Draft convention on the right to development

**Annex**

Preamble

The States Parties to the present Convention,

PP 1 Guided by the purposes and principles of the Charter of the United Nations, especially those relating to the achievement of international cooperation in solving international problems of an economic, social, culturalor humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction of any kind,

PP 2 Recalling the obligation of States under articles 1 (3), 55 and 56 of the Charter of the United Nations to take joint and separate action in cooperation with the Organization for the promotion of higher standards of living, full employment and conditions of economic and social progress and development; solutions of international economic, social, health and related problems; international cultural and educational cooperation; and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

PP 3Reaffirming that, under the provisions of the Universal Declaration of Human Rights, everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized, and that everyone, as a member of society, is entitled to the realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for her or his dignity and the free development of her or his personality,

PP 4 Recalling the provisions of international human rights treaties,

PP 4bis Recalling further relevant international human rights instruments, including the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas,

PP 5 Reaffirming the Declaration on the Right to Development, adopted by the General Assembly on 4 December 1986,

PP 6

PP 7 Reaffirming the objective of making the right to development a reality for everyone, as set out in the Millennium Declaration, adopted by the General Assembly on 8 September 2000,

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PP 12

PP 13 Acknowledging that the realization of the right to development is a common concern of humankind,

PP 14 Concerned at the existence of serious obstacles to the realization of the right to development comprising, inter alia, poverty in all its forms and dimensions, including extreme poverty, hunger, inequality in all forms and manifestations within and across countries, climate change, health emergencies and health crises, colonization, neo­colonization, forced displacement, racism, discrimination, conflicts, foreign domination and occupation, aggression, threats against national sovereignty, national unity and territorial integrity, terrorism, crime, corruption, all forms of deprivation affecting the subsistence of peoples, and the denial of other human rights,

PP 15 Emphasizing that the right to development is an inalienable human right of all human persons and peoples, and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

PP 16 Recognizing that development is a comprehensive civil, cultural, economic, environmental, political and social process that is aimed at the constant improvement of the well-being of the entire population and of all peoples and individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,

PP 17 Acknowledging that development is understood not simply in terms of economic growth, but also as a means to widening people’s choices to achieve a more satisfactory intellectual, emotional, moral and spiritual existence rooted in the cultural identity and the cultural diversity of peoples,

PP 18 Reaffirming the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development,

PP 19 Recognizing that the realization of the right to development constitutes an important end and an integral means of sustainable development, and that the right to development cannot be realized if development is not sustainable,

PP 20 Considering that peace and security at all levels is an essential element for the realization of the right to development and that such realization can, in turn, contribute to the establishment, maintenance and strengthening of peace and security at all levels,

PP 21

PP 22 Recognizing also that the human person and peoples are the central subjects of the development process, and that development policy should therefore make them the main participants and beneficiaries of development,

PP 23 Recognizing further that all human persons and peoples are entitled to a national and global environment conducive to just, equitable and participatory development, centred on human persons and peoples, respectful of all human rights,

PP 24 Acknowledging that States have the primary responsibilityfor the creation of national and international conditions favourable to the realization of the right to development,

PP 25

PP 26 Concerned that, despite the adoption of numerous resolutions, declarations and agendas, the right to development has not yet been effectively operationalized,

PP 27 Convinced that a comprehensive and integral international convention to promote and secure the realization of the right to development, through appropriate and enabling national and international action, is essential,

Have agreed as follows:

Part I

Article 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 full implementation at the national and international levels.

Article 2 Definitions

Article 3

General principles

To achieve the object and purpose of the present Convention and to implement its provisions, the States Parties shall be guided by the principles of international law, as well as inter alia, the principles set out below:

