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Summary of the panel discussion of the Human Rights Council on the theme, “The way forward in the realization of the right to development: between policy and practice”

(14 September 2011, Geneva)*

* Late submission.

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I. Introduction

1. The Human Rights Council, in its resolution 15/25, and the General Assembly, in its resolution 65/19, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR), in consultations with Member States and other relevant stakeholders, to launch preparations for the commemoration of the twenty-fifth anniversary of the Declaration on the Right to Development. Within this framework, the Council, in its decision 16/117, decided to hold a panel during its eighteenth session on the theme “The way forward in the realization of the right to development: between policy and practice” and requested OHCHR to prepare a summary of the panel discussions for submission to the Working Group on the Right to Development at its twelfth session and to the Human Rights Council at its nineteenth session.

II. Organization of the panel

2. The panel discussion was held on 14 September 2011, in Geneva. The panel was moderated by the President of the Human Rights Council and opened by the United Nations High Commissioner for Human Rights. The panellists were Ariranga G. Pillay, Chairperson of the Committee on Economic, Social and Cultural Rights; Virginia Dandan, independent expert on human rights and international solidarity; and Joseph K. Ingram, President/CEO of the North-South Institute, Canada. The presentations of the panellists were followed by an interactive discussion, which was divided into two slots of 60 minutes (45 minutes for comments and questions from the floor, followed by 15 minutes for comments and replies by panellists). The interactive discussion was opened by the Permanent Representative of Sri Lanka and newly appointed Chairperson-Rapporteur of the Working Group on the Right to Development, Tamara Kunanayakam.

3. The focus and objectives of the panel discussion were to enhance understanding of the contribution and potential of the Declaration on the Right to Development to thinking, policy and practice on development; to reflect on how the right to development could be implemented in the context of contemporary political, social, environmental and financial challenges; and to contribute to the shaping of future work on the effective implementation of the right to development.

III. Opening and contributions by panellists

4. In her opening statement, the High Commissioner recalled that the programme of commemoration of OHCHR for the twenty-fifth anniversary of the Declaration on the Right to Development was premised on four simple messages: that development was a human right for all; that this right belonged to everyone; that it responded to contemporary challenges; and that all must act together in making the right to development a reality for everyone. Real development was about freedom from fear and freedom from want for all, without discrimination. Any successful development policy included a human rights approach that could shed light on critical vulnerabilities, clarify entitlements, duties and responsibilities of rights holders and duty-bearers, and delineate accountability mechanisms for actions and inactions. The constituent elements of the right to development were rooted in the provisions of the Charter of the United Nations, the International Bill of Rights and other United Nations instruments, and included the right to self-determination, to full sovereignty over natural wealth and resources, to participation, fair distribution of benefits, as well as to remedies for inequity. This right entailed a people-centred development policy for constant improvement of the well-being of all.

5. The High Commissioner stressed that, in an interdependent world, it was imperative that all find solutions together and jointly commit to implementing them. While the primary responsibility rested with States, the realities of globalization demanded the engagement of all stakeholders. She announced that, in view of the need for policy coherence based on the holistic approach enshrined in the Declaration, and at the initiative of OHCHR, several agencies of the United Nations system and other international organizations had endorsed a statement in support of policy coherence in the implementation of the right to development (see annex). In conclusion, the High Commissioner expressed her hope that the panel discussion would help to bridge the gap between human rights and development in policy and in practice, and that the anniversary year would lead to renewal and revival of the commitment of all to the Declaration to live up to its promise and potential to raise millions from poverty to dignity.

6. The first speaker on the panel, Mr. Pillay, focused on how existing human rights mechanisms could contribute more actively to the realization of the right to development, the relevance of which was underscored by contemporary development challenges. Although the Declaration on the Right to Development did not itself create any legal obligations, it was a legitimate reference by which to hold Governments at least politically accountable as the international norm crystallized into law. Several elements of the Declaration found clear resonance with provisions in human rights treaties, and the relevance of the right to development to the work of treaty bodies was unassailable. Reiterating the twenty-fifth anniversary statement of chairpersons of treaty bodies, he highlighted the salient elements of the Declaration, including the holistic definition of development and the indivisibility of all human rights, and pointed to similarities and complementarities between the Declaration and the human rights treaties and reflected in related jurisprudence. The right to development could therefore be realized by adhering to international human rights standards, including the principles of non-discrimination, participation, accountability and transparency, which could be used to monitor progress towards the realization of the right to development by means of appropriate criteria, such as those being currently considered by the Working Group on the Right to Development. States parties to those treaties must live up to their obligations and implement the recommendations made by the treaty bodies so that the human rights situation at the national level was improved.

