WHO WILL BE ACCOUNTABLE?

Human Rights and the Post-2015
Development Agenda

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Shortfalls have occurred not because the goals are unreachable, or because time is too short. We are off course because of unmet commitments, inadequate resources and a lack of focus and accountability.

United Nations Secretary-General Ban Ki-moon[1]

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CENTER FOR **ECONOMIC AND SOCIAL RIGHTS**
SOCIAL JUSTICE THROUGH HUMAN RIGHTS

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Foreword

As we approach the year 2015, from Tunis, to New York, to Santiago, a resounding call is being heard for a social, political and economic order that delivers on the promises of "freedom from fear and want." Civil society everywhere is calling for meaningful participation, higher levels of accountability from Governments and international institutions, an end to discrimination and exclusion, a better distribution of economic and political power, and the protection of human rights under the rule of law. "The peoples of the United Nations" are speaking, often at great personal risk, and the degree to which their legitimate concerns are heard and reflected in

the post-2015 agenda will determine both the legitimacy and the success of that agenda.

Compared with previous approaches to development, this heralds a true paradigm shift. Indeed, some of the most celebrated Millennium Development Goals success stories since 2000 are now sites of mass protest decrying widespread deprivation, repression and inequalities masked by the narrow models of economic analysis that have characterized development approaches in the pre-2015 period. The message is clear: economic growth is not an adequate measure of development.

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Rather, equality matters, the environment matters and human rights matter. So do good governance and anti-corruption. The real test, to a growing global population demanding a life of dignity, is the degree to which they are able to enjoy freedom from fear and want, without discrimination.

Some of our most fundamental problems, on which the realization of human rights depends, are global. Regulating global finance, preventing violent conflict, achieving sustainable consumption patterns, and stabilizing the planet's climate and ecosystems are prominent among them. However, our politics remain overwhelmingly local. Time and again world leaders have gathered to debate global development priorities. Rarely do they return to their capitals without signing on to a raft of new (or not so new) promises. Rarely, however, is there any real incentive or accountability to deliver on those promises and rarely do we see significant changes thereafter.

This publication, the product of a partnership between my Office and the Center for Economic and Social Rights, is intended to help fill some of the more pressing accountability gaps

that impede the realization of global and national development goals. We approach this challenge from the perspective of human rights, as a universal normative and legally binding framework embodying the minimum requirements of a dignified life, encapsulating universal values that a post-2015 agreement should strive to prioritize and protect as well as essential features of a road map to take us there.

At the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals and again at the 2012 United Nations Conference on Sustainable Development ("Rio+20"), United Nations Member States reaffirmed and recommitted themselves to human rights in the context of the Millennium Development Goals and proposed new sustainable development goals.

I commend this publication, and its recommendations, to Member States, policymakers, development practitioners, human rights and civil society organizations and all those striving for a more just and sustainable global development agenda, and for an agenda to which States and other duty bearers can effectively be held to account.

Navi Pillay
United Nations High Commissioner
for Human Rights

Contents

List of abbreviations

AAAQ	availability, accessibility, acceptability and quality
AIDS	acquired immunodeficiency syndrome
CESR	Center for Economic and Social Rights
CSO	civil society organization
CSR	corporate social responsibility
DHS	Demographic and Health Surveys
ECA	export credit agency
GDP	gross domestic product
HIV	human immunodeficiency virus
HRIA	human rights impact assessment
IFC	International Finance Corporation
IFI	international financial institution
ILO	International Labour Organization
IMF	International Monetary Fund
MDGs	Millennium Development Goals
MICS	Multiple Indicator Cluster Survey
NGO	non-governmental organization
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNDP	United Nations Development Programme
UN-Habitat	United Nations Human Settlements Programme
UNICEF	United Nations Children's Fund
WHO	World Health Organization
WTO	World Trade Organization

Executive Summary

Background

The Millennium Development Goals (MDGs) embodied an unprecedented international consensus on poverty reduction as a shared global enterprise, framed around a limited set of commitments for which both developed and developing countries could be held to account. Their breadth of scope was intended to foster understanding of poverty as a multidimensional problem; their selectivity, as an aid to prioritizing efforts and resources. By setting quantifiable, time-bound targets around a range of indicators, they instilled a shared sense of urgency, as well as providing a statistical basis for reliable tracking of progress across countries.

As a consensually adopted statement of intent by the world's leaders to be held responsible—to each other and to those they govern—for meeting a limited set of monitorable commitments, the Goals held promise as an instrument of accountability and an incentive to action. The Goals have undoubtedly had a very significant impact upon the international development discourse. Their political currency in countries across the globe may also have played a role in shaping national development policies and bolstering international aid flows. However, the experience of the past 12 years indicates that their pledge of accountability has been more rhetorical than real.

In practice, the ability to hold States to account for their commitments has been weakened by several factors. Accountability has been undermined by a lack of clarity about who should be responsible for what. The Goals were

premised on the notion of mutual accountability between developing and industrialized States, as well as the shared responsibility of States, international institutions, the private sector and civil society. In practice, this has obscured the task of identifying the differentiated responsibilities of actors on the development stage, whose number and diversity have increased over this period.

Mutual accountability has been invoked more often as a means of holding developing countries accountable to their donors than of making all States answerable to those facing deprivation within and beyond their borders. Comparatively little attention has been paid to creating conditions in which those living in poverty can meaningfully engage in shaping or challenging policy decisions affecting their lives. Because the Goals are declaratory political commitments rather than binding legal ones, non-achievement has carried little consequence for most States. The weakness of systems created to monitor and report on progress, and the absence or underuse of mechanisms for reviewing and ensuring compliance, have rendered these commitments difficult to enforce.

The process for reviewing and replacing the Goals in 2015 is an unmissable opportunity to address these accountability gaps and to ensure that the new framework of development commitments does not result in another set of unfulfilled promises.

Accountability, human rights and the Millennium Development Goals

"Accountability" is a cornerstone of the human rights framework. The latter is essentially a system of norms and practices that govern the relationship between the individual and the State or those in authority. Human rights standards set out the rights and freedoms to which all are entitled by virtue of being human, and the corresponding duties of those who exercise authority or forms of power. Accountability from a human rights perspective refers to the relationship of Government policymakers and other *duty bearers* to the *rights holders* affected by

their decisions and actions. Accountability has a corrective function, making it possible to address individual or collective grievances, and sanction wrongdoing by the individuals and institutions responsible. However, accountability also has a preventive function, helping to determine which aspects of policy or service delivery are working, so they can be built on, and which aspects need to be adjusted. Accountability principles and mechanisms can improve policymaking by identifying systemic failures that need to be overcome in order to make service delivery systems more effective and responsive.

Although central to human rights practice, accountability has long been a prime concern in development, governance, politics, law, ethics, business and activism. While the meanings and functions of accountability differ across disciplines, in most public policy contexts, accountability refers to the obligation of those in authority to take responsibility for their actions, to answer for them by explaining and justifying them to those affected, and to be subject to some form of enforceable sanction if their conduct or explanation for it is found wanting.[2] Much of the literature on accountability in development converges around these three constituent elements: responsibility, answerability and enforceability.[3]

Taking stock of the recent period, efforts to increase accountability with regard to the Millennium Development Goals and their successor framework can draw on human rights norms and mechanisms to strengthen these three dimensions of accountability.

First, human rights standards make it possible to delineate the respective *responsibilities* of different actors in the development process. States should explicitly align MDG frameworks with human rights standards in a manner that takes account of their specific existing international treaty obligations, and the indivisibility and interdependence of all human rights. If human development commitments are framed in terms of the human rights duties underpinning them, accountability for the goals becomes a matter of legal obligation, rather than charity or discretion.

Second, placing human rights principles at the heart of the process of setting the new goals and ensuring compliance with them fosters the active participation of those most affected by poverty and deprivation, increasing the responsiveness of those who answer to them. Accountability mechanisms anchored in the human rights framework help to create the conditions in which people can meaningfully participate in decision-making. This generates incentives for those who exercise authority to **answer** to and take account of the concerns and demands of marginalized and poorer groups in their society. It also empowers those groups, encouraging them to engage, thereby strengthening policymaking and the delivery of services.

Third, achievement of the Millennium Development Goals has been hampered by the ad hoc and voluntary character of their information disclosure, monitoring and reporting mechanisms. Human rights provide additional means for promoting accountability by ensuring that marginalized and poorer groups in society are in a position to **enforce** their rights and seek redress when their rights are violated. Where failure to fulfil development commitments constitutes a violation of human rights standards, those affected should be enabled to bring their claim before national and international human rights mechanisms. An array of national and international institutions exist to give effect to the human rights normative framework, assessing claims of violation, determining responsibility and providing remedies to those who have suffered unjust treatment, through prompt, fair and transparent processes.
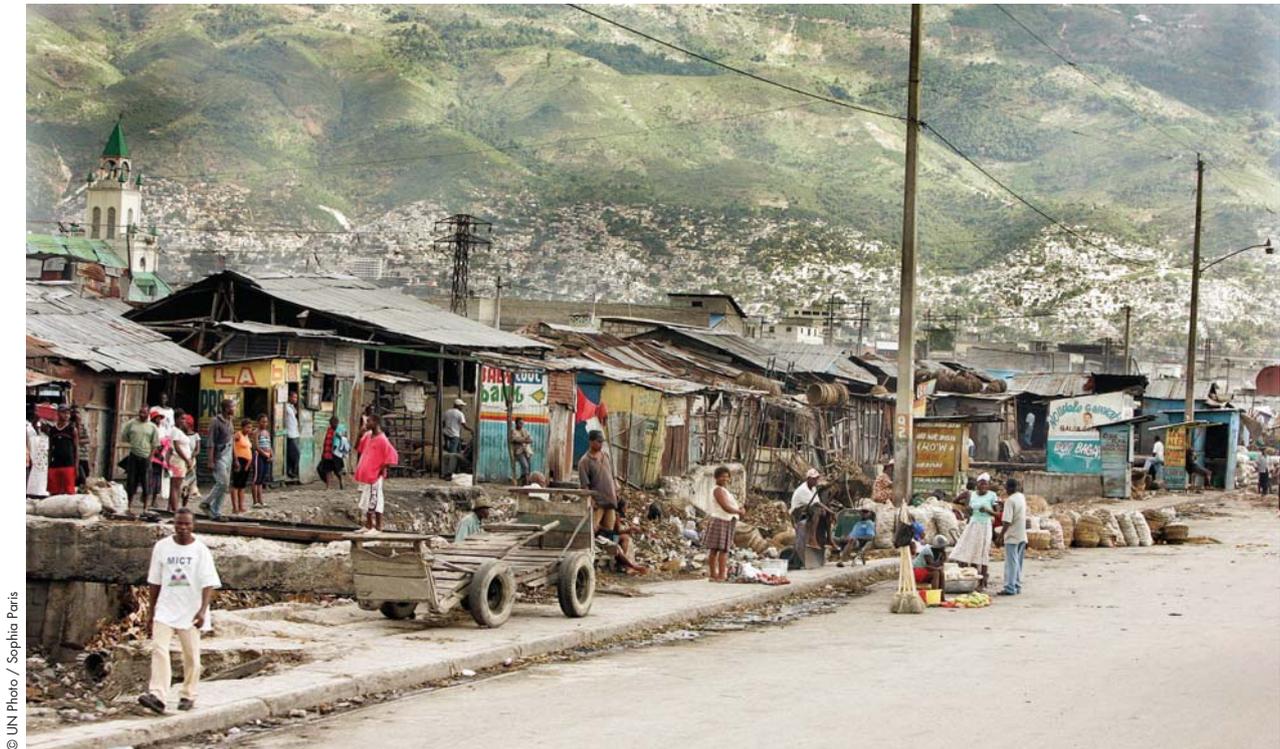
Under international human rights law, States are primarily accountable for respecting and protecting the rights of those within their jurisdiction. The proliferation of actors in international development—from business enterprises and multilateral economic institutions to private foundations—has made it necessary to develop a more multidimensional approach to accountability. Political decentralization, the privatization of public services and broader transformations in the globalized economy have multiplied the number of and interconnections among institutions that shape development. The bond between State and citizen is now at the centre of a more elaborate web of interrelated responsibilities involving actors above, below and beyond the State.

Weaknesses in the accountability of State actors may stem from a wide range of factors, including lack of political will, bureaucratic fragmentation, lack of domestic policy coherence, weak tax administration and other elements of the social contract, and decentralization of responsibilities for service delivery without adequate resources and safeguards. One of the most persistent accountability deficits in the current MDG framework has been the difficulty of holding industrialized countries to account for the commitments they made to the global partnership for development, and for the transnational human rights impact of their development, aid, trade and investment policies. In an increasingly interdependent system of cross-border economic, trade and financial relations, ensuring policy coherence at the international level is a critical dimension of global governance that the successor framework to the Goals will need to address.

The capacity of States to respect, protect and fulfil their human rights obligations is shaped and constrained by a global political economy in which many non-State actors have assumed influential roles. These actors include international and regional financial institutions, multilateral development banks, export credit agencies, transnational corporations, credit rating agencies and private foundations.[4] While certain non-State actors have made important progress in developing policies and systems of accountability, their voluntary and self-regulatory nature means that significant gaps in accountability remain to be addressed.

Rights holders, duty bearers and institutions of accountability interact in a variety of forums that transcend national boundaries. A range of institutions and mechanisms exist that can potentially be used to hold officials and other duty bearers to account for abuses of authority and violations of rights that are relevant to the current development agenda. Judicial mechanisms are key avenues in which to pursue legal redress and remedy for human rights violations. However, non-judicial mechanisms also have a key role to play in strengthening

human rights accountability in the post-2015 context, whether parliamentary committees, administrative hearings, service delivery grievance procedures, citizen consultation groups or community-based accountability systems. The different processes are not isolated and can reinforce one another. So litigation in defence of economic and social rights tends to be more effective when it is associated with political mobilization and rulings by regional adjudication bodies can give authority to the demands of local advocacy groups.

While their functions and mandates vary, accountability mechanisms should monitor adherence to human rights standards, independently review Government performance, and recommend measures for remedy, redress or other corrective action in cases of non-compliance. The ultimate objective is not merely to sanction those responsible for violations. Effective systems of accountability promote systemic and institutional progress that creates conditions in which rights can be more fully enjoyed. Human rights accountability must be integrated into all stages of the domestic policy cycle, from initial planning, to budgeting, implementation, monitoring and evaluation,

generating what has been described as a virtuous "circle of accountability."

International accountability systems, including international human rights bodies, generally have a supervisory or oversight role rather than enforcement function. Yet they can play an important role in requiring States to justify their development performance in the light of human rights principles. Such bodies can also scrutinize whether adequate national mechanisms of redress exist and issue recommendations for strengthening domestic accountability. They offer additional forums for raising and negotiating grievances, and are particularly helpful to groups whose opinions are disregarded by their own Governments.[5]

In practice, nevertheless, human rights dimensions and institutions of accountability have been underrecognized and underused in the context of the Millennium Development Goals. Monitoring of the Goals has largely focused on collecting data in support of quantitative human development indicators. Stronger mechanisms for tracking progress will be needed if the Goals are to meet national and international commitments to human rights.

Monitoring mechanisms for the Millennium Development Goals, and global development goals generally, should be integrated with national monitoring of public policies and not be seen as a stand-alone activity.

Accountability beyond the year 2015

An ambitious new global deal is needed in the year 2015, grounded in the principles of human rights, equality and sustainability. Its ultimate objective should be to realize the international human rights commitments of United Nations Member States, building upon the important human rights agreements in the outcome documents of the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals and the 2012 United Nations Conference on Sustainable Development ("Rio+20").[6] If accountability and human rights are central to the next generation of development goals, it is more likely that the current set of weak political commitments can be transformed after 2015 into a more robust global social contract.

Human rights can inform our understanding of accountability in the context of negotiations towards a post-2015 development agreement, by strengthening its constituent elements: responsibility, answerability and enforceability. In relation to new global development goals (including "sustainable development goals", as agreed at the 2012 United Nations Conference on Sustainable Development), in particular, accountability mechanisms should take more account of human rights standards, as well as human rights methods of monitoring and evaluation and, where needed, redress and sanction.

In the context of debates on the post-2015 development agenda, human rights accountability exists when practices and procedures are in place that:

▶ Oblige those in authority or their institutions to take responsibility for their actions, and to explain and justify their actions to those to whom they are answerable, against standards of behaviour and performance which reflect and affirm international human rights standards;

▶ Subject those in authority to forms of enforceable sanction or corrective action if their conduct is found to have breached human rights obligations. Procedures for appraising and sanctioning conduct, whether judicial, administrative or other, should also reflect and affirm international human rights standards; and

▶ Enable those living in poverty who have been deprived of their rights to access fair and transparent mechanisms to enforce their claim against those in authority, and to obtain appropriate redress if their rights have been violated.

The identification of a clear, ambitious, specific and manageable set of global goals, targets and indicators—explicitly aligned with existing international human rights treaty standards—can help to specify who is responsible for what, and by when. This, in turn, clarifies responsibilities, improves answerability and strengthens incentives for sustained progress.

Human rights should help to define *what* Member States and other duty bearers should be accountable for under a post-2015 agreement, by *when*, as well as *how* they should be held accountable.

What should States and other duty bearers be accountable for?

The clamour for inclusion in a post-2015 development agenda has begun. Clear objective criteria must guide the identification of priorities suitable for inclusion in new global development goals, bearing in mind the specific purposes that global goals can best serve. Drawing from the Millennium Development Goals' experience, the most useful objectives are: (a) the normative objective of articulating a new progressive and human-centred global development narrative; (b) "boosting" attention to neglected issues and sectors; and (c) as discussed in this publication, strengthening accountability for delivery on shared human rights and development commitments. Global goals and targets should *not* be misappropriated or taken literally as national planning targets, without specific tailoring (see below).

The outcome document of the 2012 United Nations Conference on Sustainable Development contains a useful set of criteria for proposed new sustainable development goals (relevant to a post-2015 agreement more generally). From a human rights perspective, the following criteria should be included: (a) ensure that new global goals constitute a balanced framework, reflecting freedom from fear as well as freedom from want; (b) focus new global goals and targets mainly on the "ends" of development and less so on the "means"; (c) prioritize issues with strong political, moral and cognitive salience, which resonate with populations across the globe and generate ownership and action; (d) include indicators of effort, as well as results; and (e) make measurement a servant, rather than master, of the post-2015 development agenda, acknowledging the wide range of untapped data sources that could be marshalled in support of a new global monitoring framework.

The central challenge of 2015 is that of equality. The post-2015 agenda must be designed to advance the three closely related concepts of equity (fairness in distribution of benefits and opportunities), equality (substantive equality, of both opportunity and results, with full protection under law) and non-discrimination (prohibition of distinctions that are based on impermissible grounds and that have the effect or purpose of impairing the enjoyment of rights). Achieving equality should be both a self-standing goal in the post-2015 goals and explicitly integrated across all other goals, through enhanced data collection and disaggregation, equality benchmarking and equality monitoring for each.

A critical priority for a post-2015 agreement must be the strengthening of coherence between development, trade, investment, intellectual property, finance, tax and other key policy regimes, globally and nationally. International human rights standards, as legally binding standards and higher-order policy objectives representing the ultimate ends of development, should be the yardstick for policy coherence at both global and national levels, drawing from experience of human rights assessments of trade agreements and other fields of economic and social policy.

By **when** should States deliver on their post-2015 commitments?

If the ultimate goal of a post-2015 agenda is to contribute towards the full realization of all human rights for all, the post-2015 goals and targets will need to be embedded in a longer-term framework for genuinely transformative change, with shorter interim targets and review processes for the sake of political accountability. A small set of global goals and targets, applicable to all countries, should be expanded upon, tailored and localized in line with differing national circumstances, as outlined further below, with time frames adjusted accordingly.

The year 2010 may be a suitable baseline for post-2015 goals, and 2030 an appropriate target date, balancing the universal vision with more immediate political incentives and demands. Shorter time frames are needed for civil and political rights targets and those dimensions of socioeconomic rights that—under human rights treaties—should be achieved immediately rather than progressively. A successor agreement should aim for universal realization of all human rights for all by the year 2048, the 100th anniversary of the Universal Declaration of Human Rights.

How should States be held accountable for their post-2015 commitments?

New global development goals cannot be taken as a one-size-fits-all yardstick of national performance. Lack of clarity on the distinctive purposes of global goals and targets, and the misappropriation of the Millennium Development Goals as national planning targets, dogged the Goals from the outset and distorted the true picture of progress between regions and countries. "Tailoring" the (global) goals to the national and subnational levels should involve the following eight steps:

1. Align national and subnational goals and targets with the human rights treaty standards applicable in the country concerned;
2. Set national and subnational goals, targets, indicators and benchmarks through participatory processes, and ensure adequate participation in monitoring progress;

3. Integrate the principle of non-discrimination and equality, ensuring that the most disadvantaged communities and regions are prioritized;
4. Address major bottlenecks where rights are not being realized and select interventions that multiply positive outcomes;
5. Look for synergies and gaps in the overall framework of goals, and ensure that it reflects an adequate balance of human rights and sustainable development concerns;
6. Define a time frame and level of ambition consistent with an objective assessment of the "maximum resources" available to the country;
7. Set targets and indicators for fiscal and policy effort, as well as outcomes; and
8. Use a range of indicators and all available information (subjective as well as objective; qualitative as well as quantitative), across the full range of human rights (civil, cultural, economic, political and social), to help monitor progress.

New goals—at global, national and subnational levels—need to be backed by accessible and effective accountability mechanisms. These should include administrative, political, judicial and quasi-judicial as well as social accountability mechanisms, and systems to assure the quality of services. Human rights standards should be their normative frame of reference. Steps should be taken to lift the barriers preventing people living in poverty from making use of judicial and other accountability mechanisms, and from claiming and enforcing their rights, including their economic, social and cultural rights. Appropriate mechanisms should also be created or adapted to address the shortcomings in the accountability of State actors at the international level, as well as that of international financial institutions and non-State actors with an increasingly influential role in development policy.

Existing accountability mechanisms for the Goals should be strengthened, adapted and expanded for the purposes of post-2015 goals. As of 2012, consultations on global accountability arrangements for the post-2015 agenda were actively under way. Proposed global "peer review" mechanisms have been mooted. However, it is critical that all such reform proposals take careful account of (and do not duplicate or undermine) the role played by existing international human rights accountability mechanisms, which, in turn, should be strengthened, and consider more consistently and explicitly the monitoring and reporting processes for new global development goals.

Any new global review mechanism for post-2015 development commitments should explicitly refer to international human rights treaty standards, and should ensure rigorous independent review, effective civil society participation and high-level political accountability. The data generated by the review mechanisms for post-2015 global development goals should feed systematically into international human rights review and reporting processes. Member States should streamline their post-2015 and international human rights reporting obligations, ensuring that their respective national reporting processes and accountability mechanisms mutually reinforce (and do not unnecessarily duplicate) one another.

States should ratify the full spectrum of human rights treaties and their optional complaint procedures, withdraw the reservations that impede their implementation, and commit to the comprehensive, timely and regular submission of reports. These measures will help to ensure a virtuous circle, improving the quality and impact of the recommendations of international human rights mechanisms for development policy and programming, and strengthening incentives for better policymaking.

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Introduction

We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs.

United Nations Millennium Declaration[7]

In September 2000, at the dawn of a new millennium, world leaders gathering at the United Nations adopted the Millennium Declaration, in which they resolved to "spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty." To concretize this commitment, they subsequently adopted the Millennium Development Goals, eight global goals addressing income poverty, hunger, disease and other key dimensions of poverty, with associated targets under each goal to be achieved by 2015.[8]

As this deadline approaches, Governments and civil society across the globe are beginning to define a new set of development objectives to succeed these Goals after 2015. To do this successfully, it will be vital to understand the strengths and weaknesses of the current MDG framework, and the reasons for its successes and failures.

This publication focuses on the question of accountability, understood from a human rights perspective. It starts from the premise that two key weaknesses have undermined the effectiveness of the current MDG framework in helping to fulfil the rights and aspirations of those living in poverty. The first is that neither the Goals nor the plans for implementing them have been adequately framed in human rights terms. This has meant that States' pre-existing human rights commitments have been overlooked and undercut in both the design and the delivery of the Goals. A second related weakness is that of accountability. The Goals represent perhaps the most serious global commitment ever made to eradicating the scourge of poverty. In practice, however, robust mechanisms have not been put in place to hold States and others to account for what they have done to fulfil these pledges and to answer to the millions of people who continue to suffer avoidable deprivation as a consequence.

Human rights featured prominently among the body of internationally recognized principles in which the Millennium Declaration was grounded. The Declaration reaffirmed the commitment of world leaders to "strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all"[9] and emphasized the importance of international cooperation towards the realization of human rights, including the right to development. Similarly, accountability runs through the Declaration as an anchoring value. In recognizing that industrialized as well as developing States have a shared responsibility to uphold human rights in an increasingly interdependent world and that their duty to the world´s poor transcends national boundaries, the Millennium Declaration can be read as a powerful statement of globalized accountability. While acknowledging the central responsibility of States to ensure effective national governance, it emphasizes that wealthier countries, international institutions and the private sector have concurrent responsibilities to create conditions conducive to human development, including more equitable systems of trade, aid, finance and debt relief.

The Goals were intended as a road map for the implementation of the Declaration. They concretized the pledges of the Declaration by making specific time-bound commitments to address some of the most egregious forms of poverty-related deprivation. Although the Goals themselves made no reference to human rights, in practice they broadly correspond to a range of economic, social and cultural rights, including the rights to work, to food, to education, to health, to housing, to water and sanitation, and to an adequate standard of living, as well as women's right to equality and the rights of children.[10] Their selective focus on key conditions for human dignity and survival, such as the access of all children to primary education and the access of all women to appropriate care during pregnancy and childbirth, loosely corresponds to a number of core obligations under international economic, social and cultural rights standards. Moreover, establishing targets and indicators under each goal potentially provided quantifiable benchmarks for tracking the "progressive realization" of economic and social rights—the duty of State parties under international human rights treaties to fulfil these rights as swiftly as possible using the maximum resources available.[11]

However, the Millennium Development Goals and targets were drafted in a manner that in many respects was inconsistent with international human rights standards. Goal 2 ignores the human rights requirements that primary education should be free, compulsory and of a certain quality; the Goals' gender equality targets are too narrowly focused on equality in education and political representation, and miss other key poverty-related manifestations of gender discrimination, such as violence against women; and the Goals for housing, water and sanitation omit central human rights concerns regarding security of tenure and the quality and affordability of services. Civil and political rights, such as freedoms of expression, association, assembly and information, which are essential to meaningful participation and accountability in development processes, were left out almost entirely. While it would be unreasonable to expect a consensual political agreement covering a limited number of development objectives to address all relevant international human rights standards, the Millennium Development Goals and targets fall short of States' existing treaty obligations in significant ways, undermining their potential to

spur more vigorous implementation by States of their human rights commitments in development.[12]

While notable gains have undoubtedly been made in a number of MDG areas, data resulting from periodic global stocktaking of progress raise troubling questions when analysed from a human rights perspective. Rates of progress in areas such as reducing maternal mortality and child malnutrition have been unreasonably slow or even stagnant in some regions.[13] Even where human development outcomes have been relatively strong, it is unclear to what extent progress is attributable to global efforts to meet the Goals. For example, the target to halve the proportion of people whose income is less than US$ 1.25 a day is likely to be met by 2015. However, this is largely due to patterns of economic growth in two populous countries, China and India, based on public policies which largely pre-date the Goals, rather than national or international policy efforts made as a result of the Goals.

Moreover, disaggregated data reveal that in many countries progress in meeting the Goals has been extremely unequal, with persistent and sometimes widening disparities along lines such as gender, ethnicity, urban/rural population and socioeconomic status. With regard to Goal 4, for example, data from the United Nations Children's Fund (UNICEF) show that, while a majority of countries have experienced a decrease in under-five mortality rates, in most countries this has been accompanied by widening inequality in child mortality rates between the top and bottom income groups (see fig. I).[14] This raises serious concerns regarding efforts to safeguard the human rights principles of equality and non-discrimination.

Progress across regions has also varied enormously, and there are indications that the necessary policy interventions and resources are lacking precisely in the regions most in need. For example, maternal deaths, though relatively easy to prevent, remain extremely frequent in South Asia and sub-Saharan Africa, where access to life-saving reproductive health care has scarcely improved in the past two decades. The uneven progress seen across the different Goals suggests that some areas considered core human rights obligations are not receiving the attention they deserve. For example, sanitation remains relatively

Figure I. Increasing inequality in child mortality rates
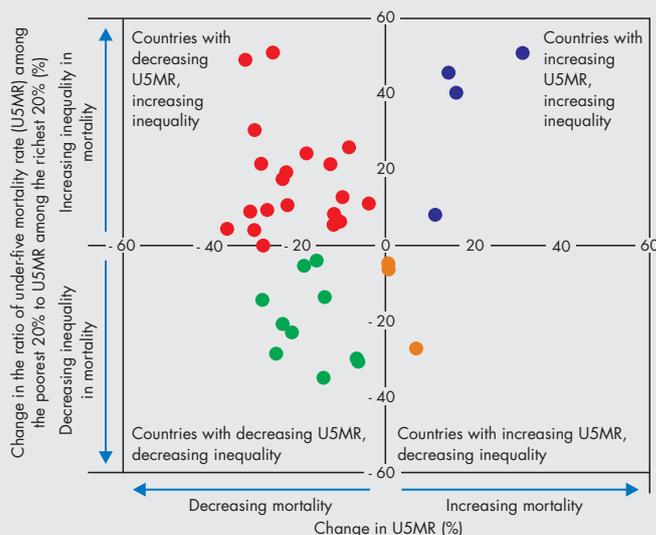
Source: UNICEF, *Progress for Children: Achieving the MDGs with Equity*, No. 9 (September 2010), p. 23.

neglected by Governments and by donors in comparison to progress made in increasing access to water. Moreover, global progress on access masks serious problems of water quality—a key element of the right to water, which the current MDG indicator does not measure.

These serious shortcomings are recognized well beyond the human rights community and have been highlighted by the United Nations Secretary-General himself in recent evaluations of progress. Nevertheless, greater integration of human rights considerations into the Goals from the outset could have guarded against them, allowing for goals that correspond with core human rights obligations, targets more reflective of the duty of progressive realization, and programming more attentive to the rights of those facing disadvantage and discrimination. Blind spots in the current Goals with regard to civil and political rights, including freedoms of expression, association, assembly and information, rights of political participation and access to justice, have undermined attention to participation and accountability in their implementation.

