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SOLUTIONS NETWORK
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Achieving Gender Equality, Social Inclusion, and Human Rights for All: Challenges and Priorities for the Sustainable Development Agenda

**TECHNICAL REPORT FOR THE
POST-2015 DEVELOPMENT AGENDA**

18 September 2013

Prepared by the Thematic Group on Challenges
of Social Inclusion: Gender, Inequalities, and
Human Rights of the Sustainable Development
Solutions Network



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Rights For All:
Challenges and Priorities for the Sustainable Development Agenda**

Report of the SDSN Thematic Group on Challenges of Social Inclusion:
Gender, Inequalities, and Human Rights

18 September 2013

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## Introduction

Creating a world where the equal dignity and worth of every individual is respected and valued is simple to articulate, but difficult to deliver. The Universal Declaration of Human Rights (UDHR) was a powerful statement of intent and attempts have been made to create legislative, administrative, and judicial mechanisms to ensure these values are upheld. The devastation of World War II highlighted the need and acceptance for human rights and mobilized the political will to create a framework that could enshrine basic protection for all. A standard has now emerged to which countries and communities across the world subscribe and aspire. The success of the universality of human rights can be judged against: (a) the proliferation of human rights legal standards; (b) the emphases placed on human rights within State practice; and (c) the take-up of human rights norms by international institutions. There have been advances in who is explicitly covered by these standards, with notable advancements for the rights of women and children; in how inclusionary the protection emanating from these is; and in the extent to which they cover the full range of rights. There have also been significant advances for group rights, initially marginalized within the human rights framework.

The processes currently underway to define a set of internationally agreed goals for the period 2016 to 2030 provide an opportunity to consolidate these advances. This report highlights the limits of the existing development and rights agendas and suggests steps needed to ensure an agenda that moves beyond poverty reduction to focus on social inclusion as an overarching aim, placing *de facto* equality at the heart of global sustainable development agenda. This report suggests solutions reflecting good practice that could provide blueprints for the future, drawn from societies around the world that are attempting to ensure fairer and more equal societies.

## 1. Moving beyond Current Practice

Human rights have gained acceptance as universal standards to strive for and provide a framework for development, albeit with deficiencies. The rights discourse has been critiqued for presenting rights as universal when in fact they validate Western values. Other criticisms point to double standards: some States are singled out as violators, while those deemed allies are exempt from criticism. Despite these major difficulties, the notion of rights has captured popular imaginations across the globe and marginalized groups, particularly women, indigenous peoples and minorities, have used the discourse of rights as a powerful tool to articulate their claims. High among these claims is the continued need for protection from violence and conflict. There is also increased convergence around the need for socio-economic rights for excluded communities. This suggests that, rather than moving away from the rights discourse, there is need to change how rights are understood and operationalized.

### 1.1. Economic, social, and cultural rights

Rights were presented as universal and indivisible. Civil and political rights were prioritized and presented as those most in need of protection. By contrast, economic, social, and cultural rights (ESC rights) were construed as falling within governmental social policy. This distinction was exacerbated

by the location of the emerging rights regime within law, as a series of nationally guaranteed legislative, judicial and administrative measures. Rights thus became a series of promises made by the State to its people that could be gained through legal challenge. Within this framework ESC rights were often subject to the caveat that their enjoyment was subject to progressive realization. The rights articulated on socio-economic issues were not promises that could be adjudicated upon in a court of law, but aspirations to be strived for by governments. The emerging rights framework was not linked to the development discourse, and issues such as poverty were conceptualized within an economic rather than rights rhetoric. The sustainable development agenda affords the opportunity to re-conceptualize poverty: with poverty eradication as a right, with economic growth designed to serve the achievement of this goal, and a complementary legal framework (administrative, legislative and at times judicial) to guarantee the aim.

To eradicate poverty, a broad spectrum of rights needs to be fulfilled – for example, an individual's right to work requires fulfillment of rights such as personal security and freedom of movement (e.g. in order to seek jobs). These rights also need balancing against environmental rights if sustainable development is to be achieved. Thus it remains imperative to return to the notion of indivisible rights and, rather than privileging civil and political rights, to understand these as interconnected with socio-economic rights. This would enable a holistic understanding of how poverty can be overcome – something an overly legalistic understanding of rights would restrict to (i) ascertainment of blame; (ii) determination of 'costs' of violation; and (iii) deterrent legislation to avoid the phenomenon in future. In the new period of sustainable development, it is imperative to interrogate and incorporate human rights from economic, sociological, political and gendered lenses.

### *1.2. Women's and group rights*

The issue of gender highlights the limitation of rights as currently constructed. The UDHR reflects a male-centric post-war conceptualization of rights. While violence against women and girls (VAWG) and marital rape could be understood as 'cruel, inhuman or degrading treatment or punishment', the gender neutral language does not explicitly recognize these specific violations. In legal terms, VAWG has been conceptualized as domestic violence and thus as a private matter between man and wife, not one for public intervention. The emphasis within the rights framework lay on protection of the individual, rather than groups or communities, with no recognition of violations that were collectively experienced by a group. More recently the term femicide<sup>1</sup> has been adopted to represent the killing of women for 'behaving badly' or challenging gender norms. This takes different forms in different cultures, including honor killings, the persistent rape and violence against Adivasi women in India and deaths of women factory workers for challenging gender norms and engaging in paid work outside the home. Women are targeted not because of individual characteristics, but for representing a group envisaged as playing a set role within society. An overt legal focus on prosecuting perpetrators and protecting victims fails to challenge underlying structural causes which require societal responses.

While advances have been made, legal frameworks struggle to afford protection against collective violations against specific vulnerable groups. Over reliance on a system where rights can be effectively challenged in a court of law fails to acknowledge the fundamental inequalities that restrict access to

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<sup>1</sup> World Health Organization. (2012). Understanding and addressing violence against women: femicide. Available online at: <http://apps.who.int/iris/handle/10665/77421>

such systems for women, indigenous peoples and other minorities. Social exclusion is particularly manifest in legal systems at the level of advocacy, judicial determination and within the legislative process. While proscribing certain behavior as illegal is a first step, establishing a right does not automatically facilitate its fulfillment. To escape violence, women need more than laws: they need to be able to live independently, to be able to earn an income, to own property, to farm land, and to have society recognize these rights. Legal mechanisms remain insufficient for bringing excluded voices into the heart of socio-legal policy over development and rights. Thus the rights of such marginalized groups must be prioritized and ways to fulfill them outside formal justice systems must also be promoted. Cultural relativism remains a key challenge to be overcome, which pertains directly to indigenous peoples, minorities and women. Sexual and Reproductive Rights for instance are contested rights, not recognized in many cultures. There is then a growing need to ensure all rights for all, and to find ways to negotiate cultural differences to make sure rights are used to promote and protect society against harmful processes and practices.

### **1.3. Human rights and development**

The relatively recent anchoring of human rights to the development paradigm is particularly useful. Donor agencies and some development NGOs have sought to connect their work to human rights through a rights-based approach to development. While positive, care needs to be taken around this linkage to ensure that the human rights discourse is not dominated by agents of developmentalism. The position of international organizations such as the World Trade Organization on issues such as intellectual property rights and its negative impact on poverty reduction, sustainability of food production, environmental conditions and the health of the poor in developing countries is a manifestation of a trend that needs to be challenged. Financial institutions have also adopted rights and equality rhetoric that could dilute its meaning. For instance, the World Bank promotes gender equality as an efficient means to increase productivity, improve economic growth, and reduce population growth. While this is based on sound research, promoting it in this manner makes gender parity an incidental objective rather than an imperative question of equal rights. Poverty reduction projects focused on women are also often presented as fostering gender equality. For gender equality to be achieved requires specific actions that address structural gendered inequalities, unlikely to be achieved as convenient collateral to other policies. Providing services to women, ensuring access to health and education, and employment and credit are important, and changing gender roles can have a positive effect on gender relations. However, this is not automatically the case, since, for example, improving women's access to income does not necessarily improve their control over that income nor improve women's voice in the home. Creating job opportunities for women is important, but there is also a need to explicitly promote women's right to work. There is also a need to explicitly address unequal power relations at all levels, including within the home. If real change is to be achieved policies need not only to change gender roles, but also challenge existing unequal gender relations, and to promote women's access to services and resources as rights. It is then important to avoid simple solutions that do not challenge structural inequalities and local contexts. It is also important to ensure that the overuse of the language of inclusion, justice, equality and rights does not diminish its meaning and power, creating convenient rhetoric that circumvents real issues.

