



**THE TWELFTH SESSION
OF THE WORKING GROUP ON THE RIGHT TO DEVELOPMENT**
Palais des Nations, Room XVI
14-18 November 2011

**PRESENTATION OF THE COMPILATIONS OF SUBMISSIONS RECEIVED
BY THE CHAIRPERSON-RAPPORTEUR OF THE WORKING GROUP
14 November 2011**

Excellencies,

Distinguished delegates,

Ladies and gentlemen,

The Human Rights Council, in resolution 15/25 of 1 October 2010 requested the Office of the High Commissioner for Human Rights to seek the views of States Members of the United Nations and relevant stakeholders on (a) the work of the high-level task force, and (b) the way forward, taking into consideration the essential features of the right to development, using as reference the Declaration on the Right to Development and resolutions of the Commission on Human Rights, the Council and the General Assembly on the right to development.

In the same resolution the Council further requested the Chairperson-Rapporteur of the Working Group, assisted by the Office of the High Commissioner, to prepare two compilations of the submissions received from Governments, groups of Governments and regional groups, as well as the inputs received from other stakeholders, and to present both compilations to the Working Group at its twelfth session.

In compliance with this request the Office of the High Commissioner for Human Rights solicited submissions from above mentioned constituencies on 20 October 2010 and 5 April 2011.

In total 13 submissions were received from United Nations Member States and groups of states : Cameroon, Canada, Cuba, Egypt (on behalf of the Non-Aligned Movement), the European Union, Guatemala, Japan, the Netherlands, Paraguay, Portugal, Qatar, Thailand and the United Kingdom of Great Britain and Northern Ireland. Fourteen submissions were received from other stakeholders.

The Chairperson-Rapporteur, with the assistance of the Office, prepared the two compilations of submissions received, which have been submitted to this Working Group. The individual contributions are available in full on the website of the Office of the High Commissioner for Human Rights.

In accordance with Human Rights Council resolution 15/25,1 shall highlight only the general comments made on the work of the task force and on the way forward. Summaries of the submissions received from Governments, groups of Governments and regional groups can be found in Document A/HRC/WG.2/12/2, and those received from stakeholders other than Member States can be found in Document A/HRC/WG.2/12/3.

The Comments received varied widely in terms of qualitative assessment of the work of the task force, its orientation, and conclusions and recommendations.

National responsibility and international cooperation

Many submissions reflected the debate on the importance of International responsibility. The obligation of the International community with regard to enabling developing countries achieve the right to development was pointed out, and focus was brought on technical assistance and internationally agreed development goals, within this area.

Several submissions, including a joint submission by a large group of developing countries, disagreed with the reformulation of the scope and content of the right to development, and specially the overemphasis on national responsibilities, neglecting the basic notion of international cooperation. Based on an incomprehensive definition of this right, the

criteria and sub-criteria presented to the Working Group adopted a human rights-based approach to development, rather than a development approach to human rights. It was felt that the criteria did not adequately reflect: the role of Governments at the national level; the dimension of international cooperation; and the international responsibility for creating an enabling environment.

It was believed that contrary to the spirit and content of the Declaration on the Right to Development, the task force shifted its focus toward State responsibility in creating a national environment conducive to the realisation of the right to development, without addressing the global obstacles that go beyond the ability of a State to tackle on its own. It was felt that the criteria should address the structural imbalances and hence impediments to equitable development on a global scale.

While appreciating the task force's efforts to reflect a proper balance between national and international responsibilities, the group of developing countries expressed the view that the balance had not been achieved and the conclusions too limited. They pointed out that the findings failed to take into consideration that the efforts of developing countries to achieve development were restrained by obstacles at the international level that were beyond their control.

Criteria, sub-criteria and indicators

As for development of criteria, sub-criteria and indicators, some submissions, including one representing a group of Governments, while noting that the criteria, sub-criteria and indicators are a good basis for operationalising the right to development, emphasized that further work and refinement was necessary and that it should be formulated to allow its application for all States, not only to developing countries. Certain submissions stressed the need of criteria and sub-criteria to measure the potential of all peoples and also to measure the obstacles to realizing their potential in terms of development. In this connection, the lack of recognition/inclusion of womens' rights, persons with disabilities and indigenous peoples within the criteria for the right to development, was stressed.

One Government advocated a strong focus on the individual, a central role for the national dimension, and sub-criteria that include benchmarks and indicators to promote implementation in measurable, practical ways, particularly at the national level. A few Governments proposed three sub levels of criteria and considered that the indicators were suitable and useful for monitoring and evaluation.

However, concern was expressed by a group of developing countries over the possible use of indicators to monitor the State at the national level and their possible use to impose conditionalities on developing countries. It was felt that the use of indicators would further marginalize developing

countries by emphasizing national responsibilities while at the same time not guaranteeing respect for international obligations and an enabling environment. Elaborating indicators, it was stated, was not part of the mandate of the task-force. One Government pointed out that of the 68 sub-criteria identified by the task force, only 10 made explicit reference to the collective dimension and international duties related to cooperation.

