

1-1-2014

## Human Rights Must Be at the Core of the Post-2015 International Development Agenda

Ved P. Nanda

*University of Denver, Sturm College of Law, vnanda@law.du.edu*

Follow this and additional works at: <https://scholarworks.umt.edu/mlr>



Part of the [Law Commons](#)

Let us know how access to this document benefits you.

---

### Recommended Citation

Ved P. Nanda, *Human Rights Must Be at the Core of the Post-2015 International Development Agenda*, 75 Mont. L. Rev. 1 (2014).

Available at: <https://scholarworks.umt.edu/mlr/vol75/iss1/1>

This Transcript is brought to you for free and open access by ScholarWorks at University of Montana. It has been accepted for inclusion in Montana Law Review by an authorized editor of ScholarWorks at University of Montana. For more information, please contact [scholarworks@mso.umt.edu](mailto:scholarworks@mso.umt.edu).

# THE 2013 HONORABLE JAMES R. BROWNING DISTINGUISHED LECTURE IN LAW

## HUMAN RIGHTS MUST BE AT THE CORE OF THE POST- 2015 INTERNATIONAL DEVELOPMENT AGENDA

Ved P. Nanda<sup>1</sup>

*Editors' Note: The Montana Law Review was honored to have Professor Ved P. Nanda deliver the 2013 Honorable James R. Browning Distinguished Lecture in Law on September 19, 2013. Each year since 2002, the Browning Lecture has brought distinguished lawyers, scholars, and judges from across the country to the University of Montana School of Law. As its namesake indicates, the Browning Lecture honors the Honorable James R. Browning, formerly of the United States Court of Appeals for the Ninth Circuit. Judge Browning, who passed away in May, 2012, was a member of the first editorial board of the Montana Law Review and ultimately served as Editor-in-Chief. He served with distinction for over 50 years on the Ninth Circuit, many of which he spent as its Chief Judge.*

Thank you for your very kind introduction. What a privilege to give the Browning Distinguished Lecture, following the galaxy of illustrious jurists and scholars who have preceded me. As a distinguished jurist, Judge Browning left an indelible mark, not just on the University of Montana Law School and the *Montana Law Review*, on which he served as Editor-in-

---

1. John Evans University Professor, University of Denver; Thompson G. Marsh Professor of Law and Director, Nanda Center for International and Comparative Law; founding Director, International Legal Studies Program, University of Denver Sturm College of Law. This is an adapted version of the Browning Distinguished Lecture delivered at the University of Montana Law School for the *Montana Law Review* on September 19, 2013, updated as of December 31, 2013.

Chief, and even the state of Montana, but also on the national scene, as demonstrated by his several state and national awards, as well as the Ninth Circuit Court of Appeals building in San Francisco carrying his name. Judge Browning's leadership in modernizing the Ninth Circuit, given the size and diversity of the court, is well known, as is his keen interest in the administration of justice.

I have visited your school before, and have been highly impressed with the caliber of the students here. During my last visit I enjoyed a lively conversation on terrorism and the use of force with Professor David Aronofsky and the students, who were deeply engaged and very well informed. Professor Aronofsky has indeed been a most valuable participant in the annual conferences on international law at the University of Denver Sturm College of Law. And the *Montana Law Review* eminently deserves its reputation for excellence. Hence, I am honored to be back here.

Who can forget the legacy of Senator and Ambassador Mike Mansfield—a graduate of this University and a global statesman? His visit to China as a young man was instrumental in shaping his world view. Montana has never been insular: it was an internationally-focused state as far back as the 1890s, when Butte, with more than 100,000 residents, looked like the present-day United Nations. At one time, some of the largest mines in the world were there and the Irish, Italians, and many other European nationalities came to work in these mines. It is widely known that Montanans have a special interest in international environmental law.

Today we face enormous challenges. Terrorism continues to raise its ugly head. As the war in Iraq has come to an end and the one in Afghanistan is coming to a close, the country is facing the challenge of caring for the veterans. The mounting cost of healthcare is among many other issues of grave concern. Challenges abroad abound, as well. Bloodshed in Syria continues. The conflict there has given rise to a humanitarian catastrophe—more than 125,000 people are dead; more than six million are displaced, including one million children; and more than two million have become refugees, scattered in several neighboring countries. The United Nations Security Council has been paralyzed, unable to take effective action because of the Russian and Chinese vetoes. Among other serious issues, North Korea and Iran continue to pose a threat to international peace and security.

