



**CIDSE Submission to the UN General Assembly
Open Working Group on Sustainable Development Goals
Sixth Session: Human rights, the right to development,
global governance
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Introduction

CIDSE is an alliance of 17 Catholic development organisations in Europe and North America partnering with civil society organisations and social movements across the world. CIDSE has been engaged in policy processes leading up to and emanating from the Rio+20 Conference in 2012, as well the debate on a successor framework to the Millennium Development Goals (MDGs). Based on research and consultations that we have conducted with our Partners and people living in poverty¹, we seek to ensure that lessons are learned and that an ambitious, effective and people-centred framework for action emerges for the SDGs and the Post-2015 framework.

The moral and existential challenges of persistent poverty and spiralling environmental destruction facing the human family are inextricably linked and require significant shifts to increase equity, sustainability and responsibility between and within all countries. While a post-2015 framework is unlikely to deliver the scale and scope of changes needed by itself, it can and must contribute to the transformational shifts needed in development. A successful post-2015 agenda will be measured largely by its success in laying the foundations for an ambitious and transformative development agenda, incentivising the shifts in governmental, intergovernmental and non-governmental action and accountability to this end.

Inspired by Catholic Social Teaching, CIDSE is convinced that poverty eradication should not just be about removing socio-economic obstacles but should be centred on respecting human dignity and enhancing the well-being of all. Priority must be placed on enabling all to achieve their human rights, while moving back to sustainable resource use and planetary boundaries. On this basis, CIDSE believes incorporating a human rights approach to poverty and development should inform not only the narrative vision for the post-2015 framework, but also be integrated substantially in the choice and articulation of goals and targets, and in the establishment of implementation, monitoring and accountability mechanisms. Existing human rights norms and legal frameworks provide a legitimate, universally applicable, people-centred basis for the framework. While imperfect, the human rights framework has the moral, legal and political basis to anchor the process and guide the way forward at international and national levels. Human rights and sustainability are two sides of the same coin, with sustainability ensuring consideration of time and space in relation to the pursuit of human rights realisation for all, for today's generation and the next. It is with these perspectives

¹ Trócaire (2013), 'My Rights Beyond 2015. Making the post-2015 framework accountable to the world's poor'.

we take this opportunity to offer our recommendations for ensuring human rights reach beyond the Preamble and are meaningfully and effectively integrated in a post-2015 framework for development.

Integrating Human Rights in the Post-2015 Agenda

The international human rights framework sets the minimum standards with which to align goals, targets, indicators and monitoring mechanisms². They represent universally applicable norms, rules or standards to which all development policy should be oriented, whether directly or indirectly, and thus have relevance within and across any and all goals to emerge as part of the post-2015 agenda.

1. The Vision for a post-2015 framework for development should be underpinned by human rights

A human rights approach to a post-2015 framework would recognise poverty eradication as a question of justice and duty rather than a policy option³, and would ensure focus on the most vulnerable people - whose rights are currently not being met or are being violated. Empowering people living in poverty must be one of the objectives and outcomes of any framework aimed at transformative, equitable change. This is important given the sense of humiliation and hopelessness experienced by many people living in poverty⁴.

A vision underpinned by human rights would acknowledge the need for the framework and its implementation to address the structural issues, from physical and economic issues, to power relations and discrimination, that are preventing progress for the poorest people, and the need to enable and empower them to play an active and influential role in the process of designing and delivering more equitable and sustainable development paths. Endemic discrimination – in particular in relation to gender – must be tackled at all levels if empowerment is to be achieved.

Recommendation

- The Vision for a post-2015 agenda should be underpinned by human rights, with a commitment to use the post-2015 framework to further the progressive realisation of human rights commitments and obligations while advancing action to move back within safe planetary boundaries.

2. Goals should be consistent with existing human rights commitments

Linking the framework and goals to human rights would increase the moral, political and legal standing of a post-2015 framework. While the role of a post-2015 framework is not to replace existing human rights conventions and laws, it should further their implementation. This would respond to the criteria set by the Rio+20 Resolution which stated that Sustainable Development Goals should build on existing commitments and be consistent with international law⁵.

³ UN Task Team (2013) 'TST Issues Brief: Human rights including the right to development', P.5.

⁴ Trócaire (2013), 'My Rights Beyond 2015. Making the post-2015 framework accountable to the world's poor'. P.11.

⁵ Resolution adopted by the General Assembly 66/288 (2012). 'The future we want' Para 246.

