

UN SPECIAL RAPPORTEUR ON
**EXTREME POVERTY
AND HUMAN RIGHTS**

The Post-2015 Development Agenda: prioritising people living in poverty through goals on inequalities, social protection and access to justice

Submission by the UN Special Rapporteur on extreme poverty and human rights

The Millennium Development Goals (MDGs) have played an important role in placing key issues on the development agenda that might have otherwise been neglected. Thanks to the MDGs, governments and international actors have acted more decisively and with improved unity on poverty, hunger and other scourges on human development. Importantly, the agenda has also resulted in the generation and collection of more targeted data on MDG issues, which have been used to convey powerful messages, to influence policies and shape national or international measures.

Experience shows that issues left out of the universal agreed agenda are not effectively monitored and reported on, and easily become blind spots when priorities are set, policies defined or budgets allocated. This is one key reason why the overall post-2015 development framework must explicitly aim to focus on and target those who are currently invisible: the poorest of the poor. Current limitations in measurement or data collection should not deter the international community from committing to a robust set of goals, targets and indicators focused on this segment of the population.

Many actors have recognised that one of the weaknesses of the MDG framework was its failure to fully reflect the promise in the Millennium Declaration where countries pledged to strive for the protection and promotion of all human rights. Despite the importance of human rights for improving the lives of people living in poverty, they are not adequately reflected in the MDGs.

Therefore, it is first and foremost crucial that the post-2015 development agenda is underpinned by and premised on human rights. Human rights standards and principles provide concrete guidance as to how goals and targets should be framed. Governments have already committed to uphold human rights in numerous international treaties; however these existing legal obligations and norms have been largely overlooked in current development policy. Moreover, grounding development priorities in human rights is not only a legal and moral imperative, but can also enhance effectiveness and accountability.

In particular, in the post-2015 development agenda governments must commit to uphold the principles of non-discrimination and equality; participation; and accountability. The universality of rights also implies that new commitments must apply in developed and developing countries alike; this is appropriate because poverty and extreme poverty exists in every country of the world. Thus, the new agenda must address poverty and inequality in all countries, while ensuring that the framework enables those living in poverty to meaningfully participate in the design, implementation and monitoring of related processes and outcomes. It must be underpinned by effective accountability mechanisms that empower people, especially those living in poverty and extreme poverty, to hold governments to account for their commitments.

Issue 1: Inequalities

Inequalities perpetuate exclusion at all levels of development. Many actors have recognised that one of the weaknesses of the MDG framework has been its blindness to the issue of inequality and to the most extremely disadvantaged members of societies. Overall progress has marked growing social and economic disparities within and between many countries, and in many instances governments have concentrated their interventions on those easiest to reach, rather than the poorest of the poor. At current rates, it will take over 800 years for the bottom billion to achieve just ten percent of global income.¹ Various studies have shown that inequality is rising across many developed and developing countries, and have also documented its detrimental effect on social cohesion, poverty reduction and economic growth.

¹ UNICEF, *A Recovery for All*, 2012

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There is now widespread agreement that the reduction of inequality must be strongly incorporated into the post-2015 agenda. The new framework must be articulated in a manner which does not accept or accommodate inequalities and disparities, and moreover actively seeks to tackle them. Equality is, of course, also a fundamental human rights principle. All people are entitled to all rights without discrimination on any grounds, including race, ethnicity, sex, gender, disability, socio-economic status, or age. The human rights framework therefore offers a compelling rationale and means for putting inequalities at the centre of development policies and practices. International human rights law includes several widely agreed commitments to equality and a set of tools and mechanisms by which to achieve it, including the requirement that duty bearers address the root causes of inequality and discrimination.

Reducing inequality in the enjoyment of rights must therefore be a central and crosscutting goal of the post-2015 agenda. A global goal and targets dedicated to eliminating inequalities will draw attention to this increasingly important issue, as well as to the needs of groups and individuals who are most disadvantaged. It will create incentives to end discrimination and adopt affirmative action or temporary special measures where barriers exist and persist. In addition, it will require States to look beyond average attainments and adopt more effective ways of collecting disaggregated data on inequality and disadvantaged groups in order to allow for identification of disparate impacts. Undoubtedly, specific measurements are needed to assess the extent to which people living in extreme poverty and social exclusion benefit from the new global development framework.