The donor community appears to view the adoption of liberal democracy by every country, accompanied by a constitution guaranteeing rights, as *prima facie* affirmation of a State's human



rights credentials. This approach placed emphasis on good governance as a criterion for decisions concerning disbursement of aid, but it fails to assess critical issues affecting social inclusion, such as unequal power structures, the environment, and the proliferation of poverty, and often introduces artificial elements for societies in transition that work against the longer term interests of building sustainable and inclusive communities.

Human rights have focused on naming and shaming States. Many international instruments were negotiated and ratified as intergovernmental agreements, and failures to uphold their principles was akin to one party to a contract failing to uphold norms agreed to within that contract. This approach often foreclosed room for collaborative work between States, those keen to find solutions for the implementation of rights, and human rights defenders. While there remains a role for States in holding other States to account if they violate international agreements, there is also room for more collaborative processes to bring States into line with international consensus. While States clearly bear obligations under law, not every violation of human rights is the result of State inaction or unwillingness to act. Focusing on States as the sole liable actors for violations means that opportunities for behavioral change and adoption of responsibility for others, such as the corporate sector, were missed. The processes of human rights have also placed overt emphasis at the international level, while major innovations and human rights-friendly social policy solutions often emanate at the national and sub-national levels. Any assessment of law-making within States highlights how structural inequalities are constructed through legislative mechanisms, and unless awareness grows for wider articulation of political voices, inequalities will persist and be reproduced.

A failure to correct the trajectory of human rights law to make it focus on the needs and challenges faced by women, vulnerable and other marginalized communities would allow current inequalities, borne on structural fault lines, to persist into the future.

The post-2015 framework should therefore:

- Ensure that the language of human rights, articulated in terms of the diminution of inequality and equality of outcomes, features strongly in the sustainable development goals (SDGs) across goals, targets and indicators;
- Seek guarantees that the SDG framework emphasizes the importance of administrative legal frameworks conducive to combating inequality and social exclusions in all its forms;
- Promote women and girls' sexual and reproductive rights;
- Emphasize the need for active collaboration not antagonism, between human rights mechanisms, governments, civil society and business;
- Seek ways to address the structural causes that deny marginalized groups, including women, their rights.

## **2. Overcoming Structural Causes of Inequality**

With economic growth as the dominant paradigm, poverty could be viewed as resulting from inadequate incomes and productivities, particularly in agriculture and other rural activities and in



the urban informal sector,<sup>2</sup> due to inadequate access to educational and other services. The poor's relative lack of market power feeds into weak political power via undemocratic structures. They are also less likely to engage in higher risk-return activities and the result is that the return on their assets is 25-50% lower than for wealthier households.<sup>3</sup> While this is important in explaining the preponderance of poverty, these are also outcomes rather than causes of poverty, with inadequate incomes, productivities and weak political power arising from structural inequalities, as demonstrated in the following four policy areas.

## 2.1. Macroeconomic

Sound macroeconomic policies are a prerequisite for economic stability, growth, and reducing poverty, yet poorly designed policies can undermine the goal of social sustainability. Rigidly market-centered prescriptions over the past decades have increased inequalities in many countries. There is an urgent need to re-embed macro-economic and fiscal policy within the broader framework of social objectives since growth alone does not lead to social justice.

Research has shown that societies that discriminate by gender tend to experience less rapid economic growth and poverty reduction than societies that treat males and females equally, and that gender disparities produce economically inefficient outcomes.<sup>4</sup> Extreme inequalities reinforce poverty and can act as a barrier to growth by restricting the productive potential of a large section of the population. In turn, highly unequal countries have been shown to be less able to convert growth into poverty reduction. While greater equality may be important for economic growth, care is needed, as growth is not necessarily good for equality. The question is what type of growth is best for poverty reduction and which policies will help to bring about more equitable patterns of growth.<sup>5</sup> The focus needs to be on growth with equity or pro-poor growth strategies.

The promotion of the economic rights of marginalized groups may hold the key for future, more equitable economic growth. For instance fulfilling women's economic rights entails promoting a range of women's rights such as their right to control fertility, to education, to ownership, and to mobility. In some cultures women are unable to leave home if unaccompanied by men, effectively negating paid employment. Women play key roles in the care economy, which provides care to the young, old and the sick, and ensures a productive work force. This unremunerated work is undervalued and lies outside general conceptualizations of the economy. When women are allowed to leave home to work, they may face verbal, sexual and physical abuse from unknown males, or face gossip and stigma within their communities. To promote the wellbeing of women as well as the economy, economic policy needs to improve women's engagement in paid work by tackling

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<sup>2</sup> Killick, T. (May 1999). Making Adjustment Work for the Poor. *ODI Poverty Briefing*. London, UK: Overseas Development Institute. Available online at <http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3099.pdf>

<sup>3</sup> Holzmann, R. and Jørgensen, S. (February 2000). Social Risk Management: A new conceptual framework for social protection and beyond. *Social Protection Discussion Paper Series No. 0006*. Washington D.C.: World Bank. Available online at: <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Social-Risk-Management-DP/0006.pdf>

<sup>4</sup> World Bank. (2001a). Social Protection Strategy: From Safety Net to Springboard. Washington D.C.: World Bank. Available online at: <http://documents.worldbank.org/curated/en/2001/01/828354/social-protection-sector-strategy-safety-net-springboard>

<sup>5</sup> Watkins, K. (2000). Growth With Equity is Good for the Poor. Oxford, UK: Oxfam GB. Available online at: <http://policy-practice.oxfam.org.uk/publications/growth-with-equity-is-good-for-the-poor-114035>

structural societal and gender biases, such as recognizing women's unpaid work as a vital part of the economy and essential for economic growth. Economic growth policies thus need to promote the social inclusion agenda. In the short term, there is a need to create decent productive employment opportunities and access to finance for all. This means changing social structures that limit access to employment, and access to land and other 'productive' resources. It also means establishing social norms that value women as good with money, in order to ensure access to and control over resources they and their households generate.

## *2.2. Inequality of access and control over resources*

While reducing absolute poverty is an important target, tackling relative poverty, defined as the percentage of households in a country that earn less than half the median household income in that country, is equally important. In many countries there are a disproportionate number of minorities, indigenous peoples, and women among the poor. This income inequality is directly related to their lower access to and control over resources. Sen's "100 million missing women"<sup>6</sup> is testimony to how girls are discriminated against in terms of the allocation of household resources to the point that it creates a gender imbalance in some societies and countries. Willingness to school, feed and provide health care to girls is strongly determined by income and the costs of providing these services, more so than for boys. This is related to the low value given to girls and to socially constructed gender roles that place women as mothers and carers, while men are more valued as providers and protectors. Women's poverty is caused at community, labor market, and household levels.<sup>7</sup> Three factors contribute to women's relative poverty. First, women have fewer possibilities to translate work into income, stemming from (i) exclusive responsibility for reproductive work, (ii) the conceptualization of their productive activities as 'helping' men, and (iii) concentration within sectors which are either an extension of their reproductive roles (and thus lower paid) and/or within the informal economy. Second, when women do have an income, they find it difficult to convert this into decision making-capacity. Perceptions around value of contribution to the household, social norms and self-esteem/relative autonomy influence the capacity to have a voice in decision-making processes. Finally, when women make decisions, they are less likely to take decisions that improve their personal wellbeing, and more likely to seek to improve the wellbeing of others. This supposed altruism, stemming from perceived natural attributes as carers and mothers, is a socially constructed conceptualization of what it means to be a woman and is exacerbated by women's almost exclusive responsibility for domestic unpaid work. While investment in infrastructure such as water, sanitation and electricity is important to ease the time burden associated with these tasks, it does not change how unpaid work and the care economy is conceptualized and valued. A changed conceptualization of the valuation of such work should be a longer-term goal. In the short term, policies to provide affordable, quality child care and adequate health care services would free women to enter paid employment and more importantly change care work from being a domestic responsibility to a collective responsibility.

