The Tenth Session of the Expert Mechanism on the Right to Development

Concluding remarks by the Chair

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In concluding its tenth session, the Expert Mechanism appreciates the engagement and active participation of Member States, UN entities, UN independent experts, academia and civil society. The meaningful discussions held will help formulate the conclusions and recommendations of its annual report.

The annual report is presented each year at the Human Rights Council in its September session, and at the Third Committee of the General Assembly in mid-October. The next annual report will give account of this tenth session together with the eleventh session that will take place in New York in April 2025.

The Expert Mechanism welcomes States' engagement with, and overall recognition of the right to development and appreciates the support expressed to the work of the Mechanism in enhancing understanding of this right alongside other human rights. It also acknowledges the concerns of some countries about the perceived proliferation of debates on the right to development and values the continuous engagement of these same countries regardless. The Expert Mechanism notes some States' identification of unilateral coercive measures that negatively affect the right to development, impacting ordinary people on a large scale.

Over the last three days, participant Member States demonstrated readiness and open-mindedness to candidly exchange different perspectives and identify mutual grounds and common understandings. The Expert Mechanism notes the different views around the current draft Covenant on the Right to Development and looks forward to its conclusions at the General Assembly.

In this session, the Expert Mechanism held a coordination meeting with other UN mechanisms on the right to development. It welcomes the engagement of both the Chair-rapporteur of the Intergovernmental Working Group and the Special Rapporteur despite financial constraints that did not allow for their participation in person. The Mechanism appreciates updates about the current work of the Intergovernmental Working Group that has refocused on its original mandate to monitor and review progress made in the promotion and implementation of the right to development. It also concurs with the Special Rapporteur that synergies can be built in relation to different courses of actions such as complementarity of thematic studies, including on issues such as climate change, and coordinated engagement on current discussions around financing for development.

During exchanges about its recently finalised thematic study, the Expert Mechanism reiterated that the right to development is both an individual entitlement of every human being and a collective right of all peoples that places the individual at the centre of developmental processes. Individual well-being is deeply connected to collective welfare. The Mechanism welcomes participants' overall appreciation of the study for the clarity it shed in addressing complex and often polarized aspects of the right to development. The Mechanism also notes the call for further exploration of the derivative rights of States in international law, emphasizing the need to clarify how States

can uphold and operationalize these interconnected dimensions in practical terms.

The Expert Mechanism further discussed the ongoing study on international cooperation which has benefitted from responses to questionnaires, direct consultations and in-person meetings with a wide range of stakeholders, including Member States and development cooperation agencies. The study highlights that development cooperation is a binding legal obligation on States under international law, which must be discharged by them individually and jointly. Some of the challenges to the effectiveness of different forms of cooperation, include country ownership, inadequacy of financing, additionality and conditionality, the need for impact assessments, transparency, inclusive partnerships, and accountability with a focus on results.

During the thematic discussion on "Business and the right to development", participants called for a fundamental shift away from models focused solely on maximizing short-term profit, urging businesses to embrace sustainability, adopt climate-responsive strategies, and to go beyond the "do no harm" principle by actively embedding human rights considerations within their operations. The Expert Mechanism considers that the ongoing process for concluding the legally binging instrument on business and human rights can play a crucial role in addressing transnational corporate impacts that surpass the regulatory capacities of individual nations. However, such an instrument should be designed for practicality and effective implementation. The legally binding instrument can reinforce the alignment of business practices with sustainable development and the right to development, fostering a global business environment that respects and protects all human rights at its core.

The Expert Mechanism considers the relationship between business and human rights essential and mutually reinforcing. Businesses play a pivotal role in realizing the full spectrum of development rights—economic, social, cultural, and political—by delivering goods, services, and innovation that drive societal progress. However, business activities can also risk undermining these rights, emphasizing the need for collective efforts to harness the positive impacts of businesses while minimizing potential harms.

Regarding the thematic discussion on "Engaging the unengaged: building inclusive development through a meaningful civil society participation" the Expert Mechanism notes the value of the collective knowledge and experience of local communities and the diversity of voices as agents of change in development processes, including indigenous peoples, women, persons with disabilities, youth, and other populations in vulnerable situations. To ensure inclusive and authentic processes, it is crucial to work with them, not for them, without bias or mistrust in their ability to contribute and ensuring their active involvement. We should further acknowledge the obstacles and barriers that prevent or hinder diverse and direct participation, such as access to information, resources, languages, time, as well as the proper management of environments with multiple right-holders to avoid the imbalance that can arise in favour of those with weaker power.

