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**Review of progress made in the promotion
and implementation of the right to development**

Joint written statement* submitted by Caritas Internationalis (International Confederation of Catholic Charities) and New Humanity, non-governmental organizations in general consultative status, Associazione Comunità Papa Giovanni XXII (APG23), Association Points-Cœur, Company of the Daughters of Charity of St. Vincent de Paul, Dominicans for Justice and Peace (Order of Preachers), Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco (IIMA), International Organization for the Right to Education and Freedom of Education (OIDEL), Mouvement International d'Apostolate des Milieux Sociaux Independants (MIAMSI), non-governmental organizations in special consultative status, Teresian Association, and International Volunteerism Organization for Women, Education and Development - VIDES, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 April 2019]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



Introduction

The CINGO Working Group on the Right to Development, composed of above non-governmental organizations (NGOs), submits this contribution under agenda item 4.5 of the draft programme of work.

Our NGOs, present at grass-root level and working with people living in extreme poverty in both developing and developed countries, strongly advocate at the Human Rights Council and other United Nations mechanisms for the implementation of the right to development.

We have witnessed, with a sense of impotence and dismay, the conceptual and political deadlock surmounting the debate on the right to development. We tried to build bridges and bring the voice of the poorest people by recalling that the concern for the peoples who suffer in the world must come first. Therefore, it is urgent to make the right to development a reality for everyone.

We would like to reiterate that the right to development expresses, at the highest level, the values of the United Nations Charter by linking in itself the three pillars of peace and security, development, and human rights and that its realization is necessary for the protection, respect and fulfilment of all human rights. The implementation of the right to development in our interdependent world has become relevant and urgent for both developed and developing countries. It can limit the negative effects of the current globalization and contribute to reduce inequalities within and between countries.

We welcome the opening of the discussion on a legally binding instrument on the right to development because a legal approach is necessary to contribute to the realization of the right to development so as to leave no one behind. As components of civil society, we express our willingness and legitimate expectation to be engaged in the process, which leads towards a convention on the right to development.

1. The perspective of those left behind

As NGOs, our role is to bring the perspective of those left behind, of the millions of people still living in extreme poverty, of adults and children affected by famine and malnutrition, of those who do not have access to quality health care and still die for lack of treatment of curable diseases, of those who do not have access to education, decent housing and social services, of those infected with HIV/AIDS without access to anti-retroviral treatment yet, of the children living on the streets, of the victims of human trafficking, of the many communities affected directly by war and natural disasters, of refugees, migrants and displaced people, among all the others.

Our globalised and interconnected world reveals contradictions of economic, cultural and technological progress that offers immense possibilities to a fortunate few and leaves millions of others not only on the margins of progress, but in living conditions far below the minimum demanded by human dignity. The gap between the rich and the poor, and between wealthy and impoverished countries, is unbearable and extremely unjust.

Our human family has to face climate change, economic, energy and values crisis that are moving towards an even more decisive increase in inequalities both in developing and developed countries. The challenge is both to address the deepening inequalities and persisting poverty and to ensure a life of dignity for all.

All humans are equal in their dignity. Therefore, all currently existing inequalities in entitlements and opportunities are unacceptable! They show how far away we are from the implementation of the right to development and from achieving social justice.

Claiming the right to development for social justice implies at international level, among other things, to formulate sound economic policies that foster growth with equity. It means carrying out democratic reforms of financial institutions, making globalisation really inclusive, adopting a new and effective model of international cooperation based on international solidarity, removing inequities and asymmetries in the global trade and recognising extraterritorial obligations. It means, inter alia, preventing and controlling

corruption, eliminating tax havens and tax evasion, transferring technology and cancelling the foreign debt of, at least, the Least Developed Countries.

People living in extreme poverty need actions and not words: they do not have the luxury to wait, they die. They are people whose human rights are violated – not only the economic, social and cultural rights but also the civil and political rights - because extreme poverty and social exclusion impede their exercise.

States are the principal protector of human rights and fundamental freedoms within their boundaries, but many developing countries are not in a position to fulfil basic economic, social and cultural rights of their citizens; they often lack the financial resources and the technical capacities to effectively meet their obligations in respect to this. Especially in view of expanding global interdependence, it is imperative to recognize that human rights and development are a shared responsibility between all members of the international community, States and non-states actors.

To provide the right to development with a legally binding framework for its implementation, will be a further important step towards the realisation of a new more humane and responsible social and international order.

The discussion on a legally binding instrument on the right to development will also offer an opportunity to enrich the holistic definition of development of the United Nations declaration with the notion that development should respect and preserve the environment and meet the needs of present and future generations.

Pope Francis prophetically said in the Encyclical “Laudato Sii” that “the urgent challenge to protect our common home includes a concern to bring the whole human family together to seek a sustainable and integral development...” and that “...today, however, we have to realize that a true ecological approach *always* becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear *both the cry of the earth and the cry of the poor*”.¹

Therefore, we urge the member States to act responsibly in a spirit of solidarity and put the concern for the people, especially the most vulnerable and left behind, at the centre of their discussion on a legally binding instrument on the right to development.