1. Development centred on the human person and peoples: the human person and peoples are the central subjects of development and beneficiaries of the right to development;
2. equality, non-discrimination, participation, transparency, accountability, equity, subsidiarity, inalienability, interdependence and indivisibility;
3. Development with full respect to international human rights law: as development is a human right that is indivisible from and interrelated and interdependent with all other human rights, the laws, policies and practices of development, including development cooperation, must be normatively anchored in a system of rights and corresponding obligations established by international law;
4. Contribution of development to the enjoyment of universal human rights: development, as described in the present Convention, is essential for the improvement of living standards and the welfare of human persons and peoples and contributes to the enjoyment of universal human rights;
5. Friendly relations and cooperation among States in accordance with the Charter of the United Nations;
6. Self-determined development: development is determined by individuals and peoples as rights holders. The right to development and the right to self-determination of peoples are integral to each other and mutually reinforcing;
7. Sustainable development: development must be achieved in its three dimensions, namely, economic, social and environmental, in a balanced and integrated manner and in harmony with nature. The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations; and the right to development cannot be realized if development is unsustainable;
8. ;
9. National and international solidarity: the realization of the right to development requires an enabling national and international environment created through a spirit of cooperation and unity among individuals, peoples, States and international organizations, encompassing the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals everywhere.;
10. South-South cooperation as a complement to North-South cooperation: South- South cooperation is not a substitute for, but rather a complement to, North-South cooperation, and hence should not result in the reduction of North-South cooperation or hamper progress in fulfilling existing official development assistance commitments;
11. ;
12. Individuals, peoples, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the right to development can be fully realized.

Part II

Article 4

Right to development

1. Every human person and all peoples have the inalienable right to development, by virtue of which they are entitled to participate in, contribute to and enjoy civil, cultural, economic, political and social development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.
2. Every human person and all peoples have the right to active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.

Article 5

Relationship with the right of peoples to self-determination

1. The right to development implies the full realization of the right of all peoples to self­determination.
2. All peoples have the right to self-determination, by virtue of which they freely determine their political status and freely pursue the realization of their right to development.
3. All peoples may, in pursuing the realization of their right to development, freely dispose of their natural wealth and resources based upon the principle of mutual benefit, sustainable development and international law. In no case may a people be deprived of its own means of subsistence. Nothing in the present Convention shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.
4. The States Parties to the present Convention, including those having responsibility for the administration of Non-Self-Governing Territories, shall promote the realization of the right to self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations and international law.
5. States shall take resolute action to prevent and eliminate massive and flagrant violations of the human rights of persons and peoples affected by situations such as those resulting from apartheid, all forms of racism and discrimination, colonialism, domination and occupation, aggression, interference and threats against national sovereignty, national unity and territorial integrity, threats of war and the refusal to recognize the fundamental right of peoples to self-determination.
6. Nothing contained in the present Convention shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory, without distinction of any kind.

Article 6

Article 7

Part III

Article 8

General obligations of States Parties

1. States Parties shall respect, protect and fulfil the right to development for all, without discrimination of any kind, in accordance with obligations set forth in the present Convention.
2. States Parties shall cooperate with each other in ensuring development and eliminating obstacles to development, encouraging full observance and realization of all human rights.
3. States Parties shall ensure that public authorities and institutions at all levels act in conformity with the present Convention.
4. .

Article 9

Article 10

Article 11

Article 12

1. .

Article 13 Duty to cooperate

1. States Parties shall cooperate with each other, through joint and separate action, in order to:
2. Solve international problems of an economic, social, cultural, political, environmental, health-related, educational, technological or humanitarian character;
3. End poverty in all its forms and dimensions, including by eradicating extreme poverty;
4. Promote higher standards of living, full and productive employment, decent work, conditions of human dignity, and economic and social progress and development;
5. Promote and encourage universal respect for human rights and fundamental freedoms for all, without discrimination of any kind.
6. To this end, States Parties have primary responsibility, in accordance with the general principle of international solidarity described in the present Convention, for the creation of international conditions favourable to the realization of the right to development for all, and shall take deliberate, concrete and targeted steps, individually and jointly, including through cooperation within international organizations and engagement with civil society:
7. To ensure that human and legal persons, groups and States do not impair the enjoyment of the right to development;
8. ;
9. To ensure that the formulation, adoption and implementation of States Parties ’ international legal instruments, policies and practices are consistent with the objective of fully realizing the right to development for all;
10. To formulate, adopt and implement appropriate international legal instruments, policies and practices aimed at the progressive enhancement and full realization of the right to development for all;
11. To mobilize appropriate technical, technological, financial, infrastructural and other necessary resources to enable States Parties, particularly in developing or least developed countries, to fulfil their obligations under the present Convention.
12. States Parties shall ensure that financing for development and all other forms of aid and assistance given or received by them, whether bilateral, or under any institutional or other international framework, are in compliance with internationally recognized development cooperation principles and consistent with the provisions of the present Convention.
13. States Parties recognize their duty to cooperate to create a social and international order conducive to the realization of the right to development by, inter alia:
14. Promoting a universal open, non-discriminatory, equitable, transparent and inclusive multilateral trading system;
15. Implementing the principle of special and differential treatment for developing countries, in particular least developed countries, as defined in applicable trade and investment agreements;
16. Improving the regulation and monitoring of global financial markets and institutions, and strengthening the implementation of such regulations;
17. preventing any discrimination in representation and voice for developing countries, including least developed countries, in decision-making in all international economic and financial institutions, in order to deliver more effective, credible, accountable and legitimate institutions;
18. Enhancing capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, sex, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts;
19. Encouraging official development assistance, financial flows and foreign investment, including through but not limited to the implementation of any existing commitments, for States where the need is greatest, in particular least developed countries, African countries, small island developing States and landlocked developing countries, in accordance with their national plans and programmes;
20. Enhancing North-South, South-South, triangular and other forms of regional and international cooperation in all spheres, particularly on access to science, technology and innovation, and also enhancing knowledge-sharing on mutually agreed terms, including through improved coordination among existing mechanisms, in particular at the United Nations level and through existing and new mechanisms for global technology facilitation;
21. ;
22. Promoting the development, transfer, dissemination and diffusion of technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed;
23. Eliminating illicit financial flows by combating tax evasion and corruption, reducing opportunities for tax avoidance, enhancing disclosure and transparency in financial transactions in both source and destination countries and strengthening the recovery and return of stolen assets;
24. Assisting developing and least developed countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and addressing the external debt of highly indebted poor countries to reduce debt distress;
25. Facilitating safe, orderly and regular migration and mobility of people, including through the implementation of planned and well managed migration policies.

