********

**FINAL CONCEPT NOTE**

**REGIONAL CONSULTATION ON THE RIGHT TO DEVELOPMENT AS A TOOL FOR TRANSFORMATION AND ITS NEXUS WITH PEACE AND SECURITY IN AFRICA**

Jointly co-organised by:

The African Union and

The United Nations Office of the High Commissioner for Human Rights,

1. **Introduction**
2. Human Rights 75 is an initiative aimed at creating a platform for reflecting on progress made in promoting the universality of human rights following the adoption of the Universal Declaration of Human Rights in 1945. The Africa Regional consultation (Regional Consultation) is being co-organized by the United Nations Office of the High Commissioner for Human Rights-East Africa Regional Office (OHCHR-EARO) and the African Union to take stock of milestones made in the past 75 years in Africa to promote and protect human rights with a focus on the right to development. It is envisaged to provide a platform for high-level dialogue on lessons learned, challenges faced and good practices which is critical to advance the universality of human rights.
3. The regional consultation will focus on the benefits of using the right to development as a tool to transform economic development and peace and security in Africa, in line with the African Charter on Human and People’s Rights, Article 22(1), and the UN Declaration on the Right to Development. The regional consultation will also explore how the right to development can foster the inter-linkage between elements of the triple nexus-humanitarian, development, peace, and security in the African context.
4. It is also anticipated that the regional consultation will strengthen new partnerships while consolidating gains made to support the African Union and its Member States as well as all the relevant actors to build a positive force for change with trust in the human rights architecture, faith in its promise, and resources to apply the tools that are necessary to ensure rights are upheld in Africa. Ultimately, the regional consultation will contribute to the identification of strategic steps and new paradigms to strengthen the universality and indivisibility of human rights in Africa.
5. **Background**
6. In 2016, the United Nations General Assembly and Security Council adopted resolutions 70/262 and S/2282 on “sustaining peace,” recognizing inclusive development as a critical element for building peace. In addition, resolution 70/262 reaffirmed that development is a central goal in itself. The World Bank estimates that a civil conflict costs an average developing country roughly 30 years of GDP growth, and countries in protracted crises can fall over 20 percentage points behind in overcoming poverty. Countries suffer a reduction in annual GDP growth of 2–4% and up to 8.4% if the conflict is severe. This reduction was always accompanied by a rapid increase in inflation. Neighboring countries often suffer the burden of spillover effects from violent conflict by an annual decline of 1.4 percentage points in their GDPs. According to the Institute for Security Studies (ISS), while Africa accounts for only around 16% of the global population, more than a third of global conflicts currently occur in Africa. Over the past two decades, Africa has experienced rapid economic growth, which has not translated into a decrease in inequality and meaningful socio-economic gains for its people. Growth did not lead to a commensurate increase in employment creation; thus, it was unable to significantly reduce poverty and address the structural challenges of persistent inequalities, fiscal deficits, and debt vulnerability. According to the African Development Bank, Africa’s labor force is projected to be nearly 40% larger by 2030. In the ongoing trend and context, only half of the new labor force entering the market will find a job, leaving an additional 100 million young people without jobs.
7. Nevertheless, the changing nature of conflicts and crises calls for a more comprehensive and integrated approach to responding to violations of human rights and, therefore, identifying solutions. Conflict prevention offers an excellent opportunity to address these challenges. Achieving sustainable peace and development in all African countries requires a balanced approach that addresses all the related dimensions. The nexus between human rights, peace, and development calls for more integrated and systematic approaches to advance development in Africa. With the adoption of the African Union Agenda 2063 and the UN 2030 Agenda for Sustainable Development, member states have recognized the need to free the continent from armed conflict, terrorism, extremism, intolerance, and gender-based violence which are major threats to peace and development. Indeed, Aspiration 3 and Aspiration 4 of the African Union Agenda 2063 emphasize the critical role of human rights, good governance, rule of law, peace, security, and stability for sustainable development and inclusive growth in Africa.
8. Agenda 2063 envisions a continent in which there is a universal culture of good governance, democratic values, gender equality, respect for human rights, justice, and the rule of law, as stated in its Aspiration 3. The AU works with member states to develop and implement policies that aim to build strong, well-governed institutions and enact laws that will ensure Africa’s citizens are fully engaged and involved in policymaking and development, and that these citizens are provided with safe and secure environments in which to live in line with the key tenets of the rights to development. However, concerted efforts should be made to strengthen the participation of the rights holders including widening the civic space for meaningful participation as a key element of the right to development.
9. The African Continental Free Trade Area (AfCFTA) which is one of the flagship projects under *Agenda 2063: The Africa We Want* is designed to boost intra-African trade by up to 52.3% and it is expected to expand Africa’s economy to $29 trillion dollars by 2050. Informal and cross-border trade accounts for 70% of the economy in sub-Saharan Africa and continues to remain a major source of income for 43% of Africa’s population. Women in Africa constitute 70% of the informal cross-border traders. Trade can be a means to increase the resources available to States for advancing human rights and may have positive effects on poverty reduction. The AfCFTA is an enabler for the advancement of the right to development and offers opportunities to increase peoples’ enjoyment of human rights. At the same time, trade liberalization - through bilateral, regional, and/or multilateral agreements - may have adverse impacts on human rights. The regional consultation would examine how the AfCFTA can be used to facilitate the right to development while taking appropriate measures to address the potential human rights impact of the agreement on marginalized and vulnerable groups to ensure that no one is left behind.
10. Trade and investment regimes also overlap and interface with intellectual property, transfer of technology, climate change, all of which are relevant topics for human rights. Human rights impact assessments are an important tool to identify positive and adverse impacts of trade on human rights and to ensure that they are adequately considered in the negotiating processes and agreements.
11. Despite the various regional human rights instruments codified at the African Union level, findings of the evaluation of the First Ten Years Implementation Plan on the implementation of Agenda 2063 highlighted in the Second Continental Report,2022 revealed under-performance under aspiration three, ‘An Africa of governance, democracy, respect for human rights and the rule law ‘with a rating of 42%. The regional consultation will provide a platform to discuss the transformative potential of investing in the implementation of the right to development to tackle hurdles that stand in the way of achieving the goals and targets of Agenda 2030 and 2063.
12. The UN Agenda 2030 SDG 16 aims to end violence; promote inclusive societies; provide access to justice for all; and build effective, accountable, and inclusive institutions at all levels, which are necessary for creating conditions for sustainable development. The implementation of all existing frameworks calls for an integrated approach to the operationalization of the right to development in fulfillment of inclusive growth and sustainable growth.