These monumental challenges need to be addressed. However, I will be sharing my thoughts with you on another basic problem confronting international society—that of the increasingly wide disparity between the rich countries of the north and the poor in the south, and an equally wide disparity within most of these countries. This brings me to my topic: international law, human rights, and development.

You may perhaps ask the question and I have asked it myself, why should we be that much concerned about development? The answer is quite simple: look at the many conflicts raging all over the world whose roots lie in poverty, inequality, and lack of participation, transparency, and accountability in decision-making. Take for example the Arab Spring. It became a sizzling summer and bleak winter. As you may recall, the revolution started in Tunisia and spread to Egypt, Libya, Bahrain, and several other Middle Eastern countries. What was the root cause of the protests that spurred the revolution in these countries? It was the popular demand for better living conditions and a say in how those in power rule them. Yesterday's *Wall Street Journal* prominently carried a news item about Egyptians demanding cheaper bread. The military-backed leadership that took over this summer, the reporters said, is now wrestling with the same challenge as before, trying to make sure there is enough cheap bread for the country's poor.<sup>2</sup>

In the next few minutes I will discuss several dimensions pertaining to development, including its relationship with international law and human rights. Let me begin with the former UN Secretary-General Kofi Annan's statement that "we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights."<sup>3</sup> Thus, it is aptly stated that human rights and human development are two sides of the same coin, as they share a common vision and a common purpose. As the UN Development Program (UNDP) stated in its 2000 Human Development Report,<sup>4</sup> their common vision and common purpose is to secure for every human being freedom, well-being, and dignity. The Report considered human rights as an intrinsic part of development and development as a means to realize human rights. It showed how the realization of human rights links principles of accountability and social justice with the process of human development.

A definition of development is essential for our discussion. Development is indeed a complex concept with several conflicting definitions. A basic traditional perspective equates development with economic growth. However, during the last three decades international law and development scholars and policy-makers, as well, have challenged the conventional definition, because a country's well-being cannot be measured simply by its economic production and consumption—per capita income defined as gross domestic product (GDP), gross national product (GNP), or gross national

---

2. Reem Abdellatif & Neena Rai, *What Egypt Wants: Cheaper Bread*, *The Wall Street Journal* (Sept. 17, 2013).

3. United Nations, *In larger freedom: towards development, security and human rights for all* 6 (March 21, 2005) (available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/270/78/PDF/N0527078.pdf?OpenElement>).

4. United Nations Development Programme, *Human Development Report 2000* (2000) (available at [http://hdr.undp.org/sites/default/files/reports/261/hdr\\_2000\\_en.pdf](http://hdr.undp.org/sites/default/files/reports/261/hdr_2000_en.pdf)).

income (GNI). Today, development is no longer simply equated with economic growth, and not even with the addition of distributional elements to it, such as reducing inequality and poverty, for economic growth alone does not accurately reflect human development progress. Consequently, I would prefer to look through the Nobel Laureate Amartya Sen's perspective of development as freedom,<sup>5</sup> which embodies the concept of human capabilities and empowerment. Among more appropriate metrics of well-being are the rule of law, democratic and good governance and institutional soundness, human rights, sustainability, and accountability.

Development is about people making their own decisions on how to run their lives and finding their own solutions to the problems they face. This can happen only in a society where human rights are guaranteed, secured, and effectively enforced. If human rights are not guaranteed and people lack basic rights to life, health, education, political participation, and freedom of expression, they also lack the ability to participate in sustainable development.

The UN Development Program's Human Development Index provides a good example of this change in focus. That index is a composite measure of indicators along three dimensions: life expectancy, educational attainment, and command over resources for a decent living. Can you guess the countries that ranked among the top five in the 2012 rankings of the human development index? In order, they were Norway, Australia, the US, the Netherlands, and Germany, followed by New Zealand, Ireland, Sweden, Switzerland, Japan, Canada, and South Korea.<sup>6</sup> For attaining sustainable development, while the economic dimension is important, it is not sufficient, and the two other dimensions—social and environmental—are equally important. Without paying attention to all these dimensions, development will not be sustainable.