Women have been targeted by poverty reduction and social policy initiatives. Many of these initiatives have been shown to be effective, but they don't tackle the underlying socially constructed,

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<sup>6</sup> Sen, A. (1990). More than 100 million women are missing. *New York Review of Books*, 37 (20).

<sup>7</sup> Bradshaw, S. (2002). Gendered Poverties and Power Relations: Looking inside communities and households / La pobreza no es la misma ni es igual: Relaciones de poder dentro y fuera del hogar. Managua, Nicaragua: Puntos de Encuentro.

often irresponsible, behavior of men. Targeting resources towards women is welcome, but where these are conditional on achieving policy outcomes, such as improving school attendance or infant nutritional levels, the associated feminization of obligation and responsibility<sup>8</sup> may not only marginalize men, but also add further to women's existing triple burden of reproductive, productive and community management work. It may privilege their reproductive over their productive role and reinforce women as mothers rather than workers. While good social services and social protection programs are a necessity, these programs should serve women's as well as children's needs.<sup>9</sup> A similar paradigm can be seen with poverty reduction policies directed towards minorities and indigenous peoples. Rather than seeking to empower communities towards greater inclusion within closed societies, these effectively keep them subjugated as outsiders within a system reliant on handouts, causing further resentment and exclusion. In the case of all vulnerable groups, policies directed towards their empowerment are to be welcomed. However their content, approach, and objectives need to be considered carefully.

### 2.3. Social Services

While providing quality and affordable health and education services is a key element for eradicating poverty and improving wellbeing for all people, investment in human capital has been seen as of particular importance for minorities, indigenous peoples, women, and girls. The gains to be made from the investment in services for these groups are individual and collective. For example, if African countries had closed the gender gap in schooling between 1960 and 1992 as quickly as East Asia did, it may have produced close to a doubling of per capita income growth in the region.<sup>10</sup> Educated women are more likely to engage in productive activities and enjoy greater returns from them than uneducated women. Similarly minorities and indigenous peoples that are fully immersed in a society add to the economic clout of that society and increase the size of the consumer base and market. Ensuring the education of women is likely to increase investment in the education of their own children and is also likely to result in fewer children, easing population pressure. Thus investment in human capital has positive short and longer-term outcomes and is good for both productivity gains and population decline. While education is important for economic growth, equality of access to all levels of education should be a goal in itself, and education should be used, not just to improve productivity, but to promote social justice and to challenge social norms. Inequality of access to secondary and higher education persists, as does limited engagement of girls in the study of science and technology, limiting the future life and employment options of adolescent girls.

As one in 7 girls gets married before the age of 18 in the developing world, early and forced marriage remains a key issue and an important factor limiting young women's engagement in both education and economic activities.<sup>11</sup> It occurs mostly among excluded communities such as minorities and indigenous peoples. There's a strong link between education and women's ability to

<sup>8</sup> Chant, S. (2008). The 'feminisation of poverty' and the 'feminisation' of anti-poverty programmes: Room for revision? *Journal of Development Studies*, 44 (2), 165–197.

<sup>9</sup> Molyneux, M. (2007). Two cheers for conditional cash transfers. *IDS Bulletin*, 38(3), 69–75.

<sup>10</sup> World Bank Gender and Development Group. (April 2003). Gender Equality and the Millennium Development Goals. Washington D.C.: World Bank. Available online at: <http://siteresources.worldbank.org/INTGENDER/Publications/20169280/gendermdg.pdf>

<sup>11</sup> United Nations Population Fund. (2012). From Childhood to Womanhood: Meeting the Sexual and Reproductive Health Needs of Adolescent Girls. Available online at [https://www.unfpa.org/webdav/site/global/shared/factsheets/srh/EN-SRH\\_fact\\_sheet-Adolescent.pdf](https://www.unfpa.org/webdav/site/global/shared/factsheets/srh/EN-SRH_fact_sheet-Adolescent.pdf)

control their fertility. Paid work can also promote greater recognition of sexual and reproductive rights among women and greater ability to make decisions about their own fertility. This is important since even when reproductive health services are provided, this is not usually enough to ensure women's ability to access them. Men often decide if and when to have children, with large numbers of children still read as a sign of male fertility and power, becoming more important when masculinity is threatened.<sup>12</sup> In many cultures, discussion of sexualities remains taboo, denying access and rights to those who do not conform to the heterosexual norm. The sexual and reproductive rights of adolescent girls in particular may be overlooked and they may be denied access to reproductive health services if they are unmarried.

Women's groups and movements across the globe continue to promote the need to respect and defend women's sexual and reproductive rights and are fundamental to promoting these rights, though many find themselves under threat for this emphasis. It remains imperative that adequate reproductive health services are provided for all, that there is a formalization of sexual and reproductive rights as such, and legal protection is provided for those that seek to promote these contested rights.

#### 2.4. Domestic Legal Frameworks

While human rights have been successful in norm creation, awareness raising, and establishing rights on the agenda of the international community, the mechanisms have had limited impact on many of the issues above due to a host of factors, including:

- The nature and content of the frameworks created;
- The manner in which they have been applied;
- The failure to heed the voices of excluded communities, especially women as a group and women from excluded communities, and;
- The hesitation on the part of the chief actors including States and the international community towards a focus on domestic implementation of international standards.

The administrative systems in over 70 percent of the world's States derive from Western models, usually disseminated through colonial practices.<sup>13</sup> This has restricted the number and types of models available and has often established Westernized administrative systems in places far removed from their origin. The lack of technology and access in the past restricted the extent to which Southern models could be studied, adapted, and adopted. Yet many postcolonial societies have struggled hard against inequalities and social exclusion and have learnt important policy lessons in the process that need to be disseminated. This is perhaps most obvious in the context of the administrative mechanisms that are being developed and applied in various parts of the world.

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<sup>12</sup> Bradshaw, S. (2013). Women's decision-making in rural and urban households in Nicaragua: the influence of income and ideology. *Environment and Urbanisation*. 25:1, 81-94.

<sup>13</sup> For a series of books that examine such legal systems, see:

1) Castellino, J. and Dominguez Redondo, E. (2006). *Minority Rights in Asia: A Comparative Legal Analysis*. Oxford University Press. 2) Castellino, J. and Keane, D.P. (2009). *Minority Rights in the Pacific: A Comparative Legal Analysis*. Oxford University Press. 3) Castellino, J. and Cavanaugh, K. (2013). *Minority Rights in the Middle East*. Oxford University Press.

With many States calling for technical co-operation in the field of human rights, it is important that alternative models are proposed, always reserving a strong voice for civil society.<sup>14</sup> The pooling of global administrative experiences is likely to yield results and will give the task of human rights implementation the feel of a shared journey among States, and between States, international organizations, and civil society. Both international and grassroots human rights groups work through lobbying governments and keeping pressure upon them to fulfill the international human rights obligations. While such 'naming and shaming' can highlight poor implementations and violations, it offers little by way of concrete solutions and models to address the implementation gap. The UN Human Rights Council's Universal Periodic Review has demonstrated that tools other than naming and shaming are effective for greater recognition of rights. This may be particularly the case in gender terms where cultural norms need to be balanced against Western values.

Justice systems rarely meet the needs of specific groups of women, and indigenous women and women from other marginalized groups face particular discrimination and violence.<sup>15</sup> Sexual, emotional, and physical violence and the threat of violence limits women's mobility, confines women to the home, and keeps them from engaging fully in processes of social and economic development. Women and girls remain unable to access justice and to use the existing legal standards, given that in many countries there are still laws that discriminate against women in relation to the family, property, citizenship and employment. The overt focus on individual rather than collective rights, derived from Western origin laissez-faire governance models, does not help confront such social exclusion which needs instead collective solutions since the violations inevitably have a communitarian element. Disconnecting it from this context will allow stronger voices to gain their rights while leaving others behind. Reliance on advocacy as the sole tool available to gain rights may result in excluded communities slipping further away from social policy makers if the only way to gain their rights is through expensive inaccessible processes. Legislative processes are also ineffective for most vulnerable communities whose access is limited by their relative exclusion from political participation and weak access to justice. Some are sensitive to their causes and try to pass laws that seek to promote social inclusion and political participation. Against this any focus on communitarian and collective rights needs to be particularly mindful of the extent to which stronger voices within communities articulate collective positions to the exclusion of other segments of that population. The impact of this is most visible in the case of women and thus any indicators developed on collective rights would need to be gender-sensitive.

