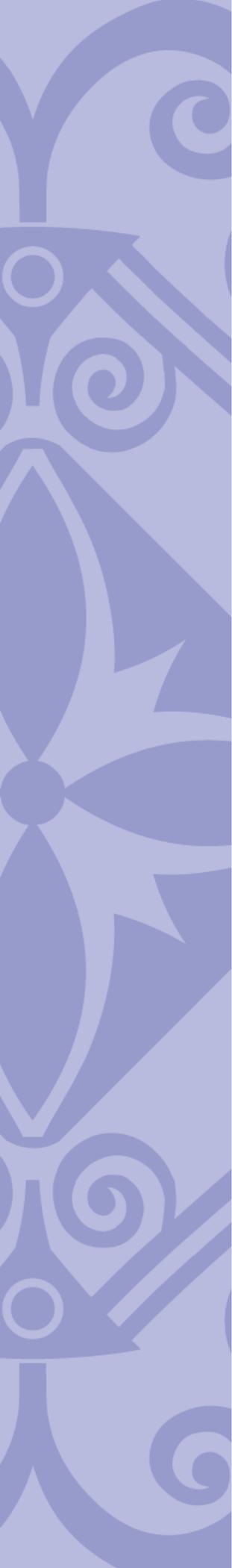




The Integration of Gender and Human Rights into the Post-2015 Development Framework

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The Post-2015 Development Framework
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Introduction

This report is based on the discussion that took place at the “Post-2015 Expert Group Meeting” held at the Center for Women’s Global Leadership (CWGL) from December 13-14, 2012. This meeting was convened to try to integrate issues of gender and human rights into the development of a post-2015 framework for social and economic development that is applicable to all countries. The Millennium Development Goals (MDGs), which were derived from the more comprehensive Millennium Declaration, established a timeframe ending in 2015 for the achievement of the goals and targets laid out. With the deadline quickly approaching, there has been a great deal of activity in defining a post-2015 agenda. Experts in this field, including researchers and advocates, were brought together to develop an overarching framework for social justice, that builds on the Millennium Declaration, while also acknowledging the economic and geopolitical changes that have occurred since the MDGs were introduced. As the debate on the post-2015 agenda has already commenced, this report is an attempt to identify critical components of a post-2015 framework that fill gaps associated with the MDGs and promote economic and social rights and gender equality.

In establishing a post-2015 agenda that promotes social justice, this report seeks to integrate macroeconomics, human rights, and gender into an analytical framework. To achieve this, specific focus is given to five areas of importance to the current post-2015 discourse: (i) gender equality and the realization of women’s rights; (ii) inequality, both within and between countries; (iii) employment and the right to decent work; (iv) creation of an enabling macroeconomic environment for the realization of economic and social rights; and (v) governance for human rights at global and national levels.

The Millennium Declaration

The Millennium Declaration emphasized the need for global solidarity for the realization of human rights. It outlined the opportunities and challenges that globalization presents for achieving broadly shared well-being. The fundamental values of the Millennium Declaration are freedom, equality, solidarity, tolerance, respect for nature, and shared responsibility.¹ It set out the need for all countries to be involved in creating “...a more peaceful, prosperous, and just world,” as “we have a collective responsibility to uphold the principles of human dignity, equality and equity at global levels.”² It was explicit about a commitment to human rights:

“We will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development. We resolve therefore: to respect fully and uphold the Universal Declaration of Human Rights; to strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all; to strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights; to combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination against

¹ United Nations. 2000. *Millennium Declaration*. <http://www.un.org/millennium/declaration/ares552e.htm>

² Ibid.

Women; to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies...³

Human rights represent the framework for social justice embedded in the Millennium Declaration; however in pursuing the Millennium Development Goals [MDGs], the commitment to human rights was not placed in the forefront. A renewed and vigorous commitment to human rights implies a fundamentally different post-2015 agenda from the MDGs. A post-2015 agenda cannot solely be about developing countries, as developed countries also have national and international responsibilities to respect, protect, and fulfill human rights. Moreover, with the rapid growth of many emerging economies and the crisis in countries of the Global North, the traditional distinction between developed and developing is becoming increasingly blurred. Nor can the agenda adopt a one-size-fits-all approach that fails to acknowledge the diverse constraints imposed by the structure of the international trade regime and the global financial architecture.

This new post-2015 agenda has to integrate gender at every level and do more than give lip service to gender equality. It has to engage with the multiple forms of inequality at both national and global levels to provide a meaningful framework for thinking about a political and economic agenda anchored in social justice. Concerns about employment have to go beyond the number of jobs and must include the quality of employment, the continuum of paid and unpaid work, and whether or not the right to work and the right to leisure are being realized. A balance of both national and global governance predicated on the realization of human rights is required, which both protects policy space to support development while also providing guidelines that establish an enabling environment for achieving broadly shared well-being. In order for the post-2015 agenda to be meaningful, the current structure of global economic governance has to be revisited. Increasingly, the realization of human rights and principles of gender equality require more effective global coordination across a range of policy areas, from macroeconomic management to addressing climate change. The current set of institutions is not up to this task and change is needed.