The United Nations Secretary-General has recognized lack of accountability as one of the principal reasons for the shortfalls in meeting the Goals.[15] Just as the human rights commitments of

the Declaration were not translated operationally in the design of the Goals, so the vision of globalized accountability contained in the Declaration has failed to materialize in the current MDG framework. Despite the emphasis in the Declaration on the shared responsibility of the community of States, and their accountability to the world´s poor, the MDG process has not incorporated robust accountability mechanisms, whereby the range of national and international decision makers can be held to answer for their actions to those living in poverty.

At the international level, the reporting regime that was set up to review progress on the Goals has been rendered ineffective by its voluntary nature, its unsystematic approach to evaluating compliance and the absence of consequences for underperformance. Few countries have volunteered to report their progress to the annual ministerial review of the United Nations Economic and Social Council. Although it identifies good practices, this mechanism of national voluntary presentations provides almost no opportunity to monitor or evaluate reports independently, or challenge findings.

As non-binding political commitments with few consequences attached to their non-fulfilment, the Goals in themselves have provided little incentive to decision makers to work hard to achieve them. Governments—whether in developing, emerging and industrialized countries—have seldom been challenged when they blame lack of progress on factors which they claim are beyond their control. The Goals' framework does not make clear who is responsible for fulfilling the commitments and the notion of "shared responsibility" affirmed in the Declaration has at times obscured rather than clarified matters. The commitments assumed by richer countries under Goal 8 were drafted in terms that were deliberately vague; other Goals place responsibility on the international community as a whole, without differentiating among the domestic, international, public and private actors involved. The absence of clearly defined duties and responsibilities has made it easier for Governments and other actors to abdicate responsibility and blame others for underperformance.

Accountability has not only been limited; it has been asymmetrical. The Millennium Development Goals' documents and processes mainly refer to the accountability of developing States to donors and international institutions. The language of "mutual accountability" that international forums on aid effectiveness have adopted masks the one-sided nature of accountability in practice. This in turn reflects the context in which the Goals originated. Conceived as an intergovernmental compact between donor and developing countries, the Goals emerged as part of a new deal on development aid under which donor States provided debt relief and development assistance on the condition that recipient countries adopted poverty reduction strategies in line with their MDG commitments.[16] Many developing countries concluded that, in practice, the Goals were an instrument of aid conditionality, a perception only strengthened by the decision to frame them in terms that impose tangible commitments on developing, but not developed States. The emphasis in MDG forums on bilateral accountability between donor States and their partner countries has tended to obscure the primary accountability that each State has under international human rights law to those who live under its jurisdiction irrespective of its level of development.[17]

Announced as high-level commitments that States should and would prioritize, in practice the Goals and their implementation process have not obliged or encouraged decision makers to explain or justify their actions to those who are most directly affected. Although the Millennium Declaration spoke of honouring collective duties to the world's poor and vulnerable, the latter's involvement has been more rhetorical than real. The Goals were drafted in closed United Nations negotiations. Until recently, poor and marginalized communities, and those who advocate on their behalf, had few meaningful opportunities to shape or challenge MDG policy, globally or nationally. Although much has changed since the Goals were adopted and the picture varies from one country to another, civil society groups have had to battle for inclusion. In many countries, repressive restrictions on freedom of expression, assembly and association have posed further obstacles to their participation.

The absence of effective mechanisms to assess the Goals' progress in the light of human rights standards, to identify shortcomings and determine who is responsible for them, and ensure appropriate preventive measures and remedies for those affected, means that the collective failure to meet many of the Goals by 2015 is likely to have few if any consequences for those who promised to deliver on them. The costs of failure will be paid instead by the additional hundreds of thousands children who will not survive their fifth birthday, the hundreds of thousands more women who will lose their lives in pregnancy or childbirth, and the millions of individuals who will continue to be deprived of access to basic education, adequate housing, nutrition, sanitation, safe drinking water, decent work and other essential elements of a life with dignity.

This publication argues that placing human rights and accountability at the foundation of the post-2015 agenda is essential if the new framework is to be realigned with the vision and values affirmed in the Millennium Declaration. The world is weary of broken promises. Commitments that cover the period after 2015 will have little credibility—and are unlikely to be implemented—unless they are backed by effective human rights accountability mechanisms at every level and translated into tangible results in the lives of all people. Aligning the goals more explicitly and coherently with the legally binding obligations States have under international human rights treaties will strengthen incentives to improve public policy performance. Human rights accountability can therefore help to ensure that the new commitments agreed in 2015 are honoured in practice.

Strengthening human rights accountability in the post-2015 framework entails recognizing that a failure to meet a development commitment may entail human rights violations for which specific institutions should be held responsible, through administrative, judicial or other means. Behind the statistics of poor MDG compliance are thousands of lives marred or cut short by disease, deprivation or preventable deaths. Where these tragedies result from the failure of a State (or States) to undertake adequate efforts to ensure access to health care, adequate housing, safe drinking water or other economic and social

rights, they become human rights violations, which are subject to legal accountability and for which States have a duty to provide redress. More broadly, human rights accountability promotes the responsiveness of all those involved in the development endeavour—ministries, parliaments, donor States, trading partners, intergovernmental institutions, the private sector, civil society organizations (CSOs)—to the communities and individuals whose lives their actions affect.

The international community now stands at a critical juncture. As efforts get under way to define a new set of global development commitments for the period after 2015, CSOs around the globe are demanding that the next generation of development goals serve as the basis of a new global social contract, one that responds to the rights and aspirations of all the world's people and that recognizes the complex and evolving nature of power relations in the world of the twenty-first century. Placing human rights at the heart of the post-2015 framework is central to that task and can help to strengthen the bonds of accountability that should characterize a redefined social contract for our time.

A changing context

Changes in the global context since the Millennium Development Goals were adopted have highlighted even more starkly the need to rethink accountability in the post-MDG development framework. The **global financial and economic crises** have plunged many industrialized countries into recession, with knock-on effects in developing and emerging economies. Speculation in commodity markets in the same period greatly increased the volatility of food and energy prices. Fiscal deficits resulting from the crisis have led Governments of both North and South to reduce social spending, threatening an increase in poverty and inequality. Some donor countries have reduced the budgetary priority given to international development cooperation in this context. It has been estimated that approximately 64 million more people live on less than $1 a day and that 400,000 additional children will die before their fifth birthday as a direct result of the global economic downturn.[18] Twenty-seven million more people are now unemployed, while the number

of workers in vulnerable employment has risen by 136 million since 2000. These crises have therefore reduced the prospect of achieving the Goals' targets[19] in many countries, while also encouraging some States to lay all blame for slackening or stagnant progress on the Goals at the feet of external actors. The crises have highlighted structural inequities and accountability gaps in the global economy,[20] including regulatory failures which brought the world's financial system to the verge of collapse in 2008. While the human rights impact of the crisis and the accountability deficits underlying it were widely acknowledged in early responses within multilateral forums, both remain to be effectively addressed.[21]

Broader **geopolitical changes** have been transforming the international landscape in ways that pose new challenges and opportunities for accountability.[22] Emerging regional Powers, including China and India, have become global players, shifting the balance of power and influencing the behaviour of multilateral institutions. Emerging economies have proved more resilient to the impact of the economic crisis, growing faster and consuming more. Some are increasingly important providers of bilateral development cooperation.[23] Increased South-South cooperation has offset the decline in assistance provided by countries of the Organisation of Economic Co-operation and Development to middle-income countries. While this has to some extent mitigated the neocolonial character of aid relations between North and South, much of the aid provided by emerging countries is tied to bilateral trade, investment or commercial deals. In parallel, major new private donors such as the Bill and Melinda Gates Foundation increasingly influence the form that aid and aid policy take; some of their programmes devote considerable resources to aspects of the MDG agenda. A critical question is therefore the extent to which these new and emerging development actors will help or hinder the quest for human rights accountability in development cooperation.

Changes in patterns of poverty have also prompted a **shift in the architecture and justification of aid**. Poverty is now more prevalent in middle-income countries that are far less dependent on donor assistance than least developed countries. Nearly 75 per cent of income-poor people now live in middle-income countries.[24] One implication has been to diminish the role of aid relative to other areas of transnational policy, such as trade, investment, tax cooperation and financial regulation. Foreign direct investment is increasing in developing countries as a potential resource stream for the Millennium Development Goals (see fig. II). In this context, the question of ensuring policy coherence at the international level becomes increasingly key. Domestic management of resources and distributional measures that reduce social inequality within States also take on greater significance in this context, prompting a rethink of the relationship between national and international responsibilities with regard to the generation of resources to meet the Goals. The economic crisis and its aftermath have exposed the fallacy that poverty occurs only in the South, and this too has direct implications for the design of a post-MDG agenda after 2015.[25]

The years since the adoption of the Goals have also seen **an evolution in thinking about the meaning, purpose and prevailing paradigms of development** in ways that could potentially improve prospects for human rights accountability. The Goals represented a shift away from the dominant development paradigm of the 1990s, the so-called Washington Consensus,[26] towards the human development paradigm expounded in the work of Amartya Sen, Mahbub ul Haq and others, and elaborated by the United Nations Development Programme (UNDP). This implies a regulatory, redistributive

Figure II. Foreign direct investment inflows, global and by group of economies (1995–2011), in billions of United States dollars
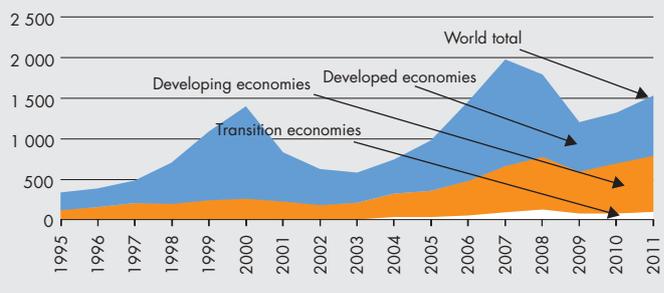
Source: World Investment Report 2012: Towards a New Generation of Investment Policies (United Nations publication, Sales No. E.12.II.D.3).

and socially protective role for the State, and strategies for reducing poverty that are owned and defined by developing countries and depend on effective democratic governance.[27] This vision appeared to have become consolidated in global development forums in the aftermath of the global financial and economic crises,[28] but may be receding again in countries where fiscal austerity has become the prevailing policy prescription. Renewed thinking over the past decade on the multiple dimensions of poverty and on alternative metrics of human well-being is of particular relevance to the prospects of embedding human rights accountability in the post-2015 agenda.[29]

Finally, the past decade has witnessed a **sustained wave of popular mobilization** across the globe against social inequality, elite privilege and corporate power. These have ranged from the removal of autocratic regimes as a result of the Arab Spring, to anti-corruption struggles in both the North and South, and the Occupy movements in the United States and elsewhere. For all their differences and national specificities, these movements can be seen as part of a surge in the demand for more effective accountability in the context of increasing globalization. In many parts of the world, the failure of democratization to reduce growing social and economic inequality, and dissatisfaction with opaque patterns of decision-making, have fuelled efforts to develop more meaningful forms of people-led accountability.[30] Some focus on direct and local forms of accountability that complement or displace the traditional mechanisms developed in representative democracies, such as political parties and legislatures, where these are perceived to be co-opted, corrupt or ineffective.[31] All these efforts are generating a broader debate about standards, processes and conditions of accountability in a context in which the relationship between citizens and States, between States and global institutions, and between the public and the private sector has changed dramatically. In this debate, human rights are increasingly perceived to provide tools that can both transform understanding of accountability and operationalize it, not least in the context of development policy.[32]

With respect to the Millennium Development Goals and what should replace them, in recent years CSOs have mobilized in all continents, via transnational networks, such as the Global Call to Action against Poverty and Beyond 2015, to demand more genuine participation in forums that will discuss the goals and purposes of the future development agenda. They want accountability to be both "domesticated" and "globalized". On the one hand, States must be more responsive to the demands and concerns of their citizens (rather than to those of donors). On the other, global institutions, donor States and other international development actors must be more accountable to the individuals and communities abroad in whose interests they claim to act. A geographically diverse body of CSOs is calling on world leaders and the United Nations to ensure that the next generation of development commitments addresses human rights explicitly and includes mechanisms that will effectively provide accountability to the world's most vulnerable people.[33]

A turning point?

The impact of this advocacy is visible in increased attention to both accountability and human rights in recent intergovernmental forums on the Millennium Development Goals and the post-2015 framework. The outcome document of the 2010 High-level Plenary Meeting on the Millennium Development Goals contained new commitments to strengthening accountability, including donor accountability for aid allocations. It also contained a raft of explicit human rights commitments, including on the rights to food, education and health, and on combating discrimination. Prior to the Summit, only a modest intergovernmental consensus on human rights and development had been achieved and United Nations Member States had never previously agreed that human rights were indispensable to the achievement of the Millennium Development Goals.[34] These gains were consolidated and broadened at the 2012 United Nations Conference on Sustainable Development, where Member States reaffirmed human rights with respect to an adequate standard of living, food, water and sanitation, health, education, housing, social protection, labour rights, access to information, and access to justice, and committed to addressing discrimination against women, indigenous peoples, minorities, persons with disabilities, older persons and migrants among

others. In the outcome document of the United Nations Conference on Sustainable Development Member States called for respect for all human rights and for regulatory measures consistent with obligations under international agreements.

Analyses and reports produced by the United Nations in connection with the Millennium Development Goals (notably the 2011 report of the Secretary-General (A/66/126)) increasingly highlight human rights concerns such as non-discrimination and equality. A number of States have also made efforts in recent years to align national MDG targets and indicators with human rights treaty requirements, and collect disaggregated data on marginalized groups. Ecuador, for example, has added specific indicators for women and indigenous populations, and collected disaggregated data on progress on the Goals among these groups by region.

Such commitments to human rights and accountability signal an important shift relative to earlier phases of the MDG process. Since the 2010 High-level Plenary Meeting on the Millennium Development Goals, efforts to develop frameworks to monitor the Goals, particularly those relating to maternal and child health[35] and to water and sanitation,[36] have increasingly recommended that substantive human rights criteria should be integrated in assessments of progress and outcomes, and have placed accountability for policy and fiscal efforts, as well as outcomes, at the centre of monitoring efforts. These initiatives are explored in more detail in Part Two. Many other intergovernmental and non-governmental actors have also affirmed that accountability should be a cornerstone of the new framework of development commitments.

While these developments are very promising, "human rights" and "accountability" continue to be understood in many different ways. Political resistance to effective accountability remains strong; for example, the freedoms of expression, association and assembly are indispensable for effective participation and accountability in policymaking, but were not included in either outcome document mentioned above. It is therefore vital not only to clarify

what accountability means when it is used in a human rights context, but to understand what the implications would be for development practice in the context of the Goals and a post-2015 development agreement. If accountability mechanisms in the regime after 2015 are anchored in the international human rights framework, what would change and why might performance improve?

This publication seeks to address these questions, and to explore how the operational application of a human rights understanding of accountability might strengthen specific aspects of the regime that succeeds the Goals after 2015. Written primarily for policymakers and development practitioners working globally and nationally, it examines how human rights can enrich our understanding of accountability in the post-2015 context, and how human rights standards and mechanisms can strengthen efforts to ensure accountability in practice.

Part One explores the concept of accountability from a human rights perspective, examining key dimensions of accountability in the light of human rights standards. It looks at how these standards attach responsibilities to different "duty bearers", therefore shedding light on who is accountable for what and to whom in the development context. In looking at who is accountable, it highlights a number of the most serious shortcomings in relation to the accountability of States as well as non-State actors.

Part Two reviews the various avenues that can be used at the national and international level to hold States and other institutions to account in the post-2015 context. It examines how human rights can help to address gaps in accountability processes and institutions, including accountability mechanisms created in the specific context of the Millennium Development Goals.

Part Three looks forward, outlining a framework for integrating accountability for human rights in a post-2015 agenda. It proposes human rights criteria for prioritizing issues that need to be addressed in that agenda, and concludes with some recommendations regarding global goals, targets and indicators after 2015 and how accountability for these can be better ensured.

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Part One

THE MILLENNIUM DEVELOPMENT GOALS, HUMAN RIGHTS AND ACCOUNTABILITY

Chapter I.
Accountability: a human rights perspective

"Accountability" is a cornerstone of the human rights framework. The latter is essentially a system of norms and practices that govern the relationship between the individual and the State or those in authority. Human rights standards set out the rights and freedoms to which all are entitled by virtue of being human, and the corresponding duties of those who exercise authority or forms of power. Accountability from a human rights perspective refers to the relationship of Government policymakers and other **duty bearers** to the **rights holders** affected by their decisions and actions.

Although central to human rights practice, accountability has long been a prime concern in development, governance, politics, law, ethics, business and activism. While the meanings and functions of accountability differ across disciplines, in most public policy contexts, accountability refers to the obligation of those in authority to take responsibility for their actions, to answer for them by explaining and justifying them to those affected, and to be subject to some form of enforceable sanction if their conduct or explanation for it is found wanting.[37] Much of the literature on accountability in development converges around these three **constituent elements:** responsibility, answerability and enforceability.[38]

Accountability has a corrective function, making it possible to address individual or collective grievances, and sanction wrongdoing by the individuals and institutions responsible. However, accountability also has a preventive function, helping to determine which aspects of policy or service delivery are working, so they can be built on, and which aspects need to be adjusted. They can improve policymaking by identifying systemic failures that need to be overcome in

Responsibility requires that those in positions of authority have clearly defined duties and performance standards, enabling their behaviour to be assessed transparently and objectively.

Answerability requires public officials and institutions to provide reasoned justifications for their actions and decisions to those they affect, including the public at large, voters who invest public officials with authority and institutions mandated to provide oversight.

Enforceability requires public institutions to put mechanisms in place that monitor the degree to which public officials and institutions comply with established standards, impose sanctions on officials who do not comply, and ensure that appropriate corrective and remedial action is taken when required.

order to make service delivery systems more effective and responsive.

Human rights have much to contribute to our understanding of accountability in development. The normative framework of human rights, and the processes through which it is applied, can help to give effect to the different dimensions of accountability identified above. This chapter explores how the distinctive characteristics of human rights accountability can be applied to improve policymaking with regard to the Millennium Development Goals and their successor framework.

From a human rights perspective, accountability in development can be constructed around three clusters of human rights standards. Together, they create conditions in which officials and institutions can be held responsible for their actions, answerable to those they serve

and subject to enforceable sanction where appropriate.

First, the human rights framework helps to define the substantive **responsibilities** of public officials, by setting out specific obligations which should inform their conduct. Under international human rights law, every State (and every local, national and international official who is appointed by a State) is obliged to respect, protect and fulfil a range of rights that the State in question has recognized by ratifying human rights treaties and internalizing them in its domestic legal order. The obligations under these treaties include civil and political rights as well as economic, social and cultural rights, all of which are relevant to the substantive goals of development policy for which decision makers are responsible.

Second, human rights standards also elucidate the freedoms and entitlements that public officials must guarantee in order to be **answerable** to citizens and others whom their decisions affect. A number of process-related rights are crucial to accountability, because they make it possible to monitor the actions of individuals and officials, to collect, verify and communicate information, and to draw it to the attention of civil and judicial officials. These rights include the rights to information and to participate in public affairs, and the freedoms of expression, assembly and association. Where these rights cannot be exercised, individuals who suffer abuse (or observe it) cannot document, make known, or make good, claims against individuals or institutions that act abusively.

Third, human rights principles and mechanisms help to **enforce** accountability and give effect to claims for redress. Principles of due process and the right to an effective remedy are a third essential pillar of accountability. An independent judiciary, which applies fair rules of evidence impartially and has powers to adjudicate, punish and provide various forms of redress, underpins the operationalization of accountability, as do non-judicial human rights mechanisms such as national human rights commissions. However, in economic and social policy, fair and transparent administrative procedures for redressing

grievances and establishing responsibility are equally important.

Combining the concept of official responsibility, the exercise of procedural rights and the possibility of recourse to a fair and functional justice system generates a model of accountability that is actionable. It becomes possible to hold officials and institutions answerable for their actions against agreed standards of responsibility, and to sanction those who act (or fail to act) in a manner that causes violations of rights to occur or persist, applying procedures that are transparent, principled and are themselves accountable. This last point is important. It means that officials cannot be accused in broad terms. The human rights grounds on which officials and institutions can be held accountable and (if necessary) subjected to judicial or administrative sanction are limited, specific and subject to fair rules of evidence. Officials, too, are protected by human rights law from abuse of their rights, including unfounded, exaggerated or generalized accusations of wrongdoing.

For the purposes of this publication and in the context of debates on the post-2015 development agenda, human rights accountability exists when practices and procedures are in place that:

▶ Oblige persons in authority or their institutions to take responsibility for their actions, and to explain and justify their actions to those to whom they are answerable, against standards of behaviour and performance which reflect and affirm international human rights standards;
▶ Subject those in authority to forms of enforceable sanction or appropriate corrective action if their conduct is found to have breached human rights obligations. Procedures for appraising and sanctioning conduct, whether judicial, administrative or other, should also reflect and affirm international human rights standards; and
▶ Enable those living in poverty who have been deprived of their rights to access fair and transparent mechanisms to enforce their claim against those in authority, and to obtain appropriate redress if their rights have been violated.

A. Responsibility: accountability for **what**?

The Millennium Development Goals were never intended to provide a complete development agenda; they address a small number of (largely) quantifiable and measurable human development outcomes. By contrast, the nine core United Nations human rights treaties and the array of declarations and guidelines that elaborate on their provisions are far more comprehensive and set out minimum universal guarantees for a life with dignity.[39] They offer a framework of substantive and procedural standards that can be mapped against the sparser commitments of the current Millennium Development Goals, and that should be a key point of reference in deciding the responsibilities of States under the successor framework after 2015.

Human rights standards are derived from binding international treaty norms, as well as "soft law" emerging from internationally recognized declarations and programmes of action. They are also informed by domestic constitutional frameworks, legislation and interpretative adjudication by national courts. The standards grant States leeway, within certain parameters, to determine the best course of action to fulfil the economic, social and other human rights that are central to development. At the same time, they are designed to enable both States and observers to assess the adequacy and reasonableness of a State's development policies and performance. Over time, human rights standards have been defined with increasing clarity and specificity, by means of international jurisprudence and authoritative interpretation by international and regional human rights bodies.

Box 1 outlines summarily the key human rights principles and duties to which States are accountable in the context of national and international development policymaking. It highlights the principal (though often neglected) obligations that States have adopted, and in regard to which they have agreed to be accountable, by virtue of becoming a party to the core international human rights treaties. These include the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political

Box 1. Defining responsibilities: accountability for what?

Accountability for efforts as well as outcomes: human rights standards impose obligations of conduct as well as result. From a human rights perspective, in the context of the Millennium Development Goals States should be held accountable not only for the *outcomes* they achieve but for the *policy efforts* they make, the *processes* by which these efforts are carried out and the *resources* that are invested.

Accountability for the full range of human rights: States cannot subordinate one set of rights to another, but must treat all rights recognized in international standards with equal emphasis, whether civil, political, economic, social or cultural. Approaches to development which sacrifice political freedoms in the name of poverty reduction, or which acknowledge the value of participation but fail to take into account economic and social rights obligations, cannot be considered human rights-based.

Accountability for positive as well as negative obligations: States have an obligation to **respect** human rights by refraining from direct or indirect interference with their enjoyment (by forcibly evicting people from their homes, for example); and to **protect** human rights by preventing, investigating, punishing and ensuring remedies if third parties infringe them (for example, by regulating and sanctioning companies that discriminate against their female employees). States also have positive obligations to **fulfil** human rights, by taking legislative, administrative, judicial, budgetary and other steps to create the conditions in which these rights can be realized. Human rights therefore demand active policy intervention and not simply refraining from harm.

Accountability for pace of progress and prioritization: although steps to fulfil economic, social and cultural rights may be undertaken progressively (**progressive realization**), States should apply the **maximum available resources** to advance as swiftly as possible, making use of national resources and international cooperation. National strategies and plans of action, supported by indicators and benchmarks, should describe how and by when States will achieve their goal. States must guard against deliberate **retrogression** (backsliding), even in periods of economic downturn. They have a **core obligation** to prioritize the fulfilment of minimum essential levels of economic, social and cultural rights for all, regardless of their level of economic development and above all other policy and economic objectives, including when allocating resources.

Accountability for meeting certain standards of services: States must **ensure social services meet certain criteria**. For example, health services should be sufficiently available, accessible (physically, economically and to all), acceptable (sensitive to cultural or gender differences, for example) and of adequate quality (AAAQ).

Accountability for tackling inequality and discrimination: States have a cross-cutting duty to **eliminate discrimination** and **ensure substantive equality** in the enjoyment of rights. In addition to refraining from adopting discriminatory laws, policies, programmes and expenditures, States should take specific, deliberate and targeted measures to ensure rights are enjoyed equally, in practice and in law. Several international instruments set out specific obligations with regard to eliminating discrimination on grounds such as gender, race, ethnicity, age, disability and indigenous status.

Accountability to those beyond borders: States have **obligations to the human rights of people beyond their borders**. They are required to engage in international cooperation to fulfil human rights, particularly economic, social and cultural rights (which are more dependent on resource availability and coherent international economic policies). States in a position to do so must provide international assistance (financial, technical and other) to States that lack the resources to fulfil at least minimum levels of economic, social and cultural rights. States are also obliged to refrain from implementing bilateral or multilateral policy measures or creating conditions which may restrict the enjoyment of human rights in other countries.

Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. It should be noted that 90 per cent of States have ratified four or more of the core treaties and all States have ratified at least one.

B. Answerability: fostering State responsiveness and active participation

This dimension of accountability refers to the capacity to demand that those in authority give reasoned justification for their behaviour to those on whose behalf they exercise that authority. It speaks to the relational aspect of accountability. Accountability is a dynamic process of continuous interaction and contestation among the State, the individual and other forces such as civil society and market institutions.[40] In the context of development, the relationship of power between individuals and State institutions, between providers of social services and the individuals and communities that use them is often an asymmetrical one.[41] Human rights transform these asymmetries by recasting the relationship in terms of duty bearers and rights holders, empowering individuals to control the behaviour of public institutions as a matter of entitlement, and requiring that these be more responsive and transparent as a matter of legal obligation.

Human rights standards are also concerned with inequalities between social groups and asymmetries of power within societies. An array of international human rights agreements have been adopted by the international community to address the rights of particular sectors of the population facing systemic discrimination, such as women, people with disabilities and indigenous peoples. These standards set out a comprehensive framework for tackling discrimination in their enjoyment of the full spectrum of rights, including affirmative measures to enable their full participation in decision-making and ensure equal access to justice if their rights are violated. Human rights norms and instruments relating to discrimination therefore shed a more nuanced light on the question of "to whom" duty bearers are answerable.

Human rights are not conceded in a top-down manner by State institutions, but are claimed through the exercise of active citizenship (wherein rights are claimed within a framework of a social contract between governors and the governed, including non-citizens). Being answerable to rights holders therefore means creating an environment which fosters meaningful democratic participation and people's active engagement in shaping, monitoring and challenging policies that affect their lives. Safeguarding civil and political rights is therefore critical if conditions for answerability are to exist and flourish. For those in power to answer for their actions and decisions to ordinary people, the latter must be endowed with the freedom to question, access to the information necessary to assess whether justifications are reasonable and space to challenge them publicly and voice dissent if they are not. As this is rarely an individual endeavour, rights to freedom of assembly and association are crucial to enable interrogation of public policy through collective means, whether through trade unions, human rights groups or community-based organizations. International civil and political rights instruments set out stringent conditions which must be met if these rights are to be curtailed in any way, providing objective standards against which to assess the necessity, legitimacy and proportionality of any restrictive measures that have the effect of shielding development policies from public scrutiny.

In his seminal work on the connections between political freedoms and development outcomes, Amartya Sen highlighted the inherent and instrumental value of these rights.[42] Rights to freedom of expression, information and so forth are an inherent good in themselves, but they also serve to foster answerability, obliging policymakers to respond to their constituencies, so that lessons are learned from past shortcomings and the delivery of social services improved. Amartya Sen also highlights the constructive role of these freedoms in fostering deliberation and helping to create a more open political culture in which social policy choices and allocations of resources are justified and debated with the full participation of those who have most at stake. In turn, such dialogue enables communities to arrive at a shared understanding of the norms and values that should govern the conduct of public life.[43]

The instrumental as well as inherent value of making development strategies more answerable to the individuals and communities concerned has been highlighted in the more recent development literature. Empirical studies of the

Political voice is an integral dimension of the quality of life. Intrinsically, the ability to participate as full citizens, to have a say in the framing of policies, to dissent without fear and to speak up against what one perceives to be wrong are essential freedoms. Instrumentally, political voice can provide a corrective to public policy: it can ensure the accountability of officials and public institutions, reveal what people need and value, and call attention to significant deprivations. Political voice also reduces the potential for conflicts and enhances the prospect of building consensus on key issues, with pay-offs for economic efficiency, social equity, and inclusiveness in public life.

Source: Report by the Commission on the Measurement of Economic Performance and Social Progress (Stiglitz-Sen-Fitoussi Commission), 2009. Available from www.stiglitz-sen-fitoussi.fr.

impact of participatory and community-based development approaches by international agencies such as the World Bank suggest that participatory approaches that actively involve communities in local development decisions, including taking the lead in identifying and managing community-level investments, can often lead to a better use of resources geared towards meeting the communities' needs and serve to foster more accountable systems of service delivery, although their longer-term "constructive" impact on governance reform and social transformation is more difficult to assess empirically.[44]

Other studies, however, caution against an oversimplified approach to building bottom-up accountability, and have questioned the effectiveness of development interventions aimed primarily at stimulating community-level demand for accountability without simultaneously incentivizing responsiveness and better performance on the part of key institutions.[45] Emerging evidence from empirical research indicates that the accountability relationship should not categorically be reduced to an adversarial process, pitting citizens against State agencies and service providers in a tug of war between rights and responsibilities. Rather, accountability can be more effectively fostered when approached as a collective action problem, requiring solutions focused on brokering mutual

commitments among providers and users within the sociocultural dynamics of a particular setting.[46] From a human rights perspective, the interplay between rights holders' demands for answerability and the responsiveness of duty bearers should also be seen as a nuanced and complex one, requiring a holistic approach to the full web or "ecosystem" of accountability in any given context (see chap. II).

State responsiveness and active citizenship can be seen as defining characteristics of accountable governance. As UNDP puts it, "the concept of accountability is at the heart of both democratic, rights-based governance and equitable human development. Democratic and inclusive societies are based on a social contract between responsive and accountable States and responsible and active citizens, in which the interests of the poorest and most marginal are taken into account".[47] Given the critical role that civil and political rights play in fostering State answerability and active citizenship, any attempts to measure or assess governance in a post-2015 framework should be informed by the relevant provisions of international treaties relating to these rights.

