

**POSITION PAPER ON THE  
SUSTAINABLE DEVELOPMENT GOALS  
AND  
THE POST-2015 DEVELOPMENT AGENDA**



**IWRAW Asia Pacific**

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## INTRODUCTION

IWRAW Asia Pacific refers to the Sustainable Development Goals (SDGs) as identified and elaborated within the **report of the Open Working Group (OWG) of the General Assembly on the Sustainable Development Goals**.<sup>1</sup> IWRAW Asia Pacific acknowledges the work of the OWG which began in March 2013 and the input and commentary given by civil society and women's groups throughout the process of preparing this report. IWRAW Asia Pacific has been following these discussions and submits this position paper<sup>2</sup> on the SDGs, building on the work of other civil society groups, especially that of the Women's Major Group (WMG).<sup>3</sup>

The SDGs and targets, as they are, fail to reaffirm in a concrete way the position of human rights and states' accountability to respect, protect, promote and fulfill human rights within the development agenda. The human rights regime, its established standards and norms and monitoring mechanism, should be firmly placed at the heart of the SDGs, driving a development agenda that is rooted in rights and the people it claims to be committed to. This has not been done in a meaningful way and this position paper highlights IWRAW Asia Pacific's concerns with the SDGs as well as reiterates the call for the integration of a human rights perspective and substantive equality approach to development.

The first part of the paper discusses four broad areas of concern: (i) that the SDGs **perpetuate an economic model that has run its course and has proven its inability to adequately address structural inequalities**; (ii) that the SDGs **lack an explicit rights or people centered approach**; (iii) there is **no recognition of the persistent inequality of women and the need for a women's rights based analysis** incorporated in the SDGs and (iv) there is **insufficient emphasis on existing international standards and principles as established within the international human rights regime**. Specifically the SDGs fail to fully incorporate the principle of substantive equality that is integral to the elimination of women's inequality.

The second part of this position paper identifies the **added value of integrating the human rights framework and treaty obligations into the SDGs**. Here, key dimensions of human rights and substantive equality like the interrelatedness and indivisibility of rights, intersectionality, the principle of state responsibility, non-retrogression, equality as a right and outcome are emphasised as critical elements that the SDGs and development agenda should be building on. The final section

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<sup>1</sup>UN General Assembly, Report of the Open Working Group of the General Assembly on Sustainable Development Goals. A/68/970, 12 August 2014.

<sup>2</sup>This position paper was developed at an ***IWRAW Asia Pacific Expert Group Meeting on Women's Human Rights, Equality and the Post-2015 Sustainable Development Agenda***, attended by 14 experts in the field of human rights and development and IWRAW Asia Pacific staff, held from 29 – 31 January 2015 (Refer to Annex 1). The meeting was facilitated by Shanthi Dairiam and co-ordinated by Tashia Peterson. The paper was finalised with key contributions from Prof. Susanne Zwingel, Shipra Nigam and Dorathy Benjamin, and additional inputs from Prof. Savitri Goonesekere and Eleanor Conda.

<sup>3</sup>Women's Major Group's vision and priorities for the Sustainable Development Goals. March 2014 and Women's Major Group, Women's "8 Red Flags" following the conclusion of the Open Working Group on Sustainable Development Goals (SDGs). 21 July 2014.

then focuses on the **importance of indicators that are anchored in human rights and substantive equality** and offers an example of indicators for Goal 2 of the SDGs.

## **A. GENERAL REFLECTIONS ON THE SUSTAINABLE DEVELOPMENT GOALS**

IWRAW Asia Pacific would like to address some of the broad concerns it has with the SDGs, primarily that insufficient attention has been given to how this document, in its current form, impacts on women's rights and States' obligations in the development agenda. The economic model it is based on and language used within the document sets a very different tone to the agenda with implications on the recognition and exercise of rights.

- 1. The SDGs fail to make a decisive break from an established economic orthodoxy and an economic model which has run its course and is coming up against all kinds of constraints that are simultaneously economic, ecological and socio-political.**

Urbanisation and excessive **focus on levels rather than content of economic growth**, lack of adequate rehabilitation of the dispossessed and the marginalised in the growth process, the privatisation and over exploitation of minerals, land and water resources have resulted in significant depletion of natural resources and contributed to growth and development that is not sustained. These are also interlinked with the failure of the conventional growth paradigm to **bring in an understanding of the social embeddedness of economic behaviour and especially the role Gender, Race, Class, Caste, Ethnicity, Nationality** play in determining real life economic outcomes.

The current economic model **does not adequately address structural inequalities between and within countries**. While the goals acknowledge these inequalities at the barest minimum, there is **no explicit recognition of structures or layers of historic discrimination or intersectional discrimination and no inclusion of ideas of substantive equality**. The fragmentation and incoherence of statements in the goals further undermine interrelatedness of rights much less the required responses to rights. The document does not include nor acknowledge the existence of "privileged positions" of certain countries over other countries – primarily the affluent global north over the developing global south.

The demand coming from voices of community based and people's movements is of a new development paradigm that is not based solely on economic growth and whose indicator is not the average GDP which **conceals the fact that half of the economy is also non-monetary**. For instance, mainstream understanding is gender blind and ignores essential activities and the role women play in them that take place outside markets, such as maintaining a household, voluntary work, child rearing, caring for the elderly and a large part of food production and crop maintenance.

