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

Draft convention on the right to development

Chair-Rapporteur: Zamir Akram (Pakistan)

Summary

The present report of the Chair-Rapporteur of the Working Group on the Right to Development contains a draft convention on the right to development. The draft convention contains a preamble and 36 articles, arranged in five parts.

Part I contains the description of the object and purpose of the convention, definitions of terms used for the purposes of the convention, and general principles thought to guide its implementation. Part II defines the right to development and specifies its relationship with other human rights, in particular the right to self-determination. Part III stipulates obligations. It contains general obligations of States parties and international obligations, and a number of specific obligations, primarily of States parties, including a duty to cooperate. Part IV deals with institutional matters. It establishes a Conference of Parties, which may adopt protocols to the convention. In addition, it establishes an implementation mechanism. The last part contains the final provisions.

Introduction

1. In its resolution 39/9, the Human Rights Council decided that the Working Group on the Right to Development should, at its twentieth session, commence the discussion to elaborate a draft legally binding instrument on the right to development through a collaborative process of engagement, including on the content and scope of the future instrument.
2. In the same resolution, the Human Rights Council decided that the Chair-Rapporteur of the Working Group should 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.
3. Consequently, the Working Group held, at its twentieth session, a discussion on the elaboration of a draft legally binding instrument on the right to development through a collaborative process of engagement, including discussions on the content and scope of the future instrument (see A/HRC/42/35 and Corr.1).
4. In its resolution 42/23, the Human Rights Council welcomed the discussions held by the Working Group at its twentieth session on how a legally binding instrument would contribute to making the right to development a reality for all, by creating conducive national and international conditions for its realization and by halting all measures that may have a negative impact on the right to development, in accordance with the Charter, the Declaration on the Right to Development and other relevant international instruments and documents.
5. In the same resolution, the Human Rights Council decided that the Chair-Rapporteur of the Working Group, at its twenty-first session, would present 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 its previous sessions, for substantive negotiations on the draft legally binding instrument prepared.
6. The Human Rights Council also decided that the Chair-Rapporteur of the Working Group would conduct further consultations with all Member States, international organizations, the Special Rapporteur on the right to development, the Office of the High Commissioner, United Nations agencies, regional economic commissions and other relevant organizations on the elaboration of a draft legally binding instrument, taking into account the discussions held at the twentieth session of the Working Group, and the presentations made by the experts invited thereto.
7. The Human Rights Council lastly decided that the Working Group, at its twenty-first session, would commence the elaboration of a draft legally binding instrument on the right to development on the basis of the draft prepared by the Chair-Rapporteur, through a collaborative process of engagement.
8. Following these requests, the Chair-Rapporteur requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to provide him with requisite support in the implementation of this mandate.
9. OHCHR, in agreement with the Chair-Rapporteur, established a drafting group, composed of five recognized experts in the field of international law and with due respect to equitable gender and geographical representation, with the objective to draft a legally binding instrument, including commentaries.
10. The drafting group thus established comprised Mihir Kanade (India) as its Chair and Rapporteur, Makane Moïse Mbengue (Senegal), Koen de Feyter (Belgium), Diane Desierto (Philippines) and Margarette May Macaulay (Jamaica). Mr. Kanade was mandated with the preparation of a first draft of the treaty with detailed commentaries. On 26 September 2019, he submitted these documents to the drafting group for review. From 15 to 17 October 2019, the drafting group met at United Nations Headquarters in New York. The drafting group was supported by the Chief of the Right to Development Section and the Secretary of the Working Group on the Right to Development. Maryssa Gabriel, Nelisha Silva, Elizabeth Glover and Claire Duval, students and assistants of Professors Desierto and Mbengue, also assisted the

drafting group. At the outset of the meeting, the Chair-Rapporteur of the Working Group shared his observations on the draft text and provided further guidance to the drafting group. Technical advice was also provided by the Chief of the Right to Development Section and the Secretary of the Working Group. On the last day of the meeting, the drafting group adopted the draft text with revisions. On 13 November 2019, Mr. Kanade submitted the updated draft text incorporating the agreed changes along with corresponding revisions to the commentaries to OHCHR for wider consultations.

11. OHCHR thereafter invited a select group of 10 human rights scholars representing all regions to review the draft text and to share any comments or suggestions they may have by 30 November 2019. In response, comments and suggestions were submitted by Olivier de Schutter (Western European and Others Group), Obiora Okafor (African Group), Aslan Abashidze (Eastern European Group), Cosmin Corendea (Easter European Group), Carlos María Correa (Latin American and Caribbean Group) and Xigen Wang (Asia-Pacific Group). After taking into account all these inputs, the drafting group finalized a “zero draft” on 8 December 2019. Mr. Kanade thereafter made the final updates to the commentaries and submitted both documents – the “zero draft” of the convention and the accompanying commentaries – to the Chair-Rapporteur on 9 December 2019.

