

# C-Fam | Analysis

Center for Family and Human Rights

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## Follow-Up and Review of the Post-2015 Development Agenda

### Introduction

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The follow-up and review framework for the post-2015 development agenda must respect the sovereign prerogative of each country and its peoples to determine their own path to development.

An essential measure of success of the post-2015 development agenda must be its ability to achieve results working within many different national contexts and circumstances, not in spite of them. The follow-up and review framework for the post-2015 development agenda must respect the sovereign prerogative of each country and its peoples to determine their own path to development in conformity with their national laws, culture, religion, and other national circumstances.<sup>1</sup>

The agenda, after all, will be a commitment of the governments of sovereign States, it will not be a commitment of an undefined and politically unaccountable “international community.” Only respect for sovereignty will guarantee the political legitimacy of the actions taken by governments to fulfill the Sustainable Development Goals, as well as the international framework built to support their realization.

Therefore, the follow-up and review process for the post-2015 development agenda must be designed keeping in mind that governments are ultimately accountable to their own people, not to an undefined and eclectic “international community” composed of artificial entities, international organizations, non-governmental organizations, many of which are funded by and accountable to wealthy governments and philanthropists, as opposed to having natural constituencies.

### 1. Follow-up and Review

Only a ground-up approach to realizing the Sustainable Development Goals can guarantee political legitimacy for the post-2015 development agenda, and ultimately its success.

#### *Voluntary National Presentations*

Review of progress on the post-2015 development agenda must be based and

centered on voluntary national presentations on progress towards achieving the Sustainable Development Goals during the High Level Political Forum. At all levels, the follow-up and review must be a state-led process where governments can draw on the assistance of the international community for technical capacity building, especially for data collection. It should not be a process whereby international actors compel, incentivize, or otherwise pressure national governments and institutions to adopt pre-packaged legal and policy frameworks that may or may not be applicable in different national situations and contexts through a peer review mechanism.

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Any compulsion, undue influence and pressure will undermine the international framework to support the realization of the post-2015 agenda, which should be at the service of sovereign States, and should not try to lord over them.

The follow-up and review of the post-2015 development agenda should not become a mechanism used to promote the harmonization of domestic laws and policies. The review and follow-up should not be used to compel, incentivize, or pressure countries to change their laws and policies at all. Any such pressure or undue influence to change national laws can only harm efforts to realize the Sustainable Development Goals, and erode the political legitimacy of the international efforts to realize the post-2015 development agenda.

While donor countries may have their reasons to offer incentives together with their generous assistance, and even encourage certain policies and approaches to development, they should not seek to build these incentives and policy preferences for participation in the overall international follow-up and review framework for the post-2015 development agenda within the United Nations System. The United Nations system should not be used as a tool to impose certain policy preferences.

The United Nations system can only suffer from such an approach. Any compulsion, undue influence and pressure will undermine the international framework to support the realization of the post-2015 agenda, which should be at the service of sovereign States, and should not try to lord over them.

#### *Peer Review?*

The review of national and regional progress towards the realization of the Sustainable Development Goals must not be an opportunity for powerful governments, United Nations agencies, and the United Nations system more broadly, nor special interest groups and well funded non-governmental organizations, to promote a “one-size fits all” strategy for sustainable development, or pressure countries into compliance with such policies.<sup>2</sup>

In this regard, a peer review framework is not helpful. Peer review mechanisms are prone to politicization and may be manipulated by powerful countries with the financial means and geo-political influence to drive the agenda of international organizations and non-governmental organizations. Because of this imbalance, some countries are able to dictate the agenda and multiply their voices during the course of the peer review process, such as the Universal Periodic Review at the Human Rights Council in Geneva.<sup>3</sup>

Acrimony and politics are not an option in the context of development. When we talk about development, we are talking about the livelihoods and very lives of people. It would be unconscionable to turn development into a zero sum game to

promote any particular development model or ideology.