Global Context

The world has changed since the MDGs were created. The global financial crisis has wreaked havoc on livelihoods and the promotion of austerity policies to deal with the consequent increases in government budget deficits which has led to the erosion of economic and social rights. Unemployment and underemployment have increased and put further downward pressure on the conditions, benefits, and remuneration of employment. Inequality within and between countries has increased, and women continue to face highly unequal outcomes across the globe. Climate change and unchecked speculation in international commodity markets have contributed to higher and more volatile food prices which undermine living standards and increase the risk of hunger. Macroeconomic policies were not included in the MDG framework, but the global financial crisis and its aftermath have shown the pivotal role that the macroeconomic environment plays in realizing social goals and objectives. The MDGs were not embedded in a coherent development strategy, and more often than not, this

³ Ibid.



led countries to attempt to achieve the MDGs within a set of orthodox neoliberal policies, including the deregulation and liberalization of financial, capital, and labor markets and reductions in the role of the state. The policy space for governments to pursue independent paths of economic governance has been curtailed.⁴

A stark change of course is needed to deal with the range of international and national problems that confront us. The post-2015 agenda should be built on a new framework that integrates macroeconomic policies, gender equality, and human rights. This will best be accomplished by governments actively pursuing the realization of human rights, as called for in the Millennium Declaration and the international declarations, covenants and conventions already established. These international agreements include: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Racial Discrimination (CERD), the International Convention on the Rights of the Child (CRC), the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), International Labour Organization (ILO) Conventions, commitments made in the Vienna Declaration and Programme of Action, the International Conference on Population and Development (ICPD) Programme for Action, the Copenhagen Declaration and the Beijing Platform for Action.⁵ In signing these declarations and treaties, states have pledged to respect, protect, and fulfill human rights in terms of both conduct and result.⁶ These obligations provide a framework with which macroeconomic and development strategies can be evaluated; and recognition of these obligations will lead to a more effective and just approach to policies and economic governance in a post-2015 world.

Key Human Rights Principles ⁷

A framework of core human rights principles that should inform the way in which states discharge their human rights obligations has been established and should be used as a foundation upon which a post-2015 agenda can be built, consistent with the vision laid out in the Millennium Declaration. Here we review a number of the relevant principles used in the remainder of the report.

Progressive Realization

The International Covenant on Economic, Social and Cultural Rights (ICESCR) specifies that states have the obligation of “achieving progressively the full realization of the rights recognized in the present Covenant” “to the maximum of available resources.”⁸

⁴ Balakrishnan, Radhika and Diane Elson. 2012. “The Post-2015 Development Framework and the Realization of Women’s Rights and Social Justice.” Center for Women’s Global Leadership.

⁵ Ibid.

⁶ The obligation of conduct requires that governments take actions that are intended to support the enjoyment of human rights or to fulfill a human rights obligation. The obligation of result requires governments to achieve outcomes associated with the realization of rights. For a more detailed discussion and application of the obligations of conduct and result, see Balakrishnan, Radhika, Diane Elson, and Raj Patal. 2009. *Rethinking Macro Economic Strategies from a Human Rights Perspective (Why MES with Human Rights II)*. New York City: Marymount Manhattan College.

⁷ Balakrishnan, Radhika and Diane Elson. 2012. *Economic Policy and Human Rights: Holding Governments to Account*. London: Zed Books.

⁸ United Nations. 1966. *International Covenant on Economic, Social and Cultural Rights*. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

In other words, governments must mobilize the available resources in order to enhance the enjoyment of economic and social rights over time. This obligation recognizes that the resources at the disposal of a government are limited, and that fulfilling economic and social rights will take time.

Maximum Available Resources

The principle of maximum available resources says that the state is required to use the maximum of its available resources to meet human rights obligations. Resource availability is not just 'given' to states but depends on how the state mobilizes resources to finance its obligations to realize human rights.⁹

Non-Retrogression

Non-retrogression means that once a particular level of enjoyment of rights has been realized, it must be maintained. This implies that retrogressive measures on the part of a state must be avoided. States must demonstrate that they have considered alternative policies that might avoid the need for expenditure cuts that are retrogressive. An example of a potentially retrogressive measure would be cuts to expenditures on public services that are critical for realization of economic and social rights; or cuts to taxes that are critical for funding such services.

Minimum Essential Levels/Minimum Core Obligations

States that are parties to the ICESCR are also under a "minimum core" obligation to ensure the satisfaction of, at the very least, "minimum essential levels of each of the rights" in the ICESCR.¹⁰ However, even in times of severe resource constraints, states must ensure that rights are fulfilled for vulnerable members of society through the adoption of relatively low-cost targeted programs.

