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Chair: Mr. Gunnarsson (Iceland)
later: Ms. Kaszás (Vice-Chair) (Hungary)
later: Mr. Gunnarsson (Chair) (Iceland)

Contents

Agenda item 72: Promotion and protection of human rights (*continued*)

- (b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)
- (c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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The meeting was called to order at 3.05 p.m.

Agenda item 72: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(A/72/127, A/72/128, A/72/131, A/72/132, A/72/133, A/72/135, A/72/137, A/72/139, A/72/140, A/72/153, A/72/155, A/72/162, A/72/163, A/72/164, A/72/165, A/72/170, A/72/171, A/72/172, A/72/173, A/72/187, A/72/188, A/72/201, A/72/202, A/72/219, A/72/230, A/72/256, A/72/260, A/72/277, A/72/280, A/72/284, A/72/289, A/72/290, A/72/316, A/72/335, A/72/350, A/72/351, A/72/365, A/72/370, A/72/381, A/72/495, A/72/496, A/72/502, A/72/518 and A/72/523)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(A/72/279, A/72/281, A/72/322, A/72/382, A/72/394, A/72/493 and A/72/498; A/C.3/72/2-S/2017/798, A/C.3/72/3-S/2017/799; A/C.3/72/4-S/2017/800, A/C.3/72/5-S/2017/816, A/C.3/72/6-S/2017/817, A/C.3/72/7-S/2017/818, A/C.3/72/8-S/2017/819, A/C.3/72/10-S/2017/852 and A/C.3/72/11)

1. **Mr. Akram** (Chair-Rapporteur of the Working Group on the Right to Development), introducing the report of the Working Group on its eighteenth session (A/HRC/36/35), said that the session had included interactive dialogue with government, United Nations agency and civil society experts regarding progress on sustainable development from the right-to-development perspective. In response to the Working Group's invitation to all States, Indonesia had reported on its efforts and programmes for achieving the Sustainable Development Goals.

2. Following up on the report of the Chair-Rapporteur on standards for the implementation and realization of the right to development (A/HRC/WG.2/17/2), submitted to the Working Group at its seventeenth session, the representative of the Non-Aligned Movement had proposed a draft set of standards (A/HRC/WG.2/18/G/1) drawing on the work of the High-level Task Force on the Right to Development. While some representatives had supported the proposal as a basis for further negotiations, others had expressed reservations. Subsequently, the representative of Associazione Comunità Papa Giovanni XXIII had presented an informal document on the standards with a view to facilitating the discussion. The Working Group had then discussed the draft right-to-

development criteria and corresponding operational subcriteria (A/HRC/15/WG.2/TF/2/Add.2), on which it had made little progress.

3. On the sidelines of the thirty-sixth session of the Human Rights Council, he had convened an informal consultation with the representatives of the participating States, who had agreed to further consultations with a view to developing and proposing more amenable standards and criteria at the nineteenth session. While in Geneva, he had also met individually with representatives of groups of States and representatives of international organizations and civil society, as well as with the Special Rapporteur on the right to development. The Human Rights Council had endorsed the recommendations of the Working Group in its resolution 36/9 (A/HRC/36/9).

4. **Mr. Suárez Moreno** (Bolivarian Republic of Venezuela), speaking on behalf of the Non-Aligned Movement (NAM), said that, according to the Declaration on the Right to Development (A/RES/41/128), development was an inalienable human right that implied full realization of the right of peoples to self-determination, including the right to sovereignty over all their natural wealth and resources. States had the right and the duty to formulate appropriate national development policies on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

5. In the Declaration of the Seventeenth Summit of the Non-Aligned Movement, the member States had recalled the need for a profound change in the international economic structure, including the creation of economic and social conditions that were favourable to developing countries. It had reaffirmed their commitment to the promotion and protection of all human rights through international dialogue, capacity-building, technical assistance and the recognition of good practices, while ensuring the full enjoyment of all human rights, including the right to development.

6. **Mr. Ali** (Pakistan) said that the right to development was recognized as an important and fundamental human right. In that connection, he hoped that the upcoming High-level Conference on Financing for Development and the Means of Implementation of the 2030 Agenda for Sustainable Development would prove successful.