7. With regard to the international arrangements necessary to create a favourable environment for the realization of the right to development, Mr. Pillay cited the anniversary statement of the Committee on Economic, Social and Cultural Rights, which recalled that this right established a specific framework within which the duty to provide international cooperation and assistance had to be implemented.

8. Ms. Dandan cited the report of her predecessor, in which the value and significance of international solidarity in an interdependent world and how it may guide the progressive development of international law on human rights and international solidarity had been underlined. She went on to express her view of international solidarity as a bridge across differences and opposites, connecting to each other diverse peoples and countries with their heterogeneous interests, in mutually respectful, beneficial and reciprocal relations, imbued with the principles of human rights, equity and justice. While noting the varying opinions, including opposition to international solidarity, she expressed her belief that it was a human right, as well as her commitment to submit to the Human Rights Council a draft declaration on the right of peoples and individuals to international solidarity before the end of her term.

9. Ms. Dandan noted with appreciation the work of the high-level task force on the implementation of the right to development, and supported in particular the recommendations relating to pilot testing the right to development criteria with regional consultations and linking them to the universal periodic review. She also noted with

appreciation the background report of the High Commissioner submitted to the Social Forum and its emphasis on peoples' participation in development, and related this to her own experience on the right to development, especially in the Committee on Economic, Social and Cultural Rights and in her own work with indigenous communities in the Philippines. Referring to the links between the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development and the all-important factor of people's participation, she made specific reference to articles 1 and 2 of the Covenant and articles 1 and 2 of the Declaration.

10. After 25 years since the adoption of the Declaration, it was important to ask what efforts had been made to find out directly how the enjoyment of the right to development was experienced by people in the realities of everyday life. To move effectively from policy to practice, it was critical to listen to the voice of people, so that policy could be informed by their genuine participation, which was the essence of the right to development. Ms. Dandan referred to a bilateral project between the Commission on Human Rights of the Philippines and the New Zealand Human Rights Commission focusing on three selected indigenous communities in the Philippines and counterpart Maori communities in New Zealand. She supported the view that gaps in the implementation of the Declaration on the Right to Development could be filled by looking at good practices such as the above-mentioned project. Many diverse territories were in the midst of great changes, and it was a formidable task to seek and highlight good practices that might not be formally labelled as human rights-based approaches to development, but nonetheless gave effect to the principles of the right to development. She found the locus of hope among peoples and individuals who could be, and in fact were, the primary agents of change, and who had the right to shape their own destiny.

11. Mr. Ingram commenced his presentation by introducing his organization, the oldest independent development think tank in Canada. He pointed out that implementing the right to development was no easy task, and that it was easier to affirm in principle than to apply in policies and resource allocation. His organization's research focused on the identification of how a holistic vision of human rights and real world government resource decisions could best be reconciled. National policymakers would rarely seek decisions based on rights alone. Consultations with indigenous peoples had added political and financial costs to Government and private companies. In this context, free, prior and informed consent and the right to self-determination had been an important part of their research. In considering how this concept could be used to encourage active and meaningful participation, Mr. Ingram stated that mere consultations were not enough. In order to be more beneficial, the rights of indigenous peoples to say no to projects that affected them should be respected. Capacity strengthening of indigenous peoples was also crucial. He gave an example where guides were developed on the use of free, prior and informed consent and the participation of indigenous peoples, environment impact assessment, and benefit-sharing of the outputs of mining. In general, indigenous peoples were not against development, although development came in many forms. Some communities prioritize such small-scale projects as mining and farming, while others preferred large-scale ones, as long as their rights were upheld and they could share in the benefits.

12. Mr. Ingram further stated that corporate social responsibility alone was not sufficient to ensure responsible and sustainable development. His organization was also broadening its research to include private sector frameworks. North-South Canada was currently engaged in an expert project to measure quantitatively the progressive realization of economic, social and cultural rights. Results could be used by citizens to hold their Governments accountable.

