

NO ONE WILL BE LEFT BEHIND

**THE ROLE OF UNITED NATIONS HUMAN RIGHTS MECHANISMS
IN MONITORING THE SUSTAINABLE
DEVELOPMENT GOALS THAT SEEK TO REALIZE ECONOMIC,
SOCIAL AND CULTURAL RIGHTS**

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KEY FINDINGS AND RECOMMENDATIONS

FINDINGS

The 2030 Agenda for Sustainable Development adopted by the United Nations (UN) in September 2015 is grounded in international human rights law, and its Sustainable Development Goals (SDGs) aim to realize the human rights of all. Many of the 17 SDGs and 169 SDG targets aim to contribute to the realization of economic, social and cultural rights (ESCR), and the commitments to leave no one behind and to achieve gender equality can give concrete meaning to the human rights principles of equality and non-discrimination. The 2030 Agenda must also be implemented in a manner that is consistent with the obligations of states under international law, which include their obligations to respect, protect and fulfil ESCR without discrimination. These explicit links between ESCR and the SDGs in the 2030 Agenda are the result of significant efforts made by UN human rights mechanisms to convince UN Member States to adopt a 2030 Agenda and SDGs that are based on human rights, cover as many rights as possible and include the rights of the most vulnerable.

The SDGs and ESCR should be seen as mutually reinforcing. ESCR can offer a legal basis and guidance in the implementation of the SDGs, and the SDGs can increase support for the realization of ESCR. As stated by the Chairpersons of the UN treaty bodies, the implementation of the SDGs should be seen as ‘an important step on the longer, and continuous, road towards the full and effective realization of all human rights for all’.¹

The weakness of the 2030 Agenda lies in its accountability framework, based on voluntary national reviews and peer-reviewed soft guidance. UN human rights mechanisms should see this weakness as a call for action and fill the gap by sharing the result of their work with monitoring mechanisms established by the 2030 Agenda, and by including in their own work the monitoring of the SDGs that seek to realize ESCR.

The work of UN human rights mechanisms can provide guidance to states in the implementation of the SDGs, as well as to national, regional and global monitoring mechanisms established by the 2030 Agenda, including the High-Level Political Forum on Sustainable Development (HLPF). They have unique expertise in monitoring the realization of ESCR in UN Member States, promoting equality and non-discrimination and pushing for the adoption of laws, policies and programmes that target the most vulnerable and those who are left behind.

Since the adoption of the 2030 Agenda, UN human rights mechanisms have made significant efforts to include in their work the monitoring of the SDGs that seek to realize ESCR. By strengthening these efforts, they can transform the beneficiaries of the laws, policies and programmes aimed at achieving the SDGs into rights-holders and UN Member States as those having legal obligations to implement the SDGs in a manner that is consistent with human rights. They can thus enhance participation, accountability, non-discrimination, transparency, human dignity, empowerment, the rule of law and solidarity (PANTHERS) in the implementation of the SDGs.

RECOMMENDATIONS

- UN Member States should follow a human rights-based approach in the implementation of the SDGs. Inspiration could be drawn from what Brazil did between 2003 and 2015, when it made impressive progress in reducing hunger and extreme poverty by recognizing legal entitlements and targeting the most vulnerable and those who had been left behind in the implementation of social programmes.
- UN Member States should include the recommendations of UN human rights mechanisms in their national reviews of the implementation of the SDGs, as well as in the work of national, regional and global mechanisms established to monitor the implementation of the SDGs.
- The HLPF should more systematically include UN human rights mechanisms in its work and make sure that the recommendations these mechanisms have made to UN Member States are available, in particular those addressed to states presenting national reviews of the progress made in the implementation of the SDGs.
- Using the Universal Human Rights Index, the Office of the UN High Commissioner for Human Rights (OHCHR) should produce an annual compilation of recommendations made by UN human rights mechanisms, with a focus on those that can contribute to the implementation of the SDGs. This compilation should be shared with the HLPF, and emphasis should be placed on recommendations addressed to states under review or linked to the meeting's thematic review. Ideally, the example of the Human Rights Council's Universal Periodic Review should be followed, with one compilation of recommendations produced for each state being reviewed.

¹ Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies on the Post-2015 Development Agenda, May 2013.

- UN human rights mechanisms should contribute to the work of national, regional and global mechanisms established by the 2030 Agenda, including the HLPF, by sharing the result of their work, including on monitoring ESCR, promoting equality and non-discrimination and pushing for the adoption of laws, policies and programmes that target the most vulnerable and those who are left behind.
- UN human rights mechanisms should more systematically include the monitoring of the SDGs in their own work. This would give the SDGs a strong normative basis with binding legal obligations, help fill gaps and reinforce equality, non-discrimination and attention to the most vulnerable and those who are left behind. It would also provide a means of accountability through independent mechanisms.
- The UN Human Rights Council should continue to include the SDGs more systematically in its work. UN Member States should more systematically use the Universal Periodic Review to monitor the SDGs. UN special procedures should more systematically include the monitoring of the SDGs in their thematic reports and country visit reports. In addition, UN treaty bodies should more systematically include the monitoring of the SDGs in their examination of state parties' reports, making recommendations that link the realization of ESCR to SDGs' implementation.

1. INTRODUCTION

'There will be no development without equality, no progress without freedom, no peace without justice, no sustainability without human rights' (N. Pillay)²

For more than 20 years, the United Nations (UN) has underlined the need to adopt a human rights-based approach (HRBA) to development. Today, human rights and development actors equally acknowledge that there are important synergies between the two agendas. However, the promotion of human rights and the pursuit of development largely continue to be conducted as distinct endeavours.

While the Millennium Development Goals (MDGs) (2000–2015) are seen by many as a missed opportunity in terms of mainstreaming human rights into development practices, efforts have been made to better connect the realization of the Sustainable Development Goals (SDGs) (2016–2030) with human rights law and principles.

The 2030 Agenda for Sustainable Development adopted by UN Member States in 2015 is 'grounded in the Universal Declaration of Human Rights (and) international human rights treaties' and envisages a world of 'universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination'.³ Although they are not framed in the language of human rights, the SDGs 'seek to realize the human rights of all',⁴ and the goals relating to poverty, social security, food security, health, education, housing, water and sanitation incorporate most of the elements of economic, social and cultural rights (ESCR) as they are articulated in the International Covenant on ESCR (ICESCR).

Along with the substantive human rights guarantees that have been included in the 2030 Agenda, strong emphasis has been placed on ensuring that implementation, follow-up and review processes linked to the SDGs are participatory, rights-based and effective, with the 2030 Agenda calling on the 'United Nations System' as a whole to work together for these purposes.⁵

This briefing aims to support this role to be played by the UN system, by focusing on the role of UN human rights mechanisms, in particular the Human Rights Council, special procedures and treaty bodies. It begins by presenting the links between human rights and development (2) and the lessons learned from the MDG period (3). It then presents the commitments made in the 2030 Agenda in relation to the SDGs and ESCR (4) and discusses the role that UN human rights mechanisms can play in monitoring the SDGs that seek to realize ESCR (5). Particular emphasis is placed on their collaboration with follow-up and review mechanisms established by the 2030 Agenda (5.A) and on the inclusion in their own work of the monitoring of the SDGs that seek to realize ESCR (5.B–5.D).

² Letter sent to all UN Member States by the UN High Commissioner for Human Rights, Navanethem Pillay, 6 June 2013.

³ UN General Assembly (UNGA) Res 70/1, 25 September 2015, §§8, 10.

⁴ Ibid, Preamble.

⁵ Ibid, §§39, 46, 52, 60, 74, 83.

2. THE UNITED NATIONS' DEFINITION OF A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT

The need to adopt a HRBA to development has been underlined by the UN and its Member States for more than 20 years.⁶

The 1993 Vienna Declaration and Programme of Action of the World Conference on Human Rights states that 'democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing'.⁷ In 1997, the then UN Secretary-General, Kofi Annan, in his report *Renewing the United Nations: A Programme for Reform*,⁸ asked for human rights to be mainstreamed into the programmes, policies and activities of all UN specialized agencies, programmes and funds. This was followed in 2000 by the publication of the UN Development Programme (UNDP) report on human rights and human development and the adoption of the Millennium Declaration by the UN General Assembly, in which states committed to protect all human rights and reach the MDGs by 2015.⁹

In 2003, the UN agencies, funds and programmes adopted the Common Understanding on the Human Rights-Based Approach to Development Cooperation and Programming (UN Common Understanding).¹⁰

According to the UN Common Understanding:

1. All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments ...

6 See UN Office of the High Commissioner for Human Rights (OHCHR), *Frequently Asked Questions on a Human-Rights Based Approach to Development*, 2006, <http://www.ohchr.org/Documents/Publications/FAQen.pdf> (last accessed 3 December 2017).

7 UNGA, Vienna Declaration and Programme of Action, UN doc A/CONF.157/23, 12 July 1993, §8 (endorsed by UNGA Res 48/121, 20 December 1993).

8 UN Secretary-General, *Renewing the United Nations: A Programme for Reform*, UN doc A/51/950, 14 July 1997.

9 UN Development Programme (UNDP), *Human Development Report 2000: Human Rights and Human Development*, Oxford University Press, 2000, http://hdr.undp.org/sites/default/files/reports/261/hdr_2000_en.pdf (last accessed 3 December 2017). UNGA Res 55/2, 18 September 2000.

10 United Nations Development Group (UNDG), *The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies (UN Common Understanding)*, 2003.

2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process ...
3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

Applied to ESCR, the MDGs and the SDGs, the UN Common Understanding implies that (1) the realization of ESCR should be the main objective of laws, policies and programmes aimed at implementing the goals; (2) human rights instruments and principles should guide the adoption and implementation of measures taken to achieve the goals and (3) these measures should contribute to empowering people to claim their ESCR, and to states respecting, protecting and fulfilling ESCR without discrimination.

It is therefore not sufficient that laws, policies and programmes to achieve the MDGs and the SDGs incidentally contribute to the realization of ESCR, or that they only focus on guaranteeing the core content of these rights, such as the right to be free from hunger but not the right to adequate food, primary but not secondary and higher education, or access to essential medicines and emergency health assistance but not to adequate health systems and health care for all. It also means that the final aim of these measures should be to promote and protect human dignity, which implies that they should, for example, improve access to food through social assistance schemes, but also by ensuring access to productive resources for peasants and to a sufficient salary for wage workers, so that they can feed themselves and their families with dignity.

Human rights principles include the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment, the rule of law and solidarity (PANTHERS).¹¹ Following the UN Common Understanding, these human rights principles should be used as a guide in all phases of the programming process, from assessment and analysis to law, policy and programme design and planning (including the setting of goals), implementation, monitoring and evaluation.

11 Many have defined the human rights principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment, and the rule of law (PANTHER). The Food and Agriculture Organization of the UN (FAO) has defined the PANTHER principles in relation to the right to food. FAO, *The Right to Food Within the International Framework of Human Rights and Country Constitutions*, Right to Food Handbooks, 2014, p 8, <http://www.fao.org/3/a-i3448e.pdf> (last accessed 3 December 2017). See also, O. De Schutter, UN Special Rapporteur on the Right to Food, *Countries Tackling Hunger With a Right to Food Approach: Significant Progress in Implementing the Right to Food at National Scale in Africa, Latin America and South Asia*, Briefing Note 01, May 2010, http://www2.ohchr.org/english/issues/food/docs/Briefing_Note_01_May_2010_EN.pdf (last accessed 3 December 2017); FAO, *Right to Food. Making it Happen: Progress and Lessons Learned Through Implementation*, 2011, pp 6–7, <http://www.fao.org/docrep/014/i2250e/i2250e.pdf> (last accessed 3 December 2017). To the PANTHER principles, we add solidarity (PANTHERS), which is fundamental to the realization of the SDGs that seek to realize ESCR.

A HRBA to development therefore implies that effective legislative, institutional and policy frameworks should be put in place to fully realize ESCR. It also implies that states' obligations should be explained at all levels, independent monitoring mechanisms should be established and people should be informed about their rights and available remedies in case of violations.

The social programmes put in place in Brazil between 2003 and 2015 and the right to food campaign that started in India in 2001 can be seen as examples of HRBAs to development.¹²

SOCIAL PROGRAMMES IN BRAZIL (2003–2015)

Under the presidency of Luiz Inácio Lula da Silva (2003–2010), Brazil provided a model for building effective legislative, institutional and policy frameworks to realize the right to food, following a HRBA to development.¹³ In January 2003, the Brazilian Government adopted a national food security policy (the Food and Nutritional Policy) and established a national food security programme (the Zero Hunger Strategy), recognizing the state's responsibility for ensuring access to adequate food for the Brazilian population. The National Council for Food and Nutrition Security (CONSEA) was re-established as a discussion forum for the government and civil society in 2003, directly advising the Brazilian President. It then played a vital role in coordinating the policy-making agendas of several government institutions in conjunction with the participatory efforts of civil society and observers. In 2004, the Brazilian Institute of Geography and Statistics undertook a survey to identify the people most vulnerable to food insecurity in the country. In 2005, CONSEA established its Standing Commission on the Human Right to Adequate Food to advise the government on the incorporation of the right to adequate food in food security policies. On 15 September 2006, the Brazilian Congress passed the National Food and Nutrition Security Framework Law, which defined in detail the right to food and states' correlative obligations. In 2010, it amended the Constitution to include the right to food as a fundamental right of every Brazilian.

¹² See FAO, *Right to Food. Making it Happen*, supra fn 11, pp 93–117; C. Golay, 'Legal and Institutional Issues', in FAO, *The Right to Food. Putting Into Practice*, 2005.

¹³ See FAO, *Right to Food. Making it Happen*, supra fn 11, pp 55–73.

The successful implementation of these legislative, institutional and policy frameworks led Brazil to become one of the first countries to reach the first MDG of reducing undernourishment by a half.¹⁴ In a study published in 2010, ActionAid classified 51 countries according to their effectiveness in fighting hunger and ranked Brazil first because the country had built adequate legislative and policy frameworks and reduced child malnutrition by 73% during Lula's presidency.¹⁵

This HRBA to development continued under the presidency of Dilma Rousseff (2010–2016), who implemented a new policy to eradicate extreme poverty in Brazil, focusing on the rights of the 16 million most vulnerable people in the country. As a result, in 2014, Brazil was removed from the UN hunger map for the first time.¹⁶

THE RIGHT TO FOOD CAMPAIGN IN INDIA

In 2001, many people in the state of Rajasthan were starving while food stocks from the Food Corporation of India were available. In response to this situation, the People's Union for Civil Liberties, a human rights non-governmental organization (NGO), appealed to the Supreme Court. This NGO argued that the constitutional right to life,¹⁷ and thus to food, was being denied. In a number of interim orders, the Supreme Court ruled that all individuals in India have the right to food and that this right should be fulfilled by the state.¹⁸ The Court then directed all state governments of India to implement social assistance schemes to realize the right to food. In 2013, the Indian Parliament adopted the National Food Security Act (also called the Right to Food Act), through which it converted food security programmes into legal entitlements for around 800 million people. Since 2001, a national campaign on the right to food led by human rights and development NGOs has been informing the most vulnerable groups, as well as the general public, about their entitlements to food.¹⁹

¹⁴ Ibid.

¹⁵ ActionAid, *Who's Really Fighting Hunger? Why the World is Going Backwards on the UN Goal to Halve Hunger and What Can Be Done*, HungerFREE Scorecard 2010, September 2010.

¹⁶ FAO, International Fund for Agricultural Development (IFAD) and World Food Programme (WFP), *The State of Food Insecurity in the World 2014: Strengthening the Enabling Environment for Food Security and Nutrition*, 2014, pp 23–26, <http://www.fao.org/3/a-i4030e.pdf> (last accessed 3 December 2017).

¹⁷ Constitution of India, Art 21.

¹⁸ Supreme Court, *People's Union for Civil Liberties v Union of India & Ors*, Writ Petition (Civil) no 196/2001.

¹⁹ See the website of the Indian right to food campaign, www.righttofoodcampaign.in (last accessed 4 December 2017).

3. HUMAN RIGHTS AND THE MILLENNIUM DEVELOPMENT GOALS (2000–2015)²⁰

At the UN Millennium Summit in 2000, from which the MDGs emerged, 198 world leaders signed the Millennium Declaration, in which they reaffirmed the values and principles of the UN that should guide the new development agenda.

In reaffirming these values and principles, UN Member States committed to respect, protect and promote all human rights and fundamental freedoms, including the right to development, without discrimination.²¹ They also committed to respect the rights of minorities, migrants, migrant workers and their families, uphold the Universal Declaration of Human Rights and ensure the implementation of human rights treaties by states parties.²²

These commitments were reaffirmed ten years later – on the occasion of the 2010 MDGs Summit – when UN Member States recognized that ‘respect for all human rights’ was an essential prerequisite for the attainment of the MDGs in particular, as well as development in general.²³ The declaration adopted at this summit – Keeping the Promise: United to Achieve the Millennium Development Goals – reaffirmed their pledge to ‘continue to be guided by the purposes and principles of the Charter of the United Nations and with full respect for international law and its principles’.²⁴

As we will see, the MDGs represented an important step towards the convergence of development and human rights, in particular ESCR (A). But viewed from a human rights perspective, their implementation has been seen as a missed opportunity (B).

20 Part 3 is to some extent inspired by C. Golay, I. Biglino and I. Truscan, ‘The Contribution of the UN Special Procedures to the Human Rights and Development Dialogue’, 17 *SUR – International Journal of Human Rights* (2012).

21 UNGA Res 55/2, supra fn 9, §§4, 9, 24, 25, 30.

22 Ibid.

23 UNGA Res A/65/L.1, 17 September 2010, §§13, 53.

24 Ibid. Such commitments appeared in the Introduction of the outcome document and were repeated throughout the entire text, in relation to many MDGs. See also, Report of the UN Secretary-General, Keeping the Promise: A Forward-Looking Review to Promote an Agreed Action Agenda to Achieve the Millennium Development Goals by 2015, UN doc A/64/665, 12 February 2010.

A. THE CONVERGENCE BETWEEN THE MDGS AND ESCR

In the Millennium Declaration, states committed to combat ‘abject and dehumanizing conditions of extreme poverty’ and making ‘the right to development a reality for everyone’.²⁵ In practice, the eight MDGs were a set of quantifiable, time-bound goals to be achieved by 2015. They were designed to halve extreme poverty and hunger (MDG 1), achieve universal primary education (MDG 2), promote gender equality and empower women (MDG 3), reduce child mortality (MDG 4), improve maternal health (MDG 5), combat HIV/AIDS, malaria and other diseases (MDG 6), ensure environmental sustainability (MDG 7) and develop a global partnership for development (MDG 8).

The vast majority of the MDGs could be reframed in terms of ESCR, as they have been recognized in the ICESCR (see Table 1).²⁶ These can be identified as the rights to health, education, food, housing, water and sanitation and, more broadly, an adequate standard of living. If we take the right to health, for example, nearly half of the MDGs focused on health-related objectives that are fundamental aspects of the right to health (specifically, MDG 4, MDG 5 and MDG 6), and most of the other MDGs addressed underlying determinants of health, such as poverty and hunger, education, gender equality and empowerment of women and access to safe drinking water and sanitation.²⁷ Parallels have also been drawn between MDG 8, which called for the creation of a global partnership for development, and the obligations of international cooperation and assistance provided by Article 2(1) of the ICESCR.²⁸

25 UNGA Res 55/2, supra fn 9, §11.

26 As the then UN Secretary-General stated as far back as 2001, in his report describing the road map for the implementation of the MDGs, ‘economic, social and cultural rights are at the heart of all the Millennium Development Goals’. Report of the UN Secretary-General, Road Map Towards the Implementation of the United Nations Millennium Declaration, UN doc A/56/326, 6 September 2001, §202.

27 S. Zaidi, ‘Millennium Development Goal 6 and the Right to Health: Conflictual or Complementary?’, 7 *Sur – International Journal on Human Rights* 12 (2010).

28 M. Sepulveda Carmona, ‘The Obligations of “International Assistance and Cooperation” Under the International Covenant on Economic, Social and Cultural Rights: A possible Entry Point to a Human Rights Based Approach to Millennium Development Goal 8’, 13 *The International Journal of Human Rights* 1 (2009).

Table 1: The MDGs and Human Rights²⁹

MDGS AND HUMAN RIGHTS	
Millennium Development Goals	Human Rights Standards
Goal 1 <i>Eradicate extreme poverty and hunger</i>	UDHR, Art 25(1); ICESCR, Art 11
Goal 2 <i>Achieve universal primary education</i>	UDHR, Art 26(1); ICESCR, Arts 13, 14; CRC, Art 28(1)(a); CEDAW, Art 10; ICERD, Art 5(e)(v)
Goal 3 <i>Promote gender equality and empower women</i>	UDHR, Art 2; CEDAW; ICESCR, Art 3; CRC, Art 2
Goal 4 <i>Reduce child mortality</i>	UDHR, Art 25; CRC, Arts 6, 24(2)(a); ICESCR, Art 12(2)(a)
Goal 5 <i>Improve maternal health</i>	UDHR, Art 25; CEDAW, Arts 10(h), 11(f), 12, 14(b); ICESCR, Art 12; CRC, Art 24(2)(d); ICERD, Art 5(e)(iv)
Goal 6 <i>Combat HIV/AIDS, malaria and other diseases</i>	UDHR, Art 25; ICESCR, Art 12; CRC, Art 24; CEDAW, Art 12; ICERD, Art 5(e)(iv)
Goal 7 <i>Ensure environmental sustainability</i>	UDHR, Art 25(1); ICESCR, Arts 11(1), 12; CEDAW, Art 14(2)(h); CRC, Art 24; ICERD, Art 5(e)(iii)
Goal 8 <i>Develop a global partnership for development</i>	UN Charter, Arts 1(3), 55, 56; UDHR, Arts 22, 28; ICESCR, Arts 2(1), 11(1), 15(4), 22, 23; CRC, Arts 4, 24(4), 28(3)

UDHR: Universal Declaration of Human Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

CRC: Convention on the Rights of the Child

CEDAW: International Convention on the Elimination of All Forms of Discrimination Against Women

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

29 Adapted from UNDP, *Human Rights and the Millennium Development Goals. Making the Link*, 1 January 2007, p 11, http://www.undp.org/content/undp/en/home/librarypage/environment-energy/water_governance/human-rights-and-the-millennium-development-goals-making-the-link.html (last accessed 3 December 2017).

This overlap has been defined as ‘factual’ convergence, as the intersection of the two paradigms did not automatically imply that the objectives of the MDGs were to be aligned, at a *substantive* level, with corresponding human rights obligations prescribed in human rights treaties.³⁰ From the outset, it could be stated that most of the MDGs aimed at contributing to the progressive realization of ESCR, for example by halving hunger and extreme poverty or improving maternal health, rather than achieving their full realization. It could also be said that most of the goals focused on the realization of the core content of ESCR, for example through achieving universal primary education or combatting HIV/AIDS, malaria and other diseases, without targets linked to the realization of other important elements of ESCR, such as secondary and higher education or access to adequate health systems and health care for all. Important ESCR were also missing, such as the right to social security.

B. MISSED OPPORTUNITIES – THE IMPLEMENTATION OF THE MDGS VIEWED FROM A HUMAN RIGHTS PERSPECTIVE

During the MDG period, a large body of literature and UN work emerged on the importance of using human rights to guide the implementation of the MDGs.³¹

In 2002, the UN special procedures on ESCR and the UN Committee on ESCR (CESCR) issued a joint statement on the MDGs, in which they described the central role to be played by human rights in the implementation of the goals: providing a strong normative framework reinforced by binding legal obligations; increasing the level of empowerment and participation of individuals; ensuring non-discrimination and attention towards vulnerable groups; providing a means of monitoring and ensuring the accountability, through independent mechanisms, of various stakeholders involved in the development process and reinforcing what they referred to as the ‘twin principles’ of global equity and shared responsibility.³² Under such a framework, the beneficiaries of the measures addressing the MDGs become rights-holders, while states and other actors involved in development programmes bear the responsibility for allocating resources and taking steps in a manner respectful of human rights.³³

It has also been argued that ESCR provide not only solid ‘guiding principles’, but concrete ‘operational strategies’ to tackle the problems that lie at the very core of

30 S. Mcinerney-Lankford, ‘Human Rights and Development: A Comment on Challenges and Opportunities from a Legal Perspective’, 1 *Journal of Human Rights Practice* 1 (2009), 52–53.

31 H. Sano, ‘Does Human Rights-Based Development Make A Difference?’ in M. Salomon, A. Tostensen, W. Vandenhoele (eds), *Casting The Net Wider: Human Rights, Development and New Duty-Bearers*, Intersentia, 2007.

32 Joint statement of the UN Committee on Economic, Social and Cultural Rights (CESCR) and the UN Special Rapporteurs on ESCR, The Millennium Development Goals and Economic, Social and Cultural Rights, 29 November 2002.

33 Report of the UN Independent Expert on the Question of Human Rights and Extreme Poverty, UN doc A/65/259, 9 August 2010, §69.

development concerns: poverty, hunger, slum-dwelling, lack of education, gender inequality and disempowerment of women, child mortality, maternal ill-health, safe drinking water and the need for environmental sustainability.³⁴

As stated in 2010 by the then UN Special Rapporteur on the right to food, Olivier De Schutter, '[the right to food] is a tool, with clear operational impacts, that can improve the impacts of interventions in a variety of domains, and make them more sustainable in the long-term. Because it improves targeting, it can act as a compass for tackling food insecurity. Because it promotes accountability, it can ensure that efforts are directed to those whose rights are violated.'³⁵

Despite these commitments expressed by both states and human rights experts, the practical convergence between human rights and development did not really materialize during the MDG period.³⁶

Several reasons were advanced from the perspective of the human rights community. As summarized by Mac Darrow, these included the MDGs'

technocratic and reductionist nature, their lack of ambition, their failure to address root causes of poverty, their failure to factor in legal obligations pertaining to social rights, their gender-blindness, their failure to address poverty in rich countries, their weak accountability mechanisms ... the potentially distorting character of target-driven policy-making, and the propensity of the MDGs to 'crowd out' attention to important issues that didn't make it into the global list, for example social security or social protection.³⁷

The 'accountability gap' critique was quite high on the list. The monitoring framework set up under the MDGs was primarily a voluntary reporting scheme, which had more to do with the provision of information and 'awareness advocacy' than holding states and other relevant actors accountable.³⁸ This gap was acknowledged in 2010, when the then UN Secretary-General stated that '[t]he time has come for an accountability mechanism between developed and developing countries ... and between governments and their citizens, to ensure that MDG commitments are honoured.'³⁹

34 Joint statement of the CESCR and the UN Special Rapporteurs on ESCR, supra fn 32; OHCHR, *Claiming the Millennium Development Goals: A Human Rights Approach*, 2008, http://www.ohchr.org/Documents/Publications/Claiming_MDGs_en.pdf (last accessed 3 December 2017).

35 O. De Schutter, UN Special Rapporteur on the Right to Food, Five Proposals for a Genuine Integration of the Right to Food in the Revised Comprehensive Framework for Action (Contribution to the Dublin Consultation 18–19 May 2010).

36 P. Alston, 'Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals', 27 *Human Rights Quarterly* 3 (2005) 762.

37 M. Darrow, 'The Millennium Development Goals: Milestones or Millstones? Human Rights Priorities for the Post-2015 Development Agenda', 15 *Yale Human Rights and Development Law Journal* 1 (2012), 59–60.

38 Report of the UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health (UN Special Rapporteur on the Right to Health), UN doc A/59/422, 8 October 2004, §39. See also, Statement by 17 UN special procedures mandate-holders of the Human Rights Council (HRC) on the Post-2015 Development Agenda, 21 May 2013.

39 Report of the UN Secretary-General, Keeping the promise, supra fn 24, §97.

One of the other most widely acknowledged, overarching criticisms levelled against the MDGs was that the project had largely ignored human rights at the outset, both in the conceptualization and articulation of the goals: the MDGs neither referred to human rights explicitly, nor to international human rights treaties. Although the UN Millennium Declaration made substantial references to human rights,⁴⁰ the MDGs were not expressed in a human rights language and did not advocate for a HRBA to development.⁴¹

In 2010, Olivier De Schutter commented that a 'major deficiency of the MDGs [was] their failure to recognize human rights as essential to any sustainable development strategy'. For him,

[t]he world's 1 billion hungry people do not deserve charity: they have a human right to adequate food, and governments have corresponding duties, which are enshrined in international human rights law. Governments that are serious about making progress on development objectives should be asked to adopt a legislative framework for the realization of economic and social rights, such as the right to food or the right to health care.⁴²

In May 2013, two years before the end of the MDG period, 17 UN special procedures stated that 'the MDGs were met with skepticism by many who questioned the wisdom of framing as political commitments matters already codified as legal obligations under international human rights law'.⁴³ At the same time, the Chairpersons of the UN human rights treaty bodies issued a joint statement in which they emphasised that '[u]ltimately, the failure to make an explicit link to human rights (in the implementation of the MDGs) masked inequalities and frustrated advances. Indeed, in several of the celebrated development "success" stories of the previous decade, underlying repression, deprivation and inequality led to violent mass protest, and the rolling-back of any development gains'.⁴⁴

In 2015, in a joint statement on the post-2015 development agenda, the Chairpersons of the UN treaty bodies underlined that the MDGs 'failed to produce sufficient improvements in the plight of the marginalized, disempowered and excluded, including women, children, minorities, indigenous peoples, migrants, older persons, persons with disabilities and the poor. Even where overall progress was positive, inequalities and inter-sectional discrimination have dramatically increased between social groups, countries and between regions'.⁴⁵ In 2012, the then UN Special Rap-

40 UNGA Res, supra fn 9, §54, 9, 24, 25, 30.

41 Alston, 'Ships Passing in the Night', supra fn 36; M. Langford, 'A Poverty of Rights: Six Ways to Fix the MDGs', 41 *IDS Bulletin* 1 (2010), 83–91.

42 O. De Schutter, 'Millennium Development Goals Need More Emphasis on Human Rights', *The Guardian*, 21 September 2010, <https://www.theguardian.com/global-development/poverty-matters/2010/sep/21/millennium-development-goals-olivier-de-schutter>.

43 Statement by 17 UN special procedures mandate-holders, supra fn 38.

44 Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, supra fn 1.

45 Ibid.

porteur on the human rights to safe drinking water and sanitation, Catarina de Albuquerque, had explained that '[a]t least in theory, many of the (MDG) targets can be achieved without benefiting a single person with a disability, a single person belonging to an ethnic minority, or a single person living in poverty because their focus on average attainments creates a blind spot in the achievement of equality'.⁴⁶

The conclusion that appears to have often been reached is that convergence, both factual and in the sphere of principle, was ultimately quite limited as it remained confined to a superficial, rhetorical level and was not anchored in normative, enforceable standards that generate obligations.⁴⁷ Critics from the human rights community have also pointed out that, despite a plethora of rhetorical commitments to human rights, references to human rights were often vague and did not rely on precise formulations.⁴⁸ If one considers the numerous human rights obligations applying to states in light of their adherence to international human rights treaties, and given that all UN agencies have undertaken to mainstream human rights throughout the UN system since 2003,⁴⁹ this lack of practical convergence was extremely problematic.

Some years after the end of the MDG period, we can conclude that the lack of concrete action to truly situate the MDGs in a human rights framework and give human rights practical, operational significance over the past decades points towards the territory of missed opportunities. Human rights seemed, if anything, to be part of 'the general policy narrative' rather than specific legal obligations deriving from binding international instruments.⁵⁰ In conclusion, Philip Alston's metaphor of 'ships passing in the night' (expressed in 2005) may, regrettably, still be a fitting general description for the relationship between human rights and development during the MDG period.⁵¹

46 Report of the UN Special Rapporteur on the Human right to Safe Drinking Water and Sanitation, Integrating Non-Discrimination and Equality into the Post-2015 Development Agenda for Water, Sanitation and Hygiene, UN Doc A/67/270, 12 August 2012, §31. Catarina de Albuquerque added that '[d]uring her missions, [she] is often faced with incomprehension by policymakers in countries that are "on track" regarding the water target, when she comments on the lack of access by slum dwellers or people in rural areas, or the lack of quality of tap water. The target may be achieved but access to water and sanitation as guaranteed by human rights remains unequally enjoyed by many'. §19.

