



WHO WILL BE ACCOUNTABLE?

Human Rights and the Post-2015 Development Agenda

Summary



UNITED NATIONS
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CENTER FOR ECONOMIC AND SOCIAL RIGHTS
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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

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 their 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.

Navi Pillay, United Nations High Commissioner for Human Rights

Note

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Introduction: Human rights accountability in the post-2015 framework

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 to which both developed and developing countries would be held accountable. The Goals fostered understanding of poverty as a multidimensional problem and were intended to prioritize and focus development efforts and resources. By setting quantifiable, time-bound targets around a range of indicators, they instilled a shared sense of urgency and provided a statistical basis for reliably tracking progress across countries. The Goals, thereby, held promise as an instrument of accountability and an incentive to action.

However, the experience of the past 12 years indicates that their pledge of accountability has been more rhetorical than real. Accountability has been undermined by a lack of clarity about *who* should be responsible to *whom* and *for what*. Governments—whether in developing or industrialized countries—have seldom been challenged when they blame lack of progress on factors which they claim are beyond their control. While the Millennium

Declaration affirmed the “shared responsibility” of all States, international institutions, the private sector and civil society, the Goals did not articulate clearly differentiated responsibilities for fulfilling the commitments. Neither did they reflect the pre-existing obligations that States and other duty bearers have under international human rights standards. A particular challenge has been holding wealthier States to account for the commitments made under Goal 8, framed in less precise and measurable terms than other Goals. Furthermore, the weakness of the Goals’ monitoring and reporting mechanisms has rendered these declaratory political commitments difficult to enforce.

The world is weary of broken promises. Future commitments will have little credibility—and are unlikely to be implemented—unless they are backed by effective accountability mechanisms at every level and translated into tangible results in people’s lives. Aligning goals more explicitly and coherently with the binding obligations States already have under international human rights treaties is not only a legal imperative. It can also strengthen incentives to improve policymaking and implementation. Human rights accountability can therefore help to ensure that the new commitments agreed in 2015 are honoured in practice.

The process for reviewing and replacing the Goals in 2015 provides an unmissable opportunity to address these accountability gaps and to ensure that the next framework of sustainable development commitments does not result in a set of unfulfilled promises. A resounding call for human rights to be made an essential foundation for the post-2015 framework is reverberating across civil society and social movements worldwide. This call has been reflected in the outcome documents of the 2010 High-level Plenary Meeting of the General Assembly on the Millennium Development Goals, the 2012 United Nations Conference on Sustainable Development (“Rio+20”) and in the recommendations of the United Nations System Task Team on the Post-2015 United Nations Development Agenda, which proposed that the post-2015 framework should be grounded in the principles of human rights, equality and sustainability. The United Nations Secretary-General’s High-level Panel of Eminent Persons on the Post-2015 Development Agenda clearly heard this call; in May 2013 it published its report affirming that “new goals and targets need to be grounded in respect for universal human rights.”

In line with these recommendations, the post-2015 agenda must include a strong **accountability framework** anchored in human rights standards and reinforced by human rights mechanisms. This will mean aligning the post-2015 agenda with existing international (including treaty)

obligations across the spectrum of civil, cultural, economic, political and social rights, identifying clear rights holders and the corresponding responsibilities of all relevant duty bearers for each mandated action. It will mean establishing clear and measurable benchmarks and indicators for development goals, in line with key human rights standards and principles, that can be the basis of rigorous and regular monitoring. It will mean ensuring international, national and local mechanisms are in place, to ensure that relevant institutions are answerable for their commitments and subject to enforceability where delivery is failing. Such mechanisms include the monitoring and review procedures to be set up under the new framework, as well as existing political, administrative, judicial and quasi-judicial accountability mechanisms which can also ensure compliance with development and human rights commitments, particularly at the national level. And it will mean linking accountability assessments to existing international human rights mechanisms, like the United Nations treaty bodies, the special procedures and the universal periodic review. In the end, decision makers must ensure that any new international accountability mechanisms draw from and reinforce existing accountability arrangements, rather than detracting from them.



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What is accountability?

Accountability has three dimensions: it refers to the obligation of those in authority to take *responsibility* for their actions, to *answer* for them to those affected, and to be subject to some form of *enforceable* sanction if their conduct or explanation is found wanting. *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 to those affected by their decisions, to oversight bodies, and to the electorate and the public at large. *Enforceability* requires putting mechanisms in place that monitor the degree to which public officials and institutions comply with established standards, and ensure that appropriate corrective and remedial action is taken when this is not the case.