Non-discrimination and Equality

A fundamental aspect of states' human rights obligations is that of non-discrimination and equality. The Universal Declaration of Human Rights (UDHR) Article 2 states that: "everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."¹¹ Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also sets out steps that a State party must take to eliminate discrimination, including adopting appropriate legislative and other measures. Article 4(1) recognizes the legitimacy of "temporary special measures aimed at accelerating de facto equality between men and women."¹²

⁹ See Balakrishnan, Radhika, Diane Elson, James Heintz and Nicholas Luscianni. 2011. "Maximum Available Resources & Human Rights: Analytical Report." <http://www.cwgl.rutgers.edu/resources/publications/economic-a-social-rights/380-maximum-available-resources-a-human-rights-analytical-report->

¹⁰ United Nations. 1966. *International Covenant on Economic, Social and Cultural Rights*. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

¹¹ United Nations. 1948. *The Universal Declaration of Human Rights*. <http://www.ohchr.org/EN/UDHR/Pages/UDHRIndex.aspx>

¹² United Nations. 1979. *The Convention for the Elimination of All Forms of Discrimination against Women*. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

It is clear that CEDAW does not only mean the absence of a discriminatory legal framework, but also means that policies must not be discriminatory in effect. CEDAW requires that states achieve both substantive and formal equality and recognizes that formal equality alone is insufficient for a state to meet its affirmative obligation to achieve substantive equality between men and women. Less attention has been paid to the fact that both UDHR and ICESCR specify 'property' among the grounds on which 'distinction' in the enjoyment of rights is not permitted. It has been accepted that this refers to the wealth or poverty status of people.¹³

Accountability, Participation and Transparency

The importance of accountability and participation is emphasized in the Limburg Principles¹⁴ on the implementation of ICESCR. Under these principles, states are accountable to both the international community and their own people for their compliance with human rights obligations. This requires a concerted effort to ensure the full participation of all sectors of society. Popular participation is required at all stages, including the formulation, application and review of national policies.

Extraterritorial Obligations

The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights state that States have obligations relating to acts and omissions that have effects on the enjoyment of human rights outside of that State's territory. These include administrative, legislative, adjudicatory and other measures.¹⁵

These human rights principles will be used throughout the remainder of the report when discussing the five critical issue areas for the post-2015 agenda: gender equality, inequality (along multiple dimensions), employment, macro level policies, and governance.

Gender Equality

"The MDGs did not have as goal 'the realization of women's rights', instead Goal 3 was 'promote gender equality and women's empowerment'. The indicators were: Ratio of girls to boys in primary, secondary and tertiary education; share of women in wage employment in the non-agricultural sector; and proportion of seats held by women in national parliament."¹⁶ These indicators were problematic for a variety of reasons, particularly data availability/reliability and questionable relevance, i.e. an increase in women's share of non-agricultural paid employment may not be indicative of increasing gender equality if the jobs that women get are lower paid and more precarious than men's jobs.

¹³ MacNaughton, Gillian. 2009. "Untangling equality and non-discrimination to promote the right to health care for all." *Health and Human Rights*, 11(2), pp. 47-63.

¹⁴ A group of distinguished experts in international law, convened by the International Commission of Jurists, the Faculty of Law of the University of Limburg (Maastricht, the Netherlands) and the Urban Morgan Institute for Human Rights, University of Cincinnati (Ohio, United States of America), met in Maastricht on 2-6 June 1986 to consider the nature and scope of the obligations of States Parties to the International Covenant on Economic, Social and Cultural Rights.

¹⁵ The Maastricht Center for Human Rights. 2011. *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social, and Cultural Rights*. http://oppenheimer.mcgill.ca/IMG/pdf/Maastricht_20ETO_20Principles_20-_20FINAL.pdf

¹⁶ Balakrishnan, Radhika and Diane Elson. 2012. "The Post-2015 Development Framework and the Realization of Women's Rights and Social Justice." Center for Women's Global Leadership.

Gender equality was understood in terms of numerical parity and an absence of laws explicitly discriminating against women. This only considered gender equality in the ‘public sphere’ such as the school, the economy, the political system- and not in the ‘private sphere’—the household and the community. The indicators thus failed to encompass a range of important factors that shape women’s daily lives and their ability to realize rights. These factors include inter alia: the conditions and type of work in paid employment, the burden of unpaid caring labor, the impact of violence and conflict, and whether women have control over their own incomes.

One important implication of this is that it could neglect policies such as the policy to eliminate gender-based violence against women. The MDG’s did not draw attention to ‘temporary special measures’ to address a history of disadvantage. The intersection of gender with other forms of disadvantage, such as race, class, ethnicity and sexuality, was not at all considered.¹⁷ In terms of increasing female representation in government, the MDGs once again focused on numbers rather than actual political power and if the women in parliament actually promoted women’s rights.

Realizing women’s rights necessitates going beyond the promotion of women’s empowerment in the labor market. The question of the enforcement of labor rights, the quality of employment, and volatility of earnings must also be considered. One reason women face different economic circumstances to men is because of their responsibility for unpaid labor. Work must be viewed as a continuum that encompasses both paid and unpaid labor in order to understand the constraints women face in realizing both their rights to decent work and rest and leisure. Unpaid work needs to be brought to the forefront of an agenda that promotes the realization of women’s rights: it must be recognized in statistics and policy, reduced by public investment, and redistributed so that unpaid work is shared equally between men and women.

This requires an evaluation of the role of gender norms in shaping outcomes. Policies often touted as panaceas for women’s empowerment, such as microcredit or conditional cash transfers, are problematic and insufficient because they do not recognize how gender norms shape their impact.¹⁸ Many conditional cash transfer programs put a great deal of responsibility on the mother, such as ensuring that their children attend school and health clinics for vaccinations and health checks. Poor women are vulnerable to demands to do unpaid work and community service for schools and clinics.¹⁹ Conditional cash transfer schemes tend to reinforce the traditional division of labor as they do little to broaden women’s roles beyond that of caregivers. They also do nothing to help mothers enter the workforce.²⁰ There is also the issue of whether cash transfer programs to households with children should be made conditional upon a pre-specified behavior by beneficiaries.²¹

¹⁷ Ibid.

