

**Global Thematic Consultation on Governance and the Post-2015
Development Framework**

**Just Governance
for the World We Need**

A critical cornerstone for an equitable and
human rights-centered sustainable
development agenda post-2015

Beyond2015

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Executive Summary

Weak and illegitimate governance—both within and between countries—explains to a significant degree why the benefits of development are not equally shared nor sustainable over time, despite the existence of abundant material and human resources sufficient to enable people and future generations everywhere to live lives of dignity, free of disparity and deprivation. Governance breakdowns are even more acute in this new century. We live in an evermore interdependent, multi-polar and volatile world, with a proliferation of new development actors, a deepening sense of fragmentation in responsibilities, and still fewer trusted forums to ensure coherence around common social, economic and environmental values and goals.

As debate intensifies on the future of the post-2015 sustainable development agenda, participating organizations in Beyond-2015 came together to develop this joint position paper on governance, which advances the concept of just governance—a necessary precondition and prerequisite for an effective and legitimate sustainable development framework. Just governance is defined by six key, mutually-reinforcing dimensions, each with their associated implications for the post-2015 sustainable development framework. To be truly just, governance at all levels must be: 1) human rights-centred, 2) participatory, 3) transparent, 4) equitable, 5) guaranteeing of access to justice, rule of law and the fight against corruption, and finally 6) accountable. Just governance in this sense is not a matter of external imposition, but an indispensable precondition for ensuring that the equal rights of all people and the sustainability of the planet effectively guide all policy-making.

In a complex and multidimensional world, human rights help to delineate the respective obligations and responsibilities of governments and other relevant development actors, impelling decision-makers to be more responsive, providing information about their decisions and actions, and making them ultimately answerable to those to whom they are accountable. Governance in practice is often coloured by unequal relations of power, between the state and impoverished/discriminated groups, between the government and the private sector, and between small states and more influential ones. In this web of power relationships, abiding by international standards, particularly human rights and environmental standards, can help balance inequities, and provide a common language and standard by which to hold all actors accountable. In contrast to the historic asymmetries in responsibility for development embedded in the MDGs, which placed heavy burdens on poorer countries, the post-2015 framework must recognize the common but differentiated responsibilities for progress shared by all. Likewise, the new framework must be universally applicable in rich and poor countries alike, while also being tailored and adaptable to different national and sub-national circumstances, and remaining at the service of and owned by poor people themselves.

Recognizing that the respect, protection and fulfilment of all human rights—economic, social, cultural, environmental, civil and political—is both the purpose and the ultimate litmus test of success for the post-2015 sustainable

development agenda, just governance in the post-2015 era would first require a reconception of sustainable development goals not as needs and services but as rights accessible to all. These rights would involve common and differentiated duties clearly attributed to development actors—primarily governments but also including the private sector. Just governance post-2015 also implies that the new framework enables those most affected by poverty and inequality to shape the design, implementation and monitoring of sustainable development processes, outcomes, and the achievement of goals at all levels.

The right to information is likewise an essential prerequisite for a robust, informed public debate through which decision-makers become answerable to their people, and rights-holders are enabled to monitor and assess public and private sector conduct. The new development framework should stimulate open government reforms to laws and policies to ensure wide access to information relevant to peoples' lives, including information necessary for people to meaningfully participate in all stages of the legal reform, budget, fiscal, tax and development policy cycles. All development actors, especially the private sector, should equally commit to full transparency in their operations and accounting, especially regarding the payment of taxes and royalties, and the use and exploitation of natural resources. The ability to consistently monitor and review conduct of development actors against established responsibilities is an essential prerequisite for just and accountable governance. It is crucial then to have extensive and publically available measurements on the performance of governmental institutions, both of outcomes and of policy processes, evaluating their effectiveness in delivering results and the legitimacy of the processes through which these results are delivered. The post-2015 framework has the potential to stimulate more comprehensive and rigorous monitoring efforts, and motivate more disaggregated data collection to measure the differentiated progress and backsliding among various populations, especially those most excluded from the benefits of development.

Just governance likewise implies that the successor framework include an explicit focus on equality and equity across all development goals, geared towards ensuring that those who are most marginalized participate in the benefits of development. Building on decades of international commitments on financing development, the new framework should also include concrete commitments, especially from high-income countries, to allocate sufficient material and institutional resources and contribute to capacity building. Given the inherent link between accountability, representation and taxation, tax justice between and within countries should be monitored and strongly incentivized through any successor framework.

Finally, just governance implies accountable governance over all relevant actors at all levels, based on a clear accord regarding who is responsible for what post-2015 commitments. For accountable governance to be universally applicable as well as meaningful and effective over time, interactive systems of accountability need to be put into place as part and parcel of the post-2015 sustainable development framework.