Accountability is a cornerstone of the human rights framework, itself a system of norms that govern the relationship between “duty bearers” in authority and “rights holders” affected by their actions. Efforts to increase accountability in the post-2015 framework can draw on human rights norms and mechanisms to strengthen the three dimensions of accountability.

First, human rights standards make it possible to delineate what States and others in the development process are *responsible* for. The core international human rights treaties ratified by the vast majority of States set out the specific steps that they are obliged to take in order to respect, protect and fulfil a range of human rights relevant to the substantive goals of development policy. If human development commitments are underpinned by these pre-existing human rights obligations, accountability for the goals becomes a matter of legal obligation, rather than of charity or discretion.

Second, anchoring development commitments in human rights standards can help create the conditions through which people can hold those in authority *answerable* for their actions. Guarantees of freedom of expression, information, assembly and association are particularly crucial for accountability, making it possible for people to meaningfully participate in decision-making processes, to challenge the actions of public officials and to exercise active citizenship.

Third, grounding development commitments in the human rights framework reinforces accountability by providing additional mechanisms through which people can *enforce* their rights and seek redress when these are violated as a result of a failure to fulfil development commitments. An array of national and international human rights mechanisms exist to assess the claims and grievances of those who have suffered unjust treatment, to determine responsibility through fair and transparent processes, and to provide appropriate remedies.

Accountability has a corrective function, making it possible to address individual or collective grievances, and sanction wrongdoing by the 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 mechanisms can help identify systemic failures that need to be overcome in order to make policymaking and service delivery more effective and responsive.

If the post-2015 development agenda is to serve as a more effective framework of accountability than its predecessor, it must clearly articulate the differentiated responsibilities of all actors in the development process. It must foster conditions in which those who exercise power are answerable to those whose lives they affect, against standards of behaviour which reflect their human rights obligations. It should also enable those living in poverty who have been deprived of their rights to access fair, transparent and effective mechanisms to enforce their claims and to obtain appropriate redress.



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Who is accountable?

The bond of accountability between State and citizen lies at the centre of an elaborate web of interrelated responsibilities. The post-2015 framework must outline the common but differentiated responsibilities of a wide range of actors with influence and responsibility towards development and human rights goals. These include national and local governments, third countries, business enterprises, private foundations, intergovernmental institutions, and multilateral development agencies and financial institutions.

Under international human rights law, States have a duty to respect, protect and fulfil the rights of those within their jurisdiction, as well as to 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. A vast number of national institutions (including within 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 State institutions are increasingly complex, owing to what has been termed the shift towards network governance. In the context of the Millennium Development Goals, weaknesses in the accountability of State institutions have stemmed from a wide range of factors, including bureaucratic fragmentation, lack of domestic policy coherence, weak tax administration and the decentralization of responsibilities for service delivery without commensurate resources and safeguards. These and other accountability gaps often stem from a lack of political will rather than a lack of resources.

The experience of the past decade has also highlighted how the capacity of individual States to respect, protect and fulfil their human rights obligations is shaped and constrained by a global political economy whose rules are set above and beyond the State. International and regional financial institutions, multilateral development banks, export credit agencies and non-State actors—including transnational corporations, credit rating agencies and private foundations—have played an increasingly influential role in shaping the development environment.

One of the most persistent accountability deficits in the current MDG framework has been the difficulty to hold industrialized countries to account for their commitments to the global partnership for development envisaged under Goal 8, and for the transnational human rights impact of their development, aid, trade, tax, finance 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 needs to address. The principles of the 1986 United Nations Declaration on the Right to Development should frame the international community's approach to these questions, together with human rights treaty law.

The post-2015 framework should build on the important progress made in developing systems of accountability applicable to the business sector, promoting adherence to the Guiding Principles on Business and Human Rights and addressing the weaknesses of voluntary and self-regulatory systems of corporate responsibility to date. The framework should prompt international financial institutions and other supranational bodies with an influential development role to assume and comply with their human rights responsibilities. 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.



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Accountability for what?

The Millennium Development Goals and targets fell short of international human rights standards in many respects. This inconsistency undermined their effectiveness as a vehicle for States and others to answer for their human rights obligations in the development sphere. The nine core United Nations human rights treaties, and the range of instruments that elaborate on their provisions, set out universal minimum requirements for a life with dignity for all. These standards, which States have pledged to uphold on ratifying, must be a key point of reference as a renewed set of development commitments is articulated. They should inform what States, and other actors above and beyond the State, are accountable for under the new framework. Aligning goals with human rights standards implies:

- ▶ *Accountability for efforts as well as outcomes*: States should be accountable not only for the development *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*: the overall framework of post-2015 goals should be balanced in its incorporation of human rights obligations across the range of civil, political, economic, social and cultural rights, as well as rights in relation to the environment.