¹⁸ With regard to microcredit, see: Kabeer, Naila. 2005. “Is Microfinance a ‘Magic Bullet’ for Women’s Empowerment? Analysis of Findings from South Asia.” *Economic and Political Weekly*, 40 (44/45), pp. 4709-18. With regard to cash transfers, see Molyneux, Maxine. 2008. “Conditional cash transfers: a pathway to women’s empowerment?” *Pathways of Empowerment*, Working Paper #5. <http://www.pathwaysofempowerment.org/PathwaysWP5-website.pdf>

¹⁹ Molyneux, Maxine. 2007. “Change and Continuity in Social Protection in Latin America: Mothers at the Service of the State?” *Gender and Development Programme Paper No. 1*. Geneva: UNRISD.

²⁰ Razavi, Shahra. 2011. “World Development Report 2012: Gender Equality and Development, An Opportunity Both Welcome and Missed (An Extended Commentary).” Geneva: UNRISD.

²¹ Balakrishnan, Radhika and Sonja Thomas. “Gender, Macroeconomic Policy, and the Human Rights Approach to Social Protection.” Forthcoming.



The post-2015 development agenda must explicitly have as a goal: “realize women’s rights, including economic, social and cultural, as well as civil and political rights.”²² The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a good starting place for formulating a post-2015 agenda that supports this goal. It acknowledges that women cannot be seen as a homogenous group with the same barriers to realizing human rights. The intersections of race, ethnicity, gender, class, religion and sexual orientation must be taken into account to promote social justice. The most urgent steps for the realization of women’s rights will be different in different countries and for different groups of women. CEDAW and the General Recommendations of the CEDAW Committee provide a foundation for realizing rights and evaluating public policies with regard to gender; an example is using CEDAW to assess government budgets.²³

The principles that should be integrated into the post-2015 agenda regarding gender can be summarized as follows:

Key Points:

- The post-2015 framework must integrate a comprehensive strategy to ensure the realization of women’s rights
 - This includes economic, social and cultural rights and civil and political rights.
 - The realization of rights must encompass the ‘private’ sphere of the home and family, as well as the ‘public’ sphere of politics and the market.
- There is a need to promote equality of outcomes and not just opportunity
 - This requires a holistic approach. For example, removing barriers to employment opportunities may not reduce gender gaps in earnings. Reducing gender gaps in political power requires more than simply increasing women’s representation in political positions.
 - Temporary special measures may be required to secure equality of outcomes
- Unpaid labor must be addressed in the post-2015 framework. This requires that unpaid work must be:
 - Recognized—in terms of statistics, analysis, and policy implications.
 - Reduced—in terms of public investment in appropriate infrastructure and services.
 - Redistributed—in terms of measures that promote equal sharing of remaining unpaid work.
- Gender equality must be achieved by equalizing up.
 - The MDGs did not differentiate between gender equality gains achieved by

²² Balakrishnan, Radhika and Diane Elson. 2012. “The Post-2015 Development Framework and the Realization of Women’s Rights and Social Justice.” Center for Women’s Global Leadership.

²³ Elson, Diane. 2006. *Budgeting for Women’s Rights: Monitoring Government Budgets for Compliance with CEDAW*. UNIFEM. New York.

improvements in women's status or the deterioration of men's. Instead, the focus should shift to reducing gender gaps while increasing the well-being of both men and women.

- Principles of non-retrogression and progressive realization from the human rights framework help insure equalizing up.
- The framework must protect women's reproductive rights and rights to freedom from violence.
 - These rights are an essential basis for women to realize other economic, social, cultural, civil, and political rights.
- There is a need to reform structures which reproduce or even compound gender inequality over time and across generations.

Inequality between Households and Countries

The MDGs contain no mention of inequality between individuals, households and countries, and rely on aggregate indicators which mask the degree of inequality within and across countries. This is not only true for income and wealth, but also for access to food, water, sanitation, health care, education and access to services.²⁴ Persistent inequality contributes to social and political conflict, the erosion of social cohesion, and economic volatility, all of which make it more difficult to realize economic and social rights. For instance, analysts have identified growing inequalities as one of the root causes of the 2008 global economic crisis, which undermined the realization of a range of economic and social rights in many countries.²⁵ Inequalities also affect political processes, in which wealthy elites are able to block policies, such as tax policies that finance government programs which support gender equality and the broad-based realization of economic rights.

Economic growth in which gains are unevenly shared and which expands inequality is counterproductive to the realization of human rights and achievement of social justice. This means recognizing that if the private sector is not adequately regulated, the pursuit of private profit "is likely to increase inequality, precarious work, tax avoidance and evasion, systemic financial risk, environmental degradation, and failure to realize human rights."²⁶ Strengthening the regulation of business and corporate accountability are integral to curbing inequalities. Growth must also be evaluated in terms of the environmental costs, as the realities of climate change are already upon us and stand to have the harshest impacts on the least developing countries that have contributed the least to the problem and have the fewest resources to protect their vulnerable

²⁴ With regards to inequality with access to water and sanitation and unequal burdens for collecting water along gender, racial, ethnic, and class lines, see: Satterthwaite, Margaret. 2012. "Background Note on MDGs, Non-Discrimination and Indicators in water and sanitation." WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation. http://www.wssinfo.org/fileadmin/user_upload/resources/END-Background-Paper_1.pdf

²⁵ On inequality and the 2008 crisis, see, for example, Rajan, Raghuram. 2010. *Faultlines: How Hidden Fractures Still Threaten the World Economy*. Princeton, NJ: Princeton University Press.

