

Analysis of human rights integration in the revised draft (6 May 2015) of the financing for development outcome document

Strengths

The opening paragraph reaffirms State commitments to promote and protect all human rights, including the right to development. The draft emphasizes the need for increased and more effective financing of efforts to eradicate poverty and establish social protection floors. It affirms that these efforts should focus on the most vulnerable and includes numerous references to gender equality. It calls for increased international cooperation to ensure that all persons have access to basic necessities. OHCHR supports these objectives and notes that they reflect the existing commitments of States to promote, protect and fulfil all human rights for all persons without discrimination. More specifically, OHCHR welcomes specific language in a number of paragraphs.

Paragraphs 20, 21, 22, 23 and 25 contain important content on stopping tax evasion, preventing illicit financial flows, improving transparency, and promoting tax cooperation at all levels. This will be critical to ensure that States meet their commitment to devote maximum available resources to the progressive realization of economic, social and cultural rights. Tax cooperation and the exchange of tax information is also critical to ensure that businesses are paying their fair share of taxes where economic activity occurs and value is created. In this regard, **paragraph 36**, with its reference to the Guiding Principles on Business and Human Rights, is absolutely critical and must be retained.

The draft also contains strong language on financial inclusion (**paragraph 38**); reducing barriers to remittance transfers (**paragraph 39**); promoting innovative finance (**paragraph 60**); financing health coverage (**paragraph 66**), education (**paragraph 67**) and food security (**paragraph 68**); increasing development effectiveness (**paragraph 69**); and use of TRIPS flexibilities, including to ensure improved access to affordable medicines (**paragraph 75**).

Paragraphs 85, 86, 87 and 89 include important language on the objectives of debt restructuring (allowing governments and people to reap the benefits of higher sustainable growth), shared responsibilities of the public and private sector, the need for fair, efficient and timely debt restructuring processes, and the need for flexibility and responsiveness in times of crisis. Similarly, language in **paragraph 92** on improving resilience and stability of financial systems, in **paragraph 94** on reforming IFIs and standard-setting bodies, in **paragraph 96** on improved financial regulation, in **paragraph 97** on transparency, and in **paragraph 98** on consistency with international agreements, rules and standards, including human rights, reflects important human rights considerations.

Paragraph 99 on the rights of migrants, **paragraph 100** on preventing violence, trafficking and exploitation, and **paragraph 105** on protecting traditional knowledge are also important as is the overall emphasis of **part IIG** on technology sharing, capacity building and international cooperation. Monitoring and follow-up will be absolutely critical to the success of the FFD agenda. OHCHR supports language on capacity building for monitoring and follow-up (**paragraph 116**), greater transparency (**paragraph 117**), data literacy (**paragraph 118**), and developing holistic measures of development (**paragraph 119**). **Paragraph 120** is particularly important due to its emphasis on ensuring proper, effective, inclusive and transparent follow-up with multi-stakeholder participation (see also language in **paragraphs 122 and 123** on coherence and multi-stakeholder participation).

Key areas for improvement

The revised draft contains many positive references to human rights standards and principles; however, it could still better reflect the human rights obligations and responsibilities of States, businesses, and other stakeholders. Below, OHCHR highlights several key areas where stronger language is needed to integrate human rights in the FFD outcome document.

Maximum available resources and social protection

The revised draft calls for mobilizing resources for a new social compact for eradicating poverty. This emphasis on poverty eradication is positive. It reflects the pre-existing commitment of State parties to the ICESCR to mobilize maximum available resources for the progressive realization of economic, social and cultural rights for all persons without discrimination. The draft should explicitly reaffirm this commitment at the end of **paragraph 11**. Language in **paragraph 28** on social protection floors should be retained, clarified and strengthened. The paragraph should refer to a social compact that guarantees all persons access to acceptable, affordable, quality essential services without discrimination. **Paragraph 91** (addressing the impacts of the financial crisis) should include a reference to social protection floors which are absolutely critical to the protection of human rights in times of crisis.