IV. Summary of the discussion

13. Following the presentations by the panellists, the President of the Human Rights Council called on Ms. Kunanayakam to speak prior to other interventions from the floor. Ms. Kunanayakam stated that the dialogue should help to lessen the divide between policy and practice. Globalization created interdependence among States, hence the increasing need for international solidarity. The global economic, political and environmental crisis and their effects on developing countries had enhanced the need to cooperate, which was the essence of the right to development. There was a need for firm and time-bound commitments, resources and technical exchange between countries. Quoting Mahatma Gandhi who said that “poverty is the worst form of violence”, Ms. Kunanayakam stated that poverty must end through the creation of an appropriate environment to realize the right to development. The enjoyment of human rights was only possible if States created an enabling environment. International institutions should function in a transparent and accountable manner in close consultation with Member States. Human rights were universal, and the Human Rights Council had the responsibility to promote both economic, social and cultural rights and civil and political rights. OHCHR had a vital role to play to ensure equal treatment of both types of rights. Ms. Kunanayakam recommended that the Council should identify concrete ways and means to put policy into practice, especially in the removal of obstacles to the implementation of the right to development.

14. Several delegations acknowledged the work of OHCHR in relation to commemoration of the twenty-fifth anniversary of the Declaration on the Right to Development. They shared the view that the anniversary was a cause for reflection of what had been achieved and what was still lacking, in both legal and practical aspects. The anniversary was the appropriate time to make an assessment and to rechart the challenge that lay ahead. In the face of the challenges posed by chronic political dynamics, the Declaration on the Right to Development gave a hint of how these challenges could be overcome. The Declaration provided a legal, political and moral instrument that could contribute to the achievement of global, sustainable development goals. Many of the elements in the Declaration were also contained in legally binding instruments, to which States parties were bound. There was a need to draw on the lessons of the 25 years since the Declaration was adopted in formulating actions for the future.

15. Reaffirming their commitments to the right to development, several delegations emphasized that the right to development was an overarching, umbrella right, needed to realize all other rights. The right to development offered the capacity for synthesis, in which civil and political rights on the one hand, and economic, social and cultural rights on the other, could be implemented. The right to development was the foundation to achieve the Millennium Development Goals and was an enabling framework for human rights and development in which international solidarity was essential. This right was also a right of nations, universal and an integral part of human rights. It was the most important right and must be given continued attention. Without codification of this right into a legally binding instrument and on a par with other rights, there would be a hole in its application.

16. A view was expressed in support of the right to development as a uniting rather than a dividing concept. There was a need for theoretical work to define and explain why the right to development was a universal right. Issues regarding the definition of the right to development should be adequately addressed and resolved first before discussing the issue of a binding legal instrument. Concerns remained with regard to the direction of discussions; for example, the discussions and the resolution on the right to development at the General Assembly should not include unrelated elements.

17. A question was raised about the prospects of political acceptability of the right to development. Some delegates supported non-binding standards and recommended that it

should be more operational through cooperation with the Human Rights Council and the Working Group.

18. It was stressed that, while the right to development was far from being operationalized and realized, the agenda remained highly relevant. Waves of changes arising from the global crisis and stirrings in the Arab world constituted challenges and must be responded to from a shared duty to cooperate to create favourable conditions for the right to development. Some delegations considered that the right to development contained principles to which all could subscribe, despite the changes arising from the global crisis.

19. Having noted the slow progress in the realization of the right to development, several delegations recommended that the international community should take concrete steps in both policy and practice. Achieving the right to development required collective action, and international cooperation was a key strategy and should provide an enabling environment. Despite progress, the implementation of the right to development was impeded by many factors that required joint efforts by the international community. The international community should support an enabling environment for development, including through the removal of obstacles to the realization of the right to development. In this regard, it was noted that pressures, sanctions, embargoes, conflicts and foreign occupation were all obstacles to the realization of the right to development and not conducive to helping countries to promote human rights and pursue sustainable development.

20. According to some speakers, financial and economic institutions had failed the world. There was a need for reform in global governance, transparency and accountability at the international level. Concerns of developing countries had to be heard in global forums. The prevailing economic order was unjust and exploitative in favour of developed countries, and the markets of advanced economies were largely inaccessible to poor countries. This situation had to be addressed through a global coordinated effort, involving particularly multilateral financial, trade and development institutions. Global partnerships for development should be strengthened among the United Nations, the private sector and civil society. It was also recommended that new financial mechanisms should be set up to fight poverty.

21. Speakers referred to the failure of aid policy and pointed to the need for a more pragmatic approach, the need to consider what should be the give-and-take in providing for development and how we provide for the poorest. Funding for development assistance is a policy tool in international cooperation. International aid programmes, debt cancellation, provision of loans and other social programmes should be implemented with due attention to the right to development. International development cooperation without conditionalities could strengthen international relations. South-South cooperation must also be addressed in the context of development assistance. Developed countries had to have the political will to provide resource and technical aid. Developing countries had to broaden their tax base, fight corruption and mobilize their resources to realize the right to development. The challenge was the unequal level of development within and between countries.