As well as ensuring States respect human rights by refraining from direct or indirect interference, the new framework must hold States accountable for protecting human rights against harm by third parties, including regulating and sanctioning private companies which infringe them. It must also reflect States' positive obligations to take legislative, administrative, judicial, budgetary and other steps to create the conditions in which these rights can be fulfilled.

- ▶ *Accountability for pace of progress and prioritization*: States must answer for how they mobilize the *maximum available resources* to *progressively realize* economic, social and cultural rights as swiftly as possible, through domestic resources and international cooperation. States must guard against deliberate *retrogression* (backsliding), even in periods of economic downturn, and prioritize the fulfilment of minimum essential levels of these rights for all above all other policy objectives.
- ▶ *Accountability for meeting certain standards of services*: States are accountable for ensuring *social services meet certain criteria*. For example, health services should be sufficiently available, accessible (physically, economically and to all), acceptable (e.g., sensitive to cultural or gender differences) and of adequate quality. These criteria should be taken into account in framing post-2015 goals, targets and indicators.
- ▶ *Accountability for tackling inequality and discrimination*: States should be accountable for eliminating discriminatory laws, policies, programmes and expenditures which fuel development disparities. Commitments to tackle various forms of inequality under the new framework must be guided by the specific obligations contained in human rights standards combating discrimination on grounds such as gender, race, ethnicity, disability and indigenous status.
- ▶ *Accountability to those beyond borders*: the renewed development framework must recognize States' accountability for respecting, protecting and fulfilling human rights beyond their borders. They are required to engage in international cooperation (financial, technical and other) to help other States fulfil human rights, particularly economic and social rights, which are more dependent on resource availability and coherent international economic policies. They should also be accountable for the transnational human rights impact of their bilateral or multilateral policy measures.



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How can accountability be ensured?

There is widespread acknowledgement that the next generation of development goals should be backed by more effective mechanisms of accountability at the national and international levels. Accountability can be reinforced under the post-2015 framework by creating or strengthening specific mechanisms to monitor progress towards the agreed goals. But it can also be enhanced by ensuring that existing mechanisms of accountability, including administrative, legislative, judicial and human rights bodies, are more effectively engaged in reviewing efforts to meet these commitments, and provide accessible systems of grievance and redress to those whose rights are infringed in the development context.

Accountability is primarily ensured at the national level. Here, a range of institutions and mechanisms exist that can and have been used to hold decision makers answerable for their development commitments. These include political accountability mechanisms, such as parliamentary committees; administrative accountability mechanisms such as charters and codes of conduct for public servants or citizen consultation groups; independent oversight bodies, including human rights commissions and ombuds offices; and social accountability mechanisms, such as community-

based auditing. Best practices in each of these spheres, highlighted in the full publication, should be learned from and built on in the design of the accountability infrastructure under the post-2015 framework.

When individuals or communities are adversely affected by development-related policies, mechanisms should enable them to enforce their claim against those in authority and seek appropriate redress if their rights have been violated. Judicial mechanisms are key in this regard. Despite the obstacles that people living in poverty face in accessing justice through the courts, litigation can be an important avenue of accountability, whose function is preventive and transformational as well as corrective. Steps should be taken to lift the barriers preventing people living in poverty from accessing legal remedies, including providing access to legal assistance and ensuring that economic, social and cultural rights guarantees are enforceable in domestic law. Beyond the courts, other administrative mechanisms or independent oversight bodies may perform quasi-judicial functions, providing alternative dispute resolution procedures for human rights violations.

These different accountability mechanisms are not isolated in practice, but can mutually reinforce one another in a web or “ecosystem” of accountability. For example, litigation in defence of economic and social rights tends to be more effective when it is associated with political mobilization. While their functions and mandates vary, the different accountability mechanisms described above should all have human rights as their normative framework, monitoring adherence to the relevant standards underpinning the State’s development commitments, independently reviewing Government performance, and recommending measures for remedy, redress or other corrective action in cases of non-compliance. The ultimate objective is not merely to sanction those responsible for failing their responsibilities, but to create a culture of accountability that promotes continual institutional learning and improvement. Ultimately, human rights accountability should be integrated in all stages in the policy cycle, from initial planning, to budgeting, implementation, monitoring and evaluation, generating what has been described as a virtuous “circle of accountability”.