## 2. National Follow-up and Review

Politically accountable governments must be the heart of the post-2015 development agenda in order to guarantee the legitimacy of the project. For this to happen, they must be able to lead the review and appraisal of progress on the post-2015 development agenda. And the General Assembly where all member states are equally represented must continue to exercise oversight over the United Nations system's work on sustainable development.

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It is essential that the follow-up and review of the commitments of member states respects the political and sovereign prerogative of member states to design and implement policies that work for their people as well as the national structures that are best suited to those goals.

### *National Institutions and Mechanisms*

It is essential that the follow-up and review of the commitments of member states respects the political and sovereign prerogative of member states to design and implement policies that work for their people as well as the national structures that are best suited to those goals. As the General Assembly has repeatedly stated, there is no one-size fits all approach to development.<sup>4</sup> Governments have to contend with different material conditions, in terms of governance structures, human resources, and financial means, as well as many other particular situations, not limited but including culture, religion, and tradition.

The Sustainable Development Goals themselves exclusively contain policies to which governments are prepared to commit themselves. The post-2015 summit outcome document should not create an entirely new set of policies to which governments must commit. The goals and targets agreed by the GA Open Working Group in 2014 have been thoroughly vetted and analyzed by governments. At this stage in the negotiations it is not prudent to seek to negotiate new policies that are extraneous to the General Assembly Open Working Group agreement, and that governments will not have adequate time to discuss.<sup>5</sup>

Each country must be able to design a national monitoring and follow-up framework for the post-2015 development agenda according to national capacities and priorities. The post-2015 summit outcome document must not prescribe specific national institutions and bodies to monitor and follow-up on the post-2015 development agenda, since different countries have different capacities and different governance structures. Each country must develop the institutions best suited for this task.

### *International and Regional Capacity Building*

Wherever appropriate, international and regional bodies may propose certain policies, models, and best practices, but it is ultimately governments themselves that must build institutions, and design and implement programs that will be effective and accepted politically at the national level. Capacity building must take into account this principle. Incentives for the creation of specific types of national governance and accountability frameworks must be limited to the commitments existing in the Open Working Group agreement, and should not create new commitments that are extraneous to the Open Working Group document. Regional efforts to fulfill the Sustainable Development Goals must also take into

account the principle of sovereignty. Regional international organizations must define their own role within the post-2015 development agenda according to their own charters and rules, in order to complement international and domestic efforts towards the realization of the Sustainable Development Goals.

The assistance of United Nations agencies and bodies at the regional and national level must be limited to facilitating the review of national policies, and develop and implement national policies. Such assistance must not be used as a tool to standardize government institutions, or for harmonizing national policies according to a single model of development, but must conform to the needs and priorities of countries, as governments understand them, in order to ensure that the United Nations is a “neutral, objective and trusted partner.”<sup>6</sup>

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Member states should not be directed to report on an internationally pre-determined set of indicators. This would limit the Sustainable Development Goals to a monolithic “one size fits all” project incapable of adaptation at the national levels and in different contexts.

The Quadrennial Comprehensive Policy Review by the General Assembly should continue to ensure that all member states are able to exercise oversight on the United Nations system’s activities in the area of sustainable development in the post-2015 era.

### **3. Indicators**

Governments should be encouraged to select nationally appropriate and relevant indicators to monitor their progress on the Sustainable Development Goals. These indicators may include indicators proposed internationally, if they are found to be representative and applicable to specific country circumstances. The international system must in turn provide assistance with technical capacity to select and measure such relevant indicators through data collection and analysis.

#### *Nationally Relevant Indicators*

Member states should not be directed to report on an internationally pre-determined set of indicators. This would limit the Sustainable Development Goals to a monolithic “one size fits all” project incapable of adaptation at the national levels and in different contexts. Such indicators would not be responsive to the different challenges and different emphases of national efforts to realize the Sustainable Development Goals, and ultimately ineffective to deliver sustainable development.

