All-Win Network

These textual suggestions adhere to the Introduction Commentary #2, of which no parts of the Convention were created *de novo.* Each suggestion has the legal basis in international law and are considered a norm, precedent, or standards of existing Conventions and treaties currently in existence.

However, it is important to note that the suggestions below are interpretations and extensions of international law currently in existence and, as such, such additions are suggested **to fully *interpret the full meaning*** of international law.

**Textual Suggestions**

As per the action outlined in the Preamble, Paragraph 3, on national unity, to expand the definition of this to - “these united nations.” To denote to “these United Nations” would be to acknowledging the United Nations and the State Parties as a whole.

As per the Preamble Paragraph 5, to add “racial” to the Reaffirmation paragraph and clause, which would refer to the importance of including race as a category of consideration under the Convention.

As per General Principle in Article 3, and Paragraphs E and F, if development is unsustainable and adding the word, “unobtainable,” to display the importance of development not being fully realized unless it is attainable.

*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* ***and******unobtainable***

As per Article 3, Paragraph F on the Right to Regulation, to add to the regulatory clause, “legal measures.” To obtain legal measures is to fully realize sustainable development. It is not enough to not include legal measures as one of the measures to take to regulation, and it is vital for legal measures to be explicitly included for the Convention’s consideration.

*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****, legal measures,*** *or other related measures to achieve sustainable development on their territory;*

As per Article 6, Paragraph 1, to add “vital” to the language used in the paragraph. Conventions must include the vitality of the importance of human rights, especially in respect to the right of development.

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

As per Article 10, Paragraph a, to add, “or interferes with the full enjoyment of the right to development and human rights” to stress the importance of the full enjoyment of human rights in respect to international law. It must be reaffirmed for Conventions to include the importance of the full enjoyment of human rights in international law, and to do so would strengthen the intent of this Convention.

*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* ***“or interferes with the full enjoyment of the right to development and human rights and in respect to international law”;***

As per Article 25, Paragraph 5, to add “to solely the protocols concerned” to ensure that the specific protocols in the Convention are the ones being addressed.

As per Article 13, Paragraph 2C, to ensure that the instruments do not interfere with the enjoyment of the right of development and human rights. Legal instruments, treaties, conventions, and international law must not prevent the enjoyment of the right of development. International legal instruments have a duty of care to not hinder progress for the right of development.

*(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* ***and do not interfere with the enjoyment of the right to development and human rights****;*

As per Article 15, add (g): None of the above shall exempt States Parties from the duty to fully realize the right to development for all.

As per Part IV, Article 26 3 (c-i), Hold quadrennial review sessions of compliance by States Parties, accompanied by shadow reports by civil society to seek ways of coming to grips with challenges encountered. Common challenges can become the topic of regular intervision sessions attended by States Parties together with members of civil society to find solutions to such challenges.

As per Article 16, Paragraph 2, Section B - to add “work and professional life.” Women’s full and effective participation must include the professional life, which is the cornerstone of economic development. Without the mention of the work and professional life, the Convention will lack full clarity on this important issue. Work and professional life is not the same as economic life (in example, discrimination of women in the workplace versus access to bank accounts)

*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,* ***work and professional life,*** *economic and public life, and within legal persons;*

As per Article 24, Paragraph C, “and best practices for States Parties to assess the status of realization of the right to development,” to include: and any new laws or human rights actions that develop from this day on from passing of the Convention. Making a statement regarding the passage of new international legislation is a treaty norm in conventions.

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 **and any new laws or human rights actions that develop from this day on from passing of the Convention.**;

As per Article 26, Paragraph 3, the implementation mechanism shall oversee any obstacle and work with the State Party to ensure implementation

*The implementation mechanism shall: (b) Review obstacles to the implementation of the Convention at the request of the Conference of States Parties* ***and shall oversee any obstacle and work with the State Party to ensure implementation****;*

As per Article 29, Paragraph 1, State parties shall declare the extent of their competence in respect to the convention and for the State Parties to be held within their respective competence

As per Article 29, Paragraph 2, State parties shall declare the extent of their competence in respect to the convention, and reasonably be accomplished within their competence.

As per Article 16 section d, to add: norms and standards

*“To mainstream gender perspectives in the formulation, adoption and implementation of all national laws, policies and practices and international legal instruments,* ***norms, standards,*** *policies and practices;”*

**Responses to the Commentaries**

In regards to the title of the Draft Convention from the comment in Introduction, #11, the name, “International Covenant on the Right to Development,” would be an appropriate name for this convention.

In regards to Article 2, #4, it is true that in international law and other existing conventions, that any persons endowed with any rights is considered a legal person and considered a legal person *with* a legal personality. In this Convention, the definition of “legal persons” must be extended to include all those who *should be and ought to be subjected to human rights freedoms*.[[1]](#footnote-1) Legal personality is bestowed on those who are subject to human rights, laws, and responsibilities.[[2]](#footnote-2) This, in turn, creates a fundamental moral and **legal obligation** to protect those who are legal persons in regards to human rights and the right to development.

As such, international organizations and other entities would fall under this definition of legal persons as stated in the commentary, however, international organizations and other entities have the ability to serve as large and individual actors, thus, have a legal obligation to act for the human persons and human kind.

In regards to the commentary regarding the Maastricht Principles, “conduct” should stay in Article 11 because it refers to all of the acts of territories rather than the issue of only including “harm,” which wouldn’t reference the entire acts of territories.

1. Official Records of the United Nations Conference on the Law of Treaties, First and second sessions, Documents of the Conference (A.CONF.39/11/Add.2) Final Act of the United Nations Conference on the Law of Treaties, Annex, p. 281. [↑](#footnote-ref-1)
2. Vienna Convention on the Law of Treaties, 23 May 1969, UNTS 1155: 331–52, article 31(3)(b). [↑](#footnote-ref-2)