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# **REALIZING RIGHTS THROUGH THE SUSTAINABLE DEVELOPMENT GOALS: THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

**BRIEFING PAPER**

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**CENTER FOR ECONOMIC AND SOCIAL RIGHTS**  
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## REALIZING RIGHTS THROUGH THE SUSTAINABLE DEVELOPMENT GOALS: THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

In September 2015, the UN General Assembly will adopt the Sustainable Development Goals (SDGs). The SDGs address a wide range of development issues, reflecting the three 'pillars' of sustainable development: economic, social and environmental. As a globally agreed blueprint for 2015-2030, the SDGs are likely to become the major point of reference for development actors at all levels and will have a significant impact on the human rights agenda for years to come.

Many governments, bilateral donors, multilateral institutions, civil society organizations and corporate actors will seek to align their policies and programmes with this new sustainable development agenda. More broadly, the significance of the SDGs lies in the boost they can give to the accountability of states to their people and to the financing and implementation of existing development and human rights commitments. Importantly, the SDGs are designed to be universally applied and are not limited to so-called developing countries. Therefore, the next 15 years offer a crucial opportunity to promote development approaches that contribute to the protection and fulfilment of human rights, through domestic policy and resources, international collaboration, and global financial flows.

As independent institutions of accountability mandated to ensure international commitments are upheld domestically,<sup>1</sup> National Human Rights Institutions (NHRIs) will undoubtedly have a role to play in promoting and protecting human rights in the context of the SDGs. This **Briefing Paper** focuses on the distinct contributions that NHRIs can make to the post-2015 sustainable development agenda. It outlines the importance of the SDGs for human rights and highlights a number of specific opportunities for NHRIs to effectively fulfil their role in the context of the new global development agenda, sharing examples of development-related work from a number of institutions in all regions.

### The Sustainable Development Goals and Human Rights

Since the Rio+20 Summit in 2012, broad consultations have taken place at the national, regional and international levels to define the new global development agenda that will replace the Millennium Development Goals (MDGs), which expire in 2015. Despite challenges, civil society organizations, United Nations agencies and many member states have made considerable efforts to integrate human rights concerns into the post-2015 sustainable development agenda.

The proposed Sustainable Development Goals consist of 17 goals and 169 underlying targets to guide international development priorities and collaboration up to 2030.

The goals and targets were agreed by an inter-governmental Open Working Group (OWG) in 2014,<sup>2</sup> and are very likely to be adopted in their entirety in September 2015. A set of global indicators that will underpin and measure progress towards the targets is yet to be defined, and should be finalized by the UN Statistical Commission in March 2016.<sup>3</sup>

An analysis of the SDGs shows that the new post-2015 sustainable development agenda is relevant for human rights - and therefore for NHRIs - in several aspects:

#### **a. Goals related to economic, social and cultural rights**

Several goals focus on important economic and social rights areas such as poverty (Goal 1), food and nutrition (Goal 2), health (Goal 3), education (Goal 4), and water and sanitation (Goal 6). Most of these are not new to international development, although the way they are conceptualized is more holistic and in many respects better aligned with human rights provisions than under the MDGs. Given this close relation to economic and social rights standards (e.g. those enshrined in the International Covenant on Economic, Social and Cultural Rights), they fall squarely within the mandate of many NHRIs. The goals on the environment, climate change and natural resources (Goals 12, 13, 14 & 15) are also linked to human rights enjoyment, and therefore they could also be a focus of NHRI work.

#### **b. Goals related to civil and political rights**

In an important departure from the MDGs, the SDGs also include a goal on accountable and inclusive institutions and access to justice for all (Goal 16). This goal touches on important human rights standards and principles, for example including targets on access to information and 'protecting fundamental freedoms'; participation in decision-making; non-discriminatory laws and policies; and access to justice. The inclusion of such commitments provides a much-needed recognition of the crucial role that civil and political rights play in making sustainable and equitable development possible and is another concrete entry point for many NHRIs to engage in national implementation of the SDGs. The role of NHRIs is also explicitly recognized, with the existence of an independent NHRI being a proposed indicator to underpin Goal 16.

