**Comments and Textual Suggestions: Draft Convention on the Right to Development**

Submitted by Personhood Education, an NGO with ECOSOC Special Accreditation since 2014

**Comments:**

Person Education welcomes and appreciates this draft document on the Right to Development. We thank the Working Group for your extensive work in producing this text, and for your openness to Civil Society input as shown in this call for comments and suggestions.

Tragically, many persons throughout the world still lack the basic necessities of life. Solutions have been tried and have failed, and while we support the need for humanitarian aid, we agree that sustainable remedies rely on human potential in environments where persons have access to the means and the freedom to flourish. We wish to express our gratitude for your emphasis on rights protection in this regard, which must be respectful and protective of the most precious commodity of all, present and future generations who can innovate, create, and problem-solve.

**Textual Suggestions**:

We would be grateful if you would consider the following 9 items:

**1.** In general, the text would benefit from an introductory section or article that clearly defines ‘development’. Defending the right will be more efficient and less contentious if all parties can communicate clearly about what is being defended. Elements appear throughout the text that point at the concept, for example, PP4, “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…” But notice that the word “development” is used in the definition of development. Art. 5 talks about development linked to self-determination, and para 3 talks about wealth, natural resources, and subsistence, but these separated elements only hint at an understanding of what is meant by ‘development’. The sections on duties and obligations help somewhat by outlining obstacles to development, but a clear and consolidated definition, as a stand-alone para, is needed. An example might be something like this: “Development [, as understood in this Convention,] consists in progressively increasing economic prosperity and improving living conditions, such as, *inter alia*, low unemployment rates and safe working conditions; robust manufacturing, service and farming sectors; fair and ethical trading policies; food security; well-funded and functioning infrastructure including adequate healthcare, communication, technology, and transportation; good banking and finance practices; a stable currency; adequate housing; and increasing ability of individuals to save money and purchase property.”

Concerning specific textual elements:

**2.** Preamble para 5: Reaffirming the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development…

## Although this is established language in UN instruments, scholars still dispute whether the complicated and interesting concept conveyed therein is dogmatic. We suggest that the right to development (RTD) be considered on its own merits, and fear that its inclusion within such a global statement will, instead of promoting wider acceptance, create hesitance among potential signatories. Would you consider: “Respecting the mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development…”?

**3.** We appreciate the balanced, productive, and person-centered approach conveyed in preambular paras 21-24, and Art. 3 (a) and (d), recognizing the centrality of the human person and the human rights of individuals, giving appropriate importance to national and international entities. We also appreciate Art. 5 dealing with the RTD in relation to the right to self-determination.

**4.** We appreciate language protective of the aim and scope of the Convention, and believe that such text will encourage participation while reducing or eliminating concerns about future misinterpretations or expansive definitions of the RTD.

In this regard, we suggest more frequent insertion throughout the text, where appropriate, of the formulation in **Art. 8.1** , specifically when States Parties’ obligations are set out.

**Art. 8.1** States Parties undertake to respect, protect and fulfil the right to development for all, without discrimination of any kind…**in accordance with obligations set forth in the present Convention.**

For example, Art. 10, please consider: States Parties, [insert …**in accordance with obligations set forth in the present Convention,]** undertake to refrain from conduct…

Art. 11: States Parties, [insert …**in accordance with obligations set forth in the present Convention],**  shall adopt and enforce all necessary and appropriate measures…

Art. 13.1. States Parties, [insert …**in accordance with obligations set forth in the present Convention],** reaffirm and undertake to implement their duty to cooperate with each other, through joint and separate action.

Or to avoid repetition, please insert the text in bold as chapeau to Arts. 9-12 and others that deal with duties and obligations of States Parties.

**5.** Importance must be accorded to a careful understanding and definition of the RTD itself, as requested earlier. The text might be enhanced by bringing this forward in the context of Art. 13, Duty to cooperate, para 2 sects. (a) and (b).

For example: Art 13.2.a: To ensure that human and legal persons, groups and States do not impair the enjoyment of the right to development [insert, e.g., ‘as the right is understood, or set out, in the present Convention’]

**6.** The language in Para 4 of Art 13 is concerning: States Parties recognize their duty to cooperate **to create a social and international order** conducive to the realization of the RTD… Please consider: **‘recognize their duty to promote a social and international environment conducive to**…’

**7.** We appreciate Art. 14 against coercive measures.

**8.** The establishment of the Conference of States Parties is welcomed, because States, working together with Civil Society and experts, are best able to understand and convey their own needs and best practices. We hope to see good outcomes from this entity, including transparency, effectiveness, and fidelity to authentic interpretations of negotiated and universally accepted Convention and Treaty language as related to the RTD. As Civil Society members, we appreciate that NGOs may participate as observers at the Conferences of States Parties.

**9. In Art. 26 Establishment of an implementation mechanism,**

**para. 3 section (a), Adopt general comments or recommendations to assist in the interpretation or implementation of the provisions of the Convention**

**We strongly request and urge that “interpretation” be deleted. The text is for the most part strong and clear (more so if a stand-alone definition of development is included). We realize that a process of interpretation may be needed to clarify how the Convention applies to specific situations, but to mandate “interpretation” proactively risks contention and controversy in future. Art. 26 is entitled implementation. Please stay within the scope of this article and allow States Parties and experts to deliberate as time goes on, in an organic and culturally sensitive manner, in order to ensure that this Convention facilitates a natural evolution of understanding based on States’ and individual rights holders’ experiences, abilities and competencies.**

Thank you for your good work on this important document. The topic is of utmost concern, and deserves our close attention and strong commitment. We hope for continuing and productive interactions as the process moves forward.

Cordially,

Mary Langlois

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