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*Considering the Potential
of the
Sustainable Development Goals*



For this issue the theme for the cover design 'Considering the Potential of the Sustainable Development Goals' was a challenge in terms of what symbolism to use to depict the title and the articles discussing global social, cultural and moral responsibilities and how these can be met. Given that the articles address whether there are adequate requirements in place to mandate positive actions for global development rights, especially for those who assist in protecting basic rights for whole societies with limited resources.

It seemed fitting to address the global 'wicked' problems by using an image of the world, but these can often be depicted as clichéd because of the plethora of usage in design describing anything global. The issue for me was how to renew or redesign the world so that it stands alone in the overabundance of 'stock and clip' earthly images easily downloadable from the web. The world images that are accessible on the web are mainly blue in colour, and justifiably, blue is the colour that represents the world we live in. Especially when we think of Semiology, universal signs and symbols the image of the blue world is communicated as an international icon for all people to recognise. The difficulty with colour in Semiotics is that each colour represents something different for the various global communities. In Kress's and Van Leeuwen's (2002) article 'Colour as a Semiotic Mode: Notes for a grammar of colour', they rightly contest that 'there is no large or sufficiently powerful group which could sustain a shared understanding of the meanings of colour across 'all of society''. In designing a non-clichéd representation for the cover, which retains a broad recognition for sustainable problem solving in global social, cultural and moral responsibilities, many of the articles declared a positive approach was needed. In order to identify this I felt that adding vibrant colours to the design of the cover would help ascertain at least a global recognition of positivity as the psychology of colour is associated with emotion for example, blue is associated with calmness, trust, peace and order although, it can also represent depression, deceit and frigidity.

Reference:

Kress G. and Van Leeuwen T. 2002 'Colour as a Semiotic Mode: Notes for a grammar of colour', *Visual Communication* Vol 1 (3), Sage. London.



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Global Basic Rights, Positive Duties, Extraterritorial Obligations, and Mediating Institutions: Do the Sustainable Development goals deepen the institutionalisation of a global responsibility to end poverty?

NOHA SHAWKI

The Sustainable Development Goals (SDGs), which were negotiated in a participatory process involving a variety of stakeholders, represent an ambitious, universal, and comprehensive agenda that addresses the environmental, economic, and social dimensions of sustainable development. This agenda has the potential to be truly transformative. However, the realisation of this potential will depend on the details of implementation and the extent to which the SDGs, if implemented effectively, take steps towards institutionalising a global moral responsibility to respond to global poverty and towards meeting any legal extraterritorial human rights obligations that international human rights law creates to secure economic, social, and cultural rights for all. Each article in this themed issue explores the degree to which the SDGs do so, focusing on one of the 17 goals. This introductory article sketches the framework that informs the six subsequent articles and provides an overview of the special issue.

Introduction

There is now a growing consensus that there is a global moral responsibility to promote global basic rights and an increasing recognition that there are positive duties to distant others. There is also growing consensus that there are extraterritorial obligations to respect, protect, and fulfill economic, social, and cultural rights (ESCR). How best can this global moral responsibility be met? And how can positive duties to people across the world be fulfilled? As Henry Shue (1988) has argued, fulfilling these positive duties requires mediating institutions. If institutionalisation is the key to meeting global moral responsibilities, then to what extent has this responsibility been institutionalised in the Sustainable Development Goals (SDGs)? (see appendix for a list of the SDGs) These goals were adopted at a United Nations summit in September of 2015 as part of the *Transforming our World: the 2030 Agenda for Sustainable Development*, an ambitious, universal, and comprehensive agenda that addresses the environmental, economic, and social dimensions of sustainable development. To what extent do the SDGs, which will guide international development efforts until 2030, reflect a sense of a global moral responsibility to promote global basic rights? To what extent do they reflect an acknowledgement of and a commitment to meeting extraterritorial human rights obligations? This

special issue addresses these important and timely questions. Since the SDGs represent the most recent articulation of a development framework and represent a global action plan and consensus on poverty and human development, it is important to examine the extent to which the SDGs and their targets and indicators express and deepen the institutionalisation of global basic rights, a global moral responsibility, and an extraterritorial legal obligation for the realisation of ESCR.

This article reviews the relevant theoretical literature about global basic rights, global moral responsibility, positive duties, and the significance of institutions in allowing the international community to fulfil them. It also reviews the literature on extraterritorial obligations to secure ESCR. This review will serve as the theoretical framework that informs the case studies in the articles that follow. These two theoretical strands of literature have important dimensions in common. They each focus on whether there is a responsibility to address global poverty and promote global justice. They also do, however, have one major difference. The first body of literature pertains to the question of whether there is a global moral responsibility, while the second body focuses on whether there is a global legal responsibility to respond to global poverty. Approaching this question as a moral vs. legal issue has

significant practical and policy implications, as well as implications for the receptiveness of states, in particular states with high levels of socio-economic development (Salomon 2014).¹

The case studies focus on six of the SDGs. Following a review of the theoretical literature I discuss the rationale for selecting these case studies and then give a summary and overview of the case studies. A discussion of what their findings suggest about the extent to which the SDGs reflect and further the commitment to meet extraterritorial obligations follows. Finally, I consider their potential to be truly transformative.

Global Basic Rights, Positive Duties, and Mediating Institutions

Following Henry Shue's definition, Beitz and Goodin (2009) and Crawford (2009) define basic rights as rights that 'are basic in the sense that when those rights-security and subsistence are guaranteed, other rights can be enjoyed' (Crawford 2009: 134). This implies that a 'non-basic right cannot be enjoyed unless the basic right is in place' and that the basic rights of security and subsistence, while not necessarily more important or valuable than other rights (Beitz and Goodin 2009: 4), nevertheless 'are essential prerequisites for the protection of other rights' (Crawford 2009: 155). Furthermore unlike other types of moral claims, all rights claims imply correlative duties (Reus-Smit 2009).

Based on this definition of basic rights, Shue makes a compelling case that there are universal positive duties to distant others living beyond one's national borders that are correlative to universal basic rights, especially in an era of expanding interdependence and deepening connections between people across the world (Shue 1988; see also Crawford 2009: 132). These duties are positive in the sense that they require that we expend material and/or non-material resources to fulfill them. They are also general and imperfect, general because they are not based on an act, fact or a pre-existing special relationship between the right-holder and the duty bearer, but rather on our common humanity, and imperfect because they are not owed to specific individuals but to someone whose basic rights are not fulfilled (Shue 1988). Since Shue made that argument, the question of whether we have duties to 'each other as humans living on the same planet' (Crawford 2009: 132) is beginning to be settled. There is now an emerging consensus that there is a global moral responsibility to promote and bring about justice and protect global basic rights and an increasing recognition that we have positive duties to distant others. As the sense of global moral responsibility grows, so does the 'circle of empathy' (Marlier and Crawford 2013) as does the capacity of actors 'to step out of their

own perspective in order to see the world from another person's perspective' (Crawford 2009: 144). And as the 'circle of empathy' becomes less and less limited to those socially and geographically closest to us and more and more encompassing of distant strangers, altruism, which entails taking 'costly action to help another that is not in our immediate short-term interest' (Marlier and Crawford 2013: 401), becomes possible at the global level.

However, if there is growing acknowledgement of a global moral responsibility to guarantee universal basic rights, how can this responsibility be met? The answer to this critical question centres on institutions and their crucial role in helping actors meet their global moral responsibility and fulfil their positive duties that are correlative to universal basic rights.

Institutions are very significant in this context for two reasons. First, the positive duties to fulfil global basic rights cannot be assigned to individuals with the expectation that they will take direct action to assist all those whose basic rights are not met. Individual duties to take direct action must be limited because direct positive duties would overwhelm individual duty-bearers who have limited resources (i.e. time, energy, and money) and who are themselves rights-holders who need respite and the opportunity to flourish and thrive. Second, uncoordinated direct action by individuals is less efficient than coordinated action by institutions. For these reasons, individuals' positive duties to fulfill global basic rights are indirect duties to design and support institutions that will assume the obligation to take direct action to secure global basic rights across borders (Shue 1988). Beitz and Goodin sum up the significance of institutions succinctly when they explain that, 'When we think about protecting any particular right as a problem for whole societies, rather than as a problem for individuals taken one by one, any effective solution will involve establishing institutions with whatever capacities are necessary to ensure that individuals will actually be able to enjoy the substance of the right' (Beitz and Goodin 2009: 9). Institutions thus mediate positive duties by coordinating action so that individuals' imperfect duties to assist someone who is deprived (but not anyone in particular) can be consolidated into a perfect duty to assist everyone who is deprived (Beitz and Goodin 2009: 9; see also p. 22). While at the domestic level such institutions are typically state institutions, tasked with fulfilling global basic rights can take a variety of forms, including international regimes (Beitz and Goodin 2009: 15-16 and 22-23). International institutions can be more or less formal and be more or less organisationally developed (Reus-Smit 2009: 30).

These arguments are consistent with Pogge's institutional analysis of human rights and his discussion of interactional and institutional human rights violations (Pogge 2011).

According to Pogge, interactional human rights violations result from wrongdoing by human agents, while institutional human rights violations result from unjust institutions. The impact of 'background conditions' (Pogge 2011: 12), for example institutions, on securing human rights was recognised in General Comment 12, which was adopted by the Committee on Economic, Social and Cultural Rights in 1999. In this General Comment the Committee provided guidance on the implementation of the right to food, expanding the established obligations that human rights entail to include facilitating the fulfillment of human rights by putting in place the background conditions on which the fulfillment of human rights depends (Pogge 2011: 12). Acknowledging that there are institutional human rights violations entails two obligations:

One of these derives from their quite general positive duty to promote the justice of social institutions for the sake of safeguarding the rights and needs of human beings anywhere. The other obligation derives from their negative duty not to collaborate in designing or imposing unjust social institutions upon other human beings (Pogge 2011: 16).

Unjust (global) institutions that 'foreseeably and avoidably' (Pogge 2011: 33) cause or perpetuate deep poverty require fundamental institutional reforms, and Pogge makes a compelling case for the necessity of global institutional reforms. In an age of accelerating globalisation, the increasingly extensive rules and institutions that shape the global economy have a very significant impact on abject poverty and inequality, which means that designing more equitable rules and institutions will be critical in terms of reducing deep poverty (Pogge 2008: 72 and 73).

Reus-Smit explains that rights are institutionally referential in several ways. First, rights are institutionally ambitious and constitutive because when they are not guaranteed, those who seek to have them recognised and protected seek to establish new arrangements that embed rights. Second, rights are institutionally presumptive because when they are acknowledged, invoking and claiming them means appealing to a pre-existing institutional arrangement for recognising and protecting them. Third, rights are institutionally dependent because they require institutions for their protection and fulfillment (Reus-Smit 2009: 29-30). For these reasons historically, struggles for rights have sought institutional solutions and arrangements that can secure rights, and the key institutional arrangement for fulfilling and protecting rights since the sixteenth century has been the nation-state (Reus-Smit 2009: 26, 32, 36-37, and 45). At the same time, rights serve to restructure power relations between actors in situations in which material resources are

unequally distributed. Powerful actors who are endowed with a disproportionate share of material resources accept the constraints that rights place on them because doing so allows them to have legitimacy, which then makes acquiescence more forthcoming (Reus-Smit 2009: 39-40). In the context of this special issue, it is important that Reus-Smit notes that, 'The often tragic underperformance of sovereign states in the field of basic rights has encouraged the development of institutional referents beyond the state' (Reus-Smit 2009: 46), even though the international institutional framework for securing human rights for all is limited (Reus-Smit 2009: 46-47). This makes Reus-Smit's arguments relevant and important for addressing the questions explored in this special issue.

If institutions are crucial to fulfil positive duties to distant others, how can we assess the degree to which institutionalisation of global basic rights and their correlative duties has occurred? What does institutionalisation require, and how can we determine the extent to which certain ideas and values and the practices that they entail have been institutionalised? I turn to these questions in the section below.

Global Basic Rights, Institutionalisation, and Implementation

Following Marlier and Crawford, I think about institutionalisation in terms of meta-institutionalisation, institutionalisation of decision-making procedures and roles, and institutionalisation of knowledge. Meta-institutionalisation pertains to the purpose and mission of an organisation. The latter two levels of institutionalisation shape thinking and action as well as the way knowledge is generated (Marlier and Crawford 2013: 402-403). More specifically, when new ideas and beliefs are, or become, salient for an organisation's mission, the standard operating procedures of an organisation are designed or revised to reflect these ideas and beliefs and embed them into the organisation's routine processes and procedures. Similarly, new ideas or beliefs also become institutionalised when they guide and shape the ways in which knowledge is acquired, organised, and assessed and acted upon (Marlier and Crawford 2013: 403-404). In short, the second and third levels of institutionalisation pertain to 'the specification and development of routines and knowledge making practices' (Marlier and Crawford 2013: 404). An organisation can be considered to have taken steps to institutionalise certain principles when it has 'put in place rules, procedures, and allocated resources to help put these principles in practice' (Marlier and Crawford 2013: 421).

Recent literature makes a compelling case for distinguishing the institutionalisation of international norms from the implementation of these norms. Betts and Orchard define implementation as a '*parallel process*

to institutionalization which draws attention to the steps necessary to introduce the new international norm's precepts into formal legal and policy mechanisms within a state or organization in order to routinize compliance' (Betts and Orchard 2014: 2, 'emphasis in the original'). This literature dovetails with the above overview of Marlier and Crawford's conceptualisation of the different levels of institutionalisation. One can argue that the concept of implementation resembles in many ways the second and third levels of institutionalisation as it is designed to capture the ways in which norms shape the practices of states and international organisations. Betts and Orchard posit that institutionalisation is not complete unless and until implementation occurs, and that these two processes are analytically separate from one another. Institutionalisation occurs at the international level, while implementation unfolds at the domestic or organisational level (Betts and Orchard 2014: 5). Applying this distinction between institutionalisation and implementation to the topic of this article, one can think of the negotiation of the SDGs and their targets as a process of institutionalisation and of their mainstreaming into the operations of the UN system and the global policy process as a process of implementation.

Implementation can follow institutionalisation, but that is not necessarily the case. It can also precede or unfold parallel to institutionalisation and can facilitate and precipitate the institutionalisation process to shape the content of a norm as it is being institutionalised at the international level (Betts and Orchard 2014: 5). The sequence of institutionalisation and implementation can vary depending on when state or organisational commitment to a novel norm materialises as this commitment is critical for implementation. In the case of the SDGs, implementation has unfolded to some extent in tandem with institutionalisation, as the processes of developing goals, targets and indicators have occurred in part concurrently.

Extraterritorial Obligations and Social, Economic, and Cultural Rights

Another body of literature that is relevant in the context of this paper and dovetails with the discussion above is the literature on (the extent of) extraterritorial obligations for ESCR. International human rights experts and legal scholars have demonstrated that international human rights law does entail some extraterritorial obligations for respecting, protecting, and fulfilling ESCR (Salomon 2011, Salomon 2012). This means that states have an obligation to refrain from taking action that could undermine the human rights of people outside their borders, to protect them from violations of their rights by non-state actors (e.g. transnational corporations), as well as 'obligations of positive action to fulfil the rights

of people in far off places' (Salomon 2012: 2). Meeting these obligations, especially in an era of globalisation and economic interdependence, requires not only that states make available material and other resources, but that they also work jointly and cooperatively to bring about an international environment that is conducive to securing ESCR (Salomon 2011, Salomon 2012: 4-5). An example is through the creation of international trade, investment, and finance regimes and with frameworks for international development cooperation, coordination, and burden-sharing that facilitate the fulfillment of these international legal obligations (Salomon 2012: 4-5). In other words, there are positive duties of both international assistance, which entails resource transfers, and of international cooperation, which entails taking action individually and collectively to realise ESCR by adopting domestic policies and putting in place international regimes and institutions that can help promote global justice and secure ESCR (Salomon 2014). These duties exist even in the absence of any harm caused by a state, although acts or omissions that have a foreseeable negative impact on ESCR create particular duties for states (Salomon 2014). Similarly, other grounds for assigning particular duties of international assistance and cooperation could include historical responsibility for non-fulfillment of ESCR, capacity for meeting the obligation to fulfil ESCR (which implies that the principle of 'common but differentiated responsibility' in international environmental law is relevant for extraterritorial obligations as well).

Meeting these obligations requires that states act to secure basic rights and minimum levels of ESCR immediately and to fully realise them progressively (Salomon 2011). Finally, as Künnemann points out, *Article 28 of the Universal Declaration of Human Rights* (UDHR) establishes the right to 'a social and international order in which the rights and freedoms set forth in this Declaration [the UDHR] can be fully realized' (Künnemann 2016: 18), which requires 'an international enabling environment' and the 'deepening of international cooperation' (De Schutter 2012: 482). This in turn requires the reform of mechanisms of global governance (De Schutter 2012; see also Künnemann 2016: 5). While not all international legal issues surrounding the positive obligation to fulfil ESCR have been fully settled, there is a growing recognition among experts in human rights law that there is such an obligation (Salomon 2011, Salomon 2012; Salomon and Seiderman 2012).

The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (hereafter Maastricht Principles) were adopted in 2011 by a group of human rights professionals, including experts who have served on human rights treaty bodies or as Special Rapporteurs of the Human Rights Council (HRC) (Salomon and Seiderman

2012: 458; Maastricht Principles). They represent an articulation of the international obligation to respect, protect, and fulfil ESCR. The result of extensive legal research (Maastricht Principles, 4), they are based on two principles that echo the argument presented above. The first principle is that international human rights law obligates states to respect, protect, and at times fulfil human rights if their actions have extraterritorial human rights impacts. The second principle is that international human rights law requires that states secure human rights extraterritorially through 'international assistance and cooperation' (Salomon and Seiderman 2012: 459). Although not legally binding, the Maastricht Principles are nevertheless significant, and have normative weight (Salomon and Seiderman 2012: 459). In the context of this paper, it is particularly important that two individuals who helped draft the Maastricht Principles have noted that states have 'a general obligation ... to take action, separately, and jointly through international assistance and cooperation, to fulfil the economic, social and cultural rights of persons outside of their respective territories' (Salomon and Seiderman 2012: 460). This obligation is based on the UN Charter, the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) as well as other international documents (Salomon 2012: 1; Salomon and Seiderman 2012: 460). Also, it is based on the *Declaration on the Right to Development*, which 'demands not merely cooperation for the achievement of human rights central to addressing deprivations and facilitating human flourishing, but also changes to the system of structural disadvantage that defines the current international order' (Salomon 2011: 2153).

Noting that the extraterritorial acts and omissions of states can have human rights impacts across borders, especially in an era of globalisation (Maastricht Principles, 5), the Maastricht Principles state that there are human rights obligations connected to these acts and omissions. Moreover, the Maastricht Principles also state that further extraterritorial human rights obligations arise from international treaties that require states to take action, individually and collectively, to secure human rights worldwide (Maastricht Principles, 6). The Maastricht Principles detail what the extraterritorial obligations to respect, protect and fulfil human rights that are discussed above entail and what they require of states. They also address a number of other issues pertaining to these obligations, including the scope of extraterritorial obligations as well as accountability and remedies.

What do the obligations to respect, protect and fulfil ESCR entail? The obligation to respect ESCR extraterritorially means that states should not take any action that could directly or indirectly impede the realisation of the ESCR of people outside of their borders. It also means that states

should refrain from adopting economic sanctions that can negatively impact the realisation of the ESCR of people outside of their territories (Maastricht Principles, 8-9).

The obligation to protect ESCR extraterritorially entails a duty to regulate or influence non-state actors (e.g. business enterprises) so they will not impede the realisation of ESCR. It also requires a duty to cooperate to ensure non-state actors to not adversely impact ESCR and will respond appropriately to human rights violations by non-state actors (Maastricht Principles, 9-10).

The obligation to fulfil ESCR encompasses a number of state obligations, including the obligation to work individually and collectively through cooperation and coordination to create an international environment conducive to the realisation of ESCR. This entails putting in place appropriate economic, environmental, and development cooperation regimes as well as foreign policies. Moreover, the obligation to fulfil ESCR requires that states individually and collectively dedicate their maximum available resources and capacities to the realisation of these rights domestically and extraterritorially. In addition, it requires that states provide international assistance to fulfil ESCR. It also requires that states unable to guarantee these rights seek assistance and use it appropriately towards the realisation of ESCR, and that other states consider and respond to requests for assistance in good faith and according to their obligations to fulfil ESCR. Finally, the Maastricht Principles emphasise the need to give special attention to disadvantaged and marginalised groups and the importance of avoiding retrogressive measures and of applying the principles of non-discrimination, equity, and participation, among others, in meeting the obligation to fulfil ESCR (Maastricht Principles, 10-11).

It is important to note that Langford et al. (2013: 26) indicate that there is no consensus that states have bilateral obligations to offer international development assistance, and a broader consensus that they have obligations to cooperate and deliver assistance as members of an international community. In addition, they suggest that instead of focusing the debate surrounding extraterritorial obligations heavily on the delivery of development assistance and on resource transfers, an approach they describe as having 'an increasingly limited scope', more emphasis should be placed on the extraterritorial obligations to respect and protect ESCR, through putting in place the appropriate international regimes and regulatory frameworks, for instance in areas such as international business or international migration (Langford et al. 2013: 31).

Finally, human rights actors and norm entrepreneurs have pointed out that the SDGs should be based on

human rights. During the negotiation of the SDGs, Amnesty International made the case that human rights law implicitly calls for common but differentiated responsibilities. That is 'that states in a position to do so are required to provide international assistance where required for the realization of human rights'. They also emphasised the critical role of international cooperation in reducing poverty and promoting sustainable development, noting that 'states are legally bound by their human rights obligations and commitments beyond their own borders' (Amnesty International 2014: 9 and 8). These ideas strongly imply global basic rights and a widened 'circle of empathy' as well as extraterritorial obligations to secure ESCR.

The Sustainable Development Goals and the Institutionalisation of Global Moral Responsibility

The United Nations (UN) is the single most universal intergovernmental institution, both in terms of its membership and in terms of its tasks and mandates. If global moral action requires institutionalising global basic rights, it is important to probe the extent to which this has occurred within the UN system, specifically in the context of the SDGs.

The SDGs will guide action against poverty until 2030 and represent the most recent articulation of a global action plan on poverty and human development. Therefore, it is important to examine the extent to which the SDGs and their targets and indicators further and deepen the institutionalisation of global basic rights and of global moral responsibility as well as extraterritorial obligations to fulfil ESCR. The SDGs all bear on global basic rights. Some directly, such as Goal 2, which calls on the international community to 'End hunger, achieve food security and improved nutrition and promote sustainable agriculture'. They may also bear indirectly through their impact on security and/or subsistence and our ability to secure these two basic rights. Two examples are Goal 12, which calls on the international community to 'Ensure sustainable consumption and production patterns' and Goal 15 which calls on the international community to 'Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss'.

Do the SDGs also reflect a global moral responsibility? Do they reflect and institutionalise that responsibility and the positive duties that are correlative to universal global rights? Do they represent a collective acknowledgement of extraterritorial obligations to respect, protect, and fulfil ESCR? To what extent do the SDGs institutionalise the idea of global basic rights into the procedures and operations of the UN and into the ways in which it

generates and uses knowledge? Is there any evidence that the SDGs could potentially be steps towards the institutionalisation of global moral responsibility, a global circle of empathy, and a consolidation of our individual imperfect duties to others around the world into collective perfect duties to secure basic rights? Compared to the Millennium Development Goals (UN MDG 2000), which expired in 2015 and were replaced by the SDGs, do the SDGs represent further steps to institutionalise global moral responsibility? And do the SDGs take steps to create an enabling international environment that allows states to meet their extraterritorial obligations? These are the central questions explored in this special issue. These are critical questions, for analysts and observers have highlighted the potential of the SDGs to be truly transformative (see, for example, Gore 2015; Death and Gabay 2015) and one of the ways in which the SDGs could realise this potential is to institutionalise positive duties and a global moral responsibility to secure universal basic rights.

It is important to note that there are different perspectives on the extent to which the *2030 Agenda for Sustainable Development* is grounded in human rights. On the one hand, a statement by the Office of the UN High Commissioner for Human Rights states that it is clearly grounded in international human rights. It emphasises the importance of a strong accountability framework to review progress and of a human rights-sensitive indicator framework for monitoring and tracking implementation progress. The indicator framework was still being developed at the time the statement was issued (Office of the UN High Commissioner for Human Rights). On the other hand, it has been noted that the SDGs are framed and defined as 'nonbinding aspirational goals' as opposed to legally and morally binding rights, which entail claims or entitlements (Long 2015: 204). One of the contributions of the articles that follow is to generate findings that can help us better understand the extent to which the SDGs are rooted in a human rights framework.

This special issue probes the above questions using a number of the SDGs. Since the *2030 Agenda for Sustainable Development* contains 17 goals and 169 targets, a comprehensive review of all of these goals and targets is beyond the scope of this special issue. Two of the articles that follow address Goal 10 ('Reduce inequality within and among countries') and Goal 16 ('Promote just, peaceful and inclusive societies'). I selected these two SDGs because these goals and the issues to which they pertain were among the goals highlighted by human rights actors and norm entrepreneurs including the Office of the UN High Commissioner for Human Rights and civil society groups. They were identified as areas in which the SDGs 'offer a new, more balanced paradigm for more sustainable and equitable development' (Office of the

UN High Commissioner for Human Rights) that is not limited to narrow issues and clearly reflects international human rights. (See also *Human Rights Caucus reaction to the 2030 Agenda for Sustainable Development*, which also highlights some of the issues in these four SDGs.) Moreover, Goal 10 is important to include here because it addresses inequality between countries and the structural features of the international system that impede poverty reduction, both factors that bear on the extraterritorial obligations to respect, protect, and fulfil ESCR rights. With its focus on inequality, Goal 10 also begins to address the relational nature of poverty and affluence (Salomon 2011). As Salomon has compellingly argued, 'reducing economic inequality matters, and not just reducing poverty' (Salomon 2011: 2144), and it is important to focus not only on reducing extreme poverty by ensuring minimum levels of ESCR for everyone, but also on lessening inequality among countries. Simply put 'the problem of world poverty is not one of scarcity but of unequal distribution' (Salomon 2011: 2145), which necessitates addressing inequality through international cooperation as one way to eliminate structural inequalities and power asymmetries, establish fair and equal international institutions, and ultimately secure ESCR and the opportunity for all to participate in global society and international decision-making equally (Salomon 2011). This view dovetails with Langford et al.'s argument about the importance of thinking about extraterritorial obligations not only in terms of resource transfers, but also in terms of international cooperation geared towards putting in place institutions that will be effective in securing ESCR (see summary of their argument above).