A submission stated that intellectual property provisions in trade agreements are not appropriate as the indicators of Criteria and Sub-criteria. Another submission stated that 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.

Submissions also stressed the need for the current criteria and sub-criteria to include issues pertinent to all stakeholders (i.e. - peoples vested with the right to self-determination) and further concerns were raised regarding the lack of effective implementation processes to address violations of the right to self-determination in association with all other rights.

Certain submissions also pointed to the importance of obtaining civil society inputs on the criteria and sub-criteria and their involvement in the Right to Development.

Another submission stated that in determining sub-criteria, there must be an improved balance of civil and political rights and economic, social and cultural rights.

Global partnership

One submission welcomed the High Level Task Force's efforts to enhance global partnerships citing the examples of, South-South, regional partnerships, and partnerships with the private sector.

Certain submissions welcomed the High Level Task Force's consideration to use the United Nations Development Agenda to help guide future activities of the Working Group. In terms of aid recipient countries, it was suggested that such countries explore the potential of public-private partnerships.

Comprehensive framework or template

With regard to the recommendation to prepare a reporting template, a group of developing countries in a joint submission expressed concern about transforming into a reporting template, criteria, sub-criteria and indicators that had not yet been considered or endorsed. Moreover, there were monitoring mechanisms already in place for reviewing States' duties and responsibilities on human rights matters. Other submissions considered that there was the need to first agree on criteria, sub-criteria

and indicators before considering appropriate instruments such as templates, guidelines and checklists.

Thematic areas of international cooperation for consideration

Most of the areas suggested by Working Group for future priority consideration are not really part of international cooperation. They rather form part of national development strategies, social progress, social justice and inclusion, and sustainable development. The only 2 suggested areas that have merits to be considered are an enabling international environment and reducing inequality between countries.

It has been pointed out that most of the areas suggested for future priority consideration were not part of international cooperation, but rather part of national development strategies, social progress, social justice and inclusion, and sustainable development. Only two suggested areas merited consideration: an enabling international environment and reducing inequality between countries. Others expressed support to consider using the United Nations Development Agenda to help guide future activities of the Working Group.

Mainstreaming

Submissions generally supported integrating and mainstreaming the right to development in the activities of OHCHR, United Nations agencies, funds, programmes and specialized agencies, as well as development agencies and the international development, financial and trade institutions. However, in a joint submission a group of developing countries underlined that any initiative in this regard must be based on the core parameters and elements of the right to development as outlined in the Declaration on the Right to Development and on relevant resolutions of the UNGA, Commission on Human Rights and the Council. While also expressing its willingness to consider inclusion of the right to development as part of the work of UN human rights bodies and mechanisms, it insisted that this does not entail supporting the inclusion of the suggested reporting template and a specific reference to the right to development and the criteria developed by the task force in their own reporting guidelines. It also underlined that it disagreed with the notion that operationalising the right to development is about mainstreaming all human rights into the development process. It believes premature to include the right to development as part of the UPR process, which will expose it to the risk of being limited to a national responsibility for fulfilling individual human rights rather than an international responsibility to fulfil collective rights.

Consultations with regional institutions

With regard to the suggestion to hold senior-level consultations with regional institutions, a joint submission on behalf of developing countries, noted that if future action is to be taken along these lines, it should be organized with the assistance of the Office of the High Commissioner Human Rights, in full coordination and consultation with all States, guaranteeing the participation of all Member States in the different regions.

Way forward

A legally binding instrument

In terms of the way forward, several submissions, including one representing a large group of developing countries, expressed support for the elaboration of a legally-binding instrument. The absence of norms governing international obligations for the implementation of the right to development, unlike in the case of individual human rights, was seen as a major obstacle to its realisation.

However, certain other submissions, including one representing a group of Governments, reiterated their position of not being in favour of an international legally binding instrument, stating that such an instrument was not appropriate to operationalise the right to development. One Government expressed the view that international cooperation should not be obligatory but voluntary. Some submissions,

including a joint submission by a group of Governments, advocated a step-by-step approach and logical sequencing. Only once sub-criteria had been properly assessed and refined, at the expert level, can appropriate instruments, such as guidelines, templates or checklists be developed, which in turn would be of use to mainstreaming right to development considerations in policies and programmes. In this regard, certain submissions called for the extension of the mandate of the task force. One Government stated that agreement on the content of the right to development and a clarification of the collective and individual responsibilities of States at the international level must first be reached before applying the concept in practice.

In this presentation, I have drawn attention to a certain number of issues on which continued debate will be required to make progress toward reaching a common ground. I hope that this Working Group will be able to surmount the obstacles and enable it to fulfill its mission and mandate in a manner that would enable the right to development to become a reality for the vast majority of people, particularly in the developing countries.

Thank you for your attention!