12. The Chair-Rapporteur of the Working Group subsequently reviewed and endorsed the draft convention on the right to development, contained in the annex.

Annex

Draft Convention on the Right to Development

Preamble

The States Parties to the present Convention,

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

Concerned at the existence of serious obstacles to the realization of the right to development constituted, inter alia, by poverty, inequality within and across countries, climate change, colonization, neo-colonization, forced displacement, racism, conflicts, aggression and threats against national sovereignty, national unity and territorial integrity, and the denial of other human rights,

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 constitute nations,

Recognizing that development is a comprehensive economic, social, cultural, civil and political process that aims at the constant improvement of 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 benefits resulting therefrom,

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

Recognizing that the realization of the right to development constitutes both the primary end and the principal means of sustainable development, and that the right to development cannot be realized if development is not sustainable,

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,

Recognizing that good governance and the rule of law at both the national and international levels is essential for the realization of the right to development, and that such realization is vital for ensuring good governance and the rule of law,

Guided by all the purposes and the 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, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction of any kind,

Recalling the obligation of States under the Charter 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 of any kind,

Considering 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,

Recalling the provisions of all human rights treaties, 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,

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

Recalling the reaffirmation of the right to development in several international declarations, resolutions and agendas, including the Rio Declaration on Environment and Development of 1992, the Vienna Declaration and Programme of Action of 1993, the Cairo Programme of Action of the International Conference on Population and Development of 1994, the Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development of 1995, the Beijing Declaration and Platform for Action of 1995, the United Nations Millennium Declaration of 2000, the Monterrey Consensus of the International Conference on Financing for Development of 2002, the World Summit Outcome of 2005, the United Nations Declaration on the Rights of Indigenous Peoples of 2007, the outcome document of the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals of 2010, the Programme of Action for the Least Developed Countries for the Decade 2011–2020, the outcome documents of the thirteenth session of the United Nations Conference on Trade and Development of 2012, the outcome document of the United Nations Conference on Sustainable Development “The future we want” of 2012, the quadrennial comprehensive policy review of operational activities for development of the United Nations system of 2012, the SIDS Accelerated Modalities of Action (SAMOA) Pathway of 2014, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development of 2015, ‘the 2030 Agenda for Sustainable Development and the Sustainable Development Goals of 2015, the Paris Agreement on Climate Change of 2015, the Sendai Framework for Disaster Risk Reduction 2015–2030 of 2015 and the New Urban Agenda, adopted at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), of 2016,

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,

Recalling the multitude of resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council on the right to development,

Recalling also , in particular, resolution 48/141 of 7 January 1994 adopted by the General Assembly, in which the Assembly established the Office of the United Nations High Commissioner for Human Rights, with a mandate to promote and protect the realization of the right to development and to enhance support from relevant bodies of the United Nations system for that purpose, resolution 52/136 of 12 December 1997, in which the Assembly affirmed that the inclusion of the Declaration on the Right to Development in the International Bill of Human Rights would be an appropriate means of celebrating the fiftieth anniversary of the Universal Declaration of Human Rights, and resolution 60/251 of 15 March 2006, in which the Assembly established the Human Rights Council, deciding that its work should be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development,

Bearing in mind the regional human rights instruments and the subsequent practices relating thereto that specifically recognize and reaffirm the right to development, including the African Charter on Human and Peoples’ Rights of 1981, the Arab Charter on Human Rights of 2004, the Human Rights Declaration of the Association of Southeast Asian Nations of 2012, and the Abu Dhabi Declaration on the Right to Development of 2016, adopted by the Independent Permanent Human Rights Commission of the Organization of Islamic Cooperation,

Bearing in mind also the obligations of States pertaining to integral development in the Charter of the Organization of American States of 1948, and to progressive development in the Inter-American Convention on Human Rights of 1969,

Considering the various international instruments adopted for realizing sustainable development, including in particular the 2030 Agenda for Sustainable Development, which affirm that sustainable development must be achieved in its three dimensions, namely, economic, social and environmental, in a balanced and integrated manner and in harmony with nature,

Recognizing 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,

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

Bearing in mind that States have the primary responsibility, through cooperation, for the creation of national and international conditions favourable to the realization of the right to development,

Recognizing that every organ of society at the national or the international level has a duty to respect the human rights of individuals and peoples, including the right to development,

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

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 now 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 operationalization and full implementation at the national and international levels.