Equality and non-discrimination

The draft contains many positive references to gender equality and a couple of references to “equity and gender equality”. The draft should also explicitly reference equality and non-discrimination. States, as signatories to the ICERD, CEDAW, ICCPR, ICESCR and other international human rights instruments have agreed to eliminate all inequalities and all forms of discrimination. The Rio + 20 outcome document (see paragraphs 4 and 58) also specifically commits States to the pursuit of strategies to overcome inequality. For this reason, OHCHR suggests that the phrase “equity, equality and non-discrimination, including gender equality” be used in place of references to equity and gender equality that are found in **paragraphs 1, 18, and 27**. An additional reference to equality and to respect for human rights should be made in **paragraph 5** to better track the agreed language of the outcomes at Doha (paragraph 2) and Monterrey (paragraph 11).

Business and human rights

All stakeholders have human rights obligations and responsibilities. The current draft emphasizes the important role that the private sector will play in financing development but does not have a commensurate emphasis on the obligations of States to regulate businesses and the responsibilities of businesses to respect human rights. While OHCHR welcomes the inclusion of a reference to the Guiding Principles on Business and Human Rights in **paragraph 36** of the draft, the balance of the document should be strengthened to better address business and human rights issues.

In **paragraph 12**, it must be emphasized that States have the primary responsibility to take measures to progressively fulfil the human right to food for all persons. In **paragraph 32**, it should be clarified that businesses “can be” major drivers of development but an appropriate regulatory environment is needed. The paragraph should emphasize that States have an obligation to ensure that businesses respect their human rights responsibilities in accordance with the UN Guiding Principles on business and human rights. **Paragraph 33** should emphasize that States must ensure that all investment activities, including foreign direct investment, comply with human rights obligations. **Paragraph 35** should affirm that all businesses have a

responsibility to respect human rights in their activities. **Paragraph 48** should emphasize that human rights obligations and responsibilities apply to all participants in PPPs and that human rights must be protected from the potentially negative impacts of PPPs and blended finance instruments.

Economic governance and policy coherence

The FFD outcome should establish a roadmap for economic governance reforms that ensures fair representation of emerging and developing countries in international financial and economic decision making, prevents future economic crises, and promotes sustainable, inclusive economic progress. Policy coherence is critical and will require measures to ensure that current international legal regimes for trade, finance, and investment are consistent with norms and standards for labour, the environment, human rights, equality and sustainability. While the current draft makes important strides in this regard, it should be strengthened by explicitly including references to relevant human rights norms, standards and principles where appropriate. These types of references are notably absent in multiple paragraphs. Without them, true policy coherence and the ultimate objectives of the FFD agenda will not be reached.

Paragraph 8 should call for improved mechanisms of global economic governance that are transparent, accountable, equitable and participatory. **Paragraph 13** should call for infrastructure projects to comply with relevant human rights and environmental norms and standards. **Paragraph 72** should call for policy coherence in trade policy at all levels. It should emphasize the need for human rights, environmental and sustainability impact assessments. **Paragraph 76** should call for regional economic integration that is consistent with relevant international norms and standards, including human rights. **Paragraph 78** should emphasize that trade and investment negotiations should be transparent, participatory and fair, and the resulting agreements should not constrain domestic policies for sustainable development and the fulfilment of human rights. It should specifically include language that preserves the right to regulate in areas related to labour, the environment and human rights. **Paragraph 84** should reference the UN Guiding Principles on Foreign Debt and Human Rights. **Paragraph 90** should refer to human rights challenges in addition to economic, social and environmental challenges. **Paragraph 101** should refer to human rights standards.

Multilateral development banks and safeguard policies

Safeguard policies should ensure that development projects funded by multi-lateral development banks contribute to equitable, inclusive development that benefits all persons. The current text in **paragraph 64** emphasizes the need to alleviate internal constraints, make the safeguards process more efficient and time sensitive, and prevent it from being unduly burdensome. This one-sided emphasis sends a dangerous signal on safeguard policies at a time when the World Bank and other multilateral lenders are revising or developing their social and environmental safeguards, and when human rights violations have been so widely documented in MDB-supported investment and infrastructure projects. Human rights obligations continue to apply when States act as members of multilateral institutions. The language on safeguard policies should emphasize that human rights must not be sacrificed for the sake of expediency. Therefore, it should call upon MDBs to maintain the highest possible human rights, social and environmental standards.