7. The task of the Working Group was to establish the parameters and practical components of the right to development so that it could be pursued effectively in the context of the 2030 Agenda for Sustainable Development. With his vast experience, the Chair-

Rapporteur was ideally suited to head the Working Group and should be afforded due understanding and support. His delegation urged the Chair-Rapporteur to examine the report of the Independent Expert on the promotion of a democratic and equitable international order (A/72/187) and the report of the Special Rapporteur in the field of cultural rights (A/72/155), which were relevant to the right to development.

8. **Ms. Khalvandi** (Islamic Republic of Iran) said that the Member States had yet to demonstrate the commitment and engagement necessary to create an economic, political and social environment where the right to development could be realized. The Chair-Rapporteur and the Special Rapporteur on the right to development should work together to mainstream the right to development in all human rights discussions.

9. *Ms. Kaszás (Hungary), Vice-Chair, took the Chair.*

10. **Ms. Moutchou** (Morocco) said that the international community needed to evaluate the results of 30 years of cooperation for development and seek out the best options for improving international cooperation and overcoming barriers to development. Her delegation regretted the persistent impasse within the Working Group and applauded the tireless efforts of its Chair to find common ground and compromise language.

11. She asked how the Working Group could renew certain aspects of the right to development, so that all States saw their interest and there was renewed impetus for universal implementation. She would also like to know how the human rights mechanisms could make a lasting contribution to its realization.

12. **Ms. Seppäläinen** (Observer for the European Union) said that realization of the right to development required full realization of civil, political, economic, social and cultural rights. Her delegation stressed the importance of a rights-based approach to development and emphasized that, while implementing the right to development required a mix of policies involving a wide range of actors, primary responsibility lay with the individual States.

13. The European Union remained strongly committed to achieving sustainable development and eradicating poverty; promoting respect for all human rights and fundamental freedoms; working to ensure security and prevent and resolve conflicts, and encouraging good governance, gender equality, human development, accountability and equitable globalization. Although still opposed to a binding legal standard, it remained ready to engage constructively on the right to development and to work towards a positive, consensual outcome to the discussions and negotiations.

14. **Ms. Moruke** (South Africa) said that her Government was concerned at the lack of political will to achieve universal implementation of the right to development, which was currently undermining the drafting of a framework convention on that right. As the Non-Aligned Movement had long emphasized, the right to development could serve as a bridge between the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. She would appreciate more information on the role that transnational corporations and other business enterprises could play in contributing the requisite means for its implementation.

15. **Mr. Wardhana** (Indonesia) said that it was crucial for all States to recognize the necessity of global cooperation and partnership and for all United Nations bodies, development aid agencies and international financial institutions to mainstream the right to development. Indonesia was working to implement the right by mainstreaming the 2030 Agenda in its development planning, establishing institutional frameworks for implementing it, engaging all relevant stakeholders and developing national and subnational action plans and guidelines. It welcomed the Special Rapporteur's commitment to establishing open dialogue and organizing regional consultations.

16. **Mr. Joshi** (India) said that fresh ideas and new mechanisms were urgently needed to address the challenges for full implementation of the right to development, which could provide a framework for fostering policy coherence in the implementation of national and international instruments. He wondered what could be done to encourage its recognition as a universal, primary right not restricted to a particular region or group of countries, and well as to mainstream the right in the wider United Nations system.

17. **Ms. Gebremedhin** (Eritrea) said that global peace and stability were impossible when billions were denied their basic needs. Given the snail's pace of progress on the right to development, the international community could not postpone drafting a convention, which could assist global cooperation. Full realization of the right to development would require the lifting of all politically motivated sanctions, timely achievement of the internationally agreed development goals, reform of the global financial and trade architecture, and genuine international partnership based on respect for sovereign equality among countries and free of conditionalities.

18. **Mr. Akram** (Chair-Rapporteur of the Working Group on the Right to Development), said that he would endeavour to learn from the reports mentioned by the representative of Pakistan. Given the interdependent,

interrelated and indivisible nature of all human rights, it made sense to collaborate with the other human rights mechanisms. He would continue to work with the Special Rapporteur on the right to development, and logistics permitting, would engage with as many other mechanisms as possible.

19. Regarding renewed impetus and innovative approaches, the way forward was to agree on common ground and then build on it. A comparison of the Declaration on the Right to Development and the Sustainable Development Goals showed that there was already considerable consensus.