Article 2 – Definitions

For the purposes of the present Convention:

(a) “Legal person” means any entity that possesses its own legal personality under domestic or international law and is not a human person, a people or a State;

(b) “International organization” means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality; international organizations may include, in addition to States, other entities as members;

(c) “Working Group on the Right to Development” means the entity established by the Commission on Human Rights in its resolution 1998/72 of 22 April 1998, as endorsed by the Economic and Social Council in its decision 1998/269 of 30 July 1998;

(d) “High-level political forum on sustainable development” means the entity established pursuant to the outcome document of the United Nations Conference on Sustainable Development (Rio+20) of 2012, as endorsed by General Assembly resolution 66/288 of 27 July 2012 and supplemented by Assembly resolution 67/290 of 9 July 2013.

Article 3 – General principles

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

(a) Human person and people-centred development: the human person and people are the central subjects of development and should be the active participants and beneficiaries of the right to development;

(b) Universal principles common to all human rights: the right to development should be realized in a manner that integrates the principles of accountability, empowerment, participation, non-discrimination, equality and equity;

(c) Human rights-based approach to development: development is a human right and should be realized as such and in a manner consistent with and based on all other human rights;

(d) Self-determined development: the right to development and the right to self-determination are integral to each other and mutually reinforcing;

(e) Sustainable development: development cannot be sustainable if its realization undermines the right to development, and the right to development cannot be realized if development is unsustainable;

(f) The right to regulate: the realization of the right to development entails the right for States Parties, on behalf of their peoples, to take regulatory or other related measures to achieve sustainable development on their territory;

(g) International solidarity: the realization of the right to development requires an enabling national and international environment created through a spirit of 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; this principle includes the duty to cooperate;

(h) Universal duty to respect human rights: everyone has the duty to respect human rights, including the right to development;

(i) Right and responsibility of individuals, groups and organs of society to promote and protect human rights: everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of the right to development at the national and international levels; individuals, 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 – The 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 economic, social, cultural, civil and political development that is consistent with and based on 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 to self-determination

1. The right to development implies the full realization of the right of all peoples to self-determination.

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 and international law. In no case may a people be deprived of its own means of subsistence.

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.

5. States shall take resolute steps 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 racial discrimination, colonialism, foreign domination and

occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and the refusal to otherwise 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 – Relationship with other human rights

1. States Parties reaffirm that all human rights, including the right to development, are universal, interrelated, interdependent, indivisible and equally important.

2. States Parties agree that the right to development is an integral part of human rights and should be realized in conformity with the full range of civil, cultural, economic, political and social rights.

Article 7 – Relationship with the general duty of everyone to respect human rights under international law

Nothing in the present Convention may be interpreted as implying for any human or legal person, people, group or State any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention. To that end, States Parties agree that all human and legal persons, peoples, groups and States have the general duty under international law to refrain from participating in the violation of the right to development.

Part III

Article 8 – General obligations of States Parties

1. States Parties undertake to respect, protect and fulfil the right to development for all, without discrimination of any kind on the basis of race, colour, sex, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, age or other status, in accordance with obligations set forth in the present Convention.

2. States Parties shall ensure that public authorities and institutions at all levels act in conformity with the present Convention.

Article 9 – General obligations of international organizations

Without prejudice to the general duty contained in article 7, States Parties agree that international organizations also have the obligation to refrain from conduct that aids, assists, directs, controls or coerces, with knowledge of the circumstances of the act, a State or another international organization to breach that State's or that other international organization's obligations with regard to the right to development.

Article 10 – Obligation to respect

States Parties undertake to refrain from conduct, whether expressed through law, policy or practice, that:

(a) Nullifies or impairs the enjoyment and exercise of the right to development within or outside their territories;

(b) Impairs the ability of another State or international organization to comply with that State's or that international organization's obligations with regard to the right to development;

(c) Aids, assists, directs, controls or coerces, with knowledge of the circumstances of the act, another State or international organization to breach that State's or that international organization's obligations with regard to the right to development;

(d) Causes an international organization of which it is a member to commit an act that, if committed by the State Party, would constitute a breach of its obligation under the

present Convention and the State Party does so to circumvent that obligation by taking advantage of the fact that the international organization has competence in relation to its subject matter.

Article 11 – Obligation to protect

States Parties shall adopt and enforce all necessary and appropriate measures, including administrative, legislative, investigative, judicial, diplomatic or others, to ensure that human or legal persons, groups or any other State or its agents they are in a position to regulate do not nullify or impair the enjoyment and exercise of the right to development within or outside their territories when:

- (a) Such conduct originates from or occurs on the territory of the State Party;
- (b) The human or legal person has the nationality of the State Party;

(c) The legal person conducting business activities, including those of a transnational character, is domiciled in the State Party, by virtue of having its place of incorporation, statutory seat, central administration or substantial business interests in that State Party.