The differential access to and control over resources and to social services, coupled with current constructions of both the macro-economic and legal frameworks, reproduce rather than tackle structural inequalities that are the root causes of poverty and limit wellbeing. These inequalities may be further exacerbated by ongoing global trends such as climate change, conflict, and financial crises.

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<sup>14</sup> Dominguez Redondo, E. (2012). Universal Periodic Review: Is There Life Beyond Naming and Shaming in Human Rights Implementation? *New Zealand Law Review*, 4, 673-706.

<sup>15</sup> United Nations Permanent Forum on Indigenous Issues. (2013). Study on the extent of violence against women and girls in terms of article 22(2) of the UN Declaration on the Rights of Indigenous Issues. E/C.19/2013/9.

### 3. Global Processes Exacerbating Gender Inequality and Social Exclusion

A long-term perspective to 2030 and beyond needs to address some of the following trends likely to impact gender equality, social inclusion and human rights.<sup>16</sup>

- Environmental degradation

Ongoing environmental degradation will have a strong impact on the poor and marginalized populations who are often further away from accessing any potential remedies to such degradation. Vulnerable populations tend to (i) depend the most on natural environment for their livelihoods, (ii) live in areas that are particularly prone to environmental degradation; and (iii) are least able to protect themselves against the effect of environmental degradation. Given their lower asset base, women farmers may be most affected by climate change, and while having the knowledge, may be least able to adopt appropriate adaptation strategies.

- Conflict over scarce resources

Conflict over scarce resources is likely to become more common and intense as population pressure, local environmental degradation, and global environmental change (in particular climate change) combine to put pressure on vulnerable communities. The resulting fragility is evident in the drylands where pastoralist communities often compete with sedentary farmers over scarce water resources and grazing grounds and in mining communities. Post-conflict and post-disaster individual and institutionalized land grabbing is an important problem facing the poor and vulnerable, including women and girls who may lose their rights to access to and control over land.

- Demographic changes and fertility rates

Population growth and fertility rates tend to be highest in poor countries and among poor people, particularly in rural areas. In addition to living in subsistence conditions, this places inordinately high burdens on women in particular, curtailing their contribution to every other aspect of community life relegating them to second-class status within communities. Having large numbers of children early in life increases maternal mortality, disempowers women, lowers per capita investments in children, and increases child mortality rates and poor education outcomes.

- Voluntary and Forced Migration flows

Human migratory flows will likely grow in volume and involve the movement of men and women, as well as families. They are likely to become more dispersed with growing numbers of people seeking refuge in today's emerging countries. Such flows create misery for many migrants, especially women, leaving them, in situations of isolation and vulnerability. They also put pressure on weaker populations in host countries, sowing the seeds for conflict and putting a downward pressure on wages and impacting labor markets. They also deprive the migrant countries of dynamic and relatively well-educated people (brain drain). The rise of human trafficking results in the degradation of fundamental human rights, particularly for women and girls.

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<sup>16</sup> See the SDSN's *Framework of Sustainable Development* (December 2012) and the *Action Agenda for Sustainable Development* (June 2013). Available online at: <http://unsdsn.org/resources/>

- Urban growth

It is estimated that around 64 percent of the developing world and 86 percent of the developed will be urbanized by 2050. Urbanization puts pressure on existing communities and their socio-economic organization, creating new vulnerabilities for women, children and the aged, who often have to manage a household's scarce resources or are relegated to work in precarious conditions for wages below subsistence levels. Uncontrolled urban growth is also creating a peri-urban culture where people live in unsanitary conditions that pose major health risks and a threat to the environment. The desertion of rural communities by the youth, leaving only the aged, women and children behind, poses a great threat to food security and agricultural production in general. Efforts by governments to provide basic social amenities in rural communities and incentives to reverse or stall the rural-urban drift will be critical to dealing with this challenge.

- Corruption

According to the African Union, more than US\$148 billion is lost to corruption in Africa every year, equivalent to 25 percent of Africa's GDP.<sup>17</sup> Corrupt public officials receive between US\$20 and US\$40 billion in bribes annually, which is equivalent of 20 to 40 percent of official development assistance. Further, based on a study conducted in 41 countries, the Anti-Corruption Catalyst report finds that where more bribes are paid, there is a lower literacy rate among 15 to 24-year olds.<sup>18</sup> A rise in reported bribery is also associated with higher maternal deaths in 64 States, regardless of a country's wealth or how much it invests in health. Data for 51 countries show that people's access to safe drinking water falls as bribery increases. Such data highlight the deep interconnections in the relationship between corruption, human rights, and poverty. Suppression of civil and political rights, such as access to information, freedom of expression, assembly and freedom of movement, denies citizens the means to expose and prevent corruption, while the festering of corruption leads to violations of ESC rights. There is therefore the need to curb corruption to provide social capital for the poor to deal with social exclusion and lack of power to influence their lives.

- Armed violence

As voices for democracy have grown, non-democratic regimes such as those in the Middle East and North Africa have come under increased pressure to change from within their populations. While the voices of protest need to be understood and supported in their legitimate quest for greater participation and equality, protests in autocratic societies create a precarious environment in which minorities and women are increasingly threatened. Indicators suggest that such protests are likely to rise as populations gain greater voice and seek to participate in a robust manner to make their communities fairer. The threat of violent responses to these protests has grown. Governments increasingly view protests with suspicion and seek to quell them in every manner available. Having a proactive international approach to securing lives and values in the context of such transitions is imperative or the short-term quests towards democracy could undermine the rights of all.

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<sup>17</sup> African Union. (2012). Report of the African Union Advisory Board on Corruption Advocacy Mission to the Republic of Ghana on Implementation of the African Union Convention on Corruption. Available online at: <http://sp.au.int/ANTICOR/resources/documents/report-african-union-advisory-board-corruption-advocacy-mission-republic-ghana-i>

<sup>18</sup> Transparency International. (2010). The Anti-Corruption Catalyst: Realising the MDGs by 2015. Available online at: <http://www.transparency-usa.org/documents/AntiCorruptionCatalystRealisingtheMDGby2015.pdf>



- Austerity and Crisis

Economic and financial crises cannot be seen in isolation from food, fuel, water, environment, human rights, and care crises. During the recent financial crisis, measures to protect the poor through employment programs have not considered the gendered dimensions of crisis. Yet women may have been more severely affected than men and in more diverse ways. Women face particular risks during conflict and disaster, and climate change may increase these risks. In particular, the risk of physical and sexual violence may increase. Agencies not only fail to protect women and girls but their reproductive and their productive needs are often overlooked in crisis response and peace-building.

#### 4. Pathways toward sustainable development

While the global processes described in the previous section suggest a bleak future, the post-2015 process represents a real opportunity to make policy-oriented decisions that address these issues. There are positive lessons to be learned from those already seeking to overcome these obstacles and potential solutions to what seem to be insurmountable problems may lie in these small scale and local initiatives.

- Physical security

The right to physical security is a fundamental human right without which any economic growth gains, improved incomes, and services provided would be meaningless. In recent years, large magnitude natural disasters have impacted the lives of many, leaving death, disability and destruction in their wake. The 2010 earthquake in Haiti demonstrated how the lack of development could make populations more vulnerable and less able to recover. Hurricanes Katrina and Sandy highlighted that even developed nations are not immune and that minority and indigenous communities are often disproportionately affected. Across the globe, many live in insecurity, in fear of violent attacks or going about their daily lives under siege. The line between combatant and civilian has become blurred, making the ability to ensure physical security increasingly difficult. Some recent international humanitarian interventions have shown that those that aim to protect may now be as much targets as welcome providers of relief. Much like health has been constructed around illness rather than wellbeing, the global focus has been on conflict or disaster rather than human security. There is need to change this conceptualization if the right to physical security is to be attained. At present, there is a separation between humanitarian actors who provide relief during and immediately after an event and development actors who enter later once peace is established or normal services resumed. The **UK's** Department for International Development's (DFID) recent call to embed humanitarian actions into development and to disaster-proof development is a step forward in this context, especially when linked with its recent work on understanding conflict and disaster as gendered experiences.<sup>19</sup> Changing conceptualizations of physical security need to recognize that, for instance, the threat to women in situations of unrest and conflict is as much from sexual as physical violence and violence post-disaster may pose as great a hazard as the natural event itself.