Article 14 Coercive measures

1. The use or encouragement of the use of economic or political measures, or any other type of measure, to coerce a State in order to obtain from it the subordination of the exercise of its sovereign rights in violation of the principles of the sovereign equality of States, the freedom of consent of States or applicable international law constitutes a violation of the right to development.
2. States Parties shall refrain from adopting, maintaining or implementing the measures referred to in paragraph 1.

Article 15

Specific and remedial measures

1. States Parties recognize that certain individuals, groups and peoples, owing to their marginalization or vulnerability because of race, colour, sex, language, religion, political or other opinion, statelessness, national, ethnic or social origin, property, disability, birth, age or other status, may need specific and remedial measures to accelerate or achieve de facto equality in their enjoyment of the right to development. Specific and remedial measures can include, among others, enabling the full, effective, appropriate and dignified participation of such human persons, groups, and peoples in decision-making processes, programmes and policymaking that affect their full and equal enjoyment of the right to development, without subjecting them to structural, environmental or institutional constraints or barriers.
2. States Parties recognize that developing and least developed countries, owing to historical injustices, conflicts, environmental hazards, climate change or other disadvantages, including of an economic, technical or infrastructural nature, may require specific and remedial measures through mutually agreed international legal instruments, policies and practices for ensuring equal realization of the right to development by all human persons and peoples. Such measures may, as appropriate, include:
3. Recognition of common but differentiated responsibilities, taking into account different national circumstances;
4. The provision of special and differential treatment;
5. Preferential terms on trade, investment and finance;
6. The creation of special funds or facilitation mechanisms;
7. The facilitation and mobilization of financial, technical, technological, infrastructural, capacity-building or other assistance;
8. Other mutually agreed measures consistent with the provisions of the present Convention.

Article 16

Equality between men and women

1. States Parties, in accordance with their obligations under international law, shall ensure equality for women and men, and shall adopt measures, including through temporary special measures as and when appropriate, to end all forms of discrimination against women and girls so as to ensure their full and equal enjoyment of the right to development.

Article 17 Indigenous peoples

1. Indigenous peoples have the right to freely pursue their development in all spheres, in accordance with their own needs and interests. They have the right to determine and develop priorities and strategies for exercising their right to development.
2. In accordance with international law, States Parties shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
3. States Parties shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Article 18

Prevention and fight against corruption

States Parties recognize that corruption represents a serious obstacle to the realization of the right to development. To this end, States Parties shall, individually and jointly:

1. Promote and strengthen measures to prevent and combat corruption;
2. Promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
3. Promote integrity, accountability and proper management of public affairs and public property;

Article 19

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Article 20 Impact assessments

1. States Parties undertake to take appropriate steps, individually and jointly, including within international organizations, to establish legal frameworks for conducting prior and ongoing assessments of actual and potential risks and impacts of their national laws, policies and practices and international legal instruments, policies and practices, and of the conduct of legal persons that they are in a position to regulate to ensure compliance with the provisions of the present Convention.
2. States Parties shall take into account any further guidelines, best practices or recommendations that the Conference of States Parties may provide with respect to impact assessments.