We may recall that, after the Second World War, development experts focused on economic growth and international aid. Thus the model adopted for development was: give aid to governments and expect them to provide better living conditions for their people. In many developing countries suffering from corruption, nepotism, and weak institutions, that model failed. After the dissolution of the Soviet Empire and the fall of the Berlin Wall in 1989, Western donor nations and aid agencies were brimming with confidence that the strategy of unregulated free markets had succeeded and thus they imposed "conditionalities" on countries receiving development assistance aimed at fostering economic growth. The debtor recipient countries

---

5. Amartya Sen, *Development as Freedom* (Oxford University Press 1999).

6. United Nations Development Programme, *Human Development Report 2013*, 194 (2013) (available at (<http://www.undp.org/content/dam/undp/library/corporate/HDR/2013GlobalHDR/English/HDR2013%20Report%20English.pdf>)).

had to agree to pursue liberal economic and political reforms, which included deregulation, elections, reduction of role of government and an increased role for markets, reduction in budget deficits, trade and financial liberalization, and privatization of the economy. Many of these reforms do undoubtedly have merit, but this model, called the Washington Consensus, which was the dominant international development agenda during the 1990s and drove the set of policies followed by the International Monetary Fund and the World Bank,<sup>7</sup> did not work, as evidenced by the Asian Crisis of 1997 and Argentina's economic collapse in 2001.

Meanwhile, during the 1990s several international conferences and initiatives took place addressing development issues. In May 1996, the Development Assistance Committee (DAC) of the Organization of Economic Co-operation and Development (OECD) published *Shaping the 21st Century: The Contribution of Development Cooperation*,<sup>8</sup> a 20-page paper suggesting a set of "International Development Goals" (IDGs), which in large part formed the basis for the Millennium Development Goals (MDGs). More suggestions on development goals and targets were advanced by the UN, IMF, World Bank, and OECD. The UN Member States adopted the Millennium Declaration in 2000, containing a list of human development goals and some targets in a timeframe by which to measure progress on the goals.<sup>9</sup>

Subsequently, in June–July 2001, a group of staff members from the UN, World Bank, IMF, and OECD reconvened with the task of drafting a set of goals highlighting key commitments in the Millennium Declaration that were quantifiable and for which established indicators existed and so did reasonable data for those indicators. The outcome was a framework containing eight human development goals, 18 targets, and 48 indicators to be reached by 2015, and the list became the MDG framework.<sup>10</sup> These goals, which challenged the economic policies and fiscal conservatism of the Washington Consensus, were: 1) eradicate extreme poverty and hunger—halve between 1990 and 2015 the proportion of people suffering hun-

---

7. See e.g., John Williamson, *A Short History of the Washington Consensus*, 15 *Law & Bus Rev. Am.* 7 (2009) (describing ten reforms Mr. Williamson listed and labeled in 1989 as the "Washington Consensus"); Ross P. Buckley, *The Economic Policies of China and India, and of the Washington Consensus: An Enlightening Comparison*, 27 *Wis. Int'l L.J.* 707 (2010) (describing the Washington Consensus as well as the role of the IMF and World Bank in imposing the Consensus on debtor countries).

8. Organisation for Economic Co-operation and Development, Development Assistance Committee, *Shaping the 21st Century: The Contribution of Development Co-operation* (1996) (available at <http://www.oecd.org/dac/2508761.pdf>).

9. United Nations, *United Nations Millennium Declaration* (Sept. 18, 2000) (available at <http://www.un.org/millennium/declaration/ares552e.pdf>).

