

High Level Panel recommendations fall short of the human rights litmus test

The Secretary-General's High-Level Panel of Eminent Persons on the Post-2015 Development Agenda delivered its report on May 30 amid much expectation. CESR welcomes the Panel's clear affirmation that the framework to replace the Millennium Development Goals in 2015 should be grounded in respect for universal human rights. However, the fragmented and inconsistent incorporation of human rights in its proposals, coupled with the prominence given to an outdated vision of market/business-led development, prevents the report from meeting its own stated aim of proposing a truly "transformative shift".

CESR urges the Secretary General and UN member states in their coming deliberations to incorporate human rights and accountability more thoroughly and meaningfully into the vision, purpose and content of the post-2015 agenda, as well as in its implementation framework.

There is much to be welcomed in the High Level Panel's report. The HLP heeds the widespread call for a universal framework of goals applicable to all people in all countries, with targets tailored to national realities and with mechanisms that promote accountability at every level. It calls for a revolution in data gathering and statistical systems, which is of particular significance for tracking disparities and the policy efforts needed to realize human rights. CESR particularly welcomes the Panel's affirmation that "new goals and targets need to be grounded in respect for universal human rights" (p.5), reflecting one of the most prominent demands emerging from worldwide civil society consultations over the last year. The human rights to food, education, water and sanitation, and sexual and reproductive rights, as well as the rights to freedom of expression, information and association are all referenced in the report, and recognized, along with access to justice, as central to accountable governance. Nevertheless, the Panel's rhetorical referencing of human rights does not carry through into the report's operative recommendations and proposals, which fall short of the type of comprehensive human rights-centered development agenda being [demanded the world over](#).

For the new framework of goals, targets and indicators to meet the human rights litmus test, it must fully reflect the fundamental human rights principles of universality, indivisibility, equality, participation, transparency and accountability. It must also reinforce the duty of states to guarantee at least minimum essential floors of rights enjoyment, to use the maximum of their

available resources to realize rights progressively for all, and to engage in international cooperation for this purpose.¹

CESR welcomes the Panel's conclusion that the post-2015 framework "is a universal agenda for which everyone must accept their responsibility". While affirming at certain points that the framework must be grounded in respect for universal human rights, this is undermined by the assertion that goals should "where possible, be in line with existing commitments". This is in clear disaccord with UN members states who agreed at Rio+20 that any new sustainable development framework should in all instances be "consistent with international law," including human rights, humanitarian and environmental legal standards.

Overall, the report exhibits a fragmented reading of human rights, at times reinforcing the outdated notion that civil and political freedoms are more "fundamental" than economic, social and cultural rights. In particular, the human rights to adequate health, to social protection and to decent work are undercut by their treatment as aspirational goals, whose fulfillment is contingent on national circumstances. While the report takes a welcome "zero target" approach in some areas, calling for an absolute end to hunger and extreme poverty by 2030, it is insufficiently ambitious in others, with its targets shying away from upholding the core human rights duty incumbent upon states to ensure universal minimum floors of healthcare and social protection.

Likewise, rather than a universal human right, decent work (including workers' protections and the right to work) is referred to pejoratively as a "one-size-fits-all" solution, to be substituted by a weakened and dangerously vague floor of "good jobs." As well as undercutting international standards, this approach is also far less ambitious than the ILO/WHO Social Protection Floor Initiative recommendations, endorsed in the outcome document of the MDG Review Summit in 2010. Even more worrying, the report's insistence on "flexibly regulated labor markets" is an open invitation for further weakening of under-protected labor rights. In view of the breadth and depth of setbacks in labor protections over the past 20 years, a human rights vision post-2015 entails smart but rigorous regulation, and a zero tolerance policy for labor rights abuses equally as resolute as the zero tolerance shown for extreme poverty, hunger and corruption.

Global consultations yielded a resounding call for the panel to address social and economic inequalities, and the systemic discrimination giving rise to them, in a far-reaching and cross-cutting way. The panel makes the welcome proposal that any new targets should only be considered achieved if they are met for all relevant income and social groups. However, given the widespread role rising income inequality has played in causing economic instability and impeding progress on extreme poverty, it is profoundly disappointing that the report argues against including commitments to reduce income inequality. Furthermore, gender equality, although more comprehensively addressed than under the current MDGs, is still framed in a reductive and instrumental way, and the proposed targets dimly reflect the range of measures states are already obliged to take to ensure the equal enjoyment of human rights by women, people with disabilities, indigenous people and others facing systemic discrimination.