**III. The Concept of the Rights to Development**

1. In its Preamble, the ACHPR states that “it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social, and cultural rights in their conception as well as universality, and that the satisfaction of economic, social, and cultural rights is a guarantee for the enjoyment of civil and political rights”. Article 22 (1) states boldly that “All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind; States shall have the duty, individually or collectively, to ensure the exercise of the right to development’’. Equally important is the fact that the right to development in the African Charter is often read in the provisions of Articles 21 and 24, which prescribe the right to wealth, natural resources, and a satisfactory environment favorable for development, as reflected in related Resolutions and Guidelines of the African Commission on Human and Peoples’ Rights (the African Commission). This includes the Guidelines on State Reporting under Articles 21 and 24 of the African Charter.
2. The African Charter places the duty and responsibility of state parties to the Charter to ensure its realization. Regrettably, however, the right to development in many African Constitutions and other related normative frameworks is not justiciable, thereby making enjoyment of the right a difficult task to accomplish. However, this challenge has not prevented both the African Court on Human and Peoples’ Rights (the Court) and the African Commission on Human and Peoples’ Rights from making far-reaching judicial/quasi-judicial pronouncements on the issue of human rights and development in Africa and the justiciability of the right to development. These have included the Commission’s seminal decisions in the Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights (CESR) v Nigeria (SERAC case), the Center for Minority Rights Development (Kenya), and Minority Rights Group International on behalf of the Endorois Welfare Council v Kenya (Endorois case), as well as the Court’s decision in the African Commission on Human and Peoples’ Rights v Kenya (Ogiek case).
3. At the global level, Article 1 (1) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) guarantees the rights of all people to self-determination and freely pursue their economic, social, and cultural development. The right also extends to the powers of societies to freely dispose of their resources and natural wealth, without inhibition. Similarly, in 1986, the United Nations adopted the Declaration on the Right to Development (Declaration). Although a soft law, the Declaration effectively categorizes the right to development as an inalienable right by virtue of which every human person and people all over the world are entitled to participate in, contribute to, and enjoy development. The Declaration also identified the human person as the central subject of development, for which he/she must necessarily be both a part and beneficiary of the right.