10. United Nations, *Millennium Development Goals and Beyond 2015*, <http://www.un.org/millenniumgoals/> (last accessed Dec. 31, 2013).

ger and living on less than US \$1 per day; 2) achieve universal primary education; 3) promote gender equality and empower women; 4) reduce child mortality; 5) improve maternal health—reduce by three-quarters the maternal mortality ratio; 6) combat HIV/AIDS, malaria, and other diseases; 7) ensure environmental sustainability; and 8) create a global partnership for development. In MDG 8, donor countries made commitments regarding aid, trade, debt relief, technology transfer, and access to essential medicines.<sup>11</sup>

A major criticism of the MDG framework is its neglect of human rights, which needs to be ameliorated in the next round. But before I evaluate the MDG framework for the future, I would like to discuss the outcome thus far. What is the scorecard? How have the MDGs fared? Certainly there has been progress on many fronts. The 2013 Millennium Development Goals Report stated that several MDG targets had already been met or were within close reach.<sup>12</sup> But the results are reportedly mixed. Too many women still die in childbirth while we have the means to save them, more than two billion people lack improved sanitation facilities, and inequality between and among countries persists. Yet, the Goals have succeeded in accelerating the reduction of poverty. To illustrate, the proportion of people living in extreme poverty has been halved at the global level, but the progress has been uneven, as it has varied by country, region, and sector. It is worth noting that much of this progress has been made primarily in China and India, along with a few other large countries. And a mid-2013 research report from the Catholic aid agency Cafod reveals that over the past 15 years the wellbeing of many poor people has deteriorated as a result of factors beyond their control, such as environmental degradation, economic crises, and rapid changes in crop prices.<sup>13</sup>

The 2013 MDG Report also notes that over two billion people gained access to improved sources of drinking water. Also, remarkable gains have been made in the fight against malaria and tuberculosis; and the hunger reduction target is within reach. But as UN Secretary-General Ban ki-Moon said in his report of July 26, 2013, 1.2 billion people were still living in extreme poverty and, despite recent declining poverty rates, sub-Saharan Africa was still vulnerable to shocks that could rapidly erode these gains.<sup>14</sup> In Ban's words,

---

11. *Id.*

12. United Nations, *The Millennium Development Goals Report 2013* 4 (2013) (available at <http://www.un.org/millenniumgoals/pdf/report-2013/mdg-report-2013-english.pdf>).

13. Mark Tran, *Wellbeing of the poor has deteriorated over past 15 years, says Cafod*, *The Guardian* (available at <http://www.theguardian.com/global-development/2013/jul/30/wellbeing-poor-cafod>) (July 29, 2013).

14. United Nations, *A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations developing agenda beyond 2015* 5 (July 26, 2013).

Far too many people face serious deprivation in health and education, with progress hampered by significant inequality related to income, gender, ethnicity, disability, age and location. The prolonged global economic downturn and violent conflicts in recent years have exacerbated poverty, inequality and exclusion. Biodiversity loss, the deregulation of water, drylands and forests and the intensified risks of climate change threaten to reverse our achievements to date and undermine any future gains.<sup>15</sup>

Three noteworthy developments initiated by the United Nations in 2012 are pertinent to our conversation. First, Heads of State and Government met in Rio de Janeiro, Brazil, in June on the 20th anniversary of the 1992 UN Conference on Environment and Development. In their final report as the Outcome Document of the conference, *The Future We Want*,<sup>16</sup> they focused on poverty eradication, emphasizing “the need to accord the highest priority to poverty eradication within the United Nations development agenda, addressing the root causes and challenges of poverty through integrated, coordinated and coherent categories at all levels.”<sup>17</sup> Among other issues, they also addressed gender equality, water and sanitation, health and population, climate change, and social protection for all. The overarching theme was sustainability and the emphasis was on creating a framework for sustainable development.

Second, Ban ki-Moon launched a new initiative to promote sustainable development, the Sustainable Development Solutions Network (SDSN), whose Leadership Council consists of dozens of global thinkers and development leaders.<sup>18</sup> Its purpose is to bring together academia, civil society, the private sector, and development practitioners from all parts of the world. SDSN organized its work under twelve thematic groups, including reducing poverty and building peace, challenges of social inclusion, education, health, sustainable agriculture, ecosystem services, sustainable cities, global governance and norms for sustainable development, and the role of business for sustainable development. In October 2013, the SDSN issued a report, entitled *An Action Agenda for Sustainable Development*,<sup>19</sup> which fully supported the Rio + 20 vision of sustainable development as a concept address-

---

(available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/409/32/PDF/N1340932.pdf?OpenElement>).