¹ See Center for Economic and Social Rights, [A Matter of Justice: securing human rights in the post-2015 sustainable development agenda](#), May 2013

Human rights advocates have been particularly insistent that, alongside the environmental, economic, and social dimensions, a fourth pillar of sustainable development—accountable governance—is fundamental to putting in place the right institutions and effective incentives to translate international political commitments into lived realities. The report partially reflects this demand by proposing a stand-alone governance goal, and specific objectives which could help foster conditions for [just and accountable governance](#), such as guaranteeing access to information and holding officials to account for bribery and corruption.² However, the report does little to recognize the role of human rights mechanisms, particularly at the national level, in strengthening the fabric of accountable governance. Such mechanisms, whether judicial, quasi-judicial, administrative, legislative or social, play a critical role in holding officials and other duty-bearers to account for development achievements and abuses.³ The post-2015 framework should seek to strengthen their effectiveness, and make sure monitoring and accountability synergies are built in.

Moreover, the report’s final recommendations do not fully take into account the widening accountability gaps which have both undermined the current MDGs and severely fractured trust in institutions of global and corporate governance.

On global governance, the report is laudable in naming human rights and the right to development as principles that should guide a renewed framework of global partnership. The Panel calls on developed countries to “do more to put their own house in order”, both by honoring their aid commitments and also by regulating private finance, reforming trade, cracking down on illicit capital flows, stemming transnational tax evasion (including by businesses), returning stolen assets, and promoting sustainable patterns of consumption and production. It also recognizes the need to make structural changes in the world economy. But these welcome affirmations are barely made operational in the proposals, and the common but differentiated duties of all human rights duty-bearers are not clearly defined. While the recommendation to integrate commitments of global cooperation into each goal is welcome, the failure to model this approach in the illustrative goals risks opening the door to the same accountability failures that have beset the current MDG process. The danger that global commitments will once again be seen as secondary is heightened by the report’s failure to underline that states have binding obligations under international human rights law to ensure their bilateral and multilateral policies contribute to, or at least do not harm, the realization of human rights beyond their borders.

The report is also particularly weak in addressing corporate accountability. Human rights norms are unequivocal in requiring that governments set up systems which guarantee the private sector respect human rights universally, irrespective of its contribution to development. In contrast, the report gives undue prominence to an outdated vision of market/business-led development. The Panel calls on governments to “work with business to create a more coherent, transparent and equitable system for collecting corporate tax, to tighten the enforcement of rules that prohibit companies from bribing foreign officials, and to prompt their large multinational corporations to report on the social, environmental, and economic impact of their activities”. But the report’s

² Beyond 2015, [“Just Governance for the World We Need: A critical cornerstone for an equitable and human rights-centered sustainable development agenda post-2015.”](#)

³ See OHCHR/CESR, [“Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda”](#).

concrete proposals seem to assume this will happen through good intentions alone. The report promotes a woefully inadequate approach to business regulation, arguing that business should not be “hamstrung by unnecessarily complicated regulations”. The report also suggests integrated social and environmental reporting for large businesses, but argues for a voluntary ‘comply or explain’ regime under which companies would either report or explain why they are not reporting. Lessons from 20 years in the corporate accountability field show that to be effective, any integrated reporting regime must be mandatory for all large companies, must include a wide enough scope (ranging from social, human rights and environmental impacts to the areas of finance and taxation), must be reviewed by independent experts in partnership with communities affected, and must be accompanied by clear consequences for conduct which may violate human rights or undercut sustainable development. The report’s failure to promote adherence, at the very least, to the UN Guiding Principles on Business and Human Rights is another missed opportunity. The reference to the potential for raising domestic revenues through large-scale mineral projects in low-income countries, without acknowledgement of the need to guard against the harmful human rights impacts of extractive industries, betrays a view of corporate activity that is seriously detached from the experiences of communities and individuals affected by mineral exploitation and environmental harm it brings in its wake. Meanwhile, the inclusion of a target on people’s security of tenure to land and property is very welcome, but the concomitant prioritization of security of tenure for business presents very perverse incentives, especially in countries where corporate investments in land, water and natural resources conflict with local communities’ natural resource rights.

