



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

27 July 2015

Re: *Human Rights and the final draft of outcome document for the Post-2015 Development Agenda*

Excellency,

In the coming days, decisions will be made at United Nations Headquarters in New York that will determine not just the direction of policy for the next 15 years, but the very legacy that we will leave to our people and planet for generations to come.

At one hand sits the failed approach of the past—inequitable, environmentally and socially unsustainable, insensitive to human rights, fragmented, and chauvinistic.

At the other, a new vision of sustainable development, integrated, universal, human rights-based, environmentally sound, gender-sensitive, and people-centred.

I am writing today to urge your delegation to choose the second option, and, thereby, to manifest the courage of change.

In doing so, I feel a strong sense of hope, derived not least from the encouraging text emerging from the Post-2015 Agenda negotiations process thus far, and from the groundswell of popular support from all corners of the world.

A transformative agenda

This process, the most consultative in the history of the United Nations, has generated an important final draft outcome document that promises to break down the old silos of the past, integrating attention to the economic, social, environmental and human rights imperatives of sustainable development.

Even the long-entrenched paradigm of North-South, state-to-state discourse on development is being pushed aside by a new *universal* model, whereby all states, in all regions, would be accountable to their people for sustainable development outcomes.

Equality has become a centrepiece of the new agenda, and the advancement of economic and social rights, democratic governance, access to justice, and personal security have all been given dedicated attention.

A number of specific human rights are included as well, among them the right to water, labour rights, the right to development, the right of self-determination, and (albeit currently only in the text of the annex), the right to an adequate standard of living and the right to food.

.../.

To all Permanent Missions
in New York and Geneva

A rights-based agenda

I am particularly heartened that the current draft is explicitly grounded in the UN Charter, the Universal Declaration of Human Rights, human rights treaties, and other instruments, including the Declaration on the Right to Development.

Also to be welcomed is that it calls for universal respect for human rights, and declares that the Agenda encompasses all human rights.

But perhaps most important is the truly transformative commitment that the new agenda *is to be implemented in a manner that is consistent with* these obligations of states under international law.

This historic and unequivocal commitment to a human rights-based approach to sustainable development will help to ensure both the effectiveness and the legitimacy of the agenda.

Combating inequality, discrimination, and exclusion

In addition, the draft outcome commits all states to dedicate particular attention to combatting discrimination, inequality, exclusion, and marginalization. It explicitly commits states to protecting the human rights of women and girls, and of migrants.

And it emphasizes a commitment to “leave no one behind,” “to reach the furthest behind first,” and, vitally, to the disaggregation of data for all goals, targets and indicators.

Furthermore, the draft contains perhaps the most expansive list of groups to be given special focus of any international document of its kind. Among these are women, girls, migrants, older persons, indigenous peoples, people living under foreign occupation, persons with disabilities, children, youth, new-borns, pregnant women, people living in poverty or in areas of conflict, terrorism, and humanitarian emergencies, small-scale food producers, family farmers, pastoralists, fishers, refugees, and displaced persons.

Also included are those subject to discrimination on the basis of ethnicity, colour, sex, age, language, religion, culture, migratory status, political or other opinion, national or social origin, economic situation, birth, disability, or, very importantly, “other status.”

Accommodating the full spectrum of human rights

The SDG framework effectively mirrors the international human rights framework, encompassing, as it does, civil, political, economic, social and cultural rights, as well as the right to development. And many of the individual SDGs themselves, as well as their associated targets, contain essential dimensions of human rights, even where the rights are not themselves explicitly cited.

Economic and Social Rights

As such, the goals include components of the right to an adequate standard of living, including social protection for all and equal rights to economic resources and other services for all. They contain elements of the right to food, including accessibility of safe, nutritious and sufficient food for all. They include components of the right to health, such as universal health coverage, and access to sexual and reproductive health and medicines for all.

The goals incorporate key elements of the right to education, including universal access to free, equitable and quality primary and secondary education, as well as to education about human rights. Consistent with the human right to water and sanitation, they call for universal and equitable access to safe and affordable water, sanitation, and hygiene for all.

In addition, the goals call for the protection of labour rights, including for migrant workers, calling for decent work for all and the eradication of forced labour, the end of modern slavery and human trafficking and the elimination of the worst forms of child labour. They also deal with universal access to adequate, safe and affordable housing and universal access to safe public spaces. And they address the fair and equitable sharing of the benefits arising from the utilisation of genetic resources.

Civil and political rights

Very significantly, Goal 16 addresses many issues that have all too often been neglected in other development models. These relate principally to civil and political rights, including targets for reducing all forms of violence; ending abuse, exploitation, trafficking, and torture; equal access to justice; accountable institutions; inclusive and participatory decision-making; access to information; protection of fundamental freedoms; legal identity for all; and strong national institutions to prevent violence.

