

# OWG inches closer to human rights for all post-2015, but still a long road ahead

April 30, 2014

In December of last year, we came together as human rights, social and environmental justice and trade union organizations worldwide to lay out [a roadmap for embedding all human rights](#) into the core of the post-2015 sustainable development agenda.<sup>1</sup> We've monitored developments very carefully since then. As the Open Working Group (OWG) on sustainable development now moves from principles to the specific content of the Sustainable Development Goals (SDGs), we are compelled to assess how well the full realization of human rights is reflected in the Co-Chairs' [Working Document](#) in advance of the 5-9 May session of the OWG.

Overall, we recognize important achievements in the current proposals to take into consideration the **universality** of human rights. SDG commitments in this new document clearly apply to all people and the planet everywhere, especially under Focus Areas (FA) 1, 2, 3, 4 and 6 on poverty, food, health, education, and water/sanitation respectively. These targets adopt some considerations of the accessibility, availability, acceptability and quality of services essential for realizing economic, social and cultural rights, though there are evident gaps we discuss below, e.g. under FA 5 Water and Sanitation. The proposals are also to some extent consistent with the immediate obligation under human rights law to ensure minimum essential levels of economic and social rights. That being so, it is unfortunate that these socioeconomic goals and targets are not recognized as human rights in themselves, which would improve accountability and public uptake of them, recognizing the **indivisibility and interdependence** of all human rights. We are also concerned in general that the Working Paper does not commit States, international organizations and businesses ensure that their laws and policies related to the SDGs are designed and implemented in a manner consistent with existing current human rights standards.

Embedding human rights **accountability** into the SDGs is critical. Without effective accountability for human rights, progress will continue to be hampered and people will continue to get left behind. Yet, recognition of this in the working document is uneven. We welcome the inclusion of a target on the "provision of equal access to independent and responsive justice systems" at the domestic level, for example. Globally, meanwhile, the proposals on strengthening global partnerships for sustainable development lack the type of clear, time-bound commitments by all actors, especially rich countries,



<sup>1</sup> See "Human Rights For All Post-2015" joint statement, supported by more than 350 organizations worldwide.

international institutions and large businesses, which are key to ensuring mutual human rights accountability between countries, and were a key reason for the skewed accountability relationship in the MDGs.

In this regard, one of the most concerning elements of the Working Document is the lack of clear provisions to ensure that the private sector and international financial institutions remain accountable and fully respect human rights and the environment. It is central to adopt targets which incentivize governments to take concrete measures to prevent business-related human rights and environmental abuses, by *inter alia* mandating independent, rigorous and periodic human rights and environmental impact assessments of all large, influential businesses.

Regarding the human rights principle of **equality and non-discrimination**, the Co-Chairs Document includes some promising elements. In particular, we welcome the inclusion of equality targets prioritizing progress for various disadvantaged groups. We welcome the stand-alone goal on gender equality and women's empowerment, for example, which embraces a broad approach to women's rights, by including targets on ending violence against women and girls, ensuring access to sexual and reproductive health as a matter of right, ensuring access to productive resources and assets and progressively redistributing women's unpaid care work. We also are encouraged by target 4b to "ensure that persons with disabilities have access to inclusive education, skills, development and vocational training," as well as the target 16b to eliminate "discriminatory laws, policies and practices." However, as noted in our comments on FA1, this working document misses an enormous opportunity to address socio-economic inequalities head-on.

We'd like to now take this opportunity to address specific text in selected focus areas.<sup>2</sup>

### **FA 1: Poverty eradication, building shared prosperity and promoting equality**

The emphasis to ensure social protection is very welcome, yet the reference in target **1c** to nationally appropriate social protection measures "including floors" weakens the existing consensus that universal social protection floors are affordable, social and economically necessary and a human rights imperative in all countries. We would propose a commitment by all countries to ensure a quality, nationally-designed social protection floor for all people.

Further, we are concerned that there are no specific targets aimed at assessing inequality, but instead targets which focus on economic opportunity (FA **1f**) and sustaining income growth of the bottom 40% of people (FA **8a**). Neither measure is sure to reduce economic inequality *per se*, let alone eradicate the type of extreme inequality we face today. A concrete target to reduce economic inequality by a said amount per year through enhanced use of progressive taxation, tracked in reference to one of the widely accepted metrics of income inequality, and disaggregated across disadvantaged groups, would be a more direct and effective method of tackling the world's most significant development problem today.

Further, we suggest that target **1e** include reference to achieving decent work for all, including by women and young people.

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<sup>2</sup> Please note that these suggestions are not intended to be comprehensive of the range of concerns of signatory organizations.