It must be emphasized that, given the multi-dimensional nature of poverty and corresponding inequalities, the post-2015 development framework must go beyond income inequality to address inequalities in other areas also, including group-related inequalities that vary across countries such as those based on ethnicity, race, nationality, language and caste; and individual-related inequalities that are relevant in every country such as those based on sex/gender, age and disability.

In addition, given that lack of participation in decision-making is a fundamental cause and consequence of inequality, actions to increase the participation and voice of people living in poverty must be included in policies and programmes to reduce inequality. People living in poverty have a right to participate in the design, implementation and monitoring of poverty interventions and other policies, programmes and interventions that affect their lives, and to hold duty bearers accountable. Governments should therefore be ultimately accountable to their own populations (particularly people living in poverty as the main intended beneficiaries) for their actions or inactions towards the goals and targets of the post-2015 agenda.

Potential goals and targets

The post-2015 agenda should incorporate a **stand-alone goal** on inequality, aiming to reduce income and other inequalities within and between countries. Such a goal would have normative value, communicate the ethical value of equality as a development priority, and also would help the international community move towards consensus on the need to tackle inequalities for social and human development. The goal must reflect human rights duties and obligations of equality and non-discrimination. Thus, the goal should address discrimination, which often fuels inequality along the lines of gender, age, disability, ethnicity, and geography among other grounds, and thus contributes to poverty. The goal should include targets focused on eliminating all forms of discrimination and achieving gender equality, including through robust legislation, comprehensive social protection and effective access to services for women, children, older persons, persons with disabilities and all groups subject to discrimination. A systematic reduction in inequalities between identified population groups (some of which will be common to all countries and some of which will vary) should be an explicit target.

The goal should be broad, focusing not just on income inequality but rather identifying key dimensions of economic and social inequality, including inequality in participation, representation and decision-making power. In order to focus on people living in extreme poverty, and to disaggregate by disadvantaged groups, a Multidimensional Poverty Index should be used which shows the deprivations a household (or individual) experiences simultaneously. This would highlight people living in extreme poverty as those experiencing a large set of simultaneous deprivations at the same time.

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The international community will only be able to achieve genuine advances in poverty reduction and social development by reducing the equality gaps in access to fundamental services. Therefore, one important target to be incorporated in this goal is equal access to at least a basic set of goods and services, such as primary health care, education and social protection. This should be framed with reference to minimum essential levels of economic, social and cultural rights. In addition, targets and indicators related to employment, fiscal and redistributive policies must be included under this goal, while structural determinants of inequality should also be addressed.

In addition, inequality should be a **cross-cutting goal**: all new goals and targets must mainstream equality and explicitly target a reduction in inequalities, in order to measure and tackle unequal enjoyment of the benefits of progress across different areas. Targets and indicators must focus on the situation of most disadvantaged, whose rights and needs should be considered and prioritised. As such, success should be gauged by the progress made by worst-off individuals, rather than on overall progress, and those inequalities that are in practice most relevant to people living in extreme poverty should be focused on (e.g. in the case of a water and sanitation goal, open defecation; in the case of food, nutritional stunting).

Targeting universal access is desirable, but insufficient to ensure priority for the most disadvantaged; on the contrary, it may incentivize States to chase rapid aggregate progress by prioritising the ‘low-hanging fruit’ rather than those who are hardest to reach. The future goals and targets must therefore include equality *and* universality. At the least, each target should include a requirement that inequalities in this area are progressively eliminated.

All goals should be articulated in terms that specifically seek equality in outcomes, together with targets focused on reducing in-country inequalities within each goal – across regions, gender, ethnicity and income status for example. A combination of floor and relative gain indicators may therefore be appropriate. Progress should be disaggregated by disadvantaged groups. The appropriate population groups among which to measure reduction in inequalities will vary according to the country concerned; these should be globally monitored but determined by each country through national participatory processes. Groups must include but go beyond the bottom income decile. Other relevant groups across many contexts include men and women; rural and urban; informal settlements and formal urban settlements; disadvantaged groups and the general population. Inequality within households must also be considered, given that women and girls often face great disparities in terms of access to resources and opportunities within households.

In addition, each thematic area could include a specific target for progress amongst the poorest and most excluded – measured and reported separately to ensure they are benefiting from overall progress.

As well as targets aimed at universal access to essential social services, the framework should incorporate zero targets on issues such as extreme poverty, child and maternal mortality and chronic malnutrition. These should include improvement targets for those groups or population sectors that currently have the worst outcomes.

Issue 2: Social protection

Social protection can play a fundamental role in addressing the needs of people living in extreme poverty, tackling inequality and realizing human rights – all indisputable and necessary overarching goals of any future development agenda.