International indicators, as proposed by the United Nations Statistical Commission, in particular, present a challenge to the political viability of the Sustainable Development Goals at the national level, especially with regards to social policy involving abortion and homosexuality.<sup>7</sup>

Some indicators are likely to be applicable to all countries, such as indicators for target 3.1 on maternal health that measure maternal mortality. Such universally applicable indicators are based on monitoring concrete outcomes and results. But other indicators are not likely to be useful or representative for all countries, such as indicators for target 5.6 on sexual and reproductive health and reproductive rights or under Goal 10 on inclusive societies, which may include abortion laws, as well as laws surrounding homosexuality and other sexual mores, which vary greatly between countries. These indicators do not track concrete measurable

outcomes, and are fraught with political implications. They are designed to monitor what laws and policies countries have in place, or the impact they have on certain demographics, as measured subjectively.<sup>8</sup>

#### *Internationally Proposed Indicators*

Any internationally proposed indicators must track concrete measurable outcomes in the lives of people, and not changes in law and policy. If model indicators are to be selected internationally, the General Assembly's role as guarantor of consensus must not be discarded for the sake of reaching agreement more readily in a smaller body such as the United Nations Statistical Commission.

While indicators are of a technical nature in principle, the selection of indicators can be a politically charged process, since different indicators may spur different actions and investments. Therefore, if any international indicators are to bolster the realization of the post-2015 development agenda they must be agreed in the context of the General Assembly, which has final oversight over United Nations development activities, and not by a smaller United Nations body.

#### **4. Human Rights and the Human Rights System**

In order for the post-2015 development agenda to further enhance the enjoyment of human rights for all people all over the world it must not become a forum where human rights are politicized. For this to happen the definition of human rights obligations for purpose of the follow-up and review of the post-2015 development agenda must not be delegated to the secretariat, the Office of the High Commissioner for Human Rights, treaty bodies, special mandate holders, or any other part of the United Nations system, as suggested by the United Nations Statistical Commission earlier this year.<sup>9</sup>

#### *UN Human Rights System Overreach*

United Nations human rights entities have too often overstepped their mandates and have made a mockery of the human rights treaties negotiated within the United Nation General Assembly by succumbing to extravagant interpretations of these treaties by powerful interest groups.<sup>10</sup> To entrust these entities with an essential definitional threshold question as to what obligations member states have under international law would actually undermine the very foundations of international human rights law, which is based on sovereign obligations undertaken in binding international instruments that have taken decades to negotiate.

Moreover, as a matter of international law, the human rights system does not have the final say on the human rights obligations of member states. Under international law the final authority to interpret a treaty belongs to state parties to that treaty, unless it is delegated to a specific body or other dispute resolution mechanism. Such is not the case with any of the United Nations human rights treaty bodies or any part of the human rights system. Tying the development agenda to the human rights system in such a way that will further enhance the authority of the human rights system to define the human rights obligations of

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To back the interpretation of human rights currently in vogue in the UN human rights system with development assistance could have devastating effects on countries that value human life and the family

member states will validate the many abuses of treaty bodies, special procedures, and other United Nations officials and staff, that assert obligations to legalize abortion and promote social acceptance of homosexuality even though no United Nations treaty can be fairly interpreted to include such rights, as well as other extravagant interpretations of international law.

### *The Essential and Irreplaceable Role of Sovereign States in Protecting Human Rights*

The best means of protecting the human rights of every human being is for sovereign states to have strong, responsive, and politically legitimate governments. An essential aspect of this sovereign power is the capacity to contract international obligations, as well as the power to interpret and to resolve disputes surrounding the interpretation of treaty obligations. To ascribe this power to a politically unaccountable human rights system, dependent on the donations of powerful wealthy governments erodes this essential aspect of sovereignty and can only harm authentic human rights.<sup>11</sup>

### *The Limited Mandate of UN Human Rights Officials, Mandate Holders, and Staff*

Any consultation and coordination between the international review on progress to achieve the Sustainable Development Goals and the human rights system should take into account and not confuse the distinct and limited competencies of special mandate holders, treaty bodies, the Office of the High Commissioner for Human Rights, and other human rights bodies. In addition, and perhaps more importantly, any consultation and coordination must not perpetuate abuses by the secretariat, special mandate holders, and treaty bodies.

