**Comisión Nacional de los Derechos Humanos’ commentaries to the second revised text of the draft convention on the right to development**

This document was made by Mexico’s National Human Rights Institution: Comisión Nacional de los Derechos Humanos (CNDH), for the purpose of answering the call for comments and textual suggestions to the second revised text of the draft convention on the right to development, within the context of 24th session of the Working Group on the Right to Development.

In this sense, the commentaries contained herein refer to the provisions concerning (i) the relationship with the responsibility of everyone to respect human rights under international law, (ii) the right of development of Indigenous Peoples, and (iii) sustainable development.

1. **Commentary concerning the relationship with the responsibility of everyone to respect human rights under international law.**

Regarding Article 3(l) and 7 of the draft convention, the CNDH considers that the responsibility in question of legal persons such as businesses, whether private or public, should be emphasised.

In most cases, the role these persons have is crucial and decisive when talking about possible violations to the right of development and other human rights, as it has been proven by the work done at CNDH. From 2019 and until October 31st, 2022, 1,307 of the claims that have been made before this national institution, appertain possible violations of human rights related to the commercial activities of businesses; 1,098 of them concern public businesses, while 209 concern private ones.

Under this context, the CNDH issued the Recommendation 37/2019[[1]](#footnote-1), which establishes that the development of several vulnerable groups is threatened by situation occurring inside and outside of businesses. Likewise, 11 sectors were identified as having more frequent cases of violations to human rights.

For the foregoing, the CNDH considers it appropriate to emphasise the responsibility of these legal persons, who possess the capacity to affect the right to development and other human rights in a significant way when compared to other actors.

1. **Commentary concerning the right of development of Indigenous Peoples**

In regard to the second and third paragraphs of Article 17 of the draft convention, the CNDH considers appropriate that the obligation of States Parties to consult and cooperate in good faith with Indigenous Peoples, has been contemplated; however, it considers that the minimum characteristics of said obligation should also comprehend that it has to be performed in a culturally appropriate manner. Said characteristic has proven to be necessary to uphold human rights, as it may be appreciated in some of CNDH’s work[[2]](#footnote-2).

1. **Sustainable development**

In respect to Article 23 of the draft convention, the CNDH considers that the observance of sustainable development in the formulation, adoption and implementation of policies should also be considered as means of reparation for human rights violations.

In this sense, such principle may be seen through the lens of both preventive and responsive lenses. The foregoing may have the effect of focusing on the present and future problems equally.

The labour at CNDH has confirmed that this criterion is useful, for instance, when dealing with the protection of wildlife, National Parks, management of chemical substances, water sanitation, among others[[3]](#footnote-3).

1. Available at: <https://www.cndh.org.mx/documento/recomendacion-general-372019> [↑](#footnote-ref-1)
2. For instance, in the following Recommendations: 37/2012, 43/2015, 56/2012, 23/2015, 56/2016, 3/2018, and 17/2018. Available at: <https://www.cndh.org.mx/tipo/1/recomendacion>. Likewise, in the following documents: *Compilación y Análisis del Marco Jurídico de la Consulta Indígena en México: Enfoque de Empresas y Derechos Humanos de los Pueblos Indígenas en el Marco de la Planeación y Desarrollo de Megaproyectos,* available at: <https://www.cndh.org.mx/documento/compilacion-y-analisis-del-marco-juridico-de-la-consulta-indigena-en-mexico-enfoque-de>; and *La tribu yaqui y su derecho a la consulta indígena en la contratación pública de empresas privadas para construir el acueducto independencia en Sonora*, available at: <http://appweb.cndh.org.mx/biblioteca/archivos/pdfs/Yaqui-Consulta-Indigena-Contratacion-Acueducto-Sonora.pdf> [↑](#footnote-ref-2)
3. For instance, in the following Recommendations: 48/2015, 10/2017, 67/2017, 47/2018, 82/2018, 12/2019, 93/2019, 3/2020, 57/2020, 72/2020, 18/2022, 90/2022, 109/2022, 134/2022, and 159/2022. Available at: <https://www.cndh.org.mx/tipo/1/recomendacion> [↑](#footnote-ref-3)