47 Mcinerney-Lankford, 'Human Rights and Development', supra fn 30, 54.

48 Alston, 'Ships Passing in the Night', supra fn 36, 760.

49 UN Common Understanding, supra fn 10.

50 Mcinerney-Lankford, 'Human Rights and Development', supra fn 30, 59.

51 Alston, 'Ships Passing in the Night', supra fn 36.

4. HUMAN RIGHTS AND THE SUSTAINABLE DEVELOPMENT GOALS (2016–2030)

In September 2015, 170 world leaders gathered at the UN Sustainable Development Summit in New York, in which they adopted the 2030 Agenda for Sustainable Development.

In doing so, they committed to 'build upon the achievements of the Millennium Development Goals and seek to address their unfinished business'.⁵²

The 2030 Agenda covers a broad set of 17 SDGs and 169 targets to be achieved by 2030. Inspired by two origins – the MDGs and Agenda 21⁵³ – the SDGs can be grouped under five themes: protecting people, the planet, prosperity and peace, and promoting partnership to achieve these.⁵⁴ The SDGs that aim to protect people – through which states committed 'to end poverty and hunger, in all their forms and dimensions, and to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment'⁵⁵ – are particularly relevant for the realization of ESCR. For the former UN Secretary-General, the 2030 Agenda presents unprecedented opportunities for advancing the realization of ESCR.⁵⁶

This part begins by describing the significant efforts made by UN human rights mechanisms to convince negotiators to design a sustainable development agenda and goals based on human rights (A). It then presents the human rights commitments that have been explicitly included in the 2030 Agenda for Sustainable Development (B). The proximity of the SDGs to human rights is then analysed to evaluate whether the SDGs can contribute to the full realization of all ESCR in all countries (C), and whether the commitments to leave no one behind and achieve gender equality can help to put an end to inequality and discrimination (D).

52 UNGA Res 70/1, supra fn 3, §2.

53 Agenda 21 is the action plan for the twenty-first century adopted by 178 head of states at the UN Conference on Environment and Development (the Earth Summit) held in Rio de Janeiro, Brazil, in June 1992. Twenty years later, UN Member States organized the UN Conference on Sustainable Development (Rio+20) in Rio de Janeiro, Brazil on 20–22 June 2012, during which they decided to develop the post-2015 development agenda and adopt related goals. The outcome document of the Rio+20 conference has been endorsed by UNGA Res 66/288, 27 July 2013. On the Rio Declaration on Environment and Development adopted in Rio in 1992, see J. E. Vinuales, *The Rio Declaration on Environment and Development. A Commentary*, Oxford University Press, 2015.

54 UNGA Res 70/1, supra fn 3, Preamble.

55 Ibid.

56 Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, UN doc A/HRC/34/25, 14 December 2016, §32.

A. EFFORTS MADE BY UN HUMAN RIGHTS MECHANISMS TO SECURE A HUMAN RIGHTS-BASED POST-2015 DEVELOPMENT AGENDA AND GOALS

UN human rights mechanisms have been active in convincing negotiators to design a post-2015 development agenda and related goals that are based on human rights, cover as many rights as possible and include the rights of the most vulnerable people. With civil society organizations, they also played a significant role in insisting upon the participation of a range of constituencies, the creation of effective monitoring mechanisms, the choice of human rights-relevant targets and indicators and the collection of disaggregated data to measure progress.

The UN Human Rights Council, special procedures and treaty bodies, as well as the High Commissioner for Human Rights and the Office of the UN High Commissioner for Human Rights (OHCHR) have been leading these efforts.

In 2012, in its resolution on the right to safe drinking water and sanitation, the Human Rights Council for the first time called upon states ‘to build the post-2015 framework on the values outlined in the Millennium Declaration around the fundamental principles of respect for human rights, equality and sustainability’.⁵⁷ In the following years, the Human Rights Council dedicated several of its annual high-level panel discussions on human rights mainstreaming to the inclusion of human rights in the post-2015 development agenda.⁵⁸ It also encouraged states to include specific human rights in the post-2015 development agenda, including the rights to water and sanitation, education, health and development, as well as women’s rights and the rights of the child, persons with disabilities, indigenous peoples and migrants.⁵⁹ In addition, it asked some of its special procedures to contribute to the elaboration of the post-2015 development agenda, including the Special Rapporteur on the right to safe drinking water and sanitation and the Independent Expert on human rights and international solidarity.⁶⁰

The then Special Rapporteurs on the human rights to safe drinking water and sanitation, and on extreme poverty and human rights, respectively Catarina de Albuquerque and Magdalena Sepúlveda Carmona, were among the most active during the negotiation of the SDGs. In 2012, Catarina de Albuquerque advocated for the inclusion of non-discrimination and equality in the post-2015 development agenda, goals, targets and indicators.⁶¹ She argued that it was necessary to address gaps in the MDGs and to contribute to the reduction of inequality in access to fun-

⁵⁷ HRC Res 21/2, 20 September 2012, §14.

⁵⁸ J. Kercher, *The Sustainable Development Goals (SDGs) – Contributions of the UN Human Rights Council to the Debate so far*, Friedrich Ebert Stiftung (FES), 2015, pp 1–4.

⁵⁹ Ibid.

⁶⁰ HRC Res 21/2, supra fn 57, §14; HRC Res 24/18, 8 October 2013, §17; HRC Res 21/10, 11 October 2012, §11; HRC Resolution 23/12, 24 June 2013, §512–13.

⁶¹ Report of the UN Special Rapporteur on the right to water and sanitation, supra fn 46.

damental services around the world.⁶² She also argued that water, sanitation and hygiene must have a specific goal, with targets and indicators, and she made concrete proposals regarding the methodology needed to gather and analyse the data necessary to support progress monitoring and better identify and monitor inequalities, calling for the boundaries of what is currently perceived as measurable to be pushed.⁶³ Magdalena Sepúlveda Carmona presented several reports in which she called for the inclusion of social protection, unpaid care work and access to justice in the post-2015 development agenda and the SDGs.⁶⁴

In 2014, the then UN Special Rapporteur on minority issues, Rita Izsák-Ndiaye, advocated for the inclusion of minority issues in the post-2015 agenda,⁶⁵ and the then UN Special Rapporteur on the human rights of migrants, François Crépeau, called for the inclusion of the human rights of migrants.⁶⁶ In 2015, three mandate holders – the Special Rapporteurs on the rights of persons with disabilities and on the right to food, and the Independent Expert on the enjoyment of all human rights by older persons – called for the inclusion of the rights of persons with disabilities in the post-2015 development agenda.⁶⁷

Moving beyond individual-led initiatives, UN special procedures issued a number of joint statements, letters and press releases to influence the negotiation of the post-2015 agenda. In 2012 and 2013, they stated that ‘[h]uman rights norms and standards provide concrete guidance as to how goals and targets for the post-2015 development agenda should be framed,’⁶⁸ and that ‘[g]rounding development priorities in human rights is not only a legal and moral imperative, but can also

⁶² Ibid, Summary.

⁶³ Ibid, §§22, 51–76. For C. de Albuquerque, ‘[w]hile many caution that future targets and indicators need to be measurable, and this is certainly true, there is also a tendency to hide behind this technical argument. Others have noted that measurability is an inappropriate standard for political decisions on deprioritizing certain issues, and that data should “be seen as a servant, rather than a master”. The current lack of data should not be used as an argument against future monitoring. Rather, the Special Rapporteur calls for data to be collected on certain issues precisely to bring them to light. The current lack of data on certain issues is not accidental. Neglect often coincides with a low political profile. For example, in many countries, people living in informal settlements do not appear in the official statistics, even when they represent a high percentage of the population in major cities. In that regard, the Special Rapporteur calls for pushing the boundaries of what is currently perceived as measurable. A commitment to better and more accurate data collection as part of the global framework is essential to identifying and monitoring inequalities, a crucial step to making progress to end them.’ Ibid, §22.

⁶⁴ Addendum to the report of the UN Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, Summary of Activities of the Special Rapporteur on Extreme Poverty and Human Rights, 2008–2014), UN doc A/HRC/26/28/Add.3, 5 June 2014, §49.

⁶⁵ Report of the UN Independent Expert on Minority Issues, Rita Izsák, UN doc A/HRC/25/56, 6 January 2014.

⁶⁶ Report of the UN Special Rapporteur on the Human Rights of Migrants, UN doc A/69/302, 11 August 2014.

⁶⁷ Statement by the Special Rapporteurs on the Rights of Persons with Disabilities and on the Right to Food, and the Independent Expert on the Rights of Older Persons, Rights of Persons with Disabilities Must be Fully Included in the New Development Framework, 20 February 2015.

⁶⁸ Statement by 17 UN special procedures mandate-holders, supra fn 38.

enhance effectiveness and accountability'.⁶⁹ They also advocated for the establishment of a strong international accountability mechanism, in the form of a 'Sustainable Development Council' based on the Universal Periodic Review (UPR) of the Human Rights Council.⁷⁰ And they called for the creation of participatory accountability mechanisms at national level, 'through which people's voice can be reflected and independent monitoring can be conducted'.⁷¹ Furthermore, they recommended the inclusion of equality between marginalized groups and the general population, and between countries as a stand-alone and cross-cutting goal, as well as the inclusion of a goal on the provision of social protection floors based on the right to social security.⁷²

The Chairpersons of the ten UN human rights treaty bodies issued two joint statements during the negotiation of the post-2015 development agenda.⁷³ In May 2013,⁷⁴ they argued that for the new development agenda to be sustainable, it needed to be grounded in human rights, justice and the rule of law. They advocated for the use of human rights indicators to measure progress towards the realization of post-2015 goals, and they called for strengthening accountability of all development actors by linking development goals to legal obligations under human rights treaties and by engaging national and international human rights mechanisms, including UN treaty bodies and special procedures, as monitoring mechanisms and sources of information in monitoring progress.⁷⁵

In January 2015,⁷⁶ they welcomed the integration of human rights in the draft 2030 Agenda, the proposed 17 SDGs and 169 targets and the emphasis placed on equality and non-discrimination. They called for the creation of a strong accountability framework at national, regional and global levels, with a systematic and institutionalized flow of information from and to existing monitoring mechanisms, including the human rights treaty bodies, in order to ensure synergies between existing mechanisms and the post-2015 monitoring and review framework. They also suggested that negotiators should build upon the inclusive working methods of existing mechanisms such as the human rights treaty bodies, as well as the UPR of the Human Rights Council.

69 Ibid.

70 Open letter from special procedures mandate-holders of the UN HRC to States Negotiating the Outcome Document of the Rio+20 Summit, 2012. Statement by 17 UN special procedures mandate-holders, *supra* fn 38.

71 Open letter from special procedures mandate-holders of the UN HRC, *supra* fn 70; Statement by 17 UN special procedures mandate-holders, *supra* fn 38.

72 Statement by 17 UN special procedures mandate-holders, *supra* fn 38.

73 The ten human rights treaty bodies are: the HRC, the CESCR, the Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee), the Committee Against Torture, the Committee on the Rights of the Child, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Committee on Migrant Workers), the Committee on the Rights of Persons with Disabilities, the Sub-Committee on the Prevention of Torture and the Committee on Enforced Disappearances.

74 Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, *supra* fn 1.

75 Ibid.

76 Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies on the Post-2015 Development Agenda, 18 January 2015.

Some treaty bodies also took individual initiatives. In November 2012, the Chairperson of the CESCR sent a letter to all States Parties to the ICESCR, encouraging them to explicitly align the post-2015 development goals with human rights principles, including non-discrimination, equality between men and women, participation and inclusion, transparency and accountability.⁷⁷

In February 2014, the Chairperson of the CEDAW Committee made an intervention before the UN General Assembly working group on the SDGs,⁷⁸ and the CEDAW Committee issued a statement in which it underlined that all goals, targets and indicators should be aligned with human rights standards, and that building the new agenda on equality and non-discrimination would ensure that no one is left behind.⁷⁹ It called for the inclusion of a stand-alone goal on gender equality and for mainstreaming gender in all goals, including through disaggregating all indicators by sex.⁸⁰ It also described two failures of the MDGs – not including gender-based violence and not addressing discrimination against women in access to justice – as major shortcomings that had to be rectified.⁸¹ For the Committee, '[w]hatever accountability mechanism is adopted (for the SDGs), the CEDAW Committee (along with the other human rights treaty bodies) should have a critical role in ensuring accountability for gender equality'.⁸²

In May 2013 and January 2014, the Committee on the Rights of Persons with Disabilities issued two statements on the post-2015 agenda and the SDGs, asking for the inclusion of the rights of persons with disabilities in the post-2015 development agenda, the participation of persons with disabilities and their representative organizations in the definition and national implementation of the SDGs, the definition of disability-rights indicators and benchmarks and the collection of disaggregated data, including by disability and barriers faced by persons with disabilities, to measure progress.⁸³ It also called for the establishment of strong accountability mechanisms to monitor progress in the realization of the right of persons with disabilities to an inclusive, accessible and sustainable development, including through existing international human rights mechanisms.⁸⁴

77 Letter on the Post-2015 Development Agenda sent by the Chairperson of the CESCR to State Parties to the ICESCR, 30 November 2012.

78 Statement of the Chairperson of the CEDAW Committee to the 8th session of the UNGA Open Working Group on the SDGs, Promoting Equality, Including Social Equity, Gender Equality and Women's Empowerment, 5 February 2014.

79 Statement of the CEDAW Committee on the Post-2015 Development Agenda and the Elimination of Discrimination Against Women, 26 February 2014.

80 Ibid.

81 Ibid.

82 Ibid.

83 Statement of the Committee on the Rights of Persons with Disabilities on Including the Rights of Persons with Disabilities in the Post-2015 Agenda on Disability and Development, May 2013; Statement of the Committee on the Rights of Persons with Disabilities on Sustainable Development Goals, addressed to the 8th session of the Open Working Group on Sustainable Development Goals, January 2014.

84 Statement of the Committee on the Rights of Persons with Disabilities on Sustainable Development Goals, *supra* fn 83.

The UN High Commissioner for Human Rights also made significant contributions to the discussion on the post-2015 development agenda.⁸⁵ In a letter sent to all UN Member States in 2013, the then High Commissioner for Human Rights, Navanethem Pillay, summarized how negotiators could design a human rights-based post-2015 development agenda and goals in ten key messages.⁸⁶ These included the need for the post-2015 agenda to be built on human rights and equality, to be universal, to address freedom from both fear and want (i.e. ESCR as well as civil and political rights), and to include marginalized, disempowered and excluded groups, including women, minorities, indigenous peoples, migrants, older persons, the disabled and the poor. She added that the imperative of equality should underpin the entire framework, and that a two-track approach should be followed, ‘with both a stand-alone goal on equality, as well as the integration of equality considerations across all other goals through disaggregation and targeted benchmarking’.⁸⁷ Furthermore, a new global partnership for development should be created by the post-2015 agenda, with human rights-consistent policies at the international level and a strong accountability framework linked to human rights mechanisms, including the UN treaty bodies, special procedures and UPR. For the UN High Commissioner for Human Rights, ‘[t]here w[ould] be no development without equality, no progress without freedom, no peace without justice, no sustainability without human rights’.⁸⁸

Finally, it is important to mention that OHCHR conducted research on key aspects of the post-2015 development agenda, such as the need to establish strong accountability mechanisms to monitor the realization of the goals⁸⁹ and the need to choose human rights-relevant indicators.⁹⁰ It was also an active member of the UN Secretary-General’s task team on the post-2015 development agenda, through which UN agencies and other international organizations advised negotiators. In its first report released in June 2012 – *Realising the Future We Want for All* – the task team’s first recommendation was to build the post-2015 agenda on the core values of human rights, equality and sustainability.⁹¹ OHCHR then participated in the organization of the 80 national consultations and 11 global thematic consultations facilitated by the UN, at the end of which more than a million people called for the post-2015 development agenda to be built on human rights and include strong accountability mechanisms.⁹²

85 For a summary of these contributions, see Kercher, *The Sustainable Development Goals*, supra fn 58, p 6.

86 Letter sent to all UN Member States by the UN High Commissioner for Human Rights, supra fn 2.

87 Ibid.

88 Ibid.

89 OHCHR and the Center for Economic and Social Rights (CESR), *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda*, 2013, <http://www.ohchr.org/Documents/Publications/WhoWillBeAccountable.pdf> (last accessed 3 December 2017).

90 OHCHR, *Human Rights Indicators. A Guide to Measurement and Implementation*, 2012, http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf (last accessed 3 December 2017).

91 UN System Task Team on the Post-2015 UN Development Agenda, *Realising the Future We Want for All*, Report to the UN Secretary General, June 2012, pp i, 23.

92 UNDG, *A Million Voices: The World We Want. A Sustainable Future with Dignity for All*, 2013, p 2, <https://undg.org/wp-content/uploads/2016/12/The-World-we-Want.pdf> (last accessed 3 December 2017).

B. EXPLICIT HUMAN RIGHTS COMMITMENTS IN THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

Efforts made by UN human rights mechanisms to secure a human rights-based post-2015 agenda and goals have produced significant results. A case in point is the inclusion of explicit human rights commitments in the 2030 Agenda for Sustainable Development.

In adopting the 2030 Agenda for Sustainable Development on 25 September 2015, UN Member States made strong commitments to link the new agenda and the implementation of the SDGs with the promotion and protection of human rights.

The 2030 Agenda envisages a world of ‘universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination’⁹³ and emphasizes ‘the responsibilities of all States ... to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind’.⁹⁴ It is ‘grounded in the Universal Declaration of Human Rights (and) international human rights treaties’⁹⁵ and is ‘to be implemented in a manner that is consistent with the obligations of states under international law,’⁹⁶ which include states obligations under international human rights law.

In adopting the 2030 Agenda, states have explicitly committed to fully respect the human rights of women, children and youth, migrants, refugees and internally displaced persons.⁹⁷ And they have recognized ‘the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions’.⁹⁸

In defining the 17 SDGs and 169 related targets, states have underlined that these ‘seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls’.⁹⁹ While the SDGs related to poverty, social security, food security, health, education, work, housing, water and sanitation seek to realize ESCR, the agenda also includes a specific SDG on access to justice (Goal 16), which constitutes a first step towards the integration of this right, not included in the MDGs, within the development agenda.

It is also important to note that along with the substantive human rights guarantees that have been included in the 2030 Agenda, states have also committed to

93 UNGA Res 70/1, supra fn 3, §8.

94 Ibid, §19.

95 Ibid, §10.

96 Ibid, §18.

97 Ibid, §§20, 25, 29 respectively.

98 Ibid, §35.

99 Ibid, Preamble.

ensure that the follow-up and review processes at all levels will be ‘people-centred, gender-sensitive, [will] respect human rights and have a particular focus on the poorest, most vulnerable and those furthest behind’.¹⁰⁰

C. SDGS 1-17: TOWARDS THE FULL REALIZATION OF ALL ESCR IN ALL COUNTRIES?

In adopting the 2030 Agenda for Sustainable Development, states have committed to ‘build upon the achievements of the Millennium Development Goals and seek to address their unfinished business’.¹⁰¹ To reach these objectives, they have committed to fully realize the MDGs that were not met – in particular, those related to maternal, newborn and child health and reproductive health – and to support states in which progress has been uneven – in Africa, least developed countries, landlocked developing countries and small island developing states.¹⁰²

As we have seen, the MDGs aimed at contributing to the progressive realization of ESCR, for example by halving hunger and extreme poverty. Furthermore, most of them focused on the core content of ESCR, for example by aiming to achieve universal primary education or combat HIV/AIDS, malaria and other diseases without targets link to other important elements of ESCR, such as secondary and higher education or access to adequate health systems and health care for all. We have also seen that the MDGs were not applicable everywhere, but focused on developing countries.¹⁰³ The 2030 Agenda proposes a far more ambitious programme, with the SDGs and related targets aiming at contributing to the full realization of ESCR in all countries.

The 2030 Agenda for Sustainable Development includes 17 SDGs and 169 targets to be achieved by 2030. These are ‘universal goals and targets which involve the entire world, developed and developing countries alike’¹⁰⁴ and are ‘accepted by all countries and ... applicable to all’¹⁰⁵, being ‘global in nature and universally applicable’.¹⁰⁶

As we have seen, the SDGs cover five themes: protecting people, the planet, prosperity, and peace, and promoting partnership to achieve those.¹⁰⁷ The 17 SDGs and

¹⁰⁰ Ibid, §74.e.

¹⁰¹ Ibid, §2.

¹⁰² Ibid, §16.

¹⁰³ As we have seen, this explains why human rights experts have criticized the MDGs for their lack of ambition and failure to address poverty in rich countries. They have also criticized the MDGs for missing important issues, such as social security. Darrow, ‘The Millennium Development Goals’ supra fn 37, 59–60.

¹⁰⁴ UNGA Res 70/1, supra fn 3, §5.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid, §55.

¹⁰⁷ Ibid, Preamble.

169 targets are mutually reinforcing, integrated and indivisible.¹⁰⁸ In adopting them, UN Member States have set out an ambitious and transformational vision:

Our vision

7. In these Goals and targets, we are setting out a supremely ambitious and transformational vision. We envisage a world free of poverty, hunger, disease and want, where all life can thrive. We envisage a world free of fear and violence. A world with universal literacy. A world with equitable and universal access to quality education at all levels, to health care and social protection, where physical, mental and social well-being are assured. A world where we reaffirm our commitments regarding the human right to safe drinking water and sanitation and where there is improved hygiene; and where food is sufficient, safe, affordable and nutritious. A world where human habitats are safe, resilient and sustainable and where there is universal access to affordable, reliable and sustainable energy.¹⁰⁹

Many SDGs and targets are closely linked to human rights and, in particular, ESCR. It has been argued that 156 of the 169 targets are linked to human rights and labour standards¹¹⁰ (see also the table on the SDGs and human rights in the Annex).

At the end of 2016, the then UN Secretary-General underlined that while the SDGs themselves are not framed explicitly in the language of human rights, but as aspirational goals,¹¹¹ and while ESCR have far greater scope than the SDGs, ‘virtually all of the Goals correspond to the contents of key economic, social and cultural rights’.¹¹²

Many of the targets under the Goals explicitly reflect the content of relevant international human rights standards. Many address availability, accessibility, affordability and quality of education, health, water and other

¹⁰⁸ Ibid, §55.

¹⁰⁹ Ibid, §7. In the outcome document of Rio+20, *The Future We Want*, states explicitly referred to a number of ESCR. For example, they reaffirmed their commitments regarding ‘the right of everyone to have access to safe, sufficient and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger’. See UNGA Res 66/288, supra fn 53, §108. For the UN Special Rapporteur on the Right to Food, Hilal Elver, the fact that the right to food has not been explicitly mentioned in the 2030 Agenda is ‘a major shortcoming’. Interim Report of the UN Special Rapporteur on the Right to Food, Hilal Elver, UN Doc A/71/282, 3 August 2016, §47. See also, Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, UN doc A/71/304, 5 August 2016, §12, in which he regrets that ‘the 2030 Agenda does not explicitly state that health is a human right’.

¹¹⁰ B. Feiring and A. Hassler, *Human Rights in Follow-Up and Review of the 2030 Agenda for Sustainable Development*, Draft Paper, Danish Institute for Human Rights (DIHR), February 2016, p 7, http://www.un.org/esa/socdev/unpfii/documents/2016/National-HR/DIHR-FuR-paper_final-draft_29_02_16-Danemark.pdf (last accessed 3 December 2017).

¹¹¹ According to the 2030 Agenda, the SDGs and targets ‘are integrated and indivisible, global in nature and universally applicable, taking into account different national realities, capacities and levels of development and respecting national policies and priorities. Targets are defined as aspirational and global, with each Government setting its own national targets guided by the global level of ambition but taking into account national circumstances. Each Government will also decide how these aspirational and global targets should be incorporated into national planning processes, policies and strategies’. UNGA Res 70/1, supra fn 3, §55.

¹¹² Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §§8, 14.

services related to those rights. The goals include targets on access to safe, nutritious and sufficient food for all, universal health coverage, free equitable and quality primary and secondary education, access to safe and affordable water, sanitation, hygiene and housing, and access to safe, effective, quality and affordable essential medicines and vaccines for all.¹¹³

To illustrate this convergence, he cited the example of SDG 6 and the right to water:

[U]nder Goal 6, Member States committed to ensure the availability and sustainable management of water and sanitation for all. The Goal is accompanied by, inter alia, targets 6.1 (to achieve universal and equitable access to safe and affordable drinking water for all by 2030), 6.4 (to substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity, and substantially reduce the number of people suffering from water scarcity by 2030) and target 6.b (to support and strengthen the participation of local communities in improving water and sanitation management). These targets address the key normative content of the right to water, which includes the right to maintain access to existing water supplies necessary for the right to water; the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies; and the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.¹¹⁴

We can take another example, comparing SDG 2 with the right to food. SDG 2's first objective is to eradicate hunger, which corresponds to the realization of the fundamental right to be free from hunger enshrined in article 11(2) of the ICESCR. It also aims at achieving food security and improved nutrition and promoting sustainable agriculture, which cover three key elements of the right to adequate food as it is articulated in article 11(1) of the ICESCR and defined by subsequent practice.¹¹⁵

SDG 2-related targets include ending hunger and malnutrition and ensuring access for all to safe, nutritious and sufficient food, which correspond to the definition of the right to food given by states and UN human rights bodies in the last twenty

113 Ibid, §10. See also, OHCHR, *Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development*, Position Paper, <http://www.ohchr.org/Documents/Issues/MDGs/Post2015/HRAAndPost2015.pdf> (last accessed 3 December 2017).

114 Report of the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §11. The UN Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, has also concluded that SDG 6 covers the main elements of the rights to water and sanitation. Report of the UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, UN doc A/71/302, 5 August 2016, §2; Report of the UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, UN doc A/HRC/30/39, 5 August 2015.

115 According to the former UN Special Rapporteur on the right to food, Olivier De Schutter, the right to food is 'the right of every individual, alone or in community with others, to have physical and economic access at all times to sufficient, adequate and culturally acceptable food that is produced and consumed sustainably, preserving access to food for future generations'. Report of the UN Special Rapporteur on the Right to Food, Olivier De Schutter, Final Report: The Transformative Potential of the Right to Food, UN doc A/HRC/25/57, 24 January 2014, §2.

years – according to which, the right to food is realized when food is available, adequate and accessible to all.¹¹⁶ Other SDG 2-related targets aim at improving agricultural productivity and incomes of rural women, indigenous peoples, family farmers, pastoralists and fishers, providing them with access to land and other natural resources and ensuring sustainable and resilient food production. These correspond to three key elements of the right to food and correlative states obligations in international human rights law, i.e. the need to focus on the most vulnerable people working in rural areas, provide them with access to the natural resources they need to feed themselves and their family in dignity and ensure that food is produced in a sustainable way.¹¹⁷

The right to health is another example we can cite. In adopting the 2030 Agenda, states have expressed the following commitments:

To promote physical and mental health and well-being, and to extend life expectancy for all, we must achieve universal health coverage and access to quality health care. No one must be left behind. We commit to accelerating the progress made to date in reducing newborn, child and maternal mortality by ending all such preventable deaths before 2030. We are committed to ensuring universal access to sexual and reproductive health-care services, including for family planning, information and education. We will equally accelerate the pace of progress made in fighting malaria, HIV/AIDS, tuberculosis, hepatitis, Ebola and other communicable diseases and epidemics, including by addressing growing anti-microbial resistance and the problem of unattended diseases affecting developing countries. We are committed to the prevention and treatment of non-communicable diseases, including behavioural, developmental and neurological disorders, which constitute a major challenge for sustainable development.¹¹⁸

To put these commitments into practice, they adopted SDG 3 – to ensure healthy lives and promote well-being for all at all ages – and the SDG 3-related targets, which include reducing maternal mortality, ending preventable child deaths, ending AIDS, tuberculosis and malaria, promoting mental health, ensuring universal access to sexual and reproductive health-care services and achieving universal health coverage, including access to quality essential health-care services and safe, effective, quality and affordable essential medicines and vaccines for all.

The content of SDG 3 and its related targets cover the main elements of the right to health, as it has been defined in international human rights law. According to

116 Ibid. See also, CESCR, General Comment No 12: The Right to Adequate Food, UN doc E/C.12/1999/5, 12 May 1999, §§6-8; Report of the UN Special Rapporteur on the Right to Food, Jean Ziegler, UN doc E/CN.4/2001/53, 7 February 2001, §14; FAO, *The Right to Food: Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, 2004, Preface, Introduction, §16.

117 See Report of the UN Special Rapporteur on the Right to Food, supra fn 115; Final Study of the Human Rights Council Advisory Committee on the Advancement of the Rights of Peasants and Other People Working in Rural Areas, UN doc A/HRC/19/75, 24 February 2012; J. Ziegler, C. Golay, C. Mahon and S.-A. Way, *The Fight for the Right to Food: Lessons Learned*, London, Palgrave Macmillan, 2011.

118 UNGA Res 70/1, supra fn 3, §26.

this definition, entitlements attached to the right to health include the right to a system of health protection providing equality of opportunity for everyone to enjoy the highest attainable level of health; the right to prevention, treatment and control of diseases; access to essential medicines, maternal, child and reproductive health; equal and timely access to basic health services and the provision of health-related education and information. All services, goods and facilities must be available, accessible, acceptable and of good quality.¹¹⁹

It is also important to underline that many other SDGs and related targets address the underlying determinants of health – also defined as key elements of the right to health¹²⁰ – including poverty (SDG 1) and hunger (SDG 2), education (SDG 4), gender equality and empowerment of women and girls (SDG 5), drinking water and sanitation (SDG 6), working conditions (SDG 8), housing and hygiene (SDG 11) and environmental conditions (SDGs 12–15).¹²¹

We could continue the analysis and compare the content of SDGs and related targets with the main elements of the right to social security (SDG 1), the right to education (SDG 4), the right to work (SDG 8) and the right to housing (SDG 11) and reach similar conclusions, as these main elements are covered.¹²² We could also analyse SDG 17 and many targets under other SDGs and conclude that they cover the main elements of the obligation of international cooperation and assistance to realize ESCR, as it is articulated in article 2(1) of the ICESCR and several other international human rights instruments.¹²³ The table on the SDGs and human rights in the Annex illustrates this close link between the SDGs and ESCR.

However, while we can conclude that the 17 SDGs and 169 targets cover the main elements of ESCR, it is still impossible to conclude that every single element of each ESCR is covered. Cultural rights, for example, are very partially covered, including through target 11.4, which aims to ‘protect and safeguard the world’s cultural and natural heritage’, and targets related to technology innovation and transfer, which are linked to the right to enjoy the benefits of scientific progress (SDGs 12, 14 and 17).

119 CESCR, General Comment No 14: The Right to the Highest Attainable Standard of Health, UN doc E/C.12/2000/4, 11 August 2000, §§11–17; OHCHR and the World Health Organization (WHO), *The Right to Health*, Fact Sheet no 31, 2008, pp 3–4, <http://www.ohchr.org/Documents/Publications/Factsheet31.pdf> (last accessed 3 December 2017).

120 For a definition of the underlying determinants of health, see CESCR, General Comment no 14, supra fn 119, §§4, 11, 12, 16, 36. See also, OHCHR and WHO, *The Right to Health*, supra fn 119, p 3.

121 See also, Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, supra fn 109, §7, 19–21.

122 Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §8. The former UN Special Rapporteur on the right to education, Kishore Singh, has, for example, also concluded that SDG 4 covers the main elements of the right to education. Report of the Special Rapporteur on the Right to Education, Kishore Singh, UN doc A/HRC/35/24, 2 June 2017, §§3, 19.

123 Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §§37–38.