This special issue also probes the research questions in four other articles on Goal 1 (End poverty in all its forms everywhere), Goal 2 (End hunger, achieve food security and improved nutrition and promote sustainable agriculture), Goal 6 (Ensure access to water and sanitation for all), and Goal 13 (Take urgent action to combat climate change and its impacts). These issues pertain to social and economic rights, and some of them are examples of the kinds of global basic rights discussed above (or in the case of climate change have a very direct impact on securing global basic rights for all). Therefore, considering the extent to which the goals, targets, and indicators focused on these four issues reflect a sense of global moral responsibility and a sense of extraterritorial human rights obligations can help us generate deeper insights into the research questions that inform the collection of articles in this special issue.

The articles consider the goals as well as their targets and indicators, as they are all key components of the SDGs. The goals themselves each represent global aspirations and commitments to tackle one aspect of sustainable development. Each of the 17 SDGs also has

a number of targets. Targets are measurable outcomes that advance the realisation of a goal. Indicators are used to measure, monitor and track progress in the implementation of targets based on data (Suter 2014: 1). For example, SDG 4 calls on the international community to 'Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all'. Target 4.4 states: 'By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship', while indicator 4.4.1 focuses on the 'Percentage of youth/adults with information and communications technology (ICT) skills by type of skill' (E/CN.3/2016/2/Rev.1). The indicator framework that will guide data collection and allow for monitoring and tracking progress in the implementation of the SDGs is useful for assessing the degree to which the process of generating and using knowledge reflects a sense of global moral responsibility and extraterritorial obligations. In addition, the articles will consider both the duty to assist and the duty to cooperate to secure ESCR across the world.

Individually, the articles each generate insights into one of the 17 SDGs. As a collection, they cumulatively help us understand the extent to which the SDGs and the *2030 Agenda for Sustainable Development* bring us closer to an international order that reflects a sense of global *moral* responsibility and/or positions states to meet their extraterritorial *legal* obligations to secure economic, social, and cultural rights.

Overview of Special Issue

Perhaps unsurprisingly, the findings of the six articles that follow provide complex answers to the questions posed above, highlighting both the potential and limits for transformative change through the SDGs. While some aspects of some goals do reflect a growing sense of a moral responsibility and of legal obligations to address global poverty and work to secure the realisation of economic, social, and cultural rights, the SDGs overall are still fairly tentative in recognising moral and/or legal duties to reduce global poverty.

Sengupta highlights the strengths of the SDGs compared to the Millennium Development Goals that guided international action against poverty between 2000 and 2015. However, she also provides a compelling argument that the SDGs do not really recognise the necessity of institutions that facilitate international action to fulfil positive duties. Focusing on SDG 1, which pertains to poverty, her article shows that the SDGs do not acknowledge extraterritorial obligations to fulfil human rights through coordinated global action. It also notes the absence of a recognition of a moral obligation to reduce poverty without delay.

Ramanujam and Berger Richardson argue that while the 2030 *Agenda for Sustainable Development* as a whole is grounded in the human rights framework, SDG 2 is not sufficiently and explicitly rooted in the human right to food. Focusing on target 2.2, they show that even though the world is currently not on track to meet SDG 2, this goal can still potentially meet the moral obligation to end hunger and malnutrition as long as it is implemented in ways that engage all stakeholders, reflect the multisectoral nature of hunger and malnutrition, and are informed by approaches that have worked in the past.

Winkler's article about SDG 6 highlights the ways in which SDG 6, which addresses water and sanitation, is informed by, but does not fully reflect, human rights. Winkler explains how human rights have to some extent shaped SDG 6 and its targets and indicators, as well as its institutionalisation through the WHO-UNICEF Joint Programme for Water Supply, Sanitation and Hygiene, but she also shows how SDG 6 falls short of being fully grounded in the human rights framework. Winkler concludes that while SDG 6 takes tentative steps towards institutionalising human rights, which could potentially make it truly transformative, it is unclear if that potential will be realised as this will depend on the details of implementation and strengthened accountability mechanisms.

As Oestreich shows in his article, SDG 10, which focuses on inequality within and between countries, has vaguely defined targets. SDG 10 does reflect the rights-based approach to development that has gained momentum in the international community. However, it does not explicitly mention the right to development and is almost silent on the causes of disparities in wealth and opportunity. Consequently, it does not assign a duty or responsibility for reducing these disparities to wealthier countries.

Chong's article considers SDG 13, which addresses climate change, as well as the Paris Agreement, which was adopted at the 21st Conference of Parties to the UN Framework Convention on Climate Change (UNFCCC). The Paris Agreement was recognised in SDG 13 as 'the primary international, intergovernmental forum for negotiating the global response to climate change'. Chong shows that while SDG 13 and the Paris Agreement take steps towards institutionalising extraterritorial obligations (e.g. the obligation of industrialised countries to assist developing countries in their climate change adaptation and mitigation efforts), they are not legally binding, lack strong built-in accountability mechanisms, and stop short of explicitly addressing the 'climate debt' issue and thereby establishing a moral responsibility to take strong climate action.

Finally, in their article focusing on SDG 16, Ivanovic, Cooper, and Nguyen also show that this goal regarding

peaceful and inclusive societies does not really provide much evidence of a growing acknowledgement of an extraterritorial legal responsibility to take action. They posit that its institutionalisation across the United Nations system as a moral responsibility remains inconsistent but can potentially expand in the future.

As a collection, the articles that follow give us reasons to be optimistic about the potential future impact of the SDGs, while making us cognisant of their limitations. Considering that significant change at the international level is often slow and incremental, unfolding over long periods of time, these findings are not unexpected. But they are helpful in highlighting how far the international community has come in terms of recognising moral and legal responsibilities to take action against poverty and what remains to be done to put in place institutions that can help the international community end global poverty.

Appendix

Sustainable Development Goals

Goal 1. End poverty in all its forms everywhere

Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture

Goal 3. Ensure healthy lives and promote well-being for all at all ages

Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all

Goal 5. Achieve gender equality and empower all women and girls

Goal 6. Ensure availability and sustainable management of water and sanitation for all

Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all

Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation

Goal 10. Reduce inequality within and among countries

Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable

Goal 12. Ensure sustainable consumption and production patterns

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

Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Goal 17. Strengthen the means of implementation and revitalise the Global Partnership for Sustainable Development

*** Acknowledging that the United Nations Framework Convention on Climate Change is the primary international, intergovernmental forum for negotiating the global response to climate change.**

Source: 2030 Agenda for Sustainable Development

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End Note

1. I am grateful to Gillian MacNaughton for encouraging me to think about this point; Langford et al. make this distinction between legal and moral bases for extraterritorial obligations – see Langford et al. 2013, p. 8 and pp. 9-10.

Transformational Change or Tenuous Wish List? A Critique of SDG 1 ('End Poverty in All Its Forms Everywhere')

MITU SENGUPTA

This article begins by highlighting the strengths of the Sustainable Development Goals (SDGs) as compared to the Millennium Development Goals (MDGs), which guided international action against poverty between 2000 and 2015. Then, through an analysis of SDG 1 – the goal that aims to end poverty in all forms everywhere – it argues that while the SDGs make important advances over the MDGs, they are marred by weakly worded targets that provide little indication of how the goal will be achieved and by whom. This basic flaw, the article further argues, is a reflection of two deeper, foundational problems that apply to the SDGs as a whole. The first is that the SDGs make it easy for governments to go slow on the realisation of human rights, and the second is that the SDGs do not specify a clear division of labour, which is what a human rights-based duty to eradicate severe poverty fundamentally requires.

Introduction

On September 25, 2015, the United Nations General Assembly adopted resolution A/RES/70/1 – also known as *Transforming Our World: The 2030 Agenda for Sustainable Development* (UN General Assembly 2015). Agenda 2030 is an intergovernmental agreement that is designed to guide global development efforts over the next fifteen years, between 2015 and 2030. Its centrepiece, the Sustainable Development Goals (SDGs), replaces the Millennium Development Goals (MDGs), which held sway between 2000 and 2015. In the Preamble to Agenda 2030 (UN General Assembly 2015: 1-2), the new goals are described as building on the MDGs, to 'complete what they did not achieve', but also as 'bold and transformative steps which are urgently needed to shift the world onto a sustainable and resilient path'.

Like the MDGs, the SDGs constitute a statement of aspirations, and a voluntary agreement rather than a binding treaty. While this is a disadvantage as far as the prospects for compliance are concerned, it is also an opportunity. When no legally binding obligations are at stake, states should be willing to adopt objectives that are more ambitious in scope and vision – a common vision that will raise the gaze of politicians and public officials beyond short-term political advantage or narrowly defined national interest to think imaginatively about the future. This, indeed, appears to be the very purpose of the SDGs, to set out a 'supremely ambitious and transformational vision' that will allow us to 'envisage

a world free of poverty, hunger, disease and want, where all life can thrive' (UN General Assembly 2015: 3).

The SDGs may be critiqued in several different ways. We may ask, for example, whether the giant sprawl of 17 goals and 169 targets that comprise the new agenda are actionable; about the types of policies and laws that they will spawn. We may ask questions about the process through which they were created; about whose voices were dominant and whose, perhaps, were left out. All of these are good questions. In this article, however, I will evaluate the SDGs – with a focus on SDG 1 ('end poverty in all its forms everywhere') – against the standard that is set out by its own authors. Based on a close reading of the goal, I will ask whether SDG 1 does, in fact, present a 'supremely ambitious' vision of a world without poverty, especially in light of what we know about poverty today and the means to eradicate it, and also in light of Agenda 2030's professed commitment to human rights.

I argue that SDG1 merits praise for making some clear advances over the MDGs' flagship poverty goal (MDG 1). However, the politically cautious language through which it is expressed puts at risk any genuinely 'transformational' visualisation of the future. Furthermore, I point to two foundational problems that apply to the SDGs as a whole, and that impact the moral appeal of SDG 1 in particular. First, by avoiding the stringent responsibilities demanded by human rights language, the SDGs make it easy for governments to go slow on

the realisation of human rights. Second, the SDGs fail to specify what a human rights-based duty to eradicate severe poverty actually requires, namely, a clear, *global* division of labour.

SDG 1 – What’s New and What’s Not?

When MDG 1 and SDG 1 are compared, a number of welcome shifts stand out. First, there is a change in language from that of poverty reduction to that of poverty eradication. While MDG 1 aimed to ‘halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day’, SDG 1 aims to ‘end poverty in all its forms everywhere’. The switch in language from ‘reducing’ to ‘ending’ or ‘eradicating’ is a progressive move because, first and foremost, it signals global recognition that poverty and its associated violations are morally unacceptable. (In fact, the SDGs are designed to ‘end’ i.e. reach a statistical zero, on poverty, hunger, preventable child deaths, abuse of children, and several other goals.)

It also calls for a very different strategy: getting ‘halfway there’ encouraged countries to do the easiest parts first, whereas getting to zero requires an honest focus on empowering the poorest and hardest to reach, even in the most affluent countries of the world. Indeed, such commitment to ‘leave no one behind’, which is clearly presented in SDG 1, is a distinctive feature of the SDGs as a whole. Widely endorsed in global consultations on the post-2015 agenda, the principle commits signatory states to consider targets achieved only if they are met for all segments of a population, and is affirmed in SDG 17.8’s pledge to disaggregate relevant data ‘by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national context’.

A second key difference between MDG 1 and SDG 1 is that while poverty and hunger were lumped together in MDG 1, the two issues are the focus of two separate goals in the SDGs (hunger being covered by SDG 2). Another issue relates to ‘decent work’, which was also folded into MDG 1 as a target, whereas in the SDGs, decent work is addressed under a separate goal (SDG 8). Treating hunger, poverty and employment as related but conceptually distinct problems should be considered a solid step forward, as each issue receives due recognition and clear focus in the new agenda. Indeed, the SDGs, as a whole, do far better than the MDGs in capturing the complexity and interconnectedness of multiple development concerns, not only through stand-alone goals, but in a crosscutting manner through the framework. They go well beyond advocating for basic needs, which was the main concern of the MDGs, to tackling deeper drivers of poverty such as failing institutions. The SDGs’ comprehensive approach is exemplified in SDG 1, which, in keeping with new research on the subject, frames poverty as a

multi-dimensional problem that arises not only from a lack of income, but also from a lack of ‘equal rights to economic resources, as well as access to basic services, ownership, and control over land and other forms of property, inheritance, natural resources, appropriate new technology, and financial services including microfinance’ (SDG1.4).

A third important difference between SDG 1 and MDG 1 is that SDG 1 includes several means of implementation (MoI) of targets that are meant to provide a rough plan for achieving the goal. For example, SDG 1.b affirms the need for ‘pro-poor and gender-sensitive’ strategies in the creation of poverty eradication actions. While this is by no means a strong directive, it indicates a preference for a certain type of policy strategy, i.e. one that is people-centred rather than purely growth-focused. The MDGs, in contrast, contained no references to how any particular goal might be achieved. This was no accident. As Fukuda-Parr and Hulme (2011: 24) point out, the architects of the MDGs chose to focus ‘on people and the ends of development, around which a common vision could be established, rather than the means to get there, which was fiercely contested’. In light of how politically tense the process of international agreement-making tends to be, the inclusion of explicit references to means of implementation in the SDGs should be considered quite a bold step.¹

So far, then, I have considered a number of ways in which the SDGs make clear advances over the MDGs. Let me now turn to some concerns. The first ‘red flag’ that pertains to SDG 1 is that the language of the title of the goal is misleading. Despite SDG 1’s professed commitment to ending poverty in ‘all its forms everywhere’, we quickly learn, in target 1.1, that the commitment to eradication actually applies only to ‘extreme poverty’, and not, in fact, to poverty in all its forms everywhere. In fact, target 1.2 returns us to the language of the MDGs, by stating that the aim is to ‘reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions’. It is difficult to not be a little bewildered by the contradiction between the language of the goal’s title and the targets that come under it.

Another related problem is that SDG 1 ultimately provides no measure of poverty, other than the money-metric of \$1.25 per day. This income-based measure fails to capture many of the hardships that constitute poverty in the real world, such as child labour, chronic undernourishment, illiteracy, exposure to violence and lack of access to safe drinking water, shelter, sanitation, electricity and essential medicines. Besides this, there is no commitment to keep the definitions and methods used to measure income poverty constant. This is important. For example, the World Bank has defined poverty ever more narrowly, by replacing the original purchasing

power parity threshold of \$1.00 per person per day in 1985 US dollars (as referenced in the UN Millennium Declaration and in MDG 1) with a lower threshold of \$1.08 per person per day in 1993 US dollars, and then with an even lower threshold of \$1.25 person per day in 2005 US dollars. This has led to a much better looking poverty trend, as can be seen from the World Bank's own trend numbers for different poverty lines. Defining poverty in terms of daily expenditure with the absurdly low purchasing power of \$1.25, the Bank calculates that poverty has fallen by 61%: from 43.45% of the population of the developing countries in 1990 to 16.99% in 2011. Had the Bank chosen a more humane poverty line, reflecting daily purchasing power of \$3.00, it would find that poverty has fallen by less than 31%: from 76.29% in 1990 to 52.80% in 2011 (for extensive discussions, see Pogge 2010: 63-68 and Pogge 2013: 209-231).

The mention of 'national definitions' in target 1.2 is another red flag. Strikingly, the SDGs contain multiple references that reduce the obligations of signatory states to doing only what is 'nationally appropriate' in order to achieve the goals. Among other things, there is language on recognising 'national policies and priorities' in SDG 12.7, 'national circumstances' in SDG 12.c, and 'respect(ing) each country's policy space' in SDG 17.15. Intuitively, such language feels misplaced, given the SDGs' professed commitment to human rights, which is affirmed in its preamble, and then reinforced by the proclamation that the SDGs are 'grounded in' the Universal Declaration of Human Rights, international human rights treaties, and 'other instruments such as the Declaration on the Right to Development'. It feels wrong that Agenda 2030 re-commits states to realising their international human rights obligations on the one hand, while suggesting, on the other, that they need to meet only national benchmarks while striving for these goals.

There are good political reasons for why stronger human rights language and a universal zero target approach for all minimum core economic and social rights obligations were avoided in the formulation of the new goals. During inter-governmental negotiations, developing countries expressed concern that they would not be able to meet the burden of zero goals, and that such goals would be used to name and shame developing countries, especially the poorest among them. Led by the G77 and China, they therefore lobbied hard for the inclusion of nationally determinable targets as well as language on respecting national policy space (on this, see Muchhala 2014b; Muchhala and Sengupta 2014). However, while the concern that overly ambitious targets could be used against poor developing countries was a legitimate one, the solution was not to dilute the SDGs by aiming for whatever is feasible with national resources. Rather, the SDGs should have specified the responsibilities of wealthy countries and enterprises in relation to these goals, identifying what they must do to reduce impediments and to increase assistance so

that ambitious targets can be met even in the poorest countries. (Further comment on this issue is provided in section 2.2 below.) The MoI targets for SDG 1, for example, would have been a good place to specify such responsibilities. Instead, there is only a passing and vaguely worded reference to 'development cooperation' in SDG 1a, which seems thoroughly unequal to the task.

To sum up, then, once we dig beneath the surface of SDG 1, a sense of disappointment sets in. The impressive language in the title of the goal is quickly watered down, and the MoIs for the goal leave us with little inkling of how the goal will be achieved and by whom. These flaws, which mar the quality of an otherwise promising SDG 1, should be viewed, however, as reflections of two larger, foundational problems that pertain to the SDGs as a whole. These are described in further detail below.

The SDGs Make It Easy For Governments To Go Slow on the Realisation of Human Rights²

A first and most fundamental concern is the deep tension between presenting moral ambitions in the language of (human) rights and presenting them in the language of (development) goals. The development goals discourse invites an incremental approach to overcoming deprivations: we have a certain distance to traverse, and so we set off toward our destination and approach it step-by-step. The human rights discourse, by contrast, suggests that deprivations must be ended right away. When severe deprivations constitute unfulfilled human rights – and, given their social origins, even human rights violations – then they categorically require immediate and top-priority remedial attention. We must spare no effort to realise human rights as fast and fully as we can. When this 'we' is the world's national governments united by a common purpose, with their present economic, technological and administrative capabilities, then little can stand in their way toward immediate full realisation.

To be sure, the language of goals could be fitted into this picture: our governments could commit themselves to the immediate full realisation of all human rights everywhere and call this their goal. However, this is not the way the goals language has come to be used in the international development discourse. We see this, for instance, in the MDGs, the first of which envisioned merely halving, over a long 25-year period (1990-2015), the proportion of people in the developing world who live in extreme poverty and the proportion of people who suffer from hunger. Taking population growth into account, this goal in fact envisioned a 27% reduction in the number of people suffering undernourishment and extreme poverty – a mere 1% reduction each year.

Although the UN proudly proclaimed that 'the MDGs helped to lift more than one billion people out of extreme poverty', the glacial progress over that quarter century

reflects no such effort. The period's ordinary 2.5% real annual growth in global *per capita* income³, amounting to a cumulative real (inflation-adjusted) income rise of 85% over the quarter century, was easily sufficient to achieve the desired modest reductions in undernourishment and hunger. In fact, these reductions would have been much larger if the income gains had not been so heavily concentrated at the very top of the global income distribution.

We could plausibly credit governments with having made an effort only if they had managed to reduce inequality within their respective countries, thereby ensuring that the poorer percentiles of the national income distribution achieved income gains exceeding those from ordinary economic growth. However, very few governments reduced domestic inequality in the MDG period. In most countries, income and wealth inequalities have increased, with the result that the world's poor lost out on some of the gains they would otherwise have reaped from ordinary economic growth. In this way, governments have, if anything, *added* to the present poverty count by diminishing the impact of ordinary economic growth on poverty reduction.⁴ In any case, it is indisputable that, to put it mildly, governments have failed to 'spare no effort' to reduce severe deprivations during the MDG period. They have directed so little of this period's economic growth to the poor that, for example, the number of chronically undernourished people worldwide has fallen by merely 21% (from 1010.6 to 794.6 million) over those 25 years (FAO, IFAD, and WFP 2015: 8).

This official go-slow approach in regard to overcoming severe deprivations is paradigmatically captured in the expression 'progressive realisation'. In UN-speak, this expression means that (a) we must aim for the full eradication of these deprivations, (b) we ought to approach this objective in a continuous manner (without backsliding), and (c) we may take as much time as we deem reasonable to complete the task. In these ways, 'progressive realisation' fulfils the same function as the notorious phrase 'with all deliberate speed' in *Brown v. Board of Education*, which in effect allowed Southern states of the US to implement at whatever speed they judged reasonable the admission of black pupils into public schools.

The key problem is that the discourse of development goals draws our attention to *diachronic comparisons* with historical benchmarks: we look at the trend since 1990 or 1960 or 1830, and we invariably find evidence that things have become better than they had been earlier. The language of human rights, however, draws our attention to *synchronic comparisons* with what would now be possible and, if we cared to make such comparisons, we would invariably find that the extent of present deprivations is far greater than would be unavoidable.

It is not surprising, then, that the former mode of presentation is politically preferred. It does not, however, fit with the language of rights. Nor does it fit with the recognition that all human beings have human rights to a life in dignity – a life in which they can meet their basic needs. The former mode of presentation suggests, falsely, that present severe deprivations can somehow be rendered morally acceptable, or more acceptable, because such deprivations had been even more widespread and severe in the past – or by the fact that, in some future period, such deprivations will have disappeared. The human rights discourse, by contrast, brooks no such delay. If we do regard the eradication of undernourishment and other severe deprivations as a goal to be slowly approached over several lengthy development goal cycles, thereby accepting hundreds of millions of poverty-related deaths and deprivations in the interim, then we are in effect denying that there is a human right to life, a human right to an adequate standard of living, a human right to be free of hunger.

Ultimately, it is this fundamental tension between the language of development goals and the language of human rights that is reflected in SDG 1. It explains the contradiction between the bold, human rights-grounded pledge to 'end poverty in all its forms everywhere' in the title of the goal, and the feeble targets, which cling to the money metric measure of \$1.25 per day, and get us only halfway to our goal. The larger message that may be gleaned is that, despite what appears to be professed, the SDGs do not, in fact, acknowledge a moral imperative to reduce global poverty.

The SDGs Do Not Specify What a Human Rights-Based Duty To Eradicate Severe Poverty Requires: A clear division of labour

The concept of a goal implies some definite individual or collective agent whose goal it is. It implies that this agent has a reasonably clear idea about the steps it will take to achieve the goal and also has both the commitment and the means necessary to take these steps. This is not to say, of course, that common goals presuppose a single leader. A group can decide collectively what to aim for and how to get there. However, to have a common goal, this group must have a shared understanding of who is to do what toward implementation.

Certainly, no such shared understanding emerged around the MDGs. Governments publicly agreed that it would be a good thing if a certain set of propositions were to come true by 2015. Let the prevalence of hunger be half of what it was in 1990 and let the prevalence of under-5 mortality go down by two thirds! Governments did not, however, agree on a division of labour toward *making* these propositions true. The agreement left entirely unspecified who was to do what. So, when we fell behind, badly, on the undernourishment and child mortality targets, there was no authoritative way of

identifying the party or parties required to make additional efforts to get us back on track. In fact, this complete exclusion of specific responsibilities from the agreement made it easy for governments to sign on, because they were committing themselves to nothing in particular: should some of the agreed wishes remain unfulfilled, each government could always respond by lamenting others' insufficient exertions.

Since no clear *global* division of labour is specified for achieving the SDGs, there is a real danger, then, that any failures will be blamed on the poorest countries. This is exactly what happened during the MDG era, when it was thought that each country is in charge of achieving the MDGs within its own jurisdiction: if we are to reduce by two thirds the global rate of children dying before the age of 5, then each country should reduce its under-5 mortality rate by two thirds. If the world is underperforming, then the fault lies with the governments of the underperforming countries. Such a division of labour is, however, enormously unfair, because it saddles the poorest, least capable countries with the largest responsibilities: the poorer and hence less capable a country is, the larger is its task. Extremely poor countries with very high birth rates, such as Angola, Burkina Faso, Chad, East Timor, Ethiopia, Guinea, Liberia, Malawi, Mali, Mozambique, Niger, Nigeria, Sierra Leone, Somalia, Uganda and Zambia were supposed to reduce their under-5 mortality rates from around 200 (per 1000 children born) to 70 or so, while rich countries like Japan and the US needed to reduce their rates only from 6 to 2 or from 11 to 4, respectively.⁵

Thus, by failing to specify a clear division of labour, the SDGs repeat a fundamental error that tainted the MDGs: the poorest, least capable countries are required to take on the largest shares of the global task while the richest countries are accorded disproportionately tiny shares. It should go without saying that, with their 100 times smaller *per capita* government budgets, the poorest countries cannot fund the necessary work on their own – certainly not so long as the affluent states operate an international fiscal and financial regime that makes it easy for multinational corporations and wealthy individuals to dodge their taxes in poor countries with the help of tax havens, secret jurisdictions, and plenty of corrupt bankers, accountants, lawyers and financial advisers (on this, see Pogge and Mehta 2016).

Of course, developing countries refused to accept this lopsided and unproductive allocation of responsibilities, which explains their resistance to 'zero goals' as noted above. During the inter-governmental consultation sessions that preceded the adoption of the SDGs, developing countries, led by the Group of 77 (G77) and China, referenced the principle of common but differentiated responsibilities and argued that, while the SDGs should be made relevant to all countries, the

roles and responsibilities in the implementation of the goals should be differentiated according to the different national realities, capacities and levels of development of different countries and also according to national policies and priorities. This demand, as noted earlier, led to the inclusion of nationally determinable targets and language on respecting national policy space, which have effectively weakened the SDGs. A better solution would have been to specify the responsibilities of wealthy countries and enterprises in relation to these goals, allowing for challenging targets to be met even in the poorest countries. Doing so, in fact, would have been in line with *2030 Agenda's* stated commitment to realising the right to development⁶ and the internationalisation of responsibility this right entails.

This brings us to a more general analysis of the new global partnership goal, SDG 17, which was intended to be a more ambitious version of MDG 8, but ended up suffering from the same key defect. Like in MDG 8, the world's most powerful agents – affluent states, international organisations, multinational enterprises – are once again shielded from any concrete responsibilities for achieving stated goals, when with their wealth and influence, they ought to be taking the lead in providing the needed resources. Among other things, these powerful agents must step up to meet the enormous challenge of improving the data collection capacities of developing countries and of implementing systemic institutional reforms that will address the root causes of poverty.

These needed reforms include changing the rules that encourage illicit financial outflows from developing countries or force the poorest countries to repay, with interest, the debts accumulated by their previous unauthorised, illegitimate and unaccountable rulers. The targets for SDG 17, along with the MoI targets for SDG 1, should have specified the concrete responsibilities of the affluent states in regard to implementing needed global institutional reforms and financing sustainable development. If the world's most influential agents had been held sufficiently accountable for what they owe toward making sustainable development work, the concepts of partnership and universalism would have been more meaningful, rather than what they are now likely to become – a smokescreen for extreme global inequalities.