Recommendations

- The articulation of all global and national goals should refer to the human right or rights to which they relate and incorporate their core content.
- Make use of quantitative and qualitative indicators to operationalise existing legal human rights obligations

3. Participation, empowerment and setting goals at appropriate levels

The MDG framework was criticised for reducing development to a narrow set of priorities established in a top-down manner and from the outside. CIDSE has been calling since 2010 for the meaningful participation of people living in poverty in the debates on priorities and strategies for a post-2015 development framework. Beyond this, meaningful application of a human rights-approach to a post-2015 framework will require the translation and elaboration of a global agenda based on global imperatives, to national and sub-national agendas based on a participatory debate on challenges, priorities, root causes and strategies, if it is to support appropriate action at national and sub-national levels. A human rights approach at this stage also, meaning a focus on whose rights are currently unmet or being violated, and the meaningful participation of people living in poverty and marginalisation is critical, if current power structures that sustain poverty and inequality are to be challenged.

Recommendations

- Global goals should be accompanied by a commitment by all Governments to facilitate the translation and elaboration of global commitments into national and sub-national goals and targets, with the meaningful participation of people living in poverty and marginalisation through a human rights approach.

4. Embedding human rights in post-2015 accountability

If establishing ‘communicable’ goals is aimed at raising awareness and incentivising action and accountability, the principle of accountability should be mainstreamed more substantially in inter-governmental deliberations on a post-2015 framework than it has been to date. Weak accountability is widely acknowledged as being one of the fundamental weaknesses of the MDGs, contributing to inadequate action by donor and recipient countries alike, and much finger pointing as States place the blame for lack of progress on others. Unlike the MDGs, a post-2015 framework must ensure all governments are held accountable for fulfilling their own share of commitments at sub-national, national and international levels, effectively and on an equitable basis. Clarity in relation to ultimate responsibility for development commitments and actions is particularly important in view of increasing references in post-2015 proposals for an increased role for non-State actors, in particular the private sector. A human rights approach to a post-2015 framework would embed the principle of accountability at all levels and in relation to all actors.

States

A human rights approach to a post-2015 framework places national governments at the centre of accountability for the implementation of the framework and fulfilment of commitments. The rights-holders and duty-bearers relationship is an important affirmation of the social contract between the State and the people living in its territory - the very basis for legitimate State authority. The human rights framework provides an existing set of targets and indicators that are comprehensive and universal, and that take into account policy effort as well as outcomes to ensure

that State efforts to meet commitments can be fairly and effectively assessed. A human rights approach also establishes clear responsibility for national governments to regulate the actions of other State and non-governmental actors to ensure human rights are protected, respected and fulfilled within their territory.

Recommendation

- The primary responsibility of national governments for actions and outcomes to fulfil commitments under a post-2015 framework should be clearly affirmed in the narrative vision, in the goals and in all implementation plans.

International State responsibility

Under a human rights approach, beyond governments' responsibility within their territory, they also have a responsibility to ensure their policies and actions, as well as the policies and actions of those actors under their legal jurisdiction, further rather than undermine the respect, protection and fulfilment of human rights of people outside of their territory. A human rights approach to a post-2015 framework would involve a fairer, more equal approach to accountability than under the MDGs, where the failure of many States to achieve progress was affected by lack of adequate action by other countries, and where donor country commitments in particular, whether in relation to development cooperation financing, or policy coherence for development in relation to trade, financial regulation, energy, agriculture policies etc, were vague and subject to negligible accountability. A range of mechanisms to assess policy coherence and invoke extra-territorial human rights accountability have emerged at national, regional and global levels over recent years and should be strengthened and scaled up in the context of a Post-2015 framework.

Recommendations

- Accountability for international and extra-territorial commitments and obligations, including new commitments under a post-2015 framework and existing human rights commitments, should be incorporated into a post-2015 framework.
- Human rights norms, rules and standards should serve as the benchmark for policy coherence for all actors including international multilateral organisations.
- Policy coherence mechanisms, anchored in the human rights framework, and extra-territorial human rights mechanisms should be strengthened and scaled up in the context of a post-2015 framework.

Private sector

The added value of efforts to increase the role of private sector actors as partners in development and in development cooperation, including in the implementation of a post-2015 development framework, must first of all be examined in the context of the significant power imbalances between States and communities on the one hand and transnational corporations on the other. Power relationships are imbalanced. On the one side, States are often in a weak capacity to meet their duty to protect citizens from human rights abuses by third parties. This is coupled with a lack of capacity of many affected communities to demand respect of their human rights or redress in the face of human rights abuses. On the other hand, transnational corporations have significant influence and leverage on national and international policy and their operations have considerable scope and impact. There is ample evidence of this power imbalance in many countries where CIDSE member organisations and our partners work. For example in Zambia activities of copper mining companies have negatively impacted on the rights to health and safe working conditions of communities as well as the rights of countries to gain a fair share of returns from the exploitation of their natural resources. The 2008 UN 'Protect, Respect and Remedy Framework and the 2011 Guiding Principles for its implementation have attempted to address these imbalances.