²⁶ Balakrishnan, Radhika and Diane Elson. 2012. "The Post-2015 Development Framework and the Realization of Women's Rights and Social Justice." Center for Women's Global Leadership.



populations.²⁷

Equality needs to be embedded in the post-2015 development agenda on multiple levels. For example, inequality within households must be considered. Women and girls often face great disparities in terms of access to resources, including food within households. Nor should a focus on inequality only rely on bringing the bottom up; extreme wealth is a social, economic, and political problem. The concentration of wealth into the hands of the top 1% in developed countries and developing countries that has occurred in the last few decades is unsustainable, and poses risks to the proper functioning of democracy and the global economy.

Research has indicated that changes in the income distribution across countries of varied development and income levels have been driven by changes at the top decile and the bottom four deciles, while the middle has stayed relatively constant. This implies that "...globalization is creating a situation where virtually all the inter-country diversity of income distribution is the result of differences in what the rich and the poor get in each country."²⁸ Policy and institutions are instrumental in determining whether the poor are able to maintain an adequate standard of living or whether that subsistence is drained into the coffers of the rich.²⁹ Redistributive policies must be central in achieving a post-2015 agenda that yields broadly shared economic gains, as must policies which create a more equitable structure of production.

Of course, poverty reduction remains important. Inequality is not simply the result of some groups seeing faster improvements than others, but of patterns of growth that disadvantage some groups. Similarly, policies to attract foreign investment and inflows of financial resources can also have significant effects on disadvantaged group, as the practice of land grabs demonstrates. Although large reductions in extreme poverty have occurred since the MDGs were enacted, the most recent data available shows that in 2008, 24% of people in developing countries were still extremely poor, living on less than \$1.25 a day.³⁰ Approximately 1 billion people are hungry and 2 billion have nutritional deficiencies.³¹ A human rights framework necessitates attention to the most disadvantaged first and the principle of non-discrimination and equality requires measures to reduce inequalities across multiple dimensions. States have the obligation to ensure that people living under their jurisdiction enjoy a minimum essential level of economic and social rights.

²⁷ *Climate Change: Impacts, Vulnerabilities and Adaptation in Developing Countries*. 2007. United Nations Framework Convention on Climate Change. <http://unfccc.int/resource/docs/publications/impacts.pdf>; United Nations Development Programme. 2011. *Human Development Report 2011, Sustainability and Equity: A Better Future for All*. http://www.undp.org/content/dam/undp/library/corporate/HDR/2011%20Global%20HDR/English/HDR_2011_EN_Complete.pdf

²⁸ Gabriel Palme, Jose. 2006. "Globalizing Inequality: 'Centrifugal' and 'Centripetal' Forces at Work." UN/DESA. DESA Working Paper No.35, September. http://www.un.org/esa/desa/papers/2006/wp35_2006.pdf

²⁹ Ibid.

³⁰ *The Millennium Development Goals Report 2012*. United Nations. http://www.undp.org/content/dam/undp/library/MDG/english/The_MDG_Report_2012.pdf

³¹ UN Secretary General. 2011. "Accelerating progress toward the Millennium Development Goals: options for sustained and inclusive growth and issues for advancing the United Nations development agenda beyond 2015." Annual Report of the Secretary General. <http://www.ipc-undp.org/pressroom/files/ipc629.pdf>

The following guiding principles outline the important issues for integrating inequality into a post-2015 agenda.

Key Points:

- Progress towards realizing economic and social rights should not only be assessed at the average or aggregate level.
 - Inequalities in the realization of economic and social rights must be recognized and addressed.
 - Indicators should be disaggregated by socio-economic status, race, ethnicity and gender.
- Distributive analysis should be conducted with respect to the following issues:
 - Access to food, water, sanitation, education, health and services.
 - Inter- and intra-household level distribution of resources. Land ownership, housing, and property rights.
 - Time spent in unpaid domestic work.
- Structural determinants of inequality need to be identified and addressed. Structural sources of inequality include:
 - Economic, political, social and legal institutions.
 - Social norms regarding gender, race, ethnicity, religion, sexuality, and disability.
 - Structural inequalities in labor markets, such as gender segmentation.
 - Unequal distribution of resources and power between countries, in which large systematically important economies influence the policy space available to other countries.
 - International trade and financial systems, including international institutions such as the IMF, the G20, the World Bank, regional development banks and trading blocs, and the WTO.
- Extreme poverty and deprivation should continue to be addressed.
 - Minimum core obligations must be followed. Those who are the most deprived should have priority so that they can enjoy minimum essential levels of economic and social rights.
 - Both universal and targeted policies are needed to create politically sustainable and fully human rights compliant systems
- The post-2015 framework must include a role for the redistribution of income, wealth, and assets to support the realization of rights.
 - Extreme wealth is a problem as well as extreme poverty. It must be reduced

to secure political and economic stability and sustainability.