There is strong evidence that social protection systems can significantly contribute to reducing the prevalence and severity of poverty², improving social cohesion, reducing inequality, protecting families from

² For a comprehensive study on the impact of cash transfer programmes, see Barrientos, A., and Niño-Zarazua M., *The effects of non-contributory social transfers in developing countries: A Compendium*, (Brooks World Poverty Institute, University of Manchester, 2010).

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the impacts of increasingly volatile food prices, and creating sustainable and equitable societies. The World Bank estimates that social protection interventions could reduce the total poverty head-count rate by 5 to 10 per cent. In OECD countries it is estimated that levels of poverty and inequality are approximately half of those that might be expected in the absence of social protection.³

As well as generally mitigating inequality and reducing poverty, social protection is an important instrument for at least six of the current MDGs. For example, social protection contributes to the achievement of **MDG1** by transferring resources to those living in extreme poverty, enabling the beneficiaries to generate income, protect their assets and accumulate human capital. Social protection programmes also contribute to meeting target 2, of halving the proportion of persons suffering from hunger by 2010.⁴

Social protection schemes can also facilitate progress towards the achievement of the other MDGs. For example, with respect to **MDG 2** (achieving universal primary education), there is clear evidence that there is a close link between family income and the education of children. Income transfers provide households with the income security to absorb the costs associated with schooling and to maintain investments in a child's education even when faced with economic shocks.

During the 2010 MDG Summit government officials and donor representatives explicitly recognised that the implementation of social protection systems is a critical means of protecting gains towards the achievement of the MDGs and making further progress towards addressing inequality and social exclusion.⁵

There is also a strong and symbiotic relationship between human rights and social protection. Human rights create legal obligations to implement social protection systems and establish standards for the design, implementation and evaluation of such systems.⁶ In turn, by transferring resources to those living in extreme poverty and allowing beneficiaries to generate income, protect their assets and accumulate human capital, social protection systems have the potential to contribute to the realization of a number of economic, social and cultural rights, such as the right to an adequate standard of living – including the right to adequate food, clothing, and housing⁷ – as well as the rights to education⁸ and health.⁹ Social protection systems can also assist States in complying with their other human rights obligations towards people living in poverty.

However, the success or failure of social protection systems in realising human rights rests heavily on whether such systems are established and operated according to the standards that human rights require and the obligations they impose. If social protection programmes are not grounded in human rights principles, they may reinforce inequalities - particularly gender-based inequalities - and threaten the rights of the beneficiaries.¹⁰

Social protection systems also play an exceptionally important role in protecting the enjoyment of several economic, social and cultural rights of the poorest and most vulnerable during times of economic shock and

³ ILO, *Social Protection Floor for a Fair and Inclusive Globalization: Report of the Advisory Group chaired by Michelle Bachelet*, 2011, p. xxiv.

⁴ For example, social protection schemes in Ethiopia, India, Bangladesh and Zambia have all improved nutritional levels, and there is considerable evidence of a direct link between income supplementation and improved nutritional outcomes among beneficiary households.

⁵ Keeping the promise: united to achieve the Millennium Development Goals, A/Res/65/1, 19 October 2010

⁶ Under human rights law, States are legally obligated to progressively ensure the right to social security to all individuals within their territories, providing specific protection for disadvantaged and marginalised individuals and groups as established in Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The *right to social security* is articulated most prominently in General Comment No. 19 on the right to social security, of the Committee on Economic, Social and Cultural Rights (CESCR) –the supervisory body of the Covenant- which spells out the key features of this right and the content of States' obligations.

⁷ ICESCR, art. 11; UDHR, art. 25.

⁸ ICESCR, arts. 13 and 14; UDHR, art. 26.

⁹ ICESCR, art. 12; UDHR, art. 25.

¹⁰ See Sepúlveda and Nyst, *The Human Rights Approach to Social Protection*, available at <http://www.ohchr.org/Documents/Issues/EPoverty/HumanRightsApproachToSocialProtection.pdf>

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other forms of crisis. Therefore, given the ongoing ramifications of the global financial and economic crises that are disproportionately affecting the poorest and most vulnerable, now is an especially important time to strengthen social protection systems around the world. Taking this action now will ensure greater resilience against future crises, while supporting the most vulnerable will help to prevent the transmission of the effects of the crises to future generations.