The Mechanism emphasises the importance of decentralized processes, with an intersectional and gender approach, to ensure proper consultations and the free, prior and informed consent of indigenous peoples, as well as the need for economic support with capacity-building cooperation. Meaningful participation is essential to ensure diversity of representation and full participation and to ensure effective influence in decision-making.

During the discussion on “Artificial intelligence, cultural rights and regulation”, it was widely accepted that AI can be a force for good in the fulfilment of cultural rights and the right to development. It also carries serious risks, which unless mitigated, hast the potential to take away human agency to create. Generative AI has already got very far without proper oversight and binding enforceable regulation across the globe is necessary to prevent breaches of cultural rights and the right to development.

In the Mechanism’s view, this is particularly important for developing countries and for communities in vulnerable and marginalised situations where the digital gap amplifies the risk to cultural diversity being replaced with monocultures and languages disappearing. The Expert Mechanism stresses that the lack of concerted enforceable action also risks appropriation taking place without consent and proper remuneration. This is true not only for creators but also the wealth of traditions of indigenous peoples that have been exploited for profit without compensation.

During discussions in the panel on “Trade, biodiversity and the right to development: an equation to be constructed,” the Expert Mechanism acknowledged that conservation of biodiversity is a concern of all around the word. It is also considered as important and intrinsically linked to climate change and the right and livelihood of indigenous peoples.

However, in the context of developing countries, the measures and standards sometimes imposed by developed countries are considered by Governments as an obstacle to their sovereignty and have a cost which, paradoxically, can affect the people living from this biodiversity. The Mechanism echoes panellists and participants in the discussion regarding the importance of breaking the silos between institutions and actors in charge of trade and environment and

biodiversity, in order to transform progressively the model of international trade and apply it through the principles of the right to development.

Following rich exchanges held at the panel on “Bilateral, regional and multilateral trade: friends or enemies of the right to development”, the Expert Mechanism emphasizes that international trade, whether it be multilateral or regional, is not an end in itself. Additionally, the belief that current models of trade have an automatic positive impact can no longer be taken for granted when dealing with challenges like climate change, data economy, geopolitical context, poverty, tremendous inequalities between the volume of trade on one hand and the winners and the losers of liberalization on the other hand. International trade is one of the tools among a range of others leveraging to achieve right to development.

Beyond the normative dimension, building a new trade model in accordance with the right to development will require reforming not only of the International Financial Institutions as declared in the Pact for the Future, but addressing resilience, well-being and health, intellectual property, services versus goods traded, just transition and biodiversity.

The Expert Mechanism further explored the “Future of international development cooperation”. It notes the bleak picture painted by recent reports on the subject, the many off-track or regressing SDGs targets and the wider financing gaps. The current “sustainable development crisis” importantly results from a severe lack of financing worldwide and, while there has been some progress in untying aid, alignment of development partners with country priorities has declined. The Mechanism stresses that development priorities should always be determined by the rights holders, that is individuals and

peoples, based on active, free and meaningful participation. Development cooperation should be based on these development priorities.

International development cooperation must take a holistic approach, prioritizing the reduction of inequality and addressing the growing concentration of wealth among a limited few. It should be inclusive, participatory, and founded on mutual accountability among all partners, not merely placing accountability obligations on recipient countries. The impact of debt, taxation policies, and illicit financial flows presents significant challenges, underscoring the need for cooperation that centralizes human well-being and the entire life cycle in the development process.

Moving beyond the outdated donor-recipient model is essential; development cooperation should embrace shared responsibility and accountability to promote effective outcomes. Structural inequities and power imbalances must be acknowledged and addressed, with a focus on empowering countries to shape their own development agendas. A strong foundation of country ownership enables nations to prioritize their own development agendas, ensuring that initiatives align with their unique needs and circumstances.

Excellencies,
The Expert Mechanism will hold its eleventh session in New York from 2 to 5 April 2025.

Thank you.

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