assists them by facilitating dialogue, when agreeable to all parties, in order to contribute to the implementation of the right to development. A proposal was also made that the Expert Mechanism devotes one or two sessions at the United Nations Regional Hubs. The Expert Mechanism will consider these proposals.

The Expert Mechanism finds this session to have been remarkably productive and looks forward to continuing engagement with Member States, United Nations entities, Intergovernmental organizations; Regional organizations and mechanisms in the field of human rights; National human rights institutions and other relevant national bodies; Academics and experts on development issues as well as, with civil society organizations.

The Expert Mechanism will hold its 7th session in New York from 3 to 5 April 2023.

I thank you.