- Responsibilities and commitments exist for both developed and developing countries.
 - All countries have obligations to respect, protect, and fulfill human rights.
 - Developed countries have also seen an expansion of inequality, and to ensure the non-retrogression in enjoyment of rights they must also be integrated into the post-2015 agenda.

Employment

Employment did not feature prominently in the original Millennium Development Goals, but “Achieving full and productive employment and decent work for all, including women and young people,”³² was added to MDG 1 in 2007. The decent work indicators include the rate of growth of GDP/worker, the employment/population ratio, the share of the employed subsisting on less than \$1/day, and the share of self-employed and contributing family workers in total employment.³³ The International Labor Organization (ILO) identifies four aspects of decent work: creating jobs, guaranteeing rights at work, social protection, and social dialogue.³⁴ Promotion of decent work in the post-2015 agenda will need to identify and change the structural factors that have been contributing to the rise of precarious and informal employment, and to the large working poor population—employed individuals who do not earn enough to lift themselves and their families out of poverty. In addition, social security must be reformed and expanded so that it is enjoyed as a right by all.

The current state of the global economy creates many challenges for the realization of the right to work and rights at work. The global financial crisis has led to output and employment stagnation in advanced industrialized nations, particularly the US and Europe, and though many developing countries had initially fared better, this is beginning to wane. An export-led development model relies on having strong international demand for products, and continuing weak demand in developed economies spells further trouble for developing country exports and consequently employment and growth. As competition increases among suppliers there will be even further pressure on the conditions, wages, and benefits of employment. A policy framework based on human rights provides the context to address these challenges into a post-2015 development agenda.³⁵

Creation of decent work in a post-2015 agenda requires an acknowledgement of the important role of the state as a direct creator of decent work in the public sector and an enabler of the creation of decent work by the private sector. The following principles are key to meeting these obligations and rising to the employment challenges we face.

³² United Nations. 2000. *Millennium Development Goals*. <http://www.undp.org/content/undp/en/home/mdgoverview.html>

³³ Ibid.

³⁴ International Labour Organization. “Decent Work Agenda.” <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm>

³⁵ Excerpt from a presentation made by James Heintz, Political Economy Research Institute, University of Massachusetts, at the Center for Women's Global Leadership. December 2012.

Key Points:

- Promoting employment is not sufficient, the focus must be on realizing the right to work, rights at work and the right to an adequate standard of living.
 - There needs to be an enabling environment for creating and improving employment opportunities, including appropriate macroeconomic management, infrastructure provision, sectoral policies, trade and investment strategies, and, when necessary, global coordination.
 - Social protections linked to paid work are essential. These include:
 - Policies that raise the remuneration throughout the labor market, such as minimum wages.
 - Regulations on hours of work to protect right to rest and leisure.
 - Protection for trade union and collective bargaining rights.
 - Policies must also improve the ability of people to take advantage of employment opportunities that are available. These include:
 - Policies that address the multiple disadvantages of vulnerable population groups, such as affirmative action and targeted strategies to support small-scale informal enterprises.
 - Policies that promote equal pay for equal work and freedom from discrimination.
 - Policies that break down sex-segregation of occupations, and get men and women into jobs they have not traditionally done.
 - There must be a revaluation of jobs that have been traditionally done by women (particularly care work), such that they receive adequate compensation.
 - Employment cannot meet the needs of everyone throughout their lives: employment policy must be complemented by provision of social security and social protection in ways that are in compliance with the right to social security.

Macro Level Policies

The MDGs did not specify what macroeconomic policies were needed for their realization in different contexts. The global financial crisis has created recognition of the need to reframe macro level policies in ways that are more compliant with human rights and more effective for achievement of social justice. The post-2015 agenda needs to incorporate more policy space for equitable national development and guidelines that ensure that policy space will be used for the realization of rights rather than the further concentration of wealth and power and expansion of inequality. Economic policy can be assessed using human rights principles, norms, and obligations. Such an audit can use both quantitative indicators and a qualitative examination of relevant legislation and policy processes.³⁶ The Maastricht Guidelines on Violations of Economic, Social

³⁶ Ibid.



and Cultural Rights clarify that the obligation of conduct requires action reasonably calculated to realize the enjoyment of a particular right; and the obligation of result requires states to achieve specific targets to satisfy a detailed substantive standard.³⁷ An audit can examine how policy has been conducted—has it consisted of action “reasonably calculated to realize the enjoyment of a particular right?” In addition, the obligation to respect requires states to refrain from interfering with the enjoyment of economic, social and cultural rights. The obligation to protect requires states to prevent violations of such rights by third parties. The obligation to fulfill requires states to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of such rights. Each of these obligations contains elements obligations of conduct and obligations of result.³⁸

The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes state obligations to use the maximum available resources for the progressive realization of economic, social and cultural rights.³⁹ This obligation has significant implications for the conduct of macroeconomic policy, including in such areas as government spending, tax policy, public debt, the role of official development assistance, and monetary policy.

