**Comments of the CRPD on the draft United Nations Convention on the Right to Development**

**General observations**:

* Although the Convention on the Rights of Persons with Disabilities is referenced many times in the commentaries of the draft Convention on the Right to Development, very few references to disability is made in the actual draft. In fact, it is only mentioned in article 8 as a prohibited ground of discrimination, and in article 15 which provides for “special or remedial measures” to accelerate or achieve de facto equality of vulnerable and marginalized groups, such as persons with disabilities, in their enjoyment of the right to development.
* The Committee also considers that the classification of disability with other grounds of discrimination such as those mentioned in article 15 of the draft Convention(age, marginalization, vulnerability, indigeneity or minority status)fails to recognize the cross cutting dimension of disability. In other words, there will be persons with disabilities in all the groups mentioned in this article and they may face intersecting and multiple forms of discrimination. For this reason, the Committee would suggest that disability be treated as a stand-alone issue in a separate article as is the case with gender equality (article 16) and indigenous and tribal peoples (article 17). This article should be in line with the provisions of the Convention, in particular article 4.3, and should ensure: a) the full and effective participation of persons with disabilities in decision-making processes as well as in the formulation, implementation, monitoring and evaluation of policies and programmes in political, economic and public life, especially with regard to measures affecting them; B) the right of persons with disabilities to live a dignified life and not to be subjected to structural, attitudinal, environmental or institutional.
* The Committee suggests to include, in draft article 5 on the right to self-determination, a clear statement that this right is not based on States attempting to dismantle themselves from their territory.

**Specific observations**:

**Preamble**:

*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,

• Suggestion to include “health emergencies or health crises” among serious obstacles to the realization of 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,

* Suggestion to include the “American Convention on Human Rights” and the “Additional Protocol to the American Convention on Economic, Social and Cultural Rights” as they both refer to human rights in the context of development.

**Article 2:**

* Suggestion to include a definition of “development” and “sustainable development” based, among others, on UNDP and the World Bank’s definitions. It may be important to define these concepts before getting to “the right to development” in art. 4 of the draft.

**Article 3 b):**

* Suggestion to include “inclusion and accessibility” among universal principles common to all human rights.

**Article 8:**

* Suggestion to include sexual orientation and gender identity among the grounds of discrimination.

**Article 13.1:**

* Suggestion to specify the grounds of discrimination, including disability.

**Article 15:**

* Although there is an attempt in the commentaries to justify the use of the term “special measures”, the Committee usually avoids this terminology in reference to persons with disabilities as it presents them in a more or less negative light as people who are separate from the rest of the society. The Committee suggests to use the term “specific measures” which is enshrined in the Convention on the Rights of Persons with Disabilities. The Committee also suggests to replace “remedial measures” by “corrective measures”. Hence, the title of this article would read: “Specific or corrective measures”.
* Suggestion to include other grounds of discrimination to be consistent with draft article 8, such as sex, ethnic and social origin, migratory status, sexual orientation and gender identity, etc.

**Article 16.2a):**

* Suggestion to say “To eliminate all forms of violence and harmful practices against all women, *including girls, women with disabilities, older women, indigenous women…*, in the public and private spheres;”

**Article 20.2:**

* Suggestion to say “The information collected in accordance with the present article shall be disaggregated *by sex, age, ethnicity, disability, migratory status, geographical location and other characteristics relevant in national contexts*, 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.”

**Article 26.2:**

* In the spirit of disability inclusion and the SDGs clarion call “leave no one behind”, the Committee suggests to say “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, balanced gender representation *and the participation of experts with disabilities*”.