International accountability mechanisms generally have a supervisory or oversight role, rather than an enforcement function. Yet they can play an important role in fostering responsibility, for example by agreeing targets and benchmarks that can be applied domestically. They can also strengthen answerability, for example, by scrutinizing whether adequate national mechanisms of redress exist. They offer additional forums for raising and negotiating grievances, and are particularly helpful to groups whose opinions are disregarded by their own Governments. International human rights

mechanisms such as the universal periodic review of the United Nations Human Rights Council, the United Nations treaty-monitoring bodies and the special procedures and their regional counterparts, should be enabled to take more consistent account of monitoring and reporting processes for new global development goals.

As well as focusing on the conduct of national actors in their own countries, international accountability mechanisms also have a role to play in ensuring the accountability of those operating at the global level, including States cooperating internationally, international financial institutions, and non-State actors, which are playing an increasingly influential role in shaping the development environment. International mechanisms of global governance are much less developed, however, and appropriate institutions should also be created or adapted to address this shortcoming. With the relative importance of aid declining, it is even more important that institutions of global economic governance strive for greater coherence, nationally and globally, across different policy regimes relevant to development, including trade, investment, finance, tax and intellectual property. Human rights should be the baseline and metric for assessments of domestic and international policy coherence. A post-2015 agreement should contain explicit commitments from Member States on these matters.

Existing MDG-specific monitoring mechanisms have by and large been limited to a weak system of national, regional and global reporting, whose effectiveness has been undermined by its voluntary nature, the technocratic and non-participatory approach adopted in many countries, problems of data adequacy and the common failure to integrate MDG reporting into national policy-monitoring processes. More recently, however, several sector-specific MDG accountability mechanisms have been established. They create independent oversight bodies at national and international level, mandated to review the efforts of all relevant actors within, above and beyond the State in the light of their human rights responsibilities. Of particular note is the Commission on Information and Accountability for Women's and Children's Health set up to propose institutional arrangements for global reporting, oversight and accountability on maternal and child health goals. Such initiatives should be learned from, expanded and adapted as appropriate. Any new global review mechanism should explicitly refer to international human rights standards, and ensure effective civil society participation and high-level political accountability. The data generated by the post-2015 review mechanisms should feed systematically into international human rights reporting processes. Member States should streamline their post-2015 and international human rights reporting obligations, ensuring that these mutually reinforce one another.



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Towards accountability in the *post-2015* decision-making process

An agreed set of global development goals, targets and indicators, aligned with the existing human rights standards, can serve as a powerful incentive to redouble efforts to eradicate poverty and the human rights deprivation associated with it. Measurement is vital for accountability. The post-2015 agreement must include commitments to improve the collection and analysis of statistical data at global, national and local levels, including data needed to track whether development efforts are in line with human rights principles such as non-discrimination and progressive realization. Both qualitative and quantitative measurement methods will be needed. Statistical parameters should be seen as a servant rather than the master of people's legitimate aspirations for the post-2015 agenda. As the High Commissioner for Human Rights has stated, towards 2015, we should measure what we treasure, not treasure what we measure.

It is critical that the next generation of development goals should be developed through a meaningfully 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 marginalized. Clear objective criteria must also 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. At the “Rio+20” Conference in June 2012, United Nations Member States agreed on a set of criteria to guide decisions on any future sustainable development goals. The table below encapsulates the “Rio+20” criteria, while including other criteria drawn from the international human rights framework. Agreed criteria reflecting human rights standards can serve as a prioritization device for the many post-2015 proposals that are emerging through global and national consultations, and can build integrity, legitimacy and accountability into the post-2015 decision-making process itself. The proposed criteria are defined and discussed in more detail in the full publication, and illustrated with examples.

Proposed criteria for post-2015 goals, targets and indicators

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?

Tailoring post-2015 goals and targets to the national and subnational levels is critical for accountability. But agreed criteria are also needed to guide national and local tailoring if the accountability (and other) objectives of a post-2015 agenda are not to be undermined. The requirement to ensure consistency with international law, as emphasized by Member States at the “Rio+20” Conference, is particularly important. With this in mind, national tailoring 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, 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 (qualitative as well as quantitative), across the full range of human rights (civil, cultural, economic, political and social), to help monitor progress.

There is much more to be done. An ambitious new global deal is needed. Its ultimate objective should be to realize the full range of rights that all human beings should enjoy in order to live a life with dignity. Rather than undermining the accountability of United Nations Member States to their existing human rights commitments, as the current Goals did in many ways, the next generation of sustainable development goals must reinforce it. Doing so can help transform the renewed set of political commitments into a robust global social contract for our time.

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

About this publication

This joint publication by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Center for Economic and Social Rights (CESR), *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda*, 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.

The full publication is available at www.ohchr.org and www.cesr.org.



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