The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on the right to health), Dainius Pūras, the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice and the CEDAW Committee have also underlined that important elements of the right to health could have been better defined in the SDGs and related targets. They have emphasized access to essential health-care services and sexual and reproductive health-care services, which should not only be universalized, but should also meet ‘critical right to health requirements, including availability, accessibility, acceptability and quality’.¹²⁴ For the UN Special Rapporteur, mental health could also have figured more prominently in the SDGs, as ‘it should be a new priority in public policies addressed in parity with physical health’.¹²⁵

The UN Special Rapporteur on the right to adequate housing, Leilani Farha, identified other gaps in the SDGs. In defining SDG 11, states committed to ‘make cities and human settlements inclusive, safe, resilient and sustainable’, and through SDG target 11.1, they committed to ‘ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums’ by 2030. For Leilani Farha, ‘the specific reference to access to adequate housing for all is important, as it ... provides a link to ... human rights obligations’, but ‘it is not entirely clear, however, how the standard of “adequate, safe and affordable housing” relates to international human rights norms with respect to the right to housing, such as safety, affordability, cultural adequacy and accessibility, among others’. Furthermore, the ‘lack of security of tenure, forced evictions and homelessness ... have been central concerns of human rights bodies in relation to the realization of the right to housing, yet these issues are not referenced at all in goal 11’.¹²⁶ To help fill the gaps, she presented a report to the Human Rights Council in March 2016, in which she interpreted SDG target 11.1 as requiring states to eliminate homelessness, even if this was not stated explicitly.¹²⁷

124 Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, supra fn 109, §8; Open letter of the Chairperson-Rapporteur of the Working Group on the Issue of Discrimination Against Women in Law and in Practice, the Special Rapporteur on the Right to Health and the CEDAW Committee, 3 November 2014. See also, Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, supra fn 76. On the definition of the right to sexual and reproductive health, see also, CESCR, General Comment No 22. The Right to Sexual and Reproductive Health, UN doc E/C.12/GC/22, 2 May 2016. See also, Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §13.

125 Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, UN doc A/HRC/29/33, April 2015, §§77, 83, 122(I). See also, Report of the UN Special Rapporteur on the Right to Health, UN doc A/HRC/35/21, 28 March 2017.

126 Report of the UN Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this context (UN Special Rapporteur on the Right to Adequate Housing), UN doc A/70/270, 4 August 2015, §33. Leilani Farha also noted that ‘the reference to upgrading slums, without specifying criteria or referring to the rights of those who currently live there, could be subject to the same kinds of ad hoc interpretations as were applied to target 7.D of the Millennium Development Goals, failing to address the actual needs of residents of informal settlements or to recognize all aspects of their right to housing’. Ibid.

127 Report of the UN Special Rapporteur on the Right to Adequate Housing, UN doc A/HRC/31/54, 30 December 2015, §§4, 66.

The UN Secretary-General and OHCHR have noted that in other cases, inconsistencies with human rights standards may be implicit, taking the example of target 6.2 which aims to eliminate open defecation but, without specified means of implementation, may in practice risk criminalizing the poorest people.¹²⁸ For them, these kinds of unintended effects must be anticipated and prevented in the implementation of the SDGs.¹²⁹

Another problem is that some targets are limited by the requirements of consistency with national laws, which means that states will not be encouraged to modify their national laws to make sure that they contribute to the realization of the SDG targets.¹³⁰ This is, for example, the case with target 5.7, through which states committed to ‘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’.

In conclusion, in monitoring the SDGs from a human rights perspective, it is essential to evaluate the degree to which ESCR are covered by the SDGs and related targets, and ‘where there are gaps or inconsistencies, it will be critical to ensure that implementation of the targets is consistent with international human rights law’.¹³¹

D. LEAVING NO ONE BEHIND AND ACHIEVING GENDER EQUALITY: THE END OF INEQUALITY AND DISCRIMINATION?

The commitments to ‘leave no one behind’ and to ‘achieve gender equality’ are at the centre of the 2030 Agenda for Sustainable Development, and they are intrinsically linked to the human rights principles of equality and non-discrimination.¹³²

In adopting the 2030 Agenda, states committed to achieve what was not realised by the MDGs, particularly reaching the most vulnerable.¹³³ They committed ‘to free the human race from the tyranny of poverty and want’¹³⁴ and, in doing so, to ‘leave no one behind’.¹³⁵ They envisaged a world that would be ‘just, equitable, tolerant, open and socially inclusive ... in which the needs of the most vulnerable are met’, a world ‘in which every woman and girl enjoys full gender equality and all legal,

128 Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §13; OHCHR, *Transforming Our World*, supra fn 113.

129 Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §14; OHCHR, *Transforming Our World*, supra fn 113.

130 See, e.g., Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, supra fn 76.

131 OHCHR, *Transforming Our World*, supra fn 113.

132 Report the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, supra fn 56, §§15-19.

133 UNGA Res 70/1, supra fn 3, §16.

134 Ibid, Preamble.

135 Ibid.

social and economic barriers to their empowerment have been removed’.¹³⁶ They also emphasized ‘the responsibilities of all States, in conformity with the Charter of the United Nations, to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status’.¹³⁷

Two SDGs – SDG 5 and SDG 10 – are specifically designed to combat inequality and discrimination. SDG 5 aims at achieving gender equality and empowering all women and girls. Its related targets aim to end all forms of discrimination against all women and girls everywhere (5.1); eliminate all forms of violence against all women and girls (5.2); eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation (5.3); recognize and value unpaid care and domestic work, including through social protection (5.4); ensure universal access to sexual and reproductive health and rights (5.6); undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other natural resources (5.7) and adopt and strengthen laws and policies for the promotion of gender equality and the empowerment of all women and girls at all levels (5.9).

SDG 10 aims at reducing inequality within and between countries. To reduce inequality within countries, its related targets include the promotion of the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status (10.2), the guarantee of equal opportunity and the reduction of inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard (10.3). To reduce inequality between countries, SDG 10’s related targets include the encouragement of official development assistance and financial flows to states where need is greatest, particularly least developed countries, African countries, small island developing states and landlocked developing countries, in accordance with their national plans and programmes (10.9).

Many other SDGs and related targets aim to make sure that the needs of the most vulnerable, including women and girls, are targeted and fulfilled. In adopting the 2030 Agenda, states committed to ensure that the SDGs and related targets are ‘met for all nationals and peoples and for all segments of society’ and ‘endeavour to reach the furthest behind first’.¹³⁸ They also committed to build follow-up and review processes that will ‘have a particular focus on the poorest, most vulnerable and those furthest behind’, collecting disaggregated data to measure progress.¹³⁹ Furthermore, they recognized gender equality and the empowerment of all women and girls as transversal principles applying to all SDGs and targets:

136 Ibid, §8.

137 Ibid, §19.

138 Ibid, §4.

139 Ibid, §74.

Realizing gender equality and the empowerment of women and girls will make a crucial contribution to progress across all the Goals and targets. The achievement of full human potential and of sustainable development is not possible if one half of humanity continues to be denied its full human rights and opportunities. Women and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels. We will work for a significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels. All forms of discrimination and violence against women and girls will be eliminated, including through the engagement of men and boys. The systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial.¹⁴⁰

The commitments to leave no one behind and to achieve gender equality, as well as to empower all women and girls, are very closely interlinked with the human rights principles of equality and non-discrimination. For the President of the Human Rights Council,

[t]here is a strong convergence between the 2030 Agenda's approach to 'ensuring that no one is left behind' and the human rights-based approach to addressing inequality and discrimination among and within countries ... Like international human rights law, the 2030 Agenda calls for formal and substantive equality of opportunities and outcomes for people who are vulnerable and must be empowered.¹⁴¹

In its General Comment No 20,¹⁴² the CESCR defined formal and substantive discrimination in the following terms:

In order for States parties to 'guarantee' that the Covenant rights will be exercised without discrimination of any kind, discrimination must be eliminated both formally and substantively:

Formal discrimination: Eliminating formal discrimination requires ensuring that a State's constitution, laws and policy documents do not discriminate on prohibited grounds; for example, laws should not deny equal social security benefits to women on the basis of their marital status;

Substantive discrimination: Merely addressing formal discrimination will not ensure substantive equality as envisaged and defined by article

¹⁴⁰ Ibid, §20.

¹⁴¹ Inputs from the President of the Human Rights Council to the 2016 HLPF: The Work of the Human Rights Council in Relation to the 2030 Agenda for Sustainable Development, p 1, <http://www.ohchr.org/Documents/Issues/MDGs/Post2015/Contribution2016HLPF.pdf> (last accessed 3 December 2017)

¹⁴² CESCR, General Comment No 20: Non-Discrimination in Economic, Social and Cultural Rights, UN doc E/C.12/GC/20, 2 July 2009, §§8-9.

2, paragraph 2. The effective enjoyment of Covenant rights is often influenced by whether a person is a member of a group characterized by the prohibited grounds of discrimination. Eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination. For example, ensuring that all individuals have equal access to adequate housing, water and sanitation will help to overcome discrimination against women and girl children and persons living in informal settlements and rural areas.

In order to eliminate substantive discrimination, States parties may be, and in some cases are, under an obligation to adopt special measures to attenuate or suppress conditions that perpetuate discrimination. Such measures are legitimate to the extent that they represent reasonable, objective and proportional means to redress de facto discrimination and are discontinued when substantive equality has been sustainably achieved. Such positive measures may exceptionally, however, need to be of a permanent nature, such as interpretation services for linguistic minorities and reasonable accommodation of persons with sensory impairments in accessing health-care facilities.¹⁴³

In the SDGs, examples of targets for combatting formal discrimination include target 5.1.1, which aims to evaluate 'whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex', and target 5.7.2, which aims to evaluate the 'proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control'.

The fight against substantive discrimination is present in the fact that the whole 2030 Agenda aims at reaching and empowering the most vulnerable. In adopting the Agenda, states made the following commitment:

People who are vulnerable must be empowered. Those whose needs are reflected in the Agenda include all children, youth, persons with disabilities (of whom more than 80 per cent live in poverty), people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants. We resolve to take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, strengthen support and meet the special needs of people living in areas affected by complex humanitarian emergencies and in areas affected by terrorism.¹⁴⁴

¹⁴³ Ibid.

¹⁴⁴ UNGA Res 70/1, *supra* fn 3, §23.

For OHCHR:

The new agenda includes perhaps the most expansive list of groups to be given special focus of any international document of its kind. There is a strong focus on women and girls and gender issues, and the inclusion of children, youth, persons with disabilities, people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants (e.g. para 23). There is an important new commitment of Member States to welcome the positive contribution of migrants and ensure that migration takes place with “full respect for human rights and the human treatment of migrants regardless of migration status, of refugees and of displaced persons” (para 35). However there are also major gaps such as the lack of explicit reference to minorities and LGBTI.¹⁴⁵

For the UN Working Group on the issue of discrimination against women in law and in practice, the aim of the 2030 Agenda

is not only to call the 21st century ‘the century of women’ in the words of the Secretary General, but to work systematically to make it a century in which the equal contribution of women is recognised, facilitated and properly rewarded. We are talking of empowerment of women ... and not only of protection of women as victims, which remains absolutely necessary in the light of abuses of women, but of empowerment to play a full and equal role in shaping the human destiny.¹⁴⁶

In conclusion, it is important to underline that in monitoring the SDGs from a human rights perspective, it is essential to link the commitments ‘to leave no one behind’ and to ‘achieve gender equality’ to the principles of equality and non-discrimination, and to critically evaluate the way states fight both formal and substantive discrimination, in order to achieve formal and substantive equality.

¹⁴⁵ OHCHR, *Transforming Our World*, supra fn 113.

¹⁴⁶ Statement of the UN HRC’s Working Group on the Issue of Discrimination Against Women in Law and in Practice, A Normative Framework for Achieving Development Goals for Gender Equality and the Empowerment of Women, January 2015, http://www.ohchr.org/Documents/Issues/Women/WRGS/WGcontributions_to_Post2015DevelopmentAgenda.pdf (last accessed 3 December 2017).

5. THE ROLE OF UNITED NATIONS HUMAN RIGHTS MECHANISMS IN MONITORING THE SUSTAINABLE DEVELOPMENT GOALS THAT SEEK TO REALIZE ESCR

Despite efforts made by UN human rights mechanisms to convince negotiators of the 2030 Agenda to build a strong accountability framework to monitor the SDGs, with a systematic and institutionalized flow of information from and to their work,¹⁴⁷ and the call made by more than a million people that the new agenda should be built on human rights and include strong accountability mechanisms,¹⁴⁸ the follow-up and review framework established in the 2030 Agenda is weak and is not explicitly linked to the work of UN human rights mechanisms.

Yet, as we will see, these gaps do not preclude UN human rights mechanisms from engaging with the mechanisms established to monitor the SDGs, in particular the HLPF, or from being proactive in including the monitoring of the SDGs, including those that seek to realize ESCR, in their own work.¹⁴⁹ The legitimacy of their doing so lies in the 2030 Agenda being grounded in the Universal Declaration of Human Rights and international human rights treaties;¹⁵⁰ many of the SDGs seeking to realize ESCR;¹⁵¹ the Agenda needing to be implemented in a manner that is consistent with the obligations of states under international law,¹⁵² which include states obligations under international human rights law, and the requirement that follow-up and review processes at all levels respect human rights.¹⁵³

¹⁴⁷ See part 4.A above. See also, Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, supra fn 1.; Letter sent to all UN Member States by the UN High Commissioner for Human Rights, supra fn 2; Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, supra fn 76; Statement of the Committee on the Rights of Persons with Disabilities on Sustainable Development Goals, supra fn 83; Statement of the Chairperson of the CEDAW Committee to the 8th session of the UNGA Open Working Group on the SDGs, supra fn 78. OHCHR and the CESSR, *Who Will Be Accountable?*, supra fn 89.

¹⁴⁸ In May 2013, the Chairpersons of the 10 UN human rights treaty bodies had already argued that the accountability of all development actors should be strengthened by engaging international human rights mechanisms, including UN treaty bodies and special procedures, as monitoring mechanisms and sources of information in monitoring progress. Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, supra fn 1.

¹⁴⁹ UNGA Res 70/1, supra fn 3, §10.

¹⁵⁰ *Ibid*, Preamble.

¹⁵¹ *Ibid*, §18.

¹⁵² *Ibid*, §74.e.

¹⁵³ *Ibid*, §46.

UN human rights mechanisms can also base their engagement on the 2030 Agenda's acknowledgement that the UN system has a key role to play in supporting the achievement of the SDGs;¹⁵⁴ the requirement that follow-up and review processes established to monitor the implementation of the SDGs build on existing platforms and processes and benefit from the active support of the UN system and the requirement that data and information from existing reporting mechanisms be used where possible.¹⁵⁵ The 2030 Agenda also encourages relevant UN entities and intergovernmental bodies and forums to participate in the work of the HLPF,¹⁵⁶ which include UN human rights mechanisms.¹⁵⁷

This part discusses the role that UN human rights mechanisms can play in monitoring the SDGs that seek to realize ESCR. It begins by describing their collaboration with follow-up and review mechanisms established by the 2030 Agenda (A). It then emphasizes the specific role that the UN Human Rights Council (B), special procedures (C) and treaty bodies (D) can play in monitoring the SDGs that seek to realize ESCR. While, in section A, all relevant aspects of the work of UN human rights mechanisms are highlighted, in sections B, C and D, emphasis is placed on the recommendations made by UN human rights mechanisms to UN Member States, in which they have included explicit references to the SDGs or the 2030 Agenda.

A. COLLABORATION WITH MONITORING MECHANISMS ESTABLISHED IN THE FRAMEWORK OF THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

In February 2016, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, stated that '[t]he Universal Periodic Review, treaty bodies, and Special Procedures generate a wealth of recommendations that can help to guide the Agenda's implementation' and that work was 'urgently needed to make that body of guidance available to the SDG progress reviews'.¹⁵⁸

Since February 2016, UN human rights mechanisms have made significant efforts to share the result of their work with follow-up and review mechanisms established by the 2030 Agenda. This section describes these follow-up and review mechanisms (1) and presents the contributions that UN human rights

¹⁵⁴ Ibid, §46.

¹⁵⁵ Ibid, §§48, 74(i), 74(f).

¹⁵⁶ Ibid, §§84–85.

¹⁵⁷ Report of the UN Secretary-General on Critical Milestones Towards Coherent, Efficient and Inclusive Follow-Up and Review at the Global Level, UN doc A/70/684, 16 January 2016, §46.

¹⁵⁸ In February 2016, the Human Rights Council devoted its annual high-level panel discussion on mainstreaming human rights in the UN system to the 2030 Agenda and human rights. See Report of the UN Secretary-General on Critical Milestones, supra fn 157, §46. The statement made at that occasion by the UN High Commissioner for Human Rights is available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17107&LangID=E> (last accessed 3 December 2017).

mechanisms have made to their work, with particular emphasis on their contributions to the 2016 and 2017 HLPF meetings (2).

1. FOLLOW-UP AND REVIEW IN THE 2030 AGENDA

Monitoring mechanisms established by the 2030 Agenda are defined in the Agenda's section on follow-up and review.

In adopting the 2030 Agenda, states committed to engage in the systematic follow-up and review of the implementation of the Agenda and the SDGs, recognizing that 'a robust, voluntary, effective, participatory, transparent and integrated follow-up and review framework will make a vital contribution to implementation and will help countries to maximize and track progress in implementing [the] Agenda in order to ensure that no one is left behind'.¹⁵⁹ They have committed to build follow-up and review processes at the national, regional and global levels that will 'promote accountability to [their] citizens, support effective international cooperation in achieving [the 2030] Agenda and foster exchanges of best practices and mutual learning'.¹⁶⁰

According to the 2030 Agenda, follow-up and review processes at all levels will aim to 'track progress in implementing the [SDGs] ... in all countries in a manner which respects their universal, integrated and interrelated nature'.¹⁶¹ In doing so, they will be guided by a number of principles. In particular, they will be:

- Voluntary and country-led, taking into account different national realities, capacities and levels of development and respecting policy space and priorities¹⁶²
- Open, inclusive, participatory and transparent for all people, supporting reporting by all relevant stakeholders¹⁶³
- People-centred, gender-sensitive, respecting human rights and having a particular focus on the poorest, most vulnerable and those furthest behind¹⁶⁴
- Rigorous and based on evidence, informed by country-led evaluations and data which is high-quality, accessible, timely, reliable and disaggregated by income, sex, age, race, ethnicity, migration status, disability and geographic location and other characteristics relevant in national contexts¹⁶⁵

At national level, states are encouraged to conduct regular and inclusive reviews of progress made, with support from national parliaments and other institutions, and drawing on contributions from indigenous peoples, civil society, the private sector and other stakeholders.¹⁶⁶

¹⁵⁹ UNGA Res 70/1, supra fn 3, §72.

¹⁶⁰ Ibid, §73.

¹⁶¹ Ibid, §74(b).

¹⁶² Ibid, §74(a).

¹⁶³ Ibid, §74(d).

¹⁶⁴ Ibid, §74(e).

¹⁶⁵ Ibid, §74(g).

¹⁶⁶ Ibid, §§78–79.

At this level, National Human Rights Institutions (NHRIs) should play a key role. The Danish Institute for Human Rights (DIHR) and the Center for Economic and Social Rights (CESR) have described the role that NHRIs can play to support the implementation of the SDGs, including promoting the inclusion of human rights in national plans aimed at implementing the SDGs, advising governments on rights-centred implementation, monitoring and holding governments to account for poor or uneven progress, uncovering patterns of inequality and discrimination and securing redress for victims of development-related rights violations.¹⁶⁷ For the DIHR and CESR,

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.¹⁶⁸

The 2030 Agenda also recognizes that follow-up and review at regional and sub-regional levels can provide useful opportunities for peer learning, including through voluntary reviews, sharing of best practices and discussion on shared targets.¹⁶⁹ The importance of building on existing regional follow-up and review mechanisms is underlined, and states are encouraged to identify the most suitable regional forum in which to engage, with support from UN regional commissions.¹⁷⁰ States have also agreed that regional processes will draw on national-level reviews and contribute to follow-up and review at the global level, including at the HLPF.¹⁷¹

At global level, the 2030 Agenda gives a central role in overseeing follow-up and review to the HLPF.¹⁷² The HLPF has been established on the basis of the UN Con-

¹⁶⁷ S. L. B. Jensen, A. Corkery and K. Donald, *Realizing Rights Through The Sustainable Development Goals: The Role of National Human Rights Institutions*, DIHR and the CESR, 2015, pp 3–5, https://www.humanrights.dk/files/media/dokumenter/udgivelse/research/nhri_briefingpaper_may2015.pdf (last accessed 3 December 2017). The German Institute for Human Rights is an example of an NHRI that includes in its work the monitoring of the SDGs as well as SDG-relevant recommendations produced by UN human rights mechanisms. Its activities include advocating for a HRBA in the implementation of the SDGs in Germany and at the international level. See German Institute for Human Rights, 'Are the SDGs relevant for Germany?' *Comparing the SDGs with UN Human Rights treaty body recommendations provides important clues*, October 2015, http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/Are_the_SDGs_relevant_for_Germany.pdf (last accessed 3 December 2017); German Institute for Human Rights, *Germany's 2016 Report to the High Level Political Forum: Comments by the German Institute for Human Rights*, <https://sustainabledevelopment.un.org/content/documents/10810DIMR%20Comments.pdf> (last accessed 3 December 2017).

¹⁶⁸ Jensen, Corkery and Donald, *Realizing Rights Through The Sustainable Development Goals: The Role of National Human Rights Institutions*, DIHR and the CESR, 2015, p 3.

¹⁶⁹ UNGA Res 70/1, supra fn 3, §80.

¹⁷⁰ Ibid, §81.

¹⁷¹ Ibid, §80.

¹⁷² Ibid, §§47–82.

ference on Sustainable Development (Rio+20) that took place in Rio de Janeiro, Brazil, in June 2012, and of its outcome document, *The Future We Want*.¹⁷³ Its format and organizational aspects have been defined in UN General Assembly Resolution 67/290, adopted in July 2013.¹⁷⁴ It replaced the UN Commission on Sustainable Development, which had held annual meetings since 1993.

The HLPF meets for eight days annually, including a three-day ministerial segment, under the auspices of the UN Economic and Social Council (ECOSOC), and for two days every four years at head-of-state and government level under the auspices of the UN General Assembly.¹⁷⁵ It adopts a Ministerial declaration at the end of its annual meetings and a political declaration at the end of its meetings organized under the auspices of the General Assembly.¹⁷⁶

The first meeting of the HLPF took place in September 2013, and its 2013, 2014 and 2015 meetings were devoted to the elaboration and finalization of the post-2015 agenda.¹⁷⁷

Since the adoption of the 2030 Agenda, the HLPF became the central body overseeing the follow-up and review of the implementation of the SDGs at the global level.¹⁷⁸ The HLPF is informed by an annual report of the UN Secretary-General on progress made in the implementation of the SDGs, and by the *Global Sustainable Development Report*, published every four years and drafted by an independent group of scientists to provide a strong evidence base for supporting policy makers in the implementation of the 2030 Agenda and the SDGs.¹⁷⁹ The first *Global Sustainable Development Report* will be presented to the 2019 HLPF meeting. The next HLPF meeting organized under the auspices of the UN General Assembly will also take place in 2019 and, on this occasion, it will need to identify progress made in the implementation of the 2030 Agenda as well as emerging challenges and further actions needed to accelerate implementation.¹⁸⁰

Under the auspices of the ECOSOC, the HLPF is carrying out thematic and regular reviews of the implementation of the SDGs.¹⁸¹ The thematic review at the 2016 HLPF meeting focused on the principle of ensuring that no one will be

¹⁷³ See UNGA Res 66/288, supra fn 53, §§84–86.

¹⁷⁴ UNGA Res 67/290, 9 July 2013.

¹⁷⁵ Ibid, §§6–7.

¹⁷⁶ Ibid, §§6(d) and 7(g).

¹⁷⁷ The themes of these meetings were 'Building the Future We Want: From Rio+20 to the Post-2015 Development Agenda' (2013), 'Achieving the Millennium Development Goals and Charting the way for an Ambitious Post-2015 Development Agenda, Including the Sustainable Development Goals' (2014) and 'Strengthening Integration, Implementation and Review: The High-Level Political Forum After 2015' (2015).

¹⁷⁸ UNGA Res 70/1, supra fn 3, §§47, 82–91. The 2030 Agenda mandates the HLPF to facilitate sharing of experiences, including successes, challenges and lessons learned, and provide political leadership, guidance and recommendations for follow-up, focusing on the assessment of progress, achievements and challenges faced by developed and developing countries as well as new and emerging issues. Ibid, §82.

¹⁷⁹ Ibid, §83. See also, Annex to the Ministerial Declaration of the 2016 High-Level Political Forum on Sustainable Development, *Global Sustainable Development Report: Scope, Frequency, Methodology and Relationship with the Sustainable Development Goals Progress Report*, UN doc E/HLS/2016/1 (Annex), 29 July 2016, §§3, 4, 7.

¹⁸⁰ UNGA Res 70/1, supra fn 3, §87.

¹⁸¹ Ibid, §§84–85. UNGA Res 67/290, supra fn 174, §7(c), 8.

left behind. In July 2016, the UN General Assembly decided that the thematic reviews at the 2017, 2018 and 2019 HLPF meetings should focus on:

- Eradicating poverty and promoting prosperity in a changing world (2017)
- Transformation towards sustainable and resilient societies (2018)
- Empowering people and ensuring inclusiveness and equality (2019)

Knowing that SDG 17 (global partnership) will be reviewed annually, the associated SDGs to be reviewed in depth during these HLPF meetings are:

- SDGs 1, 2, 3, 5, 9 and 14 (2017)
- SDGs 6, 7, 11, 12 and 15 (2018)
- SDGs 4, 8, 10, 13 and 16 (2019)¹⁸²

The regular reviews of the implementation of the SDGs are based on voluntary national reviews (VNRs) prepared by UN Member States.¹⁸³ Relevant UN entities, civil society and the private sector can also participate,¹⁸⁴ as well as ‘major groups and other relevant stakeholders’.¹⁸⁵ Each state that prepares a VNR has 30 minutes to present it and discuss it with its peers during the HLPF meeting. VNRs are then mentioned in the outcome documents of the HLPF meeting, i.e. the Ministerial Declaration and the report or synthesis of the meeting. However, the HLPF does not provide states that present VNRs with country-specific recommendations to help them better implement the SDGs.

Twenty-two countries presented VNRs on the implementation of the SDGs at the 2016 HLPF meeting,¹⁸⁶ 43 countries did so at the 2017 HLPF meeting¹⁸⁷ and

182 UNGA Res 70/299, 29 July 2016, §52-5.

183 In 2016, the UN Secretary-General made a first proposal for voluntary common reporting guidelines for Voluntary National Reviews (VNRs) at the HLPF. Report of the UN Secretary-General on Critical Milestones, supra fn 157, Annex.

184 UNGA Res 70/1, supra fn 3, §84.

185 Ibid. Like its predecessor, the UN Commission on Sustainable Development, the HLPF provides a platform for partnerships with nine major groups identified since the Earth Summit that took place in Rio de Janeiro in 1992 to facilitate broad participation in UN activities on sustainable development. These major groups represent women, children and youth, indigenous peoples, non-governmental organizations, local authorities, workers and trade unions, business and industry, the scientific and technological community and farmers. Other relevant stakeholders include local communities, volunteer groups and foundations, migrants and their families, as well as older persons and persons with disabilities, who have also been invited to participate in UN processes related to sustainable development. See Agenda 21, Chapters 23-32. Regarding the participation of major groups and other relevant stakeholders in the framework of the 2030 Agenda, see ‘Major Groups and Other Stakeholders’, Sustainable Development Knowledge Platform, <https://sustainabledevelopment.un.org/mgos> (last accessed 3 December 2017).

186 These countries are China, Colombia, Egypt, Estonia, Finland, France, Georgia, Germany, Madagascar, Mexico, Montenegro, Morocco, Norway, Philippines, Republic of Korea, Samoa, Sierra Leone, Switzerland, Togo, Turkey, Uganda and Venezuela. Their VNRs can be accessed at <https://sustainabledevelopment.un.org/vnrs> (last accessed 3 December 2017).

187 These countries are Afghanistan, Argentina, Azerbaijan, Bangladesh, Belarus, Belgium, Belize, Benin, Botswana, Brazil, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, El Salvador, Ethiopia, Guatemala, Honduras, India, Indonesia, Italy, Japan, Jordan, Kenya, Luxembourg, Malaysia, Maldives, Monaco, Nepal, Netherlands, Nigeria, Panama, Peru, Portugal, Qatar, Slovenia, Sweden, Tajikistan, Thailand, Togo, Uruguay and Zimbabwe. Their VNRs can be accessed at <https://sustainabledevelopment.un.org/vnrs> (last accessed 3 December 2017).

48 will do so at the 2018 meeting.¹⁸⁸ It is interesting to note that Colombia, Egypt, Mexico and Switzerland prepared VNRs in 2016 and will do so again in 2018, while Qatar, Togo and Uruguay prepared VNRs in 2017 and will also do so again in 2018.¹⁸⁹

In 2016 and 2017, VNRs focused on the establishment of institutional, legislative and policy frameworks needed to implement the SDGs and target those who are left behind.¹⁹⁰ In their reviews, a number of states linked the promotion and protection of human rights to the implementation of the SDGs. In 2016, Estonia, Finland, Georgia, Mexico and Switzerland, for example, underlined the importance of the overlap between international human rights instruments and the SDGs, and the need to adopt a HRBA in national and international efforts to leave no one behind has been highlighted by, among others, Finland, France, Germany, Norway and Samoa.¹⁹¹

In 2017, Sweden, for example, stated that ‘gender equality and all women’s and girls’ full enjoyment of human rights is a prerequisite for the implementation of the 2030 Agenda in Sweden and in the world’.¹⁹² Portugal recalled the active role that it played in drafting the 2030 Agenda, including in the establishment of the common position taken by the European Union (EU) on integrating a strong human rights dimension, and it stated that its VNR was much more than just a reporting exercise, as it testified Portugal’s strong commitment to the sustainable development, human rights and multilateralism embodied in the Agenda.¹⁹³

188 In September 2017, the President of the Economic and Social Council (ECOSOC) sent a letter to UN Member States, informing them that the following countries have committed to present VNRs at the 2018 HLPF: Albania, Andorra, Armenia, Australia, Bahamas, Bahrain, Benin, Bhutan, Cabo Verde, Canada, Colombia, Dominican Republic, Ecuador, Egypt, Greece, Guinea, Hungary, Iceland, Ireland, Jamaica, Kiribati, Lao People’s Democratic Republic, Latvia, Lebanon, Lithuania, Mali, Malta, Mexico, Namibia, Niger, Paraguay, Poland, Qatar, Republic of the Congo, Romania, Saudi Arabia, Senegal, Singapore, Slovakia, Spain, Sri Lanka, State of Palestine, Sudan, Switzerland, Togo, United Arab Emirates, Uruguay and Vietnam. Letter from the President of ECOSOC to the Member States Regarding the 2018 Voluntary National Reviews, 14 September 2017.

189 The 2030 Agenda does not provide details on the periodicity of VNRs. For the UN Secretary-General, ‘[e]xperiences from existing mechanisms suggest that it is important to have regular reviews in order to enable all countries to learn from the process over time and to identify trends, patterns and lessons learned. As the 2030 Agenda is a universal agenda, all countries would be expected to regularly carry out reviews at the high-level political forum’. Report of the UN Secretary-General on Critical Milestones, supra fn 157, §§79-80.

190 HLPF Executive Summaries of Voluntary National Reviews, UN doc E/HLPF/2016/7, 13 July 2016; Report of the HLPF 2016 Session, UN doc E/HLPF/2016/8, 16 August 2016, §§93-116; UN Department of Economic and Social Affairs, Division for Sustainable Development, *2016 Synthesis of National Voluntary Reviews*, https://sustainabledevelopment.un.org/content/documents/127761701030E_2016_VNR_Synthesis_Report_ver3.pdf (last accessed 3 December 2017); HLPF, *2017 Voluntary National Reviews: Compilation of Main Messages*, https://sustainabledevelopment.un.org/content/documents/17035Compilation_of_Main_Messages_from_2017_VNRs.pdf (last accessed 3 December 2017); HLPF, *President’s Summary of 2017 HLPF*, pp 12-13, https://sustainabledevelopment.un.org/content/documents/16673HLPF_2017_Presidents_summary.pdf (last accessed 3 December 2017).