20. **Mr. Alfarargi** (Special Rapporteur on the right to development), introducing his report (A/HRC/36/49), said that despite the long history of the right to development, it was far from being universally recognized, let alone fully implemented. The particular value of the right to development was that it shifted the focus from statistics and goods to the well-being of people.

21. In its resolution 33/14 establishing his mandate (A/RES/HRC/33/14), the Human Rights Council had emphasized the urgent need to make the right to development a reality for everyone. He saw his role as ensuring that it remained a focus of the sustainable development discourse. The right to development was more than a right to economic growth, which while important, could have both positive and negative consequences. Rather, it was the right of every person to participate in, contribute to and enjoy development in all its dimensions.

22. As Special Rapporteur, he had identified several major areas of focus. First he would work to remove structural obstacles to the implementation of the right to development by assessing national and international development policies and making recommendations for fostering effective international cooperation, including in relation to financing for development. He had identified a number of specific obstacles: the global economic crisis, the energy crisis, the effects of climate change, the rise of global pandemics, the ageing of the world's population, the privatization of public services, austerity measures, increasing automation, illicit financial flows and corruption, among others. He would also like to address politicization, which stymied efforts within the United Nations system.

23. Second, he would consult with States and other relevant stakeholders to identify, exchange and promote good practices for realizing the right to development in the context of the post-2015 development instruments. He would be holding consultations at the State and

regional levels and had already issued a call for submission of existing good practices.

24. Third, he would explore practical measures and provide recommendations for realizing the right to development at the national and international levels by engaging with Member States and other stakeholders and participating in relevant international meetings and conferences. He would also seek to engage with the high-level political forum on sustainable development in examining and evaluating the outcomes of the 2030 Agenda and the processes leading to them, with particular attention to the participation of all stakeholders.

25. Fourth, to achieve synergies with the Working Group, he would provide input on its discussions and would endeavour to use his own work to advance its agreed conclusions. He had already consulted informally with the Chair-Rapporteur as well as with representatives of the States and civil society organizations, and at the next meeting of the Working Group, he would be conducting an interactive dialogue on ways of contributing to its work.

26. He was very much aware of the complexities and sensitivities involved in his mandate, as well as the need to avoid duplication and ensure synchronicity and consistency within the United Nations system. He did not yet know if he would be able to go into depth on all of the issues identified or even if he would confine himself to those issues. In any event, effective discharge of his mandate would only be possible with the full cooperation of Member States, international organizations and civil society and with adequate support from the Office of the United Nations High Commissioner for Human Rights.

27. **Mr. Moussa** (Egypt), speaking on behalf of the African Group, said that the African States were legally bound to ensure the exercise of the right to development under the African Charter on Human and People's Rights, and they welcomed the adoption of the international instruments on the right to development, as well as the internationally agreed development goals. They supported the Special Rapporteur's proposed method of work, especially his emphasis on international cooperation, which was fundamental for fruitful discussions. While long-term progress on implementing the right was impossible without effective national development policies, it also required a favourable international development environment and sufficient means.

28. **Ms. Moutchou** (Morocco) asked the Special Rapporteur how he would go about reviving the advocacy process and what he could do to resolve the

practical and political differences over conceptual aspects of the right to development.

29. **Mr. Yao** Shaojun (China) said that, for the right to development to be fully realized, it would be necessary to respect the social systems and development paths chosen by developing countries; to promote the establishment of more equitable and rational international political and economic orders; to work to rectify the development imbalance between North and South; to put the principle of people-centred development into practice by striving for more inclusive growth and to make promotion of the right to development a priority within the United Nations system. He would appreciate the Special Rapporteur's opinion on the dangerous trend of human rights-based development.

30. **Mr. Ariturk** (United States of America) said that his Government reaffirmed the long-standing commitment of the United States of America to international development and to respect for human rights in its development strategies. Sustainable development depended on democratically-elected governments that respected human rights, provided access to justice and were bound by the rule of law. There were no circumstances under which the development goals permitted States to deviate from their human rights obligations and commitments.

31. **Ms. Khalvandi** (Islamic Republic of Iran) said that achieving the right to development would set the stage for progress on other human rights, but certain developed countries did not have the political will to promote it. Her Government encouraged close cooperation between the Special Rapporteur on the right to development and the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, since the right to development was among the numerous human rights affected by such measures.