15. *Id.* at 2.

16. United Nations, United Nations Conference on Sustainable Development, *The Future We Want* (June 19, 2012) (available at <http://www.uncsd2012.org/content/documents/727The%20Future%20We%20Want%2019%20June%201230pm.pdf>).

17. *Id.* at 106.

18. United Nations, *United Nations Secretary-General Announced New Sustainable Development Initiative* (Aug. 9, 2012) (available at [http://www.un.org/millenniumgoals/pdf/SDSN%20FINAL%20release\\_9Aug.pdf](http://www.un.org/millenniumgoals/pdf/SDSN%20FINAL%20release_9Aug.pdf)).

19. Sustainable Development Solutions Network, *An Action Agenda for Sustainable Development* (Oct. 23, 2013) (available at <http://unsdsn.org/files/2013/11/An-Action-Agenda-for-Sustainable-Development.pdf>).

ing what it called “four dimensions of society: economic development (including the end of extreme poverty), social inclusion, environmental sustainability, and good governance including peace and security.”<sup>20</sup> The report then noted five shifts which

will make the coming fifteen-year period, 2015-2030, different from the MDG period ending in 2015: (i) the feasibility of ending extreme poverty in all its forms, (ii) a drastically higher human impact on the physical Earth, (iii) rapid technological change, (iv) increasing inequality, and (v) a growing diffusion and complexity of governance.<sup>21</sup>

This is followed by the report identifying ten priority sustainable development challenges to be addressed at the global, regional, national, and local levels:

- End extreme poverty including hunger;
- Achieve development within planetary boundaries;
- Ensure effective learning for all children and youth for life and livelihood;
- Achieve gender equality, social inclusion, and human rights for all;
- Achieve health and well-being at all ages;
- Improve agriculture systems and raise rural prosperity;
- Empower inclusive, productive, and resilient cities;
- Curb human-induced climate change and ensure clean energy for all;
- Secure ecosystem services and biodiversity, and ensure good management of water and other natural resources;
- Transform governance for sustainable development.<sup>22</sup>

And third, in July 2012, the Secretary-General established a 27-member High Level Panel of Eminent Persons on the Post-2015 Development Agenda, co-chaired by the Presidents of Indonesia and Liberia and the Prime Minister of the United Kingdom, which presented its report, *A New Global Partnership: Eradicate Poverty and Transform Economies Through Sustainable Development*, in May 2013.<sup>23</sup> The report recommended five priority transformations for a post-2015 agenda: 1) leave no one behind; 2) put sustainable development at the core; 3) transform economies for jobs and inclusive growth; 4) build peace and effective, open and accountable public institutions; and 5) forge a new global partnership.<sup>24</sup>

The report also recommended twelve universal goals and national targets. The goals are: 1) end poverty; 2) empower girls and women and

20. *Id.* at 1.

21. *Id.* at 2.

22. Sustainable Development Solutions Network, *supra* n. 19, at 8–26.

23. United Nations, *A New Global Partnership: Eradicate Poverty and Transform Economies Through Sustainable Development* (2013) (available at [http://www.un.org/sg/management/pdf/HLP\\_P2015\\_Report.pdf](http://www.un.org/sg/management/pdf/HLP_P2015_Report.pdf)).

24. *Id.* at 7–12.

achieve gender equality; 3) provide quality education and lifelong learning; 4) ensure healthy lives; 5) ensure food security and good nutrition; 6) achieve universal access to water and sanitation; 7) secure sustainable energy; 8) create jobs, sustainable livelihoods, and equitable growth; 9) manage natural resource assets sustainably; 10) ensure good governance and effective institutions; 11) ensure stable and peaceful societies; and 12) create a global enabling environment and catalyse long-term finance.<sup>25</sup>

It is evident from this discussion of these three initiatives that there is a consensus on the shape and substance of a human rights-centered approach for the post-2015 development agenda.