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<sup>19</sup> UK Department for International Development. (2011). Humanitarian Emergency Response Review. London, UK: DFID. Available online at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/67579/HERR.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/67579/HERR.pdf)

- Eradication of Gender-Based Violence

Gender-based violence (GBV) is widespread and undermines human rights by (i) directly hindering the enjoyment of rights by the victims, (ii) failing to support equality in all aspects of life, and (iii) creating a culture of fear and domination that significantly undermines the ability of girls and women to play a full and equal role within society. While the right to live free from violence is fundamental, tackling such violence is hindered by deep-rooted cultural traditions. Upholding women's rights challenges patriarchal norms that accept male violence against women as normal. The characterization of such violence as domestic violence further constructs it as a private, not public matter, and therefore somehow outside jurisdiction.

Many countries are working to improve the rate of reporting of gender-based crimes and increase convictions through integrated and specialized services to address women's access to justice and more efficient handling of gender-related crimes. These include reforming services at police stations and courts to ensure survivors are treated with respect, as well as protocols for collecting and collating evidence, and the sensitive handling of the survivors of sexual violence and abuse. The more successful programs employ specially trained individuals who guide clients through the entire process, including medical treatment, reporting, bringing a claim in court, and assisting in prosecutions. Although such programs can help all women, they are particularly important for women living in poverty, who face more daunting obstacles in accessing justice.

One solution is such a one-stop approach to reporting on GBV: increasing the rates of convictions and creating a nuanced understanding of the specific needs of women in accessing the justice system. In **Brazil**, the Delegacias Especiais de Atendimento à Mulher are women's police stations.<sup>20</sup> Operating across 420 local jurisdictions, they provide immediate assistance to survivors of sexual violence, undertake enquiries, and steer cases through Brazil's otherwise complicated criminal justice system. The proliferation of these women's police stations has been credited with raising awareness of violence against women, increasing the reporting of GBV and creating a high visibility bulwark against the prevalence of GBV. In **South Africa**,<sup>21</sup> the Sexual Offences Courts and the Thuthuzela Centres<sup>22</sup> have streamlined the handling and prosecution of cases of sexual abuse through the instigation of integrated investigatory processes, the dispensation of the necessary health care, and the provision of counseling, legal, and police services. This program sends a clear message in terms of societal values and has already increased conviction rates. It has also reduced the average duration of proceedings to six months, where it would previously take between three and five years. The advantage of having women at the focal point is also in itself empowering and provides greater efficacy to the process of gaining rights for all.

Legal and judicial changes could form catalysts for change in eliminating gender-based violence. However for far-reaching, lasting change to be achieved, these need to be reinforced with campaigns such as the White Ribbon Campaign (**USA**) and the Man Up Campaign (**Guyana**). Media

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<sup>20</sup> UN Women. (2011). Progress of the World's Women 2011-2012: In Pursuit of Justice. New York: United Nations.

And see the website of the Government of Brazil at <http://www.defensoria.sp.gov.br/dpesp/Default.aspx?idPagina=3355>

<sup>21</sup> Quast, S. (2008). Justice Reform and Gender. In M. Bastick & K. Valasek (eds.). *Gender and Security Sector Reform Toolkit*. Vienna, Austria: OSCE. Available online at <http://www.osce.org/odihr/70294>.

And see the website of the Government of South Africa at [http://www.info.gov.za/events/2009/TCC\\_2009.pdf](http://www.info.gov.za/events/2009/TCC_2009.pdf)

<sup>22</sup> More information available at [http://www.unicef.org/southafrica/hiv\\_aids\\_998.html](http://www.unicef.org/southafrica/hiv_aids_998.html)

have a key role in the dissemination of information and education. So-called ‘edutainment’ programming that injects social messages into TV and radio soaps have proved popular and powerful means of changing understandings of violence in countries as diverse as **Nicaragua** (Puntos de Encuentro/Sexto Sentido), where knowledge and understanding of the law protecting women from violence was increased through the program, and in **South Africa** (Soul City), where the depiction of people beating pots and pans outside a neighbor’s house when the man was beating his wife proved a particularly inspirational depiction. Such programming, while costly to make, reaches wide audiences, with a range of messages.<sup>23</sup> Such programs provoke discussion, influence social convergence around societal norms, and depict actions that individuals can take to improve wellbeing and claim their rights.

- **Guaranteeing Legal identity**

Social exclusion often occurs because vulnerable communities are beyond the reach of existing administrative mechanisms, commencing from a failure of registration at birth. Bereft of registration, individuals and swathes of communities are left in a void, unable to access available rights, and not reflected within the statistics for that society. While many international agencies have sought to focus on the registration of the birth of every child, this call has often been less heeded by national authorities, and not monitored closely by international bodies. Yet in order to tackle social exclusion, this is a vital step without which another generation could be excluded. Concerted efforts are required to understand the barriers to registration and to understand the broad geographic element to failures of registration. Among those who experience failures of registration are the most vulnerable excluded groups: ethnic minorities, indigenous peoples, stateless communities, persons with disabilities, and undocumented migrants. Particular attention needs to be paid to gender within excluded communities, since lack of registration of the girl child is often linked to the perception of her limited value to the family and society. The antidote to registration failures lies in making such processes free, simple to access and understand, and available at the most local of levels. The success of registration processes can be gauged by whether they provide multiple registration avenues and by the cost of such processes. Technological improvements could yield mobile registration units, door-to-door outreach programs, integration of registration services in hospitals, reproductive health services, vaccination programs, local stores and banks. **Cambodia** has seen a dramatic improvement in mass registration through such processes thanks to a partnership between the Government and international actors which resulted in a mass mobile registration campaign, bringing 12 million unregistered people within the fold from 2005 to 2008. Data from Plan International highlights the variety of measures used, details the reforms that were made to the registration law, and explains the community awareness campaign that enabled full access by ensuring a large volume of volunteers who were mobilized to engage in the mass campaign.<sup>24</sup>

- **Enabling Access to and Control over Resources**

Across the globe, women earn less over their lifetime than men for comparable employment. Minorities and indigenous peoples, by virtue of a lack of access to higher education and better-paid

<sup>23</sup> Lacayo, V. and Singhal, A. (2008). Pop Culture with a Purpose: Using Edutainment media for social change. Den Haag, The Netherlands: Oxfam Novib/KIC. Available online at: <http://www.awid.org/Library/Pop-Culture-with-a-Purpose!-Using-Edutainment-Media-for-Social-Change>

<sup>24</sup> Plan International. (2008). Impact of the universal birth registration campaign. Available at: <https://plan-international.org/birthregistration/resources/country-case-studies/cambodia>

jobs, also lag behind in national statistics. Women are disproportionately represented in agriculture and in the informal sector, where they often work under conditions that trap them in low levels of productivity. Two major constraints that maintain this status quo are the lack of access to land and credit for women, minorities, and indigenous peoples. While the spread of micro-credit programs has begun to address women's lack of capital, these have not been targeted towards minorities and indigenous peoples to the same degree. Women and minorities, including minority women, remain land-poor. In the case of indigenous peoples, traditional claims to territory have been overturned and fundamental questions remain around as to how traditional ownership over lands and its resources can be recognized.

Although no reliable figures exist, it is estimated that land ownership by women is less than 10 percent worldwide, while 50 percent of the total workload in planting and in care for domestic animals is carried out by women in Sub-Saharan Africa.<sup>25</sup> Reasons for low ownership of land among women vary. Rights to land and property are a complex issue and simply issuing titles does not change the underlying social factors that determine who is seen to have the right to it. Property ownership is often considered to be a relationship between people and things, but property relations actually signify a relationship between people and people. Claims to use and dispose of land arise from social relations and they can be built through fulfillment of social obligations of, for example, a wife to her husband or other relatives. Often obligations are related to whether the person is seen as able to farm the land, with social norms effectively negating women's access. The need for women to have male protection means that even when she can own land herself, she will give land to brothers or husbands to ensure this. In the indigenous context, traditional claims, often undocumented, clash with land tenure systems and registration processes that arrived with colonial rule or settlers and often misappropriated indigenous lands through subterfuge. With multinational companies, especially in the mining sector, keen to gain licenses to explore in such territories, many clashes are emerging. In response, the post-2015 framework should endorse the principle of free prior informed consent for all decisions pertaining to indigenous territories.