C. Enforcement: preventive and corrective functions

To be accountable, a person or institution must have defined responsibilities, must be answerable for his or her conduct with regard to those responsibilities, and must be subject to forms of enforceable sanction or remedial action if he or she fails to carry out her responsibilities without good reason. Enforcing accountability is not solely concerned with punishment, but is about ensuring fair and systematic mechanisms are in place to assess compliance by individuals and institutions with agreed standards of responsibility and adopting appropriate corrective action. The enforcement dimension is therefore complementary to the others in fulfilling the preventive and corrective functions of accountability.

The human rights framework provides a strong rationale for the enforcement of accountability, as well as a potentially effective means for doing so. Rights imply remedies—that is, mechanisms

that people can use to enforce and give effect to their rights if they believe these to have been infringed.[48] States have an obligation to provide effective remedies and means for human rights enforcement. These include incorporating international human rights norms into their domestic legal system, adopting legal and administrative procedures under which violations can promptly and fairly be investigated, and providing timely and effective access to justice and appropriate redress if a violation is established. Redress can take different forms, including compensation, rehabilitation and guarantees of non-repetition.

While the right to a remedy is expressed in terms of access to a competent tribunal, judicial mechanisms are not the only means of human rights enforcement. As discussed in Part Two, quasi-judicial bodies, national human rights commissions, ombudsmen and parliamentary human rights bodies may also have an enforcement function. Accountability mechanisms not specifically created within a human rights framework, such as law enforcement agencies, sector-specific regulatory bodies or administrative grievance procedures, may also contribute to the enforcement of human rights.

Courts are the enforcement mechanism most commonly associated with human rights, although the formal justice system is just one among many components of an effective national accountability system (see Part Two). Judicial enforcement of human rights is important in principle, because— subject to certain preconditions—it ensures that norms can be upheld fairly and that serious misconduct can be punished. However, access to justice through litigation can be expensive, long-winded and beyond the reach of most people living in poverty. Litigation is sometimes perceived to be an inappropriately punitive means of holding public authorities and policymakers to account, or to privilege individual claims over broader social interests.

Nevertheless, there is increasing evidence of the effectiveness of judicial enforcement mechanisms in fulfilling the two closely interrelated aims

of corrective and preventive accountability in development-related contexts. A growing body of literature confirms that, under the right conditions, formal adjudication on economic and social rights can have a significant life-saving and pro-poor impact.[49] For example, up to 1 million human life years may have been saved in South Africa alone by court-ordered dispensation of antiretroviral treatment, following social mobilization on this issue.[50] Similarly, it has been estimated that 350,000 additional girls are now going to school in India thanks to the midday school meal scheme implemented as a result of right to food litigation before the Indian Supreme Court.[51] Claims seeking judicial accountability in the socioeconomic sphere have now become a "permanent and prominent feature of the policymaking landscape".[52]

As the above economic and social rights cases illustrate, judgements have often identified systemic policy failure, rather than individual malpractice, as the cause of deprivation. Courts can punish individual lapses in performance, but they can also promote positive structural and institutional change. Rights claimed through courts, often spurred or accompanied by social mobilization, have saved lives, generated policy dialogues, and strengthened answerability, social reflection and scrutiny of public policy choices. While further empirical research is undoubtedly needed, the development dividends of enforcing accountability through judicial means should not be underestimated.

Human rights accountability is primarily enforced at the national level. International enforcement of human rights accountability is particularly fraught with challenges given the weak and undemocratic nature of most global forums or mechanisms of political and economic governance, and the weak enforcement powers of international human rights bodies. Nevertheless, as discussed in Part Two, international human rights mechanisms and other supervisory bodies have an important role to play in monitoring, promoting and ensuring the enforcement of human rights standards at the national level.

Chapter II.
Who is accountable?

Both the human rights and governance traditions locate accountability primarily in the relationship between the State and its citizens and others under its jurisdiction. Under international human rights law, States have the first and main responsibility to respect and protect the rights of people within their territories or under their effective control. The proliferation of actors in international development—from business enterprises and multilateral economic institutions to new donors—has made it necessary to develop a more multidimensional approach. A number of processes associated with globalization, including political decentralization, the privatization of public services and broader transformations in the global economy, have multiplied the number of and interconnections between institutions that shape development. The bond between State and citizen is now at the centre of a more elaborate web of interrelated responsibilities.

In the Millennium Declaration the General Assembly recognized this complexity when it asserted the principle of shared responsibility. The Declaration stressed the responsibilities of industrialized countries in shaping the global development environment and called for greater policy coherence and coordination at international level, particularly in trade, aid, debt and finance. The Declaration further noted the need to provide opportunities to non-State actors in development. Member States resolved to develop strong partnerships with the private
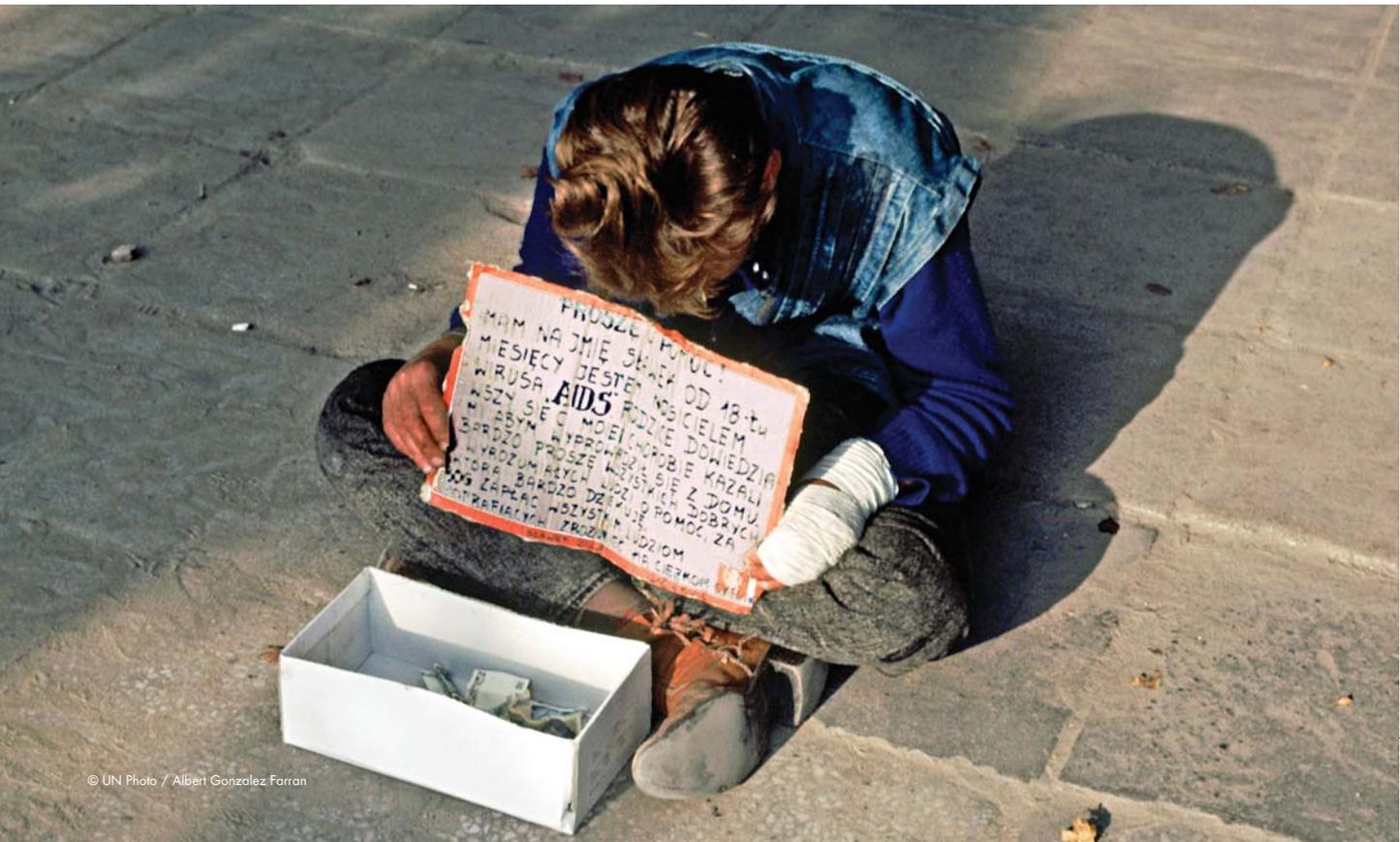
sector and with CSOs in support of poverty eradication, and specifically encouraged the pharmaceutical industry to make essential drugs more affordable and more widely available to people in developing countries who need them.[53] However, the notion of shared responsibility has not led in practice to a clearer attribution of the respective and differentiated duties of each of the many actors in the development process. If all parties are responsible for achieving the Millennium Development Goals, the risk in practice is that no party can be held accountable for anything.

This chapter examines the various human rights responsibilities of a range of public actors that play a crucial role in current and future development programmes. The actors include national and local governments and other State institutions, third countries, business enterprises, intergovernmental institutions, and multilateral development agencies and financial institutions.

Democratic governance theorists have traditionally considered accountability to be vertical or horizontal. Vertical accountability occurs when individuals hold those in power to account directly (most obviously through periodic elections). Horizontal accountability occurs, for example, when one State official or body has authority to demand explanations and impose penalties on another. In the current era of accelerated globalization, these two axes must be set in a larger web of accountability, encompassing a range of State agencies, diverse civil society actors, the private sector, other Governments and international institutions.

Recognizing this new geometry of interaction and power, a multidimensional concept of human rights accountability is beginning to emerge in response to the transformations that are occurring within, below and above the State. Just as recent development thinking has called into question unduly linear approaches to accountability based on binary State/citizen and principal/agent relationships, so human rights practice has expanded its focus to address the interconnected responsibilities of a complex variety of actors. Across both fields, a key implication for policymaking is the need to look at systems of accountability (not just individual mechanisms or duty bearers in isolation) and to focus on creating incentives for action in the collective interest by both users and providers of services (not just adversarial solutions based on remedies for individual grievance).[54]

This chapter cannot address in detail every actor that plays a role with respect to the Millennium Development Goals and their successor goals. It identifies a number of areas in which accountability under the Goals' regime has been notably weak and that a successor regime should address, and summarizes the specific accountabilities of particular actors from a human rights perspective. Possible solutions and mechanisms to fill these accountability gaps are discussed in Part Two.

A. Accountability of State actors at the national level

As outlined in the previous chapter, States have a duty to respect, protect and fulfil human rights, and provide effective remedies when they are infringed. These duties require States to take legislative, administrative, judicial, fiscal and other measures to create conditions in which people under their effective control can realize their rights, including their economic, social and cultural rights.[55] A vast number of national institutions (including the executive, legislative and judicial branches), each with distinct responsibilities defined in domestic statutes and administrative law, are responsible and accountable for the design, implementation, monitoring and evaluation of development programmes and their impact on human rights.

Lines of accountability across domestic institutions are increasingly complex, owing to what has been termed the shift towards network governance. Executive agencies explain their decisions to legislatures. Political leaders hold civil servants to account by reviewing their policy decisions, civil servants themselves being subject to a complex internal chain of command. Independent and statutory regulatory bodies (auditors general, anti-corruption commissions, ombuds offices, national human rights commissions, etc.) separately scrutinize the

actions and decisions of officials and politicians. The judiciary subjects all these entities to scrutiny at yet another level, through the application of constitutional and other legal norms. Informal systems may interact and exert influence through all these levels. Throughout this network of governance, institutions may at one moment be monitoring decisions taken by others and at the next be held to account for decisions they have taken themselves.[56]

Lack of domestic policy coherence

The complexity of lines of accountability at central Government level can often be exacerbated in the MDG context by a lack of interministerial coherence and coordination at executive level. Insufficient recognition of the interconnections between areas of policy, poor awareness of human rights standards among ministries charged with social, economic and fiscal policy, and outright competition between ministries pose distinct challenges to domestic policy coherence as well as accountability. This plays out at the international level too, where those negotiating investment, trade, environmental or other international agreements fail to take into account their own and their negotiating partner State's human rights treaty commitments. Weak State capacities often compound this problem.

Human rights are the concern of all relevant ministries—those responsible for areas such as health, education, housing and employment, which have been the focus of the current Goals, but also finance, trade and foreign ministries, central banks and ministries responsible for infrastructure and other determinants of economic and social policy. In many countries, planning ministries have played a central role in ensuring policy coordination across government institutions, and have sometimes directly helped to align development and human rights commitments. Ruptures in executive accountability may also occur when Governments change, breaking the continuity of long-term development policies. In many countries, deliberately short-term development initiatives are preferred, because their benefits can be claimed by an administration while it is in office.

Challenges linked to decentralization

Local governments are increasingly involved in the design and implementation of local development programmes. Local, municipal and regional governments also play a significant role in promoting and protecting human rights, because delivery of many essential social services is devolved from central Government. Devolution of resources and decisions to democratically elected local governments has been a central feature of international development policy and governance reform in recent decades, and has been widely advocated by donors and international institutions in the name of boosting the accountability and responsiveness of public service providers to their users.[57]

When properly designed, implemented and monitored, devolution of administrative, fiscal and political powers can potentially improve human rights accountability. Decentralized institutions can in principle be monitored more directly by rights holders. Combined with disaggregated data collection, this can improve the detection of discrimination and local inequities, and uncover social exclusion that national statistics may mask.[58] Decentralization can facilitate the emergence of robust and direct forms of community-level participation, thereby strengthening the scrutiny of local governments and fostering more responsive forms of development. More accountable local governments may also improve the efficiency, acceptability, quality and accessibility of the services they provide.[59] Decentralization is at times promoted as a means of managing conflict and averting zero-sum competition for scarce local resources.

However, empirical research on the impact of decentralization on poverty reduction indicates that its effectiveness depends heavily on factors other than devolution, including the political complexion of the central Government and the interests various political forces may have in capturing local power.[60] Studies analysing decentralization from a human rights perspective have shown too that decentralization may weaken accountability, if local public entities are not sufficiently empowered or resourced, or

appropriate national accountability mechanisms are not established to monitor local government conduct and ensure public scrutiny.[61] Conflict or confusion over jurisdictional competence between local and central authorities can lead to poor decision-making or abdication of responsibility. If central oversight is weak, decentralization can exacerbate social divisions and entrench patronage, vote-buying, corruption and the control of local elites.[62] Each of these harms accountability and may in some contexts promote impunity for human rights violations.

Weak tax administration

Tax policy is a key vehicle for mobilizing resources that can be made available for investment in human rights, particularly economic and social rights. It is also key to redressing social and economic inequalities, bolstering the bonds of accountability between a State and its inhabitants, and generating a sense of solidarity and the basis for the social contract.

Progressive, non-discriminatory tax policies implemented by capable and accountable tax authorities can generate substantial revenue for economic and social programmes, and are thus a key enabler of State capacity. The equitable mobilization of revenue through tax policy is a central aspect of a State's duty to use and generate the maximum of its available resources for the progressive realization of economic and social rights.[63] If all developing countries were able to mobilize just 15 per cent of their national income as tax revenue—a commonly accepted minimum figure approximately 15 percentage points lower than most industrialized countries—an additional $198 billion in revenues could be secured, almost double the amount spent on development aid.[64]

Efficient, equitable and capable tax systems can be a proactive catalyst for the development of more responsive and responsible government, and thus a central pillar of accountability. Evidence illustrates that Governments which are substantially reliant on domestic taxes for their revenue have incentives to be more answerable to their taxpayers, strengthening their overall responsiveness, accountability and representative decision-making, while at the same time supporting the capacity of public institutions.[65]

Recent historical research shows that on the whole between 1971 and 1997, States which went through a democratic transition did so to a large degree as a function of the struggle between the State and citizens over Government services and tax revenue.[66]

Tax policies in this sense are an important pathway to a more legitimate, responsive and capable State, particularly at the local level. Active citizens who demand their right to inclusive engagement in tax policy can help to ensure that resources are collected in effective, non-discriminatory and accountable ways. Engaged and empowered rights holders are also key to ensuring the mobilized funds are properly and effectively used for development priorities that promote economic and social rights, and that sanctions are in place to prevent conduct, such as corruption and cross-border tax evasion, which threatens the integrity of the tax system.

Tax evasion causes an endemic drain on revenues for the realization of rights, especially in countries where poverty and inequality are already high and the tax base is low.[67] Governments worldwide lose $3.1 trillion annually to tax evasion, according to estimates, equivalent to about half of the world's total expenditure on health care.[68] While high-income countries are among the biggest losers in absolute terms, low- and middle-income countries are particularly vulnerable to these losses.[69] In 2009, developing countries reportedly lost almost $1 trillion owing to illicit financial flows, about 60 per cent of which came from tax evasion.[70] This was more than 10 times the official development assistance (ODA) that year and substantially more than the World Bank's estimated financing requirements for the Millennium Development Goals.[71]

B. Accountability of State actors at the international level

United Nations Member States acknowledged in the Millennium Declaration that "in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level." They were reaffirming a principle articulated more than 50 years earlier in the Universal Declaration

of Human Rights that "everyone is entitled to a social and international order" necessary to realize human rights.

In various development forums, States are increasingly developing consensus around the notion of mutual accountability, described at the Busan High Level Forum on Aid Effectiveness as the need for "accountability to the intended beneficiaries of our cooperation, as well as to our respective citizens, organizations, constituents and shareholders."[72] Development cooperation (bilateral and multilateral) is one of the most direct ways in which States affect development processes and outcomes beyond their borders. Donor countries provide essential funding and support to low- and middle-income countries. Conditionality, tied aid, corruption, inefficient delivery and failures of capacity or commitment often hamper the effectiveness of aid programmes. The emergence of new donors, the global policy impact of nascent governance

forums such as the Group of 20[73] and increasing South-South cooperation in ODA may accentuate some of these challenges and relieve others. States may advance human rights or Millennium Development Goals abroad through other forms of international assistance, such as providing support in other countries to civil society, parliaments, judiciaries, the media, and to victims and survivors of human rights violations, that strengthen governance and accountability or provide access to justice and redress.

As acknowledged in the Millennium Declaration and Goal 8, States exert significant extraterritorial influence in other ways, particularly via their bilateral and multilateral trade, investment and financial policies. Increasingly, these limit the autonomy of national Governments, creating some opportunities to realize human rights and development commitments but removing others (see box 2). Moreover, a State's domestic conduct may have extraterritorial effects in other

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Box 2.   Human rights risks in trade and investment agreements

An increasing proportion of trade and investment takes place within the framework of preferential trade agreements (which comprise customs unions and regional and bilateral trade agreements) and bilateral investment treaties. On average, each member of the World Trade Organization (WTO) has 13 preferential trade agreements in force, covering more than 50 per cent of global trade (and up to 90 per cent of the trade of some WTO members). There are now almost 2,500 bilateral investment treaties in force, roughly 1,500 of which were signed in the past 10 years.

Trade liberalization and increased foreign investment may contribute greatly to development. However, human rights violations can also occur. For example, preferential trade agreements may impose more onerous obligations on developing countries than those covered by relevant WTO agreements. A number of preferential trade agreements contain stronger intellectual property protections on essential medicines than those contained in the Agreement on Trade-Related Intellectual Property Rights (TRIPS), which can put life-saving "generic" antiretroviral treatment out of reach of the poorest.

Bilateral investment treaties often contain stabilization clauses designed to guarantee a predictable regulatory environment for foreign investors. Through international investment arbitration, foreign companies can sue States for appropriation (direct or indirect) of their property. However, in 2010 Philip Morris filed an arbitration claim in the International Centre for Settlement of Investment Disputes, alleging that Uruguay's legislation mandating health warnings on tobacco packaging (intended to protect the rights to life and health of the Uruguayan population) violated the Switzerland-Uruguay bilateral investment treaty. The Canadian and Australian Governments have faced similar pressures, which in the former case led to watered-down health warnings. In other cases foreign investors' property interests have clashed with laws to ensure environmental protection, affordable water supply and affirmative action for disadvantaged sectors of the population.

Source: OHCHR, *Fact Sheet on Human Rights, Trade and Investment* (forthcoming).

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countries. A Government may take domestic measures to mitigate the impact of a financial crisis which may harm other economies. It may be indirectly responsible for harms abroad if it fails to sanction abuses committed by an international corporation domiciled in its country, or fails to regulate local industries or markets (for example, financial services) with an impact beyond the State's own borders.

One of the most persistent accountability deficits in the current MDG framework has been the difficulty of holding industrialized countries to account with regard to their commitments to the global partnership for development. The Millennium Declaration calls on industrialized countries to end duties and quotas on all exports from least developed countries; to implement robust programmes of debt relief for heavily indebted poor countries; to cancel all the official bilateral debts of those countries if they act seriously to reduce poverty; and to grant more generous development assistance, especially to countries that use their own resources to reduce poverty.

In contrast to Goals 1-7, Goal 8's lack of clear, quantitative and time-bound targets and indicators has curtailed the possibility of monitoring and holding Governments accountable for concrete legal and policy changes necessary to meet this Goal. Serious shortcomings are evident in all areas of Goal 8: for example, the volume of ODA fell 3 per cent in 2011; trade restrictions by the Group of 20 affect 3 per cent of world trade and the Doha ("development") round of trade talks remains at a standstill; OECD countries' agricultural subsidies rose in 2011, reaching 0.95 per cent of total gross domestic product (GDP); debt sustainability frameworks fail to acknowledge the human rights obligations of creditors and debtors; and an increasing number of bilateral and regional free trade agreements include intellectual property provisions that put essential medicines out of reach of the poor.[74] Yet the failure to agree metrics of compliance under this particular Goal has rendered such shortfalls less visible in periodic MDG reviews of progress.

Just as development policymakers are currently seeking to give deeper meaning to the transnational dimensions of mutual accountability, so too has the human rights community grappled with the need for accountability beyond State borders. While legal norms with regard to States' transnational human rights obligations are still emerging, holding States accountable for the range of human rights impact their policies may have beyond their borders is becoming an increasingly important dimension of global governance that the post-2015 needs to address.

While in most circumstances States remain the central duty bearer in human rights law,[75] it is generally accepted that States also have a baseline obligation to "do no harm" (or to respect) human rights in other countries and, within certain parameters, also to "protect" human rights extraterritorially (which might include, for example, regulating to ensure that transnational corporations do not violate human rights in third countries). States also have a general duty under international law to cooperate towards the realization of human rights in other countries.[76] There may also be circumstances where States have a complementary (and sometimes concurrent) legal obligation to "fulfil", or contribute positively, to the realization of human rights in other countries.

The United Nations high-level task force on the implementation of the right to development has made a significant contribution to the question of accountability of States for their obligations of international cooperation. In response to the accountability shortfalls of Goal 8, the high-level task force recently developed a practical and comprehensive set of operational criteria and illustrative quantitative indicators[77] to help policymakers and development practitioners measure and assess whether Government conduct is contributing to—or contravening—their domestic and extraterritorial ("internal, external and collective") responsibilities under the 1986 United Nations Declaration on the Right to Development. Many of these proposed indicators directly refer to human rights principles, such as whether tax revenues mobilize the maximum available resources for the fulfilment of human rights and the existence of national regulation to guard against extraterritorial infringement of human rights by business enterprises.

© UN Photo / Mark Garten

While the application of the right to development criteria is still in its early stages, the framework advances the definition of a clear set of common, but differentiated standards and responsibilities of duty bearers. It seeks to provide the foundation for a multidimensional monitoring system which can effectively make recipient and donor countries more responsible, answerable and ultimately accountable for their conduct in relation to development cooperation, towards the individuals and communities abroad whose rights they claim to uphold.

As discussed in chapter IV, some Governments are beginning to recognize that they have an extraterritorial obligation to provide international assistance and cooperation and to contribute to the fulfilment of economic and social rights beyond their borders. In many domains, there is broad agreement that wealthier States should make a greater contribution to the cost of international policies that are of global benefit. In some instances, this understanding is articulated in international political declarations such as the Millennium Development Goals, and targets such as the international aid target of 0.7 per cent of GDP, and the agreement of States that they have a common but differentiated responsibility to finance the cost of policies to address climate change.

However, the sources and boundaries of legal duties beyond borders are still contested (typically by wealthier countries), and Governments are politically incentivized to prioritize the immediate interests of their own inhabitants. The post-2015 framework should spur Governments to assume responsibility for the external human rights impact of their policies, and create mechanisms through which they can respond to concerns of affected countries and communities.

As discussed in the previous chapter, the third element of accountability—enforceability (punishment, sanctions and redress)—will in most cases be a more effective engine of human rights accountability at national and local levels, where norms are fleshed out in comparatively greater detail and enjoy more widespread acceptance in practice. Enforcement is generally better understood as a backstopping mechanism. The same is true at the international level. Nevertheless, it is important at international as well as national level to make sure that sanctions are enforceable in cases where States (or non-State actors) are clearly responsible for human rights abuses abroad. In a very small category of cases, direct sanctions are already possible (if acts of genocide or crimes against humanity can be proved, for

example). Elsewhere, in specific domains (such as trade and investment law), States are able to bring allegations of abusive or unfair conduct by other States before a tribunal. These procedures will need to be reconciled more effectively with international human rights treaty standards, as part of efforts to create an international order in which States and other international actors are adequately accountable.

The recognition by many Governments of the critical importance of international cooperation is not adequately matched by a shared sense of obligation, but this is clearly the direction in which the international community needs to move. The immediate focus must be to strengthen international State consent to methods of sharing obligations that can be applied pragmatically to issues of global importance. This implies giving attention to transparency, the development of fair rules and procedures for applying them. Global enforcement mechanisms cannot work unless individual States can objectively assess their own and other States' responsibilities and report on them according to agreed criteria that are considered to be practical and just. This does not mean deferring the quest for more effective enforcement mechanisms. On the contrary, consensual practices of responsibility and answerability should evolve in parallel, reinforcing demands for effective enforcement.

C. Accountability of non-State actors

In an increasingly interdependent system of cross-border economic, trade and financial relations, the capacity of States to respect, protect and fulfil human rights obligations is shaped and constrained by a global political economy in which many non-State actors have assumed influential roles. These actors include international and regional financial institutions, multilateral development banks, export credit agencies, transnational corporations, credit rating agencies, civil society and private foundations.[78] Here again international human rights law and practice are evolving to address the influential role that these and other actors often play, and the need for more effective means of holding them to account.

As private businesses and corporations have acquired more influence in the economic and social spheres, efforts have naturally been made to make them more explicitly accountable. There are growing demands that they should answer for their actions to the wider public, not just to their shareholders or State institutions, and should be sanctioned appropriately if their conduct is abusive or harmful. So far companies have largely applied forms of voluntary self-regulation.

Business activities influence the full gamut of international human rights, in all parts of the world, in every type of political and economic system, and in every economic sector. The private sector increasingly shapes the structure of national economies. It can contribute to the mobilization of resources for development, the protection of labour standards, efforts to fight corruption and child labour, the direction and inclusiveness of economic growth, the development of productive infrastructure, access to public services and credit, gender, ethnic and other forms of equality, transparency and access to information, democratic reform, and the extent of public participation and accountability in policymaking.[79] All make key contributions to human development. The Millennium Declaration explicitly called for strong partnerships with the private sector in pursuit of development and poverty eradication, and at the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals Member States recommitted themselves to public-private partnerships for poverty reduction and enjoined companies to "enhance their role in national development efforts".[80]

Corporations may themselves cause serious human rights abuses or be complicit in their violation. The large-scale human rights abuses against indigenous people arising from the operations of extractive industry companies such as Shell in the Niger Delta or Chevron in the Ecuadorian Amazon are just two notorious examples of the many which have been documented and brought before human rights accountability mechanisms.[81] Moreover, the privatization of many traditional government functions has sometimes weakened the State's essential supervisory and regulatory roles,[82]

or transformed its financial position with consequences for its ability to deliver key social services. Public-private partnerships are an increasingly common method of delivering services in many countries and can be highly effective but, where regulation has been weak, they have sometimes failed to guarantee minimum standards of service, especially to those who are poor.

Globally, too, investors and corporations significantly influence fuel and food prices, the provision of services and their quality, access to housing and credit, Government borrowing costs and sovereign debt levels, and the stability of the global economy. While self-regulation has been the most common approach to strengthening corporate accountability in this context, its shortcomings have highlighted the need for more effective enforcement mechanisms (see box 3). The achievement of human rights as well as global goals like the Millennium Development Goals requires more than strong self-regulatory processes. Effective Government regulation is vital and new forms of global oversight—which themselves need to be accountable—will need

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Box 3. Corporate social responsibility versus human rights accountability

Numerous corporate social responsibility (CSR) mechanisms and multi-stakeholder initiatives have been created since the 1990s. The Global Compact, the Extractive Industries Transparency Initiative, the OECD Guidelines for Multinational Enterprises, the Voluntary Principles on Security and Human Rights, the Equator Principles, the Principles for Responsible Investment, and several certification initiatives, such as the Kimberley Process and the Roundtable on Sustainable Palm Oil, attempt to assist and persuade private sector institutions to voluntarily align their operations with social and environmental standards. The International Code of Conduct for Private Security Service Providers aims to set private security industry principles and standards based on international human rights and humanitarian law, and improve accountability of the industry by establishing an external independent oversight mechanism which is to include certification, auditing, monitoring and reporting.[a] The International Finance Corporation's Sustainability Framework and its performance standards contain explicit reference to the duty of companies to respect human rights, as well as the responsibility of the International Finance Corporation (IFC) to oversee due diligence procedures. These mechanisms call on companies to be *responsible* with regard to human rights and MDG impact, and can encourage them to be *answerable* to the people whose lives they affect.

Nevertheless, several factors limit the application of these mechanisms. Each initiative has its own set of standards, creating a multitude of sometimes competing norms. Without commonly agreed standards, it is difficult to monitor, interpret and ultimately assess conduct; and miscreants can easily elude supervision. Second, companies with poor human rights records participate in such forums to demonstrate that they act responsibly. Third, voluntary initiatives essentially privatize social standards, and may erode a Government's authority and capacity to implement regulatory policies that businesses may claim are unnecessary by virtue of their self-regulation.[b]

Voluntary initiatives are perhaps most vulnerable to criticism on enforcement. None of the principal CSR initiatives can ensure that companies comply with established human rights standards, impose meaningful sanctions on companies that abuse human rights, or ensure that appropriate corrective and remedial action is taken. Companies that choose to respect human rights standards and contribute to the Millennium Development Goals must bear significant costs, leaving rogue competitors free to profit with impunity. At the same time, consumer CSR campaigns have certainly prompted behavioural change in some cases, and by and large they have generated reputational accountability.[c]

[a] See www.icoc-psp.org.

[b] Thomas F. McInerney, "Putting regulation before responsibility: the limits of voluntary corporate social responsibility", *Cornell International Law Journal*, vol. 40 (October 2005), p. 171.