Article 12 – Obligation to fulfil

1. Each State Party undertakes to take measures, individually and through international assistance and cooperation, with a view to progressively enhancing the right to development, without prejudice to their obligations to respect and protect the right to development contained in articles 10 and 11 or to those obligations contained in the present Convention that are of immediate effect. States Parties may take such measures through any appropriate means, including in particular the adoption of legislative measures.

2. States Parties recognize that each State has the right, on behalf of its peoples, and also the duty to formulate, adopt and implement appropriate national development laws, policies and practices in conformity with the right to development and aimed at its full realization. To that end, States Parties undertake to refrain from nullifying or impairing, including in matters relating to cooperation, aid, assistance, trade or investment, the exercise of the right and discharge of the duty of every State Party to determine its own national development priorities and to implement them in a manner consistent with the provisions of the present Convention.

Article 13 – Duty to cooperate

1. States Parties reaffirm and undertake to implement their duty to cooperate with each other, through joint and separate action, in order to:

- (a) Solve international problems of an economic, social, cultural, environmental or humanitarian character;
- (b) Promote higher standards of living, full employment, and conditions of economic and social progress and development;
- (c) Promote solutions of international economic, social, health and related problems, and to promote international cultural and educational cooperation;
- (d) Promote and encourage universal respect for human rights and fundamental freedoms for all, without discrimination on any ground.

2. To this end, States Parties recognize their primary responsibility for the creation of international conditions favourable to the realization of the right to development for all, and undertake to take deliberate, concrete and targeted steps, separately and jointly, including through cooperation within international organizations, and as appropriate, in partnership with civil society:

- (a) To ensure that human and legal persons, groups and States do not impair the enjoyment of the right to development;
- (b) To ensure that obstacles to the full realization of the right to development are eliminated in all international legal instruments, policies and practices;

(c) To ensure that the formulation, adoption and implementation of all international legal instruments, policies and practices are consistent with the objective of fully realizing the right to development for all;

(d) 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;

(e) To mobilize appropriate technical, technological, financial, infrastructural and other necessary resources to enable States Parties, particularly those with limited availability of or access to these resources, to fulfil their obligations under the present Convention.

3. States Parties undertake to 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 consistent with the provisions of the present Convention.

4. 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:

(a) Promoting a universal, rules-based, open, non-discriminatory and equitable multilateral trading system;

(b) Implementing the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with relevant trade agreements;

(c) Improving the regulation and monitoring of global financial markets and institutions, and strengthening the implementation of such regulations;

(d) Ensuring enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions;

(e) Encouraging official development assistance and financial flows, including foreign direct investment, to 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;

(f) Enhancing North-South, South-South and triangular regional and international cooperation on and access to science, technology and innovation, and enhancing also knowledge-sharing on mutually agreed terms, including through improved coordination among existing mechanisms, in particular at the United Nations level, and through a global technology facilitation mechanism;

(g) Promoting the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed;

(h) Facilitating orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed rights-based migration policies.

Article 14 – Coercive measures

1. The use or encouragement of the use of economic, political 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 and freedom of consent 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 – Special or remedial measures

1. States Parties recognize that certain human persons, groups and peoples, owing to their age, disability, marginalization, vulnerability, indigeneity or minority status, may

require special or remedial measures to accelerate or achieve de facto equality in their enjoyment of the right to development.

2. States Parties recognize that developing and vulnerable States, owing to historical injustices, conflicts, environmental hazards, climate change or other disadvantages, including of an economic, technical or infrastructural nature, may require special or remedial measures through mutually agreed international legal instruments, policies and practices for ensuring equal enjoyment of the right to development by all human persons and peoples. Such measures may, as appropriate, include:

- (a) Recognition of common but differentiated responsibilities, taking into account different national circumstances;
- (b) The provision of special and differential treatment;
- (c) Preferential terms on trade, investment and finance;
- (d) The creation of special funds or facilitation mechanisms;
- (e) The facilitation and mobilization of financial, technical, technological, infrastructural, capacity-building or other assistance;
- (f) Other mutually agreed measures consistent with the provisions of the present Convention.