Ultimately, to bring change in land tenure systems and make them more inclusive, fundamental changes may be required to determinations of ownership. Many countries still restrict ownership of property to men. Some land registration policies assign ownership to a male household head and inheritance norms favor the traditional practice where land is passed down to sons. Some governments have begun to recognize the need for proactive intervention in order to change women's continued exclusion from land ownership. In **Ethiopia** the government has distributed over 20 million land use certificates, requiring that land needs to be held jointly by husbands and wives, which promises an improvement towards the empowerment of women, paired with increases in land-related investments. Comparative analysis from Honduras and Nicaragua support this and a positive correlation can be found between women's property rights and their overall role in the household economy, facilitating greater control over agricultural income, higher shares of business and labor market earnings, and more frequent receipt of credit.<sup>26</sup> Other studies suggest that young women understand the importance of land holding. A study in Mexico found that young unmarried

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<sup>25</sup> Göler von Ravensburg, N. and Jacobsen, I. (December 1999). Gender Responsive Land Tenure Development. Germany: GTZ. Available online at: <http://www2.gtz.de/dokumente/bib/00-0152.pdf>

<sup>26</sup> Katz, E. and Chamorro, J.S. (2002). Gender, land rights and the household economy in rural Nicaragua and Honduras. Paper prepared for USAID/ BASIS CRSP. Madison, Wisconsin.

female wage earners looked to buy land as an investment for the future, knowing that such a purchase would improve their bargaining power in marriage.<sup>27</sup> In the final analysis the post-2015 agenda needs to adopt a robust approach in combatting social norms that deny marginalized groups access to land.

- Providing Access to Decent Work and Livelihoods

Employment generation is a key component of any development model, but in order for such a model to be just, the employment needs to obey minimum core labor standard thresholds including non-discrimination, absence of forced and child labor, and the freedom of association and collective bargaining. In addition, it must offer fair wages and decent working conditions. Labor rights have been severely jeopardized in a globalized labor market where firms compete for cheap labor and where unions and workers' rights are considered an obstacle imposing undue cost. Workers within the informal sectors often lack basic labor rights and work under conditions that violate basic standards governing decent work. While the informal sector is problematic in terms of the lack of safeguards, it can provide the only means of survival for many households, and for some commentators, it is the real engine of growth that will spawn the future entrepreneurs. The lack of rights enjoyed by many workers in the formal sector also means there has been a blurring of the distinction as the formal becomes more informal through outsourcing. Much of this work is undertaken by women in their homes, but young women are also a favored workforce. This is especially true in textiles and electronics factories where women's perceived natural ability to undertake detailed repetitive work, maintain high productivity over long hours, and command low wages make them an obvious choice. The inclusion of women in the labor force, albeit in part time, menial, poorly paid, and low status jobs, contrasts with the rise in male unemployment and under employment. This erosion of the male provider/protector role in part explains the crisis in masculinity documented in the academic literature.<sup>28</sup> Such crises can cause a backlash against women, as men sometimes reassert their power in the private sphere through violence. Young men in particular may suffer such crises, resulting in overt displays of maleness especially where unemployment is high and male educational attainment is lower than for girls. There is then the need for a concerted effort to ensure jobs for young women and men. These jobs need to be decent and dignified and reflect the fact women and men may need and want to dedicate time to raising a family, especially when their children are young.

Trade unions remain the most effective mechanism for ensuring just wages and decent working conditions. In recent years, new types of unions have sprung up, in particular among women workers, that take account of the diverse range of dependencies among workers. For example, the Self-Employed Women's Association in **India** represents informal sector workers who work on their own account and in sub-contracting arrangements. This union of the self-employed demands labor rights for its members, while at the same time organizing access to credit, childcare, and insurance. The Federación Nacional de Trabajadoras del Hogar de **Bolivia** offers a similar example. Drawing on legal provisions in CEDAW, this union of domestic workers has successfully achieved legislation giving domestic workers basic rights. It is now working to assure that its members can access their

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<sup>27</sup> Deere, C. D. and León, M. (2001). *Empowering Women: Land and Property rights in Latin America*. Pittsburgh, PA: University of Pittsburgh Press.

<sup>28</sup> Chant, S. and Gutmann, M. (2000). *Mainstreaming men into gender and development: debates, reflections and experiences*. *Oxfam working papers*. Oxford, UK: Oxfam Publishing.

rights. These new types of unions contribute importantly to making development socially sustainable.

- Ensuring Access to Public Services

An overt focus of the future Sustainable must be on the eradication of extreme poverty, which is a human rights violation in itself and is the primary obstacle to the enjoyment of all other rights in many societies. Social protection mechanisms such as cash transfer schemes, public work programs, school stipends, social pensions, food vouchers and food transfers, and user fee exemptions for health care and education established in the most impoverished and unequal societies have demonstrated how persistent inequality can be mitigated. These experiences make a strong case for embedding broad-based social protection systems in national social policies, as already visible in the Productive Safety Net Programme (**Ethiopia**), the Mahatma Gandhi National Rural Employment Guarantee Scheme (**India**), the Challenging the Frontiers of Poverty Reduction (**Bangladesh**), and the Pilot Social Cash Transfer Scheme (**Kalomo District, Zambia**).

School meal programs in **India, Brazil** and **Paraguay**, and the distribution of food baskets have played an important role in reducing the prevalence of hunger. Social protection programs have also contributed to the realization of the right to education, allowing families to absorb costs associated with schooling through school feeding initiatives that provide fee waivers and subsidies as best demonstrated through the Oportunidades program in **Mexico**. Several studies demonstrate the contribution of such investments to increasing school enrolment rates, number of accumulated education years, and peer pressure that encourages non-beneficiary families to send their children to school.

There is strong evidence collected through the offices of the UN Special Rapporteur on Extreme Poverty focused on Latin America to indicate that greater family access to risk management instruments (unemployment benefits, disability benefits, etc.) directly reduces the prevalence of child labor. In the context of health, such transfers have increased the regularity of medical check-ups, reduced child mortality, improved prospects for immunization, and reduced regular illness and deaths. The **Peruvian** cash transfer program Juntos has had a particularly salutary effect on maternal health, reporting an increase of 65% in prenatal and postnatal visits to health clinics and a reduction of home births in an area that previously showed high levels of maternal mortality.

In many instances, women have been targeted as the beneficiaries of these programs - the assumption being that they are responsible for taking young children for health checks, ensuring their health and wellbeing, and making sure children attend school. Care needs to be taken to ensure that such programs do not reinforce gender stereotypes around women's carer roles, marginalizing men and their role in the unpaid economy. Not all programs have been gendered in the way Oportunidades is, offering greater financial incentives to families to send girls to secondary school. Where conditions do apply to transfers, these should specifically target girls and particularly the secondary education of girls. Another such program, the Bangladesh Female Secondary School Programme, not only paid school fees but also offered a financial incentive directly to the girls. Payment was conditional on a number of factors, including on young women remaining unmarried until the age of 18. While the aim of limiting early marriage is a laudable, the conditions may not be compatible with a rights approach and due attention needs to be paid to

bringing real, not imposed change. Some programs have provided adult women with resources such as pre and postnatal care. Limiting services to maternal health does not provide access to reproductive health services and does not actively promote women's reproductive health rights to decide the timing and spacing of children or their sexual rights to enjoy a healthy sex life. There is then still a need to promote programs that focus on women's needs and provide services for women, as rights, not as an add on to other programs.