[c] Alexandra Gillies, "Reputational concerns and the emergence of oil sector transparency as an international norm", *International Studies Quarterly*, vol. 54, No. 1 (March 2010), pp. 103–126.

to be developed and managed by international institutions and groups of States acting together, if post-2015 commitments are to be achieved.[83]

Human rights norms and accountability mechanisms can complement and buttress voluntary CSR mechanisms in at least three ways. First, they provide a universal set of standards applicable everywhere to all businesses at all times. Second, unlike many CSR initiatives that focus only on business "good practice", human rights norms provide benchmarks for monitoring business abuses and strengthening "due diligence" procedures. Lastly, national and international accountability mechanisms are increasingly being applied to enforce sanctions against abusive company behaviour and ensure effective remedy. This is particularly important given the often vast power imbalances between businesses and victims of abuses caused by or associated with business activities.

In 2011 the Human Rights Council endorsed a set of Guiding Principles on Business and Human Rights, which reflect a carefully constructed consensus affirming that business enterprises

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Box 4.   Guiding Principles on Business and Human Rights

The Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31, annex) provided for the first time a global standard for preventing and addressing adverse impact on human rights linked to business activity. The United Nations Secretary-General's Special Representative for Business and Human Rights, John Ruggie, emphasized that their endorsement by the Human Rights Council established the Guiding Principles as the authoritative global reference point for business and human rights, and that they would also provide civil society, investors and others the tools to measure real progress in the daily lives of people.

The new standards clearly outline how States and businesses should implement the United Nations "Protect, Respect and Remedy" framework's three pillars in order to better manage business and human rights challenges:

- State duty to protect human rights
- Corporate responsibility to respect human rights
- Need for greater access to remedy for victims of business-related abuses

Under the State duty to protect, the Guiding Principles recommend how States should provide greater clarity of expectations and consistency of rule for business in relation to human rights. Principle 2 sets out the conditions under which States should regulate to ensure that transnational corporations do not violate human rights abroad. The corporate responsibility to respect principles provide a blueprint for companies on how to "know and show" that they are respecting human rights. The access to remedy principles focus on ensuring that, if people are harmed by business activities, there is both adequate accountability and effective redress, judicial and non-judicial.

More specifically, business enterprises should carry out human rights due diligence policies and measures, in order to identify, prevent, mitigate and account for how they address their adverse human rights impact (Principles 17–21). This process should include an assessment of actual and potential human rights impact, integrate and act upon the findings, track responses, and communicate how impact is addressed. If business enterprises identify that they have caused or contributed to adverse impact, they should provide for or cooperate in the remediation through legitimate processes (Principle 22).

The State, as part of its duty to protect against business-related human rights abuses, must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that those affected have access to effective remedy (Principle 25). In relation to non-judicial grievance mechanisms (Principle 31), the Guiding Principles further stated that in order to ensure their effectiveness such mechanisms should be: *legitimate* and accountable for fair conduct; *accessible* to all intended stakeholders; *predictable*; *equitable*; *transparent*; *rights-compatible* by ensuring that outcomes and remedies accord with internationally recognized human rights; a source of *continuous learning*; and based on *engagement* and *dialogue* with intended stakeholders as the means to address and resolve grievances.

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have at the very least a duty to respect all human rights in their operations (independent of national laws) under a "do no harm" standard. The Guiding Principles have been taken up by a large number of States, business and investor institutions and regulatory authorities, international financial institutions and regional organizations. The Council set up an expert working group to promote their implementation.

D. Accountability of international financial institutions

International financial institutions (IFIs) are financial institutions that have been chartered by more than one country and hence are subjects of international law. They include the World Bank Group, the International Monetary Fund (IMF), WTO and regional development banks.

The Millennium Declaration affirmed the commitment of States to an open, equitable, rule-based, predictable and non-discriminatory trading and financial system.[84] International financial institutions play essential roles in this regard. They significantly influence development policies, notably in the areas of trade, aid, finance, technology transfer and debt, many of which are increasingly outside the control of individual Governments.[85] In addition to financing projects and concessional lending, they exert influence via research, advocacy and policy advice, and international norm-setting and rule-making. The United Nations development funds and programmes contribute less to national development efforts in financial terms, but the United Nations own human rights duties are no less important.

International financial institutions have contributed significantly, though in most cases indirectly, to many Governments' efforts to fulfil their human rights commitments. However, adverse human rights impact has also been documented. Large dams, extractive industries, user fees for basic services, inflation targeting and wage bill ceilings have been lightning rods for human rights criticism in many countries, in the context of a broader civil society backlash against structural adjustment and so-called Washington Consensus policies. Rigid intellectual property rights protections have limited access to affordable life-saving HIV treatment. World Trade Organization rules on trade in agriculture have constrained Governments from investing in and sustaining the rights to health and food.[86] During the current global economic crisis, IMF has pressured Governments to adopt austere fiscal policies to reduce their budget deficits, even if these disproportionately affect people who are already disadvantaged. In some of these contexts, IFI policies have been challenged on the grounds that they can be considered retrogressive under human rights law.

In this context, the accountability of IFIs has persistently been an issue, in all three dimensions: responsibility, answerability and enforcement. Certain IFIs have argued that, because of their constitution or status, they cannot be directly accountable with regard to human rights, unlike the States that manage them. This reading is increasingly being called into question. For example, the Committee on Economic, Social and Cultural Rights, which reviews the implementation of the International Covenant on Economic, Social and Cultural Rights, has concluded that the Covenant imposes obligations on its State parties as members of IFIs, and there are strong arguments that IFIs are bound by general rules of international human rights law.[87] There are legitimate disagreements among legal experts about the extent of those obligations, although a baseline obligation to "do no harm" and to avoid causing or contributing to violations is a generally agreed minimum requirement.

In principle, IFIs are subject to two distinct levels of accountability with regard to development policy. One is internal, the other external. Each is associated with a form of preventive or remedial action (judicial, financial, political or administrative).[88] Internally, such institutions are accountable to their members, and to some extent to individuals in borrowing countries, under their governance rules and principles, most of which include independent policy review and complaints mechanisms. Political scrutiny is an important, though often underused, review mechanism. In many countries, national legislatures and parliaments periodically examine the voting positions their countries have taken in IFI governing bodies.

The European Bank for Reconstruction and Development and the Council of Europe Development Bank are unusual in having explicit human rights mandates.[89] Others have operational policies with explicit human rights safeguards[90] or require their members to respect international treaty obligations.[91] The Sustainability Framework and safeguard policies of IFC (the World Bank Group's private sector lending arm) is possibly the most elaborate and recent example, setting out its own human rights responsibilities as well as the human rights due diligence requirements of its borrowers.[92] The World Bank Group's Independent Evaluation Group (which assesses programme performance), its Inspection Panel (an independent complaints mechanisms), the IFC Compliance Advisor/Ombudsman, the IMF Independent Evaluation Office and the internal accountability mechanisms of regional development banks generally seek to promote compliance by the various institutions with their organizational objectives and operational policies. Some of these mechanisms can provide administrative remedies for breaches of internal guidelines and can quite effectively increase the overall responsiveness—and sometimes answerability—of IFIs with respect to their impact on development and human rights. However, few of the mechanisms apply international human rights standards to assess behaviour, nor are the internal standards fully consistent with human rights norms and principles, either procedurally or substantively.[93] The International Monetary Fund, notably, has resisted establishing an independent ombuds office or complaints mechanism, against the tide of public demand.

The most obvious missing element in the context of IFI accountability is enforcement. Redress via formal court processes is theoretically possible when IFI-supported programmes have clearly caused or contributed to human rights violations. Attempts have been made, on occasion, to hold IFIs directly accountable for human rights violations through court action.[94] Although such action has been felt to have considerable symbolic importance, the practical, legal and evidentiary challenges of court actions of this kind are considerable and prospects for timely and effective relief are limited. The only global accountability mechanisms with enforcement power are those that review fiscal and monetary discipline (Conveyor of Surveillance Assessments, IMF), ensure free trade rules (Dispute Settlement Body, WTO), and protect private companies in investment disputes (International Centre for Settlement of Investment Disputes, World Bank Group). Considering the practical incentives that are available to these enforcement mechanisms, which can impose stiff financial penalties, it is not surprising that, when conflicts arise, many Governments tend to respond first to these bodies rather than to the human rights claims of their populations.

E. Other actors

There is a plethora of other non-State actors whose actions (and omissions) can have a profound human rights impact. Credit ratings agencies, for example, provide independent opinions on the creditworthiness of an entity or debt, financial obligation or financial instrument. Their assessments strongly influence the sentiments of international investors and the interest rates at which Governments can borrow on financial markets, and thereby the resources available for the realization of human rights. But these institutions have been proved famously fallible and largely unaccountable. Credit rating agencies were labelled "key enablers of the [global] financial meltdown" by the United States Financial Crisis Inquiry Commission in 2011,[95] in having understated the risk involved in new, complex mortgage-based securities on which investors relied, leading to the 2008 global financial crisis.

Export credit agencies (ECAs) are another influential actor. They are public or quasi-governmental institutions (or consortia of public and private companies) that provide domestic corporations with Government-backed loans, guarantees, credits and insurance to support exports and foreign investment. While promoting exports and investment is not necessarily problematic, ECAs generally have minimal transparency, accountability and safeguards related to human rights, corruption or the environment. Adverse impact from ECA-funded projects can be severe. Export credit agencies have facilitated corporate activity that has been associated with forced displacement, abuses by security forces, workplace injuries, State-sponsored intimidation and censorship, and violations of rights relating to the environment, among many others.[96] In June 2012 OECD members took important steps to recognize international human rights due diligence obligations in connection with ECA-support project financing, based on the United Nations

Guiding Principles on Business and Human Rights.[97] However as at 2012, OECD-"regulated" export credit (worth $95 billion) covered only one third of global export credit.[98] States need to do a lot more at the national level to ensure that ECAs do not support projects that violate human rights, and to ensure independent investigative procedures and redress where necessary.[99]

Private foundations and public-private partnerships are among the other notable features of the changing global development landscape. The Global Fund to Fight AIDS, Tuberculosis and Malaria is a public-private partnership, registered in Switzerland, which has become the main international financier of programmes to fight AIDS, tuberculosis and malaria (Goal 6). The Global Fund claims to have saved 7.7 million lives in its 10 years of existence, and as at June 2012 had over $22 billion in approved funding for more than 1000 projects in 150 countries.[100] These are major achievements. However, the Global Fund has also come under scrutiny in the past for supporting treatment programmes in compulsory drug detention centres in certain countries where serious human rights violations (including forced labour and torture) have taken place.[101] Whilst the Global Fund took some measures to advocate the closure of such centres, additional measures to ensure better human rights due diligence are required. Human rights objectives are explicitly set out in the Global Fund's five-year strategy for 2012–2016. It will be essential that human rights become part and parcel of the Global Fund's corporate culture. This includes adopting a human rights policy clarifying the content and limits of its own human rights responsibilities, increasing investments that address human rights barriers in the response to the three diseases, establishing an independent mechanism through which those whose rights are violated in connection with Global Fund-supported programmes may seek redress and integrating human rights considerations throughout the grant cycle.

PART ONE KEY MESSAGES

→ Human rights can usefully inform understandings of accountability in the post-MDG context, by strengthening its constituent elements: responsibility, answerability and enforceability.

→ In delineating the *responsibilities* of different actors in the development process, human rights standards make it possible to determine what States and other duty bearers should be accountable for in the post-2015 framework. Any new set of commitments should be explicitly aligned with their obligations to respect, protect and fulfil human rights, recognizing the indivisibility and interdependence of all human rights, whether civil, political, economic, social or cultural.

→ Human rights, including freedoms of expression, association, assembly and information, rights of political participation and guarantees of physical integrity, are essential in creating a culture where those who exercise authority are *answerable* to those in their society facing poverty, deprivation and discrimination. Accountability mechanisms anchored in human rights help to foster institutional responsiveness and empower people to engage actively and meaningfully in decision-making processes, thereby strengthening policymaking and the delivery of services.

→ Achievement of the current Millennium Development Goals has been undermined by the weak and voluntary nature of the processes for holding States accountable for their commitments. In the post-2015 context, human rights mechanisms should be engaged more effectively to make these commitments more *enforceable*, ensuring that marginalized groups in society are in a position to claim their rights and seek redress if their rights are violated in the development context.

→ A potentially wide range of actors have influence and responsibility for progress towards development and human rights goals. These actors include national and local governments and other State institutions, third countries, business enterprises, private foundations, intergovernmental institutions, and multilateral development agencies and financial institutions.

→ The weaknesses in the accountability of State actors may stem from a wide range of factors, including lack of political will and leadership, bureaucratic fragmentation, lack of domestic policy coherence, weak tax administration, and decentralization of responsibilities for service delivery without adequate resources and safeguards.

→ In addition to addressing these weaknesses, the post-2015 framework must address the accountability of States, particularly industrialized countries, for the transnational human rights impact of their development, aid, trade, finance, tax and investment policies, putting in place more effective mechanisms to ensure global policy coherence. It must also build on the important progress made by the business sector in developing policies and systems of accountability, addressing the persistent weaknesses arising from their predominantly voluntary and self-regulatory nature to date. The framework should enable international financial institutions and other supranational bodies with an influential development role to assume and comply with their human rights responsibilities.

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Part Two

MECHANISMS FOR ACCOUNTABILITY
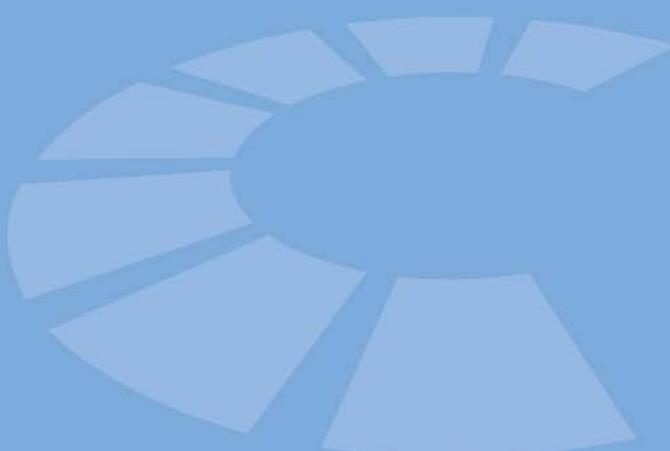
Chapter III.
National and subnational accountability mechanisms

Accountability becomes actionable when effective mechanisms are in place. A large array of institutions and mechanisms exist that Governments, other institutions and individuals (rights holders) can potentially use to hold officials and other duty bearers to account for abuses of authority and violations of rights that are relevant to the current development agenda.

Accountability mechanisms available to aggrieved individuals include the entities of the State charged with ensuring judicial, political and administrative accountability; bodies specifically responsible for monitoring and enforcing human rights; and institutions that oversee development. These mechanisms can, among other functions, monitor adherence to human rights standards, independently review Government performance, and recommend measures for remedy and redress in the event of non-compliance.

A distinction should be made between national accountability mechanisms and international or transnational mechanisms. Judicial or administrative enforcement mechanisms are generally associated with local or national accountability systems. International accountability systems generally have a supervisory or oversight rather than enforcement function. This said, there is considerable interplay, and international mechanisms (such as the monitoring bodies of the United Nations or regional human rights systems) can require States to justify their MDG performance in the light of human rights principles, such as progressive realization and non-discrimination. Such bodies can also scrutinize whether adequate national mechanisms of redress exist and issue recommendations for strengthening domestic accountability. They offer additional forums for raising and negotiating grievances, and are particularly helpful to groups whose opinions are disregarded by their own Governments.[102]

The most appropriate accountability mechanism to pursue will depend on: the circumstances of a particular violation; who the duty bearer is; whether the duty bearer has breached a positive or negative obligation; how the rights holder has been affected; and whether an individual remedy or broader systemic reform is required. Because the record of horizontal accountability mechanisms has been irregular, accountability claimants have developed a number of new approaches to engaging them.

This chapter explores the way in which people who have experienced human rights violations in contexts of relevance to the current development agenda have engaged with different national accountability mechanisms to enforce their rights and hold those who violated them to account. Rights and remedies can be claimed in many different ways, all of which are of potential relevance to the Millennium Development Goals and post-2015 context. This chapter looks first at how human rights accountability can be integrated into all stages of the domestic policy cycle, generating what has been described as a virtuous circle of accountability. It then looks at the accountability mechanisms of most relevance to the Goals, including political, administrative, judicial and quasi-judicial mechanisms, identifying in each case how these mechanisms can be invoked by those affected by development policies to claim their rights and hold those responsible for violations or abuses to account. As described below, judicial mechanisms are key avenues in which to pursue legal redress and remedy for human rights violations. Remedies may involve restitution or compensation, legally binding promises

of corrective action or (if harm is particularly grave) criminal sanctions. However, human rights principles have also helped to strengthen political, administrative and social accountability mechanisms at all levels. Some relevant non-judicial mechanisms are: administrative hearings or complaints procedures adopted by a service provider or regulator; citizen consultation groups; and informal, community-based justice systems.

Responsibility, answerability and enforceability are not always easy to distinguish in the operations of accountability institutions. In some cases, they are strictly separated. For example, a parliamentary body may be charged with investigations, but penalties for wrongdoing may fall within the competence of judicial or quasi-judicial bodies. In others, the three elements may be combined. Some public bodies both hold to account and are themselves accountable. This is true of parliamentarians, for example, who are simultaneously answerable to their voters and mandated to review the conduct of the executive branch.[103]

A. Integrating human rights accountability into all steps of the policy cycle

The collectively agreed norms that human rights standards articulate provide a foundation for performance standards that all States should be expected to implement in their approach to the Millennium Development Goals and, more generally, in their public policies.

Human rights principles apply at all stages of policymaking, from initial planning to budgeting, implementation, monitoring and evaluation. At each phase, relevant Government officials are subject to public scrutiny to ensure that they are answerable for their decisions to those who have a stake in the policy choices made. To promote mechanisms of accountability that respect and promote human rights in the context of the Millennium Development Goals, it therefore becomes necessary to frame all operational guidance and policy documents at every stage in ways that are consistent with human rights standards.

The current MDG framework sets goals and targets, and associated indicators, with the aim of achieving specific human development outcomes, such as reduced maternal and child mortality, or universal completion of primary education. However, the processes report outcomes, not the effort invested to achieve them or the quality of the process. Human rights standards impose obligations of conduct as well as result. States and other duty bearers must achieve certain target results, but the policy efforts deployed, the means used and the process adopted for achieving them also matter.

The Goals' focus on outcomes was intended to facilitate comparison of country performance. However, they are poor at measuring accountability, because countries start off in very different situations, and very different levels of effort are required from them to achieve particular Goals. As a result, the measures do not provide an insight into the quality of a country's performance or make clear the extent to which specific duty bearers have discharged their responsibilities. The obligation of conduct requires that States "take steps"[104] (including legislative, judicial, administrative, financial, educational and social measures) "within the maximum extent of available resources" with a view to achieving the full realization of economic, social and cultural rights,[105] and to monitor and report on progress and to objectively justify any backsliding. To meet their human rights accountability obligations, States therefore need to show that the *policy commitments* and *processes* they put in place and the *efforts* they made to achieve the Goals comply with the substantive and procedural human rights principles outlined above.

Policy *commitments* include: whether the State has ratified relevant international human rights treaties without reservations and established a domestic legal framework that gives effect to them; whether policy statements and strategy documents in MDG-related areas refer to human rights standards and principles; and whether States apply these standards.

In terms of policy *efforts*, States would be required to ensure that MDG-related policies are designed and implemented in a manner that meets human rights criteria of availability, accessibility, acceptability (including affordability) and quality (AAAQ). These criteria have been elaborated in the general comments of the Committee on Economic, Social and Cultural Rights and other United Nations treaty-monitoring bodies. Disaggregating and comparing indicators of policy effort over time would show whether policies practically improve the AAAQ of goods and services as well as access for groups facing discrimination. Indicators for measuring policy efforts should address financing, public expenditures, planning, coordination and human resources policies for the given sector, as is done for global monitoring of the water and sanitation Goals, for example.[106]

With respect to the human rights principle of progressive realization, the rate of progress a country is making may be a more meaningful gauge of effort than whether or not it has achieved a particular outcome.[107] Many countries in sub-Saharan Africa have been described as MDG failures, for example, because they are far from reaching the global targets, even though some have made real efforts and achieved considerable progress. Conversely, the global MDG targets are insufficiently ambitious for many countries that have higher income and capacity. This indicates the need for metrics of progress that are more sensitive to policy efforts, as well as the need for targets and benchmarks to be adapted to national circumstances.

An approach to accountability anchored in human rights would also require States to show that their policymaking and implementation *processes* are in accordance with human rights principles. As already mentioned, key standards in this area include the rights to information and to participate in public affairs, and the freedoms of expression, assembly and association. Mechanisms to assess the adequacy of such processes might include: indicators that measure the range and number of participatory forums that are available in the MDG context; the public's awareness of them; the regularity of consultation; attendance rates; the social composition of those who attend; the extent to which recommendations made by participants are considered and acted upon by the authorities; and perceptions of satisfaction among the stakeholders and the public.
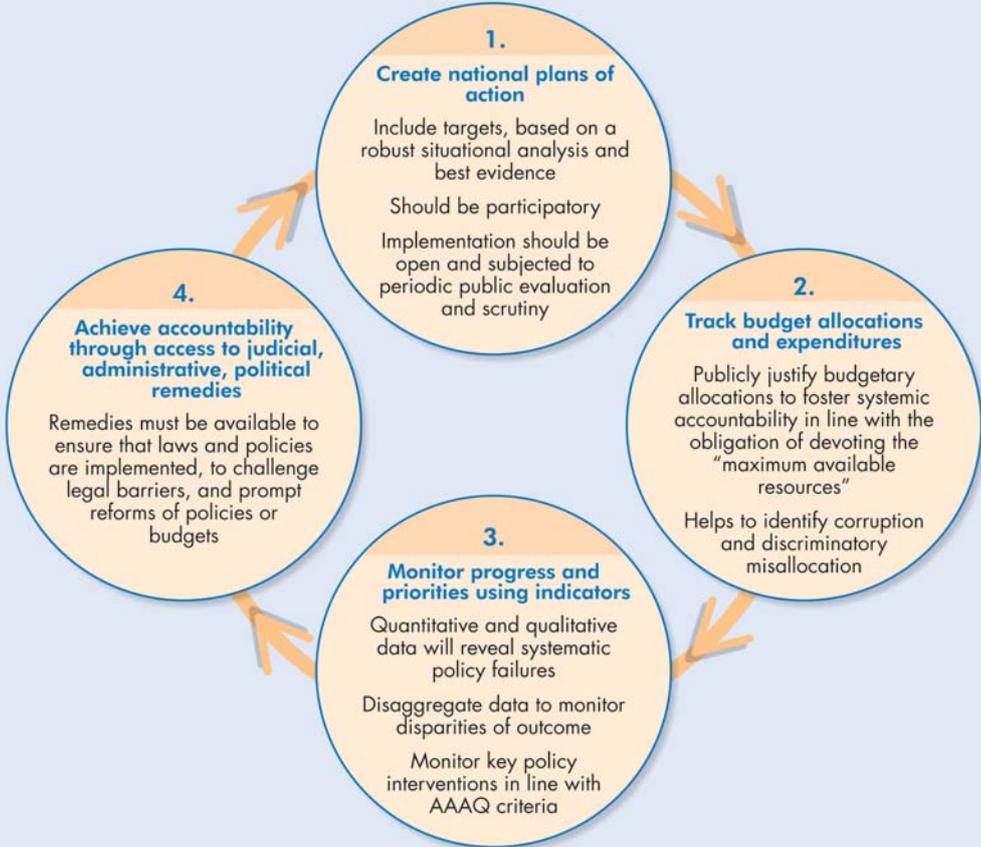
Figure III describes four key steps in national policymaking in which the above human rights principles and standards should be integrated: planning, budgeting, monitoring and accountability.[108]

Methodologies for monitoring human rights compliance at each stage of the policy cycle can draw on the growing body of work on human rights impact assessment (HRIA). Its methods vary greatly and have been developed in different contexts for a variety of purposes. In general terms, however, such assessments measure the actual or likely impact of policy measures on the enjoyment of human rights norms, standards and principles as identified in international treaties and national legislation. In addition to measuring human rights outcomes, they also examine issues of process. For example, the policymaking process should promote popular participation as much as possible, should not be discriminatory and should be accountable, including to parliament.

One of the areas in which Governments have begun to recognize the importance of HRIAs is trade policy and some are taking steps to implement them (see box 5). For example, the Canada-Colombia 2011 Free Trade Agreement requires both Governments to produce an annual HRIA of the Agreement. In November 2010 and again in September 2011, the European Parliament called upon the European Commission to undertake HRIAs in connection with trade policy, motivated—in part—by controversies over the Commission's pursuit

Figure III. Integrating human rights into the "circle of accountability" at the national level

1.
Create national plans of action

Include targets, based on a robust situational analysis and best evidence

Should be participatory

Implementation should be open and subjected to periodic public evaluation and scrutiny

2.
Track budget allocations and expenditures

Publicly justify budgetary allocations to foster systemic accountability in line with the obligation of devoting the "maximum available resources"

Helps to identify corruption and discriminatory misallocation

3.
Monitor progress and priorities using indicators

Quantitative and qualitative data will reveal systematic policy failures

Disaggregate data to monitor disparities of outcome

Monitor key policy interventions in line with AAAQ criteria

4.
Achieve accountability through access to judicial, administrative, political remedies

Remedies must be available to ensure that laws and policies are implemented, to challenge legal barriers, and prompt reforms of policies or budgets

Source: Adapted from Alicia Ely Yamin, "Toward transformative accountability: Applying a rights-based approach to fulfill maternal health", *Sur – International Journal on Human Rights*, vol. 7, No. 12 (June 2010).

of "TRIPS plus" and agricultural liberalization conditions in a bilateral trade deal with India, threatening the rights to health and food of vulnerable populations. The United Nations Special Rapporteur on the right to food prepared guidelines on a HRIA of trade and investment agreements, which were put before the Human Rights Council in March 2012.

B. Political accountability: strengthening parliamentary oversight of the executive

Elections are at the core of political accountability in democracies. Through elections, politicians put their views to the electorate and are obliged to inform the public about their record in office. However, elections occur periodically. It is the legislature's role to hold the executive more regularly to account. Although parliamentary powers, procedures and sanctions vary from country to country, all parliaments draft and pass laws, exercise Government oversight, scrutinize budgets, and represent their constituents. Their duty to enact legislation gives them unique influence over the legal frameworks. By making executive policy processes more accountable, parliamentarians help to maintain both the quality and effect of executive action.[109] As the people's elected representatives, they are central to political accountability.

With respect to development, parliaments can make Governments *answerable* for their performance in implementing economic and social rights, including that subset of rights embraced by the Millennium Development Goals. Provided parliaments are democratically empowered in practice, they are in a position to guide development strategies, ensure that legislative proposals respect and promote human rights, evaluate budgets and the allocation of resources, amend inappropriate legislation, take up cases of abuse and misgovernment, and monitor the executive's conduct.[110]

Box 5.   A human rights impact assessment of access to medicines in Costa Rica

In Costa Rica, the HRIA process sought to assess, ex ante, the likely impact of the United States–Dominican Republic–Central American Free Trade Agreement's intellectual property protection on universal access to medicines, adopting a step-by-step methodology involving: screening, scoping, analysis, conclusions and recommendations, and evaluation and monitoring. The Costa Rica HRIA concluded that the Agreement was likely to strengthen the position of innovator pharmaceutical companies, by extending market exclusivity periods and allowing companies to increase the prices of pharmaceuticals.

In terms of process, the negotiation and adoption of the Agreement in many ways respected process-related human rights, particularly political rights such as the holding of a referendum on adoption and consultations with stakeholders during negotiations. However, the requirement for United States certification of Costa Rican laws undercut the democratic decision-making power of Parliament in quite a dramatic way. The non-reciprocal requirement of United States certification for Costa Rica's legal reforms demonstrated a usurpation of Parliament's role and denial of political rights which dampened the trust placed in Costa Rican democracy as a shield for human rights during the Agreement's implementation.

Interestingly, there were no political obstacles to carrying out the HRIA in Costa Rica, notwithstanding the reluctance of many Governments to hold themselves explicitly accountable for their human rights duties. Representatives of ministries, Parliament and other institutions appeared as comfortable with human rights terminology as representatives of civil society and the private sector. The country's relatively strong human rights legal framework and political culture reportedly provided an enabling environment for the HRIA.

Source: Simon Walker, "The United States–Dominican Republic–Central American Free Trade Agreement and access to medicines in Costa Rica: A human rights impact assessment", *Journal of Human Rights Practice*, vol. 3, No. 2 (July 2011), pp. 188–213.

According to the Inter-Parliamentary Union, 109 countries have specialized parliamentary bodies that address human rights.[111] A key function of such committees is to hold inquiries. In March 2012, for example, the Joint Committee on Human Rights in the United Kingdom published a report on the implementation of the right to independent living for people with disabilities.[112] In Australia, the Human Rights (Parliamentary Scrutiny) Act 2011 provides that all new bills must be accompanied by a statement of compatibility that assesses whether its provisions uphold Australia's human rights obligations. The Committee on Economic, Social and Cultural Rights has recommended that human rights impact assessments "be made an integral part of every proposed piece of legislation or policy initiative on a basis analogous to environmental impact assessments or statements".[113]

In exercising their oversight role, parliamentarians can stimulate public debate of public policies relating to the Millennium Development Goals and human rights more specifically. Periodic reports on the Goals, generally tabled in parliament, are a natural entry point. Parliaments may also hold inquiries, investigations or consultations into particular issues relevant to the Goals, including the conduct of private actors (for example, irregular procurement contracts). Parliaments and parliamentarians also engage other institutions and the media in discussion and research of topics related to human rights and the Goals. Their ability to represent and bring complaints on behalf of their constituents is a vital and specifically parliamentary expression of vertical accountability, which can bring marginal issues, including the concerns of minorities or vulnerable groups, to national attention.

In practice, the willingness of parliamentarians to represent their constituents is uneven. In most instances, individuals are able to obtain information through their parliament—and some strikingly effective interventions have been made on public expenditure and the auditing of public accounts[114]—but other forms of service may not always be open to them. Many countries lack systems for parliamentary oversight of Government action to achieve the Millennium Development Goals or even for parliamentary involvement in preparing and implementing national development strategies. For individuals and groups that seek to advance the Goals through parliament, key issues include the need to ensure that parliamentarians: are well informed (given the many competing demands on their attention); monitor the Goals regularly (during the parliamentary and electoral cycle); and vigorously challenge the Government when it performs poorly.