191 UN Department of Economic and Social Affairs, *2016 Synthesis*, supra fn 190, §§14, 59.

192 HLPF, *2017 Voluntary National Reviews*, supra fn 190, p 115.

193 Ibid, pp 99 and 106.

At least one NHRI sent a contribution to the HLPF – the German Institute for Human Rights. In its contribution to the 2016 HLPF meeting, commenting on Germany's VNR, it welcomed the inclusion of numerous references to Germany's human rights obligations in the VNR, and the explicit links made between the SDGs and the rights to food, health, work, water and sanitation, the rights of women and girls and civil and political rights.¹⁹⁴ It also welcomed Germany's recognition of its human rights obligations in implementing the SDGs in Germany and through international cooperation, as well as in relation to the activities of German business companies abroad.¹⁹⁵ The German Institute for Human Rights also referred to recommendations addressed by UN human rights mechanisms to Germany, when it expressed concern that Germany did not mention these recommendations in its VNR, even though this could have helped the government to fill gaps in its implementation of the SDGs.¹⁹⁶

The VNRs were briefly mentioned in the Ministerial Declarations adopted at the end of the 2016 and 2017 HLPF meetings.¹⁹⁷ They were also very briefly mentioned in the report of the 2016 HLPF meeting¹⁹⁸ and in the HLPF President's Summary of the 2017 HLPF meeting.¹⁹⁹

On the basis of the 2016 and 2017 HLPF meetings, it can be said that the weakness of the HLPF as a monitoring mechanism lies in the fact that national reviews are voluntary and not subject to scrutiny by an independent monitoring mechanism. This weakness is reinforced by the fact that no specific guidance is given to states after the presentation of their VNRs. The fact that the HLPF does not provide states with country-specific recommendations on the measures that they should, or could, take to more effectively implement the SDGs, contrasts sharply with the periodic reviews by UN human rights mechanisms, at the end of which states under review receive numerous recommendations to better protect and promote human rights. The duration of the review for each state at the HLPF – 30

¹⁹⁴ German Institute for Human Rights, *Germany's 2016 Report to the HLPF*, supra fn 167, p 1. See also, Report of the German Federal Government to the HLPF on Sustainable Development 2016, 12 July 2016, https://sustainabledevelopment.un.org/content/documents/10686HLPF-Bericht_final_EN.pdf (last accessed 3 December 2017).

¹⁹⁵ German Institute for Human Rights, *Germany's 2016 Report to the HLPF*, supra fn 167, p 1. In its VNR, Germany, for example, stated that dialogue with various stakeholders was key to ensure rights-based accountability in the adoption of measures aimed at implementing the SDGs in Germany. It also stated that '[h]uman rights are a guiding principle of German development policy'. Furthermore, it made several references to its obligations to regulate the impact of German companies abroad. Report of the German Federal Government to the HLPF on Sustainable Development 2016, supra fn 194, pp 8, 14, 17, 35, 56.

¹⁹⁶ German Institute for Human Rights, *Germany's 2016 Report to the HLPF*, supra fn 167, p 2. The German Institute for Human Rights took the example of violence against women, as UN human rights mechanisms 'have repeatedly highlighted violence against women as an issue to tackle in Germany, [but] no national indicator on this issue has been established'. Ibid. See also, German Institute for Human Rights, 'Are the SDGs relevant for Germany?', supra fn 167.

¹⁹⁷ Ministerial Declaration of the 2016 HLPF on the Theme 'Ensuring that no one is left behind', UN doc E/HLS/2016/1, §17; Ministerial Declaration of the 2017 HLPF on the Theme 'Eradicating Poverty and Promoting Prosperity in a Changing World', UN doc E/2017/L.29-E/HLPF/2017/L.2, 14 July 2017, §23.

¹⁹⁸ Report of the HLPF 2016 Session, supra fn 190, §§93-116.

¹⁹⁹ HLPF, *President's Summary of 2017 HPLF*, supra fn 190, pp 12-13,

minutes – is also short, compared with the 6 hours given to each state being reviewed by UN treaty bodies, and the 3 hours given to each state being reviewed at the Human Rights Council's UPR. The least one can say is that the HLPF is by far not the 'Sustainable Development Council' that UN special procedures had proposed during the negotiation of the 2030 Agenda, based on the working methods of the UPR of the Human Rights Council.²⁰⁰

It is also worth noting that the outcome documents of the 2016 and 2017 HLPF meetings only included few references to human rights and no reference to the work of UN human rights mechanisms. In most cases, the few references to human rights included in the Ministerial Declarations used agreed language taken from the 2030 Agenda.²⁰¹ The report of the 2016 HLPF meeting did not mention human rights at all.²⁰² And, in his summary of the 2017 HLPF meeting, the HLPF's President made three references to human rights, when he explained that the need to follow a HRBA was underlined in relation to the implementation of SDG 2 (food security) and SDG 3 (health), and that there was an unequivocal understanding of the need to ensure coherence between the 2030 Agenda and other internationally agreed instruments, including international human rights instruments.²⁰³

2. THE CONTRIBUTION OF UN HUMAN RIGHTS MECHANISMS TO THE WORK OF THE HIGH-LEVEL POLITICAL FORUM

As we have seen, the 2030 Agenda encourages relevant UN entities and inter-governmental bodies and forums to participate in the HLPF annual reviews on the implementation of the SDGs, as well as in its thematic reviews.²⁰⁴ In 2016, the then UN Secretary-General underlined that these entities include the UN Human Rights Council (with its special procedures) and UN treaty bodies.²⁰⁵

Taking this opportunity, several UN human rights mechanisms have contributed to the work of the HLPF in 2016 and 2017. This involvement includes the input of

²⁰⁰ Open letter from special procedures mandate-holders of the UN HRC, supra fn 70. Statement by 17 UN special procedures mandate-holders, supra fn 38. On the working methods of the HRC's UPR, see Section 5.B.1 below.

²⁰¹ Ministerial Declaration of the 2016 HLPF on the Theme 'Ensuring that no one is left behind', supra fn 197, §§4, 7, 8; Ministerial Declaration of the 2017 HLPF on the Theme 'Eradicating Poverty and Promoting Prosperity in a Changing World', supra fn 197, §§1, 4, 6, 17.

²⁰² Report of the HLPF 2016 Session, supra fn 190.

²⁰³ HLPF, *President's Summary of 2017 HPLF*, supra fn 190, pp 2, 7.

²⁰⁴ UNGA Res 70/1, supra fn 3, §§84-85.

²⁰⁵ Report of the UN Secretary-General on Critical Milestones, supra fn 157, §46. The UN Secretary-General added that contributing to the HLPF review 'does not imply or create a formal reporting link to the forum or modify a forum's mandate or governance. All forums will be invited to contribute to the high-level political forum, with the decision on whether and how to contribute left to those forums'. Ibid, §47.

UN human rights treaty bodies to the 2016 HLPF meeting,²⁰⁶ two contributions of the CEDAW Committee to the 2016 and 2017 HLPF meetings,²⁰⁷ the contribution of the Committee on the Elimination of Racial Discrimination (CERD) to the 2017 HLPF meeting²⁰⁸ and the input of the President of the Human Rights Council to the 2016 HLPF meeting.²⁰⁹ A contribution on child rights was also sent by OHCHR to the 2017 HLPF meeting.²¹⁰ It is also worth noting that ten UN special procedures issued a statement at the beginning of the 2016 HLPF meeting, in which they underlined that the ‘commitment to ensure that no one is left behind can only be realised if equally no human right is left behind’ and that all participants to the HLPF meeting should make the 2030 Agenda’s explicit promise to reach the most excluded groups first the compass in their deliberations.²¹¹

In the contributions they sent to the HLPF, UN human rights mechanisms explained that they wanted to promote a two-way interaction with the 2030 Agenda and the HLPF. For human rights treaty bodies,

[o]n the one hand, the significant amount of information relating to the implementation of treaties gathered through the reporting process is closely related to the implementation of the SDGs and therefore provides a ready-made source of data to help track progress on SDG implementation. In addition, the information relating to national implementation of the SDGs is itself closely related to treaty implementation and therefore of particular relevance to the work of treaty bodies ...

206 Contribution of the UN human rights treaty bodies to the 2016 HLPF meeting, <https://sustainabledevelopment.un.org/content/documents/10323Human%20Rights%20Treaty%20Bodies%20contribution%202016-May-26.pdf> (last accessed 3 December 2017).

207 Contributions of the CEDAW Committee to the 2016 and 2017 HLPF meetings, <https://sustainabledevelopment.un.org/content/documents/10192CEDAW%20contribution%20to%20HLPF%20recd%202016-May-16.pdf> (last accessed 3 December 2017) and [https://sustainabledevelopment.un.org/content/documents/14537Comm_on_the_Elimination_of_Discrimination_vs_Women_\(CEDAW\).pdf](https://sustainabledevelopment.un.org/content/documents/14537Comm_on_the_Elimination_of_Discrimination_vs_Women_(CEDAW).pdf) (last accessed 3 December 2017).

208 Contribution of CERD to the 2017 HLPF meeting, https://sustainabledevelopment.un.org/content/documents/14579OHCHR_Comm_on_the_Elimination_of_Racial_Discrimination.pdf (last accessed 3 December 2017).

209 Inputs from the President of the Human Rights Council to the 2016 HLPF meeting, *supra* fn 141.

210 OHCHR, Input from a child rights perspective to the 2017 HLPF on Sustainable Development Review of ‘Eradicating Poverty and Promoting Prosperity in a Changing World’, <https://sustainabledevelopment.un.org/content/documents/16641OHCHR.pdf> (last accessed 3 December 2017).

211 Statement issued by 10 UN special procedures mandate holders, 2030 Development Goals: ‘No one should be left behind, and no human right ignored’, 12 July 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20262> (last accessed 3 December 2017). The 10 UN special procedures mandate-holders who issued this statement were Leilani Farha, Special Rapporteur on the right to adequate housing; Philip Alston, Special Rapporteur on extreme poverty and human rights; Hilal Elver, Special Rapporteur on the right to food; Juan Pablo Bohoslavsky, Independent Expert on the effects of foreign debt on human rights; Dainius Pūras, Special Rapporteur on the right to health; Victoria Tauli-Corpuz, Special Rapporteur on indigenous peoples; Léo Heller, Special Rapporteur on the human rights to safe drinking water and sanitation; Virginia Dandan, Independent Expert on human rights and international solidarity; Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences and Pavel Suljandziga from the Working Group on Business and Human Rights.

Treaty bodies remain committed to consolidating and deepening this two-way interaction with a view to ensuring complementarity between the treaties and the SDGs.²¹²

The President of the Human Rights Council explained that in February 2016, the Human Rights Council devoted its annual high-level panel discussion on mainstreaming human rights in the UN system to the links between the 2030 Agenda and human rights, and that this was an occasion to explore how it could make its rich body of evidence available to the HLPF, given its immediate relevance to the review of SDG progress.²¹³ He also described the Human Rights Council’s UPR as an ‘important avenue through which the Council could contribute both to the HLPF thematic and country reviews’,²¹⁴ underlining that ‘[l]ike the HLPF, the inter-governmental, State-driven and action-oriented UPR process promotes universal coverage and equal treatment of all States’.²¹⁵

With its country, UN system and stakeholder reports as well as recommendations that cover all civil, political, economic, social and cultural rights, including the right to development, the Universal Periodic Review can serve as a comprehensive source of information ... The HLPF could draw upon the outcomes of the UPR review and recommendations ... for its thematic review. In addition, countries could also consider referring to the information generated through the UPR process when preparing for their voluntary HLPF country presentations.²¹⁶

In their inputs to the 2016 meeting of the HLPF, UN human rights mechanisms provided information on the principle of ‘ensuring that no one is left behind’ (the theme of the 2016 meeting’s thematic review), and underlined the importance of their work in relation to this principle. For the human rights treaty bodies,

[t]he clear link between human rights treaties and the SDGs, including the principle of ensuring that no one is left behind, highlights the complementarity between work of treaty bodies and that of the High Level Political Forum. In this regard, treaty bodies look forward to the deepening of this cooperation in the future.²¹⁷

UN human rights treaty bodies underlined that they all have strong mandates to promote equality and non-discrimination, and that several of them monitor treaties protecting the rights of persons who are often left behind, including women, children, persons with disabilities, indigenous peoples, national, ethnic and racial minorities, persons in detention, migrant workers and people suffering enforced

212 Contribution of the UN human rights treaty bodies to the 2016 HLPF meeting, *supra* fn 206, pp 1–2. See also, Contribution of CERD to the 2017 HLPF meeting, *supra* fn 208, p 2.

213 Inputs from the President of the Human Rights Council to the 2016 HLPF meeting, *supra* fn 141, p 3.

214 *Ibid*, p 9.

215 *Ibid*.

216 *Ibid*.

217 Contribution of the UN human rights treaty bodies to the 2016 HLPF meeting, *supra* fn 206, p 9.

disappearance.²¹⁸ They also presented a number of relevant areas in which they had made recommendations to UN Member States in 2015 and 2016, including laws and policies to ensure equality and non-discrimination; the promotion of decent work and access to services, including social protection floors; the collection of disaggregated data; the promotion of consultation and participation; the building of strong institutions, including national machinery for the advancement of women; children's ombudspersons; national mechanisms for the protection of the rights of persons with disabilities and labour inspectorates. Furthermore, they presented requests made to developed countries that they meet the target of 0.7 percent of gross national income for development assistance and include a rights-based approach in development policies and programmes.²¹⁹

UN human rights treaty bodies also provided an assessment of the situation of those who are left behind, based on the review of 105 reports that they had examined in 2015 and 2016.²²⁰ In their input, they underlined that it was important to also consider those left behind who are not referred to explicitly in the 2030 Agenda:

[T]here are many individuals who risk being left behind if the process of development does not expressly include them. In the experience of treaty bodies, individuals who are at risk of being left behind should be considered as open-ended. While some people are referred to expressly in the 2030 Agenda, others, such as Roma, nomadic people, and LGBTI people, refugees, asylum seekers, migrant workers in an irregular situation, missing persons and homeless persons might also be at risk of being left behind, even if not explicitly mentioned in the Agenda.²²¹

In its contribution, the CEDAW Committee explained that '[t]he almost universal ratification of the CEDAW Convention, together with the vast experience of the Committee since its establishment in 1982 in relation to women and development acquired through its mandate, underlines the importance of the Committee's expertise in the implementation of the principle of "ensuring that no one is left behind".²²² It also explained that, based on its work with the 189 States Parties to CEDAW, it can identify factors that shape women's daily lives and their ability to realize their rights, including entrenched inequalities, discriminatory social norms, harmful customary practices and dominant patterns of economic development.²²³ For the Committee,

these factors include many of the indicators considered in the SDGs 5 and in the other targets of the Agenda 2030 related to gender equality, for instance, the impact of sexual stereotypes and gender based violence against women; the conditions and type of work in paid employment; the burden

218 Ibid, p 1.

219 Ibid, pp 4-7.

220 Ibid, p 2.

221 Ibid, p 3

222 Contribution of the CEDAW Committee to the 2016 HLPF meeting, supra fn 207, p 1.

223 Ibid, pp 2-3.

of unpaid caring labor, women's control over their own body and incomes and last but is not least the impact of armed conflicts on the situation of women and girls.²²⁴

The CEDAW Committee also identified gaps in the SDGs, compared with human rights standards, and emphasized sexual and reproductive health and rights (SDG target 5.6) and the lack of explicit reference to LGBTI minorities. It then explained that it is crucial to ensure that implementation of SDG target 5.6 is consistent with the position expressed by the Committee on these issues.²²⁵

The CEDAW Committee also made a strong call for the participation of women's and human rights associations in the implementation and monitoring of the SDGs:

From our experience, the fight to discrimination and violence against women requires a strong partnership between international and national institutions and civil society organizations, including the women's human rights defenders (WHRDs). The work of women's and human rights associations plays a critical role on combatting human rights violations and it could be strategic in advancing not only SDG 5 on gender equality, but also across all other goals of the new development framework, such as ending poverty, protecting the environment, reducing inequalities, and promoting peaceful and inclusive societies for sustainable development. Enabling the work of [civil society organizations] (CSOs) and WHRDs, including by ensuring their meaningful participation in the development and monitoring of relevant policies and programs should be a priority for implementing the Agenda 2030 in order to ensure no one is left behind. National and international institutions should ensure that CSOs and WHRDs are protected from gender-specific threats, intimidation, and violence they may face due to their work on challenging the deep-rooted patriarchal structures and societal gender norms.²²⁶

In his input, the President of the Human Rights Council described lessons that can be drawn from the work of the Human Rights Council on how to ensure that no one is left behind and that those furthest behind are targeted first.²²⁷

Through its work, the Human Rights Council has helped to identify the multiple and intersecting forms of discrimination that people from particular ethnicities, castes or minorities, indigenous peoples, groups in situations of vulnerability, persons with disabilities, migrants, stateless and displaced persons, children, youth, older persons, slum dwellers, persons with HIV and sexual orientation or gender identity minorities (and especially

224 Ibid, p 2.

225 Ibid, pp 4-5.

226 Ibid, p 8

227 Inputs from the President of the Human Rights Council to the 2016 HLPF meeting, supra fn 141, p 3.

women within these groups) have often faced and has drawn attention to the challenges of overcoming discrimination.²²⁸

The President of the Human Rights Council then presented areas of work through which the Human Rights Council responded to these multiple forms of discrimination, including by making recommendations to UN Member States. These include calls for the adoption and implementation of laws, policies and programmes to combat discrimination; the promotion of access to justice and strengthening of law enforcement and criminal justice; the promotion of human rights education; the promotion of full, effective and equal participation; calls for securing access to health, social protection, education and other basic services for all and for the collection of disaggregated data, as well as the promotion of responsible engagement of the private sector in the implementation of the 2030 Agenda.²²⁹ He also identified emerging threats, including the rise in acts of intimidation and reprisals against human rights defenders, terrorism and violent extremism and climate change.²³⁰

In the annex to his contribution, the President of the Human Rights Council gave a more detailed account of the work of the Human Rights Council and its special procedures to combat different forms of discrimination and protect the rights of victims of racism, racial discrimination, xenophobia, violence on the basis of religion or belief and related intolerance; ethnic, religious and linguistic minorities; migrants, regardless of their migration status; persons with albinism; people of African Descent; people subject to caste-based discrimination; LGBT and intersex people; Roma; children requiring special attention; victims of gender-based discrimination; indigenous peoples; persons with disabilities; those living in extreme poverty; victims of financial and economic crisis and unemployed people.²³¹

In 2017, in their contributions to the HLPF meeting, the CEDAW Committee and CERD provided information on their work in relation to poverty eradication and the promotion of prosperity (the theme of the 2017 meeting's thematic review). The CEDAW Committee identified a number of conditions to eradicate poverty and promote prosperity, including the need to focus on the structural factors condemning women to poverty, such as discrimination, low access to justice and low representation in decision-making bodies, and the need to address the impact of unpaid care work on women's equality.²³² It underlined that

228 Ibid, p 3. In a statement made before the UN General Assembly in October 2015, the Chairperson of the CEDAW Committee underlined that in order to ensure an effective, inclusive and transparent review framework for the implementation of the SDGs, UN Member States should ensure that information gathered and acted upon by the CEDAW Committee, as well as by other human rights treaty bodies and mechanisms, is systematically included in the follow-up and review of the SDGs. Statement by Yoko Hayashi, Chairperson, Committee on the Elimination of Discrimination Against Women, 70th Session of the UN General Assembly (CEDAW and the SDGs), 12 October 2015, http://www.ohchr.org/Documents/HRBodies/CEDAW/StatementsChair/ThirdCommitteeStatement_GA70_Ms%20Hayashi.pdf (last accessed 3 December 2017).

229 Inputs from the President of the Human Rights Council to the 2016 HLPF meeting, *supra* fn 141, pp 3–8.

230 Ibid, pp 6–8.

231 Ibid, pp 12–22.

232 Contribution of the UN CEDAW Committee to the 2017 HLPF meeting, *supra* fn 207, pp 2–7.

[f]amily structures, gendered labour division within the family and (discriminatory) family laws affect women's economic well-being no less than labour market structures and labour laws. Indeed, women often do not equally enjoy their family's economic wealth and gains, they usually bear the greater cost of the breakdown of the family than men and may be left destitute upon divorce, separation and widowhood, especially if they have children and particularly where the State provides little or no economic safety net.²³³

The CEDAW Committee also warned the HLPF about the impact of private-public partnerships on poverty reduction and the promotion of gender equality.²³⁴

In its contribution, CERD underlined the importance of the relationship between eradicating poverty and eliminating racial discrimination:

In many countries, economic and social disparities exist between individuals and groups of different race, colour, descent and national or ethnic origin. Racial discrimination is often a significant factor motivating and even aggravating such disparities. Prohibiting racial discrimination and treating the underlying factors leading to discrimination can therefore be an important means of eradicating poverty. While the situation regarding the principle of 'eradicating poverty and promoting prosperity in a changing world' differs from country-to-country, CERD's review of States parties implementation of the Convention highlights the relationship between combatting racial discrimination and eradicating poverty from a global perspective.²³⁵

In a creative way, it then applied the theme of the meeting's thematic review to the states that had prepared VNRs for the 2017 HLPF meeting, focusing on the States Parties to ICERD that the Committee had examined between 2012 and 2016. CERD explained that among the 43 states that were presenting VNRs to the HLPF on progress made in implementing the 2030 Agenda, 42 were States Parties to ICERD.²³⁶ Among those, 21 had been examined by the Committee between 2012 and 2015²³⁷ and 5 had been examined in 2016.²³⁸

CERD highlighted a number of issues derived from its reviews of these 26 states between 2012 and 2016. Explaining that racial discrimination manifests itself in different ways across states and in relation to different individuals and groups, it started by identifying groups particularly at risk of poverty and social exclusion, including migrants in an irregular situation in Belgium, Mayan and Afro descen-

233 Ibid, p 5.

234 Ibid, p 9.

235 Ibid, p 2.

236 Malaysia was the only state not party to ICERD that sent a VNR to the 2017 HLPF meeting.

237 Belarus, Belgium, Belize, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, El Salvador, Guatemala, Honduras, Iran, Japan, Jordan, Luxembourg, The Netherlands, Peru, Qatar, Slovenia, Sweden and Thailand.

238 Italy, Kenya, Portugal, Togo and Uruguay. CERD noted that reviews prior to 2012 of other States Parties to ICERD had not been taken into account as such information might be outdated. Contribution of CERD to the 2017 HLPF meeting, *supra* fn 208, p 2.

dants in Belize, indigenous migrant workers in Costa Rica, non-European permanent resident in Cyprus, Roma in Czech Republic, indigenous peoples in El Salvador, indigenous peoples and Afro-descendants in Guatemala, Afro-Hondurans in Honduras, Arab, Azeri, Balochi, and Kurdish communities in Iran, Roma, Sinti and Camminanta communities in Italy, Roma as well as refugees, asylum-seekers and migrants in transit in Slovenia, and people of African descent as well as Roma, Sinti and Travellers in The Netherlands.²³⁹ It then highlighted the fact that many people, in particular women, have to confront multiple forms of discrimination, giving the examples of indigenous women in Chile, indigenous migrant women working in coffee plantations in Costa Rica, Roma women in the Czech Republic, Afro-Peruvian women in Peru and Afro-Uruguayan women in Uruguay.²⁴⁰

CERD underlined that these individuals and groups all suffer from discrimination, as well as violations of their ESCR, having no or inadequate access to health care, housing, education, employment, social protection, water, electricity, or other basic services.²⁴¹ For the Committee, this shows that the achievement of SDG 1 on eradicating poverty is interlinked with the realization of other SDGs, including SDG 2 (food security), 3 (health), 4 (education), 5 (gender equality), 6 (water and sanitation), 8 (work) and 10 (reducing inequality).²⁴²

CERD also identified a number of areas in relation to which it made recommendations to these 26 states, including the adoption and implementation of rights-based laws and policies, the adoption of specific measures to protect against discrimination (such as halting forced evictions of discriminated-against groups) or to promote equality (for example by affirmative action), the collection of disaggregated data and the promotion of access to justice.²⁴³

At the end of their contributions to the 2016 and 2017 HLPF meetings, UN human rights mechanisms made a number of recommendations linked to the themes of the meetings' thematic reviews.

In 2016, the President of the Human Rights Council made several recommendations in relation to the principle of ensuring that no one is left behind. These included the need for the HLPF to adopt this principle as a lens through which progress on the implementation of the SDGs will be assessed annually; the need to provide protection against direct and indirect discrimination in law as well as in practice, and to promote equality both in terms of opportunities and outcomes; the need to create adequate institutions and mechanisms and promote social account-

239 Ibid, p 3. To highlight the extent of poverty among these groups, CERD gave the two examples of El Salvador, where 38.3 percent of the indigenous population live in extreme poverty and 61.1 percent below the poverty line, and Honduras, where 88.7 percent of indigenous and Afro-descendent children live in poverty and 78.4 percent of these in extreme poverty – with particular problems with Pech, Tolupan and Lenca children. Ibid.

240 Ibid.

241 Ibid.

242 Ibid.

243 Ibid, pp 4–7.

ability to monitor and report on discrimination patterns; the need to call upon states to invest in the disaggregation of data, which should be closely linked to the list of 'prohibited grounds of discrimination' under international human rights law, and to use data from non-traditional sources, including civil society, and the need to recall that data collection processes should uphold international human rights standards and allow for data disaggregation, participation of relevant stakeholders and self-identification when collecting certain sensitive data.²⁴⁴

In 2017, CERD made a number of recommendations in which it linked racial discrimination to poverty eradication and the promotion of prosperity. These recommendations included requests made to the HLPF to 'make a strong statement that racial discrimination is one factor that exacerbates poverty and that combatting racial discrimination must be part of any strategy to promote prosperity on the basis that equal societies grow more equally', to 'place the elimination of racial discrimination and reduction of inequalities at the forefront of efforts to implement the 2030 Agenda, with a particular focus on reaching the furthest behind first' and to 'support the development and use of appropriate data collection and monitoring methodologies that allow for disaggregation and monitoring the trends and progress of the most disadvantaged individuals and groups to examine whether racial discrimination and inequalities are reducing over time'.²⁴⁵

At the end of their contributions, UN human rights mechanisms also made a number of recommendations linked to the work of the HLPF, suggesting ways in which its working methods could be improved and their collaboration strengthened.

In 2016, UN human rights treaty bodies asked the HLPF to continue recognizing a role for human rights mechanisms in promoting greater accountability for the 2030 Agenda, including through systematic engagement with the HLPF, and to recognize their role as an invaluable source of data to support implementation and

244 Inputs from the President of the Human Rights Council to the 2016 HLPF meeting, *supra* fn 141, pp 10–11. Other recommendations included the need to '[a]dopt and adequately and fully implement laws, policies and regulations and national strategies that promote equality and non-discrimination ... in conformity with international and regional human rights standards'; the need to '[p]rovide access to the justice system and put in place measures to reduce social, economic, and cultural barriers that hamper those furthest behind from accessing the justice system'; the need to '[u]se human rights education and training as well as awareness raising initiatives as a vehicle to address discrimination'; the need to '[c]ombat the worrying trend of shrinking civil society space by investigating and pursuing accountability for all attacks and threats by State and non-State actors against human rights defenders and by publicly condemning all cases of violence, discrimination, intimidation and reprisals against human rights defenders'; the need to '[r]eaffirm that climate change is a common concern of humankind, and that [states] should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, as well as gender equality, empowerment of women and intergenerational equity'; the need to '[d]evelop methodologies and tools to better monitor, assess and systematically combat the multiple and intersecting forms of discrimination faced by those left furthest behind' and the need to '[r]ecognize that gender equality is essential to achieve prosperity and a sustainable, equitable future for all, [and] thus strive to make the implementation, follow-up and review of the 2030 Agenda gender-sensitive'. Ibid.

245 See also, Contribution of CERD to the 2017 HLPF meeting, *supra* fn 208, pp 8–9.

review of the 2030 Agenda.²⁴⁶ They also noted that ‘OHCHR field presences [were] helping States parties to align SDGs implementation and development of national development plans with treaty obligations and their treaty reporting. The aim [being] not only to have rights-based SDGs implementation but also to help use treaty reporting as a means of tracking SDG and national development plan achievements’.²⁴⁷ Furthermore, they informed the HLPF that OHCHR was improving the Universal Human Rights Index – an online database of recommendations made by UN human rights mechanisms (<http://uhri.ohchr.org/en>) – which would enable the HLPF to search for recommendations that relate to national implementation of the SDGs and gain relevant information.²⁴⁸

In 2017, the CEDAW Committee recommended that the HLPF emphasize the integration of women’s rights and women’s empowerment as pillars of sustainable development, promote technical assistance for implementing CEDAW and facilitate inclusion of the Committee’s recommendations in the implementation of development policies.²⁴⁹ It also criticized the follow-up and review framework established to monitor the implementation of the SDGs, and recommended its improvement, taking the UPR as an example of good practice. For the CEDAW Committee,

encouraging a multi-stakeholder accountability mechanism that ensures the robust participation of a diversity of stakeholders at both national and international levels, could be helpful. The Universal Periodic Review mechanism of the Human Rights Council could be an inspiration to encourage and incentivise regular and universal reporting and robust peer review by Member States, and by inviting independent ‘shadow reports’ from civil society organisations alongside the official government reports, as is the practice of the Committee and the other human rights treaty bodies.²⁵⁰

In conclusion, it can be said that if we except UN special procedures, UN human rights mechanisms have made significant efforts to share the results of their work with the HLPF in 2016 and 2017. In doing so, they have emphasized the contribution of this work to the themes of the HLPF thematic reviews – the principle that no one will be left behind (2016) and poverty eradication and the promotion of prosperity (2017). Some of them have also linked their work to the implementation of the SDGs that seek to realize ESCR in t states presenting VNRs. UN human

246 Contribution of the UN human rights treaty bodies to the 2016 HLPF meeting, *supra* fn 206, p 9. See also, Contribution of CERD to the 2017 HLPF meeting, *supra* fn 208, p 8. It is interesting to note that in a report on the right to health and the 2030 Agenda presented to the UN General Assembly in 2016, the UN Special Rapporteur on the right to health, Dainius Pūras, recommended that the HLPF ‘should consider reviews undertaken by international human rights mechanisms, such as the universal periodic review, treaty bodies and special procedures of the Human Rights Council’ and that these UN human rights mechanisms should monitor the implementation of the SDGs by holding ‘states to account for the right to health in the context of their SDG-related efforts’. Report of the UN Special Rapporteur on the right to health, Dainius Pūras *supra* fn 109, §§103(t), 103(u).

247 Contribution of the UN human rights treaty bodies to the 2016 HLPF meeting, *supra* fn 206, p 2.

248 *Ibid.*

249 Contribution of the CEDAW Committee to the 2017 HLPF meeting, *supra* fn 207, p 9.

250 *Ibid.*

rights mechanisms have also made recommendations to improve the working methods of the HLPF, as well as their collaboration.

These efforts must be welcomed. However, they would be more effective if they were presented in a more systematic and coordinated manner. To reach this objective, OHCHR should use the Universal Human Rights Index to produce an annual compilation of recommendations made by UN human rights mechanisms, with a focus on those that can contribute to the implementation of the SDGs. Since 2016, the Universal Human Rights Index has been successfully improved and it is now possible to use this online database to look for recommendations made by UN human rights mechanisms that are relevant to the 17 SDGs.²⁵¹ The compilation produced by OHCHR should be shared with the HLPF, with an emphasis on recommendations addressed to states that have prepared VNRs, or that are relevant to the theme of the meeting’s thematic review. Ideally, the example of the Human Rights Council’s UPR should be followed, with one compilation of recommendations produced for each state under review. This work by OHCHR would provide the HLPF with a holistic view on relevant recommendations produced by UN human rights mechanisms, including from those such as UN special procedures, which did not and might continue not to send contributions to the HLPF.

B. THE MONITORING ROLE OF THE HUMAN RIGHTS COUNCIL

The UN General Assembly created the Human Rights Council in 2006 to replace the Commission of Human Rights established in 1946.²⁵² The Human Rights Council is composed of 47 UN Member States.²⁵³ Its mandate is to promote and protect human rights, address situations of human rights violations and make subsequent recommendations.²⁵⁴ It can discuss human rights issues and situations during its three annual sessions, as well as during special sessions throughout the year.²⁵⁵

As we have seen, the Human Rights Council has been active in the negotiation of the post-2015 development agenda, recommending that negotiators design a human rights-based agenda and goals. We have also seen that its President contributed to the work of the HLPF on Sustainable Development in 2016.²⁵⁶

251 See <http://uhri.ohchr.org/en> (last accessed 3 December 2017).

252 UNGA Res 60/251, 15 March 2006, §1.

253 *Ibid.*, §§7–9.