It is important to note that civil society has been equally active in reviewing the progress and outcome of the Millennium Development Goals and in weighing in on the direction and shape of the post-2015 Millennium Development Agenda. This situation is certainly in marked contrast with the lack of any civil society participation during the development of the MDGs. A common thrust of the civil society recommendations is that human rights must be at the core of the post-2015 development agenda. And a lack of focus on human rights in the MDG framework is criticized for having led to progress that is not more inclusive and equitable.

Consider, for instance, Amnesty International's warning ahead of the UN special session in September 2013 on the MDGs and the successive framework after 2015 when they expire: "World leaders risk deepening inequalities, discrimination, and injustice if human rights remain side-lined in the post-2015 development agenda."<sup>26</sup> AI's Secretary General said: "The poorest, most disadvantaged and marginalized groups are being let down. Governmental drives to meet targets often ride rough-shod over basic human rights."<sup>27</sup> The organization cited Nigeria as an example of a country, which according to the UN Development Program, has made progress on almost all of the MDGs, with a strong possibility that it will meet many of the targets by 2015. "Yet these top-line figures mask regional differences and inequalities and disparities between various groups and minorities."<sup>28</sup>

In addition to the MDGs' failure to focus enough on reaching the poorest and most marginalized people, let me mention a few selected substantive and procedural concerns. The MDGs were not transformative, for conceptually their focus was on achieving minimal human needs. There was no integration of human rights and development frameworks. The reporting

---

25. *Id.* at 30–31.

26. Amnesty International, *UN Millennium Development Goals: Human rights must not be marginalized in post-2015 agenda*, [www.amnesty.org/en/news/un-millennium-development-goals-human-rights-must-not-be-marginalized-post-2015-agenda-2013-09-](http://www.amnesty.org/en/news/un-millennium-development-goals-human-rights-must-not-be-marginalized-post-2015-agenda-2013-09-) (Sept. 23, 2013).

27. *Id.*

28. *Id.*

was to be done at the national level, and no accountability mechanism was created to hold international institutions, states, business enterprises, and civil society entities responsible for achieving the MDGs.

To briefly discuss selected specific MDGs, the goal on poverty reduction focused on the symptoms of poverty, while failing to address the underlying causes. Nor did the poverty standard address the depth and severity of poverty. The goal of halving the world's hunger obviously left many behind.

Overall, integration of gender into the MDGs is inadequate, as gender-specific targets and goals are absent in many development targets. Also, the original MDG targets fail to list some sensitive issues such as disability and social protection. Under MDG8—developing a global partnership for development—direct responsibility was placed on the developed world and not on collective action of both developed and developing countries, which perpetuated a donor-recipient model. And there was no goal set for a systemic reform of global institutions and supra-national institutional rules and practices. In addition, the process itself could be faulted for not being more inclusive and transparent. There was no opportunity for citizens' participation and their comments and feedback before the goals, targets, and indicators were released.

The UN conducted a broad public survey, entitled *A Million Voices: The World We Want*,<sup>29</sup> to which over one million people responded from all over the world. According to the report, "The consultations have revealed the continuing indignity of poverty, inequality, injustice and insecurity," and that "[e]nding income poverty and hunger, achieving full gender equality and improving health services and access to education for every child remain foremost in people's priorities . . . ."<sup>30</sup>

Several civil society organizations joined together in convening national, regional, and community civil society deliberations in 39 countries in Europe, Latin America, Africa, and Asia, and synthesized the outcome of these deliberations in a report entitled *Civil Society Demands for the Post-2015 Development Agenda from 39 Countries*.<sup>31</sup> After expressing concern about rising inequality the report recommended the meaningful integration of the following themes in a post-2015 framework: 1) equality, including gender equality, social inclusion, and just global governance; 2) environmental sustainability; 3) human rights, which must be at the core of such a

---

29. United Nations Development Group, *A Million Voices: The World We Want* (2013) (available at <http://www.worldwewant2015.org/bitcache/9158d79561a9de6b34f95568ce8b389989412f16?vid=422422&disposition=inline&op=view>).

30. *Id.* at v.