The message, again, is an unfortunate one. The SDGs do not, ultimately, acknowledge the need to create institutions to coordinate action to meet positive duties to distant strangers. There is also no recognition of duties to fulfil social and economic rights extraterritorially through international assistance and cooperation.

Work continues on clarifying the 'means of implementation' for the SDGs. This effort is crucial for realising the transformational potential of the post-2015 agenda, of

which SDG 1 should be the most powerful, inspiring goal. It will not be enough to specify what needs to be done; governments must also agree, for each specific task, who is responsible for ensuring that it actually gets done. If no such division of labour is agreed upon, then all we have is a long list of untenable wishes, along with the vague hope that economic growth and charitable activities will move things far enough in the right direction. Needless to say, resting content with wishes and hopes will only exacerbate our failure to meet the stringent responsibilities implied by human rights language. Not only are we deferring the realisation of human rights far into the future, thereby severely disrespecting all those people who are now in jeopardy and thus unlikely ever to survive to that promised land of 2030, but we are even failing to take minimally necessary steps to ensure that this promised land will even be there – that the huge present human-rights deficit will really, by 2030, shrink as much as hoped for.

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End Notes

1. As Alas (2015) points out, MoI targets were a major source of tension during SDG negotiations. Developing countries, represented by the Group of 77 (G-77) and China, wanted to have strong MoIs 'under each specific goal while developed countries wanted to keep MoI only under goal 17'. For example, a goal-specific MoI under health (SDG-3.b) advises governments to: 'Provide access to affordable essential medicines and vaccines, in accordance with the Doha Declaration which affirms the right of developing countries to use to the full the provisions in the TRIPS agreement regarding flexibilities to protect public health and, in particular, provide access to medicines for all'. The inclusion of this target is a gain for developing countries, since they had lobbied hard to have supportive language in the SDGs on their use of TRIPS flexibilities (also see Muchhala 2014a).
2. For a more detailed exposition of this argument, see Pogge and Sengupta 2016.
3. In a report published by Manyika et al. (2015) demonstrate that real growth of the world economy has been 3.8% in recent decades. To calculate real annual global economic growth *per capita*, one must diminish this growth rate by subtracting the rate of global population growth, which, over the MDG period, has averaged about 1.3% *per annum*.
4. The World Bank's own data shows that, in 1990, 69.5% of those living in extreme poverty in the developing world lived close enough to the Bank's international poverty line so that an 85% income increase would lift them above. See <http://iresearch.worldbank.org/PovcalNet/> (accessed April 3, 2016). Therefore, had our governments been more ambitious, aiming for a 69.5% reduction in extreme poverty over the 1990-2015 period, they could have achieved this by merely ensuring that the poor participate proportionately in global economic growth.
5. National under-5 mortality rates for 1990 can be found at <http://data.worldbank.org/indicator/SH.DYN.MORT?page=5> (accessed January 24, 2016).
6. See www.un.org/en/events/righttodevelopment/pdf/rtd_at_a_glance.pdf (accessed January 24, 2016). See also Sengupta 2002.

Ending Child Malnutrition Under SDG 2: The moral imperative for global solidarity and local action

NANDINI RAMANUJAM AND SARAH BERGER RICHARDSON

The second Sustainable Development Goal (SDG 2) aims to end all forms of hunger and malnutrition by 2030 and ensure that people have access to sufficient and nutritious food at all times. SDG 2 takes up where the Millennium Development Goals (MDGs) left off, inviting multi-stakeholder collaboration to develop and implement policy recommendations and programming to ensure food security and nutrition for all. Globally, significant action has been taken to support multi-sectoral responses and local policy interventions to reduce hunger and malnutrition. Recognising that effective solutions must be tailored to the unique needs of different regions, some states have also started to implement country-specific policies to directly address child malnutrition. The efforts of India, Brazil and Peru are highlighted. Still, after a period of prolonged decline, global hunger is on the rise again and we are not on track to achieve SDG 2 and other targets related to food security and nutrition. Although SDG 2 does not refer specifically to the right to food or states' legal obligations more generally in either its aims or its targets, we argue that it does contribute to the global moral imperative to eradicate hunger and the worst forms of malnutrition. The paper concludes that responses to this moral imperative should be grounded in multi-sectoral and context-specific universalist approaches to food security and nutrition.

Introduction

The second Sustainable Development Goal (SDG 2) aims to end all forms of hunger and malnutrition by 2030, and ensure that people have access to sufficient and nutritious food at all times (UN, Division for Sustainable Development 2017). SDG 2 takes up where the Millennium Development Goals (MDGs) left off, inviting multi-stakeholder collaboration to develop and implement policy recommendations and programming to ensure food security and nutrition for all. MDG 1, which aimed for the eradication of extreme poverty and hunger, succeeded in lowering the proportion of undernourished people in the developing regions in half between 1990-2015 (UN 2015). However, extreme hunger and malnutrition remain a significant barrier to development in many countries. Moreover, after a period of prolonged decline, global hunger is now on the rise and the estimated number of undernourished people globally increased from 777 million in 2015 to 815 million in 2016 (Food and Agriculture Organization (UN) 2017). In October 2017, the UN Committee on World Food Security expressed concern that the world is not on track to achieve SDG 2 and other targets of the 2030 agenda related to food security and nutrition (Committee on World Food Security 2017).

In the introduction to this special issue, Shawki asks whether the SDGs institutionalise a global moral responsibility to respond to global poverty and whether they reflect a collective acknowledgment of extraterritorial legal obligations to respect, protect, and fulfill economic, social, and cultural rights. To be sure, SDG 2 reinforces the importance of the right to food, which is protected under international law, as well as the moral imperative to act that has been driving global initiatives to improve food security since the 1990s.

While there is widespread agreement about the global responsibility to achieve SDG 2, the path to reaching each of its targets will vary depending on how the SDGs are translated into context specific policy measures. Ending hunger and malnutrition is an interdisciplinary and multi-sectoral endeavour. Targets and indicators provide some guidance for measuring progress, but are inadequate to steer an effective multi-stakeholder response with the aim of achieving zero hunger.

This paper begins by addressing the key questions of this special issue of *Social Alternatives*, namely, the legal and moral foundations of SDG 2. It then turns to a deeper analysis of Target 2.2. and initiatives to reduce childhood malnutrition and stunting at the global and local level. The

final section of the paper draws connections between successful initiatives, multi-sectoral approaches, and context-specific universalism. We focus on Target 2.2 malnutrition for two reasons. First, the moral imperative for action to eliminate the worst forms of malnutrition, especially childhood stunting and wasting is undeniable. Although combating hunger is a complex and long-term process, there are simple and effective solutions to address stunting. There is value in drawing attention to Target 2.2 so that immediate investments can be made while policy debates continue over how best to respond to more complex challenges over the long-term. Second, as new issues are identified as key sites of intervention for achieving SDG 2, lessons learned from successful interventions can be adapted and replicated elsewhere.

Achieving Zero Hunger and Ending Malnutrition: A moral and legal imperative

SDG 2 and the right to food

The 2005-2008 food crisis shocked the world and drew attention to ongoing problems of critical food insecurity. The crisis, however, was not new. In 1996, world leaders, activists, and food producers met in Rome for the World Food Summit to clarify the scope of the right to food under article 11 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and other relevant international and regional instruments (World Food Summit 1996: para. 61). That same year, food sovereignty, a conceptual alternative to the right to food or food security, was defined by La Via Campesina as, 'the right of each nation to maintain and develop their own capacity to produce foods that are crucial to national and community food security, respecting cultural diversity and diversity of production methods' (Via Campesina 1996).

The right to food is recognised in several instruments under public international law including the ICESCR and the *Convention on the Rights of the Child*. The right to food is also inextricably linked to the rights of land-users, indigenous peoples in particular, and protected accordingly. Moreover, indirect reference to the right to food can be found in both the *International Covenant on Civil and Political Rights* (ICCPR) and the ICESCR, which recognise the right to self-determination and, in so doing, recognise that a people may not be deprived of its own means of subsistence. Article 3 of the *Declaration on the Rights of Indigenous Peoples* reaffirms this principle.

Article 11 of the ICESCR is the most comprehensive articulation of the right to food. It provides for the right of every person to an adequate standard of living, including adequate food, and for the right of every person to be free from hunger. Governments are required to take appropriate steps to ensure the realisation of these rights and, taking into account the problems of both food-importing and food-exporting countries, to ensure

an equitable distribution of world food supplies in relation to need.

The ICESCR was endorsed by the international community in 1966, and again thirty years later when heads of State and Government convened at the World Food Summit in 1996. Moreover, although the ICESCR has not been universally ratified, the collection of human rights treaties, humanitarian laws, UN resolutions, international declarations, and even constitutional provisions that refer to the right to food suggest that the right is now firmly anchored in customary international law (Narula 2006: 771-93). As a result, when governments fail to protect communities' access to fertile land, or to provide adequate replacement land or compensation for expropriation, they are violating their obligations under international law. Violations, however, are rarely punished.

Although SDG 2 does not refer specifically to the right to food or rights more generally in either its aims or its targets, the SDGs' preamble includes rights-based language. There is some debate about the desirability of using goals as a policy framework for achieving zero hunger instead of enforcing and strengthening the right to food (Lambek and Duncan 2016). While goals and rights are not incompatible, there is reason for concern if shifts away from the latter encourage states to shirk their internationally recognised obligation to ensure the realisation of the right to food of their citizens. Mechanisms for the legal enforcement of the right to food are already underdeveloped. In many cases, the judiciary suffers from the mistaken perception that the gravity of violations of the right to food are less severe than other crimes (Franco 2008). In addition, lack of mechanisms for individual or group complaints have prevented the judiciary from giving meaningful content to the right to food. It is essential that the connection between hunger and policies that deny communities access to land and productive resources be acknowledged. Judges can play a unique role here because they have the power to change social realities without having to adopt political positions by simply relying on and applying human rights protections articulated in international law (Franco 2008).

An opportunity was thus lost in not explicitly grounding SDG 2 in the human rights framework and promoting the justiciability of the right to food. Compare for example the goal-based language of SDG 2 with SDG 5 (gender equality and empowerment of women and girls), which includes both a legal indicator and an outcome indicator for reforms around women's equal rights to economic resources and access to land. The legal indicator (5a.2) tracks progress on special measures included in national legal frameworks to enable gender parity, while the outcome indicator (5a.1) monitors actual progress. The FAO has developed a Gender and Land Rights database and a Legal Assessment Tool to monitor progress

towards Target 5.a (FAO, Food and Agriculture 2016). Women and land tenure play an important role in food security and nutrition, and there are significant overlaps between SDG 2 and the other SDGs. No one goal is separate from the others, but it is unfortunate that SDG 2 itself is solely goal-based and does not include any legal indicators. This continues to undermine efforts to strengthen the justiciability of the right to food.

Target 2.2 as evidence of a global moral imperative to act

Despite the absence of legal force backing SDG 2, the goal clearly articulates the global and moral obligation to end hunger and malnutrition. Malnutrition will often represent an invisible obstacle to the successful achievement of the SDGs. At least 12 of the 17 SDGs contain indicators that are highly relevant to nutrition, including those related to health, education, employment, female empowerment, and poverty and inequality reduction. Environmental degradation and loss of biodiversity contributes to chronic undernourishment. Gender inequality, poor education, and lack of access to justice and strong institutions all contribute to food insecurity. Progress made towards achieving the other SDGs will contribute to SDG 2 and vice versa. Nutrition targets are inextricably linked to gender equality and broader health goals. As governments invest in the social and economic development sectors to address these goals – in some cases spending upwards of 30% of their budgets (International Food Policy Research Institute 2016: xix) – attention should be paid to allocating some of these funds to nutrition-specific initiatives.

Target 2.2 of SDG 2 aims to ‘end all forms of malnutrition’ by 2030, achieve ‘internationally agreed targets on stunting and wasting in children under five years of age’ by 2025, and ‘address the nutritional needs of adolescent girls, pregnant and lactating women and older persons’ (UN, Division for Sustainable Development 2017). Target 2.2 is ambitious, but the imperative to act cannot be understated. According to the Global Nutrition Report 2016, out of 667 million children under the age of five worldwide, 159 million are stunted (too short for their age); 50 million are wasted (do not weigh enough for their height), and 41 million are overweight (International Food Policy Research Institute 2016: 2). The greatest burden of child malnutrition is carried in Asia and Africa (International Food Policy Research Institute 2016: 14-17). While Asia is experiencing the most rapid growth of the number of overweight children under the age of 5, child stunting has increased from 47 million in 1990 to 58 million in 2014 in Africa (International Food Policy Research Institute 2016: 17). Timor-Leste, Djibouti, Yemen, India, Niger, Chad, Guinea-Bissau, Ethiopia, Pakistan, and the Democratic Republic of Congo (DRC) are the top 10 countries who have the highest percentage of children between 6-59 months who are stunted or wasted (International Food Policy Research Institute 2016: 23). According to the UNICEF-WHO-World Bank

Joint Child Malnutrition Estimates, more than half of all stunted children under 5 in 2016 lived in Asia (56%) and more than one third lived in Africa (38%) (UNICEF, WHO, and World Bank Group 2017: 3). In 2016, almost half of all overweight children under 5 lived in Asia (49%) and one quarter lived in Africa (24%) (UNICEF, WHO, and World Bank Group 2017: 3). In 2016, more than two thirds of all wasted children under 5 lived in Asia (69%) and more than one quarter lived in Africa (27%) (UNICEF, WHO, and World Bank Group 2017: 3). Western Africa, Middle Africa, Eastern Africa, Southern Asia, and Oceania have stunting rates that exceed 30% (UNICEF, WHO, and World Bank Group 2017: 4). India also has more than a third of the world’s stunted children (UNICEF n.d.; UNICEF 2013: 31), though it has ‘almost doubled the rate of stunting reduction in the past 10 years compared with the previous decade’ (International Food Policy Research Institute 2016: 3).

Target 2.2 has been instrumental to mobilising global initiatives to achieve SDG 2. Setting targets for the 2016 World Health Assembly (WHA Resolution) on Infant and Young Child Nutrition responds directly to the SDGs, specifically Target 2.2 of SDG 2. The WHA Resolution commits to undertake steps to create a supportive environment for the implementation of comprehensive food and nutrition policies, and to further progress towards six nutrition-based global targets:

- 1) ‘a 40% reduction in the number of children under-5 who are stunted’;
- 2) ‘a 50% reduction of anaemia in women of reproductive age’;
- 3) ‘a 30% reduction in low birth weight’;
- 4) ‘no increase in childhood overweight’;
- 5) ‘at least a 50% increase in the rate of exclusive breastfeeding in the first 6 months’; and
- 6) ‘reduce and maintain childhood wasting to less than 5%’ (WHO 2017a). The targets were endorsed in the WHO’s *Comprehensive Implementation Plan on Maternal, Infant and Young Child Nutrition* (MIYCN) in 2012 (WHO 2014: vi).

The six global nutrition targets also guide the 2014 Rome Declaration and Framework for Action, which calls for the UN Committee on World Food Security (CFS) to support national and regional efforts, as well as to increase international cooperation and development assistance in addressing child malnutrition (FAO & WHO 2014b; FAO & WHO 2014a). In October 2015, the CFS established an Open Ended Working Group on Nutrition to clarify its role on these matters (CFS 2015: 12-13). Additionally, in April 2016, the UN General Assembly proclaimed the years 2016-2025 to be the UN Decade of Action on Nutrition, with the goal of eradicating malnutrition worldwide, ending hunger, and ensuring

universal access to healthier and more sustainable diets for all individuals, including children (UN General Assembly 2016). The Decade of Action is essentially a global roadmap to measurable and achievable policy commitments to end all forms of malnutrition, as per the SDGs. It is supported by the new Strategic Plan of the UN System Standing Committee on Nutrition (UNSCN) and the Nutrition for Growth (N4G) Compact, which collected \$4 billion at the first Nutrition for Growth Summit in 2013 (Scaling-Up Nutrition Movement 2017a). The second summit was held in 2016 in Rio de Janeiro. The Global Nutrition Report is one important development arising from the N4G Compact. It is the only independent and comprehensive annual review of the state of the world's nutrition, and records relevant, country-specific commitments, advances, and recommendations (International Food Policy Research Institute 2016: 6).

A Realisation of SDG 2: A proposal for context-specific universalist approach

Context-specific universalism

While global action and international cooperation is crucial to achieving SDG 2, and Target 2.2 in particular, effective solutions need to be tailored to the unique needs of different regions. The lessons learnt from the limited success of nearly half a century of rule of law building highlight the fact that development initiatives must be informed by, and address, all stakeholders (Ramanujam and Caivano 2016; Trebilcock 2016). There are a number of key takeaways for the international community on applying the universalistic goals of SDG 2 to the individual needs of groups. One obvious method is to formulate effective strategies to garner the political will of states to address the public's immediate needs. Groups may directly target politicians who are accountable to their constituents and are more receptive to particular causes. A complementary strategy is to build in-country coalitions among relevant stakeholders. This might involve rallying civil society groups for a shared cause, raising voter awareness on certain issues, or strategically targeting media in order to provide an outlet for underrepresented perspectives. These strategies engage the public and integrate communities for the purpose of achieving the goals of SDG 2 in a manner that begins with the immediate needs of groups and societies (Golub 2003). Moreover, they require developing context sensitive programs and action plans in partnership with local stakeholders in order to reform policies and processes based on hard evidence and community realities.

Sally Engle Merry's work on connecting human rights law and international commitments to the local context is another reminder of the importance of translating SDG 2's universalist agenda to local realities (Merry 2006: 99-116). Just as the normativity of international law in a particular society will depend on its compatibility with pre-existing sources of normativity (pre-existing laws,

customs, structures, etc.), a strategy to combat child malnutrition in India, for example, must consider pre-existing realities such as poor sanitation, contamination of potable water, poor maternal health and nutrition (Ramanujam and Chow 2016; Harris, 2014). Properly addressing these local specificities requires international actors to pursue a partnership-based approach and move away from top-down, donor-recipient approaches.

Finally, unlike other socio-economic rights where the state obligations are interpreted on the underlying principle of progressive realisation, the right to food in general, and children's right to food in particular, calls for immediate action from states, international community and civil society. Immediate action is required because childhood stunting and wasting causes permanent cognitive damage and creates rippling health issues and socio-economic consequences for generations. UNICEF estimates that approximately 39% of children in the developing world are stunted, totalling 209 million children (see the Borgen Project). The issues of food insecurity and malnutrition may further be exacerbated by natural disaster, inadequate infrastructure, or civil and political strife. The situation in Yemen is particularly worrying. Conflict in the region has destroyed the country's health services, water and sanitation network, among other essential infrastructure, and nearly four hundred thousand children are at risk of death due to severe malnutrition. SDG 2 commits to the universal goal of ending hunger. Context specific universalism invites us to consider how this can be accomplished in regions where institutions are broken, issues are complex and interlinked, and governments are unstable.

Multi-sectoral initiatives

Many recent efforts at the global level recognise the importance of encouraging multi-sectoral responses to reduce child malnutrition. As mentioned previously, the success of SDG 2 is closely connected to the achievement of the rest of the SDGs. For instance, responding effectively to child stunting requires sustainable food production systems and resilient agricultural practices, which are linked to sanitation and access to clean water. The Scaling-Up Nutrition (SUN) Movement was established in 2012 to incorporate strategies that link nutrition to agriculture, clean water, sanitation, education, employment, social protection, health care and support for resilience (SUN Movement 2017b). SUN's vision is to end all forms of malnutrition by 2030 through collective action, led by governments and supported by organisations and individuals, to ensure the realisation of the right to food and nutrition of every child, adolescent, mother and family so they may 'reach their full potential and shape sustainable and prosperous societies' (SUN Movement 2017b). SUN produces 'In practice' briefs to highlight the efforts of SUN country governments and other national stakeholders to ensure proper nutrition. Moreover, the UN Secretary General's

Zero Hunger Challenge initiated at Rio+20 called on global actors, including governments, civil society, faith communities, the private sector, and research institutions to work together to end hunger and eliminate the worst forms of malnutrition, as well as promote sustainable food systems and a one hundred percent increase in smallholder productivity and income (UN 2012). Both SUN and the Zero Hunger Challenge demonstrate the importance of implicating many sectors and actors at the global level to support local policy initiatives designed to reduce child malnutrition.

Additional multi-sectoral interventions are the UNICEF and the WHO frameworks to address and eradicate child stunting. In 2013, UNICEF produced the report *Improving Child Nutrition: The Achievable Imperative for Global Progress*, that outlines interventions to address stunting and other forms of undernutrition (UNICEF 2013). Nutrition-specific interventions include the promotion of: optimal nutrition practices; maternal nutrition and efforts to prevent low birthweight; breastfeeding and continued exclusive breastfeeding; complementary feeding and infant and young child feeding; good sanitation practices; access to clean drinking water; and appropriate use of health services (UNICEF 2013: 17). Meanwhile, the WHO's Healthy Growth Project launched *Childhood Stunting: Context, Causes and Consequences* to summarise three dimensions of stunting: context, causes, and consequences (WHO 2017d). This initiative builds on UNICEF's conceptual framework, which emphasises causes of malnutrition (e.g. political economy; agriculture and food systems; water, sanitation and environment; access to health and healthcare; beliefs and norms; and education), and focuses on the context and consequences of child stunting that affect health and human capital development. To set and implement a stunting reduction agenda, the Healthy Growth Project emphasises that a multi-sectoral response be taken to address adequate antenatal and postnatal care in health facilities, education on nutrition and hygiene practices, community-based agriculture reform, and access to clean water and sanitation (WHO 2017e).

At a national level, some countries have started to implement policies to directly address child malnutrition with a multi-sectoral perspective. In India, for example, several legislative acts have been initiated by the Government of India to address this problem, notably the constitutionalisation of the right to food (Ramanujam, et al. 2015: 23-25). Brazil introduced the National Law on Food and Nutrition Security in 2006, which then established the National System for Food and Nutrition Security. It went on to constitutionalise the right to food in 2010, published a new food guide in 2014, and established the national Food Acquisition Program, which was designed within the framework of the Zero Hunger Strategy (International Food Policy Research Institute 2016: 10). The Food Acquisition Program has proven to be a model for good practices globally. More than 30

developing countries are currently considering it, and the African Union has endorsed this model (International Food Policy Research Institute 2016: 68). The Purchase from Africans for Africa Program is one example of how the model was adopted to a different context (Purchase from Africans for Africa 2013). It has been implemented in Ethiopia, Malawi, Mozambique, Niger, and Senegal, with the assistance of the Food and Agriculture Organisation of the UN and World Food Programme.

Together, these global commitments highlight the value of cooperation between states and transnational actors, as well as the need for global frameworks to support (institutional, financial, moral) multi-sectoral and region-appropriate policy interventions.

Conclusion

Data from the Joint Child Malnutrition Estimates from UNICEF, WHO, and the World Bank in 2014 shows worldwide that under-five stunting was 23.8%, compared to 39.6% in 1990; under-five overweight was 6.1%, compared to 4.8% in 1990; under-five wasting was 7.5%; anaemia in women ages 15-49 was 29% for non-pregnant women in 2011, compared to 33% in 1995 and 38% for pregnant women in 2011, compared to 43% in 1995; and under-five severe wasting was 2.4% in 2014 (International Food Policy Research Institute 2016: 16). Despite these improvements, globally we are off course to reach SDG 2 by 2030 and Target 2.2 by 2025 (Committee on World Food Security 2017). Child malnutrition continues to be prevalent worldwide and negatively impacts both human and material development (FAO 2017).

The world community is responding to this alarming reality with numerous global actions that support local policy initiatives. And countries like India, Brazil and Peru are demonstrating how innovative local solutions are crucial to achieving SDG 2. Lessons from the past few decades highlight the importance of multi-state and multi-sectoral approaches to reducing child malnutrition. Indeed, the objectives of SDG 2 cannot be understood in isolation from the other SDGs. From socio-economic empowerment of parents, to procurement policies that support smallholder farmers and sustainable agricultural development, to gender equality, and strengthening legislative and judicial institutions, investments in SDG 2 should be understood as investments in the SDGs as a whole.

This is a period when support for the newly articulated SDGs is being translated into capital investments. Decisions are being made today that will lock in future development pathways (see International Panel of Experts on Sustainable Food Systems 2017). The question we therefore need to be asking is: are the recipes on the table the best ones to build healthy, just and nutritious food systems?

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End Notes

* See ILO Convention Concerning Indigenous and Tribal Peoples (Articles 13 and 19); and UN Declaration on the Rights of Indigenous Peoples (Articles 8, 25, 26, and 32).

cheat grass

once i cut my toe i'm sure, but it's your cut toe
i remember. your toes are angry bedfellows

and early bird eyes with a choleric gleam. looking
at each other like that. here's your nearly

so brave as i want to be. mid-aria i thought
how love for puppies is easier, take puppy feet

need i say more? there's one plant in the yard
it's a thistle, i say, although there are also

tall yellow grasses, harp strings with scraggy tassels
something i screamed in a dream but it wasn't you

but another you, with extra crinkled skin
twenty-twenty and rhinoceros, a most riled thing

ROSE HUNTER,
NORTH LAKES, QLD

doves by the drove

monkeys roses in the sand hearts
carved in the sand hands holding
on the beach beaches rings fawns
goslings butter wings baby elephants
curmudgeon cats licking faces
caryatid bird on a wire single flames
candles soft light clear light starburst
blackboards fishing lions red umbrella
soft focus clear focus sepia roschach
diadems acrobatics head on knee
clouds clouds in clouds in the shape
of hearts joined ears or pear halves
with bubbles outlined & gutters
where pen to paper skipped skipping
stones swimming with fishes glowing
treeless bark & glitches bounding
balloons ceramic busted dogs with
bouquets dogs more dogs catching
sticks swimming riding a goat a park
bench in the afternoon sun lakeside
sunsets & why are we always behind
these people? we never see their faces
just silhouettes, the only faces are those
of children who, like puppies, rarely
offend us to our cores like you do
coral butterfly fish lemon mist cake
pinky strawberry swan on crystal
china with autumn colors rainbows
unicorns fortune cookies stardust
two hands cupped, holding grain

* constructed from the results of the Google image
search: "unconditional love".

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Glass Half-Full or Glass Half-Empty? : A human rights assessment of the WASH targets in the SDGs

INGA T. WINKLER

The human rights community has engaged at an unprecedented level in the elaboration of the Sustainable Development Goals (SDGs), including the water and sanitation targets. The SDGs have given rise to a complex ecosystem of instruments, documents and initiatives undertaken by different actors at various levels. The article examines these various instruments and processes to assess whether they support a further institutionalisation of the human rights to water and sanitation. To what extent are these targets grounded in human rights? Do the processes put in place to monitor and implement the targets lead to an institutionalisation of these human rights? Should we consider the SDGs a glass half-full or a glass half-empty in terms of their potential for institutionalising the human rights to water and sanitation?

