

## A Human Rights-Based Post 2015 Framework

### Why is a Human Rights-Based Approach (HRBA) important to the Post-2015 framework and what difference does it make?

Human rights are a fundamental pillar of the United Nations and must under no circumstance be traded off. The post-2015 agenda must put human rights at the core and adopt a human rights-based approach to sustainable development. Anchoring the post-2015 agenda in human rights requires that the key human rights principles are at the foundation of the agenda, that the post-2015 framework is framed using human rights language, and that it explicitly states as key objective to comprehensively support and realize human rights, taking into consideration their universality, indivisibility and interdependence.

The post-2015 framework must at the very least uphold the pre-eminence of existing human rights legal norms, standards and political commitments to which governments have already voluntarily agreed. State obligations to respect, protect and fulfil human rights should be embodied in the framework. International human rights, environmental and humanitarian law, the Millennium Declaration, as well as related international consensus documents agreed in Rio, Vienna, Cairo, Beijing, Monterrey and Copenhagen and their follow-up agreements must form its non-negotiable legal and normative base.

Duty-bearers must uphold their legal obligation to fulfill the minimum essential levels of economic, social and cultural rights, without regression. This would imply a focus on universal or “zero” targets such as the provision of comprehensive social protection floors, universal health coverage, minimum food and nutrition security guarantees, inclusive education for all or any floor below which no one anywhere will be allowed to fall. A human rights-based approach also implies that targets in these areas should pay special attention to the most marginalized groups in society, -such as children and youth, women, the elderly, people with disabilities or indigenous people- in order to ensure that they reach these minimum floors.

A human rights-based approach to sustainable development has four main implications.

- First, it takes us from a model of charity to one of justice, based on the inherent dignity of people as human rights-holders, and on the responsibilities of domestic governments as primary duty-bearers, and on the shared global responsibilities of all actors<sup>1</sup>, including international institutions and the private sector.
- Second, in practical terms, it can serve as a tool to empower and enable people to monitor and hold all actors to account for their conduct and to seek redress through domestic and international mechanisms.
- Third, it offers a real benchmark to measure progress against: the degree to which each person can access their inherent human rights and enjoy freedom from both want and fear, without discrimination on any grounds.
- Fourth, it serves as an instrument to help remove the structural obstacles to sustainable, inclusive and just progress. A human rights-based approach which understands human rights as indivisible can ensure that the needs of the most vulnerable are addressed and that no one is left behind.

In regards to Human rights-based Approach in the post-2015 framework, the following elements must be specifically addressed: accountability and transparency, empowerment and participation, equality and non-discrimination, and the right to development.

## ACCOUNTABILITY AND TRANSPARENCY

Meaningful accountability mechanisms to ensure human rights accountability of all actors at all levels are a must. There cannot be accountability without human rights. Lofty aspirations for a post-2015 agenda are doomed to fail if the appropriate people-led systems of monitoring and human rights accountability are not built into the very DNA of the framework, with clear and time-bound commitments for all relevant actors. While States must remain the primary duty-holder in realizing people's rights, all actors, including third-party states, the private sector and international financial institutions should be made responsible and accountable for achieving and not undermining global goals. Integrating substantive human rights criteria into assessments of progress towards the future goals and targets implies monitoring the policy and budgetary efforts of governments, third countries, the private sector and international institutions, alongside other outcomes.

Any post-2015 monitoring mechanism should complement and reinforce the Universal Periodic Review process for all states. A framework for ensuring accountability would benefit from constructive interaction with the existing human rights protection regime, as well as other relevant accountability mechanisms. In this context, we call for an accountability framework with binding commitments, supported by effective monitoring and enforcement mechanisms, to be agreed at the global level.

National, regional and local mechanisms of accountability, such as judiciaries, parliaments, national human rights institutions, social audits, scorecards and other participatory tools can all be harnessed by regional and international human rights mechanisms such as the treaty bodies and the Universal Periodic Review mechanism, so as to ensure the implementation of the post-2015 commitments. The post-2015 agenda is well-placed to encourage governments to improve access to justice for people currently living in poverty, by implementing monitoring measures to eradicate existing barriers.

### ***Holding the private sector to account***

The post-2015 framework must reflect the current international consensus that governments have a duty to protect human rights through the proper oversight and regulation of private actors -especially

of business and private financial actors in order to guarantee in practice that they respect human rights and the environment, including in their cross-border activities. At the very least, no government should allow their territory to be used for illegal or criminal activities elsewhere, such as tax evasion, depositing assets obtained through corruption, environmental crimes or involvement in human rights violations, no matter the perpetrator. States must also take the necessary measures to ensure that non-state actors under their jurisdiction do not nullify or impair the enjoyment of human rights abroad, thus recognising the fact that the human rights obligations of States go beyond their own borders. Extraterritorial obligations must be respected, realizing the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011)<sup>2</sup>. This can be done via administrative, legislative, investigative or adjudicatory measures.

### ***Removing structural barriers at the global level***

A genuine and balanced global partnership would enable people and institutions to monitor the shared global responsibilities of all actors and to eliminate rather than perpetuate the structural drivers of inequality, poverty and ecological degradation at the global level. To be good partners in a global partnership, governments, business and international institutions must assess the social, environmental and human rights impacts of their policies and agreements beyond their borders. This means assessing and enforcing extra-territorial obligations by having accountability mechanisms in areas such as corporate accountability, environment, trade, agriculture, energy, investment, aid, tax, migration, intellectual property, debt, weapons trade and military cooperation, monetary policies and financial regulation. Existing human rights norms can provide a common set of standards and a useful yardstick to assess policy coherence for sustainable development.