Treaty bodies in particular, should be recognized as having authority only within the scope of the treaty mandate they received from the parties to their respective treaties.<sup>12</sup> In this regard, it would not be wise or correct to base the definition of human rights for purposes of the implementation and review of the post-2015 development agenda on the opinion of treaty bodies.

### *The Mis-interpretation of UN Human Rights Treaties*

Treaty body members and other actors within the United Nations human rights system often use their independence from oversight of member states as a license to re-write treaties that took decades to negotiate. One such example is the way in which treaty bodies have engaged in a campaign to systematically introduce legal abortion as an obligation under international law, when no United Nations human rights treaty can be fairly implied to require any such thing and even the political consensus of UN member states relegates abortion to national jurisdiction.<sup>13</sup>

Or, the attempt to introduce sexual orientation and gender identity as cognizable categories of international law even though negotiating states never discussed any obligations in that regard when negotiating any human rights treaty.<sup>14</sup> There are many documented abuses by human rights treaty bodies, which have not slowed down despite the best efforts of the General Assembly to warn treaty body members to conduct themselves with objectivity and impartiality.<sup>15</sup>

Special mandate holders are not immune to these abuses, because like UN treaty bodies they heavily rely on the Office of the High Commissioner for Human Rights, which services both the treaty bodies and special mandate holders. The secretariat is accountable for many of the unsound legal theories and interpretations that echo and are spread throughout the United Nations human rights system.

### *The Disconcerting Example of the Universal Periodic “Peer” Review*

The Universal Periodic Review also should not be a basis for defining the human rights obligations of member states. Because of the unstructured nature of the Universal Periodic Review, governments and non-governmental organizations, some heavily funded by governments, are able to assert human rights obligations that have never existed internationally.

The Universal Periodic Review is not based on the specific treaty obligations of each country, but on the claims and assertions that certain human rights obligations are binding on all member states equally. While many such obligations exist, the Universal Periodic Review is frequently a forum for asserting human rights obligations that have never existed and were never contemplated by the framers of the Declaration on Human Rights or any of the binding international treaties adopted within the context of the United Nations since. Legal abortion, social acceptance of homosexuality, and the abolition of the death penalty, are only three examples.<sup>16</sup>

Human rights should not be treated as a zero sum game. When powerful governments and non-governmental organizations engage in coordinated efforts to manipulate internationally binding treaties and the human rights system through treaty bodies, or special mandate holders, or agencies they fund, they are treating human rights as a zero sum game, where political influence and power ultimately results in partisan gains. By doing this they undermine the treaties they are seeking to manipulate, and the legitimacy of UN human rights framework as a whole, which was set up not to serve the narrow interests of a few powerful countries, but to uphold the dignity and worth of every human being.

### *Financing Abuse?*

When it comes to development there is an important additional consideration that must be borne in mind. Development involves government spending domestically and through foreign assistance spending to the tune of billions of dollars—soon to be trillions if the Sustainable Development Goals are to be realized. To back the interpretation of human rights currently in vogue in the UN human rights system with development assistance could have devastating effects on countries that value human life and the family, and will further shape societies through non-governmental education, public spending for social programs, and any aspect of the efforts to achieve the Sustainable Development Goals.