In a review of the Millenium Development Goals (MDGs), it was recognised that "care work, both paid and unpaid, and care services" are critical in achieving the MDGs and that unless the current gendered division of labour is changed and recognition is given to the shared responsibility of caregiving, little will improve for women's enjoyment of their rights.<sup>4</sup> The Special Rapporteur on extreme poverty and human rights stressed that "care underpins economic growth and productivity, social development, wellbeing and social cohesion" and an obstacle for women and their families to

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<sup>4</sup>Commission on the Status of Women, *Challenges and achievements in the implementation of the Millenium Development Goals for women and girls: Agreed Conclusions*. 25 March 2014.

move out of poverty.<sup>5</sup> While recognised in Goal 5, the qualified target to “recognise and value”<sup>6</sup> unpaid care and domestic work and promote shared responsibility doesn’t seem to go far enough to capture the essence of a state’s obligation under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to “ensure... the recognition of the common responsibility of men and women”<sup>7</sup> and eliminate prejudicial stereotypes and its related discriminatory practices or policies in education and employment.

Hence the need is to build in these perspectives in the growth process itself and in the relationship between state, market and society, rather than making ad hoc and cosmetic changes which leaves the established orthodoxy on economic growth itself unquestioned.

**2. Lack of an explicit ‘rights or people centred’ approach to frame the goals and targets. This will allow for the inclusion of economics/profits as the most significant benchmark for indication of success in development.**

The current goals and targets are vague and broad – which allows for multiple approaches of interpretation. If the framework for interpretation is not based on a ‘rights or people centred’ premise, there is a risk that what constitutes sustainable development is interpreted mainly through an economic lens. A solely economics approach would mean a ‘business-profit’ orientation to sustainable development and one of the outcomes of this could be the increased and unchecked involvement of the private sector, primarily businesses, multinational corporations (MNCs) and transnational corporations (TNCs) and the de-emphasis on the rights and interests of people and communities. What we are already seeing shows how skewed things are in relation to the expansion of corporations.

- The extent of increase in corporations’ wealth, power, influence and responsibility over the last few decades is evidenced by the fact that more than half of the top economies in the world are corporations rather than states.<sup>8</sup>
- In turn, while the rights of companies and investors significantly expanded over the past generation, governments have proven to be less capable than ever to protect against harmful corporate impacts through legislation or regulation.<sup>9</sup>
- In many of the developing countries, competition for international investment often results in a race to the bottom as those with the least amount of regulation are likely to attract the most investment.<sup>10</sup>

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<sup>5</sup>Magdalena Sepúlveda Carmona, *Unpaid care work, poverty and women’s human rights: challenges and opportunities for the post-2015 agenda*. Paper submitted at the Expert Group Meeting on structural and policy constraints in achieving the MDGs for women and girls, October 2013.

<sup>6</sup>Goal 5: Achieve gender equality and empower all women and girls. 5.4: Recognise and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.

<sup>7</sup>CEDAW, Article 5(b).

<sup>8</sup>Morel, Cynthia, *Right to Development: A path to securing more effective remedies?* In *Business and Human Rights in Southeast Asia: Risk and the Regulatory Turn*, Routledge, 2015.

<sup>9</sup>Carlos Lopez Hurtado, *Business and Human Rights: Toward the development of an International Law Framework*. In *Business and Human rights: A Complex Relationship* (magazine of the Due process of Law Foundation), 4 September 2011, p.8

The language and ambiguity in Goal 2<sup>11</sup> and its targets suggest a strong inclination towards the promotion of a free market economy without the safeguards of international human rights standards. For example, targets 2a and b<sup>12</sup> are a clear attempt in allowing business / corporations to dictate to states areas in which private actors should be allowed to act in the guise of enhanced international cooperation.

Phrasing like “end hunger and ensure access by all people” and references to “nutritious and sufficient food all year round” (Target 2.1)<sup>13</sup> could be interpreted to allowing greater use of genetically modified food products even while there are still calls for more research into the potential negative effects on human health and the environment. Similarly with targets to “double the agricultural productivity” (Target 2.3)<sup>14</sup> and “implement resilient agricultural practices” (Target 2.4)<sup>15</sup> that could be referencing genetically modified seeds that are more resilient and high yielding. The current evidence to support this notion is usually provided by research or studies funded by big corporations. The concern is also an increasing dependence on the food supplement industry to ‘replace’ fresh fruits and vegetables that are scarce due to agricultural lands redeveloped into commercial spaces and the loss of traditional methods of ensuring nutrition in food.

The targets also do not alleviate concerns around the patenting by corporations of plants that have been traditionally used by communities for medicine. The communities then find that the only way to use their age-old knowledge is to buy back the right to use this knowledge from the corporations. The WTO patent agreement TRIPS (Trade-Related Aspects of Intellectual Property Rights) remains controversial in this respect for many developing countries.

There is also ambiguity in the accountability framework that will be used to monitor terms of investment / trade agreements. For example, currently there is insufficient information on

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<sup>10</sup>E.E Daschbach, 2007 in Morel, Cynthia, *Right to Development: A path to securing more effective remedies? In Business and Human Rights in Southeast Asia: Risk and the Regulatory Turn*, Routledge, 2015.

<sup>11</sup>Goal 2 of the SDGs: End hunger, achieve food security and improve nutrition and promote sustainable agriculture. This paper has chosen to critique certain sections of Goal 2 to illustrate the lack of a rights or people centred approach to the goals and targets.