## EMPOWERMENT AND PARTICIPATION

A successful sustainable development based on human rights must be based on the perspectives of people living in poverty and vulnerability, and ensure full participation at all levels. Along with economic, social, cultural and environmental rights, the post-2015 framework must include commitments to protect civil and political rights such as the rights to freedom of association, expression, assembly and political participation and access to information in order to

ensure an enabling environment for an empowered population and a strong civil society.

Transparency and genuine participation in decision-making of people, especially those living in poverty and vulnerability, should cover all levels, throughout all policies including budget, financial, tax policies and natural resource management. Access to information, meaningful and effective participation and access to justice are not only fundamental human rights but also critical requisites in the design, implementation and monitoring of an effective and responsive post-2015 framework.

In order to ensure participation of all society, extra efforts must be made to include the most marginalized and vulnerable groups such as women, children and youth, the elderly, persons with disabilities, migrants and indigenous peoples. One way of doing this could be through social accountability approaches that enable people to rate the services they use against governments' standards, commitments and obligations using community-generated indicators.

Several provisions of human rights rules and standards aim at eliminating discrimination on the grounds of race, disability, migrant or indigenous status, age, sexual orientation, gender identity, etc. These provisions should form the basis to enable the most excluded groups to participate in society. In this context it is essential that states actively support the empowerment of the most marginalized in society and that they adopt a participatory approach. The mere organisation of consultations or other participatory mechanisms will not suffice as long as governments can not guarantee that all society - including the most marginalised and commonly discriminated against- are able to meaningfully and effectively participate in such decision-making processes, from planning to monitoring.

## **EQUALITY AND NON-DISCRIMINATION**

### ***From discrimination to well-being***

Equality is an essential principle in the Human Rights-Based Approach. Governments have a particular obligation under human rights law to protect the rights of the excluded and most marginalized, and to take additional measures to ensure that they enjoy their rights on an equal basis with others.

Current austerity measures undermining public services and social spending often translate into

violations of human rights obligations. Indeed, protecting decent work and reducing unfair wage disparities is a fundamental step towards reducing socio-economic inequalities and ensuring well-being. As is reforming tax and fiscal policies, maintaining or building systems of progressive and fair taxation (including international taxation via an international financial transaction tax), and increasing fiscal spending to retain a good level of public services.

The timely collection and disaggregation of data is essential to identify, make visible and respond to inequalities and violations of human rights and to increase accountability. At the national level, data should be collected and disaggregated based on at least 7 factors: gender, age, disability, rural-urban split, minority status, social status and lowest income quintile. In addition, data should also be disaggregated based on country-relevant factors as defined by rights-holders.

### ***Realizing women's and girls' rights***

Any successful sustainable development based on human rights must address a number of issues that are crucial for the realization of the rights of women and girls. These include commitments to combating gender-based violence, guaranteeing sexual and reproductive health and rights, ensuring women's and girls' rights to and control over land, property and productive resources and their economic independence, recognizing the care economy and ensuring women's and girls' rights to social protection and the equal distribution of paid and unpaid work. Their right to participation and influence in decision-making at all levels are critical, not only to realize women's and girls' human rights and to achieve gender equality, but to enable women's and girls' full and active participation in economic, political and social life.

## **THE RIGHT TO DEVELOPMENT**

Adopting a HRBA is only part of the task. Further work needs to be done to realize the link between sustainable development and the right to development. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be

fully realized.” (Article 1.1, Declaration on the Right to Development).

The best way to ensure the right to development is to come to a common understanding and compact of a binding nature. To operationalize the Convention on the Right to Development, many actors support the idea of initiating a drafting of a Framework Convention on the Right to Development<sup>3</sup>.

The realization of the right to development must take place at all levels, from the local to the global level and would require tackling inequalities in the international financial system, greater participation of developing countries in global decision-making on economic policy, and promoting a fairer trade regime. At the same time it requires suitable domestic conditions in developing countries such as good governance, democracy and responsible economic management.

## ABOUT THIS DOCUMENT

This briefing paper is issued on behalf of the CONCORD-Beyond 2015 European Task Force (ETF), a regional hub of the international Beyond2015 campaign and a working structure of CONCORD - the European NGO Confederation for Relief and Development. However, this document cannot possibly reflect the full range of opinions of the individual participating organisations.

The paper was drafted by a subgroup within the ETF with the purpose of laying out some key elements of a Human Rights-Based Approach in relation to the Post-2015 Agenda and to strengthen the capacities of the ETF on HRBA.

### Notes

1. *With regard to economic and social rights, these responsibilities are set down by the so-called ‘Extra-territorial obligations’ (ETOs), which underlying principles have been defined by the so-called ‘Maastricht Principles’.*
2. *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (2001); [http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx\\_drblob\\_pi1\[downloadUid\]=23](http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1[downloadUid]=23) (2014-09-15)*
3. *Koen de Feyter (2013), Towards a Framework Convention on the Right to Development, Friedrich Ebert Stiftung*