**COMMENTS BY COLOMBIA ON THE REVISED DRAFT CONVENTION ON THE RIGHT TO DEVELOPMENT**

**July 13, 2022**

**Directorate of Human Rights and International Humanitarian Law**

**OPERATIVE SECTION**

**Article 1. Object and purpose.**

**(Art. 1. Object and purpose)** “The object and purpose of the present Convention is to promote and ensure the full, equal and meaningful enjoyment of the right to development by every human person and all peoples everywhere, and to guarantee its effective operationalization and full implementation at the national and international levels.”

**COMMENT:**

We find that neither in defining the “object and purpose” of the Convention, nor throughout the text of the instrument is the scope and content of the right to development described, delimited, or detailed. In other words, despite of the fact that the Convention seeks to establish the international obligations of States with respect to the right to development, what is or should be understood by the "right to development" remains unaddressed.

Likewise, neither the rightsholders, nor the subjects on whom the obligation to protect the right to development rests are detailed on the reviewed texts. Although it is clear from the wording in the article that there is an individual as well as a collective dimension of the right to development, the text has a vague definition of the subjects that could claim a presumptive violation of this right, and we do not observe either that the scheme of reciprocal obligations between States is contained in the provision in question.

**Articles 25 y 27. Enforcement and monitoring mechanisms**

1. A Conference of States Parties is hereby established.
2. The Conference of States Parties shall keep under regular review the effective implementation of the Convention and any related legal instruments that the Conference of States Parties may in future adopt, and shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To that end, the Conference of States Parties shall:
   1. Periodically examine reports by States Parties on the implementation of their obligations under the Convention and the obstacles that they face in the realization of the right to development, in the light of the object and purpose of the Convention. In this regard, the Conference of States Parties may refer such reports to the implementation mechanism contemplated under article 26 of the present Convention;
   2. Promote and facilitate the open exchange of information on measures adopted by States Parties to address the realization of the right to development, taking into account the differing circumstances, responsibilities and capabilities of States Parties and their respective obligations under the Convention;

**COMMENT**

Under Articles 25 and 27 of the draft Convention, States are required to submit periodic reports on compliance with and implementation of the Convention to the Conference of the Parties established by the Convention.

Article 27 also provides that the Conference of the States Parties shall establish an implementation mechanism, consisting of independent experts, that facilitate and promote the implementation of and compliance with the convention (which is part of the general mandate of an Implementation and Compliance Committee).

This mechanism, in addition to adopting general recommendations to States in the interpretation and application of the Convention, is empowered to "(Art. 27. C) “Review requests by rights holders to comment on situations in which their right to development has been adversely affected by the failure of States to comply with their duty to cooperate, as reaffirmed and recognized under the present Convention, within the mandate established for this purpose by the Conference of States Parties.”

In other words, the Convention creates a system of individual petitions, administered by the implementation mechanism, to which the holders of the right to development (individuals and peoples) can appeal when their right to development has been undermined by the failure of States to comply with their duty to cooperate.

In this sense, Colombia could not be in the position to support the creation of such a mechanism, since we believe that the creation of new mechanisms setting the possibility for international claims on human rights will weaken the possibility to reach the required consensus necessary to advance in the negotiation of the instrument.

**Article 35 Dispute settlement between States Parties.** “Any dispute between two or more States Parties with respect to the interpretation or application of the present Convention that has not been settled by negotiation may, upon agreement by the parties to the dispute, be referred to the International Court of Justice for a decision.”

**COMMENT:**

The Draft Convention provides not only for a system of individual-State rights and obligations, but also for a scheme of reciprocal inter-State duties.

Colombia would not be in the position of accepting clauses or agreements that grant jurisdiction to the International Court of Justice to resolve disputes regarding human rights obligations.