C. Administrative accountability

Whereas judicial mechanisms of accountability review the soundness, legality and constitutionality of public policies and official conduct, administrative mechanisms help to ensure that officials implement policies correctly and in accordance with their purpose. The human rights framework generally gives less attention to administrative accountability, although it is arguably the most direct determinant of Government performance. Effective service delivery is impossible if an administration is unable to take or implement decisions professionally. Nor can legal or other sanctions generally rectify entrenched incompetence, corruption or misconduct. In order to implement human rights norms, it is necessary to focus on the work of the ministries that design and implement social policy, not just on legislation and the work of law-making and oversight bodies.

Under emerging principles of global administrative law, accountability requires institutions to meet standards with regard to transparency, participation, reasoned decision and legality, and provide effective review of their decisions.[115] This draws attention to the importance of administrative accountability within institutions. Especially in the context of human rights, discussions of accountability often focus on external mechanisms: parliaments, ombuds offices, civil society and the media, which play crucial roles in monitoring the performance of public institutions. In practice, nevertheless, the quality of administrative supervision *within* institutions is probably the most powerful determinant of their performance. No amount of external monitoring is likely to improve the performance of institutions or public

officials if their internal systems of control are dysfunctional or corrupt. In this publication, the focus is on the external processes of accountability that human rights law emphasizes, but it should not be forgotten that strong internal administrative procedures complement these and indeed enable them to have effect. External advocacy and sanctions cannot repair a broken administration; they work best when an administration is competent to respond to justified criticism.

Numerous guidelines, charters and laws define the duties of public administrators. They include: the OECD Principles for Managing Ethics in the Public Service (1998); OECD Guidelines for Managing Conflict of Interest in the Public Sector (2003); the European Union Ethics Framework for the Public Sector (2004); the Charter for the Public Service in Africa (2001); and the Ibero-American Charter for the Public Service (2003). Broadly, these documents highlight the values of neutrality, representativeness, impartiality, justice, equity and responsiveness. Increasingly, market-oriented values are also mentioned, such as efficiency, productivity and competitiveness. Some suggest that a "consonance of fundamental values" exists between human rights and administrative regulations, in that both seek to constrain arbitrary or unreasonable exercise of power and are committed to fair and transparent processes.[116]

Administrative accountability promotes *answerability* in several ways. First of all, a hierarchical bureaucracy creates a system of line management that makes civil servants accountable to more senior administrative officers, *their* supervisors and eventually to public audit offices. Codes of conduct, performance contracting and audit practices generate an administrative culture that values and upholds high standards of conduct by means of internal processes of control that are not driven primarily by public or parliamentary oversight.

Administrations can make use of many mechanisms for processing and redressing complaints. These address the legitimate claims of complainants for justice and help to identify systemic problems for which reform is required.

Formal redress procedures typically aim to explain administrative decisions and assess the services provided against a widely available standard. Government agencies and private companies use a variety of means to collect complaints and grievances, including dedicated mailboxes, e-mail addresses, text messaging systems, telephone hotlines, interactive websites, office windows and complaints handling officers. These can be located in hospitals, schools, in separate offices within ministries, in factories, etc. They can specialize, focusing on a particular problem, or can receive any kind of comment or complaint.

Internal accountability systems can be improved if they take account of human rights standards. These provide public administrators with additional guidance on standards of conduct that officials should uphold and standards of service delivery and administrative process. They also define the essential entitlements of individuals and clients whose needs an administration serves. Among these entitlements are the rights to obtain information about services provided and to seek redress in cases of maladministration.[117]

D. Judicial accountability: enforcing rights through the courts

In the context of human rights, accountability is often conflated with judicial accountability: the entitlement to go to court for redress and sanction when human rights are violated or duty bearers fail to meet their human rights obligations. Indeed, their *enforceability* in court is one of the distinctive contributions of human rights to accountability, including in the context of development. Courts provide a horizontal accountability mechanism that individuals can use directly to challenge violations of their rights.[118]

In the past two decades, judicial enforcement of economic and social rights has become common in many countries, on grounds that are often relevant to development. In some instances, economic and social rights litigation has mirrored traditional civil and political rights claims, focusing on remedies for individuals whose rights have been denied or restricted. Many cases have required the State to justify its decisions and follow due process when its acts undermine access to basic services or disproportionately harm particular individuals or groups. Other, fewer, cases have applied similar substantive and procedural tests to argue that cuts in Government services amount to retrogressive measures.[119] This was the conclusion of Colombia's Constitutional Court in 2008, for example, when the Government reduced the budget of the national health insurance scheme.[120]

Judicial accountability has increasingly focused on the conduct of non-State actors. In many jurisdictions, complaints can be made against corporate and other actors for human rights violations. Multinational corporations have faced legal challenges in their home as well as host countries. In the United States, the Alien Torts Claim Act has been used by indigenous groups and local communities to sue American companies for human rights abuses committed in their countries, though to date all have been dismissed or settled out of court. In other cases, litigation has targeted States that failed to protect individuals from human rights abuses, due to forced evictions by private actors, poor working conditions in companies, discrimination in private contracts, or environmental pollution generated by private industry.[121] Judicial accountability is less developed with regard to violations that occur in the context of public-private partnerships, when non-State actors become service providers. Privatization processes have been challenged infrequently. This is partly because it is difficult to prove ex ante that privatization will cause harm.[122]

In most cases, however, people are excluded from access to health, education, housing and other social rights by *systemic* deficiencies. In such cases, litigation that focuses only on individual punitive sanctions can be counterproductive, and judicial action should aim to identify the structural causes of poor services or exclusion with a view to compelling State action to remove them.[123] Landmark cases in Latin America, India and South Africa have had a direct effect on social and economic policies, on a scale that dwarfed the immediate benefits for the individuals or communities that were directly concerned. A recent study of the impact of legal accountability mechanisms in five countries estimated that judicial enforcement of economic and social rights "might well have averted tens of thousands of deaths and has likely enriched the lives of millions of others".[124] Broadly speaking, although the approach and practice of courts around the world have varied widely, in such cases they have tended to focus on the failure of States to take adequate steps to realize rights progressively and on failure to achieve a minimum standard of enjoyment immediately.[125]

Courts have proposed a variety of remedies, some of which have implied wide-ranging reforms of social policy. In some cases, courts have instructed States to take a particular course of action or establish an oversight mechanism. In South Africa, for example, the High Court ordered the city of Cape Town to report under oath within four months on the steps it had taken to provide relief to landless squatters facing eviction.[126] Even when, to respect the separation of powers, courts have refrained from giving directions regarding policy or resource decisions, they have commented on decision-making processes. In some instances, for example, they have requested States to engage in meaningful and participatory

Box 6. Seeking transformative accountability through the courts

Litigation can serve not only to redress individual grievances and provide remedies to victims of human rights violations; it also has the potential to prompt larger deliberation on how rights should be safeguarded in society and effect more transformative policy change. Below are two illustrative examples of relevance to the Millennium Development Goals.

Implementing food schemes in India: *People's Union for Civil Liberties v. Union of India and others*

Despite significant economic growth in the past decades, India's malnutrition rate, particularly among children, remains one of the highest in the world, having enormous consequences for morbidity and mortality. The occurrence of starvation-related deaths despite an excess of grain in Government reserves for official times of famine prompted the People's Union for Civil Liberties in 2001 to petition the Supreme Court. This public interest litigation resulted in a 2003 ruling that determined that the right to life, enshrined in article 21 of the Constitution, had been jeopardized as a result of the failure of food schemes. The Court ordered that the famine code be implemented, that ration shops provide grain at a set price to families living below the poverty line, that ration cards for free grain be granted to all persons without means of support, that publicity campaigns be established and that the State Governments progressively implement midday meal schemes in schools. The case had a massive impact: it opened a forum for debate on larger issues of starvation and undernourishment in India, mobilized larger movements for the right to food and prompted Government action, and set lines of accountability at regional and national levels.

Improving the availability of antiretroviral medicines in South Africa: *Treatment Action Campaign v. Minister of Health*

South Africa has more people living with HIV than any other country in the world, affecting around 18 per cent of its population. In 2001, the HIV prevalence rate for pregnant women was an estimated 24.5 per cent and the number of infants born with the virus totalled about 70,000 a year. Treatment Action Campaign, an AIDS activism civil society organization, brought a case against the South African Government before the Constitutional Court for the failure to provide access to medicine designed to prevent mother-to-child transmission of the virus during labour. In 2000, the Government announced a programme to introduce the antiretroviral drug Nevirapine in a limited number of pilot projects. Nevirapine can reduce transmission of HIV from mother to child considerably. Treatment Action Campaign, however, argued that these restrictions resulted in unnecessary infections and deaths and were in violation of sections 27 and 28 of the South African Constitution. The Court ruled that the Government must ensure access to the drug for all pregnant women living with HIV and that restrictions of the drug for research purposes denied access to those who could be reasonably included. The judgement is estimated to have saved tens of thousands of lives and served as a significant advance towards the right to access to essential and life-saving medicines. Treatment Action Campaign's successful claim further served as a catalyst to mobilize efforts around the world for the provision of antiretroviral therapy in developing countries so crucial for progress on Goal 6.

consultation to resolve difficult policy trade-offs. Some commentators have described this as a "dialogic"' model of review, because it promotes cooperative engagement between the different branches of government.[127]

The record of economic and social rights litigation nevertheless reveals serious obstacles to effective judicial intervention. In many jurisdictions, very few economic and social rights cases can be taken to court successfully, either because these rights are not legally recognized or because the judicial system has narrowly defined rules of procedure or lacks the capacity to resolve complex economic and social rights issues.[128] Cost, slowness and, to an extent, uncertainty of outcome often dissuade people from seeking redress through the legal system. Where legal systems are corrupt or susceptible to co-option by elite interests, distrust of the law

Box 7. Redressing grievances in service delivery: retail and wholesale approaches to litigating social rights

Local legal traditions, institutional configurations and political circumstances influence the approach courts take to hearing and redressing grievances in service delivery. Owing to divergent conceptions of what judges are supposed to do, courts in civil law countries typically operate at the "retail" level, reviewing individual failures of line agencies and service providers to comply with their statutory and contractual obligations. Common law courts are more comfortable operating at the "wholesale" level, reviewing the lawfulness of policies or practices that lead to potentially large numbers of service recipients being denied a benefit.

For example, in health policy, civil law courts in Latin America have recently emerged as an extremely active retail redress procedure. In Brazil, over the past decade, the courts reviewed an estimated 100,000 cases on whether individuals received medical treatments (mostly medications) to which they were arguably entitled under the terms of the 1988 Constitution and the operational guidelines. Similarly, the Colombian courts heard more than 142,000 claims regarding medical cases (mostly, that health insurers had unfairly denied patients treatments or medications) in 2008 alone. In Costa Rica, there have been a larger number of constitutional claims against the social security agency and overall personal claims have increased every year since 1997. In all three countries, claimants have won the large majority of cases, but there have been concerns that middle-class individuals have availed themselves of judicial redress much more frequently than the most marginalized individuals and groups.

The wholesale approach to redress is exemplified in the social grants cases in the common law courts of South Africa. To root out alleged corruption in the awarding of social assistance, in the late 1990s the Eastern Cape suspended the payment of almost all social grants, including grants for disability. When the Legal Resources Centre and other non-governmental organizations (NGOs) pressed the provincial government about the legality of that action, the provincial authorities agreed to establish a Pensioner's Friend and related offices to redress wrongful suspensions of assistance. Since then, tens of thousands of applicants have brought petitions to courts for back payment of those grants along with (in some cases) interest, penalties and legal costs. Magistrates' courts in South Africa granted many of these petitions, but the province still remained slow to comply, prompting subsequent interventions from the High Court, the Supreme Court of Appeal and the Constitutional Court. As a result of continued bureaucratic and political delays, these courts moved from a retail to a wholesale approach, beginning 2004, deemed to be more effective than a continual, serial approach to redress.

In summary, courts, though expensive, remain an important option for redress in the social sectors. To function effectively, a system of redress requires both a well-designed and linked supply of redress procedures (such as courts in addition to administrative and non-judicial mechanisms) as well as demand for redress. On the demand side, the key institutions are NGOs/civil society and the news media, both of which require a receptive political and economic climate to function effectively.

Source: Varun Gauri, "Redressing grievances and complaints regarding basic service delivery", Policy Research Working Paper, No. 5699 (Washington, D.C., World Bank, June 2011).

is another major barrier to justice. Although efforts have been made to make judicial accountability mechanisms more accessible, especially to the poor, those living in poverty continue to face formidable challenges when they try to obtain redress through courts. In some instances, litigation has even been associated with an increase in the gap between the middle classes and the poor.[129]

Much more empirical work remains to be done to understand the conditions under which litigation of human rights claims will lead to positive outcomes, especially for those who are most marginalized. However, the available evidence suggests that litigation is most effective when legal claims are associated with social and political mobilization on the same issue.[130] In some cases, the possibility of judicial enforcement has a deterrent effect and has

provided social movements with leverage.[131] For this reason, it is sensible to contextualize judicial accountability. It is a strategy that can strengthen broader advocacy for securing economic and social rights and advancing the Millennium Development Goals, but not the only means.

E. Independent oversight bodies

External oversight bodies complement and reinforce internal administrative accountability. They include official bodies, such as auditors, comptrollers and civil service committees and commissions, and independent bodies mandated by the Government, such as ombuds offices and national human rights commissions.

Many independent bodies have widened their membership in recent years. In the Philippines, for example, one quarter of the members of local development councils,[132] as well as other local bodies such as school boards and health boards, must be representatives of NGOs or CSOs.[133] Ensuring that participation in such bodies is more than token remains a challenge.[134]

Dispute resolution bodies may play a role in strengthening accountability, perhaps particularly with regard to private actors. In Ecuador, for example, the Observatorio Ciudadano de Servicios Públicos filed complaints to Ecuador's national dispute resolution mechanisms (as well as the IFC Compliance Advisor/Ombudsman) concerning the threat that water contamination and high tariffs in Guayaquil posed to the right to water and sanitation. Agreement was subsequently reached with the private company that supplied water. The company changed its disconnection policy and established a fund for users who were unable to pay their bills.[135] In India, banking ombudsmen have been mandated to hear customer grievances (for example, regarding opaque contracts issued by microfinance institutions).[136]

Some oversight bodies have broad human rights mandates. National human rights institutions (NHRIs), which include human rights commissions and ombuds offices, play a unique role in establishing the accountability of other State institutions as well as non-State actors. In general, NHRIs do not have powers

of enforcement, though some can take cases to court. Where this is so, implementation of their decisions and recommendations depends essentially on State consent and public support. Individuals and groups can engage with NHRIs at many levels. They play a quasi-judicial role when they investigate individual complaints or pursue legal redress through amicus interventions and public interest litigation. They apply broader forms of oversight when they review or report on the Millennium Development Goals, poverty reduction or budgetary allocations. They can be advocates in favour of strengthened legal protections of human rights, including economic and social rights; they also advise when they assist officials and other duty bearers to discharge their human rights obligations.

Because they bridge civil society, State institutions and corporate actors, NHRIs are well placed

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to help people whose rights are violated in the context of MDG-related policies and programmes.[137] A survey of NHRIs found that 70 per cent (of the 43 NHRIs that replied) could receive complaints regarding certain companies (for example, State-owned enterprises and public service providers) and some rights (such as discrimination).[138] In 2009 Nepal's NHRI created a committee on economic and social rights, which has convened a series of consultations to identify complementary rights-based indicators for the Goals. This work culminated in a user's guide published jointly with OHCHR in September 2011.[139] In the Philippines, the NHRI created a committee that oversees the implementation of the country's development plan, though it has had to stretch its remit to do so. As box 8 illustrates, several NHRIs have played a key role in monitoring access to services relevant to the Goals.

Despite these examples of good practice, NHRIs have an uneven record of promoting human rights accountability in relation to the Millennium Development Goals. Many factors have influenced their ability to do so. They include restrictions on their mandate and powers; the extent to which they are politically independent; their infrequent involvement in development policy and budget planning; and their limited capacity to apply sound methodologies for monitoring economic, social and cultural rights. The Paris Principles relating to the Status of National Institutions set out minimum standards required for the credible and effective functioning of such institutions.[140] Yet many continue to face particular challenges in monitoring economic and social rights which will need to be overcome if they are to play a more active role in the context of national development policy.[141]

F. Social accountability: from the ground up

"Social accountability" is used to refer to a broad range of activities in which individuals and CSOs act directly or indirectly to mobilize demand for accountability. Such activities are typically independently initiated but they may be facilitated by the State and have increasingly been supported by multilateral development agencies in the name of promoting accountable governance and fighting corruption. They frequently employ participatory techniques of data collection and lobbying for transparent access to the information needed to evaluate budgets, monitor public expenditure and delivery of public services, create citizen and community score cards, run social audits, etc. Aided by new information and communication technologies, CSOs and social movements have been creative in inventing new techniques of social accountability.[142] These include community mapping through crowd-sourcing or use of global positioning systems to display and analyse information about service delivery.

These approaches can reinforce other accountability mechanisms in different ways. First, direct monitoring and pressure from civil society can itself generate accountability. Social accountability has the potential to empower people who have traditionally been excluded or marginalized to claim entitlements and rights more effectively. By focusing on "empirical impact evaluation",[143] direct monitoring enables rights holders and relevant duty bearers to engage with one another in more informed, direct and constructive ways. It also increases the pressure on duty bearers to explain and justify their decisions and actions. As the examples in box 9 illustrate, such activities have aimed, among other things, to reduce waste in service sector budgets, expose corruption, improve programme implementation, redirect resources to poor communities and increase user satisfaction.

Social accountability activities rely on informal incentives or sanctions, particularly public pressure. Acting as a catalyst for community action,[144] they use complaints to demonstrate systemic failures in service delivery. In Kenya, for example, Huruma.info solicits reports (by mobile phone or online) on the quality of Government services in health, education, water, governance and infrastructure. Reports cover such matters as lack of medicines, potholes, teacher absenteeism, broken water points, etc. Public exposure of

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Box 9. Social accountability tools for water and sanitation: United Republic of Tanzania, Uganda and Ghana

In the United Republic of Tanzania, local communities monitored how the Government spent resources using **public expenditure tracking surveys**, with support from Norwegian Church Aid. They tracked whether funds allocated for water and sanitation were spent as planned and on their intended beneficiaries, and identified instances of malfeasance. They elected committees, and when these found any discrepancies between budget allocations and actual expenditures, they requested explanations from the relevant Government official. This also resulted in more responsive and accountable community water services.

Citizen report cards aim to identify community needs and help build accountability between community members and service providers. They were pioneered in Bangalore, India, to gauge community satisfaction with the cost and quality of services and are now used extensively in other countries and regions. In Uganda, community integrated development initiatives have made citizen report cards into a tool for promoting long-term public involvement in monitoring water services, the results of which are shared with service providers and the local government.

In Ghana, some communities use **community score cards** to create an agenda for discussions with service providers. The exercise assisted local authorities and service providers to respond to users' needs, and also changed the behaviour and attitudes of users. In one case, dialogue caused the community to cease siphoning off part of the water supply for resale.

Source: Catarina de Albuquerque with Virginia Roaf, *On the Right Track: Good Practices in Realising the Rights to Water and Sanitation* (2012).

human rights violations is itself a form of sanction, obliging duty bearers to answer for their acts. In some cases, fear of reputational damage can be a stronger deterrent or incentive than legal penalty. In the Mazowe district of Zimbabwe, corruption in rural schools reportedly fell when school authorities realized that community members were monitoring their conduct and that they would have to explain their conduct.[145]

Despite some well-documented successes, research on the impact of social accountability activities, nevertheless, indicates that so-called bottom-up approaches to accountability may have limited effect if they are detached from the incentive systems of decision makers and powerful elites.[146] In Indonesia, researchers observed that inviting community members to meetings at which public officials reported their expenditure on village road projects was in itself insufficient to prompt any statistically significant decline in corruption.[147] Social accountability has worked best when the rules and frameworks in place provide legal sanctions in the event of wrongdoing and permit civil society to monitor effectively and access essential information.[148] In the Philippines, for instance, the Philippine Center for Investigative Journalism released three investigative reports in 2000 on former President Joseph Estrada's unexplained wealth, which became part of an impeachment suit later filed against him.[149] Social accountability tools are also likely to be ineffective if exported from one context to another with insufficient regard to the local dynamics of interaction among the range of social actors.[150] Lack of access to information and data, and the need for expertise in using social accountability tools also present serious challenges to replicating models which have worked in one particular context.

Without avenues for redress, the transformative value of social accountability activities ultimately depends on the willingness of duty bearers to engage with them. For this reason, social accountability may be more effective when its objective is to complement and strengthen the horizontal accountability mechanisms discussed earlier. Social accountability activities might aim, for example, to reveal the inadequacies of these mechanisms, lobby for their reform or seek to improve their effectiveness through greater public

participation. Such interventions can encourage the formation of new "diagonal" accountability mechanisms, such as citizen oversight committees or grievance redress mechanisms (with varying degrees of formality and legal authority).[151] In Jharkhand in India, for example, Water Aid Citizens' Action trained community members to use access-to-information legislation to track expenditure on water and sanitation, and presented their findings and testimonies to local officials. Officials, service providers and community members subsequently agreed a collaborative plan of action.

More efforts are needed to apply social accountability techniques to non-State actors. According to the World Bank, "similar principles and approaches can be applied and in fact have proven effective to increase the accountability of the private sector, civil society and community leaders and representatives".[152] Civil society campaigning against corporate misconduct has a long history. The International Baby Food Action Network influenced the World Health Assembly's decision to adopt the International Code of Marketing of Breast-milk Substitutes in 1981 and since then it has conducted regular independent audits of the Code's implementation.[153] A systematic stocktaking of the methodologies that CSOs have developed to monitor private sector conduct remains to be done.

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G. MDG-specific mechanisms at the national level

To date, the main way in which States have made themselves accountable for their progress on the Millennium Development Goals' targets is through the publication of national, regional and global reports. These provide information about public policies to achieve the Goals, organize constituencies in support of the Goals,[154] stimulate dialogue and debate, and catalyse public opinion.[155] From 2001 to 2004 the process was overseen by UNDP. During this period the number of country reports grew progressively[156] and by 2005 over 80 per cent of developing countries had produced at least one national report. As countries took over reporting after 2005, production—and national ownership—increased further.[157]

However, relying upon separate MDG reporting is problematic. The legitimacy and relevance of the Goals depend on the extent to which they are incorporated in national development strategies. The Millennium Development Goals, or other global development goals, should ideally be monitored as a regular part of the policy monitoring process at national and local levels. Parallel MDG monitoring systems may inadvertently undermine established policy monitoring processes and deflect attention from those issues not included in the Goals.

The Goals' reporting system itself has suffered from a number of weaknesses. To begin with, national reports are of course purely voluntary, and States are asked but not required to specify a reporting period. In addition, the process of compiling reports has been a largely technocratic one. Parliamentarians, civil society, NHRIs, minorities and marginalized communities have not generally been actively involved. No doubt as a result, many reports seem to reflect the information demands of donors and multilateral agencies,[158] and have done little to strengthen the accountability of Governments to their own populations.

Data adequacy and quality are also an issue. Timely provision of accurate information is a prerequisite for effective monitoring and accountability. The Goals' 60 indicators were intended to constitute a manageable menu, but many countries have struggled to generate the information they require. This, combined with a failure to disaggregate data, has made it difficult to measure progress (or lack of it) for different population groups. Many Governments overlook or avoid the need to collect data on race and ethnicity, among other categories of prohibited discrimination. This issue will need to be addressed on the road to 2015 and beyond: clearer rules on the collection of data will need to be applied more strictly, and national statistical capacities need to be strengthened, along with political will.

Chapter IV.
International accountability mechanisms

The previous chapter reviewed national and subnational accountability mechanisms. Improving international or transnational accountability raises additional issues, because the mechanisms are institutionally much less developed. This chapter looks at diverse international initiatives that contribute to increasing accountability. Some apply international mechanisms to the conduct of national actors in their own countries. Others apply international mechanisms to regulate or sanction the behaviour of actors who operate abroad. They include human rights mechanisms and mechanisms that are not human rights-specific but can be used for human rights accountability. As at national level, they can broadly be categorized as judicial and quasi-judicial, administrative, political, and social.

A. Accountability in the context of international cooperation

As discussed in chapter II, one of the most persistent accountability deficits in the current Goals' framework has been the difficulty of holding industrialized countries to account with regard to the commitments they have made to the global partnership for development. In parallel to recent efforts in development forums to reinforce the notion of mutual accountability between States, the human rights community has also sought to devise more effective mechanisms for holding States answerable for their duty to cooperate internationally in the realization of human rights, whether through their development

assistance or through other areas of international policy, such as trade, debt and investment.

Legal scholarship and practice have begun to engage with the task of defining criteria and frameworks to help determine the specific extraterritorial responsibilities of individual States in specific cases (as distinct from the general responsibility of all States in broad terms).[159] The right to development criteria discussed in chapter II are also an important part of this effort. Box 10 describes two particularly compelling cases where Governments have acknowledged their accountability for the extraterritorial human rights consequences of their development policy, and have been answerable at home and abroad.

The cases discussed in box 10 illustrate how States—backed by accountability mechanisms at various levels—are already recognizing shared human rights obligations beyond borders, opening avenues to make themselves more effectively answerable for the effects of their conduct

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Box 10. Accounting for human rights responsibilities beyond borders

Norway recognizes its shared responsibility for rights-impairing debt in Ecuador
In 2006 Norway took an unprecedented step in recognizing its responsibility for the adverse human rights impact of its debt policies abroad. Deeming its Ship Export Campaign a "development policy failure,"[a] Norway unilaterally cancelled the relevant debts of five countries, among them Ecuador, which in 2004 spent six times more on debt servicing than health care.[b] In doing so, Norway became the first creditor country to cancel debt in the name of justice rather than by reference to the borrowing country's levels of indebtedness or poverty alone. The 2002 Monterrey Consensus (paras. 47–49 and 60) recognized the co-responsibility of debtor and creditor nations, and called for an international debt workout mechanism. The 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals (resolution 65/1, para. 78 (q) and (r)) supported this call. Norway's decision to accept its co-responsibility as creditor came as a result of decades of sustained civil society pressure to ensure responsibility, answerability and ultimately remedy in the form of debt cancellation. Combined with public campaigns on both sides of the Atlantic,[c] Ecuadorian human rights organizations[d] filed an injunction before the Constitutional Court and claimed that the debt was unconstitutional. After exhausting all domestic remedies, a petition was brought to the Inter-American Commission on Human Rights complaining of the negative health impact of excessive debt burdens.[e] These legal actions helped to convince Ecuadorian and Norwegian officials of the unsustainability and ultimate irresponsibility of the debt.

Norway's historic step to accept co-responsibility helped spur the United Nations Independent Expert on foreign debt and human rights to develop a set of Guiding principles on foreign debt and human rights (A/HRC/20/23). The outcome of extensive consultations, these Guiding Principles help to identify the shared responsibilities of creditors and borrowers, and provide criteria by which Governments, international organizations and the private sector can objectively assess their conduct, and effectively apply human rights standards to their lending and borrowing decisions. Backed by global summit commitments such as the Monterrey Consensus and the 2010 High-level Plenary Meeting on the Millennium Development Goals, these Guiding Principles may be seen as part of the drive towards the creation of an international debt arbitration mechanism which would function on the basis of human rights principles, including the principle of shared responsibility.

Embedding human rights in Germany's development policy – case study in Cambodia
In many respects Germany has taken the lead in embedding human rights standards into its external development policies, explaining its recognition of its obligations beyond borders in 2008: "Human rights provide us with legally binding standards to which we, in common with our partner countries, have committed ourselves inside and outside our borders. We have jointly ratified international human rights treaties and so it is our joint responsibility to work for the respect, protection and fulfilment of human rights. By meeting our obligations, we want to help our partners specifically and effectively to meet theirs."[f]

This general principle was tested in Cambodia, in response to widespread forced evictions occurring in relation to donor-supported land reform. In 2009 CSOs

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externally. The latter case, in particular, shows how human rights accountability mechanisms (such as the Committee on Economic, Social and Cultural Rights) can help to engender active citizenship globally, creating space for rights holders to engage more directly in scrutinizing and shaping development policy decisions which affect their lives, and helping to foster preventive as well as corrective solutions to development challenges.

While, economically, Norway and Germany are performing far better than most, other countries more adversely affected by the global financial and sovereign debt crises have also recognized that obligations of international cooperation cannot be compromised in such circumstances. For example, Ireland and Portugal—both of which required European Union and IMF bailouts in 2011—made only 3 per cent reductions in their aid budgets, while Italy even posted a 25 per cent increase. New mechanisms for innovative development finance—such as coordinated taxes on carbon emissions, air traffic, and financial and currency

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complained to the World Bank's Inspection Panel that human rights and the World Bank's safeguard policies had been breached in the course of a $28.8 million land titling project. These allegations were investigated in 2010, causing the World Bank to suspend new lending in the country. In August 2010 the Government of Germany decided to make its technical support for the Land Administration Management and Distribution Project in Cambodia "contingent upon further strengthening the implementation of human rights in the land sector. Amongst other issues, this means supporting indigenous communities in securing their land rights and … progressively solving urban informal settlement issues."[g] The German and Cambodian Governments subsequently agreed on a process to support and accelerate land reform, in particular in areas with poor and landless inhabitants, establishing milestones for developing a legal framework and process for implementing the Land Administration Management and Distribution Project in line with human rights obligations.[h]

The Committee on Economic, Social and Cultural Rights, in its 2011 review of Germany's periodic report under the Covenant, provided a further platform for Cambodian and German civil society voices to engage in the debate on the impact that Germany´s development aid may have on the enjoyment of human rights by Cambodians. The Committee underscored Germany's obligations relating to international cooperation and assistance, and expressed concern that its support of the Land Administration Management and Distribution Project in Cambodia resulted in the violation of economic, social and cultural rights (arts. 2 (1), 11, 22 and 23). The Committee called on Germany to ensure that all its development cooperation policies "contribute to the implementation of the economic, social and cultural rights of the Covenant and do not result in their violation."[i] As a result of these and other experiences, Germany has begun to more proactively integrate HRIAs into the design of its development policies, and is analysing how to establish a human rights complaints mechanism for rights holders affected by German development cooperation in partner countries.[k]

[a] Norway, Ministry of Foreign Affairs, "Cancellation of debts incurred as a result of the Norwegian Ship Export Campaign (1976-80)", press release, 2 October 2006.

[b] See A/HRC/14/21/Add.1.

[c] See Kjetil G. Abildsnes, "Why Norway took creditor responsibility – the case of the ship export campaign" (Oslo, Norwegian Debt Campaign, Norwegian Forum for Environment and Development, 2007).