Given the acknowledged importance of social protection in achieving the MDGs, realizing human rights and tackling poverty, all stakeholders should ensure that social protection is given the adequate recognition and prioritisation in the new development paradigm.

Potential goals and targets

Now, as the post-2015 agenda is being formulated, is the time for States to live up to their promises in terms of tackling poverty and inequality through social protection.¹¹

The post-2015 agenda should include a goal on the provision of social protection floors. This must be explicitly envisaged as a first step towards comprehensive social protection, as agreed in ILO Recommendation 202 and endorsed in the outcome document of the MDG Review Summit adopted by the UN General Assembly in September 2010. It should be framed in human rights terms, making reference to the right to social security; the potential of social protection to realise many other human rights; and the human rights-based approach to social protection.

A relevant target under this goal could be that by 2030, all people have social protection at least at the level of national floors for social protection as agreed in ILO Recommendation 202. Such a target could be split into different components: income security for various sections of the population (children; the elderly; the unemployed; those unable to work due to sickness, disability or pregnancy), access to essential healthcare, and access to other essential social services such as water and sanitation, education, housing and other areas (defined according to national priorities) Possible indicators include percentages of children and total population with access to essential healthcare, education goods and services; children receiving cash and in kind support guaranteeing income security during childhood; men and women of an active age who are not working due to unemployment, sickness, maternity or disability and who receive support; older persons who receive pensions;¹² percentage of those working in the informal economy who are covered by social protection.

Again, progress should be measured with reference to inequalities and by disaggregating disadvantaged population groups, especially given that the most disadvantaged sectors of the population are largely concentrated in informal labour markets with no access to contributory social protection and limited access to non-contributory schemes due to discrimination, lack of legal identity and other factors.

On this note, the new development framework should also require and support States to develop employment programmes and job creation schemes that create decent work, especially for the most disadvantaged. For example, under a global goal on reaching full and decent employment, the framework could require national programmes to reduce precarious work, ensure a living wage, labour rights and gender equality at the workplace, and improve the employment opportunities of vulnerable and marginalised groups, such as persons with disabilities. However, despite the importance of decent work and employment and its links to

¹¹ Widespread political support for the idea of non-contributory minimum social protection crystallised in 2009, when the heads of the United Nations (UN) agencies launched the *Social Protection Floor Initiative* as one of the nine UN joint initiatives to cope with the global economic and financial crises. In 2011, in a landmark move, the G20 States expressly declared their support for social protection in the Cannes Summit Final Declaration. On 14 June 2012, the International Labour Conference unanimously adopted Recommendation n° 202 on national social protection floors: 452 votes were in favour, none against, and only one abstention vote was cast.

¹² UN System Task Team on the post-2015 Development Agenda
http://www.un.org/en/development/desa/policy/untaskteam_undf/thinkpieces/16_social_protection.pdf

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social protection, social protection should not be subsumed entirely under an employment goal. A human rights approach to social protection requires comprehensive, universal sustainable systems with both contributory and non-contributory elements; the right to social protection is absolute and not dependent on employment status.

A further potential target is the establishment of a Global Fund for Social Protection, as proposed by the UN Special Rapporteurs on extreme poverty and on the right to food.¹³ Such a fund would have two key functions: 1) closing the funding shortfall for putting in place a social protection floor in least developed countries; 2) helping to underwrite these schemes against the risks of excess demand triggered by major shocks.

Issue 3: Access to justice

An estimated four billion people live outside the rule of law, largely because they are poor. Lack of access to justice is a major reason why people fall into and remain in extreme poverty. Access to justice is thus not only a human right in itself but also an essential tool to tackle poverty and its causes.¹⁴

The post-2015 agenda should thus encourage governments to improve access to justice for people living in poverty, and monitor government progress in removing existing obstacles to access to justice.

Inequality thwarts human rights enjoyment and social justice in every sphere of public life it pervades; justice services, mechanisms and institutions are no exception. The poorest and most marginalized segments of society, being women and girls, ethnic minorities, indigenous peoples, undocumented migrants or those living in rural areas, continue to be excluded from accessing justice on an equal footing with the most privileged segments of the population. This is the case in every country across the globe, even if the discriminatory patterns manifest themselves differently across regions and within countries.

Access to justice is a human right in itself, and essential for the realization of a range of other civil, cultural, economic, political and social rights. Moreover, it is a fundamental tool for tackling poverty. Without equal access to justice, people living in poverty are unable to claim their rights, or challenge crimes, abuses or violations committed against them, trapping them in a vicious circle of impunity, deprivation and exclusion. Equal access to justice can serve to protect and improve the income and livelihoods of people living in poverty but moreover it can promote their capabilities, choices, security and power.