Article 16 – Gender equality

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

2. To that end, States Parties undertake to take appropriate measures, separately and jointly, inter alia:

- (a) To eliminate all forms of violence and harmful practices against all women and girls in the public and private spheres;
- (b) To ensure women's full and effective participation and equal opportunities for leadership at all levels in the conceptualization, decision-making, implementation, monitoring and evaluation of policies and programmes in political, economic and public life, and within legal persons;
- (c) To adopt and strengthen policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels;
- (d) To mainstream gender perspectives in the formulation, adoption and implementation of all national laws, policies and practices and international legal instruments, policies and practices;
- (e) To ensure equal and equitable access to resources necessary for the full realization of the right to development by women and girls everywhere.

Article 17 – Indigenous and tribal peoples

1. Indigenous and tribal peoples have the right to freely pursue their economic, social and cultural development. They have the right to determine and develop priorities and strategies for exercising their right to development.

2. States Parties shall consult and cooperate in good faith with the indigenous and tribal 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.

Article 18 – Prohibition of limitations on the enjoyment of the right to development

States Parties recognize that the enjoyment of the right to development may not be subject to any limitations except insofar as they may result directly from the exercise of limitations on other human rights applied in accordance with international law.

Article 19 – 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 assessment of actual and potential risks and impact of their national laws, policies and practices and international legal instruments, policies and practices, and of the conduct of legal persons which 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 20 – Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for privacy;

(b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with the present article shall be disaggregated, as appropriate, and used to help to assess the implementation of States Parties' obligations under the present Convention and to identify and address the obstacles to the full realization of the right to development.

3. States Parties shall assume responsibility for the dissemination of these statistics in a manner consistent with the objective of fully realizing the right to development for all.

Article 21 – 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. To that end, States Parties undertake to pursue collective measures with the objective of achieving general and complete disarmament under strict and effective international control so that the world's human, ecological and economic resources can be used for the full realization of the right to development for all.

Article 22 – Sustainable development

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

(a) Laws, policies and practices relating to development at the national and international levels pursue and contribute to the realization of sustainable development;

(b) Their decisions and actions do not compromise the ability of future generations to realize their right to development;

(c) The formulation, adoption and implementation of all such laws, policies and practices aimed at realizing sustainable development are made fully consistent with the provisions of the present Convention.

Article 23 – 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. To that

end, the United Nations and its specialized agencies are under an obligation to promote the right to development.

2. The provisions of the present Convention shall not affect the rights and obligations of any State Party deriving from any existing international agreements, except where the exercise of those rights and obligations would contravene the object and purpose of this Convention. The present paragraph is not intended to create a hierarchy between the present Convention and other international agreements.

Part IV

Article 24 – 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:

(a) 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;

(b) Promote and facilitate the open exchange of information on measures adopted by States Parties to address the realization of the right to development, taking into account the differing circumstances, responsibilities and capabilities of States Parties and their respective obligations under the Convention;

(c) 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;

(d) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and governmental and non-governmental bodies;

(e) Consider and adopt regular reports on the status of implementation of the Convention, and ensure their publication;

(f) Make recommendations on any matters relevant to the implementation of the Convention, including, inter alia, the adoption of protocols or amendments;

(g) Exercise such other functions as are required for the achievement of the object and purpose, as well as the aims, of the Convention.

3. 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, which shall include decision-making for matters not already stated in the Convention.

4. The Conference of States Parties shall meet in public sessions, except as otherwise determined by it, in accordance with its rules of procedure.

5. 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.

6. The Conference of States Parties shall be held annually as part of the sessions of the Working Group on the Right to Development.

7. 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.

8. The Conference of States Parties shall transmit its reports to the General Assembly, the Economic and Social Council, the Human Rights Council, the Working Group on the Right to Development and the high-level political forum on sustainable development.

Article 25 – 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 such a session.

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 26 – 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 equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems and balanced gender representation.

3. The implementation mechanism shall:

(a) Adopt general comments or recommendations to assist in the interpretation or implementation of the provisions of the Convention;

(b) Review obstacles to the implementation of the Convention at the request of the Conference of States Parties;

(c) Review requests by rights holders to comment on situations in which their right to development has been adversely affected by the failure of States to comply with their duty to cooperate, as reaffirmed and recognized under the present Convention;

(d) Undertake any other functions that may be vested by the Conference of States Parties.

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

Part V

Article 27 – 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 28 – 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 29 – International organizations

1. International organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the present Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to “States Parties” in the present Convention shall apply to such organizations within the limits of their competence.

3. For the purposes of article 30, paragraph 1, and article 31, paragraphs 2 and 3, any instrument deposited by an international organization shall not be counted.

4. International organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to the present Convention. Such an organization may not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 30 – 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 31 – 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 32 – 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 33 – 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.

Article 34 – Accessible format

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

Article 35 – Depositary

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

Article 36 – Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

In witness thereof, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.