Introduction: Just Governance for the World We Need

"We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected...Success in meeting these objectives depends, inter alia, on good governance within each country. It also depends on good governance at the international level and on transparency in the financial, monetary and trading systems." -United Nations Millennium Declaration, 2000

"Implementation of a post-2015 development agenda will depend, critically, on effective governance capacities at national, local and municipal levels, including political commitment and leadership; and on the legal and economic empowerment of people, especially those most excluded, and of their civil society organizations, to participate effectively in national and local decision-making." - UN System Task Team on the post-2015 UN Development Agenda¹

There is a wide consensus that good governance at all levels—from local communities to national assemblies to relevant intergovernmental bodies to the very halls of the UN and the IMF—is a necessary cornerstone for achieving equitable, sustainable and human rights-centered development. Conversely, there is wide agreement that weak and illegitimate governance—both within and between countries—explains to a significant degree why the benefits of development are not equally shared nor sustainable over time, despite the existence of abundant material and human resources to enable current and future generations everywhere to live lives of dignity, free of disparity and deprivation. This is even more acutely the case in our new century. We live in an ever more interdependent, multi-polar and volatile world, with a proliferation of new development actors, a deepening sense of fragmentation in responsibilities, and still fewer trusted forums to ensure coherence around common social, economic and environmental values and goals.

Widespread recognition and empirical evidence² has shown that governance—both at the sub-national, national and global levels—remains one of the foremost missing links in the achievement and sustainability of the MDGs.³ Many of the MDGs' unfulfilled promises can be attributed to fragmented, incoherent and unjust forms of governance. Lack of people's voices in policy design, implementation and monitoring along the whole line of accountability from the global to the national to the local levels, coupled with poor coordination across sectors, within and between governments, has constrained progress. National efforts to attain the MDGs, for example, are often housed in the foreign affairs department, far removed from legislative bodies or more directly accountable representative structures of government. At the global level, policy and resourcing decisions by some development actors—individually and in concert through international institutions—severely constrain governments from enacting effective and participatory sustainable development policies in the

¹ UN System Task Team on the post-2015 UN Development Agenda (2012). *Realizing the Future We Want for All* Report to the Secretary General. Online at:

<http://www.beyond2015.org/sites/default/files/Realizing%20the%20future%20we%20want.pdf>.

² See: Transparency International (2010). *The Anti-Corruption Catalyst: Realising the MDGs by 2015*. Online at: http://www.transparency.org/whatwedo/pub/the_anti_corruption_catalyst_realising_the_mdgs_by_2015.

³ At the MDG Summit in 2010, world leaders acknowledged that good governance at the national and international level is essential for sustained, inclusive and equitable growth and the eradication of poverty and hunger. See also for example UNDP. (2010). *The Path to Achieving the MDGs: a synthesis of evidence from around the world*. UNDP: New York; UNDP. (2010). *Beyond the Mid-point: achieving the MDGs*. UNDP: New York.

interests of all. At the same time, democratisation and good governance can too often function as a façade—more form and procedure than substance and fact—entrenching the privileges of a narrow elite, which bases its power on patronage, clientelism and corporate interests rather than broad, popular support. Even formal democracies often suffer from deep governance deficits, both domestically within institutions and across sectors, and globally through some countries' undue influence over others. This risks delivering more to those who already have, thus further widening gaps in income, dignity and status, deepening fragmentation and undermining equitable, sustainable and human rights-centered development. These national and global governance breakdowns partly explain the mixed performance on MDGs between groups and among regions in some of the countries that have reached the development targets nationally.⁴

To address the widespread governance gaps, then, and to ensure that the post-2015 sustainable development agenda is effective and legitimate, it is essential that the new framework (and each of its goals) be grounded on the firm foundation of *just governance*. Just governance is not only about ensuring every social group gets a slice of the proceeds of a prosperous world. Just governance is about ensuring that those vested with authority are not allowed to become corrupted by their power. Just governance holds decision-makers accountable for actions or omissions that fail to meet human rights obligations or legal requirements aimed at enabling sustainable development and ensuring human rights. Just governance, therefore, can help foster public trust in institutions, the integrity of public officials and more accountable decision-making. As such, just governance provides a platform to forge shared solutions to long-standing national and global-level collective action problems.⁵ Just governance is thus a cornerstone to enabling coherence, securing commitment to action by all development actors, held in place by various interactive, transparent and multi-dimensional systems of accountability. Just governance does not impose external conditionalities, but instead provides the indispensable preconditions by which the rights of people and the planet are freed to lead in the shaping of tomorrow.

6 Essential Dimensions of Just Governance

“Just governance connotes the need for justice for all sections of society and the equal preservation of socio-economic rights of all people, which would also be in tandem with the protection of the planet's natural resources.”⁶

The world we need is one standing on the cornerstone of just governance, a

⁴ See UN (2012). *Millennium Development Goals Report 2012*. UN: New York. Online at: <http://www.un.org/en/development/desa/publications/mdg-report-2012.html>.

⁵ D Booth, (2012) ‘Development as a collective action problem’, *Africa, Power and Politics*, See: <http://www.institutions-africa.org/filestream/20121024-appp-synthesis-report-development-as-a-collective-action-problem>.

⁶ Wada Na Todo (2012), *Shaping Our Shared Future beyond 2015 – Perspectives from the Global South*. Wada Na Todo Abhiyan: New Delhi. Online at: <http://www.wadanatodo.net/download/Reports/Post2015/ShapingOurSharedFutureBeyond2015PerspectivesfromtheGlobalSouth.pdf>.

necessary precondition and prerequisite for an effective and legitimate sustainable development framework. While allowing for different, precise meanings for different actors in different contexts and at different levels, ***just governance can be seen as composed of six key, mutually-reinforcing dimensions, each with their associated implications for the post-2015 sustainable development framework.***

1. Human rights at the centre

“It's unbelievable that the government can talk about its concern with poverty, but it pays bankers billions of dollars. It's robbing from the poor to feed the rich. It is morally corrupt - doing precisely the opposite of what a government should do.”