Equal rights

A defining feature of the new agenda is the inclusion of a specific goal on reducing inequalities within and between countries. This includes targets that call for the social, economic and political inclusion of all without discrimination; for ensuring equality of opportunity and reducing inequalities of outcomes, including by eliminating discriminatory laws, policies and practices; as well as adopting redistributive fiscal, wage, and social protection policies to progressively achieve greater equality; and improving regulation of the global financial markets.

And a dedicated goal on gender equality includes critical references to ending discrimination and all forms of violence against women and girls, universal access to sexual and reproductive health and reproductive rights, enhancing women's participation in public life, and the adoption of enforceable legislation for gender equality.

The right to development

In addition, the goals address a number of issues related to the right to development, with provisions for measuring progress beyond GDP, as well as for official development assistance, policy coherence, tax generation, debt relief and restructuring, the promotion of investment and trade, participation, and non-discrimination.

Remaining Gaps

Taken together, this framework provides an unprecedented opportunity for the alignment of sustainable development efforts with United Nations norms and standards for human rights. Critical gaps do however remain in the emerging outcome document, even as pressure continues in some quarters to scale back on some of the positive elements already put forward.

Achieving the transformative, 21st century vision of sustainable development that the world so desperately needs will require that we fill those remaining gaps with principled and innovative elements, and that we are steadfast in resisting any attempts at deletion, dilution, or retrogression.

In particular, I would strongly encourage delegations to add specific provisions to more explicitly align language with existing UN human rights standards, including the right to development; to add references to minorities, including racial, ethnic, religious, and sexual minorities; to strengthen the monitoring and review framework; to enhance private sector accountability; to add concrete and expanded modalities for participation by civil society and other stakeholders in the new agenda, its monitoring and review, and in the global partnership for sustainable development.

Rights alignment

An agenda that is truly aligned with existing United Nations human rights standards will be explicit in its recognition that health, education, food, water and sanitation, housing, access to justice, political participation, and personal security are not merely commodities for those able to purchase them, or privileges for the few, but rather human rights to which all are entitled without discrimination.

As I have noted, the draft already helpfully does so with regard to a number of human rights, including the right to water, labour rights, and the rights to development, to self-determination, to an adequate standard of living and to food. The same framing should be extended to those other human rights areas referenced in the document as well. At the same time, a target under Goal 16 that would end torture, abuse, and trafficking is limited only to children, while these are absolutely prohibited for all age groups under international law. A technical amendment to read “in particular of children” could remedy this.

Similarly, the phrase “mobilizing all available resources”, which appears in the current draft, would be fully aligned with the language of international human rights standards by simply replacing the word “all” with the word “maximum.”

Given that human rights standards apply equally to all goals, in all situations, and as much to freedom from want as to freedom from fear, the latest draft appropriately locates human rights in the preamble above the five categories. Human rights are also included under the heading ‘peace,’ and could be helpfully added under the heading ‘people.’ Similarly, together with human rights, equality should be elevated in the draft as a first principle, applicable across the framework.

Combatting discrimination and inequalities requires disaggregation of data across a range of categories, as recognized both in human rights standards, and by the draft itself. In the current formulation, however, disaggregation by these categories would be subject to a decision on whether such characteristics are deemed “relevant in the national context.” This should be revised to ensure that all countries disaggregate, as a minimum, by the grounds of discrimination recognized in international human rights law, with additional categories applied where relevant in the national context. Such language would be consistent with that agreed in the Addis Ababa Action Agenda earlier this month.

Language must also be clear and unequivocal in recognizing that internationally guaranteed human rights, in particular the rights of women and girls, are not subject to diminution on the basis of national law, practice, or custom.

As the world has already recognized the full catalogue of civil, cultural, economic, political, and social rights, as well as the right to development, the language should be directed not to the *recognition* of these rights, but rather to their *respect, protection, and fulfilment*.

Finally, while the draft does commit to universal access to sexual and reproductive health care services, and includes a target for sexual and reproductive health and reproductive rights, it does not refer to sexual and reproductive health and rights as such. Addressing this lacuna would ensure greater human rights alignment.



Leave no one behind, and add references to racial, ethnic, religious, sexual, and gender minorities

The draft contains a strong and welcome commitment to leaving no one behind, to “reaching the furthest behind first,” and “to see the goals and targets met for all.” However, an earlier, historic pledge that “no target will be considered met, unless met for all groups” has been lost in the current draft. This should be restored.

As noted above, the draft also, appropriately, includes a strong focus on equality and gives dedicated attention to a significant number of special groups, to whom particular attention is rightly to be provided. Missing however, are minorities, who, few would dispute, are often among the most marginalized and excluded in development processes.