254 *Ibid.*, §§2–3.

255 HRC Res 5/1, 18 June 2007, Annex, §§110–128, and Parts V, VI, VII.

256 Inputs from the President of the Human Rights Council to the 2016 HLPF, *supra* fn 141.

Following the adoption of the 2030 Agenda, the Human Rights Council decided to act to ‘ensure that its agenda promotes and advances sustainable development and the achievement of the remaining Millennium Development Goals and of the Sustainable Development Goals’.²⁵⁷

Since 2015, the Human Rights Council has adopted several resolutions linking the realization of ESCR to the implementation of the SDGs and the work of UN human rights mechanisms.²⁵⁸ For example, in March 2017, in its resolution on the realization of ESCR in all countries, it underlined the importance of the contributions of UN human rights mechanisms, including itself and its subsidiary bodies, human rights treaty bodies, special procedures and the UPR in promoting the implementation of the 2030 Agenda in accordance with states’ human rights obligations, and it encouraged states ‘to give due consideration to information, observations and recommendations from human rights mechanisms when implementing and monitoring progress of the 2030 Agenda, and to promote the cooperation of all stakeholders towards the full integration of human rights into the said processes’.²⁵⁹ In the same resolution, it requested the UN Secretary-General to prepare a report on the role of ESCR in the transformation towards sustainable and resilient societies (asking him to present the links between ESCR and the theme of the 2018 HLPF meeting’s thematic review).²⁶⁰

In March 2017, the Human Rights Council also adopted a resolution on the protection of the rights of the child in the implementation of the 2030 Agenda, in which it encouraged states to promote a child rights-based approach in the implementation of the 2030 Agenda, by ensuring that laws, policies and programmes are oriented to meet the SDGs and human rights obligations, and by taking into account those in the most marginalized and vulnerable situations to ensure that no child is left behind and that those furthest behind are reached first.²⁶¹ It also encouraged UN special procedures and other human rights mechanisms of the Human Rights Council to ‘continue to include in their reports information, qualitative analysis and recommendations on child rights, including on progress and gaps in the implementation of the 2030 Agenda’, and it invited ‘all human rights treaty bodies to integrate the rights of the child into their work, particularly in their concluding observations, general comments and recommendations, giving full consideration to the promotion and protection of the rights of the child in the implementation of the 2030 Agenda’.²⁶²

257 See, e.g., HRC Res 33/14, 29 September 2016, §13(a).

258 Inputs from the President of the Human Rights Council to the 2016 HLPF, *supra* fn 141.

259 HRC Res 34/4, 23 March 2017, §8.

260 *Ibid.*, §19. In the same resolution, the HRC also recognized that ‘the commitments made by States in the 2030 Agenda to leave no one behind, and to reach the furthest behind first, founded on the dignity of the human person, and reflecting the principles of equality and non-discrimination, require the collection of quality, accessible, timely and reliable disaggregated data’. *Ibid.*, §7.

261 HRC Res 34/16, 24 March 2017, §§6, 7, 17.

262 *Ibid.*, §§26–27.

In June 2017, for example, the Human Rights Council adopted a resolution on the right to health in the implementation of the 2030 Agenda, in which it urged or encouraged states to:

- Work towards the full implementation of all SDGs and targets in order to contribute to the realization of the right to health, and in particular SDG 3 and target 5.6²⁶³
- Bring their laws, policies and practices, including their strategies to implement the health-related SDGs, fully into compliance with their obligations under international human rights law, and review and, where necessary, repeal those that are discriminatory²⁶⁴
- Promote the effective, full and meaningful participation of all, particularly those in vulnerable situations, in the design, implementation and monitoring of laws, policies and programmes relevant to the realization of the right to health and the implementation of the health-related SDGs²⁶⁵
- Use high-quality, timely and reliable data, disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts when monitoring progress in the implementation of the health-related SDGs, while respecting human rights principles, including participation, self-identification, transparency, privacy and accountability²⁶⁶
- Include references to human rights, particularly the right to health, in their national voluntary reports to the HLPF on the implementation of the SDGs²⁶⁷

In the same resolution, the Human Rights Council encouraged the UN Special Rapporteur on the right to health to continue to focus on the contribution of human rights to the effective implementation of the health-related SDGs and targets, and to follow up and participate in relevant international forums and major events in this regard, including the annual meetings of the HLPF.²⁶⁸ It also asked OHCHR to prepare a report on the contributions of the right to health to the implementation of the health-related SDGs.²⁶⁹ It has made similar requests to OHCHR and the UN Secretary-General in a number of resolutions adopted since 2015.²⁷⁰ For example, in March 2016, it requested the UN Secretary-General to produce a report on the realization of ESCR in the implementation of the 2030 Agenda,²⁷¹ and it tasked

263 HRC Res 35/23, 23 June 2017, §3.

264 *Ibid.*, §4.

265 *Ibid.*, §5.

266 *Ibid.*, §6.

267 *Ibid.*, §8.

268 *Ibid.*, §§11–12.

269 For example, in its resolution on the right to health in the implementation of the 2030 Agenda, the HRC requested OHCHR to prepare a report on the contributions of the right to health to the effective implementation and achievement of the health-related SDGs. HRC Res 35/23, *supra* fn 263, §13.

270 Inputs from the President of the Human Rights Council to the 2016 HLPF, *supra* fn 141.

271 HRC Res 31/5, 20 April 2016, §18.

OHCHR with preparing a report on the protection of the rights of the child in the implementation of the 2030 Agenda.²⁷² In response, the UN Secretary-General and OHCHR presented two substantive reports to the Human Rights Council in March 2017, with concrete recommendations to guide states in the implementation of the SDGs, including those that seek to realize ESCR.²⁷³

In February 2016, the Human Rights Council devoted its annual high-level panel discussion on mainstreaming human rights in the UN system to the 2030 Agenda and human rights.²⁷⁴ On that occasion, the high-level panel – including the UN Secretary-General, the President of the General Assembly, the High Commissioner for Human Rights, the Chair-Rapporteur of the Working Group on the Right to Development and heads of several UN agencies, funds and bodies²⁷⁵ – discussed the complementarity between the SDGs and human rights, with an emphasis on the right to development and the need to improve exchanges between the Human Rights Council and the HLPF.²⁷⁶

In March 2017, in a joint statement made during the 34th session of the Human Rights Council, Chile, Denmark, Ecuador, Luxembourg, Portugal, Rwanda and Uruguay announced a new initiative on human rights and the 2030 Agenda for

272 HRC Res 31/7, 23 March 2016, §§22–23.

273 In his report, the UN Secretary-General outlined the linkages between ESCR and the SDGs, defined as two converging agendas, and he identified key factors to ensure the implementation of the 2030 Agenda in a manner consistent with states' obligations under international law: equality, non-discrimination and accountability, and the need to adopt a HRBA to data. He also identified challenges and opportunities for a human rights-based implementation of the 2030 Agenda and described contributions of international human rights mechanisms. Report of the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, *supra* fn 56. In its report on the protection of the rights of the child in the implementation of the 2030 Agenda, OHCHR reaffirmed that 'the 2030 Agenda is to be implemented in a manner consistent with international law', which implies that 'State obligations pertaining to the rights specified in the Convention on the Rights of the Child must be protected and promoted throughout implementation of the 2030 Agenda', and all SDGs and targets 'must be implemented in accordance with the Convention on the Rights of the Child and the general comments and recommendations of the Committee on the Rights of the Child relevant to each Goal and target'. It then focused on how states should protect and promote the rights of the child in the implementation of the SDGs, by ending violence, exploitation, abuse of children and child poverty, and by ensuring access to quality essential services for all children, as well as to health and nutrition, education and lifelong learning, water, sanitation and hygiene. OHCHR also underlined that 'child rights principles should guide every aspect of the implementation process, including universality, the indivisibility of the rights, non-discrimination and equality, the best interests of the child, their right to survival and development, and the right of children to participate', emphasizing on states' obligations to protect children and communities at heightened risk of discrimination, align legislation and policies with child rights and the principles of equality and non-discrimination and address stigma and social norms resulting in discrimination. Report of OHCHR on the Protection of the Rights of the Child in the Implementation of the 2030 Agenda for Sustainable Development, UN doc A/HRC/34/27, 15 December 2016, §§10, 19, 22–34, 36–42.

274 In 2011, the HRC decided to hold an annual high-level panel discussion to interact with heads of governing bodies and secretariats of UN agencies and funds within their respective mandates on specific human rights themes, with the objective of promoting the mainstreaming of human rights throughout the UN system. HRC Res 16/21, 12 April 2011, §42.

275 Among them, the Administrator of UNDP, the Executive Director of the UN Population Fund (UNFPA), the Deputy Executive Director of the UN Entity for Gender Equality and the Empowerment of Women (UN-Women) and the Deputy Executive Director of the Joint UN Programme on HIV/AIDS (UNAIDS).

276 Report of the UN Secretary-General on the Question of the Realization in all Countries of Economic, Social and Cultural Rights, *supra* fn 56, §46.

Sustainable Development, aimed at identifying how the UN human rights system can best support states in implementing the SDGs, including by delivering effective human rights capacity-building and technical support and sharing best practices.²⁷⁷ This initiative started with the organization of an informal consultation meeting in June 2017, during which participants discussed the opportunities and challenges of convergence between human rights and the SDGs.²⁷⁸ Its final aim is to design a programme of work to seize every available opportunity provided to the UN human rights system to support states as they work to implement the 2030 Agenda, leaving no one behind.²⁷⁹

As we will see, a key contribution of the Human Rights Council in support of the implementation of the SDGs in UN Member States is its creation of so many UN special procedures, many of which it tasks with contributing to the monitoring of the implementation of the SDGs (see section 5.C. below).

It is also worth noting that the Human Rights Council's Advisory Committee and Social Forum do relevant work in relation to the SDGs. In June 2017, the Human Rights Council called upon all states to spare no effort in implementing the 2030 Agenda, and it mandated its Advisory Committee – a body of 18 independent experts – to conduct a study on the ways in which development contributes to the enjoyment of all human rights by all.²⁸⁰ The Social Forum, an annual three-day meeting organized to provide a space for dialogue between civil society actors, representatives of UN Member States and intergovernmental organizations, devoted its 2015, 2016 and 2017 sessions to human rights issues closely linked to the SDGs – access to medicines in the context of the right to health (2015), human rights of persons with disabilities (2016) and human rights in the context of the HIV epidemic and other communicable diseases and epidemics (2017).²⁸¹

We will now focus on the contribution of one of the Human Rights Council's main monitoring mechanisms, the Universal Periodic Review (UPR).

277 The joint statement is available at <http://www.universal-rights.org/wp-content/uploads/2017/03/HR-SDGs-Cross-reg.-statement.pdf> (last accessed 3 December 2017).

278 This informal consultation meeting was convened by the Group of Friends of the Human Rights Council initiative on 'human rights and the 2030 Agenda for Sustainable Development', and organized by the Permanent Missions of Chile and Denmark, together with the core group (Ecuador, Luxembourg, Portugal, Rwanda, and Uruguay) and with the support of the Universal Rights Group. For more information, see <http://www.universal-rights.org/events-detail/human-rights-2030-agenda-sustainable-development-opportunities-challenges-convergence> (last accessed 3 December 2017).

279 See the joint statement, *supra* fn 277.

280 HRC Res 35/21, 20 June 2017, §53, 6.

281 See HRC Res 32/27, 1 July 2016; HRCI, Report of the Co-Chair-Rapporteurs of the 2016 Social Forum, UN Doc A/HRC/34/69, 13 December 2016; OHCHR, *Access to Medicines in the Context of the Right to Health*, A Summary of Discussions and Recommendations of the 2015 Social Forum, http://www.ohchr.org/Documents/Issues/SForum/SForum2015/OHCHR_2015-Access_medicines_EN_WEB.pdf (last accessed 3 December 2017).

1. THE UNIVERSAL PERIODIC REVIEW

When it created the Human Rights Council in 2006, the UN General Assembly decided that it would undertake ‘a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States’.²⁸²

At the UPR, all UN Member States are evaluated by their peers, who formulate recommendations for a better implementation of human rights in the country under review.²⁸³ The state under review can then decide if it accepts or rejects the recommendations made.²⁸⁴

The basis of the review is the UN Charter, the Universal Declaration of Human Rights, human rights treaties to which the state is party and voluntary pledges and commitments that it has made.²⁸⁵ In addition, the UPR takes into account applicable international humanitarian law.²⁸⁶

The UPR is based on three main documents: the national report prepared by the state under review (20 pages maximum); a compilation prepared by OHCHR with recommendations made by UN treaty bodies and special procedures on the human rights situation in the state under review (10 pages); and a summary prepared by OHCHR on the basis of information received by other stakeholders, including from civil society organizations and national human rights institutions (10 pages).²⁸⁷

We have seen that during the negotiation of the 2030 Agenda, UN special procedures proposed the creation of a ‘Sustainable Development Council’ to monitor the implementation of the SDGs, based on the working methods of the UPR.²⁸⁸ In his contribution to the 2016 HLPF meeting, the President of the Human Rights Council described the potential contribution of the UPR to the monitoring of the implementation of the SDGs:

In the first two cycles of the UPR, various recommendations made referred to the attainment of the MDGs. Given the immediate linkage between the SDGs and human rights, the UPR may continue this practice and may increasingly consider SDG progress. UPR recommendations and voluntary commitments by the States would then contribute at the same time to the realisation of human rights and SDG progress.²⁸⁹

282 UNGA Res 60/251, supra fn 252, 5(e); HRC Res 5/1, supra fn 255, Annex, Part I, §§1–38.

283 UNGA Res 60/251, supra fn 252, 5(e); HRC Res 5/1, supra fn 255, Annex, §14.

284 This possibility does not exist in relation to the recommendations made by UN treaty bodies and special procedures.

285 These include pledges and commitments undertaken by states when they present their candidatures for election to the HRC.

286 UNGA Res 60/251, supra fn 252, 5(e); HRC Res 5/1, supra fn 255, Annex, §§1–2.

287 UNGA Res 60/251, supra fn 252, 5(e); HRC Res 5/1, supra fn 255, Annex, §15.

288 Open letter from Special Procedures Mandate-Holders of the UN HRC, supra fn 70; Statement by 17 UN special procedures mandate-holders, supra fn 38.

289 Inputs from the President of the Human Rights Council to the 2016 HLPF meeting, supra fn 141, p 9.

Between the adoption of the 2030 Agenda in September 2015 and the UPR session of May 2017, more than 30 recommendations were made during the UPR, in which states made explicit links with the 2030 Agenda or the SDGs.²⁹⁰ These recommendations were all accepted by the state under review, which shows a broad agreement on the need for states to take steps to implement the SDGs.²⁹¹

Some of these recommendations simply aimed at pushing for the implementation of the SDGs in the country under review. In 2015, Venezuela recommended that Myanmar continue advancing the implementation of the SDGs.²⁹² In 2016, Azerbaijan recommended that Thailand accelerate its efforts to achieve the remaining MDG targets and the SDGs,²⁹³ and China recommended that Togo implement the SDGs effectively and promote sustainable economic and social development in order to create a solid foundation for human rights protection.²⁹⁴ In 2017, Iran recommended that India consolidate the progress made towards reaching the SDGs and in the improvement of human development indicators.²⁹⁵

In other recommendations, states emphasized the need to take measures in order to realize specific SDGs or ESCR. In 2016, Bangladesh recommended that Uganda make efforts to implement the SDGs, especially those related to poverty, education, health, agriculture and nutrition,²⁹⁶ and that Zimbabwe make particular efforts to implement the SDGs related to poverty, education, health, housing, water

290 With lots of exceptions, the general impression is that states more easily refer to the SDGs in their UPR recommendations when the state under review has included references to the 2030 Agenda or the SDGs in its report. This was, for example, the case during the UPR of India in May 2017, when India made a strong statement in relation to the 2030 Agenda in its national report, and when four countries – Iran, Norway, Algeria and Sudan – made recommendations in which they made an explicit link with the SDGs. See Human Rights Council UPR National Report (India), UN doc A/HRC/WG.6/27/IND/1, 23 February 2017, §7; Report of the Human Rights Council’s Working Group on the UPR, Review of India, UN Doc A/HRC/36/10, 17 July 2017, §§161.85, 161.87, 161.157, 161.86. It is interesting to note that during the same UPR session in May 2017, no recommendation explicitly mentioning the SDGs or the 2030 Agenda was made to Morocco, a country that did not explicitly mention the 2030 Agenda or the SDGs in its national report. Human Rights Council UPR National Report (Morocco), UN doc A/HRC/WG.6/27/MAR/1, 20 February 2017. Report of the Human Rights Council’s Working Group on the UPR, Review of Morocco, UN doc A/HRC/36/6A/HRC/34/8, 13 July 2017.

291 Our analysis focuses on recommendations that explicitly refer to the SDGs or the 2030 Agenda. It does not include comments that could have been made during the UPR, in which countries referred to the SDGs without making a recommendation. For example, during the UPR of Uganda, Chile, Serbia and the Republic of Korea commended Uganda for the adoption of a national development plan in which the SDGs were incorporated, but they did not make any recommendation in relation to the implementation of the development plan or the SDGs. Report of the Human Rights Council’s Working Group on the UPR, Review of Uganda, UN Doc A/HRC/34/10, 27 December 2016, §§22, 72, 76.

292 Report of the Human Rights Council’s Working Group on the UPR, Review of Myanmar, UN Doc A/HRC/31/13, 23 December 2015, §143.40. Myanmar accepted this recommendation. *Ibid.*

293 Report of the Human Rights Council’s Working Group on the UPR, Review of Thailand, UN Doc A/HRC/33/16, 15 July 2016, §158.36. Thailand accepted this recommendation. *Ibid.*

294 Report of the Human Rights Council’s Working Group on the UPR, Review of Togo, UN Doc A/HRC/34/4, 30 December 2016, §§128.99. Togo accepted this recommendation. *Ibid.*

295 Report of the Human Rights Council’s Working Group on the UPR, Review of India, supra fn 290, §§161.85. This recommendation is under examination by India. *Ibid.*

296 Report of the Human Rights Council’s Working Group on the UPR, Review of Uganda, supra fn 291, §115.12. Uganda accepted this recommendation. *Ibid.*

and sanitation.²⁹⁷ Bahrain recommended that Sudan continue to take measures to reduce maternal and child mortality to achieve the SDGs,²⁹⁸ and Pakistan recommended that Samoa continue to strengthen 15 sectors identified as important in the implementation of the SDGs.²⁹⁹ In 2017, Iran recommended that Brazil consolidate the progress made towards achieving the SDGs and continue efforts to promote inclusive socioeconomic development programmes with a focus on poverty eradication.³⁰⁰ Norway recommended that India allocate adequate resources to realize the SDG targets to reduce maternal mortality and end preventable deaths of newborns and children under five.³⁰¹ Algeria recommended that India continue the Housing for All policy led by the government to eradicate the problem of homelessness by 2030, in conformity with SDG 11.³⁰² And Maldives recommended that the Netherlands enhance gender equality by reducing the gender pay gap and by increasing employment opportunities for women through implementation of the 2030 Agenda.³⁰³

Other recommendations focused on the need for states to adopt, adapt or implement policies to realize the SDGs. In 2015, Pakistan recommended that Nepal continue to implement policies for women's development under the SDGs.³⁰⁴ In 2016, the same country recommended that Singapore,³⁰⁵ Palau,³⁰⁶ Seychelles³⁰⁷ and Sierra Leone³⁰⁸ continue to implement policies for the development of their people under the SDGs, that Zimbabwe implement policies to promote equal opportunities

297 Report of the Human Rights Council's Working Group on the UPR, Review of Zimbabwe, UN Doc A/HRC/34/8, 28 December 2016, §131.101. Zimbabwe accepted this recommendation. *Ibid.*

298 Report of the Human Rights Council's Working Group on the UPR, Review of Sudan, UN Doc A/HRC/33/8, 11 July 2016, §138.35. Sudan accepted this recommendation. *Ibid.*

299 Report of the Human Rights Council's Working Group on the UPR, Review of Samoa, UN Doc A/HRC/33/6, 27 June 2016, §95.88. Samoa accepted this recommendation. *Ibid.*

300 Report of the Human Rights Council's Working Group on the UPR, Review of Brazil, UN Doc A/HRC/36/11, 18 July 2017, §136.50.

301 Report of the Human Rights Council's Working Group on the UPR, Review of India, *supra* fn 290, §161.87. This recommendation is under examination by India. *Ibid.*

302 *Ibid.*, §161.157. This recommendation is under examination by India. *Ibid.*

303 Report of the Human Rights Council's Working Group on the UPR, Review of Netherlands, UN Doc A/HRC/36/15, 18 July 2017, §131.145. This recommendation is under examination by the Netherlands. *Ibid.*

304 Report of the Human Rights Council's Working Group on the UPR, Review of Nepal, UN Doc A/HRC/31/9, 23 December 2015, §122.115. This recommendation has been accepted by Nepal. *Ibid.*

305 Report of the Human Rights Council's Working Group on the UPR, Review of Singapore, UN Doc A/HRC/32/17, 15 April 2016, §166.110. This recommendation has been accepted by Singapore. Addendum to the report of the Working Group on the Universal Periodic Review of Singapore, UN Doc A/HRC/32/17/Add.1, 13 June 2016, §36.

306 Report of the Human Rights Council's Working Group on the UPR, Review of Palau, UN Doc A/HRC/32/11, 13 April 2016, §104.124. This recommendation has been accepted by Palau. Addendum to the report of the Working Group on the Universal Periodic Review of Palau, UN Doc A/HRC/32/11/Add.1, 21 June 2016, §35.

307 Report of the Human Rights Council's Working Group on the UPR, Review of Seychelles, UN Doc A/HRC/32/13, 8 April 2016, §120.125.

308 Report of the Human Rights Council's Working Group on the UPR, Review of Sierra Leone, UN Doc A/HRC/32/16, 14 April 2016, §111.176.

for women's participation in the economic development of the country³⁰⁹ and that Tanzania continue reviewing policies for the implementation of the SDGs.³¹⁰ Cuba recommended that Samoa apply a national development policy that incorporates the SDGs.³¹¹ Zimbabwe recommended that Togo incorporate the SDGs in development policies and programmes³¹² and Singapore recommended that Myanmar implement policies to meet the relevant SDGs so that all communities and regions can benefit from the country's economic growth and Myanmar can graduate from its least developed country status as soon as possible.³¹³

A number of recommendations have also emphasized the need to adopt or implement strategies in relation to the SDGs. In 2016, Mexico recommended that Mozambique develop a strategy and national indicators in order to comply with the SDGs,³¹⁴ and the United Arab Emirates recommended that Hungary ensure that the implementation of the objectives set up in its 2014 National Strategy on Public Education are in line with the SDGs.³¹⁵ Viet Nam recommended that Thailand establish strategies and allocate resources aimed at achieving the SDGs, especially those related to poverty eradication, equal access to resources, the rights to education and health care and the rights of vulnerable groups.³¹⁶ In 2017, the United Kingdom recommended that Ecuador develop a national strategy to tackle modern slavery and contribute to the realization of SDG target 8.7,³¹⁷ and Sudan recommended that India continue its efforts in the implementation of sustainable development for the year 2030.³¹⁸

At least one recommendation focused on the need for states to engage in international cooperation and assistance to realize ESCR and the SDGs. This recommendation was made by Nepal in 2016, when it asked Denmark to continue its development assistance to developing countries so that they can better realize socioeconomic

309 Report of the Human Rights Council's Working Group on the UPR, Review of Zimbabwe, *supra* fn 297, §131.38. Zimbabwe accepted this recommendation. *Ibid.*

310 Report of the Human Rights Council's Working Group on the UPR, Review of Tanzania, UN Doc A/HRC/33/12, 14 July 2016, §134.35. This recommendation has been accepted by Tanzania. *Ibid.*

311 Report of the Human Rights Council's Working Group on the UPR, Review of Samoa, *supra* fn 299, §95.90. Samoa accepted this recommendation. *Ibid.*

312 Report of the Human Rights Council's Working Group on the UPR, Review of Togo, *supra* fn 294, §128.35. Togo accepted this recommendation. *Ibid.*

313 Report of the Human Rights Council's Working Group on the UPR, Review of Myanmar, *supra* fn 292, §143.41. Myanmar accepted this recommendation. *Ibid.*

314 Report of the Human Rights Council's Working Group on the UPR, Review of Mozambique, UN Doc A/HRC/32/6, 12 April 2016, §128.158. Mozambique accepted this recommendation. *Ibid.*

315 Report of the Human Rights Council's Working Group on the UPR, Review of Hungary, UN Doc A/HRC/33/9, 9 July 2016, §128.175. This recommendation has been accepted by Hungary. See Addendum to the report of the Working Group on the Universal Periodic Review of Hungary, UN Doc A/HRC/33/9/Add.1, 16 September 2016, §§8-12, p 3.

316 Report of the Human Rights Council's Working Group on the UPR, Review of Thailand, *supra* fn 293, §158.37. Thailand accepted this recommendation. *Ibid.*

317 Report of the Human Rights Council's Working Group on the UPR, Review of Ecuador, UN Doc A/HRC/36/4, 10 July 2017, §119.4. This recommendation is under examination by Ecuador. *Ibid.*

318 Report of the Human Rights Council's Working Group on the UPR, Review of India, *supra* fn 290, §161.86. This recommendation is under examination by India. *Ibid.*

rights as part of a globally inclusive and sustainable development agenda.³¹⁹

It is also worth noting that in 2016, the Russian Federation recommended that Namibia³²⁰ and Sierra Leone³²¹ continue to support the family, described as one of the main actors in achieving SDGs, and Syria recommended that Zimbabwe guarantee continued awareness-raising about the SDGs to make them part of the general culture.³²²

These more than 30 recommendations show that states see the UPR as a monitoring mechanism through which they can push for the implementation of the SDGs in UN Member States. In the future, they should use that possibility more systematically, including by increasing the number of recommendations linking ESCR and the SDGs.

In conclusion, it can be said that the Human Rights Council has made significant efforts to include the SDGs that seek to realize ESCR in its work. It has adopted several resolutions in which it links ESCR to the SDGs, and in which it tasks its subsidiary bodies and special procedures, as well as the UN Secretary-General and OHCHR, with including the SDGs in their work or reports. It has also taken many initiatives to link its work, and the work of other UN human rights mechanisms, to that of the HLPF. In coming years, the Human Rights Council should continue to include the SDGs more systematically in its work, and the initiative on human rights and the 2030 Agenda for Sustainable Development should develop its full potential, enabling states and other stakeholders to make use of the many ways in which the UN human rights system can best support them in implementing the SDGs.

C. THE MONITORING ROLE OF SPECIAL PROCEDURES

The UN special procedures on human rights are independent experts mandated by the Human Rights Council to promote and protect human rights.³²³ They include special rapporteurs, independent experts, special representatives of the UN Secretary-General and working groups. Their mandates can be thematic, for example on torture or the right to food, or cover all human rights in a specific country. Special procedures' mandate holders cannot serve for more than six years, while special procedures' mandates can be renewed without limitation.³²⁴

319 Report of the Human Rights Council's Working Group on the UPR, Review of Denmark, UN Doc A/HRC/32/10, 13 April 2016, §120.199. This recommendation has been accepted by Denmark. See Addendum to the report of the Working Group on the Universal Periodic Review of Denmark, UN Doc A/HRC/32/10/Add.1, 21 June 2016, p 2.

320 Report of the Human Rights Council's Working Group on the UPR, Review of Namibia, UN Doc A/HRC/32/4, 15 April 2016, §137.177. This recommendation has been accepted by Namibia. See Addendum to the report of the Working Group on the Universal Periodic Review of Namibia, UN Doc A/HRC/32/4/Add.1, 14 June 2016, §14-15.

321 Report of the Human Rights Council's Working Group on the UPR, Review of Sierra Leone, supra fn 308, §111.153.

322 Report of the Human Rights Council's Working Group on the UPR, Review of Zimbabwe, supra fn 297, §131.39. Zimbabwe accepted this recommendation. *Ibid.*

323 HRC Res 5/1, supra fn 255, Annex, §§39–64.

324 *Ibid.*, §45.

The UN Commission on Human Rights created the first special procedures in the 1970s and 80s to promote and protect civil and political rights.³²⁵ In 2006, the Human Rights Council replaced the Commission on Human Rights and upheld the system of special procedures.³²⁶ Today, out of the 44 existing thematic special procedures, 6 deal specifically with ESCR – the Special Rapporteurs on the right to education (created in 1998), adequate housing (2000), the right to food (2000), the right to health (2002), the human rights to safe drinking water and sanitation (2008) and in the field of cultural rights (2009). In addition, several special procedures have a cross-cutting mandate that involves addressing ESCR.³²⁷ The 12 special procedures mandated to monitor human rights in a specific country can also monitor the realization of ESCR there.³²⁸

Several typologies have been proposed to describe the methods employed by UN special procedures in their work. In 2005, OHCHR listed the following activities: country visits or fact-finding missions, sending communications to governments, preparing thematic reports, recommending programmes of technical cooperation and interacting with the media.³²⁹ Their activities have also been described in terms of promoting and protecting human rights and undertaking country missions.³³⁰

Here, emphasis is placed on the contribution that UN special procedures can make in monitoring the implementation of the SDGs that seek to realize ESCR, through their thematic reports (1) and country visits (2).

325 I. Nifosi, *The UN Special Procedures in the Field of Human Rights*, Intersentia, 2005.

326 UNGA Res 60/251, supra fn 252, §6; HRC Res 5/1, supra fn 255, Annex, §39–64.

327 These include the Special Rapporteurs on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (created in 1995); extreme poverty and human rights (1998); the human rights of migrants (1999); the situation of human rights defenders (2000); the rights of indigenous peoples (2001); the human rights of internally displaced persons (2004); contemporary forms of slavery (2007); human rights and the environment (2012); the rights of persons with disabilities (2014); unilateral coercive measures (2014) and the right to development (2016); the Independent Experts on the effects of foreign debt on human rights (2000); human rights and international solidarity (2005) and the enjoyment of all human rights by older persons (2013), as well as the Working Groups on Discrimination Against Women in Law and Practice (2010) and Business and Human Rights (2011). A description of their mandates is available on OHCHR's website, <http://www.ohchr.org/en/hrbodies/sp/pages/welcomepage.aspx> (last accessed 3 December 2017).

328 The following special procedures with country mandates currently report to the HRC: the Special Rapporteurs on the situation of human rights in Myanmar (created in 1992), Cambodia (1993), the Occupied Palestinian Territory (1993), Democratic People's Republic of Korea (2004), the Syrian Arab Republic (2011), the Islamic Republic of Iran (2011), Belarus (2012) and Eritrea (2013), as well as the Independent Experts on the situation of human rights in Somalia (1993), Sudan (1993), Central African Republic (2013) and Mali (2013). A description of their mandates is available on OHCHR's website, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx (last accessed 3 December 2017).

329 OHCHR Background Paper II – Working Methods of the Mandate-Holders, prepared for the open-ended seminar on enhancing and strengthening the effectiveness of the Special Procedures, 2005, <http://www.ohchr.org/EN/HRBodies/SP/AMeeting/Pages/13thsession.aspx> (last accessed 3 December 2017).

330 C. Goley, C. Mahon and I. Cismas, 'The Impact of the UN Special Procedures on the Development and Implementation of Economic, Social and Cultural Rights', 15 *The International Journal of Human Rights* 2 (2011); T. Piccone, *Catalysts for Change: How the UN's Independent Experts Promote Human Rights*, Brookings Institution Press, 2012.

1. THEMATIC REPORTS

All UN special procedures present annual reports to the UN Human Rights Council, and the majority of them also present annual reports to the UN General Assembly. In these reports, they can choose to focus on and make recommendations regarding specific issues linked to their mandates, and thus produce ‘thematic reports’.