## FA5: Gender equality and women's empowerment

The promotion of equal participation of women in decision making at all levels, in particular gender sensitive budgets, is welcome although it could have gone further by including parity in decision-making and leadership, as well as in peace processes and other situations of transition. Women's and girls' rights, gender equality and the rights of persons with disabilities furthermore, should be embedded in all 16 focus areas. Further, we miss references to the guiding legal framework that supports the full realization of women's empowerment, gender equality and women's rights including the CEDAW, the Beijing Platform for Action, ICPD, Vienna Declaration on Human Rights and the Rio+20 outcome document. Equality and empowerment are necessary, but they cannot be achieved without firm commitment to and fulfillment of women's human rights.

Gender inequality is entrenched into the very structure of society and plays into the distribution of power at every level. Gender discrimination intersecting with discrimination on other grounds, and gender-based violence, continues to exacerbate the marginalization of certain groups and limit their ability to exercise their human rights and fully participate in development. Therefore it is not feasible to tackle inequalities without addressing gender inequality, gender discrimination and gender-based violence. Gender discrimination affects not only women and girls as historically disadvantaged groups, compared to men and boys, but also everybody who does not fit the socially prescribed gender roles such as LGBTI (lesbian, gay, bisexual, transgender, and intersex), gender non-conforming individuals or those who are unmarried, young or old.

We call on you to address the following gaps in focus area 5:

- Target **5a** should refer to ending discrimination against girls and ending **harmful practices** including language on eliminating early and forced marriage, ending female genital mutilation, honour killings and sexual violence perpetrated during and after conflict.
- **5c** should include a commitment to **universal and free** education at all levels; **with focus on the most marginalised women and girls, including indigenous, ethnic minorities, those living with disabilities, those living in rural areas and migrants**. It should also include provision of comprehensive **sexuality education programs**.
- **5i** should commit to ensuring sexual and reproductive health and rights of women of all ages, especially adolescent girls, to guarantee sexual, bodily and reproductive autonomy free from stigma, **violence, coercion and discrimination**
- **5h** is very welcome, but should ensure the recognition, reduction, and redistribution of unpaid care work, which is currently done mostly by women and migrant domestic workers

Moreover, the recognition of the importance of financing for gender equality should be highlighted in the means of implementation. It is also imperative that alongside gender budgeting, OWG members support human rights impact analyses of budget and tax policies across disadvantaged groups, women included.

## FA 6: Water and Sanitation

We are concerned that proposed target **6a** does not aim to ensure that sufficient water is available for personal and domestic uses, that water and sanitation is acceptable to users and that sanitation provides privacy and ensures dignity. As stated, therefore, the target does not include important aspects of the rights to water and sanitation as recognized by the UN Human Rights Council and international human rights bodies. The result may be that efforts to meet the goal might, for example, neglect the need for sufficient

water and accessible facilities for people with disabilities and ignore the need for facilities for menstrual hygiene.

The term ‘drinking water’ is also problematic as it might suggest that the target refers only to water for drinking purposes. Rather, it should refer to ‘potable’ water to make clear that the target aims to address essential household uses.

The target also does not refer to access to water and sanitation in schools, health facilities, workplaces and refugee camps, which had been listed in the FA document of 18 March 2014. Access in these institutions should be made explicit in the target, as such institutions were not included in the MDG Goals on water and sanitation. If water and sanitation is not available in these institutions, the proposed Goals on education, gender equality and health will not be met.

## **FA 8. Economic growth, employment and infrastructure**

We regret that the issue of Employment, and in particular Decent Work, is no longer a focus area in its own right, especially given the magnitude of the challenge of effectively responding to staggering rates of unemployment and increasing inequality. We would then insist that each component of this focus area be accorded equal priority, in terms of resulting targets and commitments. We also propose that the title of the focus area (or goal) include *Decent Work for All* and explicitly read ***Inclusive Economic Growth*** i.e. Inclusive Economic Growth, Employment and Decent Work for All, and Infrastructure.

The current list of targets, while not exhaustive, provide a sound basis to address the challenge of unemployment. We therefore caution against eliminating any of the employment related targets. We strongly support the retention of all targets related to employment (8b, c, h, i, j) here and in other focus areas—though we would appreciate consistency in language on employment and decent work with target **8b** throughout the document, which is not necessarily the case currently.

In particular, we strongly support **8b** (*achieve full and productive employment and decent work for all who seek employment including for marginalized groups by 2030*), though we would propose to enumerate the four pillars of decent work—job creation, social protection, workers’ rights and social dialogue. We also seek clarity on the reference to “for all who seek employment”, as some people already in employment, formal or informal, do not enjoy decent work.

We also strongly support target **8h** (*protect the rights of all workers, including migrant workers, in compliance with ILO fundamental rights at work*) and ask that every effort be made to retain this target. That said, the effectiveness of such a target will lie in the indicators developed to support it and here we would like to ensure that the full depth of these principles is captured in the articulation, especially those elements that directly respond to the challenge of inequality, i.e. ILO Conventions 87, 98, 100, and 111.

