**Draft Convention on the right to development presented by the President-Rapporteur of the Working Group on the Right to Development**

Introduction

1-In response to the invitation issued last June by OHCHR, the PDDH considers its involvement in these initiatives necessary and important, especially considering the conditions that today characterize the country and the Central American region.

2-Social conflicts, drastic reductions to the democratic rule of law, human rights violations, lack of transparency, lack of accountability and concealment of public information, currently represent the state of affairs in El Salvador.

3-To the historical shortcomings in the field of Human Rights, the institutional crisis aggravated by the COVID 19 pandemic is now added, since many of the measures to contain the virus have been translated into systematic actions against the constitution and the democracy. With the extended closures, at least 120,000 formal jobs and job closures were lost, the economy declined to -8.2% and indebtedness rose to around 98% of GDP. The country has brought slow economic growth since the late 1990s, representing a low level of between 2 and 2.5 of annual GDP, largely sustained by remittances from Salvadorans abroad, who came out better. Life opportunities send money to their relatives every month (about 6, billion dollars annually) that 94% is used for consumption, converting the paradox of “poor subsidizing poor”.

4-The socio-economic consequences resulting from government improvisations will fall largely on the already most vulnerable sectors of the population and it is estimated that poverty will reach close to one million people who have exceeded the relative poors levels.

5-Democracy and its institutions have not escaped the outbursts of the central government; On February 9, 2020, the President, accompanied by a heavily armed military brigade and in collaboration with the National Civil Police, seized the facilities of the National Congress to demand the approval of an international loan to combat citizen insecurity stalked by gangs.

6-On May 1, 2021, the new Congress mostly related to the president's mandate, dismissed the Constitutional Chamber that had presented a defense paper to the constitution and ruled against the excesses of the executive and in against the reservation of public information. Likewise, the Attorney General who was hearing about complaints of cases of corruption in purchases and transfer of funds that had been previously presented by the International Commission Against Impunity (CICIES) was dismissed.

7-The development and progress of the peoples largely demands the existence of democratic institutions that respect human rights and the laws, the representatives of the people are obliged to be responsible, transparent, efficient and must at all times carry out their negotiations with transparency accounting periodically. Contrary to this, impunity, corruption, influence peddling, concealment of public information and authoritarianism prevail here, which consequently have repercussions on the levels of poverty, employment, health, education, poverty and forced migration as an antithesis to human development and dignified life.

8-The 1992 Peace Accords, presented an alternative to stop the armed confrontation and bring the human rights of the population to the category of respectable, we must regret that the entire democratic institutionality that was formed by reason of the Accords is being today in day undermined, we also regret that the importance of the Economic Social Forum section, contained therein, was never considered.

From the Draft Convention

9-The Report on the Human Development Index seeks to provide a measure of progress in the different countries in this matter, which implies knowing the guarantees and freedoms of people to live the life they want. For this, the life expectancy at birth, the educational level and the average income of the population are considered; Likewise, over time, new variables such as poverty, inequality and gender gaps have been incorporated. In this sense, the Human Development Index (HDI) of El Salvador for 2019 placed the country in the category of medium human development. (114)

10-A recent study by the Francisco Gavidia University indicates that 32.2% of the Salvadoran population (2.8 million people) would have lived in poverty in 2020 and would have increased to 33.3% in 2021 (2.8 million people), an increase of 430 thousand people compared to 2019. Of these people, around 476 thousand (7.0%) would be living in extreme poverty at serious risk of malnutrition, that is, an additional 96,774 people.

11-Now, the gap between extreme wealth and extreme poverty, as well as the vulnerability that characterizes the country, and the region in which it is located, deepened even more as a result of the COVID-19 pandemic, some of which are the factors that influence the permanence of inequalities and low growth, concentration of power, violence in all its forms and social protection policies that do not work well.

12-El Salvador presents a decisive territorial narrowness (21,040 km2 and an approximate of 320 inhabitants per km2, 47% of the territory is exposed to droughts and 9.36 is exposed to severe floods such as those caused by storms Amanda and Cristóbal in the framework of the pandemic in late 2020.

13-The United Nations Special Rapporteur on the right to development, Saad Alfaragi, mentions that this right “is not simply a matter of economic growth. It is about giving people the ability to live their lives to the fullest potential (…). The measure of success (…) must [be] based on respect for all human rights. (…). [T] he success of the development framework (…) [s] nly [occurs] when people have access to education, when they are allowed to work in a profession of their choice and in decent and dignified working conditions, when they have access to financial services, health care and housing, and when they can participate fully and equitably in the formulation of policies that govern their lives, they are able to achieve true and sustainable development. In other words, only when their right to development can be realized ”.

14-Bearing the foregoing in mind, the content of the draft convention on the right to development has been reviewed, agreeing and supporting the object and purpose of the document in question, with the definitions and general principles (articles 1 to 3 - Part I). It is suggested that in article 3 (General principles), in literal “b” the principles of transparency and responsibility and accountability be added. Also, add the following literals:

j) Elimination of barriers that promote inequality in social, economic, legal and political relations, in order to achieve justice, formal and material democracy, legal security and the common good.

k) Establish a model of participatory development management of relationships between people, based on principles of democracy, equality, equity and publicity; as well as in the recognition of personal and group capacities and potentialities.