#### **c. Emphasizing the principles of equality, non-discrimination and access for all**

The need to address growing inequalities within and between countries has been repeatedly identified as a key priority, by states and civil society alike, throughout the process of formulating the SDGs. There are two goals that focus specifically on inequalities: Goal 5 on gender equality and Goal 10, which focuses on income inequality, exclusion (social, economic and political) and discrimination. The other goals and targets also include important language on equal and universal access (e.g. to healthcare, education, and energy) and tackling gender disparities – reflecting the core human rights principle of non-discrimination and equality.

Persons with disabilities, older persons, indigenous peoples and children are also specifically named in some of the targets.

The rallying call underpinning the new agenda has been “to leave no one behind” - in reaction to the main critique of the MDGs: that they spurred important aggregate progress, but often at the cost of neglecting the most hard-to-reach groups. In terms of monitoring the SDGs, special emphasis has been placed on the need for a ‘data revolution’,<sup>4</sup> including more sensitive disaggregation of data along multiple lines that overlap with many of the prohibited grounds of discrimination in international human rights law. The fact that tackling inequalities and discrimination is both a stand-alone and a mainstreamed objective in the new agenda clearly opens another

important avenue of engagement by NHRIs, who bring a distinctive expertise and experience on these issues—particularly those NHRIs with an explicit anti-discrimination mandate.

## **The Role of NHRIs in Promoting and Protecting Human Rights in the Implementation of the Post-2015 Sustainable Development Agenda**

NHRIs play unique bridging roles—between international and national spheres; between different government institutions; between government and civil society; and across rights. This role is particularly important in the context of the ambitious and wide-ranging post-2015 sustainable development agenda. Collaboration between a variety of actors and sectors (different branches and departments of government; civil society; donors and development partners; UN agencies and mechanisms) will be absolutely essential for the goals' effective and equitable implementation.

Under the Paris Principles,<sup>5</sup> NHRIs should be mandated to perform a broad range of functions. These can be generally categorised as: research and advice; education and promotion; monitoring; investigating; conciliating and providing remedies; cooperating with other national and international organisations; and interacting with the judiciary. Each of these functions could be leveraged to make distinctive and valuable contributions to the implementation and monitoring of the SDGs. National implementation of the SDGs therefore presents NHRIs with different opportunities for engagement, including those outlined below.

### **a. Promoting human rights in national implementation plans**

While the agenda is universal, certain targets, benchmarks and indicators will need to be 'tailored' or further developed at the national level to reflect different national contexts. NHRIs' bridging role, as described above, uniquely positions them to ensure the tailoring process upholds the principles of inclusion, participation and non-discrimination. Educating rights-holders, civil society groups, relevant ministries, parliamentarians, national statistical offices and other stakeholders about the human rights dimensions of the SDGs is an important first step for this. It is a function that falls squarely within the mandate of NHRIs, many of whom undertake outreach work to enable marginalized communities to understand and claim their rights.

NHRIs can also promote nationally-tailored targets, benchmarks and indicators that are aligned with human rights obligations, as well as setting out principles and criteria for tailoring, informed by human rights considerations.<sup>6</sup> In this regard, NHRIs can draw on a wealth of experience in building the capacity of government bodies to apply a human rights-based approach to development and in engaging in consultative processes for priority-setting, policy-making, planning and budgeting in a variety of sectors—both locally and nationally.

### **b. Advising governments on rights-centred implementation**

By assessing how laws, policies, administrative practices and budgets impact on civil, political, economic, social and cultural rights, NHRIs provide valuable advice to governments on how to contextualise and operationalize human rights norms. This function will be essential for ensuring that human rights considerations are not neglected in the post-2015 context. For instance, NHRIs could conduct human rights impact assessments of specific policies and programmes proposed or put in place to implement the goals.

Achieving the SDGs will require unprecedented financial resources; while official development assistance (ODA) will remain essential for some countries, fairer and more effective domestic resource mobilization has been widely accepted as a crucial means of financing the goals.<sup>7</sup> For this reason, assessing whether these resources are being raised and used in human rights-compliant ways will be critical. Building up NHRIs' expertise in evaluating whether public budgets (e.g. spending on health or education) reflect the obligation to dedicate maximum available resources to economic, social and cultural rights could assist governments in advancing more equitable financing for sustainable development.

### **c. Monitoring and holding governments to account for poor or uneven progress**

Once implementation gets underway, ensuring that all states are accountable for their SDG commitments will be essential in achieving equitable, effective and rights-compliant progress towards the goals. NHRIs' experience in monitoring human rights is directly applicable to tracking sustainable development successes and setbacks, and they can therefore make a unique contribution as part of the multi-layered accountability architecture currently being conceptualized for the SDGs.