These and other glaring accountability deficits which have hampered the current MDG process must be addressed in the design of implementation and monitoring infrastructure for the new goals. The Panel puts forward three proposals at the international level: a single locus at the UN for global reporting, a global high level political forum to review progress, advised by an independent committee, and regional-level reporting and peer review. These proposals must be considered in light of the limited effectiveness of the MDG’s voluntary reporting mechanisms, and good practice models for monitoring, review and accountability which have emerged in sectors such as women and children’s health should also be taken into account. While the report makes no mention of the international human rights monitoring system, these expert and peer review mechanisms can reinforce the accountability of national governments and supra-state bodies with regard to the new set of sustainable development commitments, thereby helping to bridge the transnational accountability gaps.

The report rightly recognizes that “the post-2015 agenda must enable every nation to realize its own hopes and plans” through national planning and review processes. Yet, instead of re-affirming the imperative of putting people’s participation first, the HLP report proposes that governments “could receive input from” people in shaping national development plans (p. 21). Full and meaningful participation and peoples’ ownership over the development process is a central stepping-stone of a human rights-centered development framework, and is especially vital in the design of national plans and targets to domesticate any sustainable development goals.

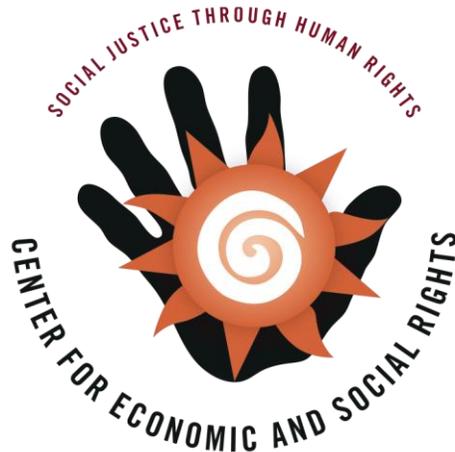
It is also critical that the framework foster mechanisms of public participation to ensure that resources for development are generated and deployed fairly and transparently. The Panel is to be commended for asserting that “we need a transparency revolution, so citizens can see exactly

where and how taxes, aid and revenues from extractive industries are spent”. Yet the report misses the opportunity to outline other key fiscal policy arenas particularly needing a boost in public participation and transparency, such as budgeting, procurement, and other forms of taxation. Further, people have a right to participate in the full cycle of fiscal policy processes, not merely to observe from the sidelines.

CESR acknowledges the efforts by members of the High Level Panel to integrate human rights language and concerns into its final report. However, a human rights-centered approach to development requires more than dressing the same policy prescriptions in the rhetoric of human rights. It requires a truly transformative set of commitments that can address the accountability shortfalls and asymmetries of power which perpetuate poverty and inequality, with ambitious targets and benchmarks of progress aligned with existing human rights obligations.

With these issues in mind, CESR urges the Secretary General and UN member states in their coming deliberations to go beyond preambular references to human rights and incorporate human rights and accountability into the operative content of the post-2015 agenda. Human rights norms and principles should not be considered an optional extra. Instead, they represent the pre-existing and universal normative standards which must underpin all aspects of the agenda, from its guiding vision and goals, to targets and indicators, and systems of both implementation and review. Anything less than this risks resulting in yet another round of unfulfilled promises.

The Center for Economic and Social Rights (CESR) was established in 1993 to work for the recognition and enforcement of these rights as a powerful tool for social justice. CESR exposes violations of economic, social and cultural rights through an interdisciplinary combination of legal and socio-economic analysis. CESR advocates for changes to economic and social policy at the international, national and local levels so as to ensure these comply with international human rights standards. CESR serves as a member of the Executive Committee of Beyond 2015, the global civil society campaign which advocates for a strong and legitimate successor framework to the Millennium Development Goals to be adopted in 2015. As part of ongoing global consultations on the post-2015 framework, CESR coordinated Beyond 2015's position paper on governance together with the Global Call to Action against Poverty. CESR's aim is to see a post-2015 framework which reinforces states' compliance with their existing human rights obligations. CESR also works to advance accountability in economic, fiscal and social policy, particularly in the wake of the global economic crisis, and supports the efforts of civil society groups worldwide to engage with human rights accountability mechanisms at the national and global level.



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