The human rights community has recognized the importance of government revenues including the concept of maximum available resources. Economists would agree that resource availability for realizing human rights depends on expenditure, aid and taxation, but also point to the possibility of borrowing and running a budget deficit. In addition, maximum available resources depend on the monetary space which is determined by central bank policies. These policies influence the interest rate, exchange rates, foreign exchange reserves, reserves in the banking sector, and the regulation of the financial sector. The monetary space also influences the resources available for the realization of Economic, Social and Cultural Rights; for instance through its impact on the level of employment and the utilization of productive resources. When central bank policy does not support full employment, this reduces available resources.

Particular attention will need to be given to these five areas in the post-2015 framework regarding macroeconomic policy: (1) government expenditure; (2) government revenue; (3) development assistance (both official development assistance and private resource flows); (4) debt and deficit financing;⁴⁰ and (5) monetary policy and financial regulation.⁴¹

³⁷ Balakrishnan, Radhika and Diane Elson. 2008. “Auditing Economic Policy in the Light of Obligations on Economic and Social Rights.” *Essex Human Rights Review*. Vol. 5, No. 1, July.

³⁸ See: ESRC General Comment 3, The Nature of States Parties Obligations, 1999. <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

³⁹ United Nations. 1966. *International Covenant on Economic, Social and Political Rights*. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁴⁰ The first four areas are commonly known as the fiscal diamond. See: United Nations Development Programme. 2010. Chapter 5: “The Fiscal Space Challenge and Financing for MDG Achievements.” http://content.undp.org/go/cms-service/stream/asset/?asset_id=2223965

⁴¹ Balakrishnan, Radhika, Diane Elson, James Heintz and Nicholas Luscianni. 2011. “Maximum Available Resources & Human Rights: Analytical Report.” <http://www.cwgl.rutgers.edu/resources/publications/economic-a-social-rights/380-maximum-available-resources-a-human-rights-analytical-report->

International trade negotiations and the trade regime affect a range of economic and social rights with consequences for gender inequality. In many countries, women have been disproportionately employed in export-oriented labor-intensive manufacturing sectors. Shifts in the trade regime can therefore affect these jobs. Trade liberalization can increase competitive pressures and force down labor costs in ways that undermine decent work. Because of this, any benefits that might be realized through liberalization may be captured by a relatively small number of more powerful players. Trade agreements, including those governing intellectual property rights, directly impact the cost and availability of pharmaceutical products and, therefore, the right to health. The Doha Round of WTO negotiations were meant to address inequalities in the current global trading system, with an aim to reduce gaps between countries. The implementation of the Doha Round has been stalled for over a decade. Apart from the specificities of the Doha Round, unbalanced trade rules currently disadvantage many low-income countries in areas such as agricultural production.

The governance of global supply chains is also important to take into consideration. In global supply chains, international trade is organized in terms of relationships between companies operating in different countries. For instance, a large retailer in the Global North may source its goods from smaller producers in low wage countries with the large retailer having significantly more power than the small-scale manufacturers. Under these conditions, the benefits of greater competitiveness and improved productivity get captured by the retailer (in terms of higher profits) or the final consumer (in terms of lower prices). Workers at the bottom of the chain, who may be disproportionately women, often receive few or no benefits. For these reasons, the ways in which international trade is structured and governed matter for gender equality and the realization of rights.

An enabling macroeconomic environment for the realization of human rights should be based on the following guiding principles.

Key Points:

- Macroeconomic policy should be formulated in order to mobilize the maximum possible level of resources for the fulfillment of economic and social rights.
- Macroeconomic policy must be consistent with the principles of non-retrogression and progressive realization.
 - Macroeconomic policies which lead to retrogression must not be adopted, such as policies of fiscal austerity.
 - Policies should support the ongoing realization of economic and social rights over time.
 - There is a need to increase policy space for national governments and this requires reform of global governance to support greater international coordination.
- The obligation to protect requires the effective regulation of financial institutions and markets to prevent economic crises.
 - The power of the financial sector has prevented substantive reforms from being enacted. The post-2015 agenda must provide a basis for nation states

and international institutions put pressure on states to impose financial regulations.⁴²

- Financial regulation has to occur at the national level, but the post-2015 agenda must address the extraterritorial dimensions of national regulatory policy and therefore the extraterritorial obligation to protect.
- Macroeconomic policy must be evaluated with regard to the principle of non-discrimination and equality.
 - This includes identifying and eliminating gender biases in the formulation of macroeconomic policies. Gender responsive budget analysis provides one tool for doing this.⁴³
 - Unpaid care work and social reproduction must be integrated into the formulation and evaluation of macroeconomic policies.
 - Macroeconomic policies must be avoided that exacerbate inequalities along the lines of socio-economic status, race, caste, and ethnicity.
- Monitoring and accountability
 - National level accountability must be secured through looking at robust evaluations and comparisons with other countries. The human rights covenants and conventions have already established criteria that can be used for evaluation.
 - This should be a priority for both developing and developed countries. One-size-fits-all policies are not effective for development and the realization of human rights given that countries have diverse economic structures.
 - Trade agreements – multilateral, bilateral, and regional – must be evaluated with regard to their impacts on economic and social rights.