~ Grassroots consultation, USA

To be truly just, governance should first be grounded in the universal human rights framework, recognizing that the respect, protection and fulfilment of all human rights—economic, social, cultural, civil and political—is both the purpose and the ultimate litmus test of success for the post-2015 sustainable development agenda. In addition to being the ultimate aim of sustainable development, human rights norms offer measurable standards of conduct and operational principles. In a complex and multi-dimensional world, human rights help to delineate the respective obligations and responsibilities of governments and other duty-bearers. In this sense, human rights provide a valuable road-map to guide just governance processes. The UN Guiding Principles on Extreme Poverty and Human Rights—recently adopted by the Human Rights Council—provide a particularly practical tool for ways by which state — as well as non-state — actors can integrate human rights into their efforts to combat extreme poverty.⁷ Conceived as rights and duties, rather than needs and services, the new sustainable development goals will better engage affected communities, attribute clear duties to responsible actors, and serve to further the pre-existing norms, standard and principles of human rights at the core of the United Nations system. Basing governance on human rights norms, standards and principles post-2015 involves:

- a) Ensuring that human rights and other relevant high-order standards underpin whatever post-2015 goals emerge. The formulation of goals, targets and indicators must be in keeping with the content of the particular right, including universal access (and affordability where relevant) for all to at least minimum essential levels of rights enjoyment; the elimination of discrimination as a barrier to the equal enjoyment of rights and affirmative policies to redress inequalities and inequities; the right to access to information and widespread and inclusive, civic participation in development; a focus not only on quantity but quality of services; and the right to effective remedy.

- b) Guaranteeing the interdependence of all human rights by prompting

⁷ United Nations General Assembly resolution 15/19 of 18 July 2012. *Final Draft of the guiding principles on extreme poverty and human rights, submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepulveda Carmona*, UN Document A/HRC/21/39.

governments to respect and protect civil and political rights, such as the right to association and assembly, life and personal security as equal cornerstones of just governance, while also respecting, protecting and fulfilling economic, social and cultural rights.

2. Participation

"We hope for action on so many levels - but sometimes we feel it is futile, because we don't have a voice. We are from nowhere. Nobody is responsible for our problems. When we face insecurity, bombings, check points, hunger, so many challenges, and we want to speak out against them, we are excluded from so many spaces."

~ Poverty hearings, Palestine

Just governance enables people to exercise their right to participate in continuous, systematic and consequential ways in all public decision-making processes that affect their lives, at all stages of the policy cycle from design to implementation, to resourcing to monitoring. Indeed, the ultimate legitimacy of government is derived over time through its interaction with educated and well-informed citizens, and an organised and active civil society. The post-2015 agenda can serve as an instrument to empower broad-based participative governance in development by:

- a) Enabling those most affected by poverty and discrimination (and their freely-chosen representatives) to shape the design, implementation and monitoring of development process and outcomes. Rather than tokenistic, *pro forma* consultations which tend to disempower people, the perspectives of people living in poverty in particular should enrich development processes and fundamentally influence decisions made. Furthermore, the free, prior and informed consent of rights-holders must be respected in any decisions that are taken in the name of political, economic and /or social development. The post-2015 development agenda should provide spaces for affected people to enjoy the right to participate in global institutions, both through their elected government representatives and directly through their own associations. International decisions on how to course-correct and adaptively allocate resources must be made through a transparent, democratic and genuinely participatory process, representing both states and populations, and meaningfully consulting with those whose interests are most affected.
- b) Sustaining and reinforcing with policy, structural and institutional support the capacity of an active, organized civil society to transform global commitments into lived realities—free of the fear of intimidation, stigmatization or retribution⁸—is essential if the post-2015 agenda is to be legitimate, lasting and effectively implemented. There should be a commitment to monitor the enabling environment for citizen and civil

⁸ ACT Alliance (2011). Shrinking Political Space of Civil Society Action.

society participation. Reporting on this enabling environment should form part of all future national reports under the new framework. In particular, reports should assess: a) the degree to which legislation, including NGO legislation, respects the right to association and assembly; b) the degree to which state practice is consonant with the right to association and assembly; c) the degree to which there is an institutionalised and systematic process for seeking input from civil society organisations and citizens in the formulation and monitoring of development projects, policies, programmes and budgetary allocations; d) the extent to which legislation grants CSOs standing to exercise the right of access to justice in defence of public goods, including the environment.

- c) Particular emphasis should be given to ensuring that those most excluded and discriminated against are empowered with sufficient resources, training and opportunities to effectively participate in shaping and monitoring the policies that affect them, at the national, regional and international levels.
- d) As a prerequisite for the effective exercise of public participation in policy- and decision-making, freedom of information legislation should be adopted and enforced. This includes access to the information exchanged between governments and managed by intergovernmental bodies, especially in the cases of cross-border tax evasion, illicit financial flows, and trans-boundary natural resources and ecosystems. The future agenda should for example aim to encourage involvement and strengthen the role of civil society and citizens in decisions on the management of natural resources, as recognized in Principle 10 of the Rio Declaration, through information and transparency, including early publication of draft documents, opportunities to engage and meaningful consultations.