<sup>12</sup>Target 2b of the SDGs: Correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round. 2c: Adopt measures to ensure the proper functioning of food commodity markets and their derivatives and facilitate timely access to market information, including on food reserves, in order to help limit extreme food price volatility.

<sup>13</sup>Target 2.1 of the SDGs: By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round.

<sup>14</sup>Target 2.3 of the SDGs: By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.

<sup>15</sup>Target 2.4 of the SDGs: By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality.

the Trans Pacific Partnership Agreement that will have a huge impact in many countries in the Asia and Pacific.

The effects of these gaps in world governance are reflected in for example the proliferation of large-scale land acquisitions by foreign interests for food production which often results in the forced evictions of small scale farmers with little or no compensation.<sup>16</sup> The Special Rapporteur on the right to food has noted how such large-scale mono-crop developments create a “wholesale shift in land use and land access” with the corporations which export these crops internationally being the main beneficiaries to the detriment of the land users<sup>17</sup>. This practice severely restricts the right to food as the “environment they depend upon is repurposed, degraded and placed off limits”, therefore threatening their ability to “produce or procure food”<sup>18</sup>.

The current approach in the SDGs refers to people as beneficiaries, exposing people to the risk of being passive recipients, rather than as active agents with the right to articulate the development agenda, preventing a regression of development rights.

There also isn't adequate acknowledgement of the various contexts within which women and men find themselves - older women, women in conflict, women with disabilities, indigenous women, etc. Hence, the SDGs or targets are not nuanced enough to reflect the meaningful participation of these constituencies which in itself is contrary to Goal 16 of the SDGs<sup>19</sup>.

**3. Women are referenced in the document but without a clear acknowledgement of the persistent inequality of women and the need for women's rights based analysis. This has resulted in a weak reflection and lack of integration of women's rights throughout the SDGs.**

While there is a standalone goal for gender equality,<sup>20</sup> it is insufficient to broadly call for the elimination of all forms of discrimination against women (Target 5.1)<sup>21</sup> in the absence of a holistic human rights framework underpinning all the SDGs. Equality of women can only be achieved if the human rights of women is seen as universal, interrelated and the rights of women in the public and private sphere are recognised as indivisible. While women are mentioned in the targets, none of the articulation comes from a gendered perspective. The absence of power is one of the biggest deterrence for the achievement of women's equality but is not considered or referred to in the SDGs. For example there is no recognition that women, especially rural women engaged in agriculture, are rarely in the spaces where decisions are made about their land and livelihood. Without recognising the root causes of gender inequality such as the prevailing patriarchal system as

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<sup>16</sup>Olivier de Schutter, *Report of the special rapporteur on the right to food*, 11 August 2010, UN Doc A/65/281, paragraphs 6-9.

<sup>17</sup>Olivier de Schutter, 23 May 2012. Available at <http://www.srfood.org/en/south-east-asia-agrofuel-un-rights-experts-raise-alarm-on-land-development-mega-projects>

<sup>18</sup>Ibid.

<sup>19</sup>Goal 16 of the SDGs: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

<sup>20</sup>Goal 5 of the SDGs: Achieve gender equality and empower all women and girls.

<sup>21</sup>Target 5.1 of the SDGs: End all forms of discrimination against all women and girls everywhere.

well as cultural and traditional practices that perpetuate women's subordination, the SDGs have little chance of ensuring meaningful change for the lives of women be it in the economic, social, political or private spheres.

The elimination of discrimination against women as required in target 5.1 requires specific attention to varying contexts of women's lives. In developing countries, the gender dimension of food security and nutrition mean there are specific roles for women and men in guaranteeing food security within their families and communities – men grow field crops while women are usually responsible for growing and preparing food and raising livestock for the family's consumption.<sup>22</sup> The role of women in food security, dietary diversity and children's health is critical with research revealing that with mothers managing the household budget, the child's survival rate can increase by 20%.<sup>23</sup> The impact of gender inequalities in this regard are numerous and spill over into various aspects of a woman's life.

Studies showed that in Ghana, insecure access to land resulted in women farmers practicing shorter fallow periods than men which reduced their yield and effectively impacted the amount of food available for the household consumption. Patriarchal practices, like the practice of women and girls only eating after the male members of the family have finished, have direct implications on women's access to adequate levels of nutrition. This form of 'food discrimination' contributes to chronic under-nutrition and ill health<sup>24</sup> and unless recognised as a concern, will continue to undermine policies or programmes on women's health. Statistics show that twice as many women suffer from malnutrition as men and twice as many girls will die as boys.<sup>25</sup> Pregnant and lactating women are also more susceptible to malnutrition and this will be reflected in infants with low birth rates and higher risks of dying.

Women face multiple and intersecting forms of discrimination which entrench their economic deprivation and social and political marginalisation even further. Their role as primary care givers within the contexts of deprivation of land rights, lack of access to decent work, social protection, healthcare, education, property as well as various forms of conflict, continue to push many women further into the informal economy or migration where they are vulnerable to exploitation and violence. These dimensions and gender perspectives need to be understood and integrated into all the goals and targets.

- 4. There is insufficient emphasis placed on existing international standards and principles as established within the International Human Rights regime. Specifically in relation to CEDAW, the SDGS show no appreciation and attempt to incorporate the principle of substantive equality that is integral to the elimination of inequality.**

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<sup>22</sup>FAO on food security. Available at <http://www.fao.org/gender/gender-home/gender-programme/gender-food/en/>

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

The standalone Goal 5 on gender equality could have taken a much stronger and determined stand on ending discrimination drawing from the principles of non-discrimination and substantive equality in CEDAW.