Due to their lack of financial, social and political capital, people living in poverty are exceptionally vulnerable to crime, abuse and exploitation. Therefore, access to justice can serve a protective function, shielding them from plunging deeper into poverty through falling victim to criminal or illegal acts. Secondly, access to justice can serve a proactive role in the fulfilment of human rights. Effective and accessible justice systems can be tools to overcome deprivation, for example, through the development of progressive jurisprudence on economic and social rights, by enforcing the human rights, property rights and labour rights of people living in poverty or by remedying their exploitation by powerful public or private actors. Better legal empowerment of the poor can also result in improved public services, bolster the social accountability of the state and create greater civic engagement in governance.

Potential goals and targets

The post-2015 development agenda should incorporate **a stand-alone goal** to ensure that access to justice is treated as a vital feature of human-centred social and economic development.

A specific goal on access to justice would not only be in the interests of tackling poverty and inequality, but it would also contribute to the fulfilment of many other targets and goals. A stand-alone goal on access to

¹³ http://www.ohchr.org/Documents/Issues/Food/20121009_GFSP_en.pdf

¹⁴ See the 2012 report of the Special Rapporteur to the General Assembly, on obstacles to access to justice, A/67/278

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justice is necessary because the international community cannot meaningfully tackle poverty in a context where there exists a two-tier rule of law: a secure reality for the privileged and only a rhetorical aspiration for the poorest and most disadvantaged.

The goal should include legal, policy and institutional guarantees for equal access to justice, and for the implementation of special measures to address shortcomings. The overarching focus of the targets would be ensuring universal access to primary justice services, supported by indicators to help track progress toward those targets. For example, given the profound effects of lack of civil legal identity, one target should be halving (or further reducing) the number of people who have no legal identity, with indicators including the number of individuals who lack a basic legal identity document and the percentage of newborns registered at birth. Other relevant targets and indicators should focus on access to legal aid (e.g. doubling over the next decade the number of people who enjoy access to legal advice at low or no cost); access to reliable, affordable legal information; access to land registration; court fee waivers for those that cannot afford them; and the abolition of legislation that directly or indirectly discriminates against the rights, interests and livelihoods of persons living poverty. The goal should also include targets on the physical accessibility of the justice system, for example the distance that people living in rural communities must travel to reach a police station or court. Special attention must be paid to women and groups that are particularly excluded such as indigenous peoples, older persons and migrants. For example, with regard to women's access to justice, targets could include the criminalisation of all forms of gender-based violence and accessible means for victims to seek redress and protection.

Justice also cuts across many development issues. Therefore, **integrating justice-related targets and indicators into other goals** will also help to realize, sustain and monitor gains in these sectors. For example, a goal on environmental sustainability could include a justice target that aims to increase security of land tenure for local communities; a goal on maternal health could include targets on grievance mechanisms for health services.

Supporting documents and further reading:

- Center for Economic and Social Rights, *A Matter of Justice: Securing human rights in the post-2015 sustainable development agenda*
- Center for Women's Global Leadership, *The Integration of Gender and Human Rights in to the post-2015 Development Framework*
- UNRISD, *Combating Poverty and Inequality*, Beyond 2015 Brief 1, February 2013
- UNRISD, *Inequalities and the post-2015 development agenda*, Beyond 2015 Brief 2, February 2013
- Namati, *Justice 2015 MDG Factsheet: Incorporating Justice in the post-2015 Development Framework*
- Open Society Justice Initiative, *Why Development Needs the Rule of Law*, April 2013 <http://www.opensocietyfoundations.org/voices/why-development-needs-rule-law>
- UN System Task Team on the post-2015 UN Development Agenda, *Social Protection: a development priority in the post-2015 UN development agenda*
- UNICEF and UN Women, *Addressing Inequalities: Synthesis report of global public consultation*
- UNICEF-WHO Joint Monitoring Programme Equality and Non-Discrimination Working Group, *Eliminating Inequalities: Towards a post-2015 development agenda*
- UNICEF-WHO Joint Monitoring Programme Equality and Non-Discrimination Working Group, *Final report* (available at http://www.wssinfo.org/fileadmin/user_upload/resources/JMP-END-WG-Final-Report-20120821.pdf)
- International Trade Unions Confederation, *Social Protection in the Post-2015 Development Agenda*, Briefing note, December 2012