**IV. Key Elements of the Right to Development**

a. ***People-centered development***. The Declaration identifies “the human person” as the central subject, participant, and beneficiary of development (art. 2). The African Charter also recognizes the right to development within the concept of collective/group rights. In both contexts therefore (notwithstanding the conceptual differences about the definition of peoples) the right to development puts people at the center of the development process so that development is aimed to improve “the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution” of the resulting benefits.

b. ***Human rights-based approaches***. The Declaration and the African Charter require that development be carried out in a way all human rights and fundamental freedoms can be fully realized (Articles 1 and 22, respectively).

c. ***Participation*.** The Declaration insists on the “active, free, and meaningful participation” of individuals and populations in development (art. 2). Participation as an element of the right to development can also be found in Article 22 of the African Charter. The African Charter for Popular Participation in Development and Transformation (Arusha 1990) also corroborates this provision in both the Declaration and African Charter.

d. ***Equity****.* The Declaration highlights the importance of the “fair distribution of the benefits” of development (art. 2). Equity was also enshrined in Articles 19, 21, and 22 of the African Charter. Fairness between generations is embedded in the concept of sustainable development. The 2030 Agenda recognizes the importance of intergenerational equity and acknowledges that the future of humanity and of the planet lies not only in our hands, but also in the hands of today’s younger generation.

e. ***Non-discrimination***. The Declaration allows no “distinction as to race, sex, language, or religion” (art. 6) and non-discrimination as to gender (art.8(1)), while similar non-discrimination principles in the context of the right to development can be gleaned from a combined reading of Articles 2, 19, and 22 of the African Charter.

f. ***Self-determination***. The Declaration requires the full realization of peoples’ right to self-determination, including full sovereignty over their natural wealth and resources (Article 1), and there is an equal provision under Article 20(1) of the African Charter.

g. Collective efforts and responsibility. The Declaration requires collective efforts of both national and international actors, including international development institutions and States to promote development and ensure all enjoy the development.

**V. Objectives**

The overall goal of the Africa Regional Consultation is to promote awareness, gather inputs, and identify pathways to the effective implementation of the rights to development which is a key enabler for conflict prevention and sustainable development.

**Specific Objectives include:**

* Promote understanding and implementation of the right to development among the AU Member states and other stakeholders.
* Create a platform for a reflection on the benefits of using the right to development framework to the realization of the SDGs and Agenda 2063.
* Familiarize participants on the role of human rights organs in operationalization of the right to development in the implementation of Africa Continental Free Trade
* Identify pathways to explore aspects of the triple nexus – human rights, peace and security, and development in the context of the African Continent.
* Agree on game changers which will enable the application of the right to development and address its challenges in an integrated, coherent, and holistic manner.

**VI. Expected Outcomes:**

This regional consultation is expected to solicit strategic commitments and pledges to advance the nexus between development, peace and security, and human rights in Africa through the realization of the right to development.

* Outcome report highlighting lessons learned, challenges faced, and good practices on operationalization of the right to development as a pathway to advance the right to development in the implementation of the SDGs and Agenda 2030 including flagship projects such as the AfCFTA.
* Identify key actions on how the right to development can be used as a tool for the implementation of thematic issues such as business and human rights, climate change and just transition.
* Solicit a pledge on how the AfCFTA can be used to empower and facilitate the right to development while considering appropriate measures to address potential human rights impact of the agreement and ensure that no one is left behind.
* Member states will consider a recommendation to the Sub-Committee on Governance, Democracy and Human Rights of the AU Permanent Representatives Council to propose for the appointment of the AU Champion on the Right to Development to connect and communicate with Member States at all levels to address challenges related to the operationalization of the right to development in Africa.
* Recommendations to address the means of implementation, financing, and partnership strategies, including technological transfers among others.

**VII. Methodology**

Presentations, Q&As, Panel discussions and plenary discussions will be employed to guide the exchange of ideas during the workshop. Deliberations will be conducted in English, French, and Arabic with simultaneous interpretation facilities.

**VIII. Venue, Format & Duration**

The Symposium will be held in person at the **African Union Headquarters in Addis Ababa, Ethiopia, on September 8, 2023, from 0900hrs-17:45hrs Addis Ababa time (GMT+3).**

**IX. Partnership arrangements**

The Africa-wide consultation will be jointly co-organized by the African Union and the United Nations Office of the High Commissioner for Human Rights, within the framework of the Human Rights-75 Initiative.

**X. Expected number and nature of participants.**

The regional consultation will target a total of 150 participants ranging from AU and its organs, Regional Economic Communities, Member States, Civil Society, Youth representatives, UN Entities, Academia, Private Sector, and development partners. Permanent representatives of the African Union Member States to the African Union will also be invited to participate in the regional consultation.