31. Beyond 2015, *Civil Society's Demands from 39 Countries* (Aug. 2, 2013) (available at <http://www.ong-ngo.org/en/post-2015-agenda-civil-societys-demands-from-39-countries/>).

framework, ensuring that no one is left behind; 4) eradication of poverty and hunger; and 5) accountability to all stakeholders through transparent access to information and meaningful participation of people.

Again, civil society, just as the intergovernmental entities, is keen that the successor MDG framework be informed by human rights standards.

Among the several reports on the successor framework after the expiration of the MDGs in 2015, the Organization for Economic Cooperation and Development (OECD) issued a report on December 5, 2013, entitled *Development Co-operation Report 2013: Ending Poverty*.<sup>32</sup> The OECD Secretary General, Angel Gurría, said in the foreword, “The number and diversity of actors in development is increasing, global interdependencies are growing, and inequalities are on the rise despite periods of economic growth,” and added, “These trends call for broader measures that address poverty and development not only as a question of income, but also of inequality, sustainability, inclusiveness and well-being. These measures must be owned and led by countries, based on their respective development paths, priorities, capabilities and processes.”<sup>33</sup>

A month earlier, New York University’s Center on International Cooperation released a report entitled *Delivering the Post-2015 Development Agenda: Options for a New Global Partnership*.<sup>34</sup> The report discusses new challenges, including globalization, and lists key recommendations for the post-2015 agenda related to finance; the broader sustainable development agenda, including the role of the private sector, trade, and climate change; and reform of international institutions, among others.

In late September 2013 the UN held a special session in which Heads of State and Government met to review progress made toward the achievement of the MDGs and to chart the next steps. The General Assembly subsequently endorsed the outcome document of that special session, reaffirming “the importance of promoting human rights, good governance, the rule of law, transparency and accountability at all levels.”<sup>35</sup> It further emphasized “inclusivity and accessibility for all and place[d] a particular focus on those who are most vulnerable and disadvantaged.”<sup>36</sup>

---

32. OECD, *Development Co-operation Report 2013: Ending Poverty* (Dec. 2013) (available at <http://www.oecd-ilibrary.org/docserver/download/4313111e.pdf?expires=1389578327&id=id&accname=guest&checksum=CE9898D9C980189DAE21629F34A6C1AA>).

33. *Id.* at 3.

34. Center on International Cooperation, *Delivering the Post-2015 Development* (Nov. 2013) (available at [http://cic.nyu.edu/sites/default/files/delivering\\_post\\_2015\\_agenda\\_brief.pdf](http://cic.nyu.edu/sites/default/files/delivering_post_2015_agenda_brief.pdf)).

35. United Nations, *Outcome document of the special event to follow up efforts made towards achieving the Millennium Development Goals 3* (Oct. 1, 2013) (available at <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N13/490/97/PDF/N1349097.pdf?OpenElement>).

36. *Id.* at 2.

As gender-based inequalities in health, education, and politics persist all over the world, notwithstanding MDG 3's focus on promoting gender equality and empowering women, broad progress toward gender equality has not happened. Hence, both the political will and the resources to achieve meaningful gender equality and women's empowerment are needed and the post-2015 development agenda must include a stand-alone goal on this topic. Also, gender-specific targets and indicators must be included in other goals. A new OECD report, entitled *Gender Equality and Women's Rights in the Post-2015 Agenda: A Foundation for Sustainable Development*,<sup>37</sup> recommends that the 2015 framework should more specifically focus on:

- (1) addressing girls' completion of a quality education, (2) women's economic empowerment, (3) universal access to sexual and reproductive health and rights, (4) ending violence against women and girls, (5) women's voice, leadership and influence, (6) women's participation in peace and security, [and] (7) women's contributions to environmental sustainability.<sup>38</sup>

Although not part of the MDG framework, the World Bank and other international financial institutions are heavily involved in development efforts. They undertake large-scale infrastructure development projects and invest in energy and resource extraction—industries which have a huge potential impact on the environment and human rights. Many of these projects are carried out in countries which do not ensure environmental and human rights protections. Among other organizations, Amnesty International<sup>39</sup> and Human Rights Watch<sup>40</sup> have called on the World Bank to make human rights part of the Bank's development manifesto.