[d] See Centro de Derechos Económicos y Sociales, "CDES celebrates the Norwegian Government's decision to cancel its illegitimate debt with Ecuador", press release, 6 October 2006.

[e] See Fons Coomans and Rolf Kunnemann, eds., *Cases and Concepts on Extraterritorial Obligations in the Area of Economic, Social and Cultural Rights, Maastricht Series in Human Rights*, vol. 13 (Maastricht, Intersentia Publishers, 2012), p. 160.

[f] Germany, Federal Ministry for Economic Cooperation and Development, *Development Policy Action Plan on Human Rights 2008–2010* (Bonn, 2008).

[g] Available from www.phnom-penh.diplo.de/ contentblob/2796748/Daten/891720/PE_27_08_10_Land_ sector.pdf (accessed 25 November 2012).

[h] Cambodia, Rehabilitation and Development Board and Council for the Development of Cambodia, "Summary record of the negotiations on development cooperation between the Government of the Federal Republic of Germany and the Royal Government Cambodia held in Bonn on 13 and 14 December 2011", 14 December 2011.

[i] E/C.12/DEU/CO/5; E/C.12/KHM/CO/1.

[k] For further information, see Germany, Federal Ministry for Economic Cooperation and Development, "Human rights in German development policy", BMZ Strategy Paper 4/2011e (Bonn, 2011), pp. 15 and 21.

transactions—are urgently needed, but require considerably more political will than States have shown to date, along with new types of international agreements and changes in global governance.[160]

B. International human rights mechanisms

Human rights mechanisms include certain human rights treaty bodies, regional human rights courts and other mechanisms that play a judicial or quasi-judicial role and allow individuals to lodge complaints. The treaty bodies also have a broader oversight function. Civil society organizations can submit reports and information to them in parallel to the periodic reports that State parties submit on their compliance. The procedures of the Human Rights Council provide a degree of international political accountability, notably through its universal periodic review (UPR), but also through resolutions on topical and emerging human rights issues, and through the work of the special procedures[161] mandate holders it appoints. Parallel systems exist in several regional organizations. The international and the regional human rights monitoring systems recommend action by States, but cannot enforce their recommendations. By setting targets and benchmarks, exchanging data, identifying trends and challenges, they can increase the *answerability* of States, strengthen the efforts of civil society and sometimes influence a State's conduct. The work of many special procedures mandate holders is certainly relevant to the Millennium Development Goals. Thematic experts have been at the forefront of efforts to integrate a human rights perspective in the Goals' processes. They are making an important analytical contribution to the debate on refining the future development architecture. Some have been explicitly mandated by the Human Rights Council to make recommendations on strategies to achieve the Goals and on the design of the post-2015 development agenda.[162]

Despite the potential of these bodies to address gaps in accountability in the MDG context, the human rights monitoring system (including the United Nations treaty bodies) has not so far played a prominent role in monitoring the MDG performance of States. In practice, States are rarely asked to report to such bodies on their efforts to achieve the Goals (though the Committee on Economic, Social and Cultural Rights has questioned developed States on their overseas development commitments and their obligations as members of IFIs). National MDG reporting and human rights treaty reporting have often occurred in parallel, without cross-referencing. As the post-2015 debates explore what kinds of global accountability mechanisms are appropriate for a new set of global development goals and targets, beyond the sectoral examples, new global peer review mechanisms have been mooted.[163] However, whatever the shortcomings in MDG accountability arrangements, it is essential that post-2015 accountability debates take careful account of the role played by existing international human rights accountability mechanisms, and seek to positively reinforce rather than undermine them (see recommendations intended to ensure a virtuous circle of accountability in chap. V).

C. Intergovernmental political bodies

Beyond the formal human rights monitoring system, groups of States have formed *intergovernmental organizations* that share geographic, economic, cultural or historic interests. They vary markedly in their architecture and purposes. Some are well-integrated, multifunctional unions, while others are informal caucuses with common geopolitical interests.[164] Many have agendas that focus on increasing accountability for the Goals and several evaluate regional progress. For example:

▶ The Economic Commission for Latin America and the Caribbean has developed a regional mechanism to monitor progress towards the Goals' targets.[165]
▶ The League of Arab States produces periodic joint reports with the Economic and Social Commission of Western Asia on regional progress on the Goals.[166]
▶ OECD tracks country performance against the commitment of donor countries to increase their aid in response to progress on the Goals.[167]

Although heterogeneous, these networks may provide additional avenues of political accountability for MDG performance. The agenda

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of the Group of 20 was recently enlarged to include development, in addition to dialogue and cooperation on economic and financial issues. It will be important to strengthen accountability for decisions taken in this forum, in the light of its increasing influence, within the broader context of global economic governance reform.

D. Transnational regulatory networks

Regional and international networks of *national regulatory bodies* in sectors relevant to the Goals also create opportunities to advance administrative accountability. Groups such as the Association of Water and Sanitation Regulatory Entities of the Americas help to increase accountability by agreeing targets and benchmarks that can be applied domestically, and sharing data on performance against these targets. The African Ministers' Council on Water[168] commissions regular country status overviews, which consider the extent to which sub-Saharan countries have the appropriate institutions, policies and budgets to improve and sustain the delivery of water and sanitation services. Via such monitoring work, intergovernmental organizations generate peer pressure that can help to promote the *answerability* of developing States with regard to the Millennium Development Goals.

Under OECD, attempts have been made to articulate the *responsibility* of States to provide aid for development. The 2008 Accra Agenda for Action called on donor States to provide

assistance "in ways consistent with their agreed international commitments on gender equality, human rights, disability and environmental sustainability." The 2011 Busan Partnership for Effective Development Cooperation recognized that human rights, democracy and good governance were key components of development efforts, and acknowledged the need for "accountability to the intended beneficiaries of our cooperation, as well as to our respective citizens, organisations, constituents and shareholders".

E. Accountability mechanisms of international financial institutions

As described in chapter II, the accountability of IFIs for human rights violations committed in the context of the programmes or policies they support is widely felt to have been incommensurate with their level of influence. Increasing efforts have been made, however, to engage with several IFI mechanisms as a means of holding Governments and the institutions themselves answerable for their compliance with human rights standards. For example, the World Bank's Inspection Panel has on occasion taken into account the human rights treaty commitments of borrowing countries when interpreting the Bank's safeguard policies (see box 11).[169] Nevertheless, more explicit human rights policy commitments and consistent practice would help all stakeholders to set principled and realistic expectations, however challenging a topic this may be for the governing bodies of IFIs.

F. MDG-specific initiatives at the international level

Several global initiatives have been put in place since 2001 to monitor and report on the Goals' progress. Since 2002, the United Nations Secretary-General has reported annually to the General Assembly on the implementation of the Millennium Declaration. Since 2005, the Statistics Division of the United Nations Department of Economic and Social Affairs has published annual reports on MDG progress. Since 2008, the Secretary-General's MDG Gap Task Force has published annual reports on progress on Goal 8, specifically. The United Nations regional commissions have also produced regional reports on the Goals for several years, sometimes with a specific thematic focus.

The World Bank's Inspection Panel is a three-member independent complaints mechanism that was established in 1993 to review compliance by the Bank with its own operational safeguard policies. Any two or more persons adversely affected by a Bank-supported project can bring a claim or "request". The Panel has served as a model for complaint mechanisms established subsequently by regional development banks. While it has probably not been used to full effect, the Panel has had a significant impact on responsibility and answerability within the Bank (its mandated purpose being to strengthen internal accountability), and has also on occasion facilitated redress for human rights claimants at the national level.

The Panel has only rarely been asked to consider claims that have been framed explicitly in human rights terms and its reasoning has not always been consistent. The requirement to respect international environmental agreements is clearly stated in the Bank's operational safeguard policies concerning environmental assessment and forestry; however, the duty to respect international human rights treaty obligations is not explicitly stated. Nevertheless, in its consideration of claims that directly or indirectly raise human rights concerns, the Panel has identified four circumstances in which Bank policies and procedures may require the Bank to take human rights issues into account: (a) the Bank should ensure that its projects do not contravene the borrower's international human rights commitments (the "do no harm" principle); (b) the Bank should determine whether human rights issues may impede compliance with Bank policies as part of its due diligence for projects; (c) the Bank must interpret the requirements of the indigenous peoples policy (which explicitly mentions indigenous peoples' rights) in accordance with the policy's human rights objective; and (d) the Bank should consider human rights protections enshrined in national constitutions or other sources of domestic law.

The 2007 Honduras Land Administration case illustrated the "do no harm" principle. The case concerned the displacement of indigenous populations from their ancestral lands under a Bank-supported land titling project. Honduras is a party to the Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) of the International Labour Organization (ILO). The Panel decided that the Bank's operational policy dealing with project appraisal, which called for observance of international agreements dealing with the environment and human health and well-being, should be interpreted in the light of ILO Convention No. 169. A similar case was brought to the Panel in 2009 on behalf of communities evicted from their homes in the Boeung Kak lake area of Phnom Penh, Cambodia, under a Bank-supported land titling project called the Land Management and Administration Project. While the Panel did not explicitly deal with the human rights allegations in this case, its investigation and eventual report in 2011 triggered a series of events, including strong pressure by the Bank itself, which led to partial relief and restoration of land for approximately one third of the affected families.

Sources: Steven Herz and Anne Perrault, "Bringing human rights claims to the World Bank Inspection Panel" (October 2009); Inspection Panel, "Investigation Report: Cambodia: Land Management and Administration Project" (23 November 2010); Samean Yun, "Hun Sen offers settlement", Radio Free Asia (16 August 2011).

However, the intergovernmental mechanisms set up to review progress on the Goals have been comparatively weak. The annual ministerial review launched in 2007, for example, has a mandate to assess country performance in specific areas, based on the submission of national voluntary presentations. Only few countries have presented such reports to the annual ministerial review, which has served as a best practices showcase, to a limited extent.

However, its effectiveness is undermined both by its voluntary nature, and the limited scope for participation and independent review, and by the absence of recommendations that can be monitored and followed up.

The Secretary-General in his report on the Goals in February 2010 acknowledged that shortfalls were due to unmet commitments, inadequate resources, poor focus and lack of

For further information on the Integrated Implementation Framework, see http://iif.un.org.

accountability. He noted the need for more effective accountability mechanisms between developed and developing countries, but also between Governments and citizens. He also endorsed and discussed the importance of the human rights principles of non-discrimination, meaningful participation and accountability.[170]

The outcome document of the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals in September 2010 contained a range of important human rights commitments.[171] It affirmed the need for a stronger agenda for collective action, data disaggregation and national statistical capacity-building, and included clear statements that MDG strategies should combat inequality, discrimination and exclusion, and address their root causes. An "Integrated Implementation Framework" was established in 2012 to help track the implementation of commitments made at the High-level Plenary Meeting. A similar web-based transparency mechanism will be established to keep track of voluntary commitments at the 2012 United Nations Conference on Sustainable Development.

Discussions at the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals underlined the limitations of international MDG accountability procedures that focus solely on reporting and monitoring. The recognition that the lack of accountability had been one of the major causes of failure to meet the Goals prompted a search for more effective and comprehensive forms of monitoring and reporting at the international level.

In this context, several initiatives by global monitoring bodies have sought to ensure that human rights treaty obligations are reflected at every stage of the policy process, through planning, budgeting and implementation to monitoring, review and remedial action. The most notable one to emerge from the High-level Plenary Meeting itself was the Secretary-General's Global Strategy for Women's and Children's Health, an innovative effort to accelerate progress on Goals 4 and 5. It is currently the most advanced, sector-specific global MDG accountability mechanism (see box 13). Accountability is the cornerstone of the Strategy, which calls on all stakeholders to support improved monitoring and evaluation to ensure that all actors are accountable for results. The Commission established to provide oversight of the Strategy proposes a "monitor-review-remedy/act" framework.

The Commission's three-step framework, its emphasis on monitoring resources as well as results, on the importance of tracking progress through a limited number of well-chosen indicators, and on the accountability of all actors, domestic and international, represents a significant step forwards in the search for more effective accountability mechanisms in the MDG context. If implemented nationally and internationally, it will thus assist Governments and other institutions to address the causes of maternal and child mortality, both epidemiological and political. It is notable, however, that the references to remedies and remedial action are stronger in the report of the Commission's working group on accountability for results than in the Commission's final report, even though poor complaint and redress mechanisms are a major obstacle to improving health standards. The Commission acknowledges the weakness of national accountability mechanisms which already operate in many countries, but its proposals focus primarily on the monitoring and review function, rather than mechanisms to enforce claims and provide remedies for alleged violations of the right to health. The framework's approach to donor accountability includes a strong focus on the need to report on transfers of financial and technical assistance, although it does not include specific proposals regarding mechanisms to strengthen global policy coherence or ensure that development assistance to improve the health of women and children is consistent with human rights standards.[172]

The WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation explicitly

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integrates human rights criteria within its framework for the global monitoring of water and sanitation targets. Currently, insufficient progress has been made towards the sanitation target of Goal 7 (target 7.C). The global water

target has officially been met; however, water quality remains problematic. The indicator for the water target measures access to "an improved water source" but surveys by UNICEF suggest that 15-35 per cent of improved sources are not

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Box 13. Monitor, review, remedy: accountability for the right to health of women and children

In 2010, the United Nations Secretary-General asked the World Health Organization (WHO) to chair a process to determine the most effective international institutional arrangements for global reporting, oversight and accountability. In May 2011, the Commission on Information and Accountability for Women's and Children's Health produced a report with 10 recommendations that has been groundbreaking on several fronts.

Its accountability framework proposes three interconnected processes: (1) *monitor* results and resources; (2) *review* data and policies to determine whether pledges are being kept and identify shortcomings and remedial action; and (3) *act* on the findings, improving health outcomes and reallocating resources to achieve maximum benefits for health. The framework emphasizes national accountability, proposing that States should consider creating national health commissions as independent oversight mechanisms,

"with the active engagement of Governments, communities and civil society; and with strong links between country-level and global mechanisms". It also stresses that all partners, including donors, are accountable for the promises they make and the health policies they design and implement. It advocates strengthening and harmonizing national, regional and global mechanisms.

An independent Expert Review Group was established to assess progress in implementing this global strategy and the Commission's recommendations, which include the establishment of effective monitoring mechanisms. The World Health Organization has launched a website to track progress on the implementation of the recommendations of the Commission with regard to results, resources and oversight related to women's and children's health, and to inform the international community about the work of the independent Expert Review Group.

in fact safe.[173] In addition, this indicator masks serious problems of affordability and regularity of supply, and the global target does not elucidate patterns of exclusion or discrimination.

To rectify some of these shortcomings, and in cooperation with the United Nations Special Rapporteur on the right to water and sanitation, multilateral development banks, civil society groups and other stakeholders, the Joint Monitoring Programme will develop a menu of options for post-2015 goals, targets and indicators, to capture the human rights dimensions of availability, accessibility, affordability, quality and non-discrimination. They will be included in a comprehensive accountability framework that will monitor outcomes, policy efforts and resource allocations to assess whether Government and donor interventions meet the entitlements of rights holders. The Joint Monitoring Programme has developed proxy indicators on sustainable access to safe drinking water and basic sanitation. It has commissioned research on methods for monitoring water quality and evaluating whether resource allocations benefit the poorest populations. A report by WHO, *UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water* (*GLAAS 2012 Report*), has collected data on the policies, priorities and financing flows of States and international donors with the aim of establishing whether they advance the achievement of Goal 7. The "input" indicators complement the Joint Monitoring Programme's collection of data on the Goals' "outcome" indicators ("access to improved sources"), and help to shed light on how far the Goals' outcomes are the result of fiscal and policy efforts. Efforts are now being made to define rights-sensitive indicators on affordability and equity.

PART TWO KEY MESSAGES

→ The chapters in Part Two show that accountability must be understood as a web of relationships, rather than a single relationship between the State and the individual. Rights holders, duty bearers and monitoring institutions interact in a variety of forums that transcend national boundaries.

→ An array of institutions and mechanisms exist that can potentially be used to hold officials and other duty bearers to account for abuses of authority and violations of rights that are relevant to the current development agenda. Judicial mechanisms are key avenues in which to pursue legal redress and remedy for human rights violations. Despite the obstacles that people living in poverty face in accessing justice through the courts, particularly for violations of economic, social and cultural rights, litigation is an important avenue of accountability, whose function is preventive and transformational as well as corrective. However, non-judicial mechanisms also have a key role to play in strengthening human rights accountability in the post-2015 context, whether parliamentary committees, administrative hearings, service delivery grievance procedures, citizen consultation groups or community-based accountability systems.

→ The different processes are not isolated and can reinforce one another. So litigation in defence of economic and social rights tends to be more effective when it is associated with political mobilization and rulings by regional adjudication bodies can give authority to the demands of local advocacy groups. While their functions and mandates vary, accountability mechanisms should monitor adherence to human rights standards, independently review Government performance, and recommend measures for remedy, redress or other corrective action in cases of non-compliance. Their ultimate objective is not merely to punish violations. Effective systems of accountability promote systemic and institutional progress that creates conditions in which rights can be more fully enjoyed.

→ Human rights accountability must be integrated into all stages of the domestic policymaking cycle, from initial planning, to budgeting, implementation, monitoring and evaluation, generating what has been described as a virtuous circle of accountability. Human rights standards impose obligations of conduct as well as result. States and other duty bearers must be accountable not just for development outcomes achieved, but the policy efforts and resources deployed for achieving them.

→ One of the most persistent accountability deficits in the current MDG framework has been the difficulty of holding industrialized countries to account with regard to the commitments they have made to the global partnership for development. Mechanisms for ensuring the accountability of international institutions or that of States for their human rights impact beyond their borders are institutionally much less developed, although they are increasingly being invoked.

PART TWO KEY MESSAGES

→ Some international accountability systems, including international human rights bodies, generally have a supervisory or oversight role rather than an enforcement function. Yet, they can play an important role in requiring States to justify their development performance in the light of human rights principles. Such bodies can also scrutinize whether adequate national mechanisms of redress exist and issue recommendations for strengthening domestic accountability. They offer additional forums for raising and negotiating grievances, and are particularly helpful to groups whose opinions are disregarded by their own Governments.

→ In practice, human rights dimensions and institutions of accountability have been underrecognized and underused in the context of the Millennium Development Goals. Monitoring has largely focused on collecting data in support of quantitative human development indicators. Stronger and richer mechanisms for tracking progress will be needed if the Goals are to meet national and international commitments to human rights. Monitoring mechanisms for the Millennium Development Goals, and global development goals generally, should be integrated within national monitoring of public policies and not be seen as a stand-alone activity.

Part Three

LOOKING FORWARD

Chapter V.

Integrating human rights accountability in the post-2015 development agenda

How, then, should principles of accountability, anchored in the international human rights framework, be integrated within the post-2015 agenda? *What* should United Nations Member States and other duty bearers be accountable for? To *whom* should they be accountable, *how* and by *when*?

A clear articulation of the specific purposes of a post-2015 agreement (and new global development goals including sustainable development goals, more specifically) is a necessary foundation for more focused accountability inquiries. Member States have already given thought to the kinds of purposes that a post-2015 agreement could serve. At the 2012 United Nations Conference on Sustainable Development, they recognized that global development goals were a useful tool in focusing achievement of specific development gains as part of a broad development vision, in guiding the development activities of the United Nations and promoting coherent actions on sustainable development, in helping to set national priorities, and to mobilize stakeholders and resources towards common goals.[174] The Millennium Development Goals helped to articulate a new human-centred global development narrative and to some extent boosted attention to neglected issues and sectors. Priorities reflected in global goals can also stimulate improvements in data collection and statistical methods, which—backed by appropriate policy review, monitoring and redress mechanisms—provide important foundations for accountability. Should new global goals deliver on these normative, "boosting" and accountability objectives, they may contribute valuably to the achievement of human rights.

A. What should States and other duty bearers be accountable for?

At the United Nations Conference on Sustainable Development in June 2012, Member States launched the process of developing new sustainable development goals. Further guidance is expected from the General Assembly in 2013 on how post-2015 development goals would relate to and be integrated in the sustainable development goals. Subject to that, whatever they are called, new global development goals and targets will provide a key focus and framework for accountability under a post-2015 development agenda.

There will be (and already are) many competing demands on new development goals, not all of which are easily reconciled. A long, unmonitorable global wish list would be a weak framework for accountability. Hence, clear objective criteria must guide the identification of priorities suitable for inclusion in new global goals, bearing in mind the specific purposes of global goals discussed above.

Member States have already made some effort to address this challenge at the 2012 United Nations Conference on Sustainable Development ("Rio+20"), insofar as the sustainable development goals are concerned. They decided that the sustainable development goals should, among other important criteria:

▶ Be "aspirational", global in nature and universally applicable to all countries while taking into account different national realities (overcoming the problem that the Millennium

Development Goals overlooked poverty in richer countries);

▶ Be "consistent with international law" (overcoming the problem that the Millennium Development Goals were not explicitly aligned with international human rights standards and obligations);

▶ Build upon commitments already made;

▶ Contribute to the full implementation of the outcomes of all major economic, social and environmental summits, including "Rio+20";

▶ Incorporate in a balanced way all three dimensions of sustainable development and their interlinkages;

▶ Be coherent with and integrated into the United Nations development agenda beyond 2015;

▶ Be action-oriented (implying that post-2015 commitments should be policy-relevant, provide standards for active monitoring, and should be easily tailored to national realities, starting points, needs and priorities);

▶ Be limited in number, concise and easy to communicate;

▶ Be focused on priority areas for the achievement of sustainable development;

▶ Be implemented with the active involvement of all relevant stakeholders; and

▶ Be accompanied by targets and indicators (to facilitate measurement of progress and, thereby, accountability).[175]

Member States resolved to put in place inclusive and transparent processes through which the General Assembly would agree new sustainable development goals. An open working group was set up for this purpose in 2012. The Secretary-General has formed a High-level Panel of Eminent Experts supported by a secretariat Task Team, and the United Nations has put in place a wide range of national and global thematic consultations, in order to bring proposals to Member States on the possible formats and focuses of a post-2015 development agenda. Importantly, the Task Team has recommended that the post-2015 agenda should be based explicitly on the principles of human rights, equality and sustainability.

The "Rio+20" criteria for sustainable development goals provide a number of useful building blocks for accountability in a post-2015 development agenda, by helping to define what kinds of commitments Member States should be responsible and answerable for. A relatively small number of well-defined goals are better able to serve the purposes that Member States have already agreed are important. A more balanced set of global commitments, moreover, gives better expression to the fundamental values that people hold dear, as expressed in surveys.[176] Measurable targets and indicators can help define clear duties and deliverables (strengthening "responsibility"), and improve incentives and monitoring and reporting of progress ("answerability"). Member States' commitment to inclusive and transparent consultations is especially important: human rights standards require active, free and meaningful participation in public affairs.

Much has been said about the modest results at the 2012 United Nations Conference on Sustainable Development and the relatively few ambitious new commitments. However, to the great surprise of many, the Conference reaffirmed a long list of human rights commitments relevant to sustainable development. Its outcome document emphasizes the need to respect, protect and promote all human rights and fundamental freedoms for all, without discrimination of any kind, and to reduce inequalities. It contains specific provisions on the right to development, the right to an adequate standard of living, the right to food, the right to water and sanitation, the right to health, and the right to education. It recognizes all human rights in the context of sexual and reproductive health, and the right to have control over and decide freely on matters related to sexuality, critical correctives for Goal 5's narrow focus on maternal health. It emphasizes labour rights, fundamental rights at work, the right to self-determination, the rights of people living under foreign occupation, gender equality, the rights and empowerment of women, the human rights of indigenous peoples (noting the United Nations Declaration on the Rights of Indigenous Peoples), minorities, migrants (regardless of their migration status), older persons, and persons with disabilities.

It also calls for the rule of law, democracy, good governance, empowerment and accountability, as well as responsible business practices (including with reference to the United Nations Global Compact, which contains important human rights commitments). It supports the implementation of the Guidelines on Land Tenure[177] (which include strong human rights provisions). The outcome document also contains an explicit requirement that green economy policies should be consistent with international law (which includes human rights law) and involve broad public participation, access to justice, access to information, an active role for civil society, social protection floors, and attention to root causes.

Yet, regrettably, it failed to reaffirm the importance of freedoms of expression, association and assembly. It is critical that Member States ensure that the sustainable development goals are developed through a participatory process in which all voices are heard, including civil society, human rights groups, women, minorities, indigenous peoples, and the voices of the most excluded and vulnerable. A post-2015 agreement should reaffirm and guarantee the freedoms of expression, association and assembly, without which participation is a dead letter.

The requirement that sustainable development goals should be consistent with international law (including international human rights law) builds upon earlier commitments to this effect at the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals.[178] Under their human rights treaty commitments, States are already obliged to aim for universal access to at least a basic level of social rights, dismantle discrimination and achieve substantive equality (beyond mere formal equality of treatment, which may include positive measures or affirmative action for excluded and marginalized groups), and ensure the availability, accessibility, affordability, acceptability, adaptability and quality of services. These and other treaty requirements should be integrated as far as practicable into the post-2015 framework of global goals, targets and indicators.

strengthen accountability for personal security, political participation and the administration of justice. Certain countries have already added "governance" goals to their nationally customized Millennium Development Goals. This practice should be extended to include specific commitments relating to personal security, political participation and the administration of justice, aligned with international human rights standards in these areas. Under human rights treaties, States are expected to realize civil and political rights immediately, rather than progressively. For that reason, shorter timetables, globally and nationally, will be needed for goals and targets based on civil and political rights than is the case for most social rights.

Focus mainly on "ends" of development and less so on "means"

Secondly, in identifying possible global goals, consideration should be given to whether the issue in question is of sufficiently fundamental moral and legal importance to be expressed in a human rights treaty. A requirement that new global goals and their corresponding targets should express *ends* (embodied in human rights treaties), rather than (contentious and context-specific) *means* of development can help to screen out proposed targets on economic growth, infrastructure, electricity generation and so forth, however important these may be from a purely instrumental standpoint. These human rights "ends" include child and maternal survival, and child growth and nutrition.

It has sometimes been suggested that, by focusing on the social sectors, the Goals inadvertently diverted attention from "productive sectors" (though the evidence for this is not conclusive).[179] This is a false dichotomy given the very high economic rates of return on investments in public health, education, nutrition, water and sanitation and other social sectors.[180] Nevertheless, at country rather than global level, it may be entirely appropriate to add goals or targets on agriculture, infrastructure, energy or other sectoral policies that advance human development. At the same time, the enabling power of certain internationally recognized human rights, such as education, decent work, social security and sanitation, to advance other

There are a number of other human rights treaty obligations for which Member States should also be specifically accountable under a post-2015 global agreement and which should serve as criteria for the identification of post-2015 goals (including sustainable development goals).

A balanced framework of goals – freedom from fear and freedom from want

Firstly, the overall framework of global goals, while limited in number, should be balanced in its incorporation of economic and social categories, justice, personal security, political participation and environmental elements. The ability to express one's views and grievances peacefully, freely and without fear is a fundamental human right, an imperative for effective development processes, and central to most people's conceptions of a dignified life. The freedoms of expression, association and assembly, and the freedom from fear, are as essential as freedom from want and are interconnected in practice. The Arab Spring powerfully confirmed that MDG performance is not a proxy for civil and political rights. Yet, as mentioned above, commitments made in this area at the 2010 High-level Plenary Meeting on the Millennium Development Goals and the 2012 United Nations Conference on Sustainable Development were regrettably very weak.

The post-2015 global monitoring framework should include civil and political rights commitments, in order to protect and

development goals would weigh in favour of their prioritization in a global list.

Favour issues with stronger moral salience and express them in those terms

Much has been said about the political and social mobilization potential of the Millennium Development Goals, although their impact on the public consciousness and on local political agendas is difficult to assess. However, while the values embodied in the Goals enjoy wide if not universal resonance, the manner of their formulation is in many respects technocratic, attributable perhaps to the circumstances of their birth.

The post-2015 framework should take note of these shortcomings and articulate new priorities in a manner that draws from and reflects individuals' and communities' expressed concerns. Psychological evidence shows that easy to understand facts and data are associated with a feeling of familiarity, and that familiarity creates a ring of truth (even when the underlying facts are complex).[181] People who cannot understand a target are unlikely to support it. There is also evidence from moral psychology that people respond more viscerally to moral wrongs than mere utilitarian calculations.[182] This evidence supports the framing of new global goals and targets (and, to the extent possible, also indicators) in simple and powerful terms that embrace negative ("do no harm", for example, "remove harmful trade barriers") as well as positive duties ("achieve the 0.7 per cent GDP target for ODA"). The international human rights framework offers an ideal framework for these purposes, couched in the language of universal rights and encompassing both negative and positive obligations.

Evaluate effort as well as results

Thirdly, under human rights treaties, States are answerable for their conduct and effort, as well as results. The Millennium Development Goals focused almost exclusively on outcomes. However, outcomes can occur by accident as well as by design, for example, when the value of a key export rises significantly or an environmental disaster strikes. As discussed in chapter II, international human rights treaties contain obligations of conduct as well as result, to ensure that States justify their outcomes by reference to their actual effort expended. Hence, new global goals and targets should include a feasible number of indicators of commitment and fiscal, policy and budgetary effort in addition to, and to help interpret, States' progress towards agreed outcomes. This is already being done for certain Millennium Development Goals, but needs to be systematized.[183]

The obligation to commit "maximum available resources" to socioeconomic rights, without retrogression, is an example of an obligation of conduct. With this obligation in mind, it is important that new development targets should be ambitious, but achievable (to be distinguished from the new goals themselves, which may and—according to Member States at the 2012 United Nations Conference on Sustainable Development—*should* be "aspirational"). Past trends (which were the basis for most Millennium Development Goals' targets) alone should not determine targets after 2015, particularly where progress on a given issue depends more on political will than resource constraints (as in the cases of maternal mortality and sanitation, for example, which are the worst performing Goals in global terms).

In order to fairly assess progress, it will also be important to decide carefully whether new development targets are expressed in relative or absolute terms. Proportionate targets (applicable to most Millennium Development Goals) have distorted the picture of progress in many poorer countries, as they favour countries with higher initial levels of development. Combinations of relative and absolute benchmarks will need to be considered for the post-2015 development goals, for example, setting relative or absolute benchmarks, whichever implies the more appropriate and ambitious measure for the country concerned.

Make measurement a servant, not the master, of post-2015 goals

Measurability is obviously important for accountability. There need to be adequate means and methods to assess how far various States and other duty bearers are (or are not) delivering on their commitments, and these assessments should occur at the global and regional levels (as well

as national and subnational levels). If a possible variable has solid indicators with robust data sets at the country level, this facilitates monitoring and reduces interpretation bias when progress is assessed in both global and comparative terms.