Since the adoption of the SDGs, several UN special procedures have produced thematic reports in which they have linked ESCR and the SDGs, and in which they have made recommendations to guide the implementation of the SDGs that seek to realize ESCR. As we will see, some have chosen to produce a whole report, or a substantive part of a report focusing on the SDGs, while others have chosen to include references to the SDGs in reports on other issues linked to ESCR.

We begin here by presenting lessons learned from the MDG period (a), before presenting the views of UN special procedures on the complementarity between ESCR and the SDGs (b). This is followed by a discussion of thematic reports in which UN special procedures have emphasized the need to ensure that the implementation of the SDGs is consistent with ESCR and states obligations in international human rights law (c); the need for states to ensure participation and the use of disaggregated indicators and data to reach the most vulnerable and those who are left behind (d) and the need for states to adopt new instruments and make new commitments to support the implementation of the SDGs (e).

a. Lessons Learned From the MDG Period

During the MDG period, special procedures were among the most active UN human rights mechanisms contributing to the human rights and development dialogue.³³¹ In 2004, the then Special Rapporteur on the right to health, Paul Hunt, was the first to document the relationship of the right to health to relevant MDGs.³³² The Human Rights Council then mandated some UN special procedures to make recommendations on strategies to achieve the MDGs, including the Independent Expert on extreme poverty and human rights and the Special Rapporteur on the right to food.³³³ By 2015, the MDGs had been the subject of substantive analyses and in-depth scrutiny in UN special procedures’ thematic reports, with a common understanding that the achievement of the MDGs and the realization of ESCR could be mutually reinforcing, and that it was essential to promote a HRBA in the implementation of the MDGs.³³⁴

331 This sub-section is inspired by Golay, Biglino and Truscan, ‘The Contribution of the UN Special Procedures to the Human Rights and Development Dialogue’, *supra* fn 20.

332 Report of the UN Special Rapporteur on the Right to Health, *supra* fn 38.

333 HRC Res 8/11, 18 June 2008, §2(d); HRC Res 6/2, 27 September 2007, §2(e); HRC Res 6/29, 14 December 2007, §2(h).

334 Golay, Biglino and Truscan, ‘The Contribution of the UN Special Procedures to the Human Rights and Development Dialogue’, *supra* fn 20.

In 2011, to demonstrate that HRBAs can make a difference in the achievement of development objectives, the then Special Rapporteur on the right to health, Anand Grover, took the example of the public health response to HIV/AIDS. He traced the evolution of the response to HIV/AIDS from the beginning of the pandemic and used the lessons learned from such a trajectory to frame the relationship between human rights and development and to highlight the effectiveness of responding to HIV by utilizing a HRBA. He also explained that violations of the right to health from the perspective of discrimination – in terms of both failure by states to prevent discrimination towards people living with HIV/AIDS and discrimination directly perpetrated by states – reduced the effectiveness of HIV prevention programmes in certain countries.³³⁵

Other thematic reports linking ESCR and the MDGs have been informed by documents produced by governments or in consultation with them. In 2007, the then Independent Expert on minority issues, Gay McDougall, based her analysis and recommendations regarding the challenges faced by minority groups in the implementation of the MDGs on a comprehensive study of 50 MDG Country Reports and a number of Poverty Reduction Strategy Papers.³³⁶ With the then Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda, she also used another method – sending questionnaires to national authorities to obtain information on problems and solutions envisaged in the implementation of the MDGs.³³⁷ They requested information on laws, policies and programmes aimed at identifying the most vulnerable groups and responding to their specific needs while ensuring participation and accountability.

Today, UN special procedures could use similar methods to monitor the SDGs that seek to realize ESCR, by analysing national reports on the implementation of the SDGs, including VNRs presented to the HLPF, from an ESCR perspective, or by sending questionnaires to states to evaluate the measures taken to implement the SDGs, including laws, policies and programmes to identify the most vulnerable and those who are left behind and respond to their specific needs while ensuring participation and accountability.

b. The Complementarity of ESCR and the SDGs

Since the adoption of the 2030 Agenda, some UN special procedures have expressed clear views on the complementarity and mutual reinforcement of ESCR and the SDGs. In a report on the right to health and the 2030 Agenda, the Special Rapporteur on the right to health, Dainius Pūras, highlighted that the SDGs and the right to health were mutually reinforcing, and that the 2030 Agenda and the

335 Report of the UN Special Rapporteur on the Right to Health, Anand Grover, UN doc A/HRC/17/25, 12 April 2011.

336 Report of the UN Independent Expert on Minority Issues, Gay McDougall, Achieving the Millennium Development Goals (MDGs) for Minorities: A Review of MDG Country Reports and Poverty Reduction Strategies, UN doc A/HRC/4/9/Add.1/Corr.1, 23 May 2007.

337 Report of the UN Independent Expert on the Question of Human Rights and Extreme Poverty, *supra* fn 33, §5. Report of the UN Independent Expert on Minority Issues, Gay McDougall, UN doc A/HRC/4/9, 2 February 2007, §13.

SDGs ‘provide an opportunity to improve the health and human rights of those furthest behind’.³³⁸ He then described how the right to health could help to address critical implementation gaps within the SDGs, placing emphasis on four issues: equality and non-discrimination, accountability, universal health coverage and violence.³³⁹

In a report on disability inclusive policies, the Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, described the complementary and mutually reinforcing nature of the Convention on the Rights of Persons with Disabilities (CRPD) and the 2030 Agenda, and how these two instruments can effectively contribute to fighting poverty and exclusion among persons with disabilities.³⁴⁰ For her,

[t]he adoption of the Sustainable Development Goals with concrete references to persons with disabilities constitutes an excellent opportunity for achieving the coordinated engagement of international donors in the advancement of the rights of persons with disabilities. The Convention on the Rights of Persons with Disabilities and the 2030 Agenda for Sustainable Development are complementary and should be mutually reinforced to guarantee the full inclusion and participation of persons with disabilities.³⁴¹

The Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, produced a booklet and a video in which he linked the rights to water and sanitation with the SDGs.³⁴² For him, the 2030 Agenda ‘is grounded in international human rights law and offers critical opportunities to further advance the realization of human rights for all people everywhere without discrimination. The challenge now is to ensure that strategies and policies to implement the 2030 Agenda are effectively based in the established human rights framework’.³⁴³

The Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte, presented similar views. For her,

338 Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, *supra* fn 109, §8.

339 *Ibid.*, §11. For Dainius Pūras, ‘[w]hile the [SDGs] are political commitments, the right to health gives rise to legally binding obligations on States to progressively realize the right to health, as well as duties on the part of other actors, and to do so in the context of their policies and programmes on the Goals’. *Ibid.*

340 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities, Catalina Devandas Aguilar, UN doc A/71/314, 9 August 2016, §2.

341 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities, Catalina Devandas Aguilar, UN doc A/HRC/31/62, 12 January 2016, §97.

342 Special Rapporteur on the Human Rights to safe Drinking Water and Sanitation Léo Heller, *Ending Inequalities. A Priority for Accomplishing Sustainable Development Goal 6, and Many Others*, http://www.ohchr.org/Documents/Issues/Water/Inequalities_EN.pdf (last accessed 4 December 2017); Léo Heller, videos on the rights to water and sanitation and the SDGs, <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWWater/Pages/SRWWaterIndex.aspx> (last accessed 4 December 2017).

343 Report of the UN Special Rapporteur on the Human Rights to safe Drinking Water and Sanitation, Léo Heller, UN doc A/71/302, *supra* fn 114, §1.

[t]he adoption of the Sustainable Development Goals by the General Assembly on 25 September 2015 represents an important step forward, as older persons are included directly or by implication in 15 of the 17 global Goals. In particular, Goal 3: Ensure healthy lives and promote well-being for all at all ages, will be instrumental in fighting age discrimination within health systems to ensure that older persons around the world enjoy their basic human right to the highest attainable standard of health and well-being as they age. The challenge ahead is to ensure that those commitments are followed through and the goals are met.³⁴⁴

Other UN special procedures have taken a more nuanced, critical position on the links between ESCR and the SDGs. In a report on the marginality of economic and social rights, the Special Rapporteur on extreme poverty and human rights, Philip Alston, explained that much remains to be done to concretize the complementarity between ESCR and the SDGs. For him,

[t]he risk of eliding two potentially very different approaches also arises when the 2030 Agenda for Sustainable Development and its Sustainable Development Goals is automatically equated with the promotion of respect for economic and social rights. While it is very much to be hoped that the 2030 Agenda will indeed lead to greater respect for economic and social rights as human rights, this is by no means guaranteed by the terms of the Agenda as adopted and much remains to be done if that aspiration is to be meaningfully promoted.³⁴⁵

In a report presented to the Human Rights Council in March 2017, the then Special Rapporteur on minority issues, Rita Izsák-Ndiaye, severely criticized the fact that the 2030 Agenda and the SDGs do not to include any reference to minorities. She wrote that she ‘deeply regrets that despite the pledges for an inclusive 2030 Agenda for Sustainable Development, no explicit reference to minorities was included in the final document. She firmly believes that the successful implementation of the 2030 Agenda can only be achieved by taking into consideration the situation of minorities, and calls on States to fulfil in practice the principle of leaving no one behind’.³⁴⁶

344 Report of the Independent Expert on the Enjoyment of all Human Rights by Older Persons, UN doc A/HRC/33/44, 18 July 2016, §24.

345 Report of the Special Rapporteur on Extreme Poverty and Human Rights, UN doc A/HRC/32/31, 28 April 2016, §7.

346 Report of the Special Rapporteur on Minority Issues, UN doc A/HRC/34/53, 9 January 2017, §49.

c. The Need to Implement the SDGs in a Manner Consistent with ESCR and States' Obligations in International Human Rights Law

UN special procedures have presented several reports in which they have underlined that – in accordance with the 2030 Agenda³⁴⁷ – states need to implement the SDGs in a manner that is consistent with ESCR and their correlative obligations in international human rights law. In these reports, some special procedures have emphasized the need to fill gaps in the SDGs, compared with ESCR, while others have pushed for the implementation of specific SDG targets that mirror key elements of ESCR. A number of special procedures have also asked states to give priority to the realization of ESCR and the SDGs in the allocation of resources available at national level and through international cooperation and assistance.

As we have seen, the Special Rapporteur on the right to health, Dainius Pūras, underlined that important elements of the right to health could have been better defined in the SDGs. For him, mental health could have figured more prominently in the SDGs, as ‘it should be a new priority in public policies addressed in parity with physical health’.³⁴⁸ Dainius Pūras also emphasized access to essential health-care services and to sexual and reproductive health-care services, which should not only be universalized but also meet ‘critical right-to-health requirements, including availability, accessibility, acceptability and quality’.³⁴⁹ He then underlined that where the health-related SDGs show weakness and lack of clarity, the right to health and correlative states obligations in international human rights law will be powerful tools to ensure effective and equitable achievement of the Goals.³⁵⁰

In a report on discrimination against women with regard to health and safety, the Working Group on the issue of discrimination against women in law and in practice also focused on the need to better protect women’s rights to sexual and reproductive health in the implementation of the SDGs. It underlined that while political contestation around rights to reproductive and sexual health remains a global challenge, resulting in women paying a high price in terms of their health and lives, one must welcome the commitment made by states in the 2030 Agenda for Sustainable Development to ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and to integrate reproductive health into national strategies and programmes (SDG target 3.7).³⁵¹ The Working Group called on all states ‘to reaffirm and respect

347 States committed to implement the 2030 Agenda in a manner consistent with their obligations under international law, which include their obligations to respect, protect and fulfil ESCR. UNGA Res 70/1, supra fn 3, §18.

348 Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, UN doc A/HRC/29/33, supra fn 125, §§77, 83, 122(I). See also, Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, UN doc A/HRC/35/21, supra fn 125.

349 Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, supra fn 109, §8.

350 Ibid, §101. In his report, Dainius Pūras emphasized states’ obligations to respect, protect and fulfil the right to health, as well as the obligations of progressive realization, immediate effect, maximum available resources and international assistance and cooperation. Ibid, §§26–34.

351 Report of the UN Working Group on the Issue of Discrimination Against Women in Law and in Practice, UN doc A/HRC/32/44, 8 April 2016, §24.

the commitments they made in Beijing and in Cairo and in the Sustainable Development Goals, to implement the comprehensive provisions concerning women’s health in the agreements they adopted, and to develop national laws, policies and programmes within the framework of international human rights standards’.³⁵²

We have also seen that the Special Rapporteur on the right to adequate housing, Leilani Farha, identified the absence of references to homelessness as an important gap in the SDGs. In March 2016, she presented a report on the issue, in which she defined homelessness as an extreme violation of the right to adequate housing and other human rights, and argued that it should be central in the implementation of the SDGs, even if this is not explicitly mentioned. For Leilani Farha, while the SDGs omit any explicit reference to homelessness, SDG target 11.1 commits states to ensure access for all to adequate, safe and affordable housing and basic services and to upgrading slums by 2030, which implies that states should eliminate homelessness.³⁵³ She recommended that all states commit to eliminating homelessness by 2030 or earlier if possible, in a manner that upholds international human rights and in keeping with SDG target 11.1, and that states and subnational governments apply internationally agreed definitions, methodologies and indicators to permit a more objective assessment of progress made, including with respect to SDG target 11.1.³⁵⁴

Among the special procedures who produced reports in which they pushed for the implementation of specific SDG targets that mirror key elements of ESCR, the Special Rapporteur on the right to food, Hilal Elver, presented a report in which she advocated for a comprehensive inclusion of nutrition – a key element of the right to food – in the global and national policies aimed at implementing the SDGs.³⁵⁵ She criticized the fact that while SDG 2 explicitly refers to ‘nutrition’ and SDG 3 to non-communicable diseases, ‘nutrition is mentioned in only 1 of the 169 targets, and overweight and obesity are not mentioned’.³⁵⁶ For her, the SDGs cannot be achieved without special attention to nutrition, which is ‘arguably interwoven within all 17 Goals, as well as 50 indicators’.³⁵⁷ Hilal Elver also explained that sev-

352 Ibid, §104.

353 Report of the UN Special Rapporteur on the Right to Adequate Housing, supra fn 127, 30 December 2015, §§4, 66.

354 Ibid, §§91(a), 91(d).

355 Interim Report of the UN Special Rapporteur on the Right to Food, supra fn 109, §§43–50. In her first report presented to the UN General Assembly in 2015, Hilal Elver linked the work of the UN Committee on World Food Security to the SDGs. Interim Report of the UN Special Rapporteur on the Right to Food, UN doc A/69/275, 7 August 2014, §§58–60. Her predecessor, Olivier De Schutter, made a similar link in his final report presented to the Human Rights Council in 2014. Report of the UN Special Rapporteur on the Right to Food, Olivier De Schutter, Final Report, supra fn 115, §§47–48. Hilal Elver also mentioned the SDGs in her reports on the effects of pesticides on the right to food, and on the integration of a gender perspective in the right to food. Respectively: Report of the UN Special Rapporteur on the Right to Food, UN doc A/HRC/34/48, 24 January 2017, §105; Report of the UN Special Rapporteur on the Right to Food, UN doc A/HRC/31/51, 14 December 2015, §60.

356 Interim Report of the UN Special Rapporteur on the Right to Food, Hilal Elver, supra fn 109, §47.

357 Ibid, §43. See also Standing Committee on Nutrition, *Nutrition and the post-2015 Sustainable Development Goals*, Policy Brief, November 2014, https://www.unscn.org/files/Publications/Nutrition_The_New_Post_2015_Sustainable_development_Goals.pdf (last accessed 4 December 2017).

eral shortcomings should be addressed if states want to eradicate malnutrition in all its forms, including the need to ensure adequate data collection and systemic tracking systems at both national and global levels, possibly using the *Global Nutrition Report*, which draws on data from UN agencies.³⁵⁸

In 2016, the then Special Rapporteur on the right to education, Kishore Singh, presented a report on lifelong learning – a key element of the right to education – in which he underlined the importance given to lifelong learning in the SDGs, and the need for states to take measures accordingly.³⁵⁹ He underlined that SDG 4, which aims to ensure ‘inclusive and equitable quality education and promote lifelong learning opportunities for all’, is complemented by SDG targets 4.4 (substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship) and 4.6 (ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy). At the end of his report, he advocated for the inclusion of lifelong learning in the work of UN treaty bodies and the UPR:

The United Nations treaty bodies and States involved in the universal periodic review should enquire into how lifelong learning is being implemented, keeping in view the international normative framework for education, learning and training. They should also ensure that Governments abide by their responsibility undertaken under Sustainable Development Goal 4 on education in the 2030 Agenda for Sustainable Development, as well as pursuant to their commitments under the Education 2030 agenda.³⁶⁰

In August 2016, Koumbou Boly Barry replaced Kishore Singh and presented a report on non-formal education – another key element of the right to education – in June 2017. In this report, she underlined the need for education systems to diversify the means of reaching some of the 775 million adults who are illiterate, two-thirds of them being women, to reach SDG target 4.6 (ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy).³⁶¹ For her, following the adoption of the SDGs, national education ‘should provide for a lifelong learning model that includes a formal system of early childhood care and education, primary and secondary school, tertiary and vocational systems, as well as informal learning and non-formal schooling, including adult literacy programmes’. Non-formal education programmes can provide flexible schedules for working learners, which are ‘vital for reaching many adults who also have responsibilities to their families and employers’.³⁶²

358 Interim Report of the UN Special Rapporteur on the Right to Food, Hilal Elver, *supra* fn 109, §§47–49.

359 Report of the Special Rapporteur on the Right to Education, UN doc A/71/358, 29 August 2016, §§1, 63.

360 *Ibid.*, §111.

361 Report of the Special Rapporteur on the Right to Education, Kishore Singh, *supra* fn 122, Summary.

362 *Ibid.*, §§22, 38.

Leilani Farha, Dainius Pūras and Kishore Singh are also among the special procedures’ mandate holders who presented reports in which they asked states to give priority to ESCR and the SDGs in the allocation of available resources, together with the Special Rapporteur on the human rights to safe drinking water and sanitation and the Independent Expert on the effects of and other related international financial obligations of States on the full enjoyment of all human rights (Independent Expert on the effects of foreign debt on human rights).

In a report on the financialization of housing, Leilani Farha underlined that if SDG target 11.1 is to be achieved by 2030, it is essential to consider the role of international finance and financial actors in housing systems.³⁶³ She recommended that strategies developed by states and local governments to achieve SDG target 11.1 include taxation and measures to re-establish housing as a social good, promote an inclusive housing system and prevent speculation and excessive accumulation of wealth.³⁶⁴ She also argued that it is essential to radically change the way money is used in the housing sector. For her,

[w]hat is so stark about the pouring of those vast amounts of money into housing is that hardly any of it is directed towards ameliorating the insufferable housing conditions in which millions live. If even a portion of those amounts was directed towards affordable housing and access to credit for people in need of it, target 11.1 of the Sustainable Development Goals, to ensure adequate housing for all by 2030, would be well within reach. Financialization under current regimes, however, creates the opposite effect: unaccountable markets that do not respond to housing need, and urban centres that become the sole preserve of those with wealth.³⁶⁵

Making a similar argument in his report on the right to health and the 2030 Agenda, Dainius Pūras underlined that ‘resource allocation should prioritize equitable distribution and access to health facilities, goods and services and not disproportionately favour health services for privileged populations, such as civil servants or those in large urban areas (SDG target 1.a and SDG 3)’.³⁶⁶ For him,

[t]he 2030 Agenda provides momentum to pave the way, both in developing and developed countries, for sustainable investments in modern public health policies and break the vicious cycle of poverty, inequities, social exclusion, discrimination and violence. States and other actors implementing the Sustainable Development Goals must not be tempted to target the ‘low-hanging fruit’ at the expense of the most marginalized and vulnerable.³⁶⁷

363 Report of the UN Special Rapporteur on the Right to Adequate Housing, UN doc A/HRC/34/51, 18 January 2017, §8.

364 *Ibid.*, §77(b).

365 *Ibid.*, §29.

366 Report of the UN Special Rapporteur on the Right to Health, Dainius Pūras, *supra* fn 109, §44.

367 *Ibid.*, §102.

Kishore Singh presented two reports – on the need to protect education against commercialization and on public-private partnerships in technical and vocational education and training – in which he expressed concerns about the euphoria for public-private partnerships, encouraged by SDG target 17.16,³⁶⁸ and recommended that, instead, states increase public investment in education to achieve SDG 4. For him, ‘[e]ducation provided by private proprietors or enterprises is neither free nor equitable’³⁶⁹, and the ‘pursuit of private interests and the commercialization of education should have no place in the education system of a country or in any future education agenda’.³⁷⁰ He then explained that it is therefore difficult for him to see how private actors can support the implementation of SDG target 4.1 (ensure that all girls and boys complete free, equitable and quality primary and secondary education). Instead, it is essential that states increase public investment in education to achieve this target.³⁷¹ It is also imperative that governments in developing countries develop innovative modalities of public-private partnerships, harnessed for skills development, to achieve SDG target 4.4 (increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship).³⁷²

In a report on development cooperation presented in 2016, the Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, underlined that the 2030 Agenda ‘contains a broad set of Sustainable Development Goals that will require unprecedented global commitment and cooperation between countries and the development of strong cooperation strategies and actions’.³⁷³ Focusing on the rights to water and sanitation, he then argued that the normative content of these rights should be placed at the centre of development cooperation aimed at implementing SDG targets 6.1 (achieve universal and equitable access to safe and affordable drinking water for all) and 6.2 (achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations).³⁷⁴ He then explained that the total capital cost of meeting SDG targets 6.1 and 6.2 is estimated at \$114 billion per year, excluding the cost of financial and institutional strengthening, a key prerequisite for the sustainability of services, and that this amount is three times higher than current investment levels.³⁷⁵

368 In adopting SDG target 17.16, states committed to ‘[e]nhance the global partnership for sustainable development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the sustainable development goals in all countries, in particular developing countries’. The role of the private sector in the realization of the SDGs has not been addressed in this publication. On this issue, see Institute for Human Rights and Business (IHRB), *State of Play. Business and the Sustainable Development Goals: Mind the Gap – Challenges for Implementation*, IHRB, September 2015.

369 Report of the UN Special Rapporteur on the Right to Education, Kishore Singh, UN doc A/HRC/29/30, 10 June 2016, §108.

370 Report of the UN Special Rapporteur on the Right to Education, UN doc A/70/342, 26 August 2015, §119.

371 Report of the UN Special Rapporteur on the Right to Education, Kishore Singh, *supra* fn 369, §108.

372 Report of the UN Special Rapporteur on the Right to Education, *supra* fn 370, §73.

373 Report of the UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, UN doc A/71/302, *supra* fn 114, §1.

374 *Ibid*, §57.

375 *Ibid*, §67.

In many reports, the UN Independent Expert on the effects of foreign debt on human rights, Juan Pablo Bohoslavsky, analysed the effects of foreign debt and illicit financial flows on available resources to realize ESCR and the SDGs. For him, without reducing unsustainable debt, progress in realizing the SDGs and ESCR, including the right to development, will be severely undermined.³⁷⁶ Juan Pablo Bohoslavsky therefore called for a redefinition of debt sustainability and debt relief frameworks, in order to ensure that states have enough financial resources to realize ESCR and the SDGs.³⁷⁷ With reference to what was required to meet the MDGs, he presented the following reasoning:

In 2005, Kofi Annan, then Secretary-General of the United Nations, proposed in his report entitled ‘In larger freedom: towards development, security and human rights for all’ that debt sustainability should be redefined as ‘the level of debt that allows a country to achieve the Millennium Development Goals and reach 2015 without an increase in debt ratios’ ...³⁷⁸

What used to be target 8.D, ‘Deal comprehensively with the debt problems of developing countries’, of Millennium Development Goal 8, became the broader target 17.4 of Sustainable Development Goal 17: ‘Assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and address the external debt of highly indebted poor countries to reduce debt distress’ ... [T]he methodology used to determine long-term debt sustainability in the 2030 Agenda for Sustainable Development should take into consideration the human rights obligations of States and the financing needs for attaining the 17 Sustainable Development Goals. Debt or debt service cannot be said to be sustainable if the amounts needed to pay back the debt would reduce the fiscal space of States so decisively that insufficient funds would remain to protect core economic, social and cultural rights or to ensure progress in attaining the Goals.³⁷⁹

In two reports on illicit financial flows, human rights and the 2030 Agenda presented in 2015 and 2016, Juan Pablo Bohoslavsky showed that curbing illicit financial flows is also essential to realizing ESCR and the SDGs.³⁸⁰ He welcomed the explicit recognition of the detrimental effects of illicit financial flows in the 2030 Agenda and underlined that, while the MDGs had remained silent on the issue,

376 Report of the UN Independent Expert on the Effects of Foreign Debt on Human Rights, UN doc A/72/153, 17 July 2017, §48.

377 Report of the UN Independent Expert on the Effects of Foreign Debt on Human Rights, UN doc A/71/305, 5 August 2016, Summary and §§43, 52, 86, 87, 94, 98, 99.

378 *Ibid*, §86.

379 *Ibid*, §52.

380 Final Study by the UN Independent Expert on the Effects of Foreign Debt on Human Rights on Illicit Financial Flows, Human Rights and the Agenda 2030 for Sustainable Development, UN doc A/HRC/31/61, 15 January 2016; Interim Study by the UN Independent Expert on the Effects of Foreign Debt on Human Rights on Illicit Financial Flows, Human Rights and the Agenda 2030 for Sustainable Development, UN doc A/HRC/28/60, 10 February 2015.

states have now pledged to significantly reduce illicit financial flows and strengthen the recovery and return of stolen assets (SDG target 16.4).³⁸¹ He then identified a number of measures that states should take to achieve SDG target 16.4 by 2030.³⁸² He also asked the International Monetary Fund (IMF) and the World Bank to publish ‘estimates of the volume and composition of illicit financial flows on an annual basis to monitor progress in implementing target 16.4’.³⁸³ Furthermore, he recommended that civil society organizations ‘continue to play an active role in the monitoring and review process of the Agenda 2030 to ensure that progress on SDG target 16.4 is achieved, and that all relevant actors are held to account’.³⁸⁴

d. The Need to Ensure Participation and the Use of Disaggregated Indicators and Data to Reach the Most Vulnerable and Those Who Are Left Behind

In their thematic reports, several UN special procedures have emphasized the need to ensure participation of the most vulnerable and those who are left behind in the implementation of the SDGs, as well as to define disaggregated indicators and collect disaggregated data to reach them.

In his report on the right to health and the 2030 Agenda, the Special Rapporteur on the right to health, Dainius Pūras, underlined that the SDGs were born through a uniquely participatory process, and that they also include important commitments to ensure participation, including through SDG target 16.7, which aims to ‘ensure responsive, inclusive, participatory and representative decision-making at all levels’.³⁸⁵ For him, states should therefore ensure that ‘rights holders, in particular those in the most vulnerable situations, are empowered to participate in the design, implementation and monitoring of laws, policies and practices relevant to implementing the [SDGs] and realizing the right to health’.³⁸⁶

In the same report, Dainius Pūras insisted on the need for states to collect disaggregated data to identify disparities where targeted efforts are required, monitor progress in the realization of the right to health and the SDGs and support review and accountability.³⁸⁷ He then recommended that UN Member States ‘identify disparities and prioritize the most vulnerable through collection and disaggregation of health-related data, using both qualitative and quantitative methods, to monitor progress and support review and accountability in the implementation of the [SDGs]’, as well as to ‘make visible the reality and needs of marginalized populations’.³⁸⁸

381 Final Study by the UN Independent Expert on the Effects of Foreign Debt on Human Rights on Illicit Financial Flows, *supra* fn 380, §4.

382 *Ibid.*, §§75–88.

383 *Ibid.*, §90.

384 *Ibid.*, §98.

385 Report of the Special Rapporteur on the Right to Health, Dainius Pūras, *supra* fn 109, §22.

386 *Ibid.*, §103(f). See also, *Ibid.*, §24.

387 *Ibid.*, §53.

388 *Ibid.*, §§103(e), 103(w).

In a report presented to the Human Rights Council in 2016, the UN Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, insisted on the fact that ‘participation of persons with disabilities and their representative organizations in all aspects of the implementation and monitoring process of the 2030 Agenda for Sustainable Development is imperative’.³⁸⁹ The same year, she presented a report on disability inclusive policies to the UN General Assembly, in which she underlined that

[t]he adoption of the Sustainable Development Goals in 2015, which contain several references to persons with disabilities, represents an exceptional opportunity for States to design and implement disability-inclusive policies for the next 15 years, as they review their national development plans to align them to the Goals.³⁹⁰

With the adoption of the 2030 Agenda for Sustainable Development, most States will conduct a review of their national policies against the goals and targets of the Sustainable Development Goals. That represents a unique opportunity to include persons with disabilities adequately across all policies and programmes, as well as to ensure policy coherence and intersectoral coordination. Leaving no persons with disabilities behind requires that all States and relevant stakeholders collaborate to design and implement policies and programmes that are inclusive of persons with disabilities.³⁹¹

In the same report, Catalina Devandas Aguilar requested that states disaggregate data and all SDG indicators by disability, and produce context-specific indicators at national level, making a link with states’ obligations under the CRPD. For her,

States should have a timely system for generating appropriate indicators, including the disability indicators outlined in the Sustainable Development Goals and the disaggregation of all indicators by ‘disability status’. In addition, States may need to develop national indicators to address specific goals and concerns tailored to their particular country context. To produce such indicators, States are required to disaggregate data by disability. Article 31 of the Convention on the Rights of Persons with Disabilities requires States to collect statistics and data to enable them to formulate and implement policies to give effect to the rights of persons with disabilities.³⁹²

389 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities, Catalina Devandas Aguilar, *supra* fn 341, §94 (also §§99, 102).

390 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities, Catalina Devandas Aguilar, *supra* fn 340, §9.

391 *Ibid.*, §77.

392 *Ibid.*, §72. Catalina Devandas Aguilar added that ‘[t]he short set of six questions on disability formulated by the Washington Group on Disability Statistics provides a well-tested method for identifying persons with disabilities in national surveys and censuses in an internationally comparable manner. Adding the questions to national surveys (for example, household income and expenditure surveys, labour force surveys and demographic and health surveys) will enable the disaggregation of data needed to monitor most public policies, as well as the indicators for the Sustainable Development Goals’. *Ibid.*, §73.

In a report on discrimination on the basis of caste and analogous systems, the Special Rapporteur on minority issues, Rita Izsák-Ndiaye, explained that such discrimination is a major cause of poverty, inequality and social exclusion of affected communities, and that states should consider including caste-specific indicators to ensure that the SDGs and their targets address the situation of affected groups.³⁹³

e. The Need to Adopt New Instruments and Make New Commitments to Support the Implementation of the SDGs

Finally, it is worth noting that at least three special procedures have used the SDGs to promote the adoption of new international instruments or request new international commitments by states. In several reports, the then Independent Expert on human rights and international solidarity, Virginia Dandan, argued that the SDGs, and especially SDG 17 (means of implementation and global partnership for sustainable development), would be better implemented if the UN were to adopt a declaration on the right to international solidarity.³⁹⁴ For her,

a declaration on the right to international solidarity would bring significantly closer the formal recognition that the right to international solidarity is a powerful tool in addressing the structural causes of poverty, inequality and other global challenges, including the adverse impact of climate change on human rights. Furthermore, that right is essential in building a global constituency for a just regulation of globalization and more equitable arrangements for trade, investment, finance, aid, foreign debt, technology transfer, intellectual property, migration, labour and the environment ... Notably, that right would anchor global partnerships, allowing international commitments to be nurtured and advanced. As such, it would be instrumental to the attainment of the 2030 Agenda for Sustainable Development.³⁹⁵

The then Special Rapporteur on the human rights of migrants, François Crépeau, presented a report to the Human Rights Council in June 2017, in which he advocated for the creation of a 2035 agenda for facilitating human mobility,³⁹⁶ to give concrete meaning to SDG targets 10.7 (orderly, safe, regular and responsible mi-

393 Report of the UN Special Rapporteur on Minority Issues, UN doc A/HRC/31/56, 28 January 2016, §126.

394 See Report of the Independent Expert on Human Rights and International Solidarity, UN doc A/HRC/32/43, 27 April 2016, Summary and §43(a); Report of the Independent Expert on Human Rights and International Solidarity, UN doc A/HRC/35/35, 25 April 2017, §§7–8, 36, 67. The Independent Expert has put the draft UN Declaration on the Right to International Solidarity in Annex to this last report presented to the HRC in June 2017.