The article concludes that the water and sanitation targets offer the potential for a glass that is more than half-full. They include language that provides for significant opportunities for monitoring human rights elements. However, declarations, commitments and aspirational language alone do not necessarily translate into action. One of the challenges for the SDG targets on water and sanitation lies in the fact that important elements were dropped in the process of translating them into indicators. An even greater weakness of the SDGs lies in their limited accountability. Without additional mechanisms or the better use of existing ones, possibly through the creative use of human rights mechanisms, the SDG glass risks ending up less than half-empty.

Introduction

The human rights community has engaged at an unprecedented level in the elaboration of the Sustainable Development Goals (SDGs). The process offered numerous opportunities for providing input through consultations and civil society advocacy during the negotiation phase. Two years post-adoption of the 2030 Agenda, it is time to evaluate whether the targets meet human rights standards. This article will focus on the water and sanitation targets contained in 6.1 and 6.2.

In line with the overall theme of this special issue, the article reflects on the process and its outcomes through the lens of the human rights framework. To what extent are these targets grounded in human rights? Do the processes put in place to monitor and implement these targets lead to an institutionalisation of the human rights to water and sanitation? (see Shawki 2018 in this volume) To answer these questions, the article largely relies on the analysis of official documents, while being informed by the author's personal involvement in human rights advocacy during the deliberation process.

A Critical View of the Millennium Development Goals to Inform Constructive Engagement with the SDGs

In the elaboration of the SDGs most human rights

advocates sought to infuse these processes with relevant human rights elements and considerations. They did not necessarily seek to turn global development goals into human rights monitoring mechanisms (see Flores Baquero et al. 2015: 311; Fukuda-Parr 2011). Comprehensive human rights monitoring is distinct and covers a full range of human rights obligations. It may be best carried out by human rights mechanisms such as treaty bodies and Special Procedures (UN SR WatSan 2012: Para. 23). The engagement of human rights advocates was informed by lessons learnt from the Millennium Development Goals (MDG) era (see Langford and Winkler 2014).

One challenge for monitoring in the context of the SDGs is the need for globally comparable data, which sets it apart from more localised (human rights) monitoring initiatives (see e.g. Flores Baquero et al. 2016). Monitoring in the context of the SDGs can thus complement human rights monitoring efforts by providing global estimates and indicating broad trends, but is not necessarily expected to capture all elements of human rights. That being said, the definitions of the human rights to water and sanitation can and have informed the development of the SDGs. In its most recent resolution on the topic, the United Nations General Assembly:

[r]ecognizes that the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and that the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity (UN GA 2015b: Para. 2).

Based on this understanding, human rights advocates sought to ensure that SDG monitoring processes for water, sanitation and hygiene (WASH) capture the main elements of human rights, in particular to avoid contradictions and distortions. Throughout the process of negotiations, a number of central issues crystallised that warrant particular attention from the perspective of human rights. Due to space constraints, this article will focus on the key issues of (1) inequalities including related to gender, (2) the challenge of 'one-size-fits-all' targets, (3) water quality, (4) safe management of sanitation, and (5) affordability (for a more detailed and systematic analysis see Murthy 2016; Flores Baquero et al. 2015). These aspects will be examined at various levels throughout the paper.

The foremost and broadest critique of the MDGs was the focus on aggregate outcomes, the lack of priority for marginalised groups and the resulting lack of incentives to reduce inequalities. As Darrow has pointed out:

[t]aken literally, the MDGs may easily be achieved in many countries without any effort to reach the most marginalised populations. In the worst cases, this can divert attention disproportionately to the 'lowest hanging fruits' and populations that are easiest to reach, thereby exacerbating existing inequalities (2013: 75).

With regard to water and sanitation, the UN Special Rapporteur warned that addressing inequalities was the MDGs' most significant blind-spot and fails to reflect the realities of a sector that is characterised by inequalities along the lines of wealth, gender, disability, race, ethnicity, caste and many other factors (UN SR WatSan 2012: Para. 31). With regard to gender equality, a specific gap was pointed out with regard to menstrual hygiene (UN SR WatSan 2012: 73-74; Flores Baquero et al. 2015: 315).

The need to address inequalities became a major rallying point during the SDG deliberations from early consultations (UNDP 2013) to advocacy seeking to influence political negotiations (UN System Task Team 2012; Swapan 2015). In the WASH sector, it further entailed engagement in technical processes, in particular

through a working group chaired by the UN Special Rapporteur tasked with developing technical solutions for disaggregation and indicator development that integrate human rights (Winkler et al. 2014: 548).

A second major point of critique concerned the MDGs as 'one-size-fits-all targets' aiming to halve the proportion of people without access to water and sanitation. Thus, the target fell short of committing to achieving universal access and did not reflect the human rights obligation of progressively realising human rights in line with a country's maximum available resources (see Sepúlveda 2003: 312). If understood as a national target, the target required too little from many States (UN SR WatSan 2010: Para. 13), and too much from many others, as well as not rewarding their significant efforts because it did not make any adjustments for capacity and resource availability (Anderson and Langford 2013). Apart from extending services to more people, the human rights to water and sanitation also require progressively higher levels of service in line with human rights standards with multiple benchmarks for monitoring, which the MDG targets did not capture either (Bartram 2008: 284).

With regard to water quality, in 2012, the UN announced that the world had met the water target in 2010 (JMP 2012), to halve the proportion of people without sustainable access to safe drinking water. However, strictly speaking the world had not met the target, but only the indicator. This indicator did not include a direct measure of water quality, but used access to 'improved' drinking water sources as a proxy (Clasen 2012: 1179). In many cases, such sources including piped water and boreholes indeed provide safe water, however, in many other cases they do not. One study estimated that 1.8 billion people lacked access to safe water when water quality was indeed factored in (Onda et al. 2012), compared to 783 million as the official MDG estimate in 2012 (JMP 2012). In response to these findings, consensus emerged that capturing water quality was a priority for future monitoring.

A related point of critique was the framing of the sanitation target and associated indicator. The focus on 'improved sanitation facilities' encouraged an expansion of access to toilets and latrines with limited regard for the management and disposal of faeces and associated wastewater. If this dimension had been included, a study found that an estimated 4.1 billion people would have to be considered as without access to sanitation (Baum et al. 2013), pointing to the need to make monitoring of the environmental sustainability of sanitation central to future efforts.

Finally, the human rights community criticised the lack of attention to the affordability of services. The water target in the original Millennium Declaration did call for 'hal[ving] the proportion of people who are unable to

reach or to afford safe drinking water' (UN GA 2000: Para. 19). However, this dimension was lost in the MDG targets based on grounds that it could not be measured (Vandemoortele 2011: 4). Since water is essential for life and health, people will usually go to great lengths to gain access to it. While they might have physical access, even when they pay exorbitant prices, this cannot be considered economic access. In many instances, people will compromise health care, food or education in order to pay for water services, which is precisely what the standard for affordability under the human right to water seeks to avoid. People must not be forced to compromise other basic needs, such as guaranteed by the human rights to housing, health or food, in order to pay for water (Winkler 2012: 137).

Based on these critiques, human rights advocates sought to engage constructively in the process of developing the SDGs aiming to ensure that these points are better reflected from the outset. For the water and sanitation sector, this was characterised by a two-pronged approach of deep involvement in technical discussions (Winkler et al. 2014) combined with targeted advocacy at the political level with the aim to influence negotiations (UN SR WatSan 2012).

Human Rights Elements in the SDGs

Two years post-adoption of the SDGs is an opportune time for a first assessment of the extent to which human rights are reflected in the development agenda. The 2030 Agenda does not just consist of the Declaration, and the goals and targets themselves. It has led to establishing a complex ecosystem of monitoring initiatives undertaken by different actors at various levels.

This section examines how human rights are reflected in these initiatives. It will assess the 2030 Agenda itself: (1) the declaration and the goals and targets as well as (2) the associated indicators. It will also examine (3) various monitoring initiatives with a focus on the WHO/UNICEF Joint Programme for Water Supply, Sanitation and Hygiene, and (4) accountability mechanisms at the global level and select national initiatives. Due to the nature of the paper, it contains a large amount of (seemingly) technical information as the extent to which human rights are institutionalised in indicator and monitoring frameworks often depends on the details.

Declaration, goals and targets

The human rights to water and sanitation stand out in that they are explicitly referenced in the Declaration itself (UN GA 2015a: Para. 7). Civil society advocates were invested in the process of negotiations to ensure this explicit reference (Lyons 2016: 6). It is part of a broader paragraph on human rights that states watered down at a late stage of the negotiations (CESR n.d.). The reference to the rights to water and sanitation

stayed and reflects a commitment by governments to realise these human rights. While the human rights to water and sanitation have been recognised in other GA resolutions (UN GA 2015b: Para. 2), the reference in the 2030 Agenda is more high-level and thus points to a greater level of institutionalisation. More broadly, the Declaration centrally and repeatedly pledges that 'no one will be left behind' (UN GA 2015a: Para. 4), which reflects a commitment to prioritise populations that are marginalised, excluded and discriminated against.

Arguably, the language in the goals and targets themselves is more important than the Declaration. These goals and targets will guide implementation and monitoring. Water and sanitation feature much more prominently in the SDGs with a dedicated goal compared to the MDGs where access to water and sanitation had been submerged under the broad goal on environmental sustainability in MDG target 7.C.

Several elements in the SDG WASH targets in 6.1 and 6.2 reflect human rights language. Both targets require 'equitable' access, which must be read as reinforcing the general commitment in the SDGs to 'leave no one behind'. More specifically, the sanitation target requires an end to open defecation, which demands a focus on populations left behind the farthest in access to sanitation. The target further requires attention to gender equality by calling on all actors to pay 'special attention to the needs of women and girls and those in vulnerable situations'.

The dimension of gender inequality and broader inequalities is further reinforced and addressed in other targets that are closely related to water, sanitation and hygiene. Above all, Goal 10 calls for reducing inequalities within and between countries. From the perspective of human rights and addressing discrimination, Target 10.2 and Target 10.3 are of particular relevance (see MacNaughton 2017; Saiz and Donald 2017). They commit, respectively, to '[b]y 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status' and to '[e]nsure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard'.

Other relevant targets include Target 1.4 on access to basic services; Target 4.A, which calls for 'education facilities that are child, disability and gender sensitive'; Target 5.3 on 'eliminat[ing] all harmful practices' that women and girls experience; Target 5.4 on 'recogniz[ing] and valu[ing] unpaid care and domestic work', which is of significant relevance for water collection and cleaning chores; Target 5.6 on 'ensur[ing] universal access to sexual and reproductive health and reproductive rights',

which is closely linked to menstrual health; and Target 11.1 on 'ensur[ing] access for all to adequate, safe and affordable housing and basic services and upgrade slums'. Finally, Target 17.18 is of central significance for strengthening efforts on disaggregation, which would enable monitoring of inequalities by calling for capacity building for making disaggregated data available.

The WASH targets call for 'universal' access or access 'for all'. In combination with the higher benchmarks, they alleviate the concerns from the MDG era about requiring too little from states with relatively high water and sanitation coverage. However, the concern about requiring too much from states that start from low baselines remains. The SDGs do not directly reward effort, which disadvantages states that have limited resources but make the best possible use of these. By providing an absolute measure, the SDGs do not reward relative progress (while they do allow tracking such progress).

Target 6.1 stresses that water must be safe, thus addressing water quality concerns, while Target 6.2 requires access to adequate sanitation, and the safe treatment of wastewater is further addressed in Target 6.3. The water Target also calls for affordable services, whereas this is left out of the sanitation target in 6.2. On a more positive note, target 6.2 not only refers to sanitation, but also to hygiene, an often-overlooked component of WASH. All in all, the declaration and the water and sanitation targets (at least implicitly) reflect significant human rights commitments with regard to reducing inequalities, addressing gender equality, moving from basic to higher levels of service for greater numbers of people, and seeking to guarantee water quality, the safe management of sanitation, and at least affordability of water services. As such the SDGs anchor these commitments with regard to water and sanitation at the institutional level.

Indicators

Target 17.18 highlights the importance of data, monitoring and indicators. Indeed, it has been argued that data are the 'lifeblood of decision-making' (UN IAEG Data Revolution 2014: 2), that they determine what is being counted and as a result what counts in development processes (CESR 2016: 33), and that they have the potential to reshape the understanding of the SDG targets (Engle Merry 2011: S92). Indicators determine what data will be gathered and as a result shape our knowledge on access to water and sanitation and other development outcomes. The indicators related to targets 6.1 and 6.2 can be characterised as outcome indicators. While structural and process indicators are equally significant for monitoring the realisation of human rights, they are not in the focus of this article (see generally OHCHR 2012: 34-38).

The official SDG indicators were discussed in the Inter-Agency and Expert Group on SDG Indicators and ultimately adopted as a 'practical starting point' by the UN Statistical Commission (UN Statistical Commission 2016), a political body. However, they are still to be further developed. The adopted indicators for water and sanitation do not incorporate all recommendations developed as a result of the technical process led by the JMP, but represent only a sub-set (JMP 2017b: 6). As a result, the relevant indicators 6.1.1 and 6.2.1 fail to capture essential elements that are included in the targets, while they do account for other elements.

The most significant concern related to the indicators is their complete disregard for monitoring inequalities. Whereas other SDG indicators at least call for some forms of disaggregation such as sex, age, disability, and indigenous status, the WASH indicators are silent. This is despite significant attention being paid to monitoring inequalities in the lead-up to the SDGs when discussing indicator development (JMP n.d.) and is particularly concerning because we know that access to WASH is characterised by immense inequalities (UN SR WatSan 2012: Para. 31).

Monitoring under Goal 10 on reducing inequalities has the potential to make up for these shortcomings by scrutinising the reduction of inequalities in outcome as called for in Target 10.3. However, the associated indicator 10.3.1 has been reduced to collecting perception data. While this is a valuable tool with the potential to deliver significant information, it entirely fails to help produce data on inequalities in outcome (see Winkler and Satterthwaite 2017: 1080). While scholars have argued that coherence and linkages between the different goals are essential (Koff and Maganda 2016: 96), such links have not been established between Goal 6 and Goal 10. As a result, the SDG indicators do not require monitoring inequalities in access to WASH.

As noted above, Target 6.2 also refers to hygiene, which is reflected in indicator 6.2.1. It monitors the proportion of the population using a 'hand-washing facility with soap and water'. While this is welcome, the indicators fail to capture the crucial dimension of menstrual hygiene (see Winkler and Roaf 2015), even though the target calls for special attention to the needs of women and girls.

With regard to quality and safety, the indicators 6.1.1 and 6.2.1 explicitly refer to 'safely managed' drinking water and sanitation services as well as 'safely treated' wastewater in indicator 6.3.1. The wastewater indicator captures not only information on wastewater from sewered systems but also sludge and septage from on-site sanitation systems (SDG6 Monitoring n.d.). It alleviates concerns about a limited understanding of wastewater (Zimmer et al. 2014: 339) that fails to acknowledge that a large share of the world's population

relies on on-site systems rather than a sewer network. However, the affordability of services is not captured through the indicators, although at least the water target explicitly calls for access to affordable services. As a result, with regard to monitoring affordability the SDG target risks experiencing the same fate as the target under the MDGs. The political commitment includes affordability as a target element, but the indicator does not (yet) reflect that ambition.

Indicators are a powerful tool of governance. While the targets reflect political commitments, the indicators determine which aspects are monitored and reported on, and which aspects of the targets ultimately 'count' towards SDG progress. As such, they are likely to determine government action and priorities (see Davis et al. 2012). Therefore, indicators provide a significant juncture for institutionalisation. By failing to provide indicators for important dimensions of the human rights to water and sanitation, the SDGs fail to further institutionalise these commitments

Monitoring mechanisms, including the first JMP SDG report

The JMP has monitored progress on WASH since the 1990s and is the custodian of global WASH data. It has prepared a new monitoring methodology for the SDGs based on extensive technical consultations and presented its first SDG baseline report in July 2017 (JMP 2017b). In its monitoring methodology, the JMP goes beyond what it is strictly mandated to do through the SDG indicators. It takes the targets literally and seeks to reflect all elements in its monitoring, with some elements being further advanced and others indicating more long-term plans (JMP 2017a: 2).

With regard to inequalities, the JMP stresses that 'equitable [i]mplies progressive reduction and elimination of inequalities between population subgroups' (JMP 2017a: 2). The JMP commits to monitoring urban-rural disparities and inequalities between more and less wealthy parts of the population, which it has already done in the past (JMP 2014). It further commits to monitoring disparities between subnational regions and presented data in its 2017 report highlighting significant disparities (JMP 2017b: 34-43). Beyond that, it stresses the well-known difficulties for monitoring access in informal urban settlements, measuring intra-household inequalities based on sex, age and disability, and finally disparities between minorities based on race, ethnicity, language, religion or indigenous status (JMP 2017a: 3), but has yet to start monitoring these dimensions systematically.

At the regional level, the JMP has started to analyse disparities and has presented available data that shows that indigenous peoples in Latin America have almost consistently lower access to water and sanitation than the majority population (except in Uruguay) (JMP

2016b: 7). It also shows that practising a traditional religion compared to Hinduism, Islam or Christianity correlates with significantly higher open defecation rates in Suriname (JMP 2016b: 11).

As discussed, menstrual hygiene is a central component of hygiene, which the JMP acknowledges (JMP 2017a: 2). However, it is not captured in the general monitoring methodology which focuses on handwashing. At least for monitoring in schools, which the JMP seeks to integrate in its monitoring, it suggests monitoring whether facilities for menstrual hygiene management exist through an expanded set of questions (JMP 2016a: 13-16, see further on the use of existing data Loughnan et al. 2016). Moreover, one of the standard household surveys (the Multiple Indicator Cluster Survey – MICS) now includes questions in the women's questionnaire that address social exclusion during menstruation, a private place to wash and change, and access to materials (UNICEF 2017).

These initiatives demonstrate the possibilities of monitoring inequalities. It is high-time that these efforts are pursued more systematically. While data is far from complete, other sectors demonstrate the possibilities of monitoring inequalities across a range of stratifiers (World Inequality Database on Education n.d.) and efforts are also underway to improve gender statistics (United Nations Statistics Division n.d.), which would be of significant relevance to the WASH sector.

With regard to the progressive realisation of human rights and higher levels of service, some stakeholders have criticised the JMP for continuing to report on access to basic services as providing misleading data (End Water Poverty 2017). However, the JMP provides data on both access to basic services as well as safely managed services (JMP 2017b). In addition to ensuring continuity of data collection, this can be understood as reflecting the progressive realisation of the human rights to water and sanitation.

With regard to safety and quality, the JMP stresses that adequate sanitation '[i]mplies a system which hygienically separates excreta from human contact as well as safe reuse/treatment of excreta in situ, or safe transport and treatment off-site' (JMP 2017a: 2). Safe drinking water requires water to be 'free from pathogens and elevated levels of toxic chemicals at all times' (JMP 2017a: 2). The JMP has developed a methodology for monitoring safely managed water and sanitation services, which includes on-site sanitation solutions. The JMP presented the baseline data, estimating that 39% of the world's population use safely managed sanitation services (JMP 2017b: 28) and that 71% of the world's population use safely managed water services (JMP 2017b: 23).

The current Special Rapporteur on the Human Rights to Water and Sanitation has raised concerns on the

extent to which affordability is integrated into JMP monitoring (UN SR WatSan 2017: 2). The JMP stresses that affordability requires that 'payment for services does not present a barrier to access or prevent people meeting other basic human needs' (JMP 2017a: 2). With regard to actual monitoring the JMP is only starting to use available data (JMP 2017b: 20-21). Monitoring affordability is highly complex (Hutton 2012) and might even present risks from the perspective of human rights, if not carried out universally. Most significantly, using available data which is mostly available for utilities and piped water supply (JMP 2017b: 20) risks neglecting the millions of people who rely on informal service provision. For instance, in informal settlements people often pay a high price for these services. Affordability for these population groups might be the biggest concern and without capturing it in data collection, global monitoring of affordability risks being highly distorted. It is therefore high time to develop robust monitoring tools that do not entail the risk of missing millions of people, including the most marginalised and disadvantaged (Carr-Hill 2013: 37), such as targeted surveys in informal settlements.

Overall, the data presented by the JMP represents a commitment to monitor elements of the human rights to water and sanitation. The JMP, however, is a small technical program. It can only provide guidance and recommendations. The program is dependent on the data collection through national authorities and relies on national governments to take on recommendations for monitoring aligned with human rights. While the inclusion of relevant questions in standard household surveys is a significant step, other initiatives are more limited in scope and at the discretion of the JMP. While the JMP's work is a step in the right direction, it cannot make up for the shortcomings of the official SDG indicators. Institutionalisation would require that governments demonstrate the political will to monitor inequalities in access to WASH and other elements relevant for the realisation of human rights on a larger scale.

Accountability mechanisms and the Voluntary National Review

Strengthened accountability was one of the major demands of civil society advocates in the lead-up to the SDGs. The issue became very contentious during the negotiations (Donald and Way 2016: 201) to the point that any language on accountability was replaced with 'Follow-up and Review' (UN GA 2015a: Para. 47). The 2030 Agenda provides for such follow-up at several levels.

At the global level, the High Level Political Forum provides for an annual forum for Voluntary National Reviews (VNRs). As the label suggests, states present these reviews voluntarily, with peer pressure and the opportunity to showcase progress being the main incentives. The reviews are focused on a number of

Goals each year, and although Goal 6 has not yet been a focus, it will be in 2018. To complement national reports, UN-Water intends to publish a Synthesis Report on Water and Sanitation in 2018 (UN-Water n.d.).

Calls to establish a system for review that would resemble the Universal Periodic Review mechanism in the Human Rights Council have not been successful (Donald and Way 2016: 204). Civil society advocates present at the 2017 VNRs characterised these as having 'trod a very bland middle-ground' with very little attention to structural concerns and human rights (Donald and Annunziato 2017). Yet, increasingly there are suggestions to use human rights mechanisms for monitoring progress on the SDGs (Donald and Way 2016: 209-10), as such capitalising on the political commitment behind the SDGs combined with the more rigorous review mechanisms under the human rights regime. The Human Rights Council has encouraged states in a series of resolutions to consider human rights and the recommendations from human rights mechanisms when implementing their commitments under the 2030 Agenda and monitoring their progress (McKernan 2017).

Above all, accountability for the implementation of commitments must be established at the national level (UN GA 2015a: Para. 47). While initiatives are still in their early stages, numerous states are developing plans for implementing SDG 6, including Honduras and other countries with support from the Global Water Partnership (GWP n.d.) and Vietnam, Sri Lanka, Mexico and other countries under the framework of Sanitation and Water for All (SWA 2017). Regional thematic processes such as the South Asian Conference on Sanitation can also support implementation and monitoring. Such processes offer the opportunity for NGOs, community-based organisations, National Human Rights Institutions and civil society more broadly to engage and hold governments accountable to their commitments. International visibility can both provide support for these processes and create additional pressure points for demanding progress. However, two years into the SDGs, most initiatives still seem to be at the stage of visioning and planning – more urgent action is needed.

At present, accountability for the implementation of the SDGs is weak. Voluntary reviews are the opposite of strong accountability mechanisms that would lead to further institutionalisation of SDG commitments. The fact that the reviews are voluntary demonstrates that States do not see their commitments under the SDGs as legally binding obligations.

Conclusion

The SDGs offer the potential for a glass that is more than half-full from the perspective of the human rights to water and sanitation. They include language that provides opportunities for monitoring human rights elements.

However, we know that declarations, commitment and aspirational language alone do not necessarily translate into action. Looking back at declarations emanating from the world conferences in the 1990s, these already included far-reaching commitments on water and sanitation, but have been labelled ‘forgotten targets’ (Langford and Winkler 2014: 256) and never brought about significant change.

One of the challenges for the SDG targets on water and sanitation resides in the fact that important human rights elements were lost in the political negotiations of technical indicators. This points to the iterative and intertwined nature of these discussions. At the political level, human rights advocates were successful in ensuring that the declaration and its goals and targets were grounded in human rights. Likewise, the technical processes in the water and sanitation sector were characterised by great openness to integrate human rights considerations which is reflected in technical indicators proposals. However, the final step required in the SDG framework is the adoption of technical indicators at the political level through the UN Statistical Commission. At that stage, the opportunities for inputs from human rights advocates were very limited. The result is an indicator framework that does not reflect important human rights consideration – in spite of the political commitments at the target level, and in spite of technical proposals that demonstrate the feasibility of monitoring.

Beyond that, from the perspective of human rights, the weak avenues for accountability are the most obvious shortcoming of the SDGs. The goals and targets reflect political commitments that might signal a moral responsibility, but they cannot be understood as institutionalising human rights without providing for robust mechanisms to hold governments accountable to these commitments. Human rights advocates enjoyed significant success in shaping the political commitments under the SDGs, and they are well positioned to call for further institutionalisation of human rights in the implementation of the SDGs and strengthen accountability for meeting these global commitments. Without additional mechanisms, possibly through the creative use of human rights mechanisms, the SDGs glass risks ending up less than half-empty.

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This is Not a Rehearsal

The room is a brightly lit stage.
I sit behind a curtain of two-way glass,
an audience of one, notebook in hand
reading nuances of body language.

The actors play out their roles.
The mothers and fathers know their lines
but there are subtle mistakes –
small inabilities.

In this room trauma's face stars
in the frozen stance, the rigid body,
the lack of eye contact, the avoidant,
the unattached, the distressed.

The mirrored room plays
their theatrics back to them.
A mother pats down her hair,
sings and smiles at herself

while her children play with the toys
in the boxes across the room,
check her over their shoulders
as she feeds the baby:

the quiet baby that never cries.
They are all so good, so very good:
little angels, quieter than mice
and watchful.

The baby gurgles and the mother
smiles before the mirror claims her again
and she is back on stage
with herself and then back in time

to the darkroom of her own childhood
that she tries to unravel herself from
in order to recreate her character, aware
she must perform; this is not a rehearsal.

SHARON KERNOT,
MOUNT BARKER, SA

SDG 10: Reduce inequality in and among countries

JOEL E. OESTREICH

Sustainable Development Goal (SDG) 10, Reduce Inequality In and Among Countries, was among the last of the SDGs to be added. SDG 10 was largely a reaction to the increasing attention being paid to the gross disparities of wealth observed around the world, and the political backlash to those disparities. While it can be understood as a call for some redistribution of wealth globally, it is unlikely that large-scale redistribution through taxation or other means is politically feasible as a solution to inequality any time soon. It is more plausibly interpreted as a call for a reduction of inequities – those factors that prevent people and states from having a fair shot at the achievement of prosperity and development. Within nation states, we can see this as a call for a rights-based approach to development – an approach that seeks to give people the capabilities to succeed while also removing the political and social factors, such as discrimination and repression, that prevent them from achieving their potential. Internationally, it is related to the concept of a right to development, which places obligations of assistance on developed states to aid poorer ones. International institutions such as the World Bank and the United Nations have a mandate to promote such rights, and can act as intervening institutions, lending credibility to this drive for the recognition of development rights. The targets set by SDG 10 are more vague and aspirational than those of most other of the SDGs, but the end of gross inequalities of wealth might be seen as a foundational issue that makes many other SDGs possible. As such, SDG 10 imposes particular duties on those parties who can make it a reality.