The Millennium Development Goals generated new data and helped to improve statistical methods, which are important foundations for accountability. The experience with the Goals also affirmed the power of a single number as a proxy for progress. Simple, quantifiable measures can screen out subjective interpretations and extraneous policy agendas, contribute to evidence-based policymaking, and make it possible to monitor the positive or negative effects of different factors across time and place. As Amartya Sen remarked, objective indicators also correct the tendency of marginalized individuals to lower their own (subjective) expectations.[184]

Proposed indicators for the sustainable development goals should be valid, relevant, effective in measuring what they purport to measure, cost-effective to collect, easy to communicate for advocacy, enable reliable comparisons across space and time, and should as far as possible contribute to national monitoring capacities. The process of indicator development should itself observe accountability principles, including transparency about data sources and methodology.[185]

The selection of indicators for the Goals had perverse effects on policy in certain cases. For example, target 7.D reportedly had the effect of deflecting attention from security of tenure, the minimum and most urgent demand of most slum dwellers, and in some countries may even have encouraged slum clearances.[186] The maternal mortality ratio (an outcome indicator for target 5.A) relies on data that are notoriously difficult to collect and interpret. By contrast, emergency obstetric care (a "process" or input indicator) is a valid and reliable indicator, necessary and policy-relevant in all contexts, and can be monitored at district as well as national levels in order to help effect change.[187] The structure of post-2015 indicators should take these kinds of risks into account as well as how they may be mitigated (for example, by including complementary indicators).

Many countries have limited statistical capacities. But equally, there are many data available at country level—for example through demographic health surveys, which are increasingly income- and gender-disaggregated—that are not being used. Many more data could be collected were there the political will to do so. Hence, all relevant data sources should be explored— events-based data relating to observable human rights violations, standards-based data expressed in quantitative ordinal scales, national socioeconomic and administrative statistics, and survey-based data—with their respective limitations.[188] The time lag in the generation of baselines and measurement tools for new indicators should be borne in mind when making any proposals to be fed into deliberations towards the post-2015 agenda.[189]

As vital a variable as statistical rigour is, however, it cannot be seen as a gatekeeper for the post-2015 development agenda. We cannot rely exclusively on reductive quantitative expressions of complex human development phenomena. Both qualitative and quantitative measurement methods will be needed in the post-2015 agenda. An important variable in a global agreement can itself help to generate demand for data and measurement, as the experience with the Millennium Development Goals has shown. Statistical parameters should therefore be seen as a servant rather than the master of people's legitimate aspirations for the post-2015 agenda.

Finally, a human rights-based approach to monitoring entails that adults, children, local representatives and others be viewed and empowered as *actors* or *agents* who are enabled to undertake their own monitoring. If measurement and monitoring are undertaken in a truly participatory manner, rather than only as data extraction, they can potentially empower people and thus become ends in themselves, beyond their instrumental value for planners. With text message (SMS) technology to enable local feedback from service users, crowdsourcing, the use of local score cards for local goals, participatory methods such as parent-teacher associations and local health committees, sentinel sites, and more transparent local governance, there are a range of possibilities for furthering community-

led monitoring as part of a new post-2015 development agenda, in addition to household sample surveys (for example, Demographic and Health Surveys (DHSs), funded by the United States Agency for International Development, and Multiple Indicator Cluster Surveys (MICSs), carried out by UNICEF) and upwards-flowing institutional data.

Table 1 encapsulates the "Rio+20" criteria for new global goals along with other criteria relevant to new goals, targets and indicators, discussed above, drawing from the international human rights framework. The proposed criteria are designed to strengthen accountability for post-2015 development commitments, framed by and anchored in international human rights law, as well as to serve as a screening or prioritization device for the many possible post-2015 proposals that will emerge through global and national consultations. Accountability requires clear and specific obligations, adaptable to the national and subnational levels, backed by accessible and
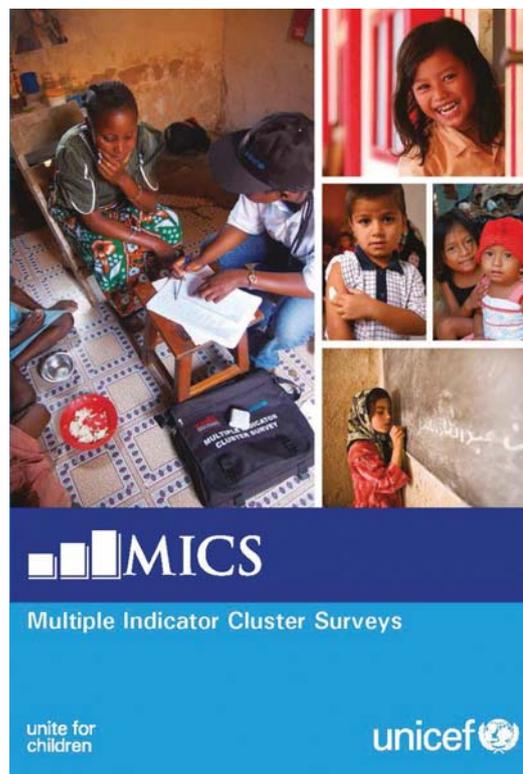
Table 1: Proposed criteria for post-2015 goals, targets and indicators[a]

Criteria applicable to *goals and targets*	
Criteria	**Questions**
Boost	Is it an important/urgent issue that has been underprioritized in practice and international frameworks?
Democratic legitimacy	Is there strong global and national demand for the goal/target, particularly from the most marginalized?
Universally applicable	Is it a global issue or matter of concern? Does it incorporate universal or differentiated responsibilities?
Focus on the ends, rather than means, of development	Does the proposed goal embody ultimate ends, rather than means, of development?
Action-orientation	Does the proposed goal or target signal appropriate policy choices and provide a useful standard for active monitoring?
Consistency with international law	Does the proposal reflect or strengthen international law standards rather than weaken them?
Salience/communicability	Are the goal and target psychologically salient and easy to understand?
Instrumental value/enabling environment	Will realization contribute to or create an enabling environment for other targets?
Equality focus	Is there a focus or potential focus on equity and equality?
Thematic balance/narrative	Does the proposal help ensure a thematic balance across different areas of global concern and contribute to the overall narrative of the agenda?

Criteria applicable to *statistical indicators*	
Criteria	**Questions**
Relevance of indicator to theme	How closely does a proposed indicator reflect the theme?
Salience/communicability	Are the indicator and target psychologically salient and easy to understand?
Data availability and comparability	Are the data comparable and well established globally? Could comparability and coverage be improved with support? If not, would nationally defined measurement be enough to spur action or even be preferred?
Robustness, reliability, validity	Are the data reliable, valid and externally verifiable?
Action-orientation	Would the target/indicator signal appropriate policy choices and provide a useful standard for active monitoring?
Universally applicable	Does it require fair progress by all countries or, if not, is a complementary target/indicator available for other countries?
Consistency with international law	Does the proposed indicator relate specifically to legal obligations to which Member States have already committed themselves under human rights treaties?
Measure effort as well as outcome	Do the proposed indicators, taken as a whole, help to measure the actual commitment and fiscal and policy effort that Member States dedicate to achieving agreed post-2015 outcomes?
Equality-sensitivity	Does it have an equality focus or disaggregated targets?
Absence of perverse incentives	Does it create perverse incentives and, if so, can a complementary target/indicator be adopted to overcome this?

ᵃ Adapted from Malcolm Langford, "The art of the impossible: the post-2015 agenda, measurement choices, and human rights and governance", paper presented at the OHCHR/UNDP Expert Consultation "Governance and human rights: criteria and measurement proposals for a post-2015 development agenda", Cornell University, New York, 13–14 November 2012. OHCHR and CESR are grateful for conversations with Malcolm Langford and Mark Orkin on these issues.

effective review and redress mechanisms. While accountability is the main focus of this publication, the other plausible objectives of a post-2015 agreement discussed above (building a normative consensus and "boosting" important variables) are very closely related to accountability and would be well served by the given criteria. The criteria themselves are closely interrelated and should not be taken in isolation.

B. Accountability to whom?

Increasing inequalities are not an accident of fate. Discrimination and conscious policy choices are major drivers of inequality. In focusing on global or national averages, the Millennium Development Goals papered over these problems to some extent.

The central challenge of 2015 is equality. The overly narrow focus on economic growth that has dominated development analysis in recent years, without adequate attention to non-discrimination and equity, has, in the wake of successive crises, widening disparities and growing social unrest, by now been widely discredited. And, beyond aggregate economic disparities, the spectre of discrimination against minorities, indigenous peoples, women, older persons, persons with disabilities, migrants and others has the dual effect of denying the human rights of those persons and denying their potential contributions to the economic development of the societies in which they live.

Thus, the post-2015 agenda must be designed to advance the three closely related concepts of equity (fairness in distribution of benefits

and opportunities), equality (substantive equality, of both opportunity and results, with full protection under the law) and non-discrimination (prohibition of distinctions based on impermissible grounds that have the effect or purpose of impairing the enjoyment of rights).

Doing so requires efforts to disaggregate data to determine who is benefiting, and who is not, to analyse the social and political conditions in which people live, to close gaps in the enjoyment of civil, cultural, economic, political and social rights, and to take proactive positive measures to dismantle entrenched patterns of discrimination, particularly on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Indeed, so important is the removal of inequalities to sustainable development, that achieving equality should be both a self-standing goal in any post-2015 agreement and explicitly integrated across all other goals, through enhanced data collection and disaggregation, equality benchmarking, and equality monitoring for each.

Possible approaches to measuring progress in eliminating inequality in a post-2015 framework of goals are:

▶ Defining a specific target at global level for the Gini coefficient on income and consumption;
▶ Comparing the ratio of the top and bottom income quintiles or deciles;
▶ Comparing the gap between median income and the poorest quintiles or deciles;
▶ Weighting quintile-specific values in a way that rewards progress in the lower income quintiles.

There are further options for benchmarking and monitoring equality when tailoring global goals to the national level. For example, Thailand's MDG-plus framework adds specific targets for disadvantaged regions in the country. Kenya has set targets for each region to improve access to water and sanitation by 10 per cent annually. Uruguay has plans to reduce inequality by specific percentages under each Goal. Bangladesh has introduced targets associated with indicators that measure the depth and severity of income poverty.[190]

Disaggregation by income quintiles and gender, and to some extent age and ethnicity, is already reported by some of the major surveys, including DHSs and MICSs. These surveys often fail to cover the increasing number of people who live in informal settlements, however; an omission that needs to be addressed as a matter of priority. Additional grounds of discrimination should be included where needed, taking into account prohibited grounds of discrimination under human rights treaties.[191] Ongoing work on water and sanitation indicators suggests that this ambition can be made feasible by fully exploiting existing data, prioritizing a small number of axes of discrimination and exclusion of particular relevance in the specific context, exploring proxy indicators, and recoding DHS and MICS data to reveal more information relevant to human rights assessments.

Among the many grounds of discrimination covered by the human rights treaties, but which have rarely been examined systematically in the MDG context, are discrimination on grounds of ethnicity, and on grounds of religious or political belief. Patterns of exclusion on ethnic and racial lines have been documented in many countries where aggregate progress on the Goals is broadly on track. A dearth of international statistics on ethnic exclusion reflects, as well as causes, this lack of focus.[192] These are obviously thorny issues, not helped by the fact that the United Nations system offers limited guidance. Yet, DHSs have included an ethnic variable in 55 of the 77 countries covered to date,[193] and many countries in Latin America, Asia and Oceania (less so in Europe and Africa) collect data on ethnicity in their national censuses.[194] The experience of Latin American countries, where social and economic inequalities can be extreme, shows that disaggregation by ethnicity is possible even in the most egregious situations, even if the region's overall record cries out for improvement. Disaggregation by region within each country may offer a viable proxy measure in some cases.

Disaggregation by disability also merits attention in view of a recent global survey which suggested that more than one billion individuals experience disability, with attendant impact on health, educational achievement, economic

opportunities and poverty.[195] The post-2015 development negotiations should engage with this issue, building on the normative framework which the Convention on the Rights of Persons with Disabilities provides.

C. Accountability by when?

The human rights framework has implications for "when" accountability for progress towards a new set of global goals should be assessed. If the ultimate goal of a post-2015 agenda is to contribute towards the full realization of all human rights for all, post-2015 goals will need to be embedded in a framework for genuinely transformative change, while also fostering accountability and assessments of progress in the immediate term.

The first step is to identify an appropriate baseline. The Goals' baseline of 1990 distorted the picture of global progress, because it counted aggregate human development gains that resulted from economic growth in China and India that was evidently due to public policies that preceded the Goals. For a post-2015 agenda, a baseline year of 2010 would accommodate the time lag needed to collect data on new targets and indicators, while minimizing the interpretation risks associated with a retrospective baseline.

Five-year benchmarks and reporting, and five-year global reviews of progress, would be needed to ensure political accountability. An end date of 2030, similar to the Millennium Development Goals' time frame, may offer an appropriate balance between longer-term vision of universality, and the more immediate and practical demands of political accountability. Interim reviews are particularly important for civil and political rights and those dimensions of economic, social and cultural rights which must be achieved immediately rather than progressively.

Situating the post-2015 framework within a longer-term, transformative agenda for achieving freedom from fear and want would require the building of a global movement for change, with an end date further in the future. For example, the year 2048 will mark the 100th anniversary

of the Universal Declaration of Human Rights, with its explicit promise in article 28 of "a social and international order in which the rights and freedoms set forth in [the] Declaration can be fully realized." A two-year stocktaking and consultation period beyond that date could provide the foundation for a successor global agreement, should there be demand for such, running to the year 2050.

D. How should accountability be ensured?

The identification of a clear, ambitious, specific and manageable set of global goals, targets and indicators—explicitly aligned with existing international human rights treaty standards—can help to specify who is responsible for what, and by when. This, in turn, clarifies responsibilities, improves answerability and strengthens incentives for sustained progress.

Once global goals, targets and indicators have been agreed, they will need to be tailored to the national level and localized to the subnational level. The misuse of the Goals as a one-size-fits-all accountability framework was among its most serious shortcomings. Contextually relevant targets, established through participatory processes, should be embedded in national plans of action and policy and budgetary frameworks, with clearly defined institutional responsibilities, benchmarks, indicators, and mechanisms for monitoring and redress. If undertaken conscientiously, this is where responsibilities can be most clearly defined, answerability most directly enlivened and commitments most effectively enforced.

National tailoring should not, however, be seen as a carte blanche, allowing States to dilute or retract from their legal and policy commitments at the global level. The principle of "answerability" requires that the criteria for tailoring global goals and targets to national and subnational levels should be justified objectively and publicly.

The outcome document of the 2012 United Nations Conference on Sustainable Development did not provide guidance on how Member States should tailor or adapt the sustainable development goals to their national
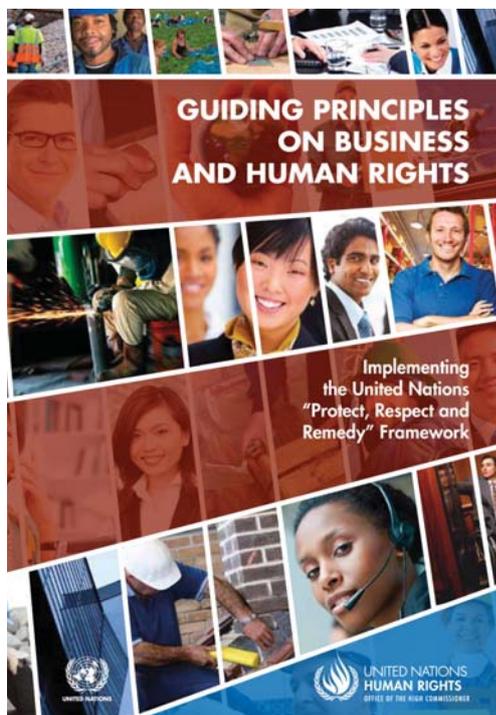
circumstances. Taking into account the suggested criteria for new global goals (including the sustainable development goals) discussed earlier, national "tailoring" of post-2015 goals should involve the following eight steps:

1. Align national and subnational goals and targets with the human rights treaty standards applicable to the country concerned;
2. Set national and subnational goals, targets, indicators and benchmarks, and monitor progress, through participatory processes;
3. Integrate the principles of non-discrimination and equality, ensuring that the most disadvantaged communities and regions are prioritized (see sect. B above);
4. Address major bottlenecks and constraints where rights are not being realized, select interventions that multiply positive outcomes and create an enabling environment for human rights fulfilment;
5. Look for synergies and gaps in the overall framework of goals, and ensure that it reflects an adequate balance of human rights ("freedom from fear" as well as "freedom from want") and sustainable development concerns;
6. Define a time frame and level of ambition consistent with an objective assessment of the "maximum resources" available to the country;
7. Set targets and indicators for fiscal and policy effort (including indicators relating to the legislative and policy framework; financing; public expenditure ratios, guided by the criteria in table 1 above), as well as outcomes; and
8. Use a range of indicators and all available information (subjective as well as objective; qualitative as well as quantitative), across the full range of human rights (civil, cultural, economic, political and social), to help monitor progress.

Finally, new development goals and targets— global, national and subnational—need to be backed by accessible and effective accountability mechanisms. At the national level, these should include administrative, political, judicial and quasi-judicial, as well as social mechanisms, and systems to assure the quality of services, as discussed in Part Two. The full range of applicable human rights standards should be used as the normative frame of reference by these accountability bodies when reviewing compliance with development goals or assessing claims, complaints or grievances by individuals or communities adversely affected by development-related policies. States that have not already done so should ratify the core human rights treaties and incorporate their provisions fully into domestic law, ensuring that economic, social and cultural rights, as well as civil and political rights, can be claimed, adjudicated and enforced. Steps must also be taken to lift the barriers preventing people living in poverty from making use of judicial and other accountability mechanisms, ensuring effective access to legal and other remedies and to the information and assistance needed to avail themselves of these. Pluralistic, independent media organizations are also essential in order to raise public awareness about human rights and development issues, and empower people with information to better monitor implementation and performance.

Appropriate mechanisms should also be created or adapted to address the shortcomings in the accountability of State actors at the international level, as well as that of international financial institutions and non-State actors with an

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increasingly influential role in development policy. With the relative importance of aid declining, it is even more important to strive for greater coherence, nationally and globally, across different policy regimes (development, trade, investment, finance, tax, intellectual property, etc.), relevant to the post-2015 framework. Human rights should be the baseline and metric for assessments of domestic and international policy coherence, as well as for corporate due diligence requirements under the Guiding Principles on Business and Human Rights. A post-2015 agreement should contain explicit commitments and guidance to Member States on these matters to ensure that global promises are translated into results on the ground and are respectful of existing human rights norms.

Existing accountability mechanisms for the Millennium Development Goals can be built upon, adapted and expanded for the successor framework of development commitments. Answerability depends on responsibilities being clearly defined, and deliverables being made transparent and subject to regular reporting. There are various mechanisms serving these purposes, such as national voluntary presentations under the Economic and Social Council's annual ministerial review process, the Integrated Implementation Framework and global and regional MDG reporting processes, including the MDG Gap Task Force reports for Goal 8. For post-2015 monitoring, these kinds of processes should be anchored more specifically in Member States' human rights treaty commitments and reporting processes. Sectoral initiatives such as the WHO Commission on Information and Accountability for Women's and Children's Health, likewise, should be anchored more explicitly in the international human rights framework, and should offer more specific and useful guidance on national accountability mechanisms.

As of 2012, consultations on global accountability arrangements for the post-2015 agenda were being made. Some have argued for a global peer review mechanism.[196]

However, it is critical that any new post-2015 accountability mechanism takes careful account of the role played by existing international human rights accountability mechanisms, and avoids unnecessary duplication or drawing resources and priority from the latter. Any new global review mechanism for post-2015 development commitments should explicitly refer to international human rights treaty standards, and should ensure rigorous independent review, effective civil society participation and high-level political accountability.

International human rights mechanisms, in turn, should be strengthened, and should take more consistent and explicit account of monitoring and reporting processes for new global development goals. The data generated by the review mechanisms for post-2015 global development goals should feed systematically into international human rights review and reporting processes. Member States should streamline their post-2015 and international human rights reporting obligations, ensuring that their respective national reporting processes and accountability mechanisms mutually reinforce (and do not unnecessarily duplicate) one other. States should ratify the full spectrum of human rights treaties and their optional complaint procedures, withdraw the reservations that impede their implementation, and commit to the comprehensive, timely and regular submission of reports. These measures will help to ensure a virtuous circle, improving the quality and impact of the recommendations of international human rights mechanisms for development policy and programming, and strengthening incentives for better policymaking. They will also ensure that post-2015 commitments take careful account of the experience of both the voluntary reviews under the Economic and Social Council's annual ministerial review, as well as the universal periodic review of the Human Rights Council. Any new global reporting procedures must complement and serve to reinforce their respective national reporting and accountability processes.

PART THREE KEY MESSAGES

➔ An ambitious new global deal is needed, grounded in the principles of human rights, equality and sustainability. Its ultimate objective should be to realize the international human rights commitments of United Nations Member States, building on the important human rights agreements in the outcome documents of the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals and the 2012 United Nations Conference on Sustainable Development ("Rio+20").

➔ The identification of a clear, ambitious, specific and manageable set of global goals, targets and indicators—explicitly aligned with existing international human rights treaty standards—can help to specify who is responsible for what and by when. This, in turn, clarifies responsibilities, improves answerability and strengthens incentives for sustained progress.

➔ Human rights should help to define *what* Member States and other duty bearers should be accountable for under a post-2015 agreement, to *whom*, by *when*, as well as *how* they should be held accountable.

➔ Clear objective criteria must guide the identification of priorities suitable for inclusion in the post-2015 goals, bearing in mind the specific purposes that global goals can best serve. These should be informed by human rights principles and international human rights treaty standards. The "Rio+20" outcome document contains a useful set of criteria for general purposes. From a human rights perspective, the following should be included: (a) ensure that post-2015 goals are a balanced framework, reflecting freedom from fear as well as freedom from want; (b) focus mainly on the "ends" of development, and less so on the "means"; (c) include indicators of effort, as well as results; (d) make measurement a servant, rather than the master, of post-2015 goals.

➔ The central challenge of 2015 is one of equality. The post-2015 agenda must be designed to advance the three closely related concepts of equity (fairness in distribution of benefits and opportunities), equality (substantive equality, of both opportunity and results, with full protection under the law), and non-discrimination (prohibition of distinctions based on impermissible grounds that have the effect or purpose of impairing the enjoyment of rights). Achieving equality should be both a self-standing goal in any post-2015 agreement and explicitly integrated across all other goals, through enhanced data collection and disaggregation, equality benchmarking, and equality monitoring for each.

➔ If the ultimate goal of a post-2015 agenda is to achieve the full realization of all human rights for all, the post-2015 goals and targets will need to be embedded in a longer-term framework for genuinely transformative change, with shorter interim (five-year) targets and review processes for the sake of political accountability. The year 2010 may be a suitable baseline for post-2015 goals and 2030 a suitable end date. Shorter time frames are needed for civil and political rights targets and those dimensions of socioeconomic rights that—under human rights treaties—should be achieved immediately rather than progressively. A successor agreement should aim for universal realization of all human rights for all by the year 2048, the 100th anniversary of the Universal Declaration of Human Rights.

PART THREE KEY MESSAGES

➜ Tailoring post-2015 goals and targets to the national and subnational levels should involve the following eight steps:

1. Align national and subnational goals and targets with the human rights treaty standards applicable to the country concerned;

2. Set national and subnational goals, targets, indicators and benchmarks, and monitor progress, through participatory processes;

3. Integrate the principles of non-discrimination and equality, ensuring that the most disadvantaged communities and regions are prioritized;

4. Address major bottlenecks and constraints where rights are not being realized, select interventions that multiply positive outcomes and create an enabling environment for human rights fulfilment;

5. Look for synergies and gaps in the overall framework of goals, and ensure that it reflects an adequate balance of human rights and sustainable development concerns;

6. Define a time frame and level of ambition consistent with an objective assessment of the "maximum resources" available to the country;

7. Set targets and indicators for fiscal and policy effort, as well as outcomes; and

8. Use a range of indicators and all available information (subjective as well as objective; qualitative as well as quantitative), across the full range of human rights (civil, cultural, economic, political and social), to help monitor progress.

➜ New goals and targets—global, national and subnational—need to be backed by accessible and effective accountability mechanisms. These should include administrative, political, judicial and quasi-judicial, as well as social mechanisms, and systems to assure the quality of services. Human rights standards should be the normative frame of reference for these accountability bodies. Steps should be taken to lift the barriers preventing people living in poverty from making use of judicial and other accountability mechanisms, and from claiming and enforcing their rights, including their economic, social and cultural rights.

➜ Appropriate mechanisms should also be created or adapted to address the shortcomings in the accountability of State actors at the international level, as well as that of international financial institutions and non-State actors with an increasingly influential role in development policy.

➜ A critical priority for a post-2015 agreement must be the strengthening of coherence across development, trade, investment, finance, tax, intellectual property and other key policy regimes, at global and national levels. International human rights standards, as legally binding standards and higher order policy objectives representing the ultimate ends of development, should be the yardstick for policy coherence at both global and national levels, drawing from experience of human rights assessments of trade agreements and other fields of economic and social policy.

PART THREE KEY MESSAGES

➔ Existing accountability mechanisms for the Millennium Development Goals should be strengthened, adapted and expanded for the purposes of fostering accountability for post-2015 commitments. Proposals for new post-2015 accountability mechanisms should take careful account of the role played by existing international human rights accountability mechanisms, and avoid unnecessary duplication or drawing resources and priority from the latter. Any new global review mechanism for post-2015 development commitments should explicitly refer to international human rights treaty standards, and should ensure rigorous independent review, effective civil society participation and high-level political accountability.

➔ International human rights mechanisms, in turn, should be strengthened, and should take more consistent and explicit account of monitoring and reporting processes for new global development goals. The data generated by the review mechanisms for post-2015 global development goals should feed systematically into international human rights review and reporting processes. Member States should streamline their post-2015 and international human rights reporting obligations, ensuring that their respective national reporting processes and accountability mechanisms mutually reinforce (and do not unnecessarily duplicate) one other. States should ratify the full spectrum of human rights treaties and their optional complaint procedures, withdraw the reservations that impede their implementation, and commit to the comprehensive, timely and regular submission of reports. These measures will help to ensure a virtuous circle, improving the quality and impact of the recommendations of international human rights mechanisms for development policy and programming, and strengthening incentives for better policymaking.

NOTES

1   United Nations, "Unmet commitments, inadequate resources, lack of accountability hampering achievement of Millennium Development Goals, says Secretary-General", press release SG/SM/12789, 16 March 2010.

2   John M. Ackermann, "Social accountability in the public sector: a conceptual discussion", Social Development Working Papers, No. 82 (Washington, D.C., World Bank, 2005); see also Anne-Marie Goetz and Rob Jenkins, *Reinventing Accountability: Making Democracy Work for Human Development* (Basingstoke, United Kingdom, Palgrave Macmillan, 2005), p. 8.

3   These elements and their definition are drawn from: Peter Newell and Shaula Bellour, "Mapping accountability: origins, contexts and implications for development", IDS Working Papers, No. 168 (Brighton, Institute of Development Studies, 2002); Andreas Schedler, "Conceptualizing accountability", in *The Self-Restraining State: Power and Accountability in New Democracies*, Andreas Schedler, Larry Diamond and Marc F. Plattner, eds. (Boulder, Colorado, Lynne Rienner Publishers, 1999); Ackermann, "Social accountability"; Goetz and Jenkins, *Reinventing Accountability*; OECD, "Draft orientations and principles on development co-operation, accountability and democratic governance", document DCD/DAC(2012)28, 29 June 2012.

4   Other examples are international monetary bodies such as the Basel Committee on Banking Supervision and State investor arbitration bodies such as the International Centre for Settlement of Investment Disputes.

5   Varun Gauri and Daniel M. Brinks, *Courting Social Justice: Judicial Enforcement of Social and Economic Rights in the Developing World* (Cambridge, United Kingdom, Cambridge University Press, 2008).

6   General Assembly resolutions 65/1 and 66/288, annex.

7   See General Assembly resolution 55/2, para. 2.

8   The eight Millennium Development Goals are (1) eradicate extreme poverty and hunger, (2) achieve universal primary education, (3) promote gender equality and empower women, (4) reduce child mortality, (5) improve maternal health, (6) combat HIV/AIDS, malaria and other diseases, (7) ensure environmental sustainability, and (8) develop a global partnership for development. See "Road map towards the implementation of the United Nations Millennium Declaration: report of the Secretary-General" (A/56/326), annex.

9   General Assembly resolution 55/2, para. 25.

10   These rights are codified in international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination against Women, and the Convention on the Rights of the Child. At the time of writing, 160 States were party to the first, 187 were party to the second and 193 to the third. See United Nations Treaty Collection, available from http://treaties.un.org/.

11   International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

12   For more detailed critiques of the shortcomings of the current MDGs from a human rights perspective, see *Claiming the Millennium Development Goals: A Human Rights Approach* (United Nations publication, Sales No. E.08.XIV.6); and Amnesty International, *From Promises to Delivery: Putting Human Rights at the Heart of the Millennium Development Goals* (London, 2010).

13   *Millennium Development Goals Report 2012* (United Nations publication, Sales No. E.12.I.4), p. 4.

14   UNICEF, *Progress for Children: Achieving the MDGs with Equity* (New York, 2010), p. 23.

15   Press release SG/SM/12789.

16   Sakiko Fukuda-Parr, "Recapturing the narrative of international development", in *The Millennium Development Goals and Beyond: Global Development After 2015*, Rorden Wilkinson and David Hulme, eds. (London, Routledge, 2012).

17   Laure-Hélène Piron, "Human rights and poverty reduction: the role of human rights in promoting donor accountability", April 2005. Available from www.odi.org.uk/resources/download/1555.pdf.

18   CESR, "The global economic crisis: causes, consequences and responses", 2009. Available from www.cesr.org/article.php?id=389.

19   ILO, *Global Employment Trends 2012: Preventing a Deeper Jobs Crisis* (Geneva, 2012).

20   Fukuda-Parr, "Recapturing the narrative".

21   CESR, "Human rights and the economic crisis: the response of the United Nations system", 1 August 2011. Available from www.cesr.org/downloads/UN.crisis.briefing.august.2011.pdf.

22   Andy Sumner and Meera Tiwari, *After 2015: International Development Policy at a Crossroads* (Basingstoke, Palgrave Macmillan, 2009).