3. Transparency and the right to information

“For a long time, we felt we had a good relationship with our local councillor. They would call meetings, and inform us of what was happening. This was good, except eventually, we realized we were being taken for a ride. If we wanted real information, about where the council budget was being spent, we were met with empty hands. There is only so far you can go when the information isn't there. Government is giving pennies with one hand, and hiding the dollars they take with the other.”

~ Poverty hearings, Mali

Decisions and their enforcement should be taken in a transparent manner, in compliance with established procedures and requirements, and through which information is freely available and directly accessible to those affected by poverty and inequality.⁹ While openness itself does not necessarily lead to

⁹ See United Nations Conference on Environment and Development of June 14, 1992 *Rio Declaration on Environment and Development*, Principle 10. UN Document A/CONF.151/26. For a regional example, see the Aarhus Convention.

rights-realizing results, it is an essential prerequisite for a robust, informed public debate through which decision-makers become answerable to their people, and rights-holders are enabled to monitor and assess public and private sector conduct in light of the applicable juridical framework supporting human rights and sustainable development. Post-2015, transparent governance implies that:

- a) International, national and sub-national commitments should be publicised widely and in a timely manner using all available communication channels, including at the community level. In addition, information must be presented in a meaningful, understandable and comprehensive format so that people feel empowered to make informed decisions in order to hold their leaders to account.
- b) The new development framework should stimulate open government reforms to laws and policies to ensure wide access to information relevant to peoples' lives, including information necessary for people to meaningfully participate in all stages of the legal reform, budget, fiscal, tax and development policy cycles—from agenda-setting in national strategies to policy design in action plans, and in their implementation, their resourcing and their monitoring over time. All development actors, especially the private sector, should equally commit to full transparency in their operations and accounting, especially regarding the payment of taxes and royalties, and the use and exploitation of natural resources.
- c) Concrete progress must be transparently tracked on fiscal transparency, including open budgets and the publication of key financial data on government revenues on aid, tax and investment as well as expenditures.
- d) Information should be available to the public in such a timely, comprehensive and understandable way that it can be used to hold duty bearers accountable. This includes the quality and relevance of national statistics, and the ability to disaggregate national data to a local level.
- e) Any future global development partnership should explicitly monitor financial secrecy—a global obstacle to resource mobilization—and hold relevant governments, businesses and other private actors accountable to their corresponding right to information responsibilities. These responsibilities include supporting in real and cooperative terms efforts—for example through the automatic exchange of tax information¹⁰ and country-by-country reporting¹¹—to expose those who attempt to conceal their gains and shield themselves from their tax responsibilities to society.

¹⁰ Markus Meinzer (2013). *Towards multilateral automatic information exchange*. Tax Justice Network. Online at: <http://www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf>.

¹¹ Richard Murphy FCA (2012). *Country-by-Country Reporting Accounting for globalization locally*. Tax Justice Network. Online at: <http://www.taxresearch.org.uk/Documents/CBC2012.pdf>.

4. *Equity and non-discrimination*¹²

“The government occasionally distributes food from the Nepal Food Corporation district chapter and Dalits are given the food at the end of distribution even though we are in front in queue. They believe that Dalits will make the food impure! By the time when we reach the door of store, the foods are finished. Such discrimination should be ended immediately.”

- *Women and climate justice hearings, Nepal*

All people and groups everywhere have equal rights in dignity. Just governance means ensuring that human rights are guaranteed to all members of society, in all countries. Special steps must be taken to ensure that marginalized and vulnerable populations enjoy their civil, political, economic social and cultural rights equally, including with respect to real or perceived development tradeoffs across various sectors, such as food, energy and water security, climate change, and the environment. Equitable and non-discriminatory governance post-2015 requires:

- a) The new framework—including inequality targets—must apply universally in rich and poor countries alike, tailored and adaptable to different national and sub-national circumstances, but in service to and owned by poor people anywhere and everywhere. Evidence demonstrates that, even in the most established democracies, inequality is on the rise. Sustainable development goals should apply and be of use to all people living in poverty, regardless of their place of birth or residence.
- b) The successor framework should include an explicit focus on equality and equity across all development goals, geared towards ensuring that those who are most marginalized participate in the benefits of development. Measurement of progress on all goals should be disaggregated at the national and sub-national levels. In particular, targets should be set and progress measured for the most excluded populations across all goals.
- c) Decreasing inequality must be promoted as an explicit focus of economic policies and strategies. To address the extremes of poverty and combat rising inequalities within and between countries, the successor framework should encourage systems of progressive taxation (tax equity) and equitable redistribution; commit to a focus on decent work, youth employment, skills and job matching; implement universal and inter-sectoral social protection floor systems; and call on countries to secure equitable and sustainable access to natural resources, such as water and land rights.

¹² For more details, see Beyond 2015's position paper on inequality, (2012). *A Holistic And Human Rights-Based Approach For Addressing Inequalities In The Post-2015 Development Agenda*. Online at: <https://docs.google.com/open?id=1jgzqUMl8Z9Wh4eAmWk1OdVa861tUFX9eQaDASmw9S4gg8MI0um4Dmzb4zbX1>.

5. Access to justice, rule of law and anti-corruption

“Indigenous people here are facing so many problems. Even getting documentation is a challenge. Without papers, it is easy to find excuses to deny us services, and to marginalize us even further. It is we women who see the worst of it. Men can beat us, and without an ID document, we can't turn anywhere for justice. We want to speak out, but our voices are met with brick walls.”