15- Regarding articles 4 to 7 (Part II), specifically in article 5 (Relationship with the right to self-determination), in number 5, take into account discrimination based on sex, language, religion, political opinion or other nature, national or social origin, economic situation, birth, vulnerable groups or other condition.

16-In article 6 (Relationship with other human rights), it is considered important to include the rights of migrants and their families, taking into consideration the particular situation of El Salvador, which is not only a country that expels its nationals , but it is also a transit and, on some occasions, also a reception. The recognition of this population group as rights holders could change the way of developing policies, so that the starting point is not the existence of people with needs that must be assisted, but subjects with the right to demand certain benefits and behaviors. Similarly, the first paragraph of this article should include that human rights are inalienable and interrelated.

17-We are of the opinion that on the basis of the different forms of societies, there are multiple differences between developed and so-called developing countries; In this sense, the convention should focus its measures, especially in favor of the latter and its own political, social and economic conditions where opacity and corruption prevail.

18-In relation to Article 8, the incorporation of an inclusive language is recommended by modifying the phrase “the right to development of all” by “the right to development of all people”. In addition, include sexual orientation and gender identity as expressly protected categories of non-discrimination and establish the obligation to guarantee equal and effective legal protection to all persons against discrimination for any reason.

19-In the second paragraph of this article, the obligation of the States to ensure that non-state agents, including companies and investors linked to development projects, also act in accordance with the Convention, international human rights standards, should be established. and the interests and needs of the populations, focusing efforts towards achieving the SDGs.

20-It is also important to incorporate in this article the obligation of the States to promote, maintain and preserve the conditions necessary for the right to development to be an integral process, such as democratic and pluralistic governance, the guarantees to develop a democratic institutionality and fair and transparent rule of law through adequate accountability.

21-In article 9, it is proposed to broaden the obligation of international organizations in the sense of adding their responsibility to incorporate the principles of human rights enshrined in the right to development and placing rights holders at the center of adoption. of their decisions. Likewise, a commitment should be established to promote, protect and fulfill the right to development.

22-The process of formulating the Convention should be seen as an opportunity to incorporate provisions related to the “Guiding Principles on Business and Human Rights” of the United Nations. Specifically, this article should incorporate the obligation of States to protect against violations of the human right to development committed in their territory and / or jurisdiction by third parties, including companies. To this end, they must adopt the appropriate measures to prevent, investigate, punish, and repair such abuses through appropriate policies, regulatory activities, and submission to justice (Founding Principle).

23-Include in paragraph 1 of article 12 the commitment of the States to progressively promote the right to development, taking into consideration the protection of the environment of current and future generations. This article should also include the obligation to give priority to the situation and needs of the least favored countries and people.

24-Reference should be made to pluralistic and transparent governance together with the active, meaningful and informed participation of the population as essential elements for the effectiveness of the right to development. As has been recognized by the Special Rapporteur on the Right to Development, the exercise of this right “must involve the empowerment of people, both individually and collectively, to decide their own development priorities and the methods they prefer to achieve them. "And in this sense, the duty of each State to establish its own national priorities in terms of the right to development (final paragraph of the article) necessarily implies placing the right holders at the center of the adoption of decisions that affect their own economic, social, cultural and political development.

25-In the same paragraph 2, reference should be made to the obligation to adapt the domestic law to the postulates contained in the Convention on the Right to Development, which implies the obligation to suppress all those norms, policies and practices of any nature that involve a violation of the guarantees of effectiveness of human rights, or, failing that, that ignore their recognition or hinder their exercise, as well as guarantee the issuance of laws and development of policies and practices conducive to the effective observance of said guarantees. The obligation to promote development using the maximum of available resources should also be included.

26-Include the obligation of the States to incorporate the populations in the evaluation processes through specific guarantees to exercise the rights to participation and access to information. It must also be established that such evaluations must take into account the repercussions on the well-being of people and the environment. These evaluations must incorporate the obligation of the States to report the results of the evaluations in a transparent manner and through accessible means.

27-It is recommended the inclusion of obligations related to defining and maintaining reliable and updated public information systems with censuses and periodic studies that determine a scan more in line with the characteristics and realities of the population and not only that of “collecting data and statistics” In any case, they must allocate sufficient resources to produce, exchange and disseminate the information, in addition to the specific guarantees to gain access to it.

28-The wording of this article 21 could be modified to establish the obligation of States to incorporate the principles related to the right to development and human rights in general in all national and international activities related to disarmament and reconstruction after the armed conflicts peace and democracy.

29- It will include in it expressly establish communication and collaboration with the holders of special procedures mandates and other experts in human rights issues. Likewise, incorporate the National Human Rights Institutions at the national level.

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