32. **Ms. Sukacheva** (Russian Federation) said that human development was essential for ensuring human rights. It was hindered by attempts to impose outside value systems and political recipes on sovereign States, which led to instability, conflicts, poverty and massive forced displacements of people. International cooperation must therefore be built on the principle of respect for sovereignty and non-interference in the internal affairs of States, and it must take into account the right of States to choose their own paths to development. Without sufficient development, the civic, political, economic, social and cultural rights could not be fully realized.

33. **Ms. Moruke** (South Africa) said that the Special Rapporteur's work would help to institutionalize the right to development and strengthen the discourse on that right within the United Nations system. There was an urgent need to make the right to development a priority issue by drafting a convention on that right. She would appreciate hearing the Special Rapporteur's views on amending the international human rights covenants to include the right to development.

34. **Ms. Razana** (Maldives) said that, for the Maldives, progress towards development was measured by the size of the space available to developing countries to pursue their development objectives. The international community could create and expand that space by giving the developing countries easy market access; by taking mitigation and adaptation measures against climate change, bearing in mind the principle of climate justice; and by giving countries opportunities to overcome their structural vulnerabilities and specific challenges.

35. **Mr. Castillo Santana** (Cuba), decriing the politicization of the right to development and the reluctance of many developed countries to recognize and implement it, asked the Independent Expert and the Special Rapporteur to expand on their talking points for discussions with developed countries. His delegation would also appreciate further information on their planned collaboration, particularly with respect to eliminating obstacles to consensus on the standards and criteria.

36. *Mr. Gunnarsson (Iceland) resumed the Chair.*

37. **Mr. Joshi** (India) said that India had actively engaged with Member States to highlight the importance of the right to development and the need to integrate it throughout the United Nations system. The evolution of the normative framework for the right gave hope for its due recognition. With respect to the continuing lack of consensus, those who saw a contradiction between the right to development at the national level and at the international level had a grossly inadequate understanding of the interconnected nature of the contemporary world. His delegation would like to know if there was any road map for developing benchmarks for assessing and comparing measures and good practices.

38. **Mr. Alfarargi** (Special Rapporteur on the right to development) said that the right to development, while still highly controversial, was nevertheless recognized as part of the sustainable development discourse. His approach to advocacy was to work transparently through consultation, taking as a point of departure what had already been agreed in the four post-2015 development

norms. To that end, he would be holding regional consultations and collecting the State's ideas, opinions and good practices on aspects of the right to development, which would give him a basis for future action. He would also work with civil society and academia.

39. In regard to his relations with the other special mandate holders, he would work as closely as possible with them in order to ensure complementarity. In that respect, his pre-existing personal relationship with the Independent Expert would be most helpful.

40. As to amendments to the international human rights covenants, he was neither for nor against them. His job was to facilitate a convergence between those who favoured a legally binding international instrument and those who did not.

41. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order), introducing his sixth report to the General Assembly ([A/72/187](#)), said that it was devoted to the International Monetary Fund (IMF) and its loan conditionalities and should be read together with his report to the Human Rights Council ([A/HRC/36/40](#)), which focused on the World Bank Group. In those reports, he called on both institutions to amend their Articles of Agreement so as to better serve the purposes and principles of the United Nations.

42. The United Nations Charter stipulated that its provisions should prevail over all other treaties and international agreements of Member States. However, both in structure and in practice, the international financial institutions were not subordinate to the United Nations. He therefore recommended that that IMF should request an advisory opinion from the International Court of Justice on the correct application of human rights norms to international financial institutions. He also urged IMF to abandon its misguided prioritization of economic growth above all else. Although broader considerations were being discussed within the institution, neoliberalism continued to have almost the force of religion. In 2016, IMF had continued to focus on infrastructure mega-projects, public-private partnerships and so-called labour flexibilization, among other obsolete conditionalities, and, according to a recent Oxfam report, it was still not promoting policies that reduced inequality.

43. The strict and selective loan conditions imposed by IMF discouraged States from making long-term investments in health, education and public infrastructure. Furthermore, States unable to pay back their loans could fall into vicious debt crises, as there

was no international consensus on loan restructuring. Together, those factors could increase unemployment, worsen working conditions, reduce access to free quality education, weaken environmental protection and, in a systemic sense, lead to under-resourced public sectors vulnerable to breakdowns and emergencies.