- Women and climate justice tribunals, Peru

“We don't know anything and are not told anything. If there are laws, we should understand them as citizens. They have an obligation to explain the laws.”

- Nicaragua focus group participant

“The corruption in our country is so discouraging. We know from the newspapers that money is coming into our country. Help is being sent from all corners so that Tanzania can develop. When you go to the capital, you see big cars on the streets. But in rural areas? Nothing. That money is not reaching us. Our children are dying, while others have more than they can eat.”

- Civil society consultations, Tanzania

“It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

- Universal Declaration of Human Rights

Just governance requires legal frameworks that are enforced impartially, provide the full protection of human rights, freedom from corruption, guarantee universal access to justice, especially by the poor, and foster sustainable development, including through the protection of ecosystems, and the vital services they provide for people, especially the poor.¹³ Rule of law is integral to building the integrity of sectors and institutions and serving as a defence against corruption, mismanagement and illegitimate governance. Respect for the rule of law is equally essential to stem other ills that are fuelled by the lack of integrity and enforcement, including insecurity, criminal networks, illicit financial flows and an overarching atmosphere and culture of impunity. Proper checks and balances help catalyse the enforcement of laws and human rights obligations by placing the onus on officials to demonstrate delivery on past and future sustainable development and human rights commitments. In India, for example, 350,000 additional girls are now going to school as a result of the midday school meal scheme required by the Indian Supreme Court's decision on a string of right to food legal cases.¹⁴

Yet, marginalized women and men often find it difficult to benefit from legal

¹³ See Rio Principle 10, which states that “effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.” See more recently UN Special Rapporteur on Extreme Poverty and Human Rights (2012). *Access to justice by people living in poverty*. Online at: <http://www.ohchr.org/EN/Issues/Poverty/Pages/AccessToJustice.aspx>.

¹⁴ See Varun Gauri & Daniel Brinks, *A New Policy Landscape: Legalizing Social and Economic Rights in the Developing World*, in Varun Gauri & Daniel Brinks eds, *Courting Social Justice* (Cambridge University Press, 2008), p.328.

enforcement systems that function this way in practice. They may see their access to local courts blocked by bribery and clientelism. They may find that their rights are often disregarded in laws, policy decisions, court verdicts, contracts and the resolution of conflicts. In many cases, international binding agreements go unimplemented. The widespread ratification of anti-corruption and anti-bribery conventions, for example, has not been converted into widespread country implementation and the establishment of agreed laws and protections. Human rights obligations—especially of a social and economic dimension—have likewise suffered from lack of domestic incorporation and enforcement nationally. Even where laws have been made human rights-compliant, implementation and practice lag behind. It is for these reasons that the rule of law, access to justice and anti-corruption calls out to be reflected in the core of any MDG successor framework. The post-2015 sustainable development framework should urge governments to:

- a) Uphold the rule of law, building on the UNGA Resolution A/RES/67/1, 'Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels,' and ensure that national, regional, local legislation and any traditional justice systems are in line with international human rights law, anti-corruption obligations, international environmental treaties and other sustainable development-related international agreements. While property rights are important vehicles for development, the rule of law should protect human rights and mandate respect for the Earth's natural boundaries above all. All laws and policies should be subjected to the requisites of human rights and sustainable development, not merely at the discretion of the publically or privately powerful. Governments, meanwhile, must protect the independence of the judiciary, such as when it comes to the hiring and promotion of judges and ensuring court rulings are laid down and executed free from political interference.
- b) Enhance equal access to justice by people living in poverty, and eliminate any existing barriers which prevent these individuals from accessing and benefitting from human rights-compliant legal systems and practices. As confirmed by the UN Special Rapporteur on Human Rights and Extreme Poverty, access to justice is a human right in and of itself, and also essential for uprooting the chronic causes of poverty.
- c) Prompt governments to ratify, review and enforce anti-corruption conventions, including the UN Convention against Corruption, and the OECD Anti-Bribery Convention. In taking this step, important ground can be gained for access to justice and rule of law, helping to promote higher integrity standards for areas such as procurement and public financial management.
- d) Compel governments to enforce financial sector integrity measures, including anti-money laundering and asset recovery. This step is essential to stem illicit financial flows, corruption, tax evasion and criminal networks. Fostering improved financial sector governance and integrity

can help to promote citizen security as well prevent the loss of needed domestic resources for funding schools, clinics and other development sectors.

- e) Properly resource regulatory and administrative systems, mechanisms and bodies—especially environmental and tax authorities as well as financial sector regulating bodies¹⁵—to work efficiently and effectively in the interest of enabling sustainable development and resourcing human rights over time.

6. *Accountability*

“From colonial times, the history of our village is one of broken promises. Projects come, they go, politicians come for elections, they go. Everyone promises something, and nothing is delivered. Sometimes, the young people get upset when promises are broken. But we don’t even blink. Because we know, when promises are broken, there is nobody we can go to. We must take responsibility for ourselves, because nobody else will come back to us.”

- Grassroots ambassador, Mali

“Often, you find in government that the left hand doesn’t know what the right hand is doing. Someone is off in New York making promises that never make it back across the ocean.”

~ Poverty hearings, South Africa

“If these people (chiefs, police, officials) knew there would be consequences, this would enhance their accountability.”

Women’s focus group participant, Malawi

“If you come and ask me what I need, and then you bring me something else, I will take it. But you have not helped me.”