395 Report of the Independent Expert on Human Rights and International Solidarity, UN doc A/HRC/35/35, supra fn 394, §67.

396 The UN Special Rapporteur made this proposal in the context of the global compact for safe, orderly and regular migration, to be adopted at the UN in 2018. In his report, he explained that '[o]n 19 September 2016, the UN General Assembly held a high-level plenary meeting on addressing large movements of refugees and migrants, at which the New York Declaration for Refugees and Migrants was adopted ... The Declaration establishes a two-year process leading to an international conference in 2018 at which two global compacts, one on refugees and the other for safe, orderly and regular migration, will be presented for adoption. Report of the Special Rapporteur on the Human Rights of Migrants on a 2035 Agenda for Facilitating Human Mobility, UN doc A/HRC/35/25, 28 April 2017, Summary and §8.

gration and mobility of people) and 8.8 (labour rights and safe and secure working environments for all workers, including migrants).³⁹⁷ For him, the inclusion of migrants in the SDGs demonstrated that all states acknowledged the importance of better-governed mobility.³⁹⁸ The 2035 agenda would include eight goals, aimed at facilitating human mobility in the next 15 years.³⁹⁹ Its objective would be to provide states with 'short-, medium- and long-term achievable goals and targets aimed at facilitating migration and mobility and protecting the human and labour rights of migrants, as requested in the 2030 Agenda'.⁴⁰⁰

It is also interesting to note that the Special Rapporteur on the right to adequate housing, Leilani Farha, presented a report to the UN General Assembly in October 2015, in which she underlined that Habitat III, the UN Conference on Housing and Sustainable Urban Development to be organized a year later, represented a critical opportunity to elaborate, concretize and give meaning to SDG target 11.1 (ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums), while also safeguarding its vital link to binding international human rights obligations.⁴⁰¹

In conclusion, it can be said that even though lots of work has already been done, UN special procedures should more systematically include the monitoring of the SDGs that seek to realize ESCR in their thematic reports. Having very broad mandates, including the protection of ESCR; the rights of women, persons with disabilities, migrants, older persons and minorities; the promotion of international solidarity and the effects of foreign debt on ESCR, they are in a unique position to make recommendations to UN Member States on the implementation of the SDGs with a HRBA.

2. COUNTRY VISITS

UN special procedures – with both thematic and country mandates – play a critical role in assessing how states comply with ESCR in practice, through conducting country visits. This equips them with a rather unique opportunity to bridge normative work and practical, operational aspects concerning the implementation of human rights 'on the ground'. It also places them in an ideal position to scrutinize the implementation of the SDGs at national level.⁴⁰²

397 François Crépeau also included SDG targets 10.c, 16.b, 16.3, 16.9 and 17.18, as relevant SDG targets for the rights of migrants and human mobility. *Ibid.*, Summary and §§40–41 and 81.

398 *Ibid.*, §39.

399 *Ibid.*, Summary.

400 *Ibid.*, §83.

401 Report of the UN Special Rapporteur on the Right to Adequate Housing, supra fn 126, 4 August 2015, §§32–35.

402 During the MDG period, the Independent Expert on the effects of foreign debt on human rights, for example, conducted country visits to Australia and the Solomon Islands in 2011 and to Burkina Faso in 2008, the main objective being to assess the effects of development programmes and policies aimed at implementing the MDGs on the realization of ESCR. Report of the UN Independent Expert on the Effects of Foreign Debt on Human Rights on His Visit to Australia and Solomon Islands, UN doc A/HRC/17/37/Add.1, 25 May 2011; Report of the UN Independent Expert on the Effects of Foreign Debt on Human Rights on His Visit to Burkina Faso, Doc A/HRC/7/9/Add.1, 11 February 2008.

Since the adoption of the SDGs, several special procedures have made use of country visits to advocate for a HRBA in the implementation of the SDGs. When they have included the SDGs in their country visit reports, some special procedures have monitored the level of realization of SDGs that seek to realize ESCR, often comparing what is required under the SDGs with what was required to reach the MDGs. A number of special procedures have emphasized the same issues they focused on in their thematic reports, such as the need to eliminate homelessness, curb illicit financial flows and protect the rights of persons with disabilities. A majority of them pushed for the adoption of human rights-based laws, policies and programmes to implement the SDGs and reach the most vulnerable and those who are left behind. Some special procedures have also focused on the need to ensure participation of vulnerable groups in the design of these laws, policies and programmes, and to protect women's rights in the implementation of the SDGs.

During his visits to Botswana and Tajikistan in 2015, the Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, monitored the level of the realization of SDG 6. In his report on his visit to Botswana, he presented his findings as follows:

While Botswana has significantly expanded piped water networks, access to piped networks in rural areas still remains at 45 per cent. In remote areas such as the Okavango Delta, the proportion of households with access to 'improved' water sources is even lower. In rural areas, only 43 per cent have access to improved sanitation. A significant proportion of the population (14 per cent), particularly in rural areas (34 per cent), still practice open defecation. Open defecation is not only a matter of public health, but also a matter of dignity and privacy. Under the 2030 Agenda for the Sustainable Development, ending open defecation is an urgent priority.⁴⁰³

He made a comparable analysis after his visit to Tajikistan:

Over 90 per cent of the rural population is estimated to use a pit latrine with slab. Those who manage pit latrines do so entirely by themselves. This high rate of pit latrine usage contributed to a very high coverage rate of sanitation in Tajikistan under the monitoring of the Millennium Development Goals, as it was considered an 'improved' sanitation service. Under the new Sustainable Development Goals, safe management of sanitation will be required to meet the target on 'adequate' sanitation. A pit latrine managed by individual households may not meet this target if excreta is not safely disposed of, which is usually the case, since the Government currently does not seem to provide any guidance on latrine construction and sludge management.⁴⁰⁴

403 Report of the UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation on His Mission to Botswana, UN doc A/HRC/33/49/Add.3, 13 July 2016, §21.

404 Report of the UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation on His Mission to Tajikistan, UN doc A/HRC/33/49/Add.2, 13 July 2016, §47.

In his conclusions and recommendations to Tajikistan, he compared the role that the country plays at the international level with its national efforts, and what is required by the SDGs with what was achieved during the MDG period.

Tajikistan is known as a champion of water at the global level, taking the lead in the International Decade for Action, 'Water for Life'. Under the framework of the Millennium Development Goals, the country achieved high coverage of access to improved water and sanitation. The levels of service may not meet the new criteria under the Sustainable Development Goals, though, and most of the country's infrastructure, which was built during the Soviet period, is on the verge of collapse. The lack of water and sanitation in public institutions is a serious concern with regard to the human rights to water and sanitation, and has a direct negative impact on other rights, such as the rights to health, education, work and life. The Government should translate the commitment made at the global level into national legislation and policies, budgetary allocation and implementation, particularly to eliminate disparities in access to water and sanitation and to address the needs of the most vulnerable groups, including women and girls in rural areas, resettled people and refugees, asylum seekers and stateless persons.⁴⁰⁵

At the end of his mission to Mexico in May 2017, Léo Heller made a statement in which he underlined that the government needs to put in place national plans and targets to achieve the SDGs, and that a key message of that process has been to 'leave no-one behind', which implies that 'Mexico must ensure as the highest priority that no individuals, families or communities are left without adequate services'.⁴⁰⁶

After his mission to El Salvador in May 2016, he highlighted that 'work gradually to realize the human rights to water and to sanitation would, in turn, help El Salvador to achieve the Sustainable Development Goals and in particular, but not exclusively, Goal 6 on ensuring universal access to water and sanitation by 2030'.⁴⁰⁷ He then recommended that the government elaborate

the national plan for water and sanitation via a participatory process that involves other service providers, such as the rural water boards and representatives of civil society. The plan should set the normative substance of human rights at the core of all its assessments, proposals and recommendations and make provision for actual measures to ensure that the whole of the country's population has access to services, in conformity with the Sustainable Development Goals, to which El Salvador has subscribed.⁴⁰⁸

405 Ibid, §56.

406 End of Mission Statement by the UN Special Rapporteur on the Human Rights to Water and Sanitation, Léo Heller, Mexico City, 12 May 2017.

407 Report of the UN Special Rapporteur on the Human Right to Water and Sanitation on His Mission to El Salvador, UN doc A/HRC/33/49/Add.1, 3 August 2016, §12.

408 Ibid, §96(c).

The Special Rapporteur on the right to adequate housing, Leilani Farha, included references to the SDGs in her reports on her visits to India, Portugal and Cabo Verde. After her mission to India, she recommended that central and state governments recognize and implement housing as a human right in existing programmes and in new legislation, which would set India on track for meeting its international commitments to implementing the SDGs, and in particular SDG target 11.1.⁴⁰⁹ She also recommended that central and state governments ‘address homelessness as a human rights priority with a view to eliminating it by 2030, in keeping with (SDG) target 11.1’.⁴¹⁰

Leilani Farha also focused on homelessness in her report on her mission to Portugal, in which she recommended that the national and subnational governments commit to ending homelessness as a priority, in line with the SDGs, and ensure a participatory process for the development of a new strategy on homelessness, with ample consultations with specific municipalities that will be engaged in its implementation.⁴¹¹

After her mission to Cabo Verde, she linked the adoption of a new strategy on water and sanitation with the SDGs:

A new social and gender strategy for the water and sanitation sector, 2015–2020, is pending adoption. It aims to enhance the quantity and quality of water, counting on a minimum daily consumption of 40 litres of water by 2030 and the installation of 32,500 bathrooms in homes that currently do not have one. This is a joint strategy adopted by the National Water and Sanitation Agency, the Economic Regulation Agency, the National Directorate for the Environment and the Ministry of the Environment, Housing and Spatial Planning. The strategy aims at contributing to social inclusion, gender equality and poverty reduction, taking inspiration from the recently adopted Sustainable Development Goals.⁴¹²

The Independent Expert on the effects of foreign debt on human rights, Juan Pablo Bohoslavsky, included references to the SDGs in his reports or statements on his visits to the European Union (EU), Tunisia and Panama. After his mission to the institutions of the EU, he asked the EU to make additional efforts to establish a comprehensive monitoring and accountability framework within the EU covering ESCR and the implementation of the SDGs, to encourage Member States to take adequate action.⁴¹³ He also recommended that the EU incorporate the SDGs into its policy goals and ensure that the review of economic and financial policies of

409 Report of the UN Special Rapporteur on the Right to Adequate Housing on Her Mission to India, UN doc A/HRC/34/51/Add.1, 10 January 2017, §84.

410 Ibid, §85.

411 Ibid, §86(b).

412 Report of the UN Special Rapporteur on the Right to Adequate Housing on Her Visit to Cabo Verde, UN doc A/HRC/31/54/Add.1, 23 December 2015, §65.

413 Report of the UN Independent Expert on the Effects of Foreign Debt on Human Rights, Juan Pablo Bohoslavsky, on His Visit to Institutions of the European Union, UN doc A/HRC/34/57/Add.1, 28 December 2016, §71.

its Member States gives the same level of attention to ESCR and the SDGs as to economic and financial targets.⁴¹⁴

At the end of his visit to Tunisia in February 2017, Juan Pablo Bohoslavsky explained that it is essential to ensure that public resources are directed towards realizing human rights and achieving the SDGs, and he encouraged the government to continue integrating the SDGs in its National Development Plan. He then underlined that ‘[m]acro-economic reform programmes implemented in collaboration with international financial institutions should also be guided by the SDGs and binding human rights obligations of Tunisia’, and that ‘[b]ilateral and multilateral institutions can contribute to this, by aligning their lending to priorities identified by the SDGs and the Tunisian Government’.⁴¹⁵ At the end of his visit to Panama in May 2017, he issued a statement in which he focused on the detrimental impact of illicit financial flows on the realization of ESCR and the SDGs.⁴¹⁶

The Independent Expert on human rights and international solidarity, Virginia Dandan, mentioned the SDGs in her reports on her missions to Norway and Morocco. After her mission to Norway, during which the government stressed that it would seek to ensure that national and international efforts to meet the SDGs were in line with relevant human rights norms and standards,⁴¹⁷ she commended the government for its role in the promotion of the SDGs at a global level,⁴¹⁸ and for having already reported, at the 2016 HLPF meeting, on progress made in the implementation of the SDGs.⁴¹⁹ She also commended the government for its development of a plan for following up on the SDGs, linked to the budget process, with responsibility for each SDG allotted to a coordinating ministry.⁴²⁰ Furthermore, she encouraged the government to engage in discussions with all stakeholders, including OHCHR, to evaluate the impact of its HRBA to development and foreign policy, underlining that these discussions would fit in very well with the framework on measuring progress in the implementation of the SDGs.⁴²¹

After her visit to Morocco, Virginia Dandan commended the government for the progress it had made with regard to the progressive realization of ESCR, as well as its

414 Ibid, §81 and 83(e).

415 End of mission statement by the UN Independent Expert on Foreign Debt and Human Rights, Juan Pablo Bohoslavsky, Tunis, 28 February 2017.

416 End of Mission Statement by the UN Independent Expert on the Effects of Foreign Debt on Human Rights, Juan Pablo Bohoslavsky, Panama City, 10 May 2017.

417 Report of the Independent Expert on Human Rights and International Solidarity on Her Mission to Norway, UN doc A/HRC/35/35/Add.1, 19 May 2017, §15.

418 The Prime Minister of Norway is Co-Chair of the Sustainable Development Goals Advocates, a group of 17 eminent persons assisting the UN Secretary-General in the campaign to achieve the SDGs, <http://www.un.org/sustainabledevelopment/sdgadvocates> (last accessed 4 December 2017).

419 Report of the Independent Expert on Human Rights and International Solidarity on Her Mission to Norway, supra fn 417, §14.

420 Ibid, §17.

421 Ibid, §79(b).

near achievement of the MDGs by the end of 2015.⁴²² She also welcomed the recognition of human rights and the importance accorded to solidarity and cooperation in the Constitution, and encouraged the Government to ‘continue refining its national development initiatives through a well-integrated approach to development and cooperation, at both the national and international levels, and more harmonized action towards the attainment of the new Sustainable Development Goals by 2030’.⁴²³ She also recommended that the SDGs be widely publicized in a simplified format so that the public could be made aware of their direct implications for Morocco.⁴²⁴

The then Special Rapporteur on the right to education, Kishore Singh, included references to the SDGs in his reports on his missions to Fiji and Chile. After his visit to Fiji, he focused on the need to ensure universal, quality education for all, free of cost. He underlined that Fiji had made a number of political commitments, in particular through SDG target 4.1, to ‘ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes’. He also stated that ‘building an inclusive education system is a main thrust of the future development agenda’.⁴²⁵ After his visit to Chile, he underlined that ‘new education laws in several key areas in Chile are notable examples in the context of the Sustainable Development Goals’.⁴²⁶

The Working Group on the issue of discrimination against women in law and in practice made links with the SDGs after its mission to Hungary in May 2016. It concluded that legislative, institutional and policy frameworks for equal opportunities for women, with a constitutional guarantee of equality between men and women, are in place in Hungary, but ‘the elimination of discrimination against women and women’s empowerment do not have a high degree of visibility as a stand-alone goal, in accordance with the strategy foreseen under the Sustainable Development Goals’.⁴²⁷ It therefore reminded the government that ‘women’s rights are fundamental human rights that are not subject to other consideration’ and it recommended that these rights should be treated ‘both as a stand-alone and cross-cutting goal in legal, policy and institutional frameworks, as required by the Sustainable Development Goals’.⁴²⁸

After her visit to Zambia in April 2016, the Special Rapporteur on the rights of persons with disabilities encouraged the authorities to ensure that the seventh Na-

422 Report of the Independent Expert on Human Rights and International Solidarity on Her Mission to Morocco, UN doc A/HRC/32/43/Add.1, 27 April 2016, §72.

423 Ibid, Summary.

424 Ibid, §73(a).

425 Report of the UN Special Rapporteur on the Right to Education on his Mission to Fiji, UN doc A/HRC/32/37/Add.1, 13 June 2016, §12, 107.

426 Report of the UN Special Rapporteur on the Right to Education on His Mission to Chile, UN doc. A/HRC/35/24/Add.1, 3 April 2017, §23.

427 Report of the UN Working Group on the Issue of Discrimination Against Women in Law and in Practice on Its Mission to Hungary, UN doc A/HRC/35/29/Add.1, 21 April 2017, §25.

428 Ibid, §91.

tional Development Plan for 2017–2021 would incorporate the SDGs at all levels of governance and would prioritize the mainstreaming of disability across the various sectors, with clear indicators to monitor progress in relation to persons with disabilities.⁴²⁹ She also urged the UN to advocate that efforts to support the implementation of the SDGs in Zambia include the rights of persons with disabilities in a cross-cutting matter.⁴³⁰ She made similar recommendations to the authorities of Paraguay after her visit to the country in December 2015.⁴³¹

The Special Rapporteur on the right to food, Hilal Elver, presented a similar recommendation to Poland and Paraguay, after her visits to the two countries in 2016. For her, in order to fully meet their human rights obligations with regard to the right to food, Poland and Paraguay should ‘[c]ontinue (their) efforts to implement the Sustainable Development Goals, particularly Goal 2: “End hunger, achieve food security and improved nutrition and promote sustainable agriculture”, and establish a human rights-based national review supervision system’.⁴³²

In his report on his mission to Saudi Arabia, the Special Rapporteur on extreme poverty and human rights, Philip Alston, mentioned the 2030 Agenda, emphasizing the human rights commitments included in it:

The Secretary-General observed during a recent visit to the Kingdom that Vision 2030 ‘corresponds with the 2030 Agenda for Sustainable Development that the United Nations are promoting everywhere in the world’. The 2030 Agenda for Sustainable Development in turn is based on the idea that sustainable development should be grounded in the Universal Declaration of Human Rights and international human rights treaties ... The international human rights community has long drawn attention to human rights issues in Saudi Arabia such as the arbitrary arrest and imprisonment of peaceful protesters, the use of the death penalty, discrimination against religious minorities and discrimination against women. While recent reports indicate all too little progress on most of those crucial issues, it should be acknowledged that there are other important human rights issues in the Kingdom that warrant attention, including those raised by Vision 2030. With regard to some of those issues, Saudi society is evolving in a potentially positive direction.⁴³³

429 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities on Her Visit to Zambia, UN doc A/HRC/34/58/Add.2, 19 December 2016, §§18, 81(j).

430 Ibid, §76.

431 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities on Her Visit to Paraguay, UN doc A/HRC/34/58/Add.1, 21 December 2016, §§20, 89.

432 Report of the UN Special Rapporteur on the Right to Food on Her Mission to Paraguay, UN doc A/HRC/34/48/Add.2, 27 January 2017, §106(v). Report of the UN Special Rapporteur on the Right to Food on Her Mission to Poland, UN doc A/HRC/34/48/Add.1, 27 December 2016, §73(n). In her report on her mission to Poland, Hilal Elver also noted that ‘[i]n recent years, the Government has introduced an array of policy initiatives to achieve food security, food safety and sustainable agriculture, in an effort to implement the Sustainable Development Goals’. Ibid, §21.

433 Report of the Special Rapporteur on Extreme Poverty and Human Rights on His Mission to Saudi Arabia, UN doc A/HRC/35/26/Add.3, 28 April 2017, §11.

It is also worth noting that among the 12 UN special procedures mandated to monitor the human rights situation in a particular country, 3 made references to the SDGs in their reports.

In a report presented in September 2016, the Special Rapporteur on the situation of human rights in Cambodia, Rhona Smith, welcomed the commitment of the government to elaborate strategies to implement the SDGs in a context in which the benefits of development have not been enjoyed equally by all sectors of society and growing income disparities render those just above the poverty threshold particularly vulnerable. She underlined the need to continue efforts to reach the most vulnerable sectors of society, particularly in rural areas, where people suffer most from child labour and malnutrition, gender inequality, lack of basic sanitation and environmental degradation.⁴³⁴

In a report presented in September 2016, the Independent Expert on the situation of human rights in Somalia, Bahame Nyanduga, welcomed the adoption of a national development plan by the government, in consultation with civil society. He welcomed the fact that the national development plan aims to support basic livelihood, empower the poor and implement the SDGs; that it is based on an analysis of the causes of poverty and builds on previous national plans, including the plan of action in human rights.⁴³⁵

Finally, in a report presented in June 2017, the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti, noted that the national administration provided satisfactory statistical data on certain development indicators, which were used to measure the implementation of the MDGs, such as life expectancy, school enrolment of children and literacy, but he underlined that with the adoption of the SDGs in 2015, it is time to assess sustainable development in Belarus in the light of the enjoyment of human rights.⁴³⁶

In conclusion, it can be said that UN special procedures have made significant efforts to include the monitoring of the SDGs in their country visits, but they could do this more systematically. The dialogues that they can initiate at the national level, coupled with recommendations based on country visits, are extremely valuable, as they are context-specific and provide states, civil society organizations and regional and international bodies with an understanding of whether the undertaken processes are adequately integrating human rights principles and pursuing equally the realization of ESCR and progress towards the achievement of the SDGs.

434 Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, UN doc A/HRC/33/62, 5 September 2016, §5.

435 Report of the Independent Expert on the Situation of Human Rights in Somalia, UN doc A/HRC/33/64, 15 September 2016, §§20–21. In previous years, the government of Somalia had adopted the Action Plan for the Implementation of the Human Rights Roadmap for Somalia 2015–2016, http://www.ohchr.org/Documents/Issues/NHRA/Somalia_en.pdf (last accessed 4 December 2017).

436 Report of the Special Rapporteur on the Situation of Human Rights in Belarus, UN doc A/HRC/35/40, 21 April 2017, §12.

D. THE MONITORING ROLE OF UN TREATY BODIES

The implementation of the main UN human rights treaties is monitored by treaty bodies composed of independent experts. All treaty bodies examine periodic reports from states parties on the measures taken to implement the rights enshrined in the treaty and their corresponding obligations, and most of them have the authority to examine communications alleging violations of the rights protected by the treaty.⁴³⁷ At the end of their examination of states parties' reports, treaty bodies present their recommendations in the form of 'concluding observations'.

The most relevant treaties for the protection of ESCR and the monitoring of the SDGs that seek to realize ESCR are the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has 166 states parties (as of 23 October 2017); the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which has 189 states parties; the Convention on the Rights of the Child (CRC), which has 196 states parties; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), which has 51 states parties;⁴³⁸ the Convention on the Rights of Persons with Disabilities (CRPD), which has 175 states parties and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which has 178 states parties.⁴³⁹

As we have seen, human rights treaty bodies have been active in convincing states to design a human rights-based post-2015 sustainable development agenda and goals, and they sent contributions to the HLPF meetings in 2016 and 2017.

In January 2015, in their joint statement on the post-2015 development agenda, the Chairpersons of the UN human rights treaty bodies underlined that treaty bodies

437 Regarding the composition and workings of UN treaty bodies, see, e.g., W. Vandenhole, *The Procedures Before the UN Human Rights Bodies: Divergence or Convergence?*, Intersentia, 2004; I. Truscan, *The Independence of UN Human Rights Treaty Body Members*, Academy In-Brief No 1, Geneva Academy of International Humanitarian Law and Human Rights, 2012, <https://www.genevaacademy.ch/joomlatools-files/docmanfiles/The%20Independence%20of%20UN%20Human%20Rights%20Treaty%20Body%20MembersGenevaAcademGeneva.pdf> (last accessed 4 December 2017). The setting up of the treaty bodies is provided for by the treaties themselves, with the exception of the CESCR, which was created by ECOSOC, pursuant to Resolution 1985/17, 28 May 1985. Regarding the creating of the CESCR and its initial work, see, in particular, P. Alston, 'The Committee on Economic, Social and Cultural Rights', in P. Alston (ed), *The United Nations and Human Rights. A Critical Appraisal*, Clarendon Press, 1995; M. C. R. Craven, *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*, Clarendon Press, 1995, pp 30–105.

438 It is worth noting that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) has not been ratified by any member of the European Union or by the United States of America.

439 On the work of UN treaty bodies in relation to ESCR, see, e.g., E. Riedel, G. Giacca and C. Golay, 'The Development of Economic, Social and Cultural Rights in International Law', in E. Riedel, G. Giacca and C. Golay (eds), *Economic, Social and Cultural Rights in International Law: Contemporary Issues and Challenges*, Oxford University Press, 2014; A. Rosas and M. Scheinin, 'Implementation Mechanisms and Remedies', in A. Eide, C. Krause and A. Rosas (eds) *Economic, Social and Cultural Rights: A Textbook*, 2nd revised edn, Kluwer Law International, 2001; International Service for Human Rights (ISHR), *Simple Guide to the UN Treaty Bodies*, ISHR, revised edn, 2015, https://www.ishr.ch/sites/default/files/documents/ishr_simpleguide_eng_final_final_dec15.pdf (last accessed 4 December 2017).

will have an important role to play in contributing to the implementation of the SDGs, and will, in their own work, consider the impact of development goals on the enjoyment of the rights in their respective treaties. The Chairpersons also committed to encourage their treaty bodies to draw on development data and reports, as appropriate, in their constructive dialogue with states.⁴⁴⁰

In 2014, the CEDAW Committee had already stated that, '[w]hatever accountability mechanism is adopted (for the SDGs), the CEDAW Committee (along with the other human rights treaty bodies) should have a critical role in ensuring accountability for gender equality through its periodic review of State party reports, its inquiry procedure and its consideration of individual communications'.⁴⁴¹ Since the adoption of the 2030 Agenda, the CEDAW Committee is mandated to monitor progress in the realization of SDG target 5.1.1, which aims at evaluating '[w]hether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex'.

In their input to the 2016 HLPF meeting, human rights treaty bodies underlined that they were already referring to relevant SDGs and targets in their constructive dialogues with states, including by sending specific SDG-related questions to states prior to the review of their treaty report, raising SDG-related questions in the constructive dialogue with states and making recommendations to states in the concluding observations that link implementation of particular treaty provisions with SDGs and targets.⁴⁴²

This section focuses on the review of states parties' reports by UN treaty bodies, at the end of which the treaty bodies have presented recommendations that made an explicit link with the SDGs or the 2030 Agenda.

1. THE REVIEW OF STATES PARTIES' REPORTS

Since the adoption of the SDGs in September 2015, UN treaty bodies have started to include explicit references to the SDGs in their recommendations or 'concluding observations' to states parties.

Some treaty bodies have drafted a specific recommendation on the SDGs that they systematically include in their concluding observations to all states parties they examine. In this recommendation, they focus on the need to implement the SDGs in a manner that is consistent with states' obligations in international human rights law and that follows human rights principles. Some treaty bodies also make recommendations to states parties regarding the need to collect disaggregated data to monitor ESCR and the SDGs, and to design policies targeting the most vulnerable.

440 Joint Statement of the Chairpersons of the UN Human Rights Treaty Bodies, *supra* fn 76.

441 Statement of the CEDAW Committee on the Post-2015 Development Agenda, *supra* fn 79.

442 Contribution of the UN human rights treaty bodies to the 2016 HLPF meeting, *supra* fn 206, p 2.

In addition, most treaty bodies use the SDGs to reinforce their recommendations regarding the realization of specific rights or states parties' obligations, to which they consider the SDGs to be particularly relevant.

Since its 59th session in September–October 2016, the Committee on Economic, Social and Cultural Rights (CESCR) has been systematically making the following recommendation to State Parties to the ICESCR:

The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein when implementing the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.⁴⁴³

This recommendation contains the main elements of a HRBA to development, asking states to make sure that policies and programs designed to achieve the SDGs are based on ESCR, aim to fully realize ESCR and are implemented following human rights principles.

Since its 62nd session in October–November 2015, the CEDAW Committee has also been making a standard recommendation to States Parties to CEDAW, in which it underlines the need to achieve substantive gender equality in implementing the SDGs:

2030 Agenda for Sustainable Development

The Committee welcomes objectives of accelerated implementation of the 2030 Agenda for Sustainable Development and calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout this process.⁴⁴⁴

Since its 15th session in March–April 2016, the Committee on the Rights of Persons with Disabilities has been expressing the following concern and making the following recommendation, or a very similar recommendation, to State Parties to the CRPD, to support the inclusion of persons with disabilities and their rights in the implementation of the SDGs:

443 See, e.g., CESCR, Concluding Observations on the Fifth Periodic Report of Costa Rica, UN doc E/C.12/CRI/CO/5, 21 October 2016, §67; CESCR, Concluding Observations on the Sixth Periodic Report of the Netherlands, UN doc E/C.12/NLD/CO/6, 23 June 2017, §56.

444 See, e.g., CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Madagascar, UN doc CEDAW/C/MDG/CO/6-7, 24 November 2015, §53; CEDAW Committee, Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany, UN doc CEDAW/C/DEU/CO/7-8, 9 March 2017, §52.

International cooperation ...

The Committee is concerned by the fact that the rights of persons with disabilities enshrined in the Convention are absent from the national implementation and monitoring of the 2030 Agenda for Sustainable Development.

The Committee recommends that the State party mainstream the rights of persons with disabilities in its implementation and monitoring of the 2030 Agenda for Sustainable Development at the national level and that these processes be carried out in close collaboration with organizations of persons with disabilities.⁴⁴⁵

Since its 26th session in April 2017, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Committee on Migrant Workers) has been systematically presenting a concluding observation to State Parties to the Migrant Workers Convention, in which it asks them to avail themselves of international assistance for the implementation of its recommendations, in line with the 2030 Agenda for Sustainable Development.⁴⁴⁶

Three UN treaty bodies – the CEDAW Committee, the Committee on the Rights of Persons with Disabilities and the Committee on Migrant Workers – regularly underline the need to collect disaggregated data, particularly on women and girls, persons with disabilities and migrant workers, to guide policies targeting the most vulnerable and monitor the realization of ESCR and the SDGs, making links with SDG target 17.18 (enhance capacity-building support to developing countries to increase the availability of high-quality, timely and reliable disaggregated data).

For example, in its concluding observations to Ireland in March 2017, the CEDAW Committee underlined the need to ‘collect data which should ... be disaggregated by sex, gender, ethnicity, disability and age, in order to inform policy and programmes on women and girls, as well as assist in tracking progress in the achievement of the Sustainable Development Goals’.⁴⁴⁷

445 Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Chile, UN doc CRPD/C/CHL/CO/1, 13 April 2016, §§65–66. In its concluding observations to Canada in 2017, the Committee on the Rights of Persons with Disabilities recommended that the state party ‘[e]nsure the adoption of a disability-rights perspective in all efforts aimed at implementing the 2030 Sustainable Development Agenda and Sustainable Development Goals’. Committee on the Rights of Persons with Disabilities, Concluding observations on the Initial Report of Canada, UN doc CRPD/C/CAN/CO/1, 8 May 2017, §56(b). In 2015, the Committee on the Rights of Persons with Disabilities recommended that States Parties to the Convention mainstream the rights of persons with disabilities in the implementation of the MDGs. See, e.g., Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the Dominican Republic, UN doc CRPD/C/DOM/CO/1, 8 May 2015, §§60–61; Committee on the Rights of Persons with Disabilities Concluding Observations on the Initial Report of Germany, UN doc CRPD/C/DEU/CO/1, 13 May 2015, §§5960; Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Brazil, UN doc CRPD/C/BRA/CO/1, 29 September 2015, §58.

446 See, e.g., Committee on Migrant Workers, Concluding Observations on the Initial Report of Bangladesh, UN doc CMW/C/BGD/CO/1, 22 May 2017, §60. In this context, it is important to remember that the Migrant Workers Convention has not been ratified by any member of the European Union or by the United States of America.

447 CEDAW Committee, Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Ireland, UN doc CEDAW/C/IRL/CO/6–7, 9 March 2017, §19(d).

In May 2017, the Committee on the Rights of Persons with Disabilities addressed the following concluding observations to Armenia:

55. The Committee notes with concern the lack of disaggregated statistical data on the situation of persons with disabilities in the State party, which hinders the effective implementation of the Convention.

56. In view of target 17.18 of the Sustainable Development Goals, the Committee recommends that the State party develop systematic data collection and reporting procedures that are in line with the Convention, and collect, analyse and disseminate disaggregated data on the characteristics of its population with disabilities, including sex, age, ethnicity, type of impairment, socioeconomic status, employment and place of residence, and on the barriers that persons with disabilities face in society.⁴⁴⁸

At the same time, the Committee on Migrant Workers was making similar recommendations to Bangladesh, in relation to the need to collect data on migrant workers.