There is broad agreement that establishing robust and inclusive national-level review processes to monitor SDG progress will be of primary importance. Many governments are already starting to consider the form and function of these mechanisms. NHRIs therefore have an important opportunity to advocate for and advise on national mechanisms that are truly participatory and capable of strengthening meaningful accountability between the State and its people. Once the national monitoring and review process gets underway, NHRIs should have an officially recognised role. The exact model of NHRI engagement will vary, but could include, for example: taking responsibility for monitoring a sub-set of the goals/targets; taking part in multi-stakeholder monitoring mechanisms; or submitting independent assessments to parliamentary reviews. Several options for monitoring SDG implementation at the regional and global level are being explored which could also benefit from NHRI involvement, including reviews at the UN regional commissions, peer-review mechanisms, and thematic bodies focusing on particular goals.

NHRIs can leverage their experience of rights monitoring to positively influence the design and performance of mechanisms for monitoring SDG implementation in a number of ways. First, in many countries NHRIs have increased demand for the collection of relevant statistics from government departments and in some cases even collaborated directly with national statistical offices. Second, NHRIs provide an independent source of information and a distinctive lens to analyse that information, which can be used to evaluate whether efforts to achieve the SDGs are respecting, protecting and fulfilling human rights - and in tracking the implementation of previous recommendations of any monitoring mechanism. Third, as discussed above, their convening role supports affected communities to share their experiences and express their views, vital perspectives in monitoring the extent to which SDG progress is equitable and rights-compliant.

### **d. Uncovering patterns of inequality and discrimination**

The core mantra of the post-2015 agenda is to “leave no one behind”. Human rights standards on equality and non-discrimination provide a detailed normative framework for making this rhetoric more of a reality. By virtue of their broad mandate, many NHRIs are well-placed to look into systemic or structural problems with regard to inequality and discrimination—e.g. on the basis of disability, age, gender and ethnicity—and indeed have long experience in doing so. Different functions, in particular their reporting function, can be used to bring to light disadvantages and persistent inequalities faced by particular groups, including in remote settings. Highlighting

uneven progress on the SDGs, which may be hidden when looking at national averages, will be an immensely valuable contribution to realizing the ambition of the goals.

#### **e. Securing redress for victims of development-related rights violations**

Many NHRIs have quasi-judicial mandates to receive complaints or initiate investigations, meaning they can play a crucial role in ensuring accountability and access to justice, including for people and communities whose rights are violated by development-related activity. NHRIs have conducted investigations, national inquiries, and audits into a broad range of alleged human rights violations, including on the causes of disease outbreaks; serious breakdowns in service delivery; abuses of land rights of indigenous people; and mismanagement in procurement affecting public services and rights fulfilment.

Exercising their quasi-judicial mandate in the post-2015 context will be important to ensure that the rush to meet the SDGs does not lead to actions which may threaten or violate individual rights. An increasing number of NHRIs are focusing on the role of the private sector in relation to human rights, applying the UN Guiding Principles on Business and Human Rights in this context.<sup>8</sup> This work, and NHRIs' ability to receive complaints concerning business-related abuses, is important in light of the increasingly privileged role accorded to the private sector in the international development agenda.

### **Inspiring Action: Building on NHRI Good Practices**

While country contexts and institutional capacities vary widely, the SDGs will be of critical relevance to the work and mandates of NHRIs in all countries at all income levels. Here we identify a number of concrete examples—drawn from NHRIs across all regions—which are illustrative of the kinds of monitoring activities that NHRIs carry out, and that offer ideas and inspiration for future work to support the new global development agenda.

The **South African Human Rights Commission's** 2010 annual report focused on the attainment of the MDGs, including MDG 5 on maternal mortality (which is also included in the SDGs in target 3.1). In the report, the Commission concluded that maternal mortality seemed to be increasing in South Africa and called for the Government to investigate.<sup>9</sup> **Palestine's Independent Commission on Human Rights** has identified monitoring the Palestinian Authority's development plan as a priority activity and has been building its capacity to do so,<sup>10</sup> including by signing a Memorandum of Understanding with the Central Bureau of Statistics.