The impact of social protection programs varies depending on their objectives, design, and level of institutionalization. The level of development of the countries where they are implemented is also a significant factor. The need for conditions is another factor that has been debated in ethical as well as practical terms, and the utility of making payments conditional on schooling or health outcomes is itself dependent on a number of factors. Yet whatever the criticisms, there is no denying that these systems reduce the prevalence and severity of poverty, improve social cohesion, reduce inequality, and have the potential to contribute towards the creation of sustainable and equitable societies. Transferring resources to those in extreme poverty allows beneficiaries to generate income, protect their assets, and accumulate human capital. Even in OECD countries, it is estimated that levels of poverty and inequality are approximately half those that might be expected in the absence of social protection. The idea of social protection has also gained increasing political support in the development and poverty reduction discourse. The idea of non-contributory minimum social protection crystallized in 2009, when the Heads of United Nations Agencies launched the Social Protection Floor Initiative as one of nine joint initiatives to cope with the global economic and financial crises. It has since received support at the UN Millennium Summit (2010) in the G20's Cannes Summit Final Declaration (2011) and in the form of ILO Recommendation No. 202 (2012).<sup>29</sup>

- **Guaranteeing Access to Information**

Technological change offers new opportunities for delivering social services and income opportunities for the poor. At the same time, it is endangering the rights and freedoms of individuals, particularly women and low-paid workers as it changes the nature of their jobs, increases a skill premium, and promotes the "winner takes all" effect. As a result, inequalities within countries are likely to rise unless counteracted by active policies. Any developmental policy that is sensitive to the needs of social inclusion has to include a focus on technology, since it tends to be harnessed and used to the exclusion of marginalized, excluded, and vulnerable communities. A concerted policy focusing on women and technology is required to ensure that women are the beneficiaries of technology, as well as able to contribute to its development and dissemination.

The articulation of rights frameworks tends to place little emphasis on accessibility to information, especially legal information. For a system that still relies heavily on legal advocates claiming rights from recalcitrant governments, the lack of information flows concerning rights and remedies harms the prospect of the poorest communities gaining redress. Mainstreaming rights education and disseminating it through a variety of means, including through adult learning, is crucial for the empowerment of excluded communities. Legal and other materials elaborating human rights are

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<sup>29</sup> Social Protection Floor Advisory Group. (2011). Social Protection Floor for a Fair and Inclusive Globalization. Geneva, Switzerland: International Labour Organization. Available online at: [http://www.ilo.org/global/publications/books/WCMS\\_165750/lang--en/index.htm](http://www.ilo.org/global/publications/books/WCMS_165750/lang--en/index.htm)



often written in complex formats using legal language that excludes accessibility by the most vulnerable populations. The SDG framework should encourage countries to simplify and translate materials such as constitutional rights and explanations of basic civic and administrative systems into local languages to ensure that they are available and comprehensible to those that need it most. It is also imperative that public services incorporate mechanisms for advice and complaint using multiple communication channels so as not to leave individuals vulnerable to powerful administrators and to overcome problems concerning literacy. Special attention needs to be paid to the extent to which any facilities developed are accessible by women.

- Facilitating Access to Justice

Many societies have worked to provide paralegal services to the most vulnerable groups. Being educated to a basic level and located close to communities, paralegals have played an essential role in providing administrative remedies that would be too costly otherwise. Paralegals reduce reliance on free legal aid, leaving such aid for use in the most egregious violations of human rights. The equipping of paralegals with skills concerning the laws in operation and on counseling could assist socially excluded communities in accessing processes that would otherwise be unfamiliar to them. In addition, they make the legal system more efficient, eradicating the matters that can be addressed more swiftly from the overburdened justice system. In this way, they increase efficiency, reduce caseloads, divert untenable claims away from the courts, and improve the effectiveness of judicial and police procedures by holding officials to account. Paralegals could also contribute to educating communities about their rights and making them aware of the range of remedies available to them. The 2012 Kampala Declaration on Community Paralegals supported by over 50 African organizations and over 20 countries is testimony to the importance given to this issue in Africa.<sup>30</sup> The Declaration urges governments to strengthen access to justice across the continent and frames community paralegals as having an important role. These principles have already been put in place and applied in diverse societies. In **Kenya**, the Centre for Legal Empowerment (Kituo cha Sheria) implements a paralegal project in the Shimo la Tewa prison specifically fulfilling a gap left by the state's legal aid system.<sup>31</sup> The organization has trained 95 paralegals including 11 wardens, 10 persons on remand and 51 convicts. It has drafted over 400 applications and letters to Chief Magistrates and a significant volume of applications and appeals before High Courts in Malindi and Mombasa. The high success rate of these petitions has made the work of Kituo cha Sheria worthy of replicating in other settings. The organization's high profile victory for prisoners' right to vote in a 2010 landmark case has focused attention on this relatively ignored group. The Paralegal Advisory Service in **Malawi** operates in a similar manner in a country where less than 20 lawyers serve a population of more than 14 million. The service trains individuals in criminal law and procedure, interviewing skills, and information management, and the paralegals then provide legal advice, training and coordination between different justice agencies. The service has achieved 84% coverage of the prison population and has had dramatic effects in reducing the remand (under-trial) prison population.<sup>32</sup> A similar venture in **Sierra Leone** run by the NGO Timap for Justice (literally, Stand Up for Justice), commenced in 2003 has had a similar impact in pioneering community-based

<sup>30</sup> Available at: <http://www.namati.org/news/newsfeed/kampala-declaration/>

<sup>31</sup> For more information, see the Kituo cha Sheria website at: <http://www.kituo chasheria.or.ke/>

<sup>32</sup> Penal Reform International & the Bluhm Legal Clinic of the Northwestern University School of Law. (2007). *Access to Justice in Africa and Beyond: Making the Rule of Law a Reality*. Chicago, IL: Northwestern University School of Law. And Stapleton, A. (2010). *Empowering the Poor to Access Criminal Justice: A Grassroots Perspective*. In S. Golub (Ed.). *Legal Empowerment: Practitioners' Perspectives*. Rome: International Development Law Organization.

approaches to solving questions emanating within the judicial system. Timap's work is supported by lawyers who engage customary litigation mechanisms for redress of intractable legal issues; a capacity which provides greater efficacy to the work of the paralegals.<sup>33</sup> The impact of the organization can be seen in governmental recognition for the need to develop a national paralegal program based on the organization's work<sup>34</sup>, and has also been validated by the World Bank who found strong evidence of empowerment in Timap's work.<sup>35</sup>

- Increasing Public Participation and Involvement in Decision Making

The lack of effective political participation is a key reason why inequality and subordination are perpetuated for women, minorities, and indigenous peoples. Women and minorities often participate extensively in grassroots activism but formal politics is often beyond the reach of the marginalized and vulnerable. As a result, issues germane to their progress receive scant attention. Various forms of quotas have had some impact on the formal political participation of women and minorities. More than one hundred countries today have either party quotas, legislative quotas, or reserved seats for women in parliaments. Quota requirements are proliferating with regard to corporate boards where women's absence has been particularly noted. Countries that have implemented quotas have often seen a significant jump in the presence of women and minorities in formal politics. In **Rwanda**, a gender quota instituted in the aftermath of the genocide has led to the highest rate of women in parliament in the world. **India** also has long standing quotas for minorities (scheduled castes and tribes) and introduced gender quotas in local government through a constitutional amendment in 1993, with demonstrated effects on establishing women as leaders. While it is important to place women in parliamentary seats, it is clearly not enough to ensure a gender perspective – since a woman's key identity may be to her caste, class, ethnic group or religion, rather than to other women. Even when female parliamentarians promote gender issues, deep-seated discriminatory practices and patriarchal norms are difficult to change through top-down measures alone.

The involvement of women in informal political activities such as social movements and grassroots organizations may be a key for change. Women can not only be involved but also can shape the nature of that activism and have a real impact. Many examples exist of women lobbying for change, including changes to laws on violence against women, conditions of work, and other injustices. Women's voices may be more easily heard in the all-women spaces of the women's movements and they have been effective lobbyists on the international stage.

Yet while increasingly heard on the international stage, women's voices remain quiet in the domestic realm, and even when they earn an income, women struggle to turn income into voice. Households are not always sites of solidarity but can be sites of inequality that produce and reproduce gender inequalities of power. Although governments seek to regulate how people live and who they live with, they seem unwilling to engage with household dynamics. Most policies avoid dealing with men's 'bad' behavior in the household. In order to promote change, there is a

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<sup>33</sup> McCourt, K. (2009). Judicial Defenders: Their Role in Post-Genocide Justice and Sustained Legal Development. *International Journal of Transitional Justice*, 3:2, 272-283.

<sup>34</sup> Open Society Justice Initiative. (2010). *Between Law and Society: Paralegals and the Provision of Primary Justice Services in Sierra Leone*. New York: Open Society Foundations.