Introduction

This paper will argue that SDG 10, Reduce Inequality In and Among Countries, can only be understood in the context of human rights promotion, and in particular the Rights-based Approach to Development (RBA). Rather than limiting themselves to simple economic terms, the drafters of SDG 10 considered that a wide variety of legal, social, and economic changes were needed, both within and between countries, to reduce inequality of both material position and social standing. Framed this way, promoting equality must focus on the more political and moral question of equity; empowering the poor with a full spectrum of political and social rights. Equity, as opposed to equality, tackles the political and moral questions that can lead to lasting solutions. It means empowering the poor with a full spectrum of rights, both economic and social, and civil and political. Only these can reduce inequality in a way that addresses the full range of inequalities identified. People have a well-documented right to equality of treatment, which is a key element of their civil rights. But it can only be guaranteed, this paper will argue, through a rights-based approach to development, emphasising the link between economic advancement and political and social rights. On the international scale, equity implies that wealthy states have an obligation to act in the interest of those who are poorer: given the absence of any single governing or coordinating body to force

cooperation, wealthier states must act on the basis of moral obligation, recognising something like a 'right to development' (R2D) which itself is closely linked to RBA.

This paper will briefly review the origin of SDG 10 and its intellectual biography. Next, it will explain the vital connection between inequality and inequity, a key element of development thinking for at least the past 15 years. It will then review the rights elements of an equity/equality policy that will truly spread the benefits of development to those who have been 'left behind' by traditional development policies. It will also show the link with the concept of R2D: an idea that has largely failed to gain legal traction in the rights regime, but remains an important goal of developing states, and is central to international equity. It will show that all these policies are part of the rights-based approach to development. Thus, pursuit of SDG 10 requires a redoubling of efforts in this area by development agencies and governments.

Origins of SDG 10

Although the works of Thomas Piketty (Piketty 2014) and others have made national and global inequality a high-profile issue in recent years, the causes and effects of growing inequality have been a matter of global concern for some time. For example, the theme

of the World Bank's 2006 World Development Report was *Equity and Development* (World Bank 2006). The Bank sees itself as a thought-leader in the development community (DeVries 1996; Kapur et al. 1997), and used the publication as a chance to put equity and equality on the global agenda. (Why the theme was equity, and not equality *per se*, is important and will be discussed below.) And other development agencies have followed suit: both the United Nations Development Programme (UNDP) and the United Nations International Children's Emergency Fund (UNICEF), for example, include equity and equality as development priorities. UN Women has made equity (and equality) for women its key goal since its inception (Melamed and Samman 2013; Oestreich 2010; Roemer 2006; UNDP 2015).

In 2014, Joseph Stiglitz (a former World Bank chief economist) and Michael Doyle (former special advisor to Kofi Annan) published an article in *Ethics and International Affairs* promoting an equality goal for the SDGs (Doyle and Stiglitz 2014). Their argument was an economic one – that inequality was denying far too many people the chance to be economically productive; and also a moral and social one – that inequalities around the world were unfair and politically destabilising, since such inequalities were sure to lead to unrest and resentment. The authors were clear that some inequality was inevitable and, in a sense, desirable (as it was an outgrowth of the free-market system, the legitimacy of which is not questioned in general), but that severe inequalities needed to be addressed by the international community.

This call was reflected in the interests of several civil society organisations that pressed for the inclusion of a goal on equality that was eventually successful (see Shaheen 2016). Fighting gender inequities, raising wages for working people, fighting poverty, and other arguments were all presented in favour of an equality goal. Greater equality between rich and poor countries was also included – a recognition that stark differences in the life chances of those born in richer and poorer countries were politically and morally unacceptable. In general, many civil society groups felt that the glaring inequalities visible in the world, both within countries and between rich and poor, were morally outrageous. That a small number of people possessed such enormous wealth and power while large parts of the world had so much less, seemed clearly to be a violation of basic moral sensibilities (Hulme 2016; Pogge 2007). And if those in the developing (and also the developed) world who suffered under such great poverty and deprivation were going to be helped, it seemed that all advances would require a more just distribution of the resources needed for everything from better health care and education, to meaningful access to civil and political rights, both within and among countries.

The targets and indicators for SDG 10, as they were finalised, are in two parts: those referring to in-country inequality, and those that deal with between-country inequality. Compared to other SDGs, the targets and indicators for SDG 10 lack specificity. Target 10.1, for example, calls for the bottom 40% of income earners' wealth to grow 'at a rate higher than the national average' but does not specify how fast, or any particular ratios. Target 10.2 calls for the 'empowerment' of the poor (a discussion of what this means is below) and 10.3 for 'equal opportunity' for all. But, again, no specifics are given and the corresponding indicators are also vague. Target 10.3 calls for changes to reduce inequalities of outcomes, but also sets no specific targets other than 'reduction'. Target 10.4 calls for improved social safety nets in terms of those that deal with between-country inequality. There is talk of 'adopting policies' and 'improving regulations' dealing with the global economy in order to make it more fair for developing countries, but again, no specific policies are mentioned (except a nod towards World Trade Organization agreements) or targets set. Targets 10.5 to 10.7 provide some guidelines for tackling between-country inequality (discussed later). Compared to many other SDGs, the goal of enhancing equality is fairly ill-defined; what it means, and how it is to be conceptualised, requires more discussion.

Inequality and Inequity as Moral and Economic Issues

SDG 10, again, calls for the progressive and sustained reduction of economic inequality, within and between countries, in economic terms and also in civil and other rights. It does not require the *elimination* of economic inequality, and as we've seen, it is vague about *how much* reduction is called for. For better or worse, it implicitly assumes that some inequality is inevitable; and, at any rate, economic theory usually assumes that some inequality, and even a temporary growth in inequality, is an inevitable part of the development process (Kuznets 1955). There is no revolutionary restructuring of the basic liberal economy order called for. SDG 10 does not present any sort of ideal of an entirely equal world or radical restructuring of economic systems, but instead is fairly well grounded in economic reality and neoliberal orthodoxy. Nothing more radical was likely to be accepted by the drafters of SDG 10 and the international community at large.

Yet even a mainstream economic policy *can* and *must* oppose gross human rights violations. The enormous disparities of wealth we see in the world have obvious human rights implications. They often stem from violations of basic human rights, such as the legacy of colonialism and economic exploitation, or from political repression. Severe wealth disparities hinder achievement of access to such rights as the right to health care, food, and a clean environment. They affect the right to life, liberty, political participation, and other civil rights. SDG 10, as

structured, implies that the real concern is with *equity*, that is, with the fairness of an economic system in terms of determining how wealth is distributed and whether all have an equal life chance within it. Thus, while Target 10.1 speaks of the goal of eliminating disparities, Targets 10.2 and 10.3 deal with how those disparities are to be eliminated: through empowerment and equal opportunity for the poor and disenfranchised.

The concept of equity will unquestionably imply some level of redistribution of wealth from the rich to the poor, through various mechanisms ranging from progressive taxation and government spending on social services, to conditional cash transfers, to programs promoting greater economic opportunity. These will be necessary, so that those who are at the bottom of the economic pyramid can be guaranteed an equal chance to improve their position. There is simply no way to fully help the poor without spending money, to provide them with the services and resources they need to have a fair shot in life, as well as to address short-term unfairness and injustice. The underlying idea, however, is *fairness*: that people born in different economic and social settings should not have radically different life chances. And only equity-creating policies can create sustainable, long-term reduction in inequality. Thus, creating economic equity, including social and economic rights such as education, a healthy environment, nutrition, and health care are instrumental and vital for guaranteeing rights, as will be discussed in the next section.

Equity and Human Rights

Some straightforward redistribution of wealth will be required, to create a more level playing field for the poor. And our moral outrage regarding the great disparities between the world's wealthiest people and its poorest would seem to demand this. At a deeper level, however, far more is called for than such redistribution. In the case of SDG 10 we see the clearest sign that those rights we refer to as civil and political, and those that are called economic, social, and cultural, cannot in any meaningful way be separated. While economic inequality is too often cast merely as a matter of economic rights divorced from civil and political rights, this separation is untenable (Donnelly and Whelan 2007; Roth 2004; Shue 1980).

Scholars and practitioners writing about the link between rights and development typically fail to articulate that link. They have tended to focus on social, economic and cultural rights, but have had difficulty separating these from civil and political rights (Hickey and Mitlin 2009; Kirkemann and Martin 2007; Rozga 2001; Schmitz 2012). Enhancing equality in a sustained way calls for not just redistributing assets, but for providing the poor (and the bottom 40%, even if they don't fit the definition of absolute poverty) with the resources they need to have an equal, fair chance at sharing in the overall wealth of society. This often means fulfilling their rights to

adequate nutrition, clean water, education, health care, a healthy environment, and other factors that contribute to people's well-being and enhanced 'capabilities' (Sen 2004). It is these capabilities that are coming to define what development means: not just increasing the size of an economy or even alleviating poverty, but enhancing human functioning and quality of life. And to be sustainable, these economic, social, and cultural rights have to be fulfilled in a way that recognises them as *rights*. This means moving away from an older model of development where services are provided to the poor in a way akin to charity. Instead, these must be recognised as rights that can be demanded by those in need, with strong claims on duty-bearers (Schmitz 2012; Uvin 2007), including international ones. Sustained reduction of inequality also requires addressing the particular social needs of under-served and discriminated-against people: the poor, minorities, the disabled, and other marginalised groups. 'Equality' is not just an economic condition, but a civil and political condition as well; and the two will, of course, be tightly linked.

The connection between SDG 10 and human rights, then, is not in the level of equality itself (as measured by the Gini coefficient or other statistical indicators), but in the claim to those things that make greater equality possible, and to which all human beings are entitled. These are understandable through Henry Shue's (1980) notion of 'basic rights' – those rights that must be secured first, because without them other rights also cannot be fulfilled. And these are reflected in SDG 10, particularly in terms of empowering the social, economic, and political inclusion of all. A rights-based approach to development is one that makes clear that these basic services are human rights, and that states must be held accountable for their provision when people cannot provide for themselves. RBA, now development orthodoxy among many agencies, argues that that development is best defined not by the achievement of a particular income level or set of goods, but by the achievement by people of their rights: both civil and political, and economic, social, and cultural. It is closely related to the 'capabilities approach' of Sen and Nussbaum (Sen 1999, 2004; Sen and Nussbaum 1993), emphasising giving people the capabilities and freedoms they need to achieve 'good lives'. At the same time, it makes governments and others duty-bearers when rights are not protected empowering citizens to demand from duty-bearers the basics that make other freedoms comprehensible, such as nutrition, education, and a clean environment. Moreover it holds that development and rights form a virtuous circle, where those who are provided with freedoms and capabilities will be more economically productive, and thus better able to achieve greater levels of freedom (Overseas Development Institute 1999; UNDP 2006; United Nations Development Group 2003).

A rights-based approach to development argues that economic, social, and cultural rights are not coherent

without a corresponding emphasis on the civil and political rights that make them truly sustainable (Chapman 2005; Oestreich 2017; Uvin 2007). To move from a service provision model to a rights-based one, civil and political rights must be respected, particularly those that allow citizens to hold duty-bearers to account. The element of SDG 10 on 'eliminating discriminatory laws, policies and practices' clearly states that greater equality of outcomes requires not only greater respect for positive rights, but also for those political and civil rights that ensure equal treatment and protections from abuse and injustice. Only when such rights are provided can other rights be ensured (Crawford 2008; Gauri and Gloppen 2012; Nyamu-Musembi and Cornwall 2004).

First and foremost, discrimination must be tackled – against women, indigenous populations, minority groups, the disabled, and others who face systematic exclusion from the economic and social system (Kirkemann and Martin 2007). Eliminating these forms of exclusion requires *political* action such as passing laws and taking other actions to promote equality before the law. Taking on discrimination also means trying to change social norms: no easy task, but required of states if they are trying to really get to the root cause of problems (Guhakhasnobis and Vivek 2007). Data about poverty and powerlessness must be disaggregated in order to identify which populations are most discriminated against. Looking at overall welfare statistics hides discrimination against women and girls, indigenous peoples, and many other groups. A rights-based approach demands that all people have their rights respected, and greater equity can only follow when data disclose which groups face the greatest injustices. Although promoting equity must and should be about providing individuals with the capabilities they need to have a fair shot in life, it is impossible to say that *individuals* have equal rights and equal treatment unless there is visible *between-group* equality.

Beyond that, the promotion of a rights-based approach involves other forms of political and civil rights. In education, for example, we understand that providing people with an adequate education is vital for them to have a fair and equitable life chance, and that poor education is a problem plaguing both developing and developed countries. But simply building schools, or spending money to hire teachers, is not enough to ensure a 'right to education'. Citizens have to be politically empowered to *demand* their rights, and to hold government accountable when education is not available, adequate, or equal. Hence, this involves the exercise of civil rights to demand economic and social rights. Development agencies are promoting decentralisation of government to bring decision-making closer to the people who are being served – a way of promoting greater participation in development decisions. Access to justice programs promoted by the UN and other agencies help inform citizens of their rights to petition government, sue when they have been

wronged, and protect themselves from persecution – including the persecution that comes from questioning government indifference. They also train judges, lawyers, and politicians about people's rights.

These are all ways to be sure that citizens are able to hold government accountable when their rights, including their rights to things like education and nutrition, are violated. All these rights help promote true equity, and although it is a slow process, its aims are clear. SDG 10 is not just about promoting equality but about promoting all forms of human rights. The separation of positive and negative rights has always been untenable, and RBA makes it clear how artificial this really is. Thus, if we have obligations across borders to promote *any* sorts of human rights, as has been shown in the introductory chapter of this volume and will be discussed below, we have obligations to promote all categories of human rights. As the next section will argue, intervening institutions create transnational obligations for all rights, through a rights-based approach, which entirely breaks down the positive-negative rights distinction and creates international obligations to promote equity in all its forms.

Duty Bearers and Intervening Institutions

In her article in this issue Noha Shawki identifies the importance of *institutionalising* norms that create human rights obligations, and the importance of 'mediating institutions' as the solid representation of these norms. Mediating institutions in this case gives both reality and weight to otherwise notional norms (Betts and Orchard 2014; Finnemore 1994), and creates international obligations on *all* states to see themselves as duty-bearers in the protection and provision of human rights worldwide. Their role is vital if these rights are to be promoted by the international system. Norms shape behaviour, and make certain actions seem necessary even if they don't conform to a state's short-term self-interest. They give power to institutions, and weight to moral ideas.

A rights-based approach to development is already gaining prominence as the central strategic philosophy of both UN agencies such as the UNDP, UNICEF, and other agencies. Some agencies, such as UNICEF and UN Women, have put human rights documents at the centre of their programming (the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women, respectively) and have used these to pressure states into adopting more rights-oriented policies. Recall that the World Bank has adopted the notion of enhanced equity, following the 2006 WDR. Many NGOs and bilateral donors also have explicitly adopted RBA as their basic operating principle (Action Aid 2009; Crawford 2008).

Tying development policy to human rights norms, of course, is not a new idea, nor is it a new idea to

explicitly connect development to specific human rights instruments. What RBA adds, however, is a *strategic* element to this connection. RBA makes rights promotion not just a moral good, but a practical element of good economic policy. Doyle and Stiglitz, in their 2014 article, framed greater equality as *both* an economic and a moral good. It has utilitarian value for societies to be more equal but also gross inequality is morally offensive. This is not a comfortable case for development agencies of the UN to make: they are expected to operate on strictly economic principles, not ethical ones. For example, in 2000 Ravi Kanbur, a World Bank economist and lead author of the 2000 World Development Report (WDR), was forced out of the bank for making the theme of that year's report 'Attacking Poverty' (see Wade 2001). Some member states objected to this formulation, preferring to keep the focus on economic growth rather than such 'political' issues as alleviating poverty. In return, such agencies have argued (accurately, in the opinion of the author) that economics and ethics cannot be so easily separated: and that a rights-based approach in particular shows convincingly that attention to ostensibly 'ethical' issues like fighting gross inequality and discrimination *are* sound economic principles (Alfredsson 2002; Chapman 2005; Hunt et al. 2002; Uvin 2002). They are necessary steps to create sustainable economic growth. But many states, for their own political reasons, continue to resist this reasoning.

SDG 10, then, can be promoted by linking development and human rights, thus connecting equity (and equality) to extraterritorial rights obligations. Shawki states in the introductory chapter to the *Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights* the Maastricht Principles, argue for clear extraterritorial obligations to promote basic rights, both positive and negative. RBA also shows the goals of SDG 10 to be part of development orthodoxy, and thus a matter of foremost international concern. And an emphasis on a full spectrum of rights gives this policy added credibility. While promotion of economic and social rights has gained more prominence in recent years as a legal obligation (Donnelly and Whelan 2007; Nelson and Dorsey 2008), civil and political rights remain in a privileged position. Yet most international institutions now accept that equity and equality connect these two strands, and that their fulfillment is a matter of international obligation. It has been argued (e.g. by Donald 2017) that the World Bank and other institutions have too weak a definition of equality to be useful in the pursuit of human rights. Donald, for example, considers the bank's 'shared prosperity' formulation to be a deliberately watered-down way of expressing the desire for greater equity. There is certainly some truth to this; yet the very fact that there is rights language in the inter-governmental development world is a mark of substantial progress, and an important factor in the role of international organisations (IOs) as mediating institutions.

Equity Between Countries

In addition to these policies to enhance equality *within* countries, SDG 10 also calls for equality *between* countries. Targets 10.5, 10.6, and 10.7 concern themselves with the vast gap in wealth between the richest and poorest countries, and considers some (fairly tame) solutions to address this: regulation of financial markets, improved global governance (particularly of economic and financial institutions), and 'well-managed' migration to allow the poor to move to places with better opportunities.

As moral issues, equity between and within countries are related but distinct, and should be considered separately. Both have to do with fairness and an equitable distribution of resources. As the World Bank wrote in its *2006 World Development Report*, the question of why a child of a wealthy person in a particular country has such improved life chances compared to a poor person in the same country, is similar to asking why the citizens of rich and poor countries also face, on average, such different prospects. SDG 10 says nothing about the *cause* of these disparities – whether they are the result of the legacy of colonialism, the distribution of resources, or other factors – although the mention of regulation of financial markets *might* be perceived as blaming, at least in part, the current economic system and the exploitative and destabilising effects of global capital flows. This matters: what causes inequality is relevant to the moral obligation to correct it.

One way to envision the moral obligation of wealthy countries is through the right to development. The idea is generally traced to a proposal by Keba M'baye in 1972 (Barsh 1991: 322), although its antecedents go back substantially further (United Nations 2013: 17-35). The notion that development itself is a right can strike some observers as an odd concept that is difficult to define and impossible to implement in an intellectually coherent way. It 'emerged from the prevailing political climate' (United Nations 2013: 3) of its time; in particular, developing economies pressed for it, along with a New International Economic Order that would correct perceived imbalances in the global economy that worked against their economic advancement. Promoting a right to development was a political decision intended to impose obligations on the wealthy states of the global North, who were held responsible for the poverty of the South and thus for helping to fight that poverty (Ferguson 2011: 6). It also presented a reaffirmation, on the part of developing countries, of the importance of economic, social, and cultural rights as opposed to civil and political rights. For this reason, among others, the United States in particular was opposed to the Declaration on the Right to Development, and other wealthy states remained ambivalent, despite the fact that it was only a declaration and not something with the force of international law.

The right to development is a 'collective right', and as such has a difficult position in moral as well as legal theory as a right (Sanders 1991: 369-370). The US and many western states reject the notion that there are such rights that adhere to groups rather than individuals (Oestreich 1999; Sanders 1991). Thus SDG 10 gestures towards such a right, but does not put it in such language in order to avoid crossing into territory that engenders so much resistance. Nevertheless, one can clearly see a connection with the right to development concept, which also insists that the inequalities of wealth we see between nations is a violation of basic ethical principles. Sengupta, in laying out the principles of a right to development, notes the importance of 'free, effective, and full participation' of states in creating the rules that affect the distribution of resources, and obligations on wealthy states to aid the international community – notions that are clearly if not quite explicitly part of SDG 10 (Sengupta 2001: 2527).

In other words, there is no specific reference to a right to development in SDG 10, and intentionally so: but support for a right to development has been gaining traction in the international community (for evidence see Marks 2004; Sengupta 2013; United Nations 2013; Uvin 2007), and this right makes claims on wealthy states as duty-bearers. But even without the rights language, there is an argument derived from theories of distributive justice, just as there is the justice argument for equity within states (and hence the connection of the two sides of this in SDG 10). Enhancing equity here, too, will not mean a radical levelling through massive redistribution of wealth; but it does mean a push to remove 'unfair' inequalities, and to create a more level playing field. Target 10.7, to revise immigration law, also suggests that at the individual level there are national obligations to help individuals by allowing them to move to places with greater opportunities, as well as taking population pressure off less-developed territories.

What Do We Owe the Poor in Other Countries?

Most of the above relates primarily to equality within countries, rather than between. But as Shawki points out in her article, the Maastricht Principles, drafted by a group of distinguished legal and academic experts, provide a compelling interpretation of human rights law that creates international obligations to respect, protect, and fulfil human rights. This includes the argument that states have an obligation under human rights law to assist and cooperate in the pursuit of economic, social, and cultural rights in other countries as well as in their own. Interpreted this way, the Maastricht Principles suggest that SDG 10 imposes an obligation on states to cooperate on closing the gap between rich and poor under international human rights law, even without the extra step of affirming that a right to development exists. However it is clear that the law here is still evolving, and many wealthy states will continue to regard foreign aid

as something less than a legal (or moral) requirement (Marks 2004: 156).

Leaving law aside, does SDG 10 impose a *moral* obligation for wealthier states to address gross inequalities of income either within other states, or among states? Certainly, it has been argued that gross inequality of income is itself a moral wrong. Peter Singer, for example (Singer 1972), has famously argued from a utilitarian perspective that we have obligations of charity to help the poorest of the poor; the cost to ourselves is heavily outweighed by the benefits to others. More practically, economists have made the utilitarian argument that gross inequality is bad for economic efficiency (Bourguignon 2004). This means that addressing inequality makes economic sense, in that it will lead to better overall outcomes. For example, any argument that helping poorer states develop their economy will help wealthy states by creating new markets is also proposing a utilitarian and classically economic argument.

There are also a variety of arguments from a more liberal, or deontological, perspective, decrying gross inequalities. John Rawls famously argued, in his 'difference principle', that justice required differences in wealth that benefited the common good (Rawls 1971). These are justified in that they improve overall welfare and would be agreed to by all for this reason. This respects the rights of people to pursue their own conception of 'the good' while recognising that some differences in wealth are necessary to spur productivity and creativity. From a different liberal perspective, it is argued that great poverty is a simple violation of human rights, in that it deprives its victims of even the most basic capabilities, even that of survival, and makes the wealthy complicit in this deprivation (Nell 1975). Poor countries are the victims of a history of exploitation, intended and unintended, that deprives them of fair opportunities. This would impose an obligation on wealthier states to make reparation for this exploitation (Bello 1994). Salomon argues that the poor should not suffer if it is not their fault that they are poor, as they are the victims of an unfair economic order (Salomon, 2011). So, as noted already, the cause of global poverty will affect the obligations it creates; but almost any moral system will insist on efforts to create more equality.

Perhaps more to the point here, SDG 10 can and should be seen not as an afterthought – although it was one of the last goals to be included – but as foundational to nearly all the other goals. Problems the world over, from poverty to access, from clean water to a right to life and freedom of expression – can only be resolved through a more fair distribution of resources. It is worth repeating that any human rights standard, including those 'negative' rights that supposedly require only that they not be violated by others, can be ensured only when

the resources are available to guarantee them. A right to life requires, ultimately, such resources as a functioning police force to protect people from violence; a right to freedom of speech needs an adequate judicial system, and so forth. So we don't need to rely on economic and social rights to make the case that we have obligations to help others achieve the minimum necessary for a dignified and free life. Civil and political rights law demands the same thing, when properly understood.

It is both easy and, almost certainly, accurate to argue that our moral outrage over the unfair distribution of wealth in the world itself imposes obligations on the rich countries of the world to help the poor, and on the rich within countries to help their poorer neighbours. And that outrage seems to be catching on in the international system. However, it is, as we have seen, only hinted at in the wording of SDG 10, and the concept is resisted by those wealthy enough to actually do something about such gross inequality. On the other hand, a rights-based approach to development, now widely accepted as the best working definition of development, explicitly ties development to rights, including the right to be treated equitably and to have a fair shot at a full, functioning life. This does hold states accountable for their duties under human rights law, both moral and in some cases legal. And, foundationally, all other development progress depends on achievement of the SDG 10 goals and targets. Thus, they become themselves a moral obligation, to be progressively achieved by the international community.

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On learning Burmese

Waves of meaning break and fill my lungs
as I flail in subjects, objects, verbs.
So estranged to this your native tongue,
amongst a foam of tone-sensitive sound.

As I flail in subjects, objects, verbs,
now and then a known word wanders near.
Amongst a foam of tone-sensitive sound,
sand sifts as the context makes it clear.

Now and then a known word wanders near;
immersed, our voices rise up in their pitch.
Sand sifts as the context makes it clear,
swept along by these linguistic rips.

Immersed, our voices rise up in their pitch,
so estranged to this your native tongue.
Swept along by these linguistic rips,
waves of meaning break and fill my lungs.

AMY LIN,
PERTH, WA

The Stone

I slammed
myself against
cold walls and then
slammed into
the outline of
another self
sitting quietly
in the chair, reading,
turning one part of the
mind upon another,
folding the
details and textures
of thought into
viscera; into
throbbing veins
and red, pocked skin,
into a hard stone
ball to be kicked away
but it comes back, but
it comes back to
me to kick away,
to kick it hard
kick it
away again
and again
but it comes back
again.

*JUSTINE POON,
CANBERRA, ACT*

Chorten

On the ridge that divides
the Imja Valley from the Khumbu
stands a cluster of chortens:
stone upon stone,
one formed of two towers,
a bridge between piles
and a capstone,
with a secondary tower
on the Dingboche side.

Djungbu, my guide,
has summited Everest
fourteen times.

I ask: 'Are these stones
memorials
For those who have died?'

Djungbu replies: 'People come.
They build,
remember many lives.'

The jet stream ripples
a wisp of cloud
as it roars over Lohtse.

I point my camera
at the black ice wall
holding the lake
on Ama Dablam.

Ravens ride the thermals
up the ridge from Periche.

When the sun burns the wall
The village will drown.