- Poverty hearings, Mali

“We can talk to the duty bearers or give them in writing about a particular demand/complaint. But, we have no idea what to do if the duty bearers do not respond to their complaints.”

-Focus group participant, India

Perhaps the most central pillar to just governance is ensuring accountability is achieved through checks and balances that hold decision-makers to account for both their actions and their failures to act. Sustainable development and human rights accountability can be said to have three main constituent characteristics.¹⁶

¹⁵ For more on the linkages between financial regulation and human rights, visit: www.rightingfinance.org.

¹⁶ See OHCHR/CESR (forthcoming, 2013). *Who Will be Accountable? Human Rights and the Post-2015 Development Agenda*. See also Schedler, Andreas. 1999. *Conceptualizing Accountability*. In *The Self-Restraining State: Power and Accountability in New Democracies*, eds. A. Schedler, L. J. Diamond and M. F. Plattner, 13-28. Boulder: Lynne Rienner Publishers; Diamond, Larry J., and Leonardo Morlino (2005). *Introduction*. In *Assessing the Quality of Democracy*, eds. L. Diamond, and L. Morlino, IX- XLIII. Baltimore: John Hopkins University Press. See Peter Newell and Shaula Bellour (2002). *Mapping accountability*. Institute of Development Studies: Brighton; John M. Ackermann (2005), *Social accountability in the Public Sector A Conceptual Discussion*. The World Bank: [Just Governance: A critical cornerstone for an equitable and human rights-centered sustainable development agenda post-2015](#)

First, the full array of development actors—primarily governments but also the private sector, inter-governmental and regional bodies, and civil society amongst others—must have clearly-defined **responsibilities**, duties and performance standards against which their actions can be judged. Much of these relevant standards are helpfully already provided in domestic and international norms that have evolved over the past 50 years. Second, development actors, to be accountable in any meaningful sense, must be responsive, providing information about their decisions and actions, and being ultimately **answerable** to those to whom they are accountable. Thirdly, marginalized and vulnerable groups must be in a position to exercise and **enforce** their rights, seeking and receiving effective remedy through impartial, transparent, and prompt processes, including but not limited to independent judiciaries, with the power to sanction development actors for wrongs committed. Enforcement is critical to setting out clear incentives for those exercising authority to respond over time to requests and grievances from those affected by their actions in a fair, open, timely and efficient manner. Without clear, universal responsibilities (laid out in human rights, environmental and other international treaties such as on corruption), development actors cannot be judged fairly and objectively for their conduct. At the same time, the existence of clear responsibilities without the backstop of enforcement to ensure they are followed simply paves the way for more unfulfilled promises.

Accountability involves various and multiple dimensions. Governments—within their duties to respect, protect and fulfil human rights—must be accountable horizontally, both to other government institutions in charge of oversight (parliaments, audit institutions and courts), as well as to other states (including through bilateral, regional and multilateral measures and government-donor relationships). Accountability must also exist vertically, to the people whose lives development actors impact (where governments are concerned, this must be both downward to the people, and upward to the global arena). Finally, diagonal accountability involves ensuring that government conduct is responsible, answerable and enforced with regard to how it affects people in other countries. That is, government actions which affect, constrain or limit the realization of human rights of people beyond their own borders, for example through environmental, tax, financial, monetary, trade, or debt policies, must be responsive, answerable and ultimately accountable. In regions like West Africa, where governments have, as members of the Economic Community of West African States, acceded to governance norms and frameworks that cut across country borders and boundaries, their citizenry must be able to hold them accountable to the governance principles within those protocols.

Who will be accountable?

The MDGs do not include any reference to **how** they are supposed to be achieved, nor **who** is (individually or collectively) accountable for achieving them. This resulted in a serious accountability gap in the MDG framework. Despite the fact that we know that the child mortality goal will be missed by far, for example,

Washington, D.C.; Anne Marie Goetz and Peter Jenkins (2005). *Reinventing Accountability: Making Democracy Work for Human Development*. Palgrave Macmillan; OECD (2012). *Draft orientations and principles*.

there will be little attempt to identify who should be held accountable for missing it. Conversely, relative success stories, such as the income poverty reduction goal, can be claimed as achievements of the international donor community despite the fact that they are explained to a great extent by domestic processes predating the MDGs in a few highly populated countries as well as aggregate level data that misses the stark differences within countries, such as between rural/urban areas and between specific population groups. This stark mismatch between aspirational commitments and ultimate responsibilities prevents an accurate explanation of what's working and what's not, and thwarts policy learning.

Governance in practice is often coloured by unequal relations of power, between the state and impoverished/discriminated groups, between the government and the private sector, between small states and much more influential ones. In this web of power relationships, abiding by international standards, particularly human rights and environmental standards, can help balance inequities, and provide a common language and standard by which to hold all actors accountable. To be meaningful, just governance must include and apply to all. Just as all people have human rights, all development actors—first and foremost governments but also the private sector, civil society, and international institutions—have responsibilities. In contrast to the historic asymmetries in responsibility for development embedded in the MDGs, which placed heavy burdens on poor countries, the post-2015 framework must recognize the common but differentiated responsibilities for progress, shared by all and universally applicable, in tune with the Rio Principles.