<sup>35</sup> Dale, P. (2009). *Delivering Justice to Sierra Leone's Poor: An Analysis of the Work of Timap for Justice*. Washington DC: World Bank.

need to work with men and women to establish shared responsibilities and to promote women's rights in the home as well as wider society. To achieve gender equality demands joined up initiatives linking economic and sexual reproductive rights, ensuring women are able to make decisions in the economic and intimate realms. The popular feminist magazine *La Boletina* in **Nicaragua** publishes articles written in a style that a woman with primary education can understand around topical economic, legal, political, and sexual and reproductive issues. It seeks to inform and educate, including reporting on laws and changes to laws, aims to promote women at the grassroots to claim their rights, and seeks to mobilize women during elections to use their votes.

An important mechanism to achieve women's political participation is their mobilization at election time and their inclusion in peacebuilding. For example, the Women's Platform for Peaceful Elections in **Senegal** was constituted at the beginning of 2012 to respond to the rising tensions and political violence witnessed ahead of the presidential elections. Arising from the a meeting of the African women of the 55 organizations constituting the Gender Is My Agenda Campaign (GIMAC), Femmes Africa Solidarité (FAS), which coordinates the network, set up a task force for early warning and early response, composed of Senegalese women's organizations, partner international organizations and women leaders from neighboring countries to launch a strong initiative of women for peace before, during and after the Presidential Elections in Senegal. It is common in societies in transition to enlist foreign observers who can guarantee the free and fair nature of elections. However the Women's Platform for Peaceful Elections conducted this role itself by getting trained women to act as observers across 13 regions of Senegal. The capacity building also tackled journalists who, alongside observers, could report on any incidents of violence or intimidation, and could collect gender-sensitive information on the elections. In keeping with the need to spread such good practice through the available technology, the Platform has also encompassed the establishment of an online platform of the Community of Practice on conflict prevention, creating Pan African access to these issues. As a way to enhance the promotion of gender equality and women's empowerment, they also established a Situation Room: a non-partisan space where women work together to foster peaceful co-existence, ensuring media messages on gender, peace and security during and after the electoral process, advocating for free, fair, peaceful and transparent elections, and encouraging the active participation of women in democratic processes in Africa. The Situation Room acted as a hub for coordination and command for the entire electoral process, including providing detailed analyses of the processes and identifying the need for real time reaction. The impact of such a movement has been significant in bringing women's voices to the negotiating table at important transitional moments as is worthy of replication across the world.

- Valuing Social Cohesion and Diversity

Inequalities are at the basis of social exclusion. To ensure an inclusive society involves actively working to provide marginalized individuals with the opportunities to improve their wellbeing and voice, and to ensure the collective rights of groups who have been discriminated against. Many developing countries have worked on unpicking persistent inequalities, usually through the Constitution. For example, **China** has sought to create administrative mechanisms to enable the ascent from poverty for millions of communities through a series of affirmative action and policy changes in education, political governance, and linguistic rights. Through affirmative action measures embedded in administrative laws that stem from basic constitutional guarantees of equality, **India** has sought to challenge culturally-ingrained inequalities underpinning caste-based

discrimination. **New Zealand** has worked to establish processes undoing historical violations that placed the Maori in a subjugated position to the Parekha (settlers) and institute remedies that challenge inequalities. **Lebanon** has attempted to create administrative processes to calibrate Christian and Muslim influences through consociationalism (a form of power sharing), while underscoring the need for such divisions to disappear over time. **Iraq**, emerging from the shadow of oppression and conflict, has sought to create mechanisms to accommodate Kurdish ambitions. African states such as **Uganda** and **Kenya** are engaged in detailed discussions concerning the efficacy of land tenure systems, and **South Africa** has demonstrated that socio-economic rights can be made justiciable through, for example, access to anti-retroviral drugs. **Colombia** has led the way in recognizing indigenous rights with echoes in **Mexico** and **Bolivia**, while **Brazil** has sought mechanisms to put the Bolsa Familia scheme on a firm legal footing. All these mechanisms ought to be studied and, where suitable and culturally appropriate, ought to be solutions to enable more inclusive societies.

- Engaging Other Key Actors

Traditional donors have a role to play in the post-2015 agenda, including providing financing for development, but new countries are becoming donors—while other options need to be explored. States need to take responsibility for their own social development. One interesting example of an effort to re-embed macroeconomics into social policy are gender budgets. NGOs in the **UK** and **South Africa** have generated budgets which analyze public expenditures and how these are distributed, keeping in view the needs of poor households and taking into consideration unpaid care work. They recognize that different people have different needs in different contexts and assess whether public budgets are structured adequately to meet such differential needs. They also consider the ways in which governments raise public revenue.

The private sector also has a role in financing development. However, while public-private partnership models have become popular service delivery options, this remains a need rather than rights-based approach to social service and public sector provision. The challenge is to ensure a rights approach from a profit led private sector. The growing importance of the private sector will challenge traditional models of State-led human rights instruments, as governments will need to negotiate policies with business, civil society, and other stakeholders. It is important to maintain that States are the principal duty bearers and remain the main providers or facilitators of the payment of remedies. The dangers of privatizing some elements of basic provision is that they may then be driven solely by market forces and fail to provide basic remedies required to those in vulnerable communities. Nonetheless there remains a significant role for the private sector, as critical bearers of duties to respect and foster human rights in their own policies and practices, in creating mechanisms to consult and engage with local communities, and in seeking to assist in the creation of robust mechanism that are human rights friendly. It is important that emphasis is moved from the creation of non-binding rules like corporate social responsibility to binding norms to regulate and control corporate activities, particularly in addressing issues of gender imbalance through the provision of decent and worthwhile work for women and men in the communities in which they operate.

While public-private partnerships may provide useful access to legal mechanisms for rights fulfillment, they could not replace the need to lobby for rights to be recognized through administrative rather than judicial channels for marginalized communities. Organized civil society has a key role to play

here. Similarly, while the market is a way that citizens can object to activities of private enterprises and institutions that are seen to violate rights, mass mobilization via consumer and social movements are not only more effective but bring the added bonus of improving social cohesion and democratic voice. Grassroots organizations and social movements need to be supported and their capacity built, through sharing of experience across and within national boundaries.

Civil society inputs remains crucial in ensuring that marginalized groups have a voice in the articulation of development policies post-2015. As news networks have become decentralized and as information flows have become less regulated due to advances in technology, it is now possible to hear more voices. In recent decades there has been increasing importance placed on listening to these voices and has resulted in significant improvements in the direction of policy as a wider range of stakeholders can bring influence to bear on policy making. As the risks of exclusion of marginalized communities grow, it is imperative that the mechanisms of the future provide adequate opportunities for civil society actors to engage with emerging processes.

- Measuring Social Inclusion and Access to Rights

Development measures have become significantly more holistic over recent years, moving away from narrow definitions of income poverty to wider notions of wellbeing. This ought to be advanced in the post-2015 agenda, specifically in ensuring that new measures, such as those that reach inside the household, are reflected in data. By comparison, human rights metrics have been negligent in creating accurate diagnostic tools. As a result, criticism of human rights performance is often rhetorical and single dimensional. There is a need to develop a human rights index – as a diagnostic tool to enable adequate comparison of human rights within States, while catering for other competing imperatives such as the opportunity cost of investing in health or other welfare. Such an index would show how technical support and policy change could have significant impact on human rights, gender parity, and social inclusion within each country.

## Conclusion

Stripped to basic principles, the social inclusion agenda to 2030 and beyond ought to be focused on guaranteeing fundamental equalities, and not merely on achieving minimal thresholds of non-discrimination. While the framing of certain socio-economic rights may contain norms of progressive realization, the duty of non-discrimination as a recognized fundamental norm of law is not subject to such caveats. It requires that systems treat everyone the same and is only justifiable when each individual or community starts from the same premise of equal access to opportunities and equal needs. But treating those who are different as the same perpetrates new inequalities undermining the human rights project.

This report has emphasized the need to ensure a rights rather than service-led agenda, placing de facto equality at the heart of the global sustainable development planning agenda. The SDGs must affirm the need to achieve gender equality, social inclusion, and human rights for all. In terms of framing all of SDGs, this requires that extra attention is paid specifically to the attainment of all targets and a careful scrutiny of all indicators for impact on vulnerable communities, defined (i) in

terms of gender, ethnicity, religion, disability, national origin, sexual orientation, and social or other status, with further attention to women within these communities; and (ii) to women as a category across all indicators, including in terms of the right of all women to healthcare, including sexual and reproductive health, education and income, the right to live free from violence.



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