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**Structural and policy constraints in achieving the MDGs for women and girls**

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### **Macro policy and the MDGs**

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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 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.<sup>2</sup>

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<sup>1</sup> These comments are mostly taken from a report produced by CWGL entitled the Integration of Gender and Human Rights in the Post 2015 Development Agenda. Rapporteur Mary Bowman edited by Balakrishnan, Elson and Heintz.

\* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

<sup>2</sup> 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.

## **Strengths and weaknesses of the MDG framework**

The strength of the MDG framework was its focus on time bound goal and targets for important outcomes, though there were significant weaknesses in many of the indicators used to chart progress towards achievement for the outcomes. This focus had the potential to help people to hold their governments, and international agencies, to account for the realization of many of the desirable outcomes agreed at the UN conferences of the 1990s. It could be linked to the scrutiny of government budgets through gender-responsive, human- rights focused and participatory budgeting.

But the weakness of the MDG framework was that these goals, targets and indicators:

- Only applied to developing countries
- Became linked to aid conditionality, and linked to enabling donor governments to monitor recipient governments, rather than enabling citizens to monitor their governments
- Ignored economic inequality within and between countries
- Ignored job creation and decent work, though this was later modified
- Implied that the route to meeting the targets was through ‘interventions’ financed at least in part by aid
- Were not embedded in coherent development strategies, and by default became vehicles for the continuation of neo-liberal development policies
- Largely ignored domestic resource mobilization, monetary policy, international trade, and international finance
- Ignored the role, both positive and negative of the private sector
- Formulated the goal of promoting gender equality and women’s empowerment without a focus on realizing women’s rights, providing no safeguards against ‘equalizing down’ and giving no substance to the ambiguous term ‘empowerment’
- Reduced this goal to parity in educational enrolment in primary and secondary schooling, supplemented by indicators of women’s share of seats in national parliaments, and share of non-agricultural paid employment
- Paid no specific attention to the unpaid economy, even though this is critical for both the care of human beings and the care of the environment
- Detached development from the international normative framework and accountability mechanisms provided by human rights (although the Millennium Declaration had made this link)

## **Key Changes Since 2000**

Inequality within and between countries has increased, and women continue to face highly unequal outcomes across the globe. Unemployment and underemployment have increased and put further downward pressure on the conditions and benefits, and shrinking wages and rising costs of living have pushed the achievement of gender equality and women’s empowerment called for in the MDG’s further into the distance. In fact, more women in the workplace have not necessarily meant better working conditions and pay but more exploitation and vulnerability. Women make up a large percentage of workers forced to migrate within their own countries or to

other countries in search of a livable wage while at the same time opening themselves up to possibilities of violence and discrimination.

Higher and more volatile food prices created by unchecked speculation in international commodity markets undermine women's living standards and incomes as producers of primary products increasing the risk of hunger and women's abilities to care for their families. The failure of key governments to implement adequate regulation of financial markets and institutions during the three decades leading up to the crisis is a failure to meet the human rights obligation of the state to protect rights from the actions of third parties that might threaten those rights. The period since the global financial crisis has been marked by retrogression in the realization of social and economic rights for many people in many countries.

The MDG framers could not foresee these realities. The critical importance global partnership for development articulated in Goal 8 takes on new significance in the light of current global economic realities. The pivotal role that the macroeconomic environment plays in realizing social goals and objectives is clearer than ever before and must be taken into account and incorporated as part of a coherent development strategy in the future. The realization of human rights for all people in all countries is impossible without an enabling global economic environment committed to realization of economic and social rights.

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.

### **Human Rights Approach**

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.<sup>3</sup> The Maastricht Guidelines on Violations of Economic, Social 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.<sup>4</sup> 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

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<sup>3</sup> Ibid.

<sup>4</sup> 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.

full realization of such rights. Each of these obligations contains elements obligations of conduct and obligations of result.<sup>5</sup>

The following human rights norms are critical to being able to assess economic policy.

### **Key Human Rights Principles<sup>6</sup>**

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.”<sup>7</sup> 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.<sup>8</sup> These include: (1) government expenditure; (2) government revenue; (3) development assistance (both official development assistance and private resource flows); (4) debt and deficit financing;<sup>9</sup> and (5) monetary policy and financial regulation.<sup>10</sup>

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<sup>5</sup> See: ESRC General Comment 3, The Nature of States Parties Obligations, 1999.

<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

<sup>6</sup> Balakrishnan, Radhika and Diane Elson. 2012. *Economic Policy and Human Rights: Holding Governments to Account*. London: Zed Books.

<sup>7</sup> United Nations. 1966. *International Covenant on Economic, Social and Cultural Rights*.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>8</sup> See Balakrishnan, Radhika, Diane Elson, James Heintz and Nicholas Lusciani. 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->

<sup>9</sup> 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](http://content.undp.org/go/cms-service/stream/asset/?asset_id=2223965)

<sup>10</sup> Balakrishnan, Radhika, Diane Elson, James Heintz and Nicholas Lusciani. 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->

## 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.<sup>11</sup> 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.”<sup>12</sup> 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.”<sup>13</sup>

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.<sup>14</sup> The most

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<sup>11</sup> United Nations. 1966. *International Covenant on Economic, Social and Cultural Rights*.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>12</sup> United Nations. 1948. *The Universal Declaration of Human Rights*.

<http://www.ohchr.org/EN/UDHR/Pages/UDHRIndex.aspx>

<sup>13</sup> 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>

<sup>14</sup> 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.

important part of non-discrimination and equality is that the obligation is immediate not progressively realized.

### Accountability, Participation and Transparency

The importance of accountability and participation is emphasized in the Limburg Principles<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup> 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.

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<sup>15</sup> 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.

<sup>16</sup> 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](http://oppenheimer.mcgill.ca/IMG/pdf/Maastricht_20ETO_20Principles_20-20FINAL.pdf)

<sup>17</sup> United Nations. 1966. *International Covenant on Economic, Social and Political Rights*.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

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;<sup>18</sup> and (5) monetary policy and financial regulation.<sup>19</sup>

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:**

#### **Macro Economic Policy**

- Macroeconomic policy should be formulated in order to mobilize the maximum possible level of resources for the fulfillment of economic and social rights.

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<sup>18</sup> 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](http://content.undp.org/go/cms-service/stream/asset/?asset_id=2223965)

<sup>19</sup> 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->

- 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.<sup>20</sup>
  - 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.<sup>21</sup>
  - 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.

### **Gender Equality**

- 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.

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<sup>20</sup> 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](http://www.huffingtonpost.com/radhika-balakrishnan/why-human-rights-are-indi_b_517128.html)

<sup>21</sup> See: Elson, Diane. 2006. *Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW*. New York: UNIFEM.

- 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 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.