In a September 2013 statement, Human Rights Watch stated that it found it “bewildering that one of the world's leading development agencies does not recognize its obligation to respect international human rights law,” and noted that “[t]he absence of a clear commitment not to support activities that will contribute to or exacerbate human rights obligations leaves World Bank staff without guidance on how they should approach human rights concerns or what their responsibilities are.”<sup>41</sup> The statement added:

Introducing a human rights commitment would include carrying out systematic human rights due diligence for every program, first to identify how its

---

37. OECD, *Gender Equality and Women's Rights in the Post-2015 Agenda: A Foundation for Sustainable Development* (Sept. 2013) (available at <http://www.oecd.org/dac/POST-2015%20Gender.pdf>).

38. *Id.* at 1.

39. Amnesty International, *The World Bank and other International Financial Institutions must uphold human rights in all activities they support* (Sept. 2013) (available at <http://www.amnesty.org/en/library/asset/IOR41/020/2013/en/e379235b-84ea-4062-898d-a17506b28340/ior410202013en.pdf>).

40. Human Rights Watch, *The World Bank Should Put Respect for Human Rights at Its Core*, <http://www.hrw.org/news/2013/09/09/world-bank-should-put-respect-human-rights-its-core> (September 9, 2013).

41. *Id.*

lending or other support may contribute to human rights violations and then to figure out constructive ways to avoid or mitigate the human rights risks. Such an approach would enable bank staff to minimize suffering, especially among marginalized, excluded, and vulnerable groups, and in doing so make its development efforts more sustainable.<sup>42</sup>

Earlier, in an April 2013 joint statement, several development and human rights organizations called upon the World Bank President, Dr. Jim Kim, to make a firm commitment to respect, protect, and fulfill human rights in all Bank activities.<sup>43</sup>

In a written statement to the UN Human Rights Council regarding the human rights impact of international financial institutions, such as the World Bank, on September 11, 2013, AI urged the Council to hold a panel discussion on this issue at a future session. It recommended that the discussion should focus on “the connection between IFIS’ activities and their responsibility to ensure that human rights are respected and protected, and the options available to states and to the Human Rights Council to address violations,” and that “Post-2015 development goals must also take into account the human rights responsibilities of IFIS, given their significant impact on development and potential for addressing poverty concerns.”<sup>44</sup>

I should add that several years ago along with two other human rights scholars I was privileged to be invited by the then-President of the World Bank to address the organization’s lawyers on human rights issues. We discussed the human rights dimension in the Bank’s decisions, for, as you know, human rights do not fall under the World Bank’s mandate. However, without giving consideration to the human rights dimension and without placing adequate safeguards to ensure that the projects and activities the Bank supports do not cause or contribute to human rights violations, the result might be fostering violations by state and non-state actors. It is noteworthy that in June 2013 the Vienna + 20 conference on human rights called upon the UN to address the responsibility of international intergovernmental organizations engaged in human rights violations.<sup>45</sup> While the Bank has begun to consider environmental issues in its decisions to lend to projects that violate pertinent international environmental treaties and agreements, its silence on providing the same approach to human rights treaties is baffling. The World Bank will fulfill its mandate to provide de-

---

42. *Id.*

43. See Human Rights Watch, *World Bank: Commit to Rights in 2030 Vision*, <http://www.hrw.org/news/2013/04/19/world-bank-commit-rights-2030-vision> (April 19, 2013); see also Human Rights Watch, *Letter to President Kim Re. a Human Rights Agenda for the World Bank*, <http://www.hrw.org/news/2013/09/09/world-bank-should-put-respect-human-rights-its-core> (April 19, 2013).

44. Amnesty International, *supra* n. 39, at 3.

45. Vienna+20: Advancing the Protection of Human Rights, *Outcome Document 3* (June 2013) (available at <http://www.cesr.org/downloads/Vienna20%20Outcome%20Document.pdf>).

velopment aid to reduce poverty if it includes human rights in its decision-making process.

Let me then conclude by expressing my hope, which is in tune with the recommendations discussed here, that the post-2015 development agenda will indeed have human rights and the rule of law at its core.