*ANDREW LEGGETT,
HIGHGATE HILL, QLD.*

The Sustainable Development Goals and Climate Change

DANIEL CHONG

Climate change will directly threaten a wide range of human rights, both civil and political, as well as economic, social and cultural rights. The Sustainable Development Goals (SDGs), considered in tandem with the Paris Agreement, represent an unprecedented attempt by the international community to recognise the links between climate change and development. They set ambitious targets for mitigating climate change in a manner that will facilitate development. This paper investigates whether the extraterritorial obligations of these new agreements are sufficiently institutionalised. Are states following the procedural norms outlined in the SDGs and the Paris Agreement in a way that would result in effective climate action? It finds that, while the SDGs and the Paris Agreement provide a roadmap to effective action on climate and development, they fail to clearly distribute responsibilities or drive states toward fulfilling their extraterritorial obligations. States have recognised their collective moral responsibility to protect people from the threat of climate change, but they have not created the mechanisms that would hold themselves accountable to their commitments.

Introduction: Climate Change and Development

By now it is almost universally accepted that climate change will have dramatic impacts on our ability to achieve the Sustainable Development Goals (SDGs). The anticipated warming of the planet above 2°C in the coming decades threatens lives and livelihoods in unprecedented ways. The predicted impacts of climate change include reductions in global economic growth, access to fresh water, agricultural productivity, and biodiversity, and corresponding increases in forced migration, tropical diseases, political instability, and more (Wright et al. 2015: 4). Notably, much of the harm from climate change will fall disproportionately upon less developed countries (LDCs), who are the least responsible for carbon emissions. Climate change will directly and indirectly threaten a wide range of human rights, including civil and political rights as well as economic, social, and cultural rights (Nicholson and Chong 2011). According to the Executive Secretary of the UN Framework Convention on Climate Change (UNFCCC), '[A]chieving the SDGs will be almost impossible if average global temperatures are allowed to rise above the 2°C limit' (Figueres 2015).

Fulfilling the right to an adequate standard of living will make vulnerable societies more resilient to the impacts of climate change, and better equipped with resources to pursue climate mitigation. Just as successful development requires aggressive climate policies, successful responses to climate change require development strategies that improve people's incomes and capabilities. This ideal of a synergistic relationship between development and environment is captured well

in the notion of 'sustainable development' that began with the Brundtland Report (World Commission on Environment and Development 1987).

Despite the win-win rhetoric inherent in the concept of sustainable development, there are obvious tensions within the term itself. So long as development is defined primarily in terms of economic growth, it is necessary to recognise that most of the growth of the past century has been built through the unsustainable exploitation of fossil fuels (Kenny 2015). Climate degradation is a central feature of the model of industrial modernisation that has pulled billions of people out of poverty around the world. LDCs have therefore reasonably argued that environmental protection cannot supersede their right to development, and that the main responsibility for climate mitigation lies with wealthy countries, who are primarily responsible for historical carbon emissions.

Because climate change is an inherently trans-boundary phenomenon, all states have a positive duty to mitigate climate change and protect distant others from its negative effects. Extraterritorial obligations to take effective climate action can be extrapolated from existing human rights instruments such as the International Covenant on Economic, Social and Cultural Rights (Maastricht Principles 2013). These duties are extraterritorial in nature, even when some of the actions required to fulfil them occur at the domestic level, and even when a state's own carbon emissions cannot be causally linked

to a specific climate threat (Knox 2009: 490). The United Nations High Commissioner for Human Rights reaffirmed the legal basis for these extraterritorial obligations, saying that, '[S]tates should comply with human rights law both in the measures they take to address climate change and in fulfilling their obligation to protect individuals against foreseeable threats to their human rights caused by climate change' (Knox 2009: 492). However, the High Commissioner did not specify exactly what policies would fulfil these duties, beyond the need for 'international cooperation'.

There is no international agreement that provides clear guidance on how to distribute extraterritorial duties to mitigate climate change among actors with varying levels of resources and capabilities. LDCs have claimed that industrialised countries owe a 'climate debt' to the rest of the world, meaning that developed countries are obligated to bear the lion's share of climate mitigation costs, and that they must provide aid to LDCs to support their own climate action (Schleich 2017). The principle of 'common but differentiated responsibilities', written into the UNFCCC in 1992 (Art. 3.1), reinforces the notion that wealthy states must take on a greater share of environmental costs. However, the international community has never reached a consensus about exactly how extraterritorial duties should be distributed in relation to climate change. Developed countries have continued to emit greenhouse gases at unsustainable levels, and they have failed to substantially support climate mitigation and adaptation efforts in LDCs. It is no surprise, then, that the history of sustainable development has been characterised by frequent North-South political conflicts over these issues. The relevant issue is not so much whether there is an extraterritorial legal obligation to address climate change; it is whether states define that obligation in a way that clarifies the distribution of duties, and whether they create mechanisms to hold themselves accountable to those obligations.

If there is any hope for transformative potential in the SDGs with regard to climate change, they must begin to resolve the two tensions mentioned above – between climate and development, and between North and South (Death and Gabay 2015: 597). In order for this to happen, the SDGs must meet two conditions. First, they must be deeply institutionalised at the global level and implemented in national policy-making. Do states take their extraterritorial obligations seriously, and integrate the goals of the SDGs into their decision-making processes, resource allocations, and regulatory policies (Marlier and Crawford 2013, cited in the Introduction to this themed issue)? What are the mechanisms within the SDGs, and the related UNFCCC Paris Agreement, that translate high-minded aspirations into action? Second, even if the procedural norms embodied in the SDGs and the

Paris Agreements are consistently followed, they must be ambitious enough to resolve the conflicts inherent in the notion of sustainable development. Do the SDGs effectively distribute duties among states to address climate change, and do they hold states accountable to their commitments?

From the Millennium Development Goals to the SDGs and Paris

In order to assess whether the SDGs represent a transformational approach to climate change, it is necessary to review how the SDGs build upon the Millennium Development Goals (MDGs) which expired in 2015. Climate change mitigation was implicit in Goal 7 of the MDGs, which aimed to ensure environmental sustainability, in part by 'integrating the principles of sustainable development into every nation's policies and programmes'. However, despite gains in other areas of sustainable development, the United Nations recognised the failure of the climate mitigation aspirations of the MDGs, noting a 46% increase in global carbon emissions since 1990 (United Nations Department of Public Information 2013). The MDGs have often been criticised for failing to resolve conflicts between environment and development, such as the possibility that donor countries would trade off development aid for climate mitigation rather than commit themselves to both goals (Kreft et al. 2010: 25). Likewise, despite the call for a 'global partnership' in Goal 8, the MDGs placed almost exclusive responsibility on LDCs for achieving overly ambitious sustainability targets (Death and Gabay 2015: 599; Easterly 2009). Whereas LDCs regularly reported on their progress (or lack thereof) in achieving the MDGs, developed countries were not held accountable to any measurable targets.

As 2015 approached, the world's understanding of the potentially irreversible and devastating effects of climate change became clearer. The SDGs represent a shift in thinking, which recognise both the synergies and the tensions between climate and development; stresses the importance of climate adaptation policies as well as mitigation; and places responsibility for climate action on both Northern and Southern states (Kreft et al. 2010: 6). SDG Goal 13 is exclusively devoted to climate change, calling upon all nations to 'take urgent action to combat climate change and its impacts'. Within Goal 13, the five sub-targets focus on improving national adaptation strategies; integrating climate action into national policies, institutions, and education systems; mobilising financial assistance for LDCs in their climate responses; and supporting LDCs with technology, capacity building, and other means. In other words, Goal 13 implicitly recognises that all states, North and South, have both domestic and extraterritorial obligations to protect people from the negative effects of climate change. Moreover, the need

for urgent climate action is woven throughout many of the other SDGs, from eliminating hunger to building infrastructure to preserving coastal ecosystems.

Goal 13 is somewhat unique among the SDGs, in that it identifies the UNFCCC as 'the primary international, intergovernmental forum for negotiating the global response to climate change'. It is the only SDG that places the primary responsibility for fulfillment upon a single institutional process. Thus, any impact that the SDGs might have on climate change will depend upon the success of the UNFCCC Paris Agreement, which was also negotiated in 2015. The Paris Agreement sets a target of no more than a 2°C rise in average global temperature above pre-industrial levels, with 'efforts to limit the temperature increase to 1.5°C'. In order to accomplish this goal, each state party is obligated to communicate its own nationally determined contribution (NDC) to global climate mitigation, with the understanding that developed countries are responsible for achieving swift and absolute reductions in emissions, while LDCs may advance more gradually (Art. 4.4). Thus, while every member state must submit an NDC, each state may determine its own level of contribution, so long as it does not regress over time. Each state's NDC must be reported publicly and renewed every five years, with successive NDCs representing progress toward 'its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in light of different national circumstances' (Art. 4.3). Finally, as in SDG 13, the Paris Agreement calls upon developed countries to provide financial aid, technology transfer, and capacity-building support to LDCs to assist with their climate mitigation and adaptation efforts (Art. 9). Whereas the MDGs placed the burden of development primarily on LDCs, and the Kyoto Protocol only required Annex 1 and some Annex B parties to reduce carbon emissions, the 2015 agreements apply common but differentiated responsibilities upon all countries. Thus, the SDGs and the Paris Agreement represent a step beyond the MDGs in integrating climate change into global development strategies, and in beginning to distribute climate obligations to both developed and developing countries.

However, it is important to remember that the ambitious global targets contained in the SDGs and the Paris Agreement are aspirational rather than legally binding. The Paris Agreement only requires that state parties report on their voluntarily determined NDCs, and it contains no sanctions for states that fail to take aggressive climate action to meet their own NDCs. As such, the SDGs and the Paris Agreement do nothing to elaborate extraterritorial *legal* duties with respect to climate and development. Neither the SDGs nor the Paris Agreement outline nationally-specific targets for carbon emissions, adaptation financing, or any other

domestic or extraterritorial obligations. This mismatch between the goals of climate action and the mechanisms of implementation has led to harsh criticism of the SDGs and the Paris Agreement. For example, according to the International Institute for Environment and Development, 'When the "aspirational" SDGs are held up to the realities of climate impacts, it is clear that current levels of ambition in climate and development action render them mere fantasy' (Wright et al. 2015: 5). Therefore, are the SDGs just another 'Big Idea' advanced to spread the illusion that the international community is serious about sustainable development, but with no built-in accountability and therefore no impact (Easterly 2006)? Or do the SDGs help to institutionalise a global moral responsibility and elaborate specific duties that will result in effective climate action? Are the norms contained in the SDGs broadly accepted as legitimate, and do international organisations (and more importantly, the states that voluntarily join them) 'put in place rules, procedures, and allocated resources to help put these principles into practice' (Marlier and Crawford 2013: 421)?

Institutionalisation of Climate Action in the SDGs

The SDGs and the Paris Agreement clearly demonstrate a broad moral consensus about the urgency of climate change and the unacceptability of continuing our current levels of carbon emissions (Gore 2015: 719). According to the World Resources Institute (Dagnet et al. 2017), 'Climate change has been a priority in every G7 and G8 communique over the last decade'. It is widely accepted that maintaining the *status quo* will result in potentially catastrophic levels of global warming. The notion that all states have common but differentiated responsibilities on climate policy has also been further reinforced. The SDGs and the Paris Agreement reiterate a clear extraterritorial duty for all states to reduce their carbon emissions, but at different rates depending on national circumstances and capabilities. The SDGs have also reinforced the principle that developed countries, which have benefitted the most from historical carbon emissions, have the extraterritorial duty to assist in the mitigation and adaptation efforts in LDCs. The SDGs, borrowing from pledges made at Copenhagen in 2009, even specified a target of US\$100 billion from OECD countries in annual financing for climate adaptation in LDCs by 2020 (SDG 13.A).

Despite the global consensus over these basic principles, a word must be said about the United States as a notable outlier. The United States has consistently objected to the notion that climate change imposes extraterritorial legal obligations to protect human rights, arguing that governments are legally accountable only to their own citizens (Knox 2009: 490). The Trump Administration, led by sceptics of climate change, vowed in June 2017 to withdraw from the Paris Agreement, calling it a 'bad deal' that is harmful to US economic interests. The United

States has never implemented a national carbon pricing policy, and the Trump Administration has promised to roll back climate funding and Obama-era regulations on carbon emissions. The potential danger of American exceptionalism to global climate policy is evident, as it is the world's largest economy and the second leading carbon dioxide emitter. However, the withdrawal of the United States from the Paris Agreement may not diminish the institutionalisation of climate action as much as it may appear. As other nations continue to develop, the relative size of the US economy is likely to decline over time. While US non-participation in Paris could raise global temperatures by as much as 0.3 °C by 2100, this could be balanced by the actions of large developing countries such as China and India, who have already succeeded in surpassing their initial NDC climate mitigation targets (Milman 2017). Likewise, it is important to note that the fears of a spill over effect from the US withdrawal have not come to fruition. Rather than joining the United States in abandoning the Paris Agreement, other states, regional governments, and municipalities have overwhelmingly reaffirmed their commitment to the new agreements. The new US climate policy may be regrettable, but the rest of the world has not followed its lead.

Another way to assess the degree of institutionalisation of climate action is to examine state compliance with the reporting and accountability mechanisms in the SDGs and the Paris Agreement. As mentioned above, the only legally binding obligation in the Paris Agreement is for each state party to submit a report of its non-regressing NDCs every five years. The NDCs themselves are not required to meet any specific mitigation targets, and there are no penalties envisioned for any state that fails to fulfil its own NDCs. As such, the Paris Agreement relies upon the political pressure generated from peer states and domestic constituencies to create some form of social accountability for states to be ambitious with their NDCs and to comply with their NDC commitments. In 2016, 162 NDCs were submitted to the UNFCCC Secretariat, representing the activities of 189 states that produce 98.8% of global carbon emissions (Northrop et al. 2016: 9). This demonstrates near-universal compliance with the Paris reporting requirements. Similarly, for the SDGs, member states report on their own progress by submitting voluntary national reviews (VNRs) at High-level Political Forums (HLPFs) which are organised each year by the United Nations. Each HLPF reviews a partial set of the seventeen total SDGs. Although the structure and content of the VNRs differ widely, in 2016 twenty-two member states submitted VNRs, and in 2017, forty-four member states submitted VNRs (United Nations Sustainable Development Knowledge Platform 2017a).

Analyses of the VNRs and the NDCs that have been submitted to date show that member states

overwhelmingly link their climate policies to a wide range of SDGs. At the 2017 HLPF to review progress on the SDGs, two-thirds of the VNRs submitted by member states referenced their climate-related policies, despite the fact that SDG 13 was not even under review at the time (O'Connor and Biru 2017). These member states connected their climate mitigation and adaptation policies with their efforts to end poverty and hunger, promote public health and gender equality, and build sustainable infrastructure. The World Resources Institute (Northrop et al. 2016: 2) also examined the initial NDCs submitted to the UNFCCC in 2015, and found that member states' climate policies align with 154 of the 169 specific targets contained in the SDGs. This demonstrates not only that states are taking their reporting obligations seriously, but also that they are explicitly connecting their climate and development policies. As Northrop et al. (2016: 2) state:

This creates an unprecedented moment to pursue implementation of these two agendas in a way that can generate significant mutual benefits and move beyond the view that these agendas are somehow distinct or different avenues to achieving the transformational goals they share.

The institutionalisation of the reporting requirements facilitates the identification of mutual benefits in development and climate policies by 'providing a degree of recognition and standardisation that existing carbon and co-benefits standards simply don't offer' (Goldstein 2016: 1).

The near-universal participation in these reporting mechanisms allows the world to take an account of whether the aggregation of states' national commitments will actually meet the global targets set by the Paris Agreement. If these national commitments fall short of global targets, then the iterative renewal of the commitments with the expectation of progressive improvement creates a collective pressure to fill that gap over time. This is the promise of the peer accountability system that is inherent within the current climate and development agreements. At a minimum, the content of the VNRs and NDCs shows that states have recognised their collective moral responsibility to address the developmental impacts of climate change, and they are complying with procedures that make their individual commitments transparent and reviewable.

While it is too early to judge whether states will actually comply with their own NDCs, it is clear that the SDGs and the Paris Agreement have helped to institutionalise the climate-development nexus in terms of how states and international organisations justify their policies, generate new knowledge, and report on their progress. But it

is also clear that the new agreements explicitly avoid institutionalising other forms of accountability, such as the delimitation of precise responsibilities for climate action and the international enforcement of those responsibilities (United Nations Department of Economic and Social Affairs 2015: 3). Both the SDGs and the Paris Agreements are ultimately toothless, with no legally binding targets and no penalties for non-compliance. This is problematic when considering climate and development from a human rights perspective. The right to an adequate standard of living and a healthy environment require that when those rights are violated, a remedy is provided for rights-bearers. The remedy does not necessarily need to include legal enforcement, but the political and social responses to non-compliance must ensure that the basic rights of vulnerable populations are guaranteed. Neither the SDGs nor the Paris Agreement provides any kind of social or legal guarantee that basic rights will be protected. Effective remedies for violations may be provided at the national level, as Amnesty International (2016: 30) recommends, but there is currently no international remedy beyond reporting and monitoring mechanisms.

Although the new agreements promote increasing linkages between development and climate policy, providing opportunities for states to identify areas of mutual gain, many tensions remain. For example, the SDGs simultaneously include the goal of universal access to modern energy (SDG 7) and urgent action on climate change (SDG 13). These two goals are mutually exclusive under current economic conditions, unless energy consumption targets for poor households are set unrealistically low (Kenny 2015). There is no realistic scenario whereby the world's poor can achieve a dramatic increase in access to modern energy while staying below the 2°C target in the Paris Agreement. Without resolving this tension, the SDGs remain open to the same criticism that faced the MDGs – that they set overly ambitious targets for climate and development policy without strong mechanisms to facilitate the achievement of those targets (Gore 2015: 730).

Similarly, it is not yet clear whether the SDGs have encouraged wealthy countries to recognise the 'climate debt' that they owe to LDCs, given the fact that OECD countries have already spent the majority of the world's total carbon emissions budget. For the Paris Agreement to truly represent a consensus on a global responsibility to address climate change, it must result in dramatically deeper cuts in carbon emissions by OECD countries, as well as significant resource and technology transfers to LDCs for their mitigation and adaptation efforts. The SDGs did include the pledge by OECD countries to provide US\$100 billion per year to LDCs through mechanisms such as the Green Climate Fund (SDG 13.A), but the initial appeals for the Fund raised only

\$10 billion (United Nations Sustainable Development Knowledge Platform 2017b). According to one estimate, the world's total climate financing to LDCs by 2020 is projected to be roughly \$67 billion, including \$30 billion in loans from multilateral development banks and \$37 billion in bilateral assistance from OECD states (Roberts and Weikmans 2016). Other estimates of climate aid are much lower, and these studies were completed before the Trump Administration withdrew from Paris and promised to curtail US climate and development funding. In any case, the OECD is projected to fall far short of its target of \$100 billion in climate financing for LDCs. The SDGs have no mechanism to ensure that the OECD fulfils its \$100 billion pledge, or that any new climate financing comes in addition to the 0.7% GDP target in development aid that wealthy countries have already committed (and failed) to provide to LDCs. Thus, while the SDGs reiterate a collective responsibility to address climate change and development simultaneously, the agreement has not helped to clearly distribute those obligations among different states, nor has it created mechanisms to ensure that states uphold their commitments.

Finally, it is important to note that even if all of the NDCs submitted to date were fully implemented by all states, which itself is highly unlikely, the aggregate impact would still fall far short of the 2°C target in the Paris Agreement. The initial NDCs are only estimated to limit the increase in average global temperatures to between 2.7°C and 3.7°C by 2100, which is still considered potentially catastrophic (Levin and Fransen 2015). Thus, our current pathway leads to failure to achieve the targets in both the SDGs and the Paris Agreement. Even if all states are fully compliant with the institutionalised procedures of Paris, these new reporting mechanisms may be inadequate to reach the ambitious targets set by the new accords. Without a fundamental rethinking of the mismatch between the targets and current mechanisms, it is impossible to say that a global moral responsibility to address climate change has been fully institutionalised.

In conclusion, the SDGs and the Paris Agreement do create universal reporting mechanisms within a peer accountability framework that encourages states to ratchet up their climate commitments over time. These agreements represent an expanding moral consensus that recognises obligations to reduce carbon emissions at home and support climate mitigation and adaptation abroad, all of which would have direct impacts on the protection of human rights. The institutionalisation of these mechanisms allows the world to collectively assess the gaps between ambitious targets and current policies, and it provides a framework for improving those policies over time. As such, the new agreements have often been described as a 'roadmap' for more aggressive action on climate and development. What this roadmap lacks

is an engine that drives the global economy down that road. The *engine* could be provided by social pressure, or by governments truly committed to aggressive climate policies. But it is not inherent within the SDGs and the Paris Agreement themselves.

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Institutionalisation of SDG 16: More a trickle than a cascade?

ALEXANDRA IVANOVIC, HANNAH COOPER AND ATHENA M. NGUYEN

This article addresses the transformative potential of the Sustainable Development Goals (SDGs) through an analysis of SDG 16. Goal 16 aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions. This article will aim to answer two questions. The first question is whether SDG 16 represents a collective acknowledgement of extraterritorial legal obligations to respect, protect and fulfil economic, social and cultural rights (ESCR), and creates an enabling international environment to allow states to meet these obligations. The second question is whether SDG 16 reflects and institutionalises a global moral responsibility to promote and bring about peace, justice and development by examining the institutionalisation of the goal in the procedures and operations of the major organs of the United Nations (UN), its Secretariat, and UN funds and programs. The article concludes that despite the limited legal responsibilities reinforced in the goal, SDG 16 may be framed as an 'international ethical norm', even though its institutionalisation within the UN is still limited. Nonetheless, early and innovative attempts at implementation reveal that progress towards greater institutionalisation is certainly possible in the future.

Introduction

The inclusion of SDG 16 on peace, justice and strong institutions within the post-2015 development architecture has been characterised as one of the 'transformative shifts' that underpin the new sustainable development agenda (United Nations 2013). However, its adoption was by no means inevitable. Often regarded as the most controversial of the 17 goals adopted in September 2015 by the United Nations (UN) General Assembly, Goal 16 marks a step forward in its formal recognition of the roles that peace, justice and good governance have to play in development. Whilst there is yet to be global consensus on the definitions of these terms, the targets developed for SDG 16 indicate that 'peace' has, within the context of the SDGs, been broadly understood as freedom from violence, both at the hands of state and private actors, including activities that support violence, such as human and arms trafficking. 'Justice' relates to the rule of law, non-discrimination, and remedies; and 'strong institutions' involves a lack of corruption, transparency, legal recognition and public participation. Nonetheless, the definitions of peace, justice and strong institutions are still highly contested, which may impact the implementation and measurement of SDG 16.

It has been argued that the 'radical' potential of SDG 16 disrupts and broadens the development paradigm to include peace and justice (Hearn 2016: 1). The inclusion of this goal is a departure from the more technical Millennium Development Goals (MDGs) (and,

indeed, some of the other SDGs), with their focus on more traditional development priorities, and recognises the cross-cutting nature of development, peace, and security, and the importance of drawing on all the instruments available to the UN in promoting sustainable development.

In this article, we will examine the legal and moral obligations which SDG 16 may impart upon states. We will begin by exploring the relationship between SDG 16 and states' extraterritorial legal obligations. Strengthening these obligations is particularly important considering the impact that states can have beyond their own borders and the inter-state cooperation required to resolve issues of peace, justice, and development. However, a closer examination of SDG 16 reveals that its role in acknowledging and enabling states' extraterritorial legal obligations may be limited. We therefore assert that SDG 16 is better viewed as a global moral responsibility and framed as an 'international ethical norm' which 'can neither assure conformity nor legally sanction inconformity' but can provide states with a 'standard for appropriate behaviour' within which to act (Gözen Ercan 2014: 36) – an 'oughtness', as noted by Finnemore and Sikkink (1998: 891).

Finnemore and Sikkink's three-stage life-cycle of norm influence identified three stages of this process: emergence, cascade, and internalisation. The 'tipping' point dividing norm emergence and cascade – 'at which

a critical mass of relevant state actors adopt the norm' – can reasonably be said to have been reached with the development of the SDGs (Finnemore and Sikkink 1998: 895). However, through an examination of relevant UN documents and processes, we observe that SDG 16 has not completed the second stage – norm cascade – which 'involves broad norm acceptance', and at the end of which norm internalisation occurs (ibid). Indeed, the cascade of SDG 16 into the day-to-day functioning of the UN, the Secretariat, and UN funds and programs, is by no means guaranteed, putting at risk the possibility of internalisation of the norm. Much has already been written about the particular difficulties of implementing and measuring this goal (Dunning 2015; Lawson-Remer 2015; Walton 2015). However, in examining current attempts at implementation, we are optimistic that these might be the key to promoting SDG 16 as a norm. As opposed to seeing internalisation and implementation of SDG 16 within the UN system as linear stages, the two can be seen as mutually complementary, and innovative approaches to implementation may be followed by increased acceptance of SDG 16, thus promoting cascade and internalisation.

Background to the Emergence of SDG 16

The premise upon which SDG 16 is based is not new. The idea that 'there can be no sustainable development without peace and no peace without sustainable development' has been explicitly recognised by the international community for some time, and was prominently featured in both the 2005 World Summit Outcome document (UNGA 2005: 2, 21, 24), as well as the 2011 *World Development Report on Conflict, Security and Development* – itself called a 'game changer' (International Alert 2011). However, the inclusion of such a goal in the development framework – cementing the link between development and peace and security which was seen as the 'missing bottom' of the MDGs (Denney 2012) and, most significantly, including targets by which to measure its success – represents a far-reaching evolution of the development agenda.

Nonetheless, agreement on the goal was not simple. The inclusion of peace and security in the post-2015 development agenda 'was the longest-debated and most divisive issue' (Saferworld 2014: 1). While the link between development and security has long been recognised, the inclusion of this goal was the subject of significant debate for two key reasons. First was the concern amongst some developing countries of a 'securitisation' of development, which was seen as promoting a Western agenda and opening the door to further donor-imposed conditionalities on development assistance which would potentially be linked to performance on governance and rule of law. The implications of this, including the possible erosion of state sovereignty and potential confusion between the mandates of the UN Security Council and the UN Development System, led several

middle-income countries to oppose the formalisation of this linkage. Perhaps unsurprisingly, given its high crime and homicide rates, Brazil resisted the inclusion of a goal around peace and security, claiming that violence is a purely domestic issue. The second point of contention was the fact that some middle-income countries claimed that the inclusion of peace and security as key areas for action would divert official development assistance away from them and into fragile and conflict-affected low-income countries.