22. Some delegates argued that the right to development was not about charity but empowerment. States had the primary responsibility for their own economic development, and an enabling environment for the right to development had to be supported by a democratic Government. The right to development was an individual right, and it was only when all human rights are promoted and improved that the right to development could be realized. Good governance, the rule of law, anti-corruption measures and participation were important. While international cooperation was important, effective national policies at the national level were also crucial to create an enabling environment at the international level.

There was a need to turn commitments to actions at the national level. National economic development plans should be rights-based and human-centred.

23. Some speakers emphasized that the effective implementation of the right to development required multidisciplinary dialogue and policy coherence. Human rights are not the rewards of development but are rather critical factors in achieving them. Peace and security, development and human rights were all required. States had the right to international cooperation; development may be a right but it was not equivalent to economic growth. Sustained poverty reduction was required. Poor people should have power and voice, institutions had to create mechanisms for accountability and transnational mechanisms had to operate in transparency.

24. In order to eliminate discrimination, several delegations emphasized, the international community should focus on vulnerable groups, ensure equal dignity and eliminate politicization. Vulnerable groups should be placed at the centre of attention, especially when solving problems of inadequate security for citizens, lack of opportunities for young people and imbalances in domestic development. There was a need for a shared and equitable stake in the outputs of development.

25. Development was a right; its definition was elaborate and there was no need to re-visit it. There was a need for affirmative action for States that had not achieved their development needs. Some delegations stressed that development should be multifaceted, inclusive, sustainable and equitable. Development should be seen as a citizen's revolution for a dignified life and the full satisfaction of all human needs. It should be comprehensive and involve the fair distribution of benefits, where the human person was the main participant and beneficiary.

26. Many speakers pointed out that the human person should be at the centre of development. Economic, social and cultural rights, on the one hand, and civil and political rights, on the other, were equally necessary for the right to development to be achieved. The indivisibility of all human rights and human beings should be at the heart of development since the aim was to improve their well-being. States had to invest in strengthening democratic processes and good governance, which integrate social inclusion. They should also invest in ensuring the progressive realization of economic, social and cultural rights and reduce poverty, including by means of collective international action. Making justiciable economic, social and cultural rights would contribute to the practical realization of the right to development and the Millennium Development Goals. There was a need to raise awareness among the population that they should be able to claim their rights.

27. Some delegates considered that the right to development should be the key priority of the work and object of more in-depth debates of the Human Rights Council with a view to identify essential elements in the development of public policies. The Council and OHCHR should advocate the incorporation of all human rights, including the right to development, in the achievement of the Millennium Development Goals. This link should be realized even though the twenty-fifth anniversary being celebrated was also fraught with challenges.

28. Both national and international institutions shared the moral obligation to free people from poverty. Delegates pointed to the "lack of commitment" to the right to development by the World Bank, the International Monetary Fund and international financial institutions. Further thought had to be given to how to bring these organizations on board, especially when designing development programmes that integrated right to development considerations. The launching of an impact assessment exercise was suggested to measure the extent to which United Nations activities had incorporated the right to development. All relevant stakeholders were called upon to make recommendations

on how to better involve international organizations in solving the crisis in Africa and reaching the Millennium Development Goals.

29. Expressing their support for the work of the Working Group on the Right to Development, many delegations hoped that the Working Group would make progress in its deliberations on the future course of action aimed at the effective, meaningful and practical realization of the right to development. In this respect, calls were made for appropriate measures so that the right to development did not remain just a pious goal and subject to antagonism between North and South. A question was raised with regard to the steps that should be taken next to advance the right to development agenda.

30. Some speakers stated that it was important to build on the work of the high-level task force on the implementation of the right to development. The right to development could complement other rights and be made operational on the basis of the recommendations made by the task force. In this context, it was noted that, when further developing the criteria and sub-criteria, the rights of women should be reflected in the indicators, as should the balance between national and international responsibilities. The view was also expressed that the indicators warranted serious consideration. This exercise should not duplicate the work done by the World Bank and other international organizations with regard to the monitoring of the Millennium Development Goals.