A key step towards enabling true accountability in the new framework then is to clearly specify the responsibilities of all actors in development for achieving the goals. Based on pre-existing human rights and environmental law, the framework should reconfirm consensus on who is responsible for what to achieve the goals. This time, goals and commitments must merge, with clear information on who is accountable for achieving targets, as well as how they are meant to be achieved. Post-2015 goals should drive particular commitments by all actors involved in development to take particular means to achieve them and to take corrective action through a transparent and participatory decision making process in the case they are not on track to be achieved. All actors should outline how they will fulfil the goals, allowing communities to monitor and track progress and advocate for changes at the local, national and global level.

How to ensure accountability in the post-2015 framework?

Delineating common and differentiated responsibilities in the new framework will be complex, but imminently possible. This process should involve the following principles:

- **Do no harm:** The new framework should generate agreement that, at the very least, development actors must respect rights by doing no harm to people and the planet. The precautionary principle, inherited from the Rio

Declaration,¹⁷ insists that any conduct that has a suspected risk of causing irreversible harm to people or the planet should be subjected to an impact assessment, with the burden of proof lying with the proponent. In absence of such proof, the action or policy should be immediately postponed, if not eliminated outright. The post-2015 agenda—based on established human rights duties—should compel governments to assess the environmental and human rights impact of their conduct, both domestically and beyond their borders.¹⁸ The framework should include goals and targets aimed at reforming those institutionalized rules and practices that introduce financial or environmental instability, impede development and sustainability or exacerbate poverty and human deprivation. Among the areas in which such reforms could have a major impact on human development, poverty alleviation, and sustainability are: illicit financial flows and transparency, intellectual property rights, resource and borrowing privileges, illegitimate debt, trade agreements, tax competition, financial regulation, labour standards, environmental sustainability and perverse subsidies, climate change, immigration policy and the arms trade. Governments meanwhile should establish complaint mechanisms accessible to individuals or groups in other countries that have cause to believe their human rights or the environment have been infringed through decisions in bilateral, regional or multilateral bodies.

- **National democratic ownership of development:** As a central means of fostering national ownership, new global goals must be aligned with national policies, budgets, and local delivery. Without such vertical alignment, it is likely that any new set of goals will remain aspirational and unachieved. For each country, democratic ownership of a new global framework should be facilitated through the formulation of compliant targets and indicators at the national level. These national level processes should be carried out with effective and meaningful participation of national parliaments, citizens, civil society organizations and other key stakeholders. Transparency and accountability assessments should be participatory and go beyond issues of capacity to assess the political dynamics of governance in a particular country. Creating more effective and coherent global governance will be a futile exercise if it is not reflected in, and 'owned' by, effective national counterparts and placed in an influential governance position vis-à-vis other ministries and interest groups.
- **Accountable financing and resources:** The new framework should include concrete commitments, especially from high-income countries, to allocate sufficient material and institutional resources and contribute to capacity building for making progress and achieving development goals. Resources should be allocated through at least two main sources: aid and the diversion of funds from harmful practices. Given the inherent link between accountability, representation and taxation, tax justice between

¹⁷ Rio Declaration, Principle 15.

¹⁸ Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (2011).

and within countries should be monitored and incentivized through the successor framework.¹⁹

- **Effectiveness and efficiency:** Just governance entails capable development actors—from governments to the private sector to civil society—to effectively and efficiently deliver valuable and sustainable gains that achieve sustainable development objectives. Weak institutional capacity to implement results in expenditures that aren't effectively targeted towards the priority development issues, and a lack of political will and institutional priority to strengthen governance all serve as obstacles to just governance. The civil society sector faces particular obstacles, from weakened institutional support to intimidation, retribution, criminalization and, in some cases, assassination.

Actual capacity of individual states, including available resources, to fulfil their commitments will vary. Therefore, targets should be specific to the context, whilst demonstrating progress towards the overarching goals. Conduct by some stakeholders—states, private actors, international institutions—which places undue constraints on governments' capacities to reach their sustainable development goals should be monitored and rectified. Further, some states may require increased investment in public institutions, including tax, fiscal and regulatory authorities, so that they are better equipped to deliver on targets set in transparent and participatory ways.

- **Monitoring and measuring progress and backsliding:** The ability to consistently monitor and review conduct of development actors against established responsibilities is an essential prerequisite for just and accountable governance. It is crucial to have extensive and publically available measurements on the performance of governmental institutions, both of outcomes and of policy processes, evaluating their effectiveness in delivering results and the legitimacy of the processes through which these results are delivered. The post-2015 framework has the potential to stimulate more comprehensive and rigorous monitoring efforts, and motivate more disaggregated data collection to measure the differentiated progress and backsliding among various populations, especially those most excluded from the benefits of development.²⁰ Where there are currently gaps in data, resources should be invested in developing rigorous, comprehensive and comparable measurements of disparity, deprivation and environmental degradation. In particular, there should be measurable targets on the transparency, accountability and integrity of all development actors. In addition, measurable targets on the degree of civic participation, in particular of those most excluded, in all

¹⁹ See for example Broms, R (2011). *Taxation and government quality: The size, the shape, or just Europe 300 years ago?*, Quality of Government Institute (University of Gothenburg) Working Paper 2011/16. Online at: http://www.qog.pol.gu.se/digitalAssets/1357/1357842_2011_16_broms.pdf; and di John, J (2010). *Taxation, resource mobilisation and state performance*. DFID/LSE Crisis States Research Centre Working Paper 84. Online at: <http://eprints.soas.ac.uk/11785/1/WP84.2.pdf>.