Governance and Global Partnerships

MDG 8 called for “global partnership for development,”⁴⁴ but the focus was largely limited to official development assistance (ODA) from developed countries. Although there is still a role for development assistance in the appropriate context, ODA is far from sufficient to address the challenges of global economic governance. Even within the narrow focus on development assistance, there was no meaningful progress on this score, particularly following the global financial crisis as developed countries cut aid allocations. A post-2015 agenda needs to fill the void in global governance, especially with regard to

⁴² Balakrishnan, Radhika and James Heintz. 2010. “Why Human Rights are Indispensable to Financial Regulation.” Huffington Post, March 29. http://www.huffingtonpost.com/radhika-balakrishnan/why-human-rights-are-indi_b_517128.html

⁴³ See: Elson, Diane. 2006. *Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW*. New York: UNIFEM.

⁴⁴ United Nations. 2000. Millennium Development Goals. <http://www.undp.org/content/undp/en/home/mdgoverview.html>

the systemic risk from poorly regulated financial flows and financial markets.⁴⁵

There are no effective international mechanisms for holding states accountable for spillovers from monetary and fiscal policies, even though states do have extra-territorial obligations that encompass the impact of their actions beyond their borders. We need a re-evaluation of existing international institutions—IMF, WB, WTO—and the creation of new ones to correct global economic imbalances, enforce accountability, and promote stability. Developing countries need to be given equal voice to establish an equitable and effective international development agenda. It is also vital to recognize that transnational corporations, including private business with global reach such as credit rating agencies and international banks, exert considerable influence on the ability of states to adopt policies which facilitate the realization of human rights. Transparency in the governance structures of these private bodies as well as mechanisms for monitoring and accountability must be integral to the post-2015 agenda.⁴⁶

As discussed earlier, the Maastricht Principles on Extraterritorial Obligations (ETOs) of States in the area of Economic, Social and Cultural Rights establishes that governments have human rights obligations that extend far beyond their borders. The “...obligations to respect, protect, and fulfill human rights, including civil, cultural, economic, political and social rights, both within their territories and extraterritorially”⁴⁷ already establishes a groundwork upon which global governance that promotes human rights can be further developed in a post-2015 agenda. These principles include obligations to conduct impact assessments, implement preventive measures, and participate in international agreements in ways that support the realization of economic, social and cultural rights. The post-2015 agenda should seize the opportunity to operationalize these ETOs to truly create a global partnership for development. For example, standards for human rights can protect against increasing infringements upon national autonomy from international and regional trade agreements.

Monitoring and evaluation of movement towards the achievement of the MDGs has been based on the identification of a set of universal indicators - to be applied indiscriminately across all developing countries - for which data currently exists, despite the persistent reliability problems associated with statistics for certain indicators, such as maternal mortality. A central motivation of this approach was to mobilize development assistance among rich countries targeted at the least developed economies. For the post-2015 agenda, a more innovative process should be put in place, one that encompassed all countries, developed and developing, and that supports the human rights principles of accountability, participation, and transparency.

There is a bias in the current process to define the post-2015 agenda to begin with targets and indicators and then proceed to the rest of the agenda. This would be a mistake. Instead, the post-2015 agenda should focus on the realization of economic and social rights, taking into account issues of governance, macroeconomic policy, employment, gender, and inequality. Monitoring progress towards realizing these rights should be participatory and encourage the development of indicators most relevant to

⁴⁵ Excerpt from a presentation by Ilene Gabel, University of Denver, at the Center for Women's Global Leadership. December 2012.

⁴⁶ Ibid.

⁴⁷ The Maastricht Center for Human Rights. 2011. Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social, and Cultural Rights.



the context of specific countries. The objective should be to enhance accountability in the achievement of the post-2015 goals. Indicators should not be limited to the data which currently exist, dismissing entire issue areas because of a lack of statistics. The global community must commit significant resources towards the collection of the necessary data and building capacity to allow the development of an appropriate set of indicators. An international review process should be implemented to insure that implementation of an effective process of participatory monitoring and accountability at the country level takes place.

Key Points:

- Extraterritorial obligations (ETO), as elaborated in the Maastricht Principles, should be used as the foundation for a post-2015 approach to global governance.
- Global governance and extraterritorial obligations imply that both state and non-state actors must be held accountable for the impacts of their actions, or failure to act, on the realization of economic and social rights beyond their borders.
 - This includes state accountability to pursue financial regulation, address climate change, and respect, protect, and fulfill human rights obligations.
 - Multinational corporations, credit rating agencies, and international banks must be held accountable for the realization of human rights.
 - There needs to be coordination with regard to international tax policy and agreements to eliminate tax avoidance and evasion across national borders.
- A balance must be struck between increasing the effectiveness of global governance while at the same time protecting national policy space and autonomy.
 - Countries will need policy space that allows them to pursue human rights and development policies across a wide range of economic circumstances. The human rights framework provides a means for establishing a balance between global governance and national autonomy.
- An effective, rights-based post-2015 framework requires the reform of existing global institutions and creation of new institutions.
 - Developing countries need to be given an equal voice in systems of global governance and international policy.
- Redistribution at global level
 - Global imbalances and inequalities need to be addressed. Official Development Assistance will continue to be important and higher income countries have a responsibility to continue to support development assistance.
- The constraints faced by developing countries in the current international trading system need to be addressed. This requires special and differential treatment in trade agreements.

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