

Submission in follow-up to HRC resolution 15/25 “The Right to development”

Canada

Canada appreciates the effort and approach taken by the High Level Task Force on the Right to Development to produce a set of criteria, sub criteria and indicators that the Working Group can further refine and develop into a useful set of tools to help promote implementation of the right to development. We believe that the technical tools developed or endorsed by the Working Group should be well thought-out and practically-oriented. They should also clearly reflect the notion, as stated in the Declaration on the Right to Development, that “the human person is the central subject of development and should be the active participant and beneficiary of the right to development.” We believe that the activities and outputs of the Working Group should engage and empower individuals, communities and civil society to participate meaningfully as agents in all phases of the development process.

Canada also fully agrees that sub criteria should include benchmarks and indicators in order to promote the implementation of the right to development in measurable, practical ways, particularly at the national level. We welcome the High Level Task Force’s efforts to enhance global partnerships in this respect, including South-South and regional partnerships, as well as with the private sector. Canada also supports the three defined components of the right to development criteria, namely: comprehensive human-centred development; creating enabling environments and social justice and equity.

Canada stresses the importance of underscoring that the primary responsibility of States to ensure the fulfilment of the right to development is within their jurisdictions. In this regard, and in the context of creating enabling environments for the realization of this right, we believe that the focus on the national dimension must remain central, taking into account international dimensions as appropriate. To help us move forward, we see merit in the recommendation of the High Level Task Force to consider using the United Nations Development Agenda to help guide future activities of the Working Group, as this reflects a balanced, practical and well-considered framework for development-related discussions.

Canada does not support the desire of some to see a legally binding instrument on the right to development, but rather favours more action-oriented and practical approaches. We look forward to constructive engagement in the Working Group in considering and refining the attributes, criteria, sub criteria and indicators developed by the High Level Task Force. This exercise should lead to the development of viable tools that states can use to create favourable conditions for individuals to realize their full development potential. We believe that the Working Group should focus on best practices, practical measures, implementation, and strengthening existing initiatives, particularly at the national and sub-national levels, rather than focussing on the impact of the international system on the right to development.

In our view, it is also important that the tools used to measure the content of the right to development are effective, encompass all relevant aspects of the right and are workable in national contexts. Canada believes that the Criteria, Sub-Criteria and indicators offer an interesting and useful basis for continued discussions. However, additional refinement and consideration will be necessary to shape them into a useful tool with which we can all be satisfied. Canada would, therefore, support renewing the mandate of the High Level Task Force so that it can provide its expertise in refining the various indicators put forward and informing our continued efforts in the Working Group.

Criteria, Sub Criteria and Indicators

General:

- The Criteria, sub-criteria and indicators must maintain a strong focus on the individual under all attributes.
- Indicator data sets should be disaggregated by relevant factors such as age, sex, disability, ethnicity, socio-economic status and geographic location (urban vs. rural) especially for individual-based criteria.
- Disability, and gender equality should be mainstreamed throughout the criteria, sub-criteria and indicators. This will assist states to integrate, as appropriate, the concerns and experiences of women and men, girls and boys of all ability levels when conducting analysis, and developing and implementing policies at the national level.
- Where indicators only call for the existence of policy frameworks on various topics, it is important that these indicators also measure implementation of the policies as well (e.g. indicator for sub criteria 1(g) (i)).
- Where indicators call for improvement of standards, e.g. 1(a)(iii) “improved drinking water and sanitation” and 1(g)(ii) “improvement in agricultural technology”, efforts should be made to establish baselines and to allow for effective measuring these improvements.

Attribute 1: Comprehensive and Human-Centred Development Policy:

- It is important to ensure balance in the criteria/sub criteria between national and international aspects of the right to development. For example:
 - relevant sub criteria 1(c) (i) – 1(d) (ii) should highlight implementation of the right to development priorities reflected in the policies and plans identified.
 - criteria 1 (f) & (g) should also reflect access of individuals to the various technologies listed, i.e. agricultural, manufacturing, green, health, and information. The indicators listed highlight that the unit of measurement is the state rather than how the state makes these technologies available to the individual.

- An indicator on “sexual violence” should be added relating to sub-criteria 1(i) (ii), the importance of which is highlighted by the recent work of the Security Council on this matter and the recent appointment of the SRSG for sexual violence (UNSC Resolutions 1325, 1820, 1888 and 1889 are authorities for inclusion here). Gender-based violence rates should also be added as an indicator under sub criteria 1 (i) (v).
- An additional indicator should be developed in relation to sub criteria 1(e) (ii).

Attribute 2: Participatory human rights processes

- Indicators relating to sub criteria 2 (c) (ii) should allow for more flexibility so as to ensure that they can be workable in national contexts. In particular, the indicators should be revised to take into account means other than the “existence of a legal or administrative standard requiring free, informed prior consent” to facilitate the participation of indigenous communities in relation to matters of concern to them. Free prior and informed consent is not the only, nor is it necessarily the most effective way to ensure that indigenous people can shape their futures. Canada strongly encourages consultation with indigenous peoples and the participation of indigenous peoples in relevant decisions. In Canada's experience the meaningful involvement of indigenous peoples in development projects and the establishment of appropriate consultative processes that support the fair and equitable balancing of interests have been far more important than focusing on consent per se.
- Criteria 2(b) reads "relevant international human rights instruments in elaborating development strategies" and lists one of the indicators as "responsibility for extraterritorial infringement of human rights including by business enterprises." If the intention is to focus on corporate social responsibility (corporate self-regulation), then Canada can support this inclusion. However, the criteria should not hold business enterprises directly responsible for human rights infringements under international law, nor exercise extraterritorial jurisdiction on the activities of business enterprises doing business abroad.
- CEDAW should be added to the list of core human rights conventions listed in the indicator set for sub criteria 2 (a) (i).

Attribute 3: Social Justice in Development

- The indicators for criteria 3(b) (i) are state focused. We believe that more balance could be brought to bear to measure how environmental burdens are shared between men and women, rural vs. urban dwellers, etc.
 - Access for humanitarian aid and workers should also be measured though indicators listed for sub criteria 3 (b) (iii)
 - Ratification of the protocol to prevent, suppress and punish trafficking in persons should not be the sole indicator relating to sub-criteria 3(c) (ii). There are other available indicators that can be added to measure the elimination of sexual exploitation and human trafficking. UNIFEM and OSAGI are potential sources.
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