²⁰ Kabeer, N. (2010). *Can the MDGs provide a pathway to social justice? The challenge of intersecting inequalities*. IDS/UN MDG Achievement Fund. UNDP: New York.

decisions affecting their lives, and the ecosystem services on which they depend, should be developed and monitored. Government policy efforts, including the generation and use of available resources, should also be monitored, and should address the quality of services and the underlying factors inhibiting access to them. Finally, the framework should allow space at the country level to define context-specific groups that may need particular attention.

Accountability and global governance

Just governance will only be feasible if the post-2015 development agenda includes a framework for profound reforms of global governance, the failings of which pose severe constraints on realizing human rights and sustainable development at the regional and national levels. Global cooperation on sustainable development should address the strengthening of multilateral and mutually accountable agreements on development, human rights and the environment. Accountable global governance requires policy coherence, judged against the high standards of human rights and sustainable development, in particular in those areas where collective action problems and solutions require strong international cooperation and coordination (e.g. global financial transparency and integrity, revenue mobilization and international tax cooperation, trade regulation, debt, pollution, migration, climate change, shared natural resources, wildlife trade, etc.).

Effective, accountable and participatory dimensions of governance are as important at the global level as they are domestically, forming a central building block to advance progress in other areas, especially in financing, and in governance reform of the international and regional financial institutions based on proposals discussed and agreed upon previously within the UN system. A post-2015 framework must outline, in the most detailed manner possible with concrete commitments and timely targets, steps to transform the current global governance architecture. We cannot forget that the “implementation gap” in the action plans of United Nations conferences over the decades, including in the MDGs, has been to a strong degree the result of breakdowns in global governance, especially regarding financial resources necessary for their implementation.

Post-2015 systems of accountability

For accountable governance to be universally applicable as well as meaningful and effective over time, systems of accountability need to be put into place as part and parcel of the post-2015 sustainable development commitments. Beyond 2015 is calling for the following “essential must haves” on accountability.

- a) Clearly lay out enforceable accountability mechanisms, as well as the process for accountability at the national, regional and global level. This must include national oversight and independent review mechanisms at the international level.

- b) Include mechanisms for mutual accountability between governments and donors.
- c) Include mechanisms for a governmental peer review process which includes civil society.
- d) Enable citizens in developing countries to hold their governments to account in real time for progress on commitments made.
- e) Include monitoring mechanisms with measures to disaggregate data so that the impact on marginalised groups can be properly addressed.
- f) National processes must, in the spirit of democratic ownership, involve meaningful consultation and scrutiny by parliament and civil society.

Conclusion

In an increasingly interdependent and multi-polar world, which has witnessed a fragmentation in responsibilities in recent years, it is more important than ever that the voices of ordinary people be heard and adhered to in the design, implementation and monitoring of sustainable development policies. A post-2015 framework should incorporate just governance as an essential foundation stone for sustainable development by embedding its six key pillars. Without progress on just governance, there is a serious risk of predisposition to failure in all other areas, with a mirage of success belying the absence a truly transformative sustainable development agenda.

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Annex 1. About this paper

This paper, issued on behalf of Beyond 2015, was drafted by the Governance Drafting Committee composed of the organizations and individuals below. The original draft was produced through a broad consultation and survey process with Beyond 2015 members, which elicited several inputs from organizations worldwide.²¹ In total, comments and feedback were received from 22 organizations. The redrafting was then coordinated by CESR and GCAP, incorporating all of the inputs received. In accordance with the Beyond 2015 protocol on forming policy positions, the final version was signed off unanimously by the Executive Committee of Beyond 2015.

Whilst participating Beyond 2015 organisations have a range of views regarding the content of a post-2015 framework, the campaign is united in working to bring about the following outcome:

- A global overarching cross-thematic framework to succeed the Millennium Development Goals, reflecting Beyond 2015's policy positions.
- The process of developing this framework is participatory, inclusive and responsive to voices of those directly affected by poverty and injustice.

Special thanks to the B2015 Governance Drafting Committee:

1. Niko Lusiani, Center for Economic and Social Rights (CESR) (co-coordinator)
2. Caitlin Blaser, Global Call to Action Against Poverty (GCAP), South Africa (co-coordinator)
3. Nana Afadzinu, West Africa Civil Society Institute, Ghana
4. Harold Aidoo, Institute for Research and Democratic Development (IREDD), Liberia
5. Meheret Ayenew, Africa Civil Society Platform on Principled Partnership (ACP), Ethiopia
6. Craig Fagan, Transparency International, Germany
7. Melissa Lawson, Tearfund, UK
8. Paul Okumu, Africa Civil Society Platform on Principled Partnership (ACP) Secretariat, Kenya
9. Mary Teresa McBride, Trocaire, Ireland
10. Nzovu Job Ruzage, Human Rights First Rwanda Association, Rwanda
11. Gilad Tanay, Academics Stand Against Poverty (ASAP), USA
12. Farooq Ullah, Stakeholder Forum, UK
13. Josep Xercavins, WDGpa, Catalonia, Spain

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²¹ All final submissions to the B2015 governance call for inputs are available here: <https://docs.google.com/folder/d/0B6uDYUHEJ6aNXpiUktQUEdpVGM/edit>