As a result of these debates, the nature of Goal 16 shifted slightly – from initial discussions around the inclusion of a goal on 'peace and security' to one based on governance and institution-building (with 'security' conspicuously absent). However, despite some claims of a watering down of the goal, SDG 16 undoubtedly marks a sea change in the formal and recognised links between development and peace and justice, representing the commitment of the international community to 'promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels' (UNGA 2015b: 14).

Extraterritorial Legal Obligations and SDG 16

Whilst the inclusion of SDG 16 certainly marks a shift in global commitments around development, peace, and justice, what might the impact of the goal be on states' legal and moral obligations? This section will address whether SDG 16 strengthens the extraterritorial human rights legal obligations of states, before then moving on in the next section to consider evidence of the institutionalisation of a global moral responsibility in the work of the UN.

When analysed within a human rights framework, it becomes clear that most of the 12 targets and 23 indicators of SDG 16 reflect rights enshrined within the *International Covenant on Civil and Political Rights* (ICCPR). This is different to the other SDGs, whose goals are more closely aligned with the rights enshrined in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). For example, access to justice in Target 16.3 relates to the right to an effective remedy (ICCPR Art 2(3)) and to be tried without delay (ICCPR Arts 9(3) and 14(3)). Inclusive and participatory decision-making in public institutions under Target 16.7 is an expression of the right to public life (ICCPR Art 25); and suppression of journalists and activists under Target 16.10 involves the right to life, freedom from arbitrary detention and torture, and freedom of expression and information (ICCPR Arts 6, 7, 9 and 19).

SDG 16 also aims to reduce illicit financial and arms flows, combat organised crime (Target 16.4) and reduce corruption and bribery (Target 16.5). Although not a human rights treaty, these targets reflect provisions

within the *Convention Against Transnational Organized Crime* (CTOC) (Arts 6, 7, 8 and 9) and its supplementary *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition*, to the extent that these crimes are transnational in nature. Lastly, ending the abuse, exploitation, and trafficking of children under Target 16.2 is prohibited under the *Convention on the Rights of the Child* (CRC) (Arts 19, 34, 15 and 36), its second *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography* (CRC OP 2), and the CTOC's *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

Extraterritorial legal obligations

To consider the role of SDG 16 in acknowledging and creating an enabling environment for states to fulfil their extraterritorial legal obligations, it is necessary to examine the extraterritorial application of the ICCPR and, to a lesser extent, the CTOC and CRC, rather than ICESCR. Whereas ICESCR has no jurisdiction clause and its extraterritorial application has been affirmed in the *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*, the ICCPR does include a jurisdiction clause. According to Article 2(1), State Parties are obligated to uphold the rights of those 'within its territory and subject to its jurisdiction'. Similarly, under Article 2(1) of the CRC, State Parties must ensure the rights of 'each child within their jurisdiction'.

The jurisdiction clause in the ICCPR has been progressively and expansively interpreted by the Human Rights Committee (HRC), the International Court of Justice (ICJ), and regional and domestic courts (Hathaway et al. 2011: 390; King 2009: 523). For example, the HRC's General Comment 31 provides that the rights apply 'to anyone within the power or effective control of that State Party, even if not situated within [its] territory' (para 10). Although debate continues over the meaning of 'jurisdiction' (Abrisketa and Casas 2016; Milanovic 2011: 64-89) and 'effective control' (Hathaway et al. 2011: 422-426), the jurisprudence largely reflects the position adopted by the HRC (e.g. Liwanga 2016; Hathaway et al. 2011; King 2009). In recent times, the scope of the application of the ICCPR has expanded even further. For example, in *Munaf v. Romania*, the HRC (2009) held that a State Party 'may be responsible for extra-territorial violations ... if [there] is a link in the causal chain' that has 'necessary and foreseeable consequence[s]' (para 14.2). However, this is not yet well established in the jurisprudence.

Despite these progressive interpretations, the extraterritorial application of the ICCPR is arguably still more limited than ICESCR, which has no such jurisdiction clause and whose extraterritorial application is articulated in the *Maastricht Principles*. It is doubtful,

however, whether the two core principles of the *Maastricht Principles* apply fully to the ICCPR. The first principle, that state parties are obligated to respect, protect, and fulfil human rights if their actions have extraterritorial impact, only applies to the ICCPR when 'effective control' can be established. However, the second principle, which requires state parties to 'secure human rights extraterritorially through *international assistance and cooperation*' is currently beyond the ICCPR.

In comparison, extraterritorial obligations, especially international cooperation, are a core part of the CTOC. In contrast to the ICCPR, inter-state cooperation is the primary enforcement model for combating transnational organised crime (Kemp 2001: 162). The CTOC contains numerous provisions for international assistance and cooperation, including one dedicated to implementing the Convention in developing countries due to the effect of organised crime on sustainable development (Art 30). Similarly, the CRC OP 2 provides for strengthening international cooperation to implement the Protocol (Art 10).

The 'acknowledging' and 'enabling' role of SDG 16

The extent to which SDG 16 is a collective acknowledgment of extraterritorial legal obligations to respect, protect, and fulfil human rights may arguably be limited. The extraterritorial obligations of the ICCPR for cases in which the state party has 'effective control' have been well-established in the jurisprudence and by the HRC. The obligations on state parties to cooperate internationally in the CTOC and CRC OP2 are also expressly enshrined. Therefore, how much further SDG 16 serves to 'collectively acknowledge' these extraterritorial obligations is questionable, as these obligations are already well recognised.

Furthermore, whilst human rights and extraterritorial obligations may be read into SDG 16, they are not expressly stated. In fact, the lack of explicit recognition of human rights has been a criticism of the SDGs (Pogge and Sengupta 2015: 576). The civil and political rights asserted in this article have been inferred from an analysis of the goal, rather than a plain reading of the text. In addition, SDG 16 only mentions 'international cooperation' under one target (Target 16.a). Hence, although SDG 16 is an expression of global support for the role of peace and justice in sustainable development, whether this is also a collective acknowledgement of states' extraterritorial legal obligations (as opposed to moral obligations or aspirations) remains unclear.

The extent to which SDG 16 creates an enabling environment for states to meet their extraterritorial obligations may also be limited. Despite the successful inclusion of SDG 16, it was the most controversial of all the goals and 'almost threatened to derail the entire process' (Pereira 2014: 4). In the objections raised,

the desire to preserve state sovereignty reveals that the weight of extraterritorial obligations may not have featured strongly in the considerations of states. Heated negotiations also led to a 'watering down' of the goal, including last minute changes to the title to replace 'rule of law' with 'access to justice' (Sengupta et al. 2014). This reflects a retreat from committing to more robust legal obligations. The aspirational, rather than legally binding, nature of the SDGs also limit their influence.

In sum, the link between SDG 16 and extraterritorial legal obligations remains tenuous. Perhaps the most significant contribution of SDG 16 is not its acknowledgement of the extraterritorial legal obligations of states, but in planting the seed for the inclusion of peace and justice in the global development agenda. However, its limited legal force should not detract from the goal's potential moral normative force, or the progress which may be made towards more peaceful, just and inclusive societies under its name.

SDG 16 and a Global Moral Responsibility to Promote Peace and Justice

Norm cascade and internalisation: the major organs of the UN

Given the tenuous link between SDG 16 and extraterritorial legal frameworks, we instead propose that the goal should be characterised as a global moral responsibility to promote peace and justice for all: one that 'can neither assure conformity nor legally sanction inconformity' but can provide states with a 'standard for appropriate behaviour' (Gözen Ercan 2014: 36). However, even if we accept that the adoption of the goal constitutes its emergence as a nascent norm, this does not guarantee its acceptance, nor its practical application.

One way to examine the extent to which SDG 16 is being institutionalised within the UN system is to analyse whether the goal is 'anchored in language and revealed by repeated speech acts, leading to a semblance of permanence or institutionalization' (Krook and True 2010: 104), including within the General Assembly (GA), the Security Council (SC), and reports of the Secretary-General. As an enabling goal of the SDGs, one would expect to see reference to its importance throughout the UN system. However, a closer examination reveals that within the principal organs of the UN, institutionalisation of SDG 16 has been inconsistent.

In the General Assembly, SDG 16 has been referred to a number of times since 2016, including in the follow-up and review of the broader 2030 Agenda (UNGA 2016 A/RES/70/209), and in more specific contexts, such as its resolution on strengthening the UN's crime prevention and criminal justice program (UNGA 2017 A/RES/71/209). A recent report examining how the SDGs are addressed in the agendas of the GA and Economic

and Social Council (ECOSOC), however, found that while the majority of targets in SDG 16 were covered or partially covered, the targets relating to governance and the law were limited or non-existent. This highlights a serious gap in General Assembly discussions on arguably one of the most important areas of the 2030 Agenda (UN Report on Strategic Alignment 2016: 2, 58).

The links between peace, justice and development have also received high-level acknowledgement within the UN. In January 2017, the General Assembly President convened a dialogue to examine the synergies between the 2030 Agenda and sustainable peace. Major participants included the UN Secretary-General, UN Security Council President, the ECOSOC President, and the chair of the Peacebuilding Commission. One participant referred to SDG 16 as 'the powerhouse from which all other SDGs will flow', whilst others noted that sustainable development could not be achieved without peace and security, and emphasised the need for strong institutions and good governance (Lebada 2017). Many elements of SDG 16, such as justice, the rule of law, and effective institutions were seen, 'as a golden thread running through the implementation of all 17 Sustainable Development Goals' (Lebada 2017).

Given that SDG 16 provides the strongest link to date between the development agenda and peace and security, we might expect that norm institutionalisation and 'cascade' would involve not just a recognition of the importance of the goal in the UN Development System but also in the Security Council and the UN's peace and security instruments.

Indeed, there is an indication that such links are being made in certain forums. Even prior to the formal adoption of the SDGs, the June 2015 report of the High-Level Independent Panel on UN Peace Operations asserted the strong links between development, peace and security, reaffirming that, 'Inclusive and equitable economic development is a pillar for sustaining peace ... [Goal 16] should be supported, making this priority even more inescapable' (UN 2015a: 37). Similarly, the report of the Advisory Group of Experts on the 2015 Peacebuilding Review encouraged UN Member States to put SDG 16 at the heart of their peacebuilding efforts (UN 2015b: 11, 58). On 25 September 2015, the Security Council released a report that espoused a 'collective recommitment' to conflict prevention and made reference to the sustainable development agenda, with Goal 16 identified as 'the most explicit expression of these relationships' between sustainable development, peace, governance, human rights, and the rule of law (UNSC 2015 S/2015/730: 3).

Moreover, numerous Secretary-General reports highlight the importance of mainstreaming Goal 16 in the operations of the UN peace and security architecture. For

example, in his report on the future of peace operations, former Secretary-General Ban Ki-Moon noted that the adoption of Goal 16 ‘offers tremendous opportunity to strengthen collaboration between development and peace and security actors’ (UNGA 2015a Doc A/70/357). These comments have been reinforced in other reports, such as on the UN and conflict prevention, UN policing, and the protection of civilians in armed conflict (UNSC 2015 S/2015/730; UNSC 2017 S/2017/414; UNSC 2016 S/2016/952).

However, despite recognition of the links between SDG 16 and the UN’s peace and security architecture, there is less evidence that the Security Council itself has acknowledged such links – and little to suggest that the goal has begun to be incorporated into its everyday workings. Whilst Security Council resolutions are not the only evidence of norm institutionalisation, they have been identified elsewhere as an indication of norm acceptance within the Council (e.g. Hofman 2015) and indeed seem to be a reasonable gauge of this.

Of the 112 Security Council resolutions adopted between January 2016 and July 2017, only one makes explicit reference to the SDGs. Indeed, the absence of direct reference to SDG 16 in the vast majority of cases is particularly notable considering that Security Council resolutions *do* make frequent reference to many elements within the goal. Developing effective, accountable, and transparent institutions (Target 6), promoting the rule of law (Target 3), and reducing violence (Target 1) are all mentioned repeatedly. However, none are placed in the context of the 2030 Agenda (UNSC 2016 S/RES/2299; UNSC 2016 S/RES/2274; UNSC 2016 S/RES/2267).

It could be argued that the remit of the Security Council, and in particular an unwillingness to stray into matters of development, justify this omission. Indeed, the fact that such a blurring of lines was one of the major concerns raised during the goal’s development could explain this reluctance. However, this seems unlikely in light of the prominence given to the SDGs – and Goal 16 in particular – in high-profile documents such as the Report of the High-Level Independent Panel on Peace Operations.

Alternatively, it may be argued that the spirit of SDG 16 is being institutionalised through broader references to the constituting elements of the goal, even though the goal itself is not expressly mentioned. However, an examination of Security Council resolutions passed before the SDGs were adopted reveal few differences between the Security Council’s engagement with these issues pre- and post-September 2015. The adoption of the SDGs seems to have had little or no impact on the framing of such issues (e.g. UNSC 2014 S/RES/2188). This begs the question: what has changed? In the everyday dealings of the Security Council, it seems, very little. And, whilst it is unclear to what extent Security

Council support is necessary for the success of SDG 16, the Security Council’s current disregard may prevent it from achieving the prominence needed to develop into an effective norm and to genuinely form ‘the basis against which to assess global-level and country progress towards sustaining peace’ (UN 2015b: 58).

Institutionalisation at the Secretariat

Institutionalisation of Goal 16 can also be examined through the commissions and departments of the UN Secretariat. This section will examine whether and how UN regional commissions are implementing SDG 16, and whether within the Secretariat’s peace and security arm, Goal 16 has found prominence.

UN regional commissions in general seem to have increased the integration and alignment of their programs and procedures to the 2030 Agenda. However, the extent has varied and it appears that the goal is not yet a normative force at the regional level.

Most commissions appear to have aligned their implementation of the SDGs with the thematic sessions of the High Level Political Forum (HLPF), which is not reviewing SDG 16 until 2019. Despite this, there are references to the broader principles of Goal 16 in some commissions’ reports (e.g. the Arab Forum on Sustainable Development (HLPF 2016); UN Economic Commission for Europe (UNECE 2017)). By contrast, Goal 16 and broader issues of governance, peace, and justice are barely mentioned in the UN Economic Commission for Latin America and the Caribbean’s annual report on the 2030 Agenda (HLPF 2016).

There is evidence that commissions are assisting and supporting their member states to implement SDG 16 and the other goals. Examples include the African Sustainable Development Map (UNECA 2017), and the roadmap created by the Economic and Social Commission for Asia and the Pacific which hints at Goal 16 through stating that ‘sustainable development must be underpinned by peaceful and inclusive societies, addressing inequality, and by good governance’ (UNESCAP 2017: 10). At this stage, it is too early to assess the implementation of this roadmap.

It is also useful to examine what, if any, institutionalisation is taking place within the Secretariat’s departments and offices, particularly those of its peace and security architecture. For example, within the UN Department of Political Affairs (DPA) there is recognition that ‘Goal 16 is most explicitly tied to DPA’s mandate’ (DPA 2017: 14). DPA’s 2016-2019 Strategic Plan references SDG 16 and includes objectives on ‘strengthening the Department’s role in supporting institution-building and good governance strategies of UN Country Teams (UNCTs), both in mission and non-mission settings, in

line with Goal 16' (UNDPA 2015: 19). More generally, the DPA now engages with the UN Chief Executives Board on the SDGs by supporting its attempts to understand the cross-pillar linkages between peace, justice and development, and the role of SDG 16 (UN Chief Executive Board 2015). DPA also has observer status with the UN Development Group: another example of an effort to overcome silos and promote interlinkages between the peace, security and development sectors.

Implementation via UN funds and programs

Whilst an examination of SDG 16 through the principal organs of the UN and at the regional level suggests that its cascade is partial and inconsistent, it is the support the UN can provide at the national level where SDG 16 will truly be put to the test. If implementation is successful, it may foster the conditions whereby SDG 16 can be accepted more readily by the international community, thus promoting its cascade – and eventually its internalisation – ‘upwards’ within the UN architecture.

Evidence that the UN is amending its practices and procedures to support implementation of SDG 16 at the ground level can be found in the work of the UN Development Programme (UNDP) and the UN Development Group (UNDG). For example, the joint UNDP and DPA programs on building national capacities for conflict prevention are now reinforcing the importance of implementing SDG 16 in projects at the country level, with peace and development advisers supporting UNCTs to facilitate discussions between civil society organisations and countries on the 2030 Agenda and SDG 16 (UNDP 2016a). UNDP will also support implementation of Goal 16 by: expanding its existing conflict-related risk assessment tool (UNDP 2016b: 8); undertaking a pilot project in seven countries to strengthen the inclusive national processes for monitoring (Acuña-Alfaro 2017); reviewing and updating UN tools and instruments supporting anti-corruption and governance measurements (Benson Wahlén 2017); and other initiatives.

The UNDG has prepared guidelines to support country reporting on the SDGs for UNCTs, providing samples of specific tools for SDG 16 (UNDG Guidelines 2016). It has also promoted SDG 16's aim of helping to ‘build effective, accountable and inclusive institutions’, by revising its UN Development Assistance Framework (UNDG UN Development Assistance Framework Guidance 2017). Surveys have also been conducted with UNCTs and resident coordinators to identify needs and requirements for implementation at the country level (UNDG Europe and Central Asia 2016).

In sum, it is at the operational level within the UN's development arm and, to some extent, its peace and security arm, where evidence is found that the UN is institutionalising SDG 16 even at these early stages

of the 2030 Agenda. One would suspect that as countries approach the HLPF in-depth review in 2019, implementation will accelerate.

The Challenges of Implementation

Progress on Goal 16 ‘remains uneven across and within regions’ (UN ECOSOC 2017: 16) and, if the current rate of progress continues, the SDG 16 targets will not be achieved on time (Steven 2017: 45). The UN's peace and security, human rights and development actors will need to work together more closely and coherently, and UN funds, agencies and programs would need greater capacity, knowledge, and funding to be able to assist countries in meeting the targets. However, a recent review of the functions and capacities of the UN Development System (UNDS) found the system had ‘reached its exhaustion point and is insufficient to match the ambition, effectiveness and cohesion required by the new agenda’ (UNGA/ECOSOC 2017: 5). Further, high levels of earmarked funding weakens coordination between entities and accountability within the organisation, and with ‘current systems to manage programs, expenditure and personnel across the UNDS vary(ing) significantly’, the UNDS is not fully set up to align with the SDG framework (UNGA/ECOSOC 2017: 9). A new roadmap to make the UNDS stronger to enhance delivery of the SDGs was introduced by the UN Secretary-General in July 2017 (UNGA/ECOSOC 2017: 5). It is too early to tell whether this roadmap will lead to improvements in the UNDS to help facilitate the implementation of the SDGs.

For individual countries, a significant impediment to meeting Goal 16's targets is incomplete, imperfect, or simply non-existent data. Of the 23 indicators for SDG 16, 17 are Tier II or Tier III indicators with no or limited data and/or no methodology for measurement (UN Stats 2017). The SDG 16 Data Initiative found ‘lack of effective methodologies to produce parts of the data, the misalignment between certain targets and their indicators, and insufficient coverage of particular data sets’ to be early challenges for implementation of the goal (SDG 16 Data Initiative 2017: 3).

Another challenge is the variance in countries capacities to collect, monitor and track indicators (IEP 2017: 3; SDG 16 Data Initiative 2017: 3). Many countries lack the capacity to strengthen their national statistical offices and accountability structures and need assistance in these areas. While countries should be encouraged to continue building their existing systems of measurement, some countries are complementing formal global metrics with other indicators that are country specific and reflect key national issues (Bizikova and Pinter 2017: 4).

The international community can support the implementation of SDG 16 by not only providing assistance to strengthen national statistical capacity and

reporting mechanisms, but also by investing in research to identify knowledge gaps, improve data collection and monitoring, and provide evidence-based analysis to better inform policymakers (Steven 2017: 46). Further, investment in conflict prevention, good governance, and the rule of law needs to be increased, and learning and exchange platforms, such as the HLPF, need to showcase best practice and positive experiences of implementation. Finally, effective communications and advocacy are needed to build a true 'multi-stakeholder movement for peaceful, just and inclusive societies' (Steven 2017: 45).

As the most ambitious of the SDGs, Goal 16 is inevitably the more difficult goal to achieve. It faces 'unique practical challenges in its measurement and implementation' (SDG16 Data Initiative 2017: 3), as well as political and practical challenges with some goals, such as SDG 16.5.1 on corruption, being extremely difficult to monitor (IEP 2017: 3). However, some innovative ideas and methods are being developed to meet these challenges, as explored in the next section.

Innovative Attempts at Implementation

True institutionalisation of SDG 16 will not only be through the UN system but also the work of UN Member States at the national level, with support from civil society and other partners. Current attempts at implementation provide optimism that innovation may be the key to promoting and institutionalising SDG 16 as a norm. It has been suggested that a roadmap is needed to guide the implementation of SDG 16, one that is 'grounded in voluntary human rights and the development cooperation system, not subordinate to international humanitarian law and the Security Council' (Hearn 2016: 1). What is unclear is exactly how such a rights-based approach would work.

The Pathfinders Initiative, championed by Switzerland, Brazil, and Sierra Leone, and with growing support by member states, has developed a road map for implementation of SDG 16 and associated targets (SDG 16+) focusing on impacts on the ground rather than only attempting to meet the targets. Over the next 5 years, this roadmap plans to accelerate the delivery of SDG 16+, with proposals for transformative strategies to further integrated action and partnerships, catalytic actions to provide practical guidance for countries, and enablers of implementation to underpin progress towards the targets through evidence and data, finance, and learning and exchange (Steven 2017: 7-8). One goal of the project is to focus on shared threats and opportunities for more effective international cooperation, accelerating action on the regional and global dimension of SDG 16+ (Steven 2017: 29).

Civil society and other partnerships will also most likely play a valuable role in creating innovative methods

and tools to assist governments in implementing Goal 16. Toolkits are already available for civil society organisations to become stronger advocates (TAP Network 2016). It has been suggested that broad-based coalitions for SDG 16 could have the greatest impact on politics, which is ultimately where policy decisions are made (Whaites 2016: 8). Another innovative suggestion is to provide countries with external incentives similar to forms of accession programs used for trade blocks and global bodies, with the UN's role to nurture such innovations, and conversations to encourage greater implementation of SDG 16 (Whaites 2016: 10).

Conclusion

Our analysis has demonstrated that considerations of the legal and moral force of SDG 16 may prove to be more frustrating than fulfilling. An analysis of the international law on extraterritorial legal obligations reveals that SDG 16 may not reinforce these obligations, nor create an enabling environment where such claims may be progressed. The story to date of the institutionalisation and implementation of SDG 16 as a global moral responsibility also offers mixed results, as the goal is visible yet inconsistent across the UN. Certainly, there are references to the goal within the development arm of the UN and, to a lesser degree, in the peace and security architecture. There are also indications that implementation has started at the country level and procedures and practices are being reviewed and adapted to take into account the goal's targets and indicators. Furthermore, there is evidence of innovative attempts at implementation, which suggests that continued innovation may be the key to promoting SDG 16 as a norm. Indeed, such approaches could be central to further norm cascade, allowing SDG 16 to garner the critical mass it needs to reach the tipping point into internalisation. However, as Goal 16 will not be one of the thematic focuses of the HLPF until 2019, it may be some time before we are truly able to assess whether the goal has fulfilled its transformative potential.

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Secondhand Bookstore

Your own story suspends at the door with the dripping umbrellas. You enter, down steps to a basement of shelves, where customers orbit potential buys, drawn to their positive forces. Books beam—floor to ceiling—ostensibly ordered by genre, author. You don't know what you came for, or how you fit in, here where Jane Eyre goes Paleo, mingling with Australian cricket legends. In dim light, creases hint at age, yet you can't tell if they've been loved, or how well. Pastes are concealed by plastic layers, an attempt to preserve newness. Some are flung from excess stock, forgotten birthdays, outgrown childhoods. They're valued, but not enough to be kept, and you think of concealed font, humming away a latent language. It overwhelms you—the fictive wisdom—and as you can't have them all, you select one at random, pay at the counter. As you fall into bed together, later, you see the raised surface of handwritten ink, but your eyes won't linger on the words because you know they're not meant for you.

AMY LIN,
PERTH, WA

box jelly

on boat little boat and me on a little boat. push and shove voices but clear to us they were nothing but something that needed to be done, something was coming to a head, you know it had to be met head on, directly. past the spruces the shore was where and when we would *deal with it*, the two of us (and those other two). past the post-flood some animals were and some weren't and i wondered where those ones that were not were. the pen in sight and we who circled, little compared to the big fence and this was what we had known, the whole time, on boat little boat and all around, tires, helicopters, nets ... not an unmanageable situation, just need to be mindful and somewhat vigilant. but you, bent on sabotage, although how was not clear. the sharks were not to be feared and i knew to go around the rays. think of it like a trip to the dentist, you said, in any case this ordeal will not last forever. someone had trapped the first one. a box jellyfish in a box. about to open the box. but where to get the other two?

ROSE HUNTER,
NORTH LAKES, QLD

Towards the Social Inclusion of Young People Transitioning from Out-of-home Care: An examination of the Home Stretch campaign

PHILIP MENDES

In August 2016, Anglicare Victoria established the Home Stretch campaign to lobby all States and Territories to extend the transition from state out of home care (leaving care) age from 18 till at least 21 years. This campaign is driven by a concern that many care leavers face significant barriers to accessing the same educational, employment, housing and other developmental and transitional opportunities as most young Australians. Equally, the evidence from international research suggests that young people who stay in care till an older age experience better outcome because they are provided with the same ongoing social and economic support as usually provided by most families in the wider community.

What is leaving care? Leaving care is formally defined as the cessation of legal responsibility by the state parent for young people living in out of home care (OOHC), which in all Australian jurisdictions occurs at no later than 18 years of age. In practice, however, leaving care is a major life transformation, and a process that involves transitioning from dependence on state care accommodation and supports (which despite their limits are at least funded on a mandatory basis within annual government budgets) to so-called independence and self-reliance.

In Australia, approximately 3,130 young people nationally aged 15 to 17 years transition from care each year (AIHW 2017). Care leavers are not a homogeneous group, and have varied backgrounds and experiences in terms of the structure and capacity of their birth families, the type and extent of abuse or neglect experienced pre-care, the age at which they enter care which may vary from infancy to early teens, their cultural and ethnic backgrounds, their out of home care experiences, their developmental stage and needs when exiting care, the presence of special needs such as developmental disability or mental illness, and the quantity and quality of supports available to them as they transition from care.

The leading UK researcher Mike Stein (2012: 170-72) has broadly classified care leavers into three categories.

The first he terms the 'moving-on group' who probably comprise about 20 per cent of care leavers. Young people in this group are likely to have experienced secure and stable placements, be highly resilient, welcome independence, and able to make effective use of leaving and aftercare supports. Those who have 'moved on' in Australia include leading academics, media personalities, sports stars such as Adelaide Crows footballer Josh Jenkins, and politicians such as former Tasmanian Premier David Bartlett and current Federal MP Steve Irons who calls himself 'Parliament's only former ward of state'.