Data collection

17. While appreciating the State party’s efforts to provide data on its migrant workers abroad, the Committee is concerned that labour migration statistics are produced in a fragmented way and do not include migrant workers in an irregular situation, children of migrant workers remaining in the State party or migrant workers in the State party.

18. The Committee recommends that the State party establish a centralized and comprehensive database covering all aspects of the Convention and ensure that data is collected on the status of migrant workers in the State party. It encourages the State party to compile information and statistics that are disaggregated by sex, age, nationality, reason for entry and departure from the country and the type of work performed, in order to effectively inform relevant policies and the application of the Convention in line with target 17.18 of the Sustainable Development Goals. In cases where it is not possible to obtain precise information, such as those relating to migrant workers in an irregular situation, the Committee requests the State party to provide data based on studies or estimates.⁴⁴⁹

UN treaty bodies are also using the SDGs to reinforce their recommendations in relation to the realization of specific rights or states parties’ obligations.

448 Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Armenia, UN doc CRPD/C/ARM/CO/1, 8 May 2017, §§55–56.

449 Committee on Migrant Workers, Concluding observations on the Initial Report of Bangladesh, supra fn 446, §§17–18. See also, e.g., Committee on Migrant Workers, Concluding Observations on the Initial Report of Mauritania, UN doc CMW/C/MRT/CO/1, 31 May 2016, §19.

Since its 56th session in September–October 2015, the CESCR has regularly included a reference to the SDGs in its recommendations regarding poverty, informal economy and social security. In its recommendation that States Parties to the ICESCR ensure access to social security to the most disadvantaged and marginalized groups and to those working in the informal economy, it for example draws attention to ‘its general comments No. 18 (2005) on the right to work, No. 19 (2009) on the right to social security and No. 23 (2016) on the right to just and favourable conditions of work, as well as its statement on social protection floors: an essential element of the right to social security and of the sustainable development goals (2015)’.⁴⁵⁰

The CEDAW Committee also regularly makes a recommendation to States Parties to the CEDAW Convention, in which it links SDG target 5.1 (discrimination against women and girls) to states’ obligations under the Convention. The following recommendation made to Jordan in March 2017 is illustrative:

Discriminatory laws ...

20. The Committee recommends that the State party expedite a comprehensive review of its legislation to ensure compatibility with the provisions of the Convention, and recommends that it accelerate its efforts in repealing all remaining discriminatory provisions in its national legislation, in line with articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals, to end all forms of discrimination against all women and girls everywhere.⁴⁵¹

Other treaty bodies have decided to systematically link the SDGs to many of the rights they examine. Since its 70th session in September–October 2015, the Committee on the Rights of the Child has been linking the implementation of the CRC in States Parties with several SDGs and SDG targets, including SDGs 3 (health) and 4 (education) and SDG targets 1.3 (social protection), 2.2 (nutrition), 5.2 (violence against women and girls), 6.2 (sanitation and hygiene), 16.2 (violence against children), 16.5 (corruption) and 16.9 (legal identity).⁴⁵²

Since its 15th session in March–April 2016, the Committee on the Rights of Persons

450 See, e.g., CESCR, Concluding Observations on the Fifth Periodic Report of Costa Rica, *supra* fn 443, §§31–32, 35–36; CESCR, Concluding Observations on the Fifth Periodic Report of Italy, UN doc E/C.12/ITA/CO/5, 28 October 2015, §§28–29.

451 CEDAW Committee, Concluding Observations on the Sixth Periodic Report of Jordan, UN doc CEDAW/C/JOR/CO/6, 9 March 2017, §20.

452 See, e.g., Committee on the Rights of the Child, Concluding Observations on the Combined Third to Fifth Periodic Reports of Bhutan, UN doc CRC/C/BTN/CO/3–5, 5 July 2017, §§18, 24, 34, 37, 40; Committee on the Rights of the Child, Concluding Observations on the Combined Third to Fifth Periodic Reports of Cameroon, UN doc CRC/C/CMR/CO/3–5, 2 June 2017, §§8(b), 19, 23, 27, 34, 37, 39; Committee on the Rights of the Child, Concluding Observations on the Combined Third to Fifth Periodic Reports of the Democratic Republic of the Congo, UN doc CRC/C/COD/CO/3–5, 28 February 2017, §§26, 35, 38, 40; Committee on the Rights of the Child, Concluding Observations on the Fifth Periodic Report of France, UN doc CRC/C/FRA/CO/5, 23 February 2016, §43; Committee on the Rights of the Child, Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Chile, UN doc CRC/C/CHL/CO/4–5, 30 October 2015, §41.

with Disabilities has been linking the CRPD with, *inter alia*, SDGs 4 (education) and 9 (access to infrastructure), as well as SDG targets 1.3 (social protection), 3.7 (sexual and reproductive health), 3.8 (universal health coverage), 5.1 (discrimination against all women and girls), 5.2 (violence against women and girls), 5.5 (women’s participation and equal opportunities), 8.5 (full employment and decent work), 10.2 (empowerment and inclusion), 10.3 (opportunity and outcome), 11.2 (accessibility to transport systems), 11.7 (accessibility to green and public spaces) and 16.3 (access to justice).⁴⁵³

And, since its 24th session in April 2016, the Committee on Migrant Workers has been linking the implementation of its Convention with several SDG targets, including targets 5.2 (violence against women and girls), 8.7 (forced labour, slavery, human trafficking, child labour), 8.8 (labour rights and working environments), 10.7 (migration and mobility), 10.c (migrant remittances), 16.2 (violence against children) and 16.9 (birth registration).⁴⁵⁴

It is important to note that these three UN treaty bodies have linked the rights protected under their Conventions to the SDGs that explicitly mention the specific group of persons they protect – SDG targets 1.2, 2.2, 3.2, 4.1, 4.2, 4.5, 4.a, 5.1, 5.2, 5.3, 5.c, 6.2, 8.7, 11.2, 11.7 and 16.2 mention ‘children’, ‘girls’ or ‘boys’; SDG targets 8.8, 10.7 and 10.c refer to ‘migrants’ or ‘migration’ and SDG targets 4.5, 8.5, 10.2, 11.2 and 11.7 mention ‘persons with disabilities’ or ‘disability’. They also link these rights to other SDGs and targets that they find particularly relevant to the implementation of their Convention.

Two recommendations addressed by the Committee on the Rights of the Child to Bhutan in July 2017 are representative of the way these three UN treaty bodies have been referring to SDG targets in their concluding observations:

Nutrition

34. While welcoming the progress made by the State party in reducing child stunting and anaemia, in the light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and taking note of target 2.2 of the Sustainable Development Goals on ending all forms of malnutrition, including stunting and wasting in children under 5 years of age, the Committee recommends that the State party strengthen its efforts to end chronic malnutrition of children, in particular

453 See, e.g., Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Chile, *supra* fn 445, §§20, 50(d), 58, 64; Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the Plurinational State of Bolivia, UN doc CRPD/C/BOL/CO/1, 4 November 2016, §§14, 16, 22, 34, 56(e), 58(d), 62, 64; Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Armenia, *supra* fn 448, §§10, 16(d), 22, 42, 48, 50; Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Canada, *supra* fn 445, §§14(b), 16(d), 22(e), 44(e), 48(d), 50(c).

454 See, e.g., Committee on Migrant Workers, Concluding Observations on the Initial Report of Mauritania, *supra* fn 449, §§31(a), 33, 47, 53; Committee on Migrant Workers, Concluding Observations on the Initial Report of Bangladesh, *supra* fn 446, §§32(b), 40(a), 46, 56(a); Committee on Migrant Workers, Concluding Observations on Nigeria in the Absence of a Report, UN doc CMW/C/NGA/CO/1, 23 May 2017, §§32(b), 48, 50, 54, 56.

in rural areas and poor urban areas. The Committee also recommends that the State party strengthen its ongoing efforts to promote breastfeeding and to extend maternity leave to 6 months in the private sector, as it has done for the public sector.

Standard of living

37. The Committee draws attention to target 6.2 of the Sustainable Development Goals on providing access to adequate and equitable sanitation and hygiene for all and recommends that the State party strengthen its efforts to provide nationwide access to adequate sanitation facilities, in particular in rural and poor urban areas. The Committee urges the State party to take measures to ensure an adequate standard of living for children from economically disadvantaged families.⁴⁵⁵

It is also worth noting that CERD has been more reluctant than other UN treaty bodies to refer to the SDGs in its concluding observations. Between April 2015 and June 2017, it examined 46 States Parties to ICERD and only included a reference to the SDGs in 3 concluding observations, addressed to Argentina, Rwanda and Kenya.

In June 2016, CERD regretted the absence of statistical and socioeconomic data in the report presented by Rwanda, especially on the ‘historically marginalized groups’. Making a link with SDG 17, it recommended that the government ‘provide any available information from socioeconomic studies on the “historically marginalized groups”, in particular the Batwa, as well as on non-citizens living in its territory, disaggregated by sex and nationality, to allow the Committee to assess the extent to which these groups enjoy their rights under the Convention on an equal footing with the rest of the population’.⁴⁵⁶

In January 2017, CERD expressed its concern regarding the persistent structural discrimination against indigenous peoples and people of African descent in Argentina, which prevents them from enjoying ‘the minimum international standards for development, including those set out in the Sustainable Development Goals’. It was particularly concerned about cases of malnutrition in children from indigenous communities and difficulties experienced by indigenous communities in gaining access to water, linked to the lack of titling of their lands and the activities of companies that exploit natural resources. CERD recommended that the government strengthen its efforts to address the situation of child malnutrition, which is especially prevalent among indigenous populations, take special measures or affirmative action to eliminate structural discrimination against indigenous peoples and people of African descent and ‘take the necessary steps to meet the SDGs’.⁴⁵⁷

⁴⁵⁵ Committee on the Rights of the Child, Concluding Observations on the Combined Third to Fifth Periodic Reports of Bhutan, *supra* fn 452, §§34, 37.

⁴⁵⁶ CERD, Concluding Observations on the Eighteenth to Twentieth Periodic Reports of Rwanda, UN doc CERD/C/RWA/CO/18–20, 10 June 2016, §10–11.

⁴⁵⁷ CERD, Concluding Observations on the Combined Twenty-First to Twenty-Third Periodic Reports of Argentina, UN doc CERD/C/ARG/CO/21–23, 11 January 2017, §§6–7.

Finally, in June 2017, CERD commended Kenya ‘for its engagement in the development of the 2030 Agenda for Sustainable Development and for including in its development blueprint, Vision 2030, strategies aimed at achieving substantive equality through support for historically disadvantaged regions and groups’.⁴⁵⁸

In conclusion, one must acknowledge that UN treaty bodies have made significant efforts to include the SDGs in their work. However, they could do more. UN treaty bodies should more systematically include the monitoring of the SDGs, including those that seek to realize ESCR, in their review of states parties’ reports. The fact that they can monitor the realization of ESCR and the implementation of SDGs in so many states parties, from the perspective of ESCR, racial discrimination, women’s rights, children’s rights, the rights of persons with disabilities and the rights of migrant workers, puts them in an ideal position to make a difference, at both national and global levels.

⁴⁵⁸ CERD, Concluding Observations on the Fifth to Seventh Periodic Reports of Kenya, UN doc. CERD/C/KEN/CO/5–7, 8 June 2017, §3.

6. CONCLUSION

The need to adopt a HRBA to development has been underlined by the UN and its Member States for more than 20 years. Applied to ESCR and the SDGs, this approach implies that (1) the realization of ESCR should be the main objective of laws, policies and programmes aimed at implementing the SDGs; (2) human rights instruments and principles should guide the adoption and implementation of measures taken to achieve the goals and (3) these measures should contribute to empowering people to claim their ESCR, and to states respecting, protecting and fulfilling ESCR without discrimination.

The MDGs represented an important step towards the convergence of development and ESCR. They aimed to progressively realize the core content of many ESCR, for example by halving extreme poverty and hunger by 2015. In adopting them, states made clear commitments to protect and promote human rights. However, the framework set up to monitor the MDGs was too weak and a HRBA was not followed in the implementation of the MDGs, which was described by many as a missed opportunity.

The SDGs are far more ambitious than the MDGs. They aim to fully realize ESCR in all countries by 2030. With the objectives of leaving no one behind and achieving gender equality, they aim to put an end to discrimination and drastically reduce inequality. In the 2030 Agenda, states also committed to ensure that the implementation, follow-up and review processes linked to the SDGs will be participatory, rights-based and effective, calling on the whole UN system to work together for these purposes.

The weakness of the 2030 Agenda lies in its accountability framework, based on VNRs and peer-reviewed soft guidance. This represents a major gap that UN human rights mechanisms can fill. By collaborating with follow-up and review mechanisms established to monitor the SDGs, and by being creative in including the SDGs in their own work, UN human rights mechanisms can play a key role in monitoring the SDGs that seek to realize ESCR.

In this briefing, we have seen that UN human rights mechanisms have already made significant efforts to include the monitoring of the SDGs in their work. UN human rights treaty bodies – and the President of the Human Rights Council – have started to collaborate with follow-up and review mechanisms established by the 2030 Agenda. In 2016 and 2017, they sent contributions to the HLPF meetings, in which they shared their work in relation to the themes of the HLPF thematic reviews – the principle that no one will be left behind (2016) and poverty eradication and the promotion of prosperity (2017). Some of them have also linked their work to the implementation of the SDGs that seek to realize ESCR in the states presenting VNRs. They have also made recommendations to improve the working methods of the HLPF, as well as their collaboration.

The Human Rights Council decided to act to ensure that its agenda promotes and advances the achievement of the SDGs. It adopted several resolutions in which it linked ESCR to the SDGs, and in which it tasked its subsidiary bodies and special procedures, as well as the UN Secretary-General and OHCHR, with including the SDGs in their work or reports. It also devoted one of its annual high-level panel discussions on mainstreaming human rights in the UN system to the 2030 Agenda and human rights. In March 2017, in a joint statement made during the 34th session of the Human Rights Council, Chile, Denmark, Ecuador, Luxembourg, Portugal, Rwanda and Uruguay announced a new initiative on human rights and the 2030 Agenda for Sustainable Development, aimed at identifying and using the many ways through which the UN human rights system can best support states in implementing the SDGs.

Using the UPR, one of Human Rights Council's main monitoring mechanisms, many UN Member States have also made recommendations to their peers, in which they have made explicit links with the 2030 Agenda or the SDGs. In some of these recommendations, they have simply pushed for the implementation of the SDGs, while in others they have emphasized the need for states to take measures to realize specific SDGs or ESCR, or to adopt, adapt or implement policies and strategies to implement the SDGs that seek to realize ESCR.

UN special procedures have produced numerous thematic and country visit reports in which they have linked ESCR and the SDGs and have made recommendations to guide the implementation of the SDGs with a HRBA. In their thematic reports, special procedures have emphasized the need for states to ensure that the implementation of the SDGs is consistent with ESCR and states obligations in international human rights law, ensure participation and the use of disaggregated indicators and data to reach the most vulnerable and those who are left behind and adopt new instruments and make new commitments to support the implementation of the SDGs. When they have included the SDGs in their country visit reports, some UN special procedures have monitored the level of realization of the SDGs, often comparing what is required under the SDGs with what was required to reach the MDGs. A number of special procedures have emphasized the same issues they focused on in their thematic reports, such as the need to eliminate homelessness, curb illicit financial flows and protect the rights of persons with disabilities. A majority have pushed for the adoption of human rights-based laws, policies and programmes to implement the SDGs and reach the most vulnerable and those who are left behind. Some have also focused on the need to ensure participation of vulnerable groups in the design of these laws, policies and programmes and the need to protect women's rights in the implementation of the SDGs.

Many UN treaty bodies have included the monitoring of the SDGs in their review of states parties' reports, at the end of which they make recommendations linking ESCR and the SDGs. Some treaty bodies have drafted a specific recommendation on the SDGs that they have systematically included in their concluding observations to all the states parties they have examined. This focuses on the need to implement the SDGs in a manner that is consistent with their obligations in international human rights law and follows human rights principles. Some treaty bodies also make

recommendations to states parties regarding the need to collect disaggregated data to monitor ESCR and the SDGs and design policies targeting the most vulnerable. Furthermore, most treaty bodies use the SDGs to reinforce their recommendations regarding the realization of specific rights or states parties' obligations, to which they consider the SDGs to be particularly relevant.

These efforts should be strengthened and followed by UN human rights mechanisms that have yet to include the SDGs in their work.

To provide the HLPF with a holistic view of UN human rights mechanisms' recommendations that are relevant to the SDGs, including recommendations made by human rights mechanisms that do not send contributions to the HLPF, OHCHR should use the Universal Human Rights Index to produce an annual compilation of recommendations made by UN human rights mechanisms, with a focus on those that can contribute to the implementation of the SDGs. Since 2016, the Universal Human Rights Index has been successfully improved and it is now possible to use this online database to look for recommendations made by UN human rights mechanisms that are relevant to each of the 17 SDGs.⁴⁵⁹ The compilation produced by OHCHR should be shared with the HLPF, with an emphasis on recommendations addressed to states that have prepared VNRs, or that are linked to the theme of the meeting's thematic review. Ideally, the example of the Human Rights Council's UPR should be followed, with one compilation of recommendations produced for each state being reviewed.

The Human Rights Council should continue to link ESCR and the SDGs in its work, and do so more systematically. It should include explicit references to the SDGs in all relevant resolutions, including on ESCR, and all relevant mandates that it gives to its subsidiary bodies and special procedures, as well as the reports that it requests from the UN Secretary-General and OHCHR. The initiative on human rights and the 2030 Agenda for Sustainable Development should develop its full potential and enable states and other stakeholders to use the many ways in which the UN human rights system can best support states in implementing the SDGs. UN Member States should also use the UPR more systematically as a monitoring mechanism to push for the implementation of the SDGs in other UN Member States, including by increasing the number of UPR recommendations linking ESCR and the SDGs.

UN special procedures should more systematically include the monitoring of the SDGs that seek to realize ESCR in their thematic and country visit reports. They could also use NVRs on the implementation of the SDGs, or evaluate the measures that UN Member States have taken to implement the SDGs by sending questionnaires and analysing them from a human rights perspective. Having very broad mandates, including the protection of ESCR; the rights of women, persons with disabilities, migrants, older persons and minorities; the promotion of international solidarity and the effects of foreign debt on ESCR, they are in a unique position

to make recommendations to UN Member States on the implementation of the SDGs with a HRBA. The dialogues that they can initiate at the national level, coupled with recommendations based on country visits, are also extremely valuable, as they are context-specific and provide states with an understanding of whether the undertaken processes are adequately integrating human rights principles and pursuing equally the realization of ESCR and progress towards the achievement of the SDGs.

Finally, UN treaty bodies should more systematically include the monitoring of the SDGs, including those that seek to realize ESCR, in their review of states parties' reports. They could also use NVRs on the implementation of the SDGs and analyse them from a human rights perspective. The fact that they can monitor the realization of ESCR and the implementation of SDGs in so many states parties, from the perspective of ESCR, racial discrimination, women's rights, children's rights, the rights of persons with disabilities and the rights of migrant workers puts them in an ideal position to make a difference, at both national and global levels.

By including the SDGs more systematically in their work, UN human rights mechanisms can fill the accountability gap of the 2030 Agenda. They can thus transform the beneficiaries of the laws, policies and programmes aimed at achieving the SDGs into rights-holders and UN Member States has those having legal obligations to implement the SDGs in a manner that is consistent with human rights. This would enhance participation, accountability, non-discrimination, transparency, human dignity, empowerment, the rule of law and solidarity (PANTHERS) in the implementation of the SDGs.

459 *Supra* fn 251.

ANNEX: SUSTAINABLE DEVELOPMENT GOALS AND HUMAN RIGHTS ⁴⁶⁰

Sustainable Development Goals and Related Targets

Human Rights Standards

<p>Goal 1: End poverty in all its forms everywhere</p> <p>Targets include eradicating extreme poverty (less than \$1.25 a day); halving poverty; implementing social protection measures and ensuring equal access for men and women to economic resources.</p>	<p>Right to an adequate standard of living: UDHR, Art 25; ICESCR, Art 11; CRC, Art 27</p> <p>Right to social security: UDHR, Art 22; ICESCR, Art 9; CRPD, Art 28; CRC, Art 26</p> <p>Equal rights of women in economic life: CEDAW, Arts 11, 13, 14(2)(g), 15(2), 16(1)</p>
<p>Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture</p> <p>Targets include ending hunger and malnutrition; ensuring access for all to safe, nutritious and sufficient food; improving agricultural productivity and incomes of rural women, indigenous peoples, family farmers, pastoralists and fishers; ensuring access to land and other natural resources and ensuring sustainable and resilient food production.</p>	<p>Right to adequate food: UDHR, art 25; ICESCR, Art 11; CRC, Art 24(2)(c)</p> <p>International cooperation, including ensuring equitable distribution of world food supplies: UDHR, Art 28; ICESCR, Arts 2(1), 11(2)</p>
<p>Goal 3: Ensure healthy lives and promote well-being for all at all ages</p> <p>Targets include reducing maternal mortality; ending preventable child deaths; ending AIDS, tuberculosis and malaria; promoting mental health; ensuring universal health coverage, universal access to sexual and reproductive health-care services, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all.</p>	<p>Right to life: UDHR, Art 3; ICCPR, Art 6; CEDAW, Art 12; CRC, Art 6</p> <p>Right to health: UDHR, Art 25; ICESCR, Art 12, CEDAW, Art 12; CRC, Art 24</p> <p>Special protection for mothers and children: ICESCR, Art 10</p> <p>Right to enjoy the benefits of scientific progress and its application: UDHR, Art 27; ICESCR, Art 15(1)(b)</p> <p>International cooperation: UDHR, Art 28; ICESCR, Art 2(1); CRC, Art 4</p>

460 Adapted by the author. The original table is on the OHCHR webpage 'Human Rights and the Sustainable Development Goals', http://www.ohchr.org/Documents/Issues/MDGs/Post2015/SDG_HR_Table.pdf (last accessed 4 December 2017)

Sustainable Development Goals and Related Targets

Human Rights Standards

<p>Goal 4: Ensure inclusive and quality education for all and promote lifelong learning</p> <p>Targets include ensuring universal access to free, quality pre-primary, primary and secondary education; improving vocational skills; ensuring equal access to education and expanding education facilities, scholarships and training of teachers</p>	<p>Right to education: UDHR, Art 26; ICESCR, Art 13; CRC, Arts 23(3), 28, 29; CRPD, Art 24</p> <p>Equal rights of women and girls in the field of education: CEDAW, Art 10</p> <p>Right to work, including technical and vocational training: ICESCR, art 6</p> <p>International cooperation: UDHR, Art 28; CRC, Arts 23(4), 28(3); CRPD, Art 32</p>
<p>Goal 5: Achieve gender equality and empower all women and girls</p> <p>Targets include eliminating discrimination and violence against women and girls; valuing unpaid care and domestic work; ensuring the full participation of women, access to reproductive health care and equal access for women to economic resources.</p>	<p>Elimination of all forms of discrimination against women: CEDAW, Arts 1-5; CRC, Arts 2, 7, 11, 13, 16</p> <p>Right to decide the number and spacing of children: CEDAW, Arts 12, 16(1)(e); CRC, Art 24(2)(f)</p> <p>Special protection for mothers and children: ICESCR, Art 10</p> <p>Elimination of violence against women and girls: CEDAW, Arts 1-6; CRC, Arts 24(3), 35</p> <p>Right to just and favourable conditions of work: ICESCR, Art 7; CEDAW, Art 11</p>
<p>Goal 6: Ensure access to water and sanitation for all</p> <p>Targets include ensuring universal and equitable access to safe and affordable drinking water and to adequate sanitation and hygiene for all, reducing pollution, increasing water-use efficiency and promoting participatory management of water and sanitation services.</p>	<p>Right to safe drinking water and sanitation: ICESCR, Art 11</p> <p>Right to health: UDHR, Art 25; ICESCR, Art 12</p> <p>Equal access to water and sanitation for rural women: CEDAW, Art 14(2)(h)</p>
<p>Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all</p> <p>Targets include ensuring universal access to affordable, reliable and modern energy services.</p>	<p>Right to an adequate standard of living: UDHR, Art 25; ICESCR, Art 11</p> <p>Right to enjoy the benefits of scientific progress and its application: UDHR, Art 27; ICESCR, Art 15(1)(b)</p>
<p>Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all</p> <p>Targets include promoting sustained economic growth; improving resource efficiency in production and consumption; achieving full and productive employment and decent work for all; eradicating forced and child labour and trafficking; protecting labour rights, including those of migrant workers, and increasing access to financial services.</p>	<p>Right to work and to just and favourable conditions of work: UDHR, Art 23; ICESCR, Arts 6, 7, 10; CRPD, Art 27</p> <p>Prohibition of slavery, forced labour, and trafficking of persons: UDHR, Art 4; ICCPR, Art 8; CEDAW, Art 6; CRC, Arts 34-36</p> <p>Equal rights of women in relation to employment: CEDAW, Art 11</p> <p>Prohibition of child labour: CRC, Art 32</p> <p>Equal labour rights of migrant workers: CMW, Art 25</p>

Sustainable Development Goals and Related Targets

Human Rights Standards

Goal 9: Build resilient infrastructure, promote sustainable industrialization and foster innovation

Targets include ensuring affordable and equitable access for all to quality infrastructure; promoting employment; generating industrialization; increasing access for small-scale enterprises to financial services and markets; supporting innovation and technology transfer and increasing access to information and communications technology.

Right to enjoy the benefits of scientific progress and its application: UDHR, Art 27; ICESCR, Art 15(1)(b)

Right to access to information: UDHR, Art 19; ICCPR, Art 19(2)

Right to adequate housing, including land and resources: UDHR, Art 25; ICESCR, Art 11

Equal rights of women to financial credit and rural infrastructure: CEDAW, Arts 13(b), 14(2)

Goal 10: Reduce inequality within and among countries

Targets include promoting higher growth rates for the bottom 40 percent; promoting social, economic and political inclusion; reducing inequalities in opportunities and outcomes; ensuring social protection for all; securing participation in economic decision making; facilitating migration and reducing transaction costs for migrant remittances.

Right to equality and non-discrimination: UDHR, Art 2; ICESCR, Art 2(2); ICCPR, Arts 2(1), 26; ICERD, Art 2(2); CEDAW, Art 2; CRC, Art 2; CRPD, Art 5; CMW, Art 7

Right to participate in public affairs: UDHR, Art 21; ICCPR, Art 25; CEDAW, Art 7; ICERD, Art 5; CRPD, Art 29;

Right to social security: UDHR, Art 22; ICESCR, Arts 9-10; CRPD, Art 28

Promotion of conditions for international migration: CMW, Art 64

Right of migrants to transfer their earnings and savings: CMW, Art 47(1)

Goal 11: Make cities inclusive, safe, resilient and sustainable

Targets include ensuring access to housing, basic services and public transport for all; participatory planning of human settlements; safeguarding cultural and natural heritage and strengthening resilience to disasters.

Right to adequate housing, including land and resources: UDHR, Art 25; ICESCR, Art 11

Right to participate in cultural life: UDHR, Art 25; ICESCR, Art 15; ICERD, Arts 5, 7; CRPD, Art 30; CRC, Art 31

Accessibility of transportation, facilities and services, particularly of persons with disabilities, children and rural women: CRPD, Art 9(1); CRC, Art 23; CEDAW, Art 14(2)

Protection from natural disasters: CRPD, Art 11

Goal 12: Ensure sustainable consumption and production patterns

Targets include achieving sustainable management and efficient use of natural resources; improving waste management; promoting sustainable public procurement; ensuring access to information; and building capacity for sustainable development.

Right to health, including the right to a safe, clean, healthy and sustainable environment: UDHR, Art 25(1); ICESCR, Art 12

Right to adequate food and right to safe drinking water: UDHR, Art 25(1); ICESCR, Art 11

Right of all peoples to freely dispose of their natural wealth and resources: ICCPR; ICESCR, Art 1(2)

Sustainable Development Goals and Related Targets

Human Rights Standards

Goal 13: Take urgent action to combat climate change and its impacts

Targets include strengthening resilience and adaptation to climate change and natural disasters, including in marginalised communities, and implementing the Green Climate Fund.

Right to health, including the right to a safe, clean, healthy and sustainable environment: UDHR, Art 25(1); ICESCR, Art 12; CRC, Art 24; CEDAW, Art 12; CMW, Art 28

Right to adequate food and right to safe drinking water: UDHR, Art 25(1); ICESCR, Art 11

Right of all peoples to freely dispose of their natural wealth and resources: ICCPR; ICESCR Art 1(2)

Goal 14: Conserve and sustainably use the oceans, seas and marine resources

Targets include reducing marine pollution; conserving coastal ecosystems, coastal marine areas and fish stock; securing market access for small-scale fishers and protecting marine biodiversity.

Right to health, including the right to a safe, clean, healthy and sustainable environment: UDHR, Art 25(1); ICESCR, Art 12; CRC, Art 24; CEDAW, Art 12; CMW, Art 28

Right to adequate food and right to safe drinking water: UDHR, Art 25(1); ICESCR, Art 11

Right of all peoples to freely dispose of their natural wealth and resources: ICCPR; ICESCR Art 1(2)

Goal 15: Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss

Targets include promoting sustainable management of freshwater, mountain ecosystems and forests; combating desertification; halting biodiversity loss and combatting poaching and trafficking of protected species.

Right to health, including the right to a safe, clean, healthy and sustainable environment: UDHR, Art 25(1); ICESCR Art 12; CRC, Art 24; CEDAW, Art 12; CMW, Art 28

Right to adequate food and right to safe drinking water: UDHR, Art 25(1); ICESCR, Art 11

Right of all peoples to freely dispose of their natural wealth and resources: ICCPR; ICESCR Art 1(2)

Goal 16: Promote just, peaceful and inclusive societies

Targets include reducing all forms of violence, ending violence against and trafficking of children; promoting rule of law and justice for all; reducing illicit financial and arms flows, corruption and bribery; developing effective institutions; ensuring participation in decision making at all levels and providing legal identity for all.

Right to life, liberty and security of the person: UDHR, Art 3; ICCPR, Arts 6(1), 9(1); ICPEL, Art 1

Freedom from torture: UDHR, Art 5; ICCPR, Art 7; CAT, Art 2; CRC, Art 37(a)

Protection of children from all forms of violence, abuse or exploitation: CRC, Arts 19, 34, 36, 37(a)

Right to access to justice and due process: UDHR, Arts 8, 10; ICCPR, Arts 2(3), 14-15; CEDAW, Art 2(c)

Right to legal personality: UDHR, Art 6; ICCPR, Art 16; CRPD, Art 12

Right to participate in public affairs: UDHR, Art 21; ICCPR, Art 25

Right to access to information: UDHR, Art 19; ICCPR, Art 19(1)

Sustainable Development Goals and Related Targets

Human Rights Standards

Goal 17: Revitalize the global partnership for sustainable development

Targets include strengthening domestic and international resources; debt sustainability; technology transfer and capacity building; promoting trade; enhancing policy and institutional coherence; respecting countries' policy space; promoting multi-stakeholder partnerships; developing measurements of progress and increasing the availability of disaggregated data.

Right of all peoples to self-determination: ICCPR; ICESCR, Art 1(1)

Right to development and international cooperation: UDHR, Art 28; ICESCR, Art 2(1); CRC, Art 4; CRPD, Art 32(1);

Right of everyone to enjoy the benefits of scientific progress and its application, including international cooperation in the scientific field: UDHR, Art 27(1); ICESCR, Art 15(1)

Right to privacy: UDHR, Art 12; ICCPR, Art 17; CRPD, Art 31(1)

International Human Rights Instruments

UDHR: Universal Declaration of Human Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

CRC: Convention on the Rights of the Child

CRPD: Convention on the Rights of Persons with Disabilities

CEDAW: International Convention on the Elimination of All Forms of Discrimination Against Women

ICCPR: International Covenant on Civil and Political Rights

CMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

ICPED: International Convention for the Protection of All Persons from Enforced Disappearances

CAT: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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