**OHCHR Call for comments and textual suggestions: Draft Convention on the Right to Development**

**2nd Joint Contribution on the Draft Convention on the right to development**

Submitted by: **Associazione Comunità Papa Giovanni XXIII (APG23) on behalf of the Catholic Inspired NGOs of the Working Group on the Right to Development of the Geneva Forum (CINGO)**[[1]](#footnote-1).

The CINGO Geneva Forum Working Group on the Right to Development actively participated in the 22nd session of the Open-ended Intergovernmental Working Group with APG23 as its spoke-person, during which the text of the draft convention on the right to development started to be discussed.

The CINGO Geneva Forum sent a first contribution on the draft convention that has been published in the webpage of the OEIWG. The following comments are the CINGOs complimentary contribution to the second OHCHR call that followed the 22nd session of the OEIWG on the right to development.

**On the Preamble:**

It should beginas follows:

“**Guided by the principles and purposes of the United Nations”.**

*Rationale: A Convention usually starts with this sentence. It is fundamental to recall at the beginning of a convention the purposes and principles of the United Nations that is the international and legitimate institution in which States and all peoples recognised to constitute one human family. Anyhow, we fully support the idea of the drafters of underlining in first paragraphs the importance of right to development as a common concern of human kind.*

In the second preambular paragraph, among the listed obstacles to the realization of the right to development, other obstacles should be, at least, mentioned such as unfair international trading system and unregulated finance, asymmetries in global governance and decision-making, unequal access to information and technology, external debt of developing countries and Least Developed Countries and unilateral coercive measures;

In **paragraph 11** (*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…) to* **replace** Considering **with Reaffirming.**

To add the following paragraph:

*”* ***Recalling* the right of peoples to self-determination, by virtue of which they have the right to freely determine their political status and to pursue their economic, social and cultural development and to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources**”;

*Rationale:* *the right to self-determination is not mentioned in the preamble but the declaration on the right to development affirms it very clearly both in the preamble, in article 2 and in article 5.*

To add the following paragraph:

“**Recognising that the full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination against women are priority objectives of the international community**”;

*Rationale: the role of women in development should be mentioned also in the preamble since it is a very important component of the declaration on the right to development affirmed in article 8.*

To add the following paragraph:

“***Mindful that*, while globalization has opened new opportunities for economic growth and development of the world economy particularly in developing countries, it has also been accompanied by the widening gap between developed and developing countries, widespread poverty and inequality, unemployment, social disintegration and environmental risks; and that the challenge is how to manage these processes and threats so as to enhance their benefits and mitigate their negative effects upon people.**

*Rationale: We think that is relevant to have in the preamble a paragraph related to globalization. The implementation of the Right to Development can bring a new human face to the phenomenon of globalization by creating opportunities for all and by limiting its negative effects. In fact, the current globalisation, is wrong. A significant number of the driving forces behind the new-liberal globalisation are, indeed, unfair: prioritising profit at any cost and with every means over the dignity and human rights of individuals; unregulated markets; financial speculations; asymmetric global markets; excessive consumption of goods; an economic model that, in spite of all the evidence of its failure - unveiled by the economic crises and now by the climate change and the COVID-19 pandemic - is still centred upon the chase of unlimited growth.*

To add a referral to what is affirmed in the preamble and article 7 of the Declaration with the following language:

**Considering that international peace and security are essential elements for the realization of the right to development and reaffirming that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries,**

We also propose other two paragraphs to be added to the preambular part as follows:

 **“*Taking into account* the the UN Guiding Principles on Business and Human Rights and all the work undertaken at the United Nations, including the UN Global Compact, on the question of the responsibilities of transnational corporations and other business enterprises with respect to human rights**”.

 **“*Emphasizing* that civil society actors, including human rights defenders, have an important and legitimate role in promoting the respect of human rights and the realization of the right to development.**

**On the operational part:**

**Article 1** 🡪 to **replace** “human person” **with** human being” and to add “without discrimination”

“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 being** and all peoples everywhere **without discrimination**, and to guarantee its effective operationalization and full implementation at the national and international levels.

*Rationale:* *The use of “human person” instead of “human being” can be problematic in the context of the debate about when does personhood begin. The UDHR uses the term “human being”. The DRTD uses the term human person three times and the expression human beings six times as per the UDHR. Therefore, we suggest to use the term “human beings” in accordance with the Universal Declaration of Human Rights.*

**Article 8** 🡪 **re-formulate** the sentence by using the words of the UDHR “**without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status**”.

*Rationale: The word gender has entered some UN documents but is not present in any international treaties and is strongly contested in international fora. It is still a very controversial issue.*

**Article 16** 🡪to **replace** “Gender equality” with “Equality between women and men” and end the sentence as follows **“**to ensure their full and equal enjoyment of the right to development **and their empowerment”**.

Moreover, to add in the sentence: (a) To eliminate all forms of violence and harmful practices against all women and girls in the public and private spheres, **including trafficking and sexual and other types of exploitation.**

To add in the sentence (b)To ensure women’s **active, free** **and meaningful** 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;

On paragraph d), we suggest to delete it since it is not clear what it means.

**Article 17** 🡪to **add “**political” in the sentence: 1. Indigenous and tribal peoples have the right to freely pursue their economic, social, **political** and cultural development. They have the right to determine and develop priorities and strategies for exercising their right to development.

**Article 22** 🡪 (b) Their decisions and actions do not compromise the ability **of present and future** generations to realize their right to development;

*Rationale: What is sustainable development? Sustainability should be defined for a development that should respect and preserve the environment and meet the needs of present and future generations. A clear definition of sustainable development is not provided in the draft; however, our suggestion draws from the UNDP definition that defines sustainable development as a* ***development that meets the needs of the present without compromising the ability of future generations to meet their own needs****.*

**Article 26** – Establishment of an implementation mechanism

*We propose to establish a more effective implementation mechanism in the convention and not to postpone its creation to the first Conference of States Parties. Such a mechanism could be modelled on the committees currently found in the major United Nations human rights treaties such the CRC, CEDAW, CRPD etc.*

**1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established an implementation mechanism on the right to development (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of twelve and, after ratification of or accession to the Convention by the thirty-fifth State Party, of eighteen experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities**.

**2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.**

**3. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.**

**4. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once.**

**5. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.**

**5. The Committee shall establish its own rules of procedure.**

**6.The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.**

**7. With the approval of the General Assembly of the United Nations, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee’s responsibilities.**

**8. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.**

**9. The Committee shall:**

**(a) Examine the quadrennials reports submitted by Member States that have ratified the convention, on the measures taken to give effect to their obligations under the present Convention and on the progress made in that regard.**

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

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

**(d) 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:**

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

*Geneva, 13 January 2022*

1. The Catholic Inspired NGOs of the Working Group on the Right to Development of the Geneva Forum (CINGO) is composed of: Associazione Comunita Papa Giovanni XXIII (APG23), Association Points Coeur, AVSI, Caritas Internationalis (International Confederation of Catholic Charities), Company of the Daughters of St. Vincent de Paul, Dominicans for Justice and Peace (Order of Preachers), Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco (IIMA), International Volunteerism Organization for Women Education and Development (VIDES), International Organization for the Right to Education and Freedom of Education, Mouvement International d’Apostolat des Milieux Sociaux Indépendants (MIAMSI), New Humanity and Teresian Association. [↑](#footnote-ref-1)