2. CINGO reasons for supporting a legally binding document on right to development

Our reasons for supporting a legally binding instrument on the right to development are summarized as follows:

- A legally binding instrument on right to development will codify an enabling right for the respect of all the other human rights (national dimension leading to create domestic policies) and for the reduction of inequities (international dimension). In fact, it is the first step to combat inequalities, for societies cannot reach their full potential if not all their segments are participating in, contributing to and benefiting from economic, social, cultural and political development.
- For the first time, a holistic and integral concept of development will be codified in a United Nations legally binding instrument.
- It will offer an opportunity to include important new aspects, for instance a concept of development that meets the needs of our time without compromising the capability of future generations to adapt it to their needs, and the concepts of intergenerational equity, sustainability and environment preservation.²
- It will offer an opportunity for establishing national benchmarks for the implementation of right to development. In this way, the right to development will

¹ Encyclical “Laudato Sii”, paragraphs 13 and 49

² Sabine von Schorlemer, Implementing the Right to Development, the Role of International Law, 2008.

become an additional yardstick for measuring the legitimacy of a state, that is, the responsibilities of state authorities towards their populations.³

- We live in an interdependent and globalized world. The implementation of the right to development (the first of the so-called solidarity rights to be recognized) is crucial in order to face the new challenges posed by globalization.
- A convention will offer a legal framework with the potential to humanize the global marketplace⁴ and affirm the need for a programme of international economic justice.
- It will reinforce the obligations for international cooperation.
- It will give further legal expression to the notion that the ability of States to develop, and to fulfil their human rights obligations, are bound by structural arrangements and actions of the (powerful members) of the international community (international obstacles).
- It will introduce a monitoring and reporting system.

3. The added value of having a treaty on RTD

The focus on individual State responsibility in current human rights treaty law prevents the integration of human rights into the international development effort. It also prevents international human rights law from delivering on its promise of protection to those adversely affected by globalization. The potential added value of a right to development treaty can be to complement the current human rights regime with a convention that goes beyond individual State responsibility and takes inspiration from principles derived from international development efforts, such as mutual accountability, alignment of policies among partner countries, and inclusive partnerships (full participation of State and non-state actors).

- Another added value lies in the establishment of a common responsibility for the realization of this right among a multiplicity of duty bearers including non-State actors, and, for the further elaboration of the collective aspects of the right.

The normative potential of a binding instrument on the RTD relates primarily to the external dimension of the right, or, in Karel Vasak's words, to the solidarity aspect of it.⁵ In fact, the notion of solidarity, translated into a duty to cooperate and to actively engage in international cooperation and assistance for development, forms another core obligation concerning the implementation of the RTD.

- An additional value of a convention on RTD (compared to other treaties) is that it will create obligations not only towards individuals but also towards peoples (collective dimension of the right to development).

4. Suggestions on the drafting process

Our NGOs would like to make the following suggestions on the drafting process of a legally binding instrument on the right to development:

1. All the work on the criteria and operational sub-criteria and set of standards for the implementation of the right to development that has been carried out in the previous sessions of the Working Group should not be lost and thwarted but reflected somehow in the treaty.

2. The process of drafting a legally binding instrument on the right to development should be participatory and inclusive in accordance with the principle of

³ Beate Rudolf, *Implementing the Right to Development, the Role of International Law*, 2008

⁴ Margaret Salomon, *Implementing the Right to Development, the Role of International Law*, 2008

⁵ Koen de Feyter, *Implementing the Right to Development, the Role of International Law*, 2008

participation clearly affirmed in the United Nations Declaration on the Right to Development and other United Nations treaties.

3. A legally binding instrument on the right to development should not depart from the Declaration; it should not dilute the Declaration either but rather clarify and enrich its contents.

4. A legally binding instrument should include all the principles of the Declaration such as equality and non-discrimination, gender equality, participation, accountability, sovereignty, policy coherence, rule of law, good governance, international cooperation, indivisibility of human rights, including the right to self-determination.

5. A legally binding instrument on the right to development should find an adequate balance between the national and international dimensions of the right to development.

6. Development per se is a dynamic concept, thus, its definition in a legally binding instrument should balance the inalienable core aspects of development with the possibility of a constant adaptation and improvement in a changing world.

7. Human Rights Council resolution 39/9 affirms in paragraph 17 (f) that “the Chair-Rapporteur of the Working Group shall prepare a draft legally binding instrument on the basis of the discussions held during the twentieth session of the Working Group and the resource material from previous Working Group sessions, to serve as a basis for substantive negotiations on a draft legally binding instrument, commencing at its twenty-first session”. We confide that the Chair of the Working Group will have extensive consultations with States and other stakeholders, including civil society, before drafting such an instrument. Moreover, we recommend the Chair to closely work with the Special Rapporteur on the right to development and take into account the inputs of the study of the Advisory Committee on the importance of a legally binding instrument on the right to development.

Finally, multilateralism is extremely important for the realization of the right to development though it is currently under threat. Therefore, we would like to reiterate the necessity of a consensual approach in formulating a new legally binding instrument in order not to further compromise the multilateral approach.