V. Comments and replies by panellists

31. Responding to questions, Mr. Pillay stated that there were complementarities between the right to development and treaty bodies provisions. Many of the elements of the right to development were reflected in human rights treaty provisions; States that had ratified these treaties were bound to comply with them. In effect, they would need to comply with the right to development. Examples included the human rights principles of non-discrimination, transparency and accountability, as well as economic, social and cultural rights and civil and political rights. Some elements of the right to development were realized when human rights under international standards were realized. Minimum core obligations relating to economic, social and cultural rights were needed to tackle issues of poverty, housing and health; when these obligations were met, the right to development would also be furthered. He added that corruption, poor governance and the absence of the rule of law were all barriers to the realization of the right to development.

32. Ms. Dandan stated that the answer to questions lay in action, through the integration of human rights into policies and monitoring political responsibility. In a perfect world as much as in an imperfect one, political will and action were essential. She recommended that the right to development criteria developed by the high-level task force should be included in the universal periodic review. States should turn good words into good practices at the national level. This was not an easy task and would require concrete actions. The first step to address the theme of the panel was to look where good practices could be found. These good practices and models could be then studied and applied in other places. The right to development involved the integration of a human rights approach to development policy, implementation and evaluation, and the key lay in action.

33. Mr. Ingram referred to the need to have the World Bank and development institutions see economic, social and cultural rights as instruments of development. International solidarity was important in that it ensured the balance of national and international responsibilities. Multilateral solutions and cooperation were needed, especially at a time of global crisis when Governments were moving away from international cooperation and focusing more on the national level. This was a disturbing trend at a time when aid was most needed. He added that, given that the Millennium

Development Goals were global targets that dealt with averages and aggregates, the poorest and marginalized were not taken into account. There was therefore a need for other instruments to reach the poorest. The Millennium Development Goals were necessary but insufficient. In this context, the International Covenant on Economic, Social and Cultural Rights was an important instrument. Even though the World Bank was not a signatory to the international instruments, its member Governments were, and they should influence the Bank to include the right to development. The primary contemporary challenge to the right to development was the intensification of demand for resources; for example, African countries rich in minerals were a target for exploitation. Resource-rich areas were usually inhabited by indigenous peoples, who were increasingly affected by the exploitation of those areas. There was a need for a win/win sharing of benefits among the Government, companies, indigenous peoples and local communities.

VI. Concluding remarks by the moderator

34. The moderator closed the panel discussion by thanking all present. She remarked on the importance of adhering to human rights standards, ensuring that the rights of vulnerable groups were promoted, the need to mobilize resources to enable participation and that free, prior and informed consent should be obtained by both Governments and business entities before commencing development projects.

Annex

Statement made by agencies of the United Nations system and other international organizations in support of policy coherence in the implementation of the right to development

As the United Nations family commemorates the twenty-fifth anniversary of the United Nations Declaration on the Right to Development, we reaffirm the vision of the Charter of the United Nations for a world in larger freedom, based on peace and security, development and human rights.

Since 1986, the Declaration has provided normative underpinnings for a human-centred approach to development. Human development and human rights are embedded and reinforce each other conceptually and in practice, helping to secure the well-being and dignity of all people.

An effective global partnership for development, underpinned through human rights-based policy coherence and coordination at all levels, is the very foundation for achieving the Millennium Development Goals and other internationally agreed development goals in an equitable and sustainable manner.

Looking at development as a comprehensive process aiming to improve the lives of all peoples around the world our work is guided by key human rights principles of non-discrimination, equality, participation, transparency and accountability, as well as international cooperation.

Recognizing the political commitments made in the 2010 MDG outcome document,^a which reaffirms the importance of respect for all human rights, including the right to development, States also resolved to work together for the promotion of the economic and social advancement of all peoples.

The United Nations development system and its partners continue to embrace and promote this vision around the world by supporting the development of national capacities under the principles of national ownership and social, economic and environmental sustainability. We resolve to contribute to building resilient and responsive institutions and promoting policy coherence in the spirit of a meaningful global partnership for development.

Together, we are committed to carrying this vision forward and to making the right to development a reality for all.

14 September 2011

Statement endorsed by:

Food and Agriculture Organization of the United Nations

International Labour Organization

International Organization for Migration

Joint United Nations Programme on HIV/AIDS

Office of the United Nations High Commissioner for Human Rights

^a General Assembly resolution 65/1.

United Nations Children's Fund
United Nations Conference on Trade and Development
United Nations Development Programme
United Nations Educational, Scientific and Cultural Organization
Office of the United Nations High Commissioner for Refugees
United Nations Human Settlements Programme
United Nations Office for Project Services
United Nations Population Fund
United Nations Entity for Gender Equality and the Empowerment of Women
World Food Programme
World Health Organization
World Intellectual Property Organization
World Trade Organization