Targets 5.4,<sup>26</sup> and 5.a<sup>27</sup> raise a lot of concern for having given recognition to the contested caveat of cultural relativism through phrases like “as nationally appropriate” and “in accordance with national laws” respectively. Target 5.c<sup>28</sup> similarly refers to “sound policies and enforceable legislation” which again, is very vague and can also be interpreted to allow for the avoidance of adopting and implementing certain laws due to the lack of resources and cultural practices. CEDAW’s article 5(a) makes a clear stand on the state’s obligation to “modify the social and cultural patterns of conduct of men and women, ... the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”. The stereotyping of women as mothers and housewives that limit their participation in public life has been described as “the most globally pervasive of the harmful cultural practices” and together with other patriarchal practices has resulted in women unable to own or control land, their finances, be free from violence, etc.<sup>29</sup> The position is that domestic law may never be used as justification for failures by States parties to carry out their international obligations.<sup>30</sup> Unless the SDGs recognise and work on overcoming these barriers to women’s ‘equal rights to economic resources, as well as ownership and control over land and other forms of property, financial services, inheritance and natural resources’ (Target 5.a), very little will change on the ground for women.

It is crucial that a distinction between the use of the concept of **equality and equity**<sup>31</sup> be made clear. Equality is a legal standard and a human right, and based on CEDAW’s principle of substantive equality, the state is obligated to achieve more than just formal equality. States’ have to ensure the practical realisation of rights and ensure *de facto* equality for all women and girls. “Biological as well as social and culturally constructed differences between women and men and the ensuing disadvantages of women must be taken into account and under certain circumstances, non-identical treatment of women and men will be required to address such differences and disadvantages”.<sup>32</sup> Equity on the other hand is “not a concept associated with human rights” and is “an illusive social

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<sup>26</sup>Target 5.4 of the SDGs: Recognise and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.

<sup>27</sup>Target 5.a: Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

<sup>28</sup>Target 5.c: Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

<sup>29</sup>Raday, Francis, *Gender and democratic citizenship: the impact of CEDAW*, Oxford Journals Law, International Journal of Constitutional Law, Vol 10, Issue 2, pp 502-530.

<sup>30</sup>Vienna Convention on the Law of Treaties, Articles 26 and 27. CEDAW General Recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.

<sup>31</sup>Among the references to equity in the SDGs are Goal 4 which calls to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all and target 6.1 that states by 2030, achieve universal and equitable access to safe and affordable drinking water for all.

<sup>32</sup>Shanthi Dairiam, *Equity or Equality for Women*, June 2014.



goal which allows governments to offer all types of justifications when they fall short”.<sup>33</sup> It remains “subjective, discretionary and arbitrary” and “fragile as a policy if used as a stand-alone concept without it being linked as a means to achieve the goal of equality”.<sup>34</sup> The Beijing Platform for Action adopted the concept of equality conscious of this distinction and the potential negative impact of the term equity on women’s rights.<sup>35</sup>

Goal 4,<sup>36</sup> having adopted the language of “inclusive and equitable” education raises concerns. The use of the term “equity” in the framing of the target of free and quality primary and secondary education for all girls and boys (Target 4.1),<sup>37</sup> appears to qualify the right to education for all. Reference to “affordable” education suggests an effective public-private partnership. When higher education is privatised and families have to make a choice, often it is the girls who are discriminated due to stereotyping and cultural beliefs. In fact the language used in this goal lacks nuance and an understanding of the impact of such stereotypical attitudes and environmental aspects of women and girls’ access to education. The target calling for the increase in qualified teachers, fails to take the opportunity to call for increasing the number of qualified female teachers (Target 4.c)<sup>38</sup> – an issue that captures how hidden the barriers to girls’ education might be without the full understanding of substantive equality. Many girls are prevented from attending school merely because their families do not want them taught by male teachers. It is insufficient to declare schools built and open for all if the girls are prevented from attending due to social or cultural barriers. Substantive equality demands taking action to ensure any barriers, be it social, cultural or economic are overcome to achieve equality of results. CEDAW considers that States parties are obliged to adopt and implement temporary special measures if found to be necessary and appropriate to accelerate the overall or specific goal of women’s substantive equality.<sup>39</sup> This obligation is not referenced in the SDGs.

The SDGs need to make a stronger link to the human rights obligations of States under international law, in particular human rights law. These already establish a framework of State obligation and accountability, including in relation to the actions of private actors. CEDAW has made it clear that this obligation extends to acts of national corporations operating extraterritorially,<sup>40</sup> and should

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<sup>33</sup>Alda Facio and Martha Morgan, *Equity or Equality for Women? Understanding CEDAW’s equality principles*, IWRAP Asia Pacific Occasional Paper Series, No.14.

<sup>34</sup>Shanthi Dairiam, *Equity or Equality for Women*, June 2014.

<sup>35</sup>Ibid. During the inter-governmental debates when the Beijing Platform was drafted in 1994/1995, many conservative forces strongly argued for the use of the term equity and resisted the term equality. For them, women and men could not be valued equally. They demanded the use of the term equity, as in their view, this term justified greater resources and power skewed in favour of men on the basis of their ‘god-given and immutable responsibilities’ as providers and leaders.