An example of the constructive advisory role that NHRIs can play in development policy comes from the **German Institute for Human Rights**, which recommended that the German Ministry for Economic Cooperation and Development establish an independent complaints mechanism to investigate alleged human rights abuses arising from its bilateral development cooperation, grounded in Germany's extraterritorial human rights obligations and the duty to provide for effective redress.<sup>11</sup> NHRIs in South-East Asia have also begun to highlight and monitor the impact of their governments' policies on development beyond borders (e.g. through their aid, tax and trade policies).<sup>12</sup> This will be very relevant in tackling systemic barriers to SDG progress and human rights realization.<sup>13</sup>

In terms of monitoring systemic or structural inequality and discrimination, **Colombia's Ombudsman's Office** (Defensoría del Pueblo) initiated a nationwide investigation regarding the State's obligation to realize the right to water. It revealed that 46 of 1097 municipalities were at high risk of facing health emergencies, and found that a large part of the population was exposed to unacceptable levels of vulnerability in terms of access to and quality of the water supply.<sup>14</sup> Given that SDG 6 includes targets on achieving accessibility, safety, and affordability of water for all, this type of study identifying who is being left behind will be necessary to ensure sufficient progress. Indeed, the SDGs' strong emphasis on 'leaving no one behind', will necessitate cross-cutting measures to improve the social, political and economic inclusion of disadvantaged and marginalized groups – and robust monitoring of progress. The **Danish Institute for Human Rights** has initiated a process to develop, test and evaluate an indicator framework for monitoring the Convention on the Rights of Persons with Disabilities in collaboration with relevant ministries, disability organisations and the national statistical office.<sup>15</sup>

Examples of NHRIs studying the human rights impacts of particular policies include the **New Zealand Human Rights Commission**, which analysed how recovery policies and plans introduced after the devastating 2011 earthquake had affected the right to housing and its interrelated effects on health, consulting extensively with communities in its research.<sup>16</sup> SDG 11 on cities and human settlements includes a specific target on reducing the impact of disasters (with a focus on protecting the poorest and most vulnerable), which will benefit hugely from a human rights approach of this sort.

A number of NHRIs have also assessed whether finances dedicated to development are sufficient, transparent and accountable. For example, the **Kenyan National Commission on Human Rights** used its power to issue subpoenas to obtain information about the amounts spent by government departments on luxury cars. The Commission calculated that the spending could have funded the education of 25,000 children for eight years.<sup>17</sup> In an investigation into the state of mental healthcare across the country, **India's National Human Rights Commission** examined budget expenditures at 12 mental health centres, recommending an extensive streamlining of budget provisions to close the gap between expenditures incurred and goods procured.<sup>18</sup>

However, despite the wealth of good practice examples and recent capacity-building efforts, it has to be acknowledged that NHRIs' engagement with the MDGs—or with development policies more generally—shows uneven results. Many NHRIs face obstacles when it comes to promoting human rights accountability in development contexts, including narrowly drawn mandates, constraints on their independence, and limited technical capacity. In order to unleash their potential, these barriers will have to be lifted. States and other sources of support to NHRIs should assist them in strengthening their capacity, mandate and independence, as a worthwhile investment in a very distinctive and constructive part of the SDG implementation and accountability architecture.