Article 21

1. .

Article 22

International peace and security

1. States Parties reaffirm their existing obligations under international law to promote the establishment, maintenance and strengthening of international peace and security in consonance with the principles and obligations contained in the Charter of the United Nations, including the peaceful settlement of disputes.
2. States Parties undertake to promote peace and inclusive societies within their territories for the full realization of the right to development for all.

Article 23

Sustainable development

States Parties, individually and jointly, undertake to ensure that:

1. Laws, policies and practices relating to development at the national and international levels are aimed at and contribute to the realization of sustainable development, consistent with States Parties’ obligations under international lawand human rights law;
2. Their decisions and actions do not compromise the ability of present and future generations to realize their right to development;
3. .

Article 24

Harmonious interpretation

1. Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.
2. .

Part IV

Article 25

Conference of States Parties

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:
3. 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;
4. Promote, develop and periodically refine, in accordance with the provisions of the present Convention, the methodologies and best practices for States Parties to assess the status of realization of the right to development;
5. ;
6. Consider and adopt regular reports on the status of implementation of the Convention, and ensure their publication;
7. Make recommendations on any matters relevant to the implementation of the Convention, including, inter alia, the adoption of protocols or amendments;
8. Exercise such other functions as are required for the achievement of the object and purpose, as well as the aims, of the Convention.
9. The first session of the Conference of States Parties shall be convened by the Secretary-General of the United Nations no later than six months after the entry into force of the present Convention. At its first session, the Conference of States Parties shall adopt its own rules of procedure,.
10. The Conference of States Parties shall meet in public sessions, except as otherwise determined by it, in accordance with its rules of procedure.
11. All States not party to the present Convention, specialized agencies, funds and programmes of the United Nations system, other international organizations, United Nations human rights mechanisms, regional human rights bodies, national human rights institutions and non-governmental organizations with consultative status with the Economic and Social Council may participate as observers in the public sessions of the Conference of States Parties. The Conference of States Parties may, in accordance with its rules of procedure, consider requests from, or may invite, other stakeholders to participate as observers.
12. .
13. Special sessions of the Conference of States Parties shall be held at such other times as it may deem necessary, or upon the request of any State party, in accordance with its rules of procedure.
14. The Conference of States Parties shall transmit its reports to the General Assembly.

Article 26

Protocols to the Convention

1. The Conference of States Parties may adopt protocols to the present Convention.
2. The text of any proposed protocol shall be communicated to States Parties at least six months before consideration.
3. The requirements for the entry into force of any protocol shall be established by that instrument.
4. Decisions under any protocol shall be taken only by the States Parties to the protocol concerned.

Article 27

Establishment of an implementation mechanism

1. At its first session, the Conference of States Parties shall establish an implementation mechanism to facilitate, coordinate and assist, in a non-adversarial and non-punitive manner, the implementation and promotion of compliance with the provisions of the present Convention.
2. The implementation mechanism shall consist of independent experts, consideration being given to, inter alia, equitable geographic representation as well as to an appropriate representation of different legal systems.
3. The implementation mechanism shall:
4. ;
5. Review obstacles to the implementation of the Convention at the request of the Conference of States Parties;
6. Undertake any other functions that may be vested by the Conference of States

Parties.

1. The Conference of States Parties shall adopt rules of procedure for the operation of the implementation mechanism.

Part V

Article 28 Signature

The present Convention shall be open for signature by all States and international organizations at United Nations Headquarters in New York as of .

Article 29

Consent to be bound

1. The present Convention shall be subject to ratification, approval or acceptance by signatory States.
2. Notwithstanding the obligations of international organizations existing under international law and the present Convention, the consent of signatory international organizations to be bound by the present Convention shall be expressed through an act of formal confirmation.
3. The present Convention shall be open for accession by any State or international organization that has not signed the Convention.

Article 30

Article 31 Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.
2. For each State or international organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 32 Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.
2. Reservations may be withdrawn at any time.

Article 33 Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months of the date of such communication, at least one third of States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties that have accepted it.
3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of the present article that relates exclusively to articles 24, 25 and 26 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

Article 34 Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

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 unless the disputants agree to another mode of settlement.

Article 36 Accessible format

The text of the present Convention shall be made available in accessible formats.

Article 37 Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

Article 38 Authentic texts

1. The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.
2. In witness thereof, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.