<sup>36</sup>Goal 4 of the SDGs: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

<sup>37</sup>Target 4.1 of the SDGs: By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.

<sup>38</sup>Target 4.c of the SDGs: By 2030, increase by [x] per cent the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially least developed countries and small island developing States.

<sup>39</sup>CEDAW General Recommendation No. 25 on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures.

<sup>40</sup>CEDAW General Recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. See also the Human Rights

therefore clearly extend within the globalised production and value chains and cover current trends of mobility of labour and production sites.

## **B. THE ADDED VALUE OF INTEGRATING THE HUMAN RIGHTS FRAMEWORK AND TREATY OBLIGATIONS INTO THE SDGS TO ACHIEVE THE GOAL OF GENDER EQUALITY.**

IWRAW Asia Pacific calls for a stronger emphasis and integration of the human rights framework into the SDGs so as not to repeat the failures and limitations of the MDGs. “The MDGs were not embedded in a coherent development strategy, and more often than not this led countries to attempt to achieve the MDGs within a set of orthodox neo-liberal policies, including the deregulation and liberalisation of financial capital and labour markets and reductions in the role of the state. The policy space for governments to pursue independent parts of economic governance had been curtailed.<sup>41</sup>

The SDGs should be built on a new framework that integrates macro-economic policies, gender equality and human rights. This would be best accomplished by governments actively pursuing the realisation of human rights as called for in the Millenium Declaration and the international human rights declarations, covenants and conventions already ratified by states. This includes consideration of legal standards on state obligations and on normative content of rights implicated in the SDGs such as the right to education and food and making the linkages with established quasi jurisprudence from the human rights treaty bodies. The expectations of the responsibility of governments in this regard should be integrated into the treaty body reporting processes so accountability can be established.

### ***Aspects of the human rights framework***

The following are some key aspects and dimensions of the human rights framework that should influence this current discourse on development:

- It lays out conditions that need to be met for all humans to live a life in dignity; rights are conceptualized as **interrelated and indivisible**, and through the proliferation of targeted human rights treaties, humans are addressed *in their diversity*. Hence, human rights provide comprehensive guidance for **people-oriented development**. The human rights framework therefore demands universality in the enjoyment of rights. It prevents cultural, religious, ethnic, gender or other forms of bias and the possible non-recognition of the rights of certain categories of persons or even certain categories of rights. When domestic workers are not categorized as workers and so have no protection under the employment law, when minimum wage policies don't apply to them, when migrant workers are not eligible for legal aid and so have no access to remedy, when exemption is made in the application of the equality guarantees of the law allowing discrimination against certain individuals because of sexual orientation or gender

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Committee's General Comment No. 31 and The Committee on Economic, Social and Cultural Rights' General Comment No. 14 and 33.

<sup>41</sup>Balakrishnan, Radhika and Diane Elson. 2012. *The Post-2015 Development Framework and the Realization of Women's Rights and Social Justice*. Cited in *The Integration of Gender and Human Rights into the Post-2015 Development Framework Report*, p.4. Center for Women's Global Leadership. Rutgers University. March 2013.

identity, then all of this is not in compliance with human rights principles. Human rights trumps cultural relativism and the vagaries of discretion that can be manipulated by those in authority.<sup>42</sup> Hence it contains the principle of contesting **all forms of human rights violations** wherever they take place. It is not a framework that is per se closer to one cultural context than another – it is a **framework of correction and contestation of injustice**, to the benefit of **all humans**.

- In development terms, a human rights based approach would promote initiatives that would be **responsive to the needs of the most marginalised**. This requires a value system in formal institutions and public policy that is responsive to the obligations of the government towards those most in need. Without this, the response of budget managers is towards “arrangements which restrict their discretion and capacity to maintain fiscal discipline on behalf of tax-payers.”<sup>43</sup> What we will get is market-based entitlements that cannot be accessed by many disadvantaged groups.<sup>44</sup> Fundamental to human rights is **the principle and right to equality and non-discrimination**. Any development agenda must aim to reach out to all without exception - not merely as beneficiaries but as agents of change having autonomy to define the agenda, make choices that will benefit them and to claim their rights.<sup>45</sup>
- The human rights framework addresses **intersectional forms of discrimination** and recognises structural obstacles that inhibit the enjoyment of rights. Not all humans are affected equally by such obstacles – some enjoy rather privileged positions, while others encounter themselves in a *cycle of disempowerment* where several dimensions of exclusion (for example, poverty, sexism, and racism) reinforce each other. The human rights framework makes clear that it is not sufficient to alleviate only one such layer – in the spirit of indivisibility of human rights, reinforcing discriminatory dimensions need to be addressed *together*.
- Through treaty body monitoring, the Universal Periodic Review, and other mechanisms, the international human rights framework emphasizes that human rights realization is a binding, complex and context-specific **process that requires long-term commitment**. Rather than setting short-term goals that are ambitious but vague, the human rights framework establishes monitoring procedures that constructively and critically assist each state in the fulfilment of their commitments. In this process, **universal human rights standards** are taken seriously as obligations for *all states*, yet at the same time, **context-specific guidance** is provided in order to facilitate **progressive realization of rights under widely differing circumstances**.
- The human rights framework is based on the principle of state responsibility, both as direct guarantor and indirect facilitator of the enjoyment of rights (in matters where the principle of “due diligence” applies). The state is responsible to **ensure that private actors also fulfil their obligations to protect rights of people**. In addition it recognises the **importance of agency in the process of rights realisation**. Civil society activism is taken seriously as an important component of the process of rights realization: Humans are not only seen as individual units that “receive” rights from the state, but as **collective social forces** that have the potential to demand rights and to create a deep cultural affinity to human rights.