The second group Stein terms 'survivors' who probably comprise about 60 per cent of care leavers. They have experienced significant instability and discontinuity. Outcomes for this group tend to closely reflect the effectiveness of post-care supports provided.

The 'strugglers' are the third group who appear to comprise about 20 per cent of care leavers. They are likely to have had the most negative pre-care experiences and may experience significant social and emotional deficits. A significant number in this group experience homelessness, involvement in youth and adult criminal justice systems, mental illness, substance abuse, and long-term reliance on income support payment. After-care support is unlikely to alleviate these problems but is still viewed as important by them.

It is important to remember that outcomes for care leavers are fluid, and some may have poor initial transitions and fall into the survivor or struggler group, but later will be able as they mature (and with the availability of ongoing supports at 20 or 21 years old) to 'move on' into the mainstream. They need to be able to access second or third chances, just as ordinary parents in the community stand by their own children as they test limits and learn from their mistakes.

The reasons for their relative disadvantage are very simple. Many care leavers experience significant abuse

or neglect prior to entering care, limited stability in care, and a lack of assistance from family members or other community networks as they transition from care. In addition to these major disadvantages, many young people currently experience at 16-18 years of age a sudden end to the formal support networks of state care. This ending of support coincides with either the final years of schooling or the beginning of attempts to gain skills training or employment. Consequently, their transition into adulthood is markedly accelerated and compressed compared to their non-state peers. The State as corporate parent fails to provide the ongoing financial, social and emotional support and nurturing offered by most families of origin up to and even well beyond 25 years of age.

The international research, summarised by Mike Stein (2012) argues that three key reforms are required to improve outcomes for care leavers:

The first priority is to improve the quality of care as positive in-care experiences involving a secure attachment with a supportive carer are essential for overcoming damaging pre-care experiences of abuse or neglect. The second component is ensuring a more gradual and flexible transition from care that reflects maturity and developmental needs rather than just chronological age. Care leavers cannot reasonably be expected without family assistance to attain instant adulthood. It is not possible for them to successfully attain independent housing, leave school, move into further education, training or employment, and in some cases become a parent, all at the same time. Rather these tasks need to be undertaken sequentially. As reflected in the 'focal model of adolescence' (Stein 2012: 162), they need to be given the same psychological opportunity and space as all young people to progressively explore a range of interpersonal and identity issues well into their twenties.

The third component is providing more specialised after-care supports that incorporate messages from life course theory about the diversity of transition experiences. The research evidence suggests that effective after-care interventions can facilitate 'turning points' (Johnson and Mendes 2014) that enable young people to overcome the adverse emotional impact of earlier traumatic experiences. For example, this might involve forming improved relationships with family members, becoming a parent, or ceasing substance abuse.

In summary, the outcomes for care leavers reflect the connection between two key factors: one is their individual agency or resilience (within a social context), and the second being the availability of positive relationships via what is called social capital through professional and informal support networks.

Each Australian State and Territory currently has its own child welfare legislation, policies and practices. But

whilst out of home care processes and procedures vary, the common denominator is that leaving care and after care supports are inadequate. All jurisdictions offer only discretionary, not mandatory assistance, once a young person turns 18 years old.

To give one example, the Victorian Government provides mentoring, post-care support and flexible funding support for young people transitioning from care or post care in all eight regions. These services, which cost approximately 11 million dollars a year, include discrete Indigenous support and housing assistance programs. This sounds generous in principle, but in practice only about five thousand dollars per year is allocated to meet the needs of each of the more than 2000 young people aged 18-21 years in Victoria who have left care over the past three years. That is less than two per cent of the total out-of-home care budget for Victoria which was 566, 526 million dollars in 2016-17 (Productivity Commission 2018), although these young people constitute nearly 15 per cent of the total age groups in and beyond care covered by the Victorian legislation (*Children, Youth and Families Act 2005*). And a considerable proportion of that small pool of funding is allocated to young people aged 16 or 17 years who are still in the out-of-home care system. Hence, the real amount of funding per care leaver is even lower.

Yet research on care leavers in Australia has consistently documented that many care leavers experience poor outcomes because they are not developmentally ready at 18 years to live independently; often have limited ongoing participation in education; exit care directly into homelessness and/or endure ongoing housing instability; or spend time in the youth justice system; or for those who are Indigenous experience estrangement from culture and community (Mendes et al. 2016; see also Mendes and Snow 2016).

In contrast to the existing policies, a social investment model would aim to promote the social inclusion of care leavers in mainstream social, economic and communal life. As numerous local and international cost-benefit analysis studies have shown (e.g. Raman et al. 2005; Hannon et al. 2010), greater social investment in care leavers in the short to medium term is likely to prove both socially and economically productive by reducing the degree of dependency and government costs in the longer term. Those young people who are provided with ongoing support with housing, education and employment, and family and social relationships are more likely to access mainstream social and economic opportunities, and less likely to experience social exclusion and become reliant on crisis intervention welfare, health and criminal justice services.

It is arguable that the required minimum level of spending to meet the needs of the estimated 2000 care leavers in

Victoria each year should equate to the average of \$54, 938.52 spent per annum on children or young people in OOH in Victoria (Productivity Commission 2018), and would be nearly \$110 million in Victoria alone. That is about ten times the current level of leaving care spending, but still very little compared to the 566 million dollars that Victoria already spends on OOH each year.

The Home Stretch Campaign

Home Stretch is a dedicated campaign to persuade all State and Territory governments to extend out-of-home care provision till 21 years of age. According to Home Stretch, 'Young people in state care should have a place they call home and support until the age of 21 ... Every child deserves to be supported into adulthood – extending out of home care until the age of 21 will give thousands of young people the additional guidance they need to have a real shot at life' (Home Stretch 2018).

The campaign, which has secured financial support of \$500,000 over three years from philanthropic trusts enabling employment of an ongoing Project Coordinator and Campaign Manager, has a number of notable achievements to date (Home Stretch 2017).

For example, Home Stretch has 3000 registered supporters and 129 affiliated organisations in the child welfare, housing and legal aid fields. Public statements of support for Home Stretch have come from groups as varied as 700 carers and community workers attending a national foster and kinship care conference in Melbourne (Brown 2017), and a group of more than 100 grandparents/kin parents attending a forum in the Central Coast of New South Wales (Stubbs 2017).

Key activities have included launches in five capital cities, and further planned regional town launches; a series of radio, television, print media and social media interviews which have provided an opportunity for the voices of care leavers and foster carers to be heard in the policy debate; presentations to numerous policy and advocacy conferences; meetings with relevant Ministers and Shadow Ministers in all States and Territories and the Commonwealth including meetings with representatives from significant minor parties; and provision of information packs for all Victorian state parliamentarians.

There was also a specific presentation to a group of federal parliamentarians in Canberra hosted by prominent Labor Party Senators Louise Pratt and Doug Cameron. Senator Pratt, the Shadow Assistant Minister for Families and Communities, subsequently declared her support for Home Stretch in the Federal Parliament. She cited the experiences of a number of care leavers who had been left without housing and other supports when they turned 18 years, and recommended ongoing

support and care for this particularly vulnerable group of young people (Pratt 2018).

Home Stretch also organised publication of a ReachTel survey of public opinion in October 2017. That survey found that 76 per cent of Australians favour extending state care till 21 years, 82 per cent believe governments should do more to assist care leavers, and 87 per cent believe that all young people deserve accommodation support till at least 21 years.

Additionally, Home Stretch has published two detailed reports in favour of extending care till 21. The first report analysed the limitations of existing State and Territory legislation (Baidawi 2016) and will soon be followed by the preparation of draft reform legislation in partnership with Victorian Legal Aid. Additionally, the campaign commissioned a cost benefit analysis report by Deloitte Access Economics. The report demonstrated that extending care would provide major economic benefits to the Victorian government, due to reduced homelessness, less hospitalisation, fewer care leavers arrested and general improvements in physical and mental health and social connections (Anglicare Victoria 2016).

To date, Home Stretch has achieved two major political breakthroughs. The most significant was the pledge by both the current Tasmanian Liberal Government and the Opposition Labor Party to extend care to 21 years should they be successful in the state election in March 2018 (Dolan 2018; Lashmar 2018). Additionally, the South Australian Liberal Party promised to fund foster care placements till 21 years if successful in the state election in mid-March 2018 (Novak 2016).

The current priority for Home Stretch is to lobby the Victorian Labor Party Government and the Liberal Party Opposition to commit to an extension of care should they win the state election being held in November 2018. To achieve this goal, Home Stretch has prepared a detailed Campaign Blueprint incorporating key messages, goals, tactics, strategies and timeline. The Blueprint aims to educate key Victorian politicians and the general community regarding the poor outcomes for care leavers, and the strong social and economic arguments for extending care (Home Stretch 2018).

Conclusion

Young people transitioning from out-of-home care are a particularly vulnerable group who have often been denied the same life chances and opportunities as other young Australians. They are currently expected to instantaneously transition to adulthood at the age of 18 despite their often-traumatic childhood experiences, and without the ongoing safety net of family and community supports available to most of their non-care peers. To date, the Home Stretch campaign has made some

progress in educating political leaders and the general community about the needs of care leavers, and the overwhelming social and economic case for extending care. Hopefully, the public advocacy strategies being planned in Victoria and other states will result in further political breakthroughs to progress the social inclusion of care leavers.

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Author

Associate Professor Philip Mendes is the Acting Head of the Social Work Department at Monash University. For the last 20 years, he has been engaged in ongoing research on young people transitioning from out-of-home care. He is a member of the Transitions to Adulthood for Young People Leaving Public Care International Research Group, and has completed a number of major leaving care studies pertaining to youth justice, disability, Indigenous care leavers, and mentoring and employment programs. He is the author or co-author of 12 books

including most recently *Young people transitioning from out-of-home care: International research, policy and practice* (Palgrave Macmillan 2016) and *Australia's Welfare Wars* (UNSW Press, 3rd edn, 2017). He is currently preparing a new book titled *To empower or control the disadvantaged: A critical historical analysis of the modern Australian Welfare State* for publication by Routledge in late 2018.

Blood and Burnings

Whenever I walked those grey streets
to the London School of Printing
I avoided eye contact with anyone –
black or white.
Even though the blood and burnings
had long been cleared away
the air still crackled with the hiss and spit
of the Brixton Riots.

My tutor's hands were stained
with the ink of yesterday's process.
I struggled to learn this new trade, he said
as he showed me how to separate the image
into colours: magenta, yellow & cyan
and how to align and slice film:
that patient cutting and taping
the eye-glass accuracy.

All of it fading before us
like an over-exposed image
as Thatcher battled the unions
and Murdoch relocated to Wapping
where unskilled workers crossed picket lines
to the song of Scab, Scab, Scab, and
Steve Job's WYSIWYG technology created
a new future for printing and typography.

SHARON KERNOT,
MOUNT BARKER, SA

BOOK REVIEWS

Wal Stubbings and Lesley Synge 2017 *Wharfie, Zing Stories, West End Qld.* ISBN 978-0-6480435-0-8.

This memoir of a waterside worker through the 20th century is presented as an autobiography by Wal Stubbings but, if the text is the measure of authorship, much of the credit for the memoir must go to Lesley Synge, who is rightly credited as 'co-author'. It appears that the project to produce a memoir of Wal Stubbings' life and career emerged out of a general family history in 2000 to which he contributed a section. As Synge mentions in her foreword, this autobiographical piece became the 'master document' for the subsequent memoir. With this, she gathered information from further writings by Wal Stubbings, along with many stories written about him by family members, and other archival material including photographs, interviews and newspaper cuttings. Indeed, it was a complex task absorbing all this material and structuring it into a chronological narrative, in the first-person voice of a man whose presence and perspectives on life were powerfully present in the source material. Synge has done an excellent job of editing and writing. She has presented us with a book that is accessible, well-organised and a pleasure to read.

There are essentially two interweaving themes in the memoir. Firstly, the accounts of Wal's parents' earlier lives, their marriage, and the family they produced, of which Wal was the fifth child. Family is one of the key stories in the book. I liked the way this story is intergenerational, as families are. Apart from the light and shadows cast on Wal's life by his parents, the ongoing relationship between Wal and his children, particularly his son, Col, was apparently a bond felt strongly by them all. This is most evident between father and son, for it was Col, on behalf of the family, who brought the project of producing the book to Lesley Synge.

The family elements in this memoir record the lives of individuals who were fairly typical in many ways of their peer generation, (my own parents for instance), who lived through the 20th century transitions of industrialisation, depression, WWII, and radical social and political transformations and experiments. Wal, born in 1913, was a child of World War I. He died in 2014 at the age of one-hundred and one, so his family account presents a chronicle of working-class family life in Australia for over a century. That, in itself, is rewarding reading for many contemporary Australians. Rural labour, working on the railways in the bush, and migrating to cities around the time of the war were not uncommon life patterns through those decades. The struggles and joys of the Stubbings family also capture the experiences of many Australian 'battler' families of the time, including the pursuits of sport, radio, sing-alongs, and the difficulties associated with money, health, employers, family accidents and tragedies.

Each family is distinctive and the Stubbings family and house where they lived in Moorooka had a fascinating and prominent identity in their community. This identity grew from a merging of work, home-life and politics in a very distinctive way. For Wal's roles as a union official and member of the Communist Party of Australia reached beyond the wharves where he worked, to include relationships with other leading officials and also leaders of important social movements and political liberation movements, such as the early leaders of FRETILIN. Many of these persons, including African-American opera star Paul Robeson and Australian poet Kath Walker (Oodgeroo of the Nunukul) and her husband Ray Walker spent time at the Stubbings' family home. The unity of life and work was completed by the leadership of Wal Stubbings' wife, Ada Gill. This outstanding woman dedicated her life to raising her family, her work with the Women's Committee of the Waterside Workers Federation, and to sharing her hospitality with visitors to their home. Ada's capture by Alzheimer's disease, just when the couple was beginning to enjoy the fruits of their shared life is the saddest story in the memoir. Nothing was right for her, or for Wal, after her illness strengthened its grip on her.

The second key theme of the book is the political narrative that follows the historical shifts of Communism through the 20th century. Wal's inspiration for international communism reached its most satisfying recognition in the opportunity for him to visit Moscow in 1963. He travelled as a member of the Communist Party of Australia delegation, hosted by the Communist Party of the Soviet Union. While this experience held many unforgettable highlights, such as meeting the astronaut Yuri Gagarin, the realities of elitism, authoritarian power and drudgery he witnessed in Russia began a process of disengaging from the international communist agenda. Later in the memoir he regrets the totalitarian style of government that communism developed around the world and rues that he was too much of a fundamentalist earlier in his life. Henceforth, while personally loyal to the CPA, Wal worked for more localised justice, particularly in Brisbane, and seems to engage with the New Left peace, women's and environment movements of the 1960s. He also became involved as union representative to the Queensland Council for the Advancement of Aborigines and Torres Strait Islanders (QCAATSI) in 1961. This was also the early publishing period of *Social Alternatives* in Brisbane and there was shared political activism between some of the founding editors of *Social Alternatives*, such as Ralph Summy and Les Hoey, and union activists in campaigns against nuclear weapons, the Vietnam war and the Bjelke-Peterson state government, as instances.

I turn to the third key theme of this book. The narrative of Australian labour history is made available to us not from the perspective of a formal historian, but from the experiences of a highly engaged everyday participant. This, to me, is the most rewarding aspect of *Wharfie*. There are accounts of many incidents in which Wal participated.

The descriptions of logging in Western Tasmania that left the mountains of Queenstown irreparably cleared are gob-smacking. The poor workers were paid piecemeal, such that the incentives to log the Huon and King Billy pine forests were high. As someone who witnessed the lunar landscape when I first travelled through Queenstown in the 1960s, before any of the current re-forestation programs had begun, I was astonished at Wal's descriptions of the magnificent forests that once grew there, and the prodigality of the logging families, like Wal's, in destroying those forests with no regrets at the time. It was the same zest for logging that novelist Annie Proulx describes in her most recent novel, *Barkskins*, about the destruction of forests in North America and around the planet. Wharfie also presents a tangible account of the struggles of those families to endure the trials of Western Tasmanian weather, material deprivation, and live with a measure of happiness in the inward-focussed communities that comprised the logging villages.

The logging accounts are just the beginning of interesting stories of work and life on the wharves in Hobart and, later, in Brisbane. Wal tells his wharfie stories as a member of the national network of the Waterside Workers Federation. Up to the late 1970s, when Wal retired from work as a wharfie, he shares his relationships, incidents, political conflicts and the general path of life as a trade union official. This is the dominant theme in the book and interesting reading.

One could argue that *Wharfie's* identity as a text is that it that it is ultimately a book produced by a family project to acknowledge the stature and immensely interesting life of an outstanding member of that family. Wal Stubbings was someone who strode the local stage with considerable presence and impact. It is a memoir produced as a tribute to a man loved and admired by his family. It will be a book long-treasured in the family.

Wal lived for over a century and his experience was colourful and full of incidents, including many humorous ones. In the book we are given only Stubbings' perspectives on events that touched his life, and I sense the material has been selected because it meets the criteria of endorsing a certain conception of the man, supporting a portrait of him. How well Wharfie stands up as a valuable primary source in social history is a matter for the longer term. From 1968, Wal worked for Patrick Stevedoring on the wharves in Hamilton, Brisbane. These were obviously the twilight years of his life as a wharfie and CPA member, according to the account. He seems to be doing light duties and generally enjoying his various roles around the period of his retirement in 1968. His post-retirement interests drew him away from his involvement with the workplace, but he surely maintained an interest in what was going on.

Wal mentions the formation of the Maritime Union of Australia in 1993, replacing the WWF, but he offers no clear opinion on that development, other than his

view that he advocated wharfies needed to 'adapt' to containerisation on the wharves. Given his interest in the politics of the wharves, I was surprised that he doesn't mention the major conflict that took place in 1998, when Patricks Corporation engaged in an illegal reconstruction of operations, initiating a waterfront war with the MUA, that included locking out of workers on the Brisbane wharves (and in other ports), a national strike, and the intervention of the Liberal/National Coalition government, particularly Minister for Workplace Relations, Peter Reith. This momentous conflict has been regarded as a major blow to the culture, history and stature of wharfies' tradition in Australia. Thus, I was somewhat surprised that the authors did not offer any material that showed Wal's views or feelings on this dispute, despite that he was old and retired.

It would have been interesting, since I had valued his insights into many of the other social issues he discusses in the book. I was pleased, however, to read near the end of this most enjoyable life-story that Wal Stubbings, a former logger from a logging family, supported the greening of Queenstown. He writes:

We need to work with nature to protect the planet and to relegate the 'slash and burn' policy that has dominated Australia's concept of development to the past (Stubbings and Synge, 2017, p.175).

Author: John Synott,
Novelist, poet and academic

To Remember You

I am saturated with an inelegant longing,
the whole world hung on a pause.
It's nothing really – a quick, caught breath,
a slipped phrase, a lull in conversation,
and then you are gone,
your steps lingering amongst the waves.
When I lift my eyes, it is to a spiteful sighting
of my own reflection
caught in the downcast yawn of an empty carafe.

ALYS JACKSON,
COROMANDEL VALLEY, SA

BOOK REVIEWS

Karin Van Nieuwkerk, Mark Levine, and Martin Stokes (eds) 2016 *Islam and Popular Culture*, University of Texas Press, Austin. ISBN 978-1-4773-0904.

Islam and Popular Culture brings together 18 chapters by 19 researchers examining recent expressions of popular culture in predominantly Muslim societies. In their clear and insightful introduction, the editors identify at least three key propositions underpinning the volume: (1) that popular culture is a valuable site for the study of social transformation processes in the Muslim world, (2) that popular culture must be considered in association with globalisation rather than the more narrow framework of western secularisation, and importantly, (3) that popular culture ought not to be dismissed as simply a distraction from discussing 'real politics' (pp. 13-14). The volume is organised into five parts with each part focusing on thematically related case studies and within the framework of the aforementioned propositions.

In Part 1 the associated themes of sound, aesthetics, and performance are explored. In Chapter 1 Deborah Kapchan examines the aesthetic activities of practicing Sufis living in the south of France and argues that non-discursive 'sound knowledge' and the political act of sacred listening are means by which communities create sacred places in secular lands and a sense of belonging. In Chapter 2 Martin Stokes links the themes to the part played by religious pop music in the rise of the Islamist movement in Turkey. In analysing the shocking act of self-immolation by Tunisian street vendor, Tariq Al-Tayib Muhabbad Bu'Azizi and its influence, Mark Levine and Bryan Reynolds, the authors of Chapter 3, advance a 'theater of immediacy' approach to particular forms of performance activism occurring in Arab uprisings. Such performative acts, they argue, are 'emurgent', that is, actions that are both emerging and urgent, which have the power to incite collective protest, and turn artists into conduits for political and revolutionary action.

Part 2 is organised around the various popular culture areas of music, visual arts and poetry and their role in the Arab Spring. In Chapter 4 Nina ter Laan examines Moroccan artistic endeavours, specifically Islamist *anashid* singers involved in the February 20th Protest Movement whose musical narratives, she argues, promote freedom and social justice, but especially democracy as an Islamic ethical project. Moving from music to the use of visual art in political protest, in Chapter 5 Cynthia Becker discusses the ways in which the North African Amazigh (formally Berbers) have utilised a variety of visual artefacts, such as reclaimed colonialist photographs of Berber women, to promote social, political and gender equality and importantly a united Amazighen identity linked to a pre-Islamic past and Judeo-Berber heritage. In Chapter 6 Samuli Schielke offers an intriguing analysis of the relationship between poetry, protest and political change from the perspective

of Egyptian poets writing in the year of the January 25th Revolution. The power and powerlessness of words to persuade and inspire are cleverly shaped around the opening statement that poetry cannot change the (Muslim) world.

Part 3 is dedicated to the analysis of religious discourses – both Sunni or Shi'a – concerning art and music in a variety of local contexts, as well as resulting socio-political and hermeneutical influences and implications. In Chapter 8 Joseph Alagha focuses on Shi'ite discursive thought, especially the contemporary application of the juridical concept of *Maslaha* (interest, benefit, advantage) to the performing arts in the Hizbullah context, which results in what he describes as open and lively cultural and artistic practice. In Chapter 9, through a study focusing on the popular student group al-Warsha at the Cairo College of Fine Arts, Jessica Winegar explores the growing acceptance and promotion of artistic practice and theory as intimately connected to religion, society and the promotion of Islamic values, and the implications of this for understanding the nature of both art and citizenry in the Muslim context. And in Chapter 10 Karin Van Nieuwkerk offers a fascinating biographical account of actor, playwright and producer Abu Haiba, which she uses to examine recent socio-political and religious transformations associated with Islamist movements and their discourses and attitudes towards art in the Egypt context.

Part 4 considers particularly Iranian and Syrian cultural politics through the prism of Islam and popular culture, as well as gender and female body politics. In Chapter 11 Christa Salamandra, writing in 2013, offers a fascinating analysis of the role and significance of the Syrian TV genre known as the *Musalsal* (or dramatic miniseries), the content of which she maintains carries political, social and religious observations and often secular critique amid a complex of competing factors including political uprisings, censorship, pan-Arab media interests, the rise of political Islam, and contested notions of cultural authenticity. In Chapter 12 Laudan Nooshin examines the recent flourishing of government permitted popular music, known locally as pop-e jaded, after its prohibition in the 1979 Iranian revolution. With a focus on two particular case studies, Nooshin discusses the various strategies used by the pop musicians to both promote public sensibilities and subtly critique the dominant discourses of religiosity. Continuing the focus on Iran, in Chapter 13 Ida Meftahi offers a historical examination of the postrevolutionary dance genre known as 'rhythmic movements' and its aesthetic configuration of women's bodies. Unlike pre-revolutionary dance performances involving female performers – which were thought to emphasise eroticism and immorality – Meftahi promotes the view that *harikat-i mawzun* enacts the 'bio-ideology' of the government, with performers embodying expressions of chastity, heaviness, spirituality, and purity. In Chapter 14, using the foundation of data from her ethnographic work in Syria just prior to the 2011 uprisings and subsequent civil war, Shayna Silverstein examines young Syrian women's participation in popular

dance in both public and private spheres, and how such participation informs and reflects their contributions to public discourses on body, gender and Islamic morality as well as the construction of an Islamic identity.

In Part 5 focus shifts to the study of popular culture, especially music, in terms of 'glocalisation', that is, a focus on interrelated global and local influences and identity making processes. In Chapter 15 Anne K. Rasmussen offers a detailed comparative analysis of musical ritual and recreational performance in Indonesia and the Sultanate of Oman, especially focusing on the connections between music, religiosity and national identity. In Chapter 16 Michael Frishkopf compares and examines religious tolerances and intolerances with respect to musical rituals and their significance to intra-local and national Muslim identities in both Ghanaian and Egyptian contexts. In Chapter 17 Thomas Hodgson looks at the importation into the UK of traditional Pakistani music festivals, and the role of the state in their subsequent development. Hodgson draws attention to the importance of urban life in thinking about identity formation, and how people understand global connections in terms of cities not nation states. In Chapter 18, the final chapter, Kendra Salois examines generational examples of glocalisation in the context of Moroccan hip-hop. Salois' touchstone is the popular 1970s Casablanca band Nas el-Ghiwane, the first group to successfully adapt both local and international musical trends, and in such a way as to combine expressions of Muslim piety with political critique.

While each chapter constitutes a self-contained study offering unique insights into the phenomena being investigated, one of the great strengths of this volume is its theoretical cohesion. The collection as a whole makes an excellent contribution to the study of religion and popular culture generally and to Islam and popular culture specifically, but importantly, also demonstrates the truth of the three aforementioned propositions. In light of this, the book is an invaluable tool for researchers involved in these areas of study, but may also be of interest and benefit to those whose focus is on religion more generally. The volume is very well edited and the content well balanced, featuring high quality contributions from the authors and the editors. Readers will no doubt be drawn to particular chapters based on their specific areas of interest and expertise, but perhaps ignore others as a result. The book's theoretical cohesion is one good reason to read beyond the known, another is its accessibility. Readers can engage with much of the artistic phenomena through social media such as YouTube and Google, thus potentially deepening their engagement with the secondary analysis, as well as broadening their own artistic sensibilities.

Author: Lesley McLean,
University of New England

Jacket

A jacket does not bloodlessly exist,
circling our own warmth back, it
holds things in its gentle bended grip
wherever it may fall.
Sometimes, a hole in the pocket –
poked through by fingers needing warmth –
drops coins into the lining's corners
and there they will remain, even after
the jacket is passed on to the next person.
Such a jacket, with its darkened orange-brown
leather from an age which made things with care,
will likely last forever and continue
growing slightly heavier with coins,
with each wearer who will leave them there,
hoping one day their coin will drop too
and the jacket will hold this small trace of them
with a stoic, silent sturdiness as
this is what jackets do.

*JUSTINE POON,
CANBERRA, ACT*

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