## Recommendations

1. Member states should ensure that the Review and Follow-up to the post-2015 development agenda is a state driven voluntary process where national governments are empowered to design and implement their own path to development, without undue influence and pressure from the international framework. In this regard, a Universal Peer Review mechanism is not well suited for this purpose, as opposed to an interactive session of voluntary presentations on national progress in the context of the High Level Political Forum.
2. Member states must design and direct the implementation of the ambitious agenda outlined in the 17 goals and 169 targets adopted by the General Assembly. International assistance and the UN follow-up and review framework should not be used to impose a “one size fits all” approach to development that does not take into account the regional and national differences of countries. Member states should continue to exercise oversight over the work of the United Nations System through the General Assembly’s Quadrennial Comprehensive Policy Review.
3. Member States must be able to count on the United Nations development framework for assistance to select and monitor the indicators best suited to track their own development priorities. Indicators that will be most useful are those that measure concrete objectively measurable outcomes, as opposed to non-quantifiable changes in social norms on sexuality, as for example in regard to reproductive rights and homosexual rights.
4. The human rights system and the United Nations agencies and funds must not receive an institutional role in defining the legal obligations of member states in the post-2015 development agenda. The legal advice produced within the secretariat, treaty bodies, special mandate holders, as well as United Nations agencies and funds, is unsound in areas involving social policy. Any such role would be interpreted as a validation of the many instances in which these entities abuse their limited mandates by asserting unfounded obligations on member states. Only state parties to a treaty have the authority to define their obligations under such treaty.

### (Endnotes)

- 1 Quadrennial comprehensive policy review of operational activities for development of the United Nations system, Resolution adopted by the General Assembly on 21 December 2012, UN Document A/Res/67/226, OP4
- 2 *Ibid.* OP4 and OP5
- 3 One such example is the Universal Periodic Review, and the way it has become a forum to promote social acceptance of homosexuality, as well as conflicting visions of human rights. Rebecca Oas, Positive Peer Pressure or Bullying? How wealthy developed countries use the Universal Periodic Review pressure the global south to accept sexual orientation and gender identity, Center for Family and Human Rights, May 2015, available at <https://c-fam.org/program/policy-studies>.
- 4 *Ibid.* note 1, OP5



- 5 Report of the Open Working Group on Sustainable Development Goals established pursuant to General Assembly resolution 66/288, Resolution adopted by the General Assembly on 10 September 2014, UN Document A/RES/68/309.
- 6 *Ibid. note 1*, OP6
- 7 Technical report by the Bureau of the United Nations Statistical Commission (UNSC) on the process of the development of an indicator framework for the goals and targets of the post-2015 development agenda, especially pp. 8, 27, and 40, detailing the decision of experts to integrate human rights in the follow-up and review, as well as indicators for non-discrimination, existence of national human rights institutions, available at <https://sustainabledevelopment.un.org/content/documents/>; See also List of Proposed Provisional Indicators and Background Information to the List of Proposed Provisional Indicators circulated by the UN statistical division to the statistical offices of capitals on February 15, 2015, see especially indicators and background information for Goals 3, 5 and 10.
- 8 C-Fam Analysis, Getting the Focus Right in the Post-2015 Development Agenda, Center for Family and Human Rights, March 19, 2015 (see attached document)
- 9 *Ibid. note 7*
- 10 Douglas A. Sylva and Susan Yoshihara, Rights By Stealth: The Role of UN Human Rights Treaty Bodies in the Campaign for an International Right to Abortion, International Organizations Research Group White Paper 8, available at: [https://c-fam.org/white\\_paper](https://c-fam.org/white_paper); San Jose Articles, available at <http://www.sanjosearticles.com/>
- 11 OHCHR Annual Report, available at <http://www.ohchr.org/EN/AboutUs/Pages/FundingBudget.aspx>
- 12 Kloster, Andrew and Pedone, Joanne, Human Rights Treaty Body Reform: New Proposals (June 27, 2011). Journal of Transnational Law & Policy, Vol. 22, Spring 2013. Available at SSRN: <http://ssrn.com/abstract=1885758> or <http://dx.doi.org/10.2139/ssrn.1885758>
- 13 *Ibid. note 10*
- 14 Report of the United Nations High Commissioner for Human Rights, Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity, United Nations 2011, United Nations Document A/HRC/19/41; UN Office of the High Commissioner for Human Rights, Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law, United Nations 2012. United Nations Document HR/PUB/12/06.
- 15 Strengthening and enhancing the effective functioning of the human rights treaty body system, Resolution adopted by the General Assembly on 9 April 2014, UN Document A/RES/68/268
- 16 *Ibid. note 3.*



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