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<sup>42</sup>Shanthi Dairiam, *The Post- 2015 Development Agenda and The Human Rights Dimension*. Presentation at an event of the Chairs of the Treaty Bodies, organised by the Open Society Institute, 23 May 2013. New York.

<sup>43</sup> Norton, Andy and Elson, Diane, *What’s behind the budget? Politics, rights and accountability in the budget process*. Overseas Development Institute, London.2002.

<sup>44</sup>Ibid.

<sup>45</sup>Shanthi Dairiam. 23 May 2013. Op. cit.

- Finally, the human rights framework envisions progression for all humans – it contains the idea of **non-retrogression** (a standard once achieved should never be revoked).

***The exclusion of certain groups such as women must be addressed through the strategic use of CEDAW***

Gender-based discrimination, both against women and other individuals with a non-heteronormative gender identity, remains deeply rooted in many spheres of life and in all societies around the world. The post-2015 sustainable development agenda does not sufficiently address this fundamental form of exclusion which is based on the principle of over-valuation of men and the primacy often given to male associated norms and perspectives. The development agenda would benefit from integrating the concept of **substantive equality** as developed by the CEDAW Committee.

The Women’s Rights Convention spells out three principles: Elimination of *all forms* of discrimination against women, equality between men and women, and the obligation of states to work for these goals. Substantive equality in this context is the idea of **equality as a right and as an outcome**. Accordingly, the CEDAW Committee asks states to take comprehensive and sustained (rather than isolated or one-time) measures to ensure that *all* women enjoy their rights and freedoms on the basis of equality with men.

Based on its decades long practice, the CEDAW Committee has identified the following dimensions of substantive equality:

- First, the state needs to go beyond merely declaring equal treatment, it has the obligation to **enable and enforce it through appropriate means**, therefore ensuring the **practical realisation** of substantive equality for women and men in all fields of life. For example, a state cannot rest in a situation where it has created *de jure* equality but *de facto* discrimination persists through indirect forms of discrimination that remain unrecognised and addressed. Women and other disadvantaged groups bear the effect of past or historic discrimination. The ensuing cycle of disadvantage must be broken through corrective measures, the provision of enabling conditions and other forms of redistributive temporary special measures to accelerate the achievement of *de facto* equality.
- Second, as all societies are androcentric, states are also obliged to address underlying discriminatory structures of discrimination, for example stereotypes of female inferiority or male over representation in prestigious positions (e.g. in education or decision making). They have the task to turn an environment that is hostile to gender equality into an **“enabling environment”** for women to enjoy their rights.
- Third, where women and men may have distinct needs, such as in the field of reproductive health, the needs of women have to be addressed adequately and in a way that **women’s wellbeing is the overarching goal**. This adequate treatment is not to be understood as “additional”, but as a condition that needs to be in place for half of humanity to enjoy their rights.
- Fourth, **women affected by intersectional forms of discrimination**, both if forming the majority or a minority of the female population, deserve to have their **multiple needs being recognized and addressed** by state intervention.

- Fifth, women must exercise and enjoy equality in all fields including in the **public and private spheres of the family**.
- Sixth, as gender is a social structure that not only establishes a hierarchy between men and women, but also excludes all who do not fit into this bi-polar order, substantive equality also focuses on overcoming **discrimination based on the heteronormative standard**.

### ***The stand-alone equality goal: what it should accomplish***

In support of integrating human rights and equality into all goals, the stand-alone equality goal 5 should in fact be strongly promoting zero tolerance for discrimination, CEDAW and its principle of substantive equality, rights within the private and public sphere as indivisible, the elimination of conditions that support discrimination such as stereotyping, the creation of cultural affinity with women's equality, the application of temporary special measures to counter the impact of past / historic discrimination and the mobilising of women to articulate and claim their rights.

### ***The significance of the rights discourse for women and its challenges***

The rights discourse may obscure the need for social change if rights are discussed in the abstract as duties of the State and without revealing the contexts in which rights are exercised. All rights are exercised within relationships, so demands and claims for rights create social antagonism. Given the current process of adjudication, rights claims may entrench unequal relationships. The criminal justice system itself is antagonistic. Religious family laws keep women subordinate to men and cultural claims justify denial of economic rights to women and violence against women is not adequately addressed.

However, rights provide us with a “vocabulary to frame social and political wrongs” and demanding rights establishes women's humanity. The rights discourse is useful but it has to acknowledge gendered disparities of power, rather than assuming all people are the same and have equality and see the dangers of neutrality. Hence the human rights approach must include the mobilization of rights holders to know their rights and to create in them an awareness of the legitimacy of their rights as well as to build their capability to participate in defining the national agenda of their countries.

## **C. SOME SUGGESTIONS FOR INTEGRATING A HUMAN RIGHTS APPROACH IN IMPLEMENTING THE GOALS<sup>46</sup>**

*“The subject of your work here, “Statistics, Development and Human Rights” is nothing less than a quest for a science of human dignity. This is a vital endeavour. When the target is human suffering and the cause human rights, mere rhetoric is not adequate to the task at hand. What are needed are solid methodologies, careful techniques, and effective mechanisms to get the task done.”*

*Mary Robinson<sup>47</sup>*

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<sup>46</sup>This section draws heavily from, OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation*, 2012.