## **FA 15: Strengthened global partnerships for sustainable development**

Transparency and meaningful participation over sustainable development are laudably addressed. Yet they still require strengthening from a human rights perspective. Target **15n** is well-designed to promote participatory sustainable development decision-making at national and international levels, and we strongly advocate for its retention. Yet, member states will need to do more than simply ‘promoting’ participation; they will need to commit to guaranteeing active and truly meaningful involvement of people

in the design and implementation of sustainable development-related policies at all levels, and actively support citizen-led systems of monitoring these policies.

Further, we believe that the proposals do not correctly align the global partnership for development with human rights standards. It is particularly alarming that the document does not recognize existing obligations of international cooperation, and the associated duties to respect, protect and help fulfill human rights beyond borders. No government can know whether their policies, laws and international agreements will have foreseeable human rights impacts abroad unless they conduct proper assessments, with public participation of the risks and potential extraterritorial impacts of their laws, policies and practices on the enjoyment of the full range of human rights, including economic, social and cultural rights. For this reason, we recommend clear commitments from governments, international institutions and large businesses to conduct periodic and independent human rights impact assessments of their policies, within and beyond their borders. Furthermore, we encourage the strengthening of independent human rights complaints mechanisms to provide means of redress for individuals and groups adversely affected by bilateral, multilateral, or private sector-funded sustainable development programs.

Finally, we note with concern that **15v** does not include any explicit reference to the responsibilities of businesses and international organizations (including international financial institutions) to respect human rights and to exercise due diligence to assess, prevent and mitigate their adverse impact on human rights, in accordance with human rights law.

#### **FA 16: Peaceful and inclusive societies, rule of law and capable institutions**

Effective human rights accountability built into the Post 2015 framework will not only allow individuals and communities to hold States to account for their progress, but also assist States to monitor their performance against human rights-based indicators. This can be an important tool in which States can ensure that throughout the development process all arms of government, at local and national level, are working in tandem towards achieving the obligations to which their states have committed by becoming party to international human rights treaties. For these reasons, we strongly call on OWG members to retain and strengthen FA 16.

More specifically, the proposed target **16b** is welcome, yet “eliminating discriminatory laws, policies and practices” is an immediate obligation under international human rights law. States should not be given until 2030 to do so.

Further, civil and political rights guarantees are absolutely critical to empower citizen-led sustainable development. Yet, target **16f** remove unnecessary restrictions of freedom of media, association and speech,” will be useless as formulated because it gives ultimate discretion to governments to define what is a necessary restriction. The target should be kept, but re-phrased along the lines of removing restrictions that are contrary to international human rights law. Further, this target should expressly include freedom of assembly, meaningful political participation, the right to information as well as protection of civil society space and human rights and environmental defenders.

We welcome the recognition of the central need for capable institutions. It is unclear however under ‘Rule of Law, capable institutions’ target (a) what type of institutions should be developed. Similarly, clarity

needs to be provided with respect to providing public services for all by 2020 focusing on the need to ensure accessible and affordable justice systems and legal aid.

Target **16b** of providing access to independent and responsive justice system is a key step forward, especially to boost access to remedies for injustices related to employment, business, taxation, trade and finance policies. Yet, this would benefit from making explicit the need to ensure the right to an effective remedy for all. We should clarify that a person has an immediate right to a remedy under international human rights law, and States must not defer or delay the implementation of this legal obligation. The OWG should explicitly re-affirm this, and not give States until 2030 to provide equal access to independent and responsible justice system. Further, ensuring equal access to the justice system requires concrete measures to eradicate existing barriers to access justice, particularly the affordability of justice for people living in poverty. This target should then be complemented by a commitment to eradicate all barriers to access justice. Further, the target should guarantee that justice systems will provide a remedy for civil, political, social, economic, cultural and environmental human rights so as to buttress national-level accountability over the SDGs.

We very much support target **16d** on access to information in regard to public finance management, public procurement and national sustainable development plans. Yet, surely the right to information should not be restricted to those important but limited areas. Health and education policies, for example, trade and investment policies, as well as a whole plethora of other policy areas directly affect people's enjoyment of human rights in sustainable development. The target should thus be re-phrased so as to aim to improve the right to information on all aspects of public policies, including economic, social, financial and environmental fields. We would also specify that such information should be timely, of high-quality, accessible, reliable and disaggregated.

In view of these commendations and of these criticisms, we stand ready to contribute over the course of the next year to ensure the post-2015 sustainable development agenda be founded more securely on the central pillar of the UN system—human rights.

*To date, this joint statement is supported by the following organizations:*

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