Recommendation

- The post-2015 agenda should recognise and promote the UN ‘Protect, Respect and Remedy Framework and the 2011 Guiding Principles and their implementation. The Principles should govern all involvement of the private sector in the post-2015 agenda.

This would include⁶:

- Requiring States to clearly lay down what constitutes human rights due diligence, and incorporate this into binding legal and administrative measures.
- Requiring States to use all the means at their disposal to make human rights due diligence a requirement for business everywhere they operate. States must be required to provide effective mechanisms for access to remedy, for cases where businesses do not meet this requirement and human rights violations occur.
- Enshrining the principle of extra-territoriality whereby mother-company accountability for cross-border reach of their activities is recognised in the face of the growing complexity of corporate structures.
- Requiring regulatory process including provision of licences and permits to include binding guidelines for human rights due diligence, including the obligation to undertake human rights impact assessments and obtain community consent, sharing all information needed.
- Requiring States to provide for criminal, civil and administrative liability of business enterprises for crimes and harms to human rights, where they fail to act with due diligence, including with regard to the security of human rights defenders.
- Requiring States to ensure that businesses are more transparent and citizens can access relevant, accurate information on their activities and impacts on human rights and the environment. A robust reporting model should be based on specific risks and impacts, not ‘comply or explain’.
- Requiring States to make investment and guarantees by national financial institutions conditional upon meeting human rights, social and environmental requirements, and establish redress mechanisms.
- Requiring States to exact parent company liability for human rights violations by its subsidiaries and subcontractors in its supply chain.

5. Establish a virtuous circle of accountability

Accountability is a process rather than a one off event or mechanism. Achieving transformational change for people living in poverty will depend on the success of a new framework to increase the ability of people living in poverty to seek and achieve accountability in relation to the enjoyment of their rights. Accountability mechanisms under a post-2015 framework should thus reinforce and reinvigorate existing accountability mechanisms at local, national, regional and global levels, in particular existing human rights accountability mechanisms, or mandate their improvement or creation where these are weak or lacking. The Universal Periodic Review under the Human Rights Council provides an example of an existing 360° accountability mechanism which could support human rights accountability for post-2015 commitments at the global level. Importantly, innovative means of fostering accountability at local levels should be supported and scaled up appropriately and feed into a vibrant circle of accountability from local to global levels.

⁶ CIDSE (2013) ‘Human Rights Due Diligence, Policy Measures for Effective Implementation’.

Recommendations

- To give practical effect to the integration of human rights in the framework, explicit provision should be made for post-2015 commitments to be addressed within existing national, regional and international human rights accountability mechanisms.
- At the national level develop national action plans and programmes with benchmarks for a progressive realisation of human rights.
- Innovative means of fostering accountability, including human rights accountability, at local levels should be supported and scaled up.
- Ensure transparency and civil society participation at independent monitoring mechanisms to hold actors accountable. In this regard, strengthen also the role of National Human Rights Institutions in developing indicators and monitoring compliance

6. Human Rights goals and mainstreaming - not mutually exclusive

CIDSE believes human rights and human rights principles of equality/non-discrimination, participation/empowerment, and accountability should be mainstreamed across the implementation and monitoring of all goals, including by obligating the disaggregation of data at global levels and national levels, to capture progress for different groups and in particular those experiencing discrimination. This should not, however, exclude these issues from becoming individual goals in their own right. The variety of human rights violations associated with persistent and pervasive discrimination against women, for example, presents a strong case for both mainstreaming gender throughout each goal area as well as the establishment of a self-standing goal relating on gender. Much work has been done by academics and practitioners to provide the basis for goals, targets and indicators in relation to governance and rule of law, and in relation to particular human rights such as equality and participation⁷, and calls for their substantive inclusion in the goals and implementation of a post-2015 framework are widespread.

Recommendation

- Human rights and human rights principles such as equality and non-discrimination, particularly in relation to gender, participation and accountability should be mainstreamed across all goals in a post-2015 framework, and should be considered among proposals for goals in their own right.

CIDSE is an international alliance of Catholic development agencies. Its members share a common strategy in their efforts to eradicate poverty and establish global justice. CIDSE's advocacy work covers global governance; resources for development; climate justice; food, agriculture & sustainable trade; and business & human rights - www.cidse.org

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⁷ UN Task Team (2013)' TST Issues Brief: Human rights including the right to development', Ps 2 and 6.