The SDGs as they are currently framed appear to lack realism and focus, which raises concerns as to its implementability. The substance and implementation of the goals and targets need to be anchored in the normative content of a particular right and rooted in a human rights framework that ensures the practical realisation of rights not just on paper but in reality. The vagueness of the goals and targets potentially could translate into weak and undesired outcomes, especially if they are viewed in isolation of each other with little consideration for the complexities and layers within each.

Indicators are an essential tool to measure that there is progress in the achievement of goals based on human rights normative principles and standards. To truly capture what is needed to achieve the targets and ultimately the goals, firstly, the **indicators have to capture the essence of a human rights and the substantive equality approach**. The purpose of indicators is therefore to measure the enjoyment of rights by rights holders based on an understanding of the content of rights. These indicators would be **quantitative, denoting the scale of persons in all their diversity who enjoy their rights** but also they would be **qualitative to denote compliance of the rights with human rights standards and norms**. The indicators concerned would spell out outcomes or results. **Outcome indicators must be anchored in the normative content of that right**, as described primarily in the relevant articles of relevant treaties, CEDAW in particular, and the General Comments of the Committees.

Secondly, indicators have to be identified to **assess progress made by duty holders in meeting their human rights obligations**. These would be “all appropriate measures” that it has to take to ensure positive outcomes. “There has to be a conceptual framework for this, **revealing the link between the means and policy measures on the one hand and the desired outcome on the other**. Some knowledge of this relationship between desired outcomes and their determinants is particularly important to identify indicators that will help further the implementation of human rights, versus the limited objective of identifying indicators to merely quantify their state of realization.”<sup>48</sup> A cluster of indicators is needed.<sup>49</sup>

This section sets out to propose a framework for the identification of a cluster of indicators. It will then identify some key indicators for **Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture** as an illustration of the framework and cluster of indicators.

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<sup>47</sup>United Nations High Commissioner for Human Rights (1997-2002), In her address at the Conference of the International Association of Official Statisticians on “Statistics, Development and Human Rights”, Montreux, Switzerland. September, 2000. Cited in OHCHR, Human Rights Indicators: A Guide to Measurement and Implementation, 2012.

<sup>48</sup>OHCHR, Human Rights Indicators: A Guide to Measurement and Implementation, 2012.

<sup>49</sup>The absence of indicators to identify all appropriate measures of implementation with the knowledge of what would be the determinants of positive human rights outcomes is perhaps the flaw in the implementation of the MDGs. This has to be avoided in the implementation Post 2015 Development Agenda.

## FRAMEWORK: CLUSTER OF INDICATORS

### **A. Progress made by duty holders showing commitment to meet human rights obligation (in relevance to particular rights)**

These indicators help in capturing the acceptance, intent and commitment of the State to undertake measures in keeping with its human rights obligations as prescribed in international human rights treaties and other obligations such as in World Conferences:

- Laws and policies: (regulatory frameworks): Qualitative
- Structures: Institutions and relevant infrastructure/ personnel: (quantitative) and the effectiveness of these facilities and services. (qualitative)
- Process: State action to bring about results eg. Training: Content, (qualitative); Scale and scope of activity, (quantitative) such as numbers trained, action taken for monitoring and data gathering, how private sector is regulated, remedial action, budget allocation etc., Strategies to correct environment, create enabling conditions; measures to address causes of discrimination/ identifying inequality in context, identifying conditions that support discrimination-culture/ stereotyping embedded discrimination. Research to establish base line. What is the starting point for women

### **B. Outcome indicators**

Enjoyment of rights: Evidence (**quantitative and qualitative**) of enjoyment / exercise of human rights of women on the basis of sex and equality and on the basis of other factors such as ethnicity etc. (De facto enjoyment of rights)

Trends: Results over a period of time . There must be evidence of continued effort and consistency of approach and results. (**progressive realization of rights**)

## ILLUSTRATION OF INDICATORS FOR GOAL 2: END HUNGER, ACHIEVE FOOD SECURITY AND IMPROVED NUTRITION AND PROMOTE SUSTAINABLE AGRICULTURE

### Preamble:

Women are not a homogenous group and all indicators should be viewed from the perspective of **intersectionality**.