44. It was time for the World Bank and IMF to discover a new vocation to promote development and human rights through smart lending practices that benefited not only banks and speculators, but also billions of human beings. To that end, IMF should make loans subject to a new set of conditions and take a number of other actions recommended in his report.

45. As the first mandate holder, he had written 12 reports addressing cross-cutting human rights issues and building on the findings and recommendations of other mandate holders. The potential of the mandate would continue to unfold. The next mandate holder would have to address formidable obstacles, including mistaken priorities, bias in favour of civil and political rights and fear of the will of the people, as well as the curses of positivism, selectivity and double standards, the tendency towards short-term solutions, the continued existence of secrecy jurisdictions, the impunity of transnational corporations and other enterprises and, of course, institutional inertia. He or she might also want to address the impact of a democratic and equitable international order on institutions such as the Group of Seven and private associations such as the World Economic Forum and to apply the international order perspective to such major challenges as climate change, cultural imperialism, economic neo-colonialism, commodities speculation, vulture funds and the unregulated activities of credit-rating agencies and media conglomerates. It would also be important to explore how the great world religions and the international humanist and ethical unions could contribute to a more peaceful, democratic and equitable global order. The mandate holder might also wish to explore how peoples' tribunals could help to end impunity for war crimes.

46. **Ms. Mortaji** (Morocco) asked the Independent Expert to elaborate on the need for IMF and the World Bank Group to amend their Articles of Agreement.

47. **Ms. Mkhwanazi** (South Africa) asked how the international financial institutions could be held accountable for imposing conditionalities that inevitably led to a rollback or denial of human rights.

48. **Mr. Castillo Santana** (Cuba), thanking the Independent Expert for his arduous analytical work over the past six years, said that his reports had laid the foundation for a serious discussion on how to promote a

more democratic and equitable international order. His delegation welcomed the recent renewal of the mandate and would continue to work with the new expert.

49. **Mr. Nasir** (Maldives) said that his delegation shared many of the Independent Expert's concerns with respect to the harmful impact of structural adjustment programmes. Furthermore, IMF institutional and decision-making structures mirrored the inequality of participation and voice found in the larger international order. He would appreciate the Independent Expert's opinion on how the international financial institutions could help to meet the evolving needs of small States, especially those confronting climate change.

50. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order) said that many other human rights mechanisms agreed that IMF and the World Bank Group should amend their Articles of Association. Noting that the Articles of Association of the International Bank for Reconstruction and Development contained a section on the prohibition of political activity that was currently interpreted to exclude human rights issues from consideration in Bank decisions, he said that, while the World Bank could merely revise its interpretation, the best solution would be to adopt an amendment clearly stating that human rights prevailed over other interests. The financial institutions should also require systematic human rights and environmental impact assessments before any loan was approved. IMF might be open to the idea of an amendment, as it had begun to question the efficacy of its ideology, and the International Court of Justice should be able to give an advisory opinion on the human rights impact of IMF loans under article VIII of the Agreement between the United Nations and IMF.

51. Responding to the South African representative, he said that the members themselves should hold IMF and the World Bank accountable. Unfortunately, as the representative of the Maldives had mentioned, they did not have equal voice in decision-making, but that should be changed gradually through discussions with the Executive Board and the Boards of Directors. The members needed to put forward proposals so that their interests were given greater weight.

52. Regarding structural adjustments, although IMF had largely abandoned the term in favour of "poverty reduction and growth", it remained committed to the same core principles of privatization, smaller government and fewer social services. Many scholars had diagnosed the problems with IMF programmes and made excellent practical recommendations for correcting them, but they had not been implemented.

53. In addressing the Committee for the last time, he called on government lawyers to see themselves as enforcers of international human rights commitments, rather than as attorneys paid to help their clients avoid responsibility. He reaffirmed his commitment to strengthening the special procedures of the Human Rights Council, who deserved the support of the States. For mandate holders, "naming and shaming" was not always the best strategy, especially when the accusing member States were not blameless. It was better to persuade the targeted State that reform was in its own interest and then be ready with advisory and technical services. It was also important to help uncover root causes of violations such as endemic inequalities, the persistence of privileges or a culture of violence. It was also important to provide recourse and redress for the victims. Mandate holders must have the courage to break the silence on taboo subjects and upset the status quo. They should not be a means by which the international community paid lip service to human rights.

The meeting rose at 5.10 p.m.