23   Contributions to international assistance from Brazil, the Russian Federation, India, China and South Africa have surged in recent years. Other countries outside OECD-DAC, including Turkey, the Republic of Korea, Saudi Arabia, other Gulf States, and

non-OECD members of the European Union, now contribute some 6 per cent of all ODA. See Abebe Adugna and others, "Finance for development: trends and opportunities in a changing landscape", CFP Working Paper, No. 8 (November 2011).

24 Andy Sumner, "Global poverty and the new bottom billion: what if three-quarters of the world's poor live in middle-income countries?", IDS Working Papers, No. 349 (Brighton, Institute of Development Studies, 2010).

25 Sumner and Tiwari, *After 2015.*

26 Led by international financial institutions based in Washington, this Consensus was characterized by harsh structural adjustment policies and prescribed a model of development based on deregulation, privatization and trade liberalization.

27 Sumner and Tiwari, *After 2015.*

28 See, for example, recommendations of the "Report of the Commission of Experts of the President of the United Nations General Assembly on reforms of the international monetary and financial system", 21 September 2009. Available from www.un.org/ga/econcrisissummit/docs/FinalReport_CoE.pdf.

29 Sumner and Tiwari, *After 2015.*

30 UNDP, *Reflections on Social Accountability: Catalysing Democratic Governance for Progress Towards the MDGs* (forthcoming).

31 Goetz and Jenkins, *Reinventing Accountability*, p. 25.

32 Ibid.

33 For example, the Global Call for Action against Poverty's demands for accountability are increasingly voiced in terms of economic and social rights. See Global Call to Action against Poverty, "Public accountability and just governance". Available from: www.whiteband.org/issues/accountability/ (accessed 22 November 2012).

34 General Assembly resolution 65/1, paras. 3, 12, 13, 53 and 54.

35 WHO, *Keeping Promises: Measuring Results* (Geneva, 2011).

36 See public consultations on consolidated drinking water, sanitation and hygiene targets, indicators and definitions, WHO and UNICEF Joint Monitoring Programme for Water Supply and Sanitation, November 2012. Available from www.wssinfo.org/post-2015-monitoring/overview/.

37 See Ackermann, "Social accountability"; Goetz and Jenkins, *Reinventing Accountability*, p. 8.

38 See Newell and Bellour, "Mapping accountability"; Schedler, "Conceptualizing accountability"; Ackermann, "Social accountability"; Goetz and Jenkins, *Reinventing Accountability*; OECD, "Draft orientations and principles".

39 These nine core human rights treaties and associated protocols are available from http://www2.ohchr.org/english/law/.

40 Newell and Bellour, "Mapping accountability".

41 Goetz and Jenkins, *Reinventing Accountability*, p. 31.

42 Amartya Sen, *Development as Freedom* (Oxford, Oxford University Press, 1999).

43 Goetz and Jenkins, *Reinventing Accountability.*

44 See Susan Wong, "What have been the impacts of World Bank community-driven development programs?" (Washington, D.C., World Bank, 2012); Rosemary McGee and John Gaventa, "Review of impact and effectiveness of transparency and accountability initiatives: synthesis report", October 2010, available from www.ids.ac.uk/files/dmfile/ETASynthesisReportMcGeeGaventaFinal28Oct2010.pdf. Empirical studies of the impact of transparency and accountability initiatives also indicate that answerability can often be more effectively achieved if not seen in adversarial terms, and that the success of such initiatives in bringing about broader policy and governance changes will depend on more systemic factors in the wider enabling environment. See also Gina Bergh and others, "Building governance into a post-2015 framework: exploring transparency and accountability as an entry point" (London, Overseas Development Institute, 2012). Available from www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7875.pdf (accessed 23 November 2012).

45 David Booth, *Development as a Collective Action Problem: Addressing the Real Challenges of African Governance* (London, Overseas Development Institute, 2012); Alina Rocha Menocal and Bhavna Sharma, *Joint Evaluation of Citizens' Voice and Accountability: Synthesis Report* (London, Department for International Development, 2008)

46 In addition to Booth, *Development as a Collective Action*, see Bergh and others, "Building governance".

47 UNDP, *Reflections on Social Accountability*, p. 7.

48 The right to an effective remedy for violations of human rights is codified in article 8 of the Universal Declaration of Human Rights and in a range of international treaties which subsequently flowed from it. See also "Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law" (General Assembly resolution 60/147).

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50 Yamin and Gloppen, *Litigating Health Rights*.

51 Gauri and Brinks, *Courting Social Justice*, p. 328.

52 Ibid., p. 303.

53 General Assembly resolution 55/2, para. 20.

54 For a critique of linear approaches to accountability in development, see Booth, *Development as a Collective Action*. On systemic approaches to accountability from a human rights perspective, see Alicia Ely Yamin, "Toward transformative accountability: applying a rights-based approach to fulfill maternal health obligations", *Sur International Journal on Human Rights*, vol. 7, No. 12 (June 2010), pp. 94–121. On a "systems approach" to accountability in development, see OECD, "Draft orientations and principles".

55 Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (Maastricht, Netherlands, 22–26 January 1997).

56 Goetz and Jenkins, *Reinventing Accountability*, p. 12.

57 Booth, *Development as a Collective Action*, p. 66.

58 UN-Habitat, UNDP and United Cities and Local Governments, "Localizing MDGs: meeting the challenge of MDGs in cities", pp. 1–11. Available from http://ww2.unhabitat.org/programmes/ump/documents/MDGPaper.pdf (accessed 23 November 2012).

59 Jamie Boex, "Localizing the MDGs: unlocking the potential of the local public sector to engage in development and poverty reduction", IDG Working Paper, No. 2010-04 (October 2010).

60 Booth, *Development as a Collective Action*, p. 67.

61 International Council on Human Rights Policy, *Local Rule: Decentralisation and Human Rights* (Vernier, Switzerland, 2002).

62 International Council on Human Rights Policy, *Local Rule*, p. 20; Naila Kabeer, *Can the MDGs Provide a Pathway to Social Justice? The Challenge of Intersecting Inequalities* (New York, UNDP, 2010).

63 A number of international human rights mechanisms have recommended progressive tax policies and more effective tax collection as a means of generating resources to realize human rights (civil and political, and economic, social and cultural). See, for example, the report of the United Nations Special Rapporteur on extrajudicial and summary executions on his mission to Guatemala (A/HRC/4/20/Add.2); the concluding observations of the Committee on Economic, Social and Cultural Rights on China: Hong Kong Special Administrative Region (E/C.12/1/Add.58, para. 14); the concluding observations of the Committee on the Rights of the Child on Guatemala (CRC/C/GTM/CO/3-4, paras. 25 and 26); and the report of the United Nations Independent Expert on the question of human rights and extreme poverty (A/HRC/17/34). Also see, generally, Radhika Balakrishnan and others, *Maximum Available Resources & Human Rights: Analytical Report* (New Brunswick, New Jersey, Center for Women's Global Leadership, 2011).

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76 These obligations are set out in a range of international instruments, including the Charter of the United Nations, the Universal Declaration of Human Rights, article 2 (1) of the International Covenant on Economic, Social and Cultural Rights, article 4 of the Convention of the Rights of the Child, and article 32 of the Convention on the Rights of Persons with Disabilities. For example, according to article 2 (1) of the International Covenant, "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means…".

77 See A/HRC/15/WG.2/TF/2/Add.2; E/CN.4/2005/WG.18/TF/CRP.2; A/HRC/15/WG.2/TF/2/Add.1.

78 See note 4.

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87 Fons Coomans, "Application of the International Covenant on Economic Social and Cultural Rights in the framework of international organizations", in *Max Planck Yearbook of United Nations Law*, vol. 11, Armin von Bogdandy and Rüdiger Wolfrum, eds.

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88 See the final 2004 Berlin Conference report of the Committee on Accountability of International Organisations (1996–2004) of the International Law Association, available from www.ila-hq.org/en/committees/index.cfm/cid/9. Note that this report distinguishes three levels of accountability, reduced to two for present purposes.

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Annex

Accountability in decision-making: applying criteria to post-2015 goals, targets and indicators

Introduction

Global goals, targets and indicators can serve as powerful incentives. With appropriate rigour and specificity (as to *who* is accountable), and backed by accessible and effective accountability mechanisms at all levels, a post-2015 framework of goals, targets and indicators can strengthen accountability for development outcomes.

This annex contains two examples of how the table of suggested criteria for post-2015 goals, targets and indicators (table 1, chap. V) can help to appraise and prioritize candidate goals, targets and indicators for the post-2015 development agenda. The meaning of these proposed criteria is discussed in chapter V and summarized more systematically in the glossary below.[a]

"Political participation" and "personal security" have been selected here for analysis. They capture important dimensions of human rights (and, in particular, civil and political rights) that were omitted from the Millennium Development Goals. They are vital for human development and are the subject of increasingly strong claims at the grass-roots level worldwide. Further justification for these two themes is given below against the criteria applicable to goals and targets in table 1, in narrative form.

Two candidate indicators are tested below for their correspondence with the "criteria for statistical indicators" in table 1: "unregistered birth rate" (for a "political participation" goal

area and a "right to vote" target area), and "proportion of women who have experienced physical, sexual or psychological violence during the past year [lifetime]" (for a "personal security" goal area, and a "security from crime and protection from arbitrary deprivation of life" target area). These assessments are expressed in tabulated form.

It should be emphasized that the purpose of appraising these candidate goal/target areas and indicators against the table 1 criteria here is purely *illustrative*. The intention is to communicate the logic and relevance of the criteria by applying them to concrete cases. The intention is not necessarily to defend specific goal/target areas or indicators at this point. Prioritizing post-2015 goals, targets and indicators cannot be reduced to a technocratic "tick the box" exercise for particular variables in isolation. Applying any set of criteria, however well crafted, inevitably involves subjective value judgements, and does not relieve decision makers from the difficult choices and trade-offs involved in distilling a small and manageable set of post-2015 commitments from a large list of global aspirations.

Nevertheless, the hope is that the illustrative application of the criteria below will serve to communicate how those (or similar) criteria can help to inform and legitimize the difficult choices and trade-offs, while subjecting the choice itself to transparent, reasoned and public justification. These are the minimum requirements for accountability for all those involved in post-2015 deliberations.

Example: justifying "political participation" and "personal security" as potential goal/target areas

"Political participation" and "personal security" are universally relevant. The explicit inclusion of targets and indicators for these candidate goal areas in a post-2015 framework would help to construct a powerful, balanced and holistic post-2015 development narrative with the rights of the human being at its centre. The resulting narrative would communicate the important idea that "freedom from fear" is as vital as "freedom from want", and that these freedoms are inextricably linked in practice.

With the exception of indicator 3.3 ("proportion of seats held by women in parliament"), civil and political rights were excluded from the Millennium Development Goals. Yet the Goals are not a proxy for civil and political rights, as the Arab Spring has confirmed. These rights are currently under serious threat in many countries and therefore warrant a boost through their explicit inclusion within the post-2015 framework, even though respecting and ensuring these rights does not depend on international cooperation.

The right to participate in public affairs is an internationally recognized human right, in instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as regional human rights instruments. Specific guarantees for the participation of women, children and persons with disabilities are contained in the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, respectively. International instruments on the rights of indigenous peoples also include specific provisions on meaningful participation and consultation in development processes affecting their lands, livelihoods and rights. Personal security rights (including the right to life and bodily integrity, and eliminating violence against women) are also strongly grounded in international human rights instruments.

Political participation is important for development,[b] and for being able to claim social and economic rights and hold national authorities and other duty bearers accountable. Personal security rights are similarly important.[c] Violence against women is a universal problem that is not only morally repugnant but also has large economic costs. It also reinforces women's social and economic subordination and seriously impedes their agency and participation in development processes.

Political participation, the right to vote and personal security have psychological and moral salience in all regions of the world.[d] These rights can easily be communicated and are an important part of the *ends* that development should be seeking to promote.[e] Including these rights explicitly in a post-2015 framework would be equality-enhancing: the poorest are often also voiceless and face high risks of violations of personal security rights, and human rights treaties require the dismantling of discrimination.

Justifications for illustrative candidate indicators

One indicator is considered against each of the above themes: "unregistered birth rate" (for a "political participation" goal area and a "right to vote" target area), and "proportion of women who have experienced physical, sexual or psychological violence during the past year [lifetime]" (for a "personal security" goal area, and a "security from crime, and protection from arbitrary deprivation of life" target area). The candidate indicators are assessed in tabular form, below, against the "statistical indicators" criteria in table 1.

The candidate indicators are assessed for the strength of their compliance against the listed criteria, on a scale of "weak – moderate – strong". The only criterion *not* considered below is the "measure effort as well as outcomes", given that this applies to a proposed set of post-2015 indicators as a whole, rather than any particular indicator in isolation. As with the Millennium Development Goals, most indicators should focus on outcomes, expressing desired ends of development. However, a certain number of input or "process" indicators are also needed for the purposes of accountability, to help explain patterns of progress or regression

(as the case may be) in outcomes. Hence, whether or not a particular indicator focuses on efforts (inputs) or outcomes should not be seen as a disqualifying factor at the outset.

For this illustrative exercise, it is assumed that all criteria have an equal weighting. However, in further developing and applying these (or similar) criteria, one might envisage differential weighting for different criteria and possibly also an assessment of compliance through ordinal scales (for example, by allocating one point for "weak" compliance, two points for "weak to moderate" compliance and so on, with "strong" compliance attracting five points). Quantification is of course no panacea, and should not occlude the inherently subjective and value-laden nature of such ranking exercises. Nevertheless, when subjected to appropriate standards of transparency, validation and reasoned justification, the ranking of various indicators along scales of this kind may be a relevant (even if not determinant) factor in making the hard

choices and trade-offs involved in the post-2015 prioritization exercise.

As indicated earlier, it was not the intention of this exercise to appraise (or exclude) any particular indicator in the abstract. The objective is to communicate the logic and practical utility of the table 1 criteria. Nevertheless, in applying the criteria in the manner tabulated below and assuming an equal weighting between them, it might tentatively be concluded that "unregistered birth rate" is a reasonably strong candidate indicator for a "political participation (right to vote)" goal/target area. "Proportion of women who have experienced physical, sexual or psychological violence during the past year [lifetime]" is possibly an even stronger indicator for the "personal security (security from crime, protection against arbitrary deprivation of life)" goal/target area. However, more definitive and reliable conclusions must await the outcome of more systematic, rigorous and participatory evaluation, compared against various other candidate indicators.

Illustrative theme 1: political participation

Sub-theme: right to vote

Indicator: Unregistered birth rate

Definition: The indicator refers to the number of unregistered births per 100,000 population in a given time period.

| Criteria		Weighting
1. Relevance of indicator to theme	• Birth registration is a human right • Important as a means for providing an official record of the existence of a person and the recognition of that individual as a person before the law • Unregistered individuals have limited or no access to services and enjoyment of all the rights to which they are entitled, including the right to political participation • Persons without birth registration may be vulnerable to statelessness and associated lack of protection • Birth registration, per se, does not guarantee the ability to participate in political affairs owing to other reasonable requirements (e.g., a minimum age limit for the right to vote)	Weak to moderate
2. Salience/ communicability	• Relatively simple to communicate • More morally salient by being framed in the negative • But cognitive salience may not be apparent unless one understands the problem of birth registration	Moderate
3. Data availability and comparability	• Official registration figures, household surveys and population censuses can be used to estimate the global situation of birth registration • Relatively well-established data sets, although quality of administrative data varies considerably • Countries without effective vital registration systems may use household survey data from DHS and MICS • Already a rise in global efforts to better measure birth registration	Moderate to strong
4. Robustness	• Highly robust except for external verifiability in some countries	Strong
5. Action-oriented	• Only action-oriented for promoting birth registration • Not clear how it will motivate other aspects of the right to political participation in practice	Weak
6. Universally applicable	• Problem very pronounced in low-income countries and a significant number of middle-income countries • Not a problem in high-income countries	Moderate
7. Consistency with international law	• Birth registration is a fundamental human right under international treaties and an important foundation for the realization of other human rights	Strong
8. Equality- sensitivity	• Disaggregation of this indicator by the different prohibited grounds of discrimination will be useful in assessing inequalities in birth registration • Universal birth registration can be an effective instrument to ensure equality in access to services and intervention, especially for children	Strong
9. Absence of perverse incentives	• Could distract attention from contextually more pressing aspects of political participation • Registering births can be motivated by security and control rather than legal identity. Possibly dangerous for some political groups or non-nationals	Moderate

Illustrative theme 2: personal security

Sub-themes: security from crime, protection against arbitrary deprivation of life

Indicator: Proportion of women who have experienced physical, sexual or psychological violence during the past year [lifetime], by severity of violence, relationship to the perpetrator and frequency

Definition: This indicator refers to the number of women aged 15 years and over subjected to physical, sexual or psychological violence over the total number of women aged 15 years and over.[f]

Criteria		Weighting
1. Relevance of indicator to theme	• Reflects the State's effort to take preventive measures against gender-based violence • Violence against women puts their health and security at risk, and impairs their ability to participate in family life and public life on an equal footing with men • By tracking the number of cases of violence against women, the State is taking a critical first step to overcome all forms of gender-based violence, whether by public or private action	Moderate to strong
2. Salience/ communicability	• Simple to communicate, with strong moral salience	Strong
3. Data availability and comparability	• The main sources of data are surveys and administrative records, especially law enforcement and health agencies (police, domestic security forces, courts, prison services, women centres, clinics and hospitals) • A separate, dedicated statistical survey on violence against women developed within the national statistical system is recommended for collecting accurate and reliable statistics on this phenomenon. It is also possible to use a module attached to some other statistical survey as an alternative, if the first option is not feasible • Criteria, methods, definitions (e.g., severity of violence, age, and categories of perpetrators) and availability of data vary between countries. This could be improved by strengthening the capacities of national statistical offices to conduct a dedicated and worldwide common standardized survey and to improve standardized collection of administrative data	Weak to moderate
4. Robustness, reliability, validity	• Quality of data varies considerably between countries • Underreporting is most likely in those countries with the greatest problem • Extent of external verification varies between countries: likely to be weakest in countries with greatest problems	Weak to moderate
5. Action-oriented	• May produce more research and debate on causes of violence • May produce more intervention research, to understand what works to prevent violence against women • May trigger State to adopt measures to overcome violence against women, including effective legal measures, preventive measures (e.g., education and awareness programmes), protective measures (e.g., counselling, rehabilitation and support) and remedies	Strong
6. Universally applicable	• Violence against women occurs in low-income, middle-income and high-income countries	Strong
7. Consistency with international law	• States have an obligation under international human rights law to prevent, protect against and punish violence against women whether perpetrated by private or public actors	Strong

Criteria		Weighting
8. Equality-sensitivity	• Violence against women is a form of discrimination that seriously inhibits women's ability to enjoy the full range of rights and freedoms on the basis of equality with men	Strong
9. Absence of perverse incentives	• Authorities may discourage reporting to administrative sources • Data collection may jeopardize the safety of women. The WHO ethical and safety guidelines for researching violence against women should guide all data collection. Confidentiality, informed consent and respect of human rights should also be ensured.	Moderate

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Glossary
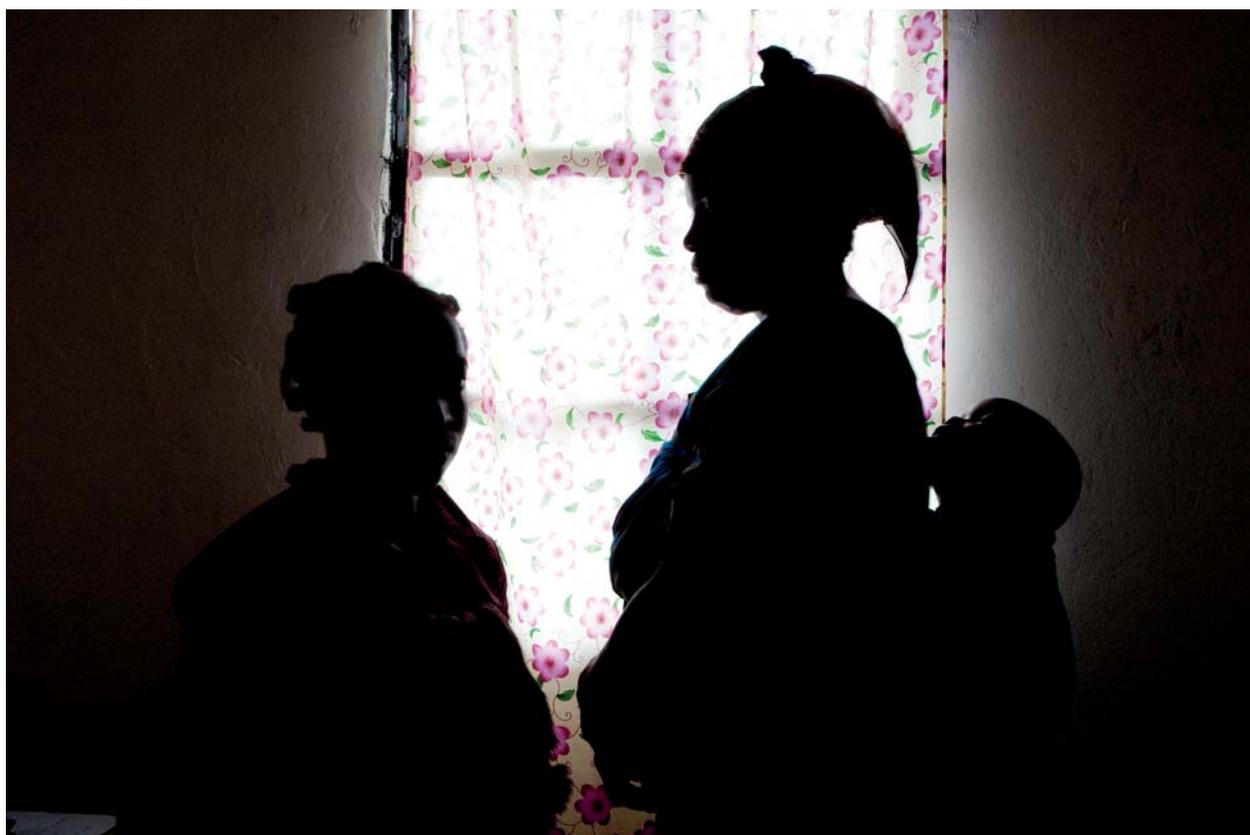
Criteria for goals and targets

▶ **Global applicability**: consistent with the "Rio+20" criteria for sustainable development goals, goals and targets that are relevant and have implications for action in all countries should be prioritized. Global goals may have *complementary* commitments, with different targets and indicators for different countries (for example, a global health goal could require all countries to ensure universal access to HIV/AIDS treatment, and a subset of countries to refrain from imposing "TRIPS plus" intellectual property protections on antiretroviral medications). Alternatively, global goals could have *graduated* commitments, setting higher standards depending on a given country's starting point and capacities. Global goals and targets should also be tailored or supplemented as needed to national and subnational conditions, starting points, priorities and capacities.

▶ **Balanced agenda**: "Rio+20" criterion. Freedom from fear is as important as freedom from want.

▶ **Boosting effect**: post-2015 goals should prioritize areas where international commitment is most needed (including those that the Millennium Development Goals may unwittingly have crowded out) and where collaborative action could be useful.

▶ **Focus on ends, rather than means, of development**: this proposed criterion applies particularly to new goals. A predominant focus on "ends" (rather than "means", which are often context-specific) can help in giving form to a coherent and succinct post-2015 development vision. Human rights have already been agreed as higher-order legal obligations and policy objectives, embodied in a system of universally ratified treaties. Development should advance human rights. Hence, where a given issue has the solemn status as a protected interest within an international human rights treaty, this should enhance its claim for inclusion in the post-2015 development agenda.

▶ **Equality focus**: the post-2015 agenda should focus on promoting equality within and between countries. Data should be disaggregated in order to reveal and help analyse patterns of discrimination and exclusion between population groups.

▶ **Democratic legitimacy**: post-2015 priorities should draw from and reflect individuals' and communities' concerns, expressed through participatory processes.

▶ **Consistency with international law**: "Rio+20" criterion. All United Nations Member States have ratified at least one of the core nine human rights treaties. (Ninety per cent of countries have ratified four or more, covering civil, cultural, economic, political and social rights.) New post-2015 commitments should draw upon and strengthen—and not contradict or undermine—these existing legal obligations.

▶ **Communicability, clarity and simplicity**: "Rio+20" criterion.

▶ **Cognitive or moral salience**: psychological evidence shows that facts and data that are easy to understand are associated with a feeling of familiarity, and that familiarity creates a ring of truth (even when the underlying facts are complex). People who cannot understand a target are unlikely to support it. There is also evidence from moral psychology that people respond more viscerally to moral wrongs than mere utilitarian calculations. This evidence supports the framing of new global goals and targets (and, to the extent possible, also indicators) in simple and powerful terms that embrace negative ("do no harm", for example, "remove harmful trade barriers" or "eliminate violence against women") as well as positive duties ("achieve the 0.7% GDP target for ODA"). Post-2015 proposals relating to voice, democratic participation, eliminating violence against women and promoting justice enjoy strong political and cognitive salience.

▶ **Aspirational goals**: "Rio+20" criterion. Goals should inspire and constitute a powerful normative vision. Targets and indicators,

on the other hand, are incentivizing and accountability devices, and should be ambitious but achievable and monitorable.

▶ **Limited in number:** "Rio+20" criterion. The post-2015 agenda should not be allowed to collapse under its own weight. Hence, the need for clear selection criteria.

▶ **Action orientation:** "Rio+20" criterion. Post-2015 commitments should be policy-relevant and provide standards for active monitoring. Global goals and targets—relevant to and obliging all countries even if responsibilities may be differentiated—should be tailored or supplemented as needed to national and subnational conditions, starting points, priorities and capacities.

Criteria for statistical indicators

A number of statistical criteria for the Millennium Development Goals' indicators were determined in 2001 by the Inter-Agency and Expert Group (relevance, robustness, clarity, comparability, data availability, feasibility and alignment with international standards). These should be (largely) affirmed for post-2015 purposes, with consideration given to the following amendments:

▶ **Relevance:** the indicator measures what it purports to measure.

▶ **Data availability:** this criterion should be understood in a way that explicitly encourages the collection of new data. The Millennium Development Goals encouraged improvements in statistical methods and data collection, and the post-2015 agenda should be positioned as an opportunity to do the same.

▶ **Robustness, reliability, validity:** robustness requires reliable and valid data. Recorded observations should be consistent over space and time, and represent an accurate reflection of the reality that a measuring instrument is trying to capture. While cross-country comparability is important, certain indicators may be developed on a national basis according to certain criteria where comparison is not possible. Objectivity is important. However, it should not be automatically assumed that data sets that rely on expert judgement are less reliable

than household surveys or administrative data, although there can be questions about validity if they are based on ad hoc reporting of events. Systemic error can be reduced through various methods such as repetition, using or checking with complementary indicators and testing the measurement methods in different conditions.

▶ **Externally verifiable and amenable to audit:** measurement should not be seen as a purely technocratic exercise of data extraction. Participation and the potential for audit (especially by population groups suffering discrimination) are important objectives in and of themselves.

▶ **Consistency with international law:** "Rio+20" criterion for new goals. In line with the proposed criterion for new goals and targets, above, new post-2015 indicators should draw upon and reinforce Member States' existing human rights treaty obligations. New indicators can refer to these obligations, ensuring that accountability processes for post-2015 commitments and international human rights treaty commitments reinforce each other. The OHCHR indicators[g] provide an important reference in this regard.

▶ **Measure effort as well as outcomes:** the Millennium Development Goals were mainly outcome measures. Any new set of global targets should include indicators of national capacity and resource constraints, to avoid a one-size-fits-all metric (a problem with the Millennium Development Goals). Human rights treaties contain obligations of *conduct* as well as *result*. "Process" indicators (designed to measure fiscal and policy effort, reflecting human rights obligations of *conduct* as distinct from *result*) should be developed where consensus exists that the indicator is necessary, where international law provides a basis for it, where outcome indicators might be less robust for a given variable, and to aid in interpreting outcomes. "Structural" (or commitment) indicators, such as ratification of international human rights treaties compiled by OHCHR and dates of adoption of specific legal and policy frameworks, could be quantified and may help in integrating human rights and governance priorities more effectively in international as well as national development agendas.

► **Absence of perverse incentives:** the selection of indicators for the Millennium Development Goals had perverse effects on policy in certain cases. For example, target 7.D, stemming from the "Cities Without Slums" initiative of the Cities Alliance (reflected in para. 19 of the Millennium Declaration), has reportedly led to slum clearances and forced evictions in certain countries. The focus on counting water and sanitation infrastructure in target 7.C may have obscured the pressing problem of poor water quality. Indicator 5.1 (maternal mortality ratio, for target 5.A) is a notoriously unreliable indicator and lacks policy relevance, compared to the process indicator of access to emergency obstetric care. The structure of post-2015 indicators should take these kinds of risks into account as well as how they may be mitigated (for example, by including complementary indicators).

[a] The definitions and the "birth registration" example were adapted from Malcolm Langford, "The art of the impossible".

[b] UNDP, *Human Development Report 2002: Deepening Democracy in a Fragmented World* (New York, Oxford University Press, 2002).

[c] World Bank, *World Development Report 2011: Conflict, Security, and Development* (Washington, D.C., 2011).

[d] World Values Survey; World Bank, *Voices of the Poor: Crying Out for Change* (Oxford University Press, 2000).

[e] Sen, *Development as Freedom*.

[f] For more information, see the reports of the United Nations Statistical Commission (ESA/STAT/AC.193/1) and UN Women (EGM/PVAWG/INF.9).

[g] OHCHR, *Human Rights Indicators*.

Shortfalls have occurred not because the goals are unreachable, or because time is too short. We are off course because of unmet commitments, inadequate resources and a lack of focus and accountability.

Ban Ki-moon
United Nations Secretary-General

We treasured what we measured—and perhaps that was the wrong way round. It seems to me we should measure what we treasure.

Navi Pillay
United Nations High Commissioner for Human Rights

This publication focuses on the question of accountability, understood from a human rights perspective. It starts from the premise that two key weaknesses have undermined the effectiveness of the current Millennium Development Goal framework in helping to fulfil the rights and aspirations of those living in poverty. The first is that neither the Goals nor the plans for implementing them have been adequately framed in human rights terms. This has meant that States' pre-existing human rights commitments have been overlooked and undercut in both the design and the delivery of the Goals. A second related weakness is that of accountability. The Goals represent perhaps the most serious global commitment ever made to eradicating the scourge of poverty. In practice, however, robust mechanisms have not been put in place to hold States and others to account for what they have done to fulfil these pledges and to answer to the millions of people who continue to suffer avoidable deprivation as a consequence. This publication will be of interest to Member States, policymakers, development practitioners, human rights and civil society organizations and all those striving for a more just and sustainable global development agenda.