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## Endnotes

- <sup>1</sup> Broadly defined as quasi-governmental, administrative institutions (neither judicial nor law-making), NHRIs have an on-going advisory authority in respect of human rights. See A. Corkery and D. Wilson (2014), 'Building Bridges: national human rights institutions and economic, social and cultural rights', in Riedel et al (eds.) *Economic, Social and Cultural Rights in International Law: contemporary issues and challenges*.
- <sup>2</sup> UN Open Working Group (2014), *Open Working Group Proposal for the Sustainable Development Goals*.  
<https://sustainabledevelopment.un.org/content/documents/1579SDGs%20Proposal.pdf>
- <sup>3</sup> The Danish Institute for Human Rights (2015), *A Human Rights Guide to Reading the Sustainable Development Goals, Targets and Indicators*. Policy Brief, June 2015.
- <sup>4</sup> See UN Secretary-General's Independent Expert Advisory Group on a Data Revolution for Sustainable Development (2014), *A World That Counts: Mobilising the Data Revolution for Sustainable Development*. For a human rights critique, see CESR (2014), 'The data revolution: of the people, for the people?', blog published November 2014.
- <sup>5</sup> The Paris Principles Related to the Status of National Institutions for the Promotion and Protection of Human Rights, which were adopted by the UN General Assembly in 1993 (GA Res. 48/134), establish normative standards on the role, composition, status and functions of NHRIs.
- <sup>6</sup> CESR and OHCHR (2013), *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda*, at pp. 69-70.  
<http://www.cesr.org/article.php?id=1482>
- <sup>7</sup> CESR and Christian Aid (2014), *A Post-2015 Fiscal Revolution: Human Rights Policy Brief*.  
<http://www.cesr.org/downloads/fiscal.revolution.pdf>
- <sup>8</sup> The Danish Institute for Human Rights and the International Coordinating Committee for the Protection and Promotion of Human Rights (2013), *Business and Human Rights: A Guidebook for National Human Rights Institutions*. <http://www.humanrights.dk/publications/business-and-human-rights>
- <sup>9</sup> See DIHR, UNFPA & OHCHR (2014), *Reproductive rights are human rights: A Handbook for national human rights institutions*, at p. 223-224.  
<http://www.ohchr.org/Documents/Publications/NHRIHandbook.pdf>
- <sup>10</sup> See CESR (2014), "OPERA in the Occupied Territories", blog from May 2014: <http://www.cesr.org/article.php?id=1598>
- <sup>11</sup> German Institute for Human Rights (2015), *Human Rights Require Accountability: Why German development cooperation needs a human rights complaints mechanism*. [http://www.institut-fuer-menschenrechte.de/uploads/tx\\_commerce/Human\\_Rights\\_Require\\_Accountability.pdf](http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/Human_Rights_Require_Accountability.pdf)
- <sup>12</sup> See APWLD (2014) *The Bangkok Declaration on Extraterritorial Human Rights Obligations*. <http://apwld.org/bangkok-declaration-on-extraterritorial-human-rights-obligations/>
- <sup>13</sup> See CESR and Third World Network (2015), *Universal Rights, Differentiated Responsibilities: safeguarding human rights beyond borders to achieve the Sustainable Development Goals*. [http://www.cesr.org/downloads/CESR\\_TWN\\_ETOs\\_briefing.pdf](http://www.cesr.org/downloads/CESR_TWN_ETOs_briefing.pdf)
- <sup>14</sup> See Waterlex (2014), *National Human Rights Institutions and Water Governance: Compilation of Good Practices*:  
[http://www.waterlex.org/new/wp-content/uploads/2015/02/WAT-Compilation\\_online.pdf](http://www.waterlex.org/new/wp-content/uploads/2015/02/WAT-Compilation_online.pdf)
- <sup>15</sup> DIHR "Gold indicators on CRPD": <http://www.humanrights.dk/activities/our-work-denmark/disability/gold-indicators-crpd>
- <sup>16</sup> See APF and CESR (2015), *Defending Dignity: A Manual for NHRIs on Monitoring Economic, Social and Cultural Rights*.  
<http://www.asiapacificforum.net/news/files/defending-dignity-a-manual-for-national-human-rights-institutions-on-monitoring-economic-social-and-cultural-rights>
- <sup>17</sup> Kenya National Commission on Human Rights (2005), *Living Large: Counting the Cost of Official Extravagance in Kenya*.  
<http://www.knchr.org/ReportsPublications/ThematicReports/EconomicSocialandCultural.aspx>
- <sup>18</sup> See APF and CESR (2015), above n. 16, p.115.

## Additional Resources on the Sustainable Development Goals

- Chairpersons of the United Nations Human Rights Treaty Bodies (2015), *Joint Statement on the Post-2015 Development Agenda*:  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15505&LangID=E>
- S. Kindornay and S. Twigg (2015), *Establishing a Workable Follow-up and Review Process for the Sustainable Development Goal*, Overseas Development Institute report: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9635.pdf>
- UNDP and NYU School of Law (2015), *Accountability Through Civic Participation in the Post-2015 Development Agenda*:  
[http://www.undp.org/content/dam/undp/library/MDG/Post2015/f\\_UNDP-NYU\\_Accountability-Post-2015\\_web.pdf](http://www.undp.org/content/dam/undp/library/MDG/Post2015/f_UNDP-NYU_Accountability-Post-2015_web.pdf)
- UN Secretary-General (2014), *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet*, Synthesis Report on the Post-2015 Sustainable Development Agenda: [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/69/700&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/69/700&Lang=E)