**A. Progress made by duty holders showing commitment to meet human rights obligations**

Laws and policies	Structures	Programmes / process
<ul style="list-style-type: none"> <li>• Is there a legal guarantee for the right to food?</li> <li>• What are the laws including international trade agreements which will ensure that all people including women will have access to food security and improved nutrition?</li> <li>• To what extent does the legal and policy framework include women as a constituency with agency for the purpose of accessing food and not merely as welfare beneficiaries?</li> <li>• Are there laws to mandate temporary special measures for women in accessing land as well as food and for training in agricultural methods, food technology and access to credit?</li> <li>• What is the state policy on acquisition of land and does it impact on women negatively (e.g. land grabbing)?</li> <li>• If there are there customs and practices preventing women equal rights to food and nutrition, are there state policies to address such harmful cultural practices?</li> <li>• To what extent do policies/ laws on farming practices acknowledge women's contribution and protect knowledge in cultivating food crops?</li> <li>• Is there a freedom of information act for men and women to access information with regards to trade agreements?</li> <li>• Is there any policy for women to have access to market and to gain benefits from the free market?</li> <li>• What are the policies that have been adopted to prevent discrimination against women as farmers to access the market?</li> <li>• Are there laws and policies on corrupt practices that will prevent the exploitation of women and men with regards to access to food?</li> <li>• What are the laws and policies that restrain the patenting of local knowledge which is used by women for food security?</li> </ul>	<ul style="list-style-type: none"> <li>• Are the staff in the relevant government departments adequate in numbers and adequately trained to ensure the right to food, right to land programmes, preservation of local agriculture, elimination of discrimination against women in this field and to regulate trade practices in favour of the people?</li> <li>• Are there adequate infrastructures for women to have access to the market and to gain benefits from the free market and product value chain?</li> <li>• Is there women representation in policy making bodies related to decisions about land, food production, accessing food and in trade agreements?</li> <li>• What is the coordinating procedure between state agencies?</li> <li>• Is there a complaints mechanism to address discriminatory practices against women in the area of food production, marketing and access to food?</li> </ul>	<ul style="list-style-type: none"> <li>• Is there a parliamentary scrutiny procedure that will give information on the manner in which international trade agreements impact on food security?</li> <li>• What programmes are there to train women and ensure their participation in agriculture implementing temporary special measures?</li> <li>• What programmes are there for women's engagement in food technology trainings and research implementing temporary special measures?</li> <li>• What procedures and plans are there for collecting data disaggregated by sex and by other factors such as ethnicity etc. for monitoring purposes and for establishing trends?</li> <li>• Are there credit schemes and legal literacy programmes for women?</li> <li>• Are there quality judicial and legal trainings for sensitization (e.g. the patenting issue)?</li> <li>• Are there community programmes to sensitize people on the impact of patenting and trade agreements?</li> <li>• Have adequate budgets been allocated to ensure a gender and equality perspective in programmes for ending hunger?</li> </ul>



## **B. Outcome Indicators:**

- What are the statistics on women's land ownership/ holding?
- Do women enjoy land rights in practice? Are there discrepancies in the law vs. reality/ actual practice?
- Are women claiming their rights in court to assert their rights to land?
- Are there legal judgments that are supportive of women's rights to access land?
- What is the situation with regard to women and girls' access to food and what is their nutritional status in comparison with men?
- What are the statistics with regards to nutrition related diseases among women and girls?
- Does data show that harmful practices denying women's right to food are decreasing?
- Can the data show trends on all of the above?

## **CONCLUSION**

If the SDGs and the post-2015 development agenda are to lead humankind to *the future we want*, it needs to not merely make the broad claims of being people centered, but show a clear and determined commitment by articulating and infusing a human rights framework and the principle of substantive equality within its goals and targets. This is a critical aspect and cannot be left for national level implementation or interpretation. The international human rights standards and norms have to be seen to be at the core of the SDGs, providing the framework within which the goals and targets are understood and fulfilled.



## ANNEX 1: LIST OF PARTICIPANTS

### Expert Group Meeting on Women's Human Rights, Equality and the Post-2015 Sustainable Development Agenda

29 – 31 January 2015

1.	<b>Amal Hadi</b>	Founding member of New Woman Foundation, Egypt & current board member of IWRAW Asia Pacific.
2.	<b>Cecilia Ng</b>	Independent researcher & board member of Penang Women's Development Corporation (PWDC), Malaysia.
3.	<b>Eleanor Conda</b>	Co-founder & first Executive Director of Women's Legal Bureau, Philippines.
4.	<b>Ivy Josiah</b>	Former Executive Director of Women's Aid Organisation (WAO), Malaysia.
5.	<b>Lee Hwok-Aun</b>	Head of Department of Development Studies, Faculty of Economics and Administration, University Malaya, Malaysia.
6.	<b>Noraida Endut</b>	Associate Professor & Director at the Women's Development Research Centre (KANITA), Universiti Sains Malaysia. Current board member of IWRAW Asia Pacific.
7.	<b>Savitri Goonesekere</b>	Emeritus Professor & former Vice Chancellor University of Colombo, Sri Lanka. Former member of the CEDAW Committee.
8.	<b>Shanthi Dairiam</b>	Former CEDAW Committee member. Founding Director and current board member of IWRAW Asia Pacific.
9.	<b>Shipra Nigam</b>	Economist with the Institute for Human Development, India.
10.	<b>Suri Kempe</b>	Program Manager for Sisters in Islam (SIS), Malaysia.
11.	<b>Susanne Zwingel</b>	Associate Professor, Department of Politics and International Relations, Florida International University, USA.
12.	<b>Tan Beng Hui</b>	Researcher & member of the All Women's Action Society (AWAM), Malaysia.
13.	<b>Tashia Peterson</b>	Former IWRAW Asia Pacific staff. Executive committee & advocacy group member of Women's Aid Organisation (WAO).
14.	<b>Virisila Buadromo</b>	Former Executive Director for the Fiji Women's Rights Movement, Fiji.
<b>Staff of IWRAW Asia Pacific</b>		
15.	<b>Audrey Lee</b>	Programme Manager
16.	<b>Amarjargal Davjayev</b>	Programme Officer
17.	<b>Ayesha Sen Choudhury</b>	Programme Officer
18.	<b>Dorothy Benjamin</b>	Programme Officer
19.	<b>Sanyu Awori</b>	Programme Officer
20.	<b>Shanti Upreti</b>	Programme Officer
21.	<b>Suraya Zainudin</b>	Programme Officer