A development agenda that does not pay particular attention to the situation of minorities will not succeed in its stated goal of leaving no one behind. As such, the document would be significantly strengthened by the addition of a reference to racial, ethnic, religious, sexual, and gender minorities, among the other groups listed.

Enhance private sector accountability

The current draft is replete with references to the role of the private sector in the new agenda. Notably absent, however, is a corresponding level of accountability for private sector actors as well as safeguards and due diligence standards to ensure that private sector harms to human rights, labour, the environment, and sustainable development are prevented and, where they do occur, remedied.

This lacuna is evident with all private sector activities referenced in the draft, including business, trade, investment, and public and private partnerships. This is a fundamental weakness in the draft, and I strongly urge member states to correct it, including with a reference to the UN's own Guiding Principles on Business and Human Rights, the labour standards of the ILO, and UN treaties in the field of human rights, labour, and the environment.

Strengthen the monitoring and review framework

Accountability is both a key human rights principle, and a necessary element of success for the new agenda. Helpfully, the draft recognizes this by declaring that accountability is not to be understood as between states, but rather as accountability of states “to our citizens.” This is an historic shift away from the “donor-beneficiary” paradigm, and is to be welcomed. At the same time, replacing the word “citizen” with “people” would underscore our concern for all people, regardless of their citizenship status.

In a principled commitment, the draft also explicitly identifies accountability as the purpose of the follow-up and review arrangements. The role of parliaments “in ensuring accountability for effective implementation” is included as well.

What's more, the draft projects “a robust, effective, participatory, transparent and integrated follow-up and review framework”, with an emphasis on addressing the integrated nature of the goals, the need to be rigorous and evidence-based, and reviews that are “open, inclusive and transparent, and support the participation of all people and all stakeholders.”

However, much of the principled detail contained in earlier drafts has been removed from the final draft. These details, which provided guarantees for universality, broad participation, and meaningful accountability, should be restored. The Secretary-General made a number of helpful recommendations in his *Synthesis Report* on how this might be translated into action,



with universal, multi-stakeholder reviews at the national, regional, and global levels, based upon country review reports produced by government, civil society, and the United Nations system, as well as thematic reports, and reports compiling data from global monitoring. Adopting such modalities would ensure that the follow-up and review process is truly participatory, universal, and meaningful.

Add expanded modalities for participation by civil society and other stakeholders

The unprecedented level of participation seen in the process of developing the SDGs has afforded them a degree of public legitimacy not often seen in intergovernmental processes. Maintaining that legitimacy will depend, in large measure, on facilitating maximum participation by representatives of civil society in the implementation, monitoring, and review of the new agenda at the national, regional, and global levels. Specific modalities to accommodate the free, active, and meaningful participation of civil society at all levels should therefore be included.

Strengthen implementation arrangements with the right to development

The Declaration on the Right to Development calls for a model of development that is people-centred and human rights-based, with the active, free and meaningful participation of people, fair distribution of development benefits, non-discrimination, and respect for self-determination. To achieve these ends, the Declaration mandates reforms at the national and international levels to ensure better development policies, more effective international cooperation, and the removal of obstacles to development.

The relevance of this human rights instrument to the implementation of the new agenda should by now be self-evident. Mobilizing sufficient means of implementation will be essential, and the outcome of the Third International Conference on Financing for Development represents an important step in this direction. But equally important will be the international environment in which the Post-2015 Agenda is to be advanced. Reforming institutions of global governance and finance, and ensuring full coherence between development and economic policy on the one hand and international human rights standards on the other, will be essential in this regard.

Excellency,

Our people, our economies, our societies, and our planet itself are facing historic challenges—challenges, it must be said, of our own making. Poverty, climate change, inequality, and weak governance are not accidents of nature. Rather, they are the inevitable products of choices made in the public and private spheres and at the national and international levels.

These challenges will not be effectively met by merely tinkering around the edges of the economic, social, and governance models that brought us to where we are. Instead, we must break from the past, and embrace a new model of sustainable development based not on prejudice or fear or power or political capture, but on the values of this Organization, and on hard evidence of what is, and what must be done.

In the end, the real test of governance, at both the national and international levels, is the degree to which it delivers on the promise of freedom from fear and freedom from want for all people without discrimination. This is no time for conservative impulses, no time for lowest common denominators, no time for parochial horse-trading. This is a time for courage, and for change.

The draft agenda before us, with a few further adjustments, can help to usher in, and to sustain that change. I urge you to consider the proposals I have offered, and maintain a high bar for the final agenda.



Yours is a weighty task. Seven billion members of “we the peoples”, and many billions more in generations to come, will be touched by the outcome of the Summit this September. Let it truly be an agenda for people, planet, and progress.

I thank you.

Yours sincerely,

A handwritten signature in black ink, which appears to read "Zeid Ra'ad Al Hussein", is written over a horizontal line.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights