



FACULTY OF LAW
Lund University

Annastiina Ali-Lekkala

Protection of Individual Minority Rights in the UN Global Sustainable
Development Goals

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Abstract

Minorities falling under the Article 27 of the International Covenant on Civil, Cultural and Political rights, that is, individuals belonging to national ethnic, religious or linguistic minorities possess characteristics that form part of their identity and differ from the characteristics possessed by the majority population of the state. Because of these particularities, minorities can be often considered to be directly or indirectly discriminated against and to stand in unequal position in relation to majority groups in what comes to a distribution of benefits in the society. This is also the case in regard development programs. Therefore, the needs of the minorities would require special attention in the development programs in order to better protect minority rights. This master thesis examines how minority rights are considered in the UN global development goal processes and attempts to find out to what extent the designing process and the content of the Sustainable Development Goals (SDGs) have taken into account the protection of individual minority rights. This thesis provides an overview of the protection of the minority rights in the SDGs by using the tool known as the Human Rights-Based Approach to Development and uses the Millenium Development Goals as a comparison to provide a comprehensive answer to the issue.

Summary

This thesis aims to fill an existing gap in international human rights law that has not yet been addressed, namely to what extent individual minority rights can be considered protected in the designing process and the content of the UN Sustainable Development Goals (“SDGs”). The issue is novel and ongoing as the SDGs are currently under a design process and the final version is to be agreed upon by the states in a UN General Assembly summit in New York in September 2015. At the time of writing, the proposal drafted by the Open Working Group based on the most extensive global development process in history was accepted by the states as the final version for the SDGs.

This thesis aims to provide a viewpoint to the issue of national, ethnic, cultural, religious and linguistic minorities that has been criticized as lacking proper consideration in the development framework. This thesis aims to show that because the two frameworks - human rights and development, have not been cooperating enough in the previous UN global development goals, minority rights have not successfully been protected. Therefore, it is suggested that the human rights-based approach to development (“HRBAD”) could be used to fill the gaps in protection and bring the two closer together in order to ensure more sustainable and inclusive development results and minority rights protection. The HRBAD is used in this thesis as a tool to examine the critic presented about the Millennium Development Goals (MDGs), which since 2000 until the SDGs have presented the biggest global efforts to tackle the indignity of poverty, and to address what aspects the tool could bring to the protection in the SDGs in order to improve the rights of minorities.

This thesis suggests that the issue of individual minority rights can be divided into two different approaches, that is, equal treatment and non-discrimination of everyone on one hand; the protection and preservation of particularities of minorities (protected under the Article 27 of the International Covenant on Civil and Political Rights) on the other. It brings up the argument that without ensuring

the latter together with the former, substantive equality of minorities cannot be protected¹.

In considering how individual minority rights have been protected for the purpose of this thesis, in line with the second approach, four main aspects of minority rights protection were first targeted and then analyzed in light of the development goals. The four aspects considered were firstly, the identification of minorities and the relevant legal standards; secondly, the notions of discrimination and equality; thirdly, inclusion and participation of minorities; and finally, the standing and accountability of States in the matter. These aspects are analyzed and in conclusion narrowed down to four arguments based on the findings of the realization of minority rights in the MDGs and SDGs in light of the HRBAD. These arguments are firstly, that by cooperation of human rights and development, minority rights can be better protected. Secondly, that minority rights protection cannot be considered satisfactorily protected in the Millennium Development Goals. Thirdly, that the particularities and special needs of minorities require special attention, which might not be satisfactorily protected only by equal treatment “of all”. The last main argument is, that the topic of minority rights seem to be a sensitive topic among the states to bindingly agree upon, which can be detected from the outcome of the SDGs that do not explicitly mention minorities.

¹ See Henrard, Kristin. “The Interrelationship between Individual Human Rights, Minority Rights and the Right to Self-Determination and Its Importance for the Adequate Protection of Linguistic Minorities”. Groningen: the Netherlands. *The Global Review of Ethnopolitics*. 1:1(2001), 41-61. p 43

Preface

The topic of this thesis was rather extensive with many issues to be taken into account, yet very fascinating to do research on. Inter-state negotiations that would reach a result satisfying all human rights requirements seems like an impossible task, but it was a pleasure to observe the UN global development goal processes and see the human rights considerations increasing. The achievements made and the work done with the MDGs and SDGs has been tremendous, and I want to emphasize how praiseworthy steps have been taken at the UN towards better and more equal world, despite the sometimes critical approach in this thesis. The common efforts seen in the SDG process make it is easy to look optimistically to the future accomplishments that will made together by 2030.

I would like to thank the people who made writing this thesis possible. First of all, I would like to say a special thank you to my supervisor Maria Green, who gave me guidance and instructions that I will surely turn back to also in my future thinking and writing. From a course held by Maria I initially got the interest in the topic related to the UN development goals and saw the potential that lays in the cooperation of development framework and human rights law. Thank you for the inspiration.

A great gratitude also belongs to my parents and family for all the support during my thesis and helping me to make possible my path with human rights studies in the first place, through wise advice and trust in my capabilities.

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“No person anywhere should be left behind”

- UN Secretary General Ban Ki-moon in the Report “A life of dignity for all”. United Nations, 2012

Abbreviations

Agenda 21	Agenda 21 Action Plan of the United Nations
CP-rights	Civil and Political Rights
Earth Summit	UN Conference on Environment and Development, Rio de Janeiro, 1992
ECHR	European Convention on Human Rights
ECMI	European Centre for Minority Issues
ECOSOC	United Nations Economic and Social Council
ESC-rights	Economic, Social and Cultural rights
HRC	Human Rights Committee
HRBAD	Human Rights-Based Approach to Development
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICCPR	International Covenant on Civil and Political Rights
Independent Expert	The UN Independent Expert on Minority Issues
MDGs	Millennium Development Goals
MRG	Minority Rights Group International
NGO	Non-Governmental-Organisation
OSCE	The Organization for Security and Co-operation in Europe
OWG	Open Working Group of the General Assembly on Sustainable Development Goals
RIO +20	United Nations Conference on Sustainable Development, Rio de Janeiro, 2012
SDGs	The UN Sustainable Development Goals
Special Rapporteur	The UN Special Rapporteur on Minority Issues
UDHR	Universal Declaration of Human Rights United Nations
UN	United Nations
UNDG	United Nations Development Group
UNFPA	United Nations Population Fund
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund

Introduction

In every society there exist individuals who belong to a minority because of his or her ethnic, religious, linguistic or cultural particularities that divert from the majority population. These particularities easily place the individuals into an unequal or even discriminatory position in the society. The minorities can therefore be considered to belong to vulnerable groups, although this is not always the case.² By “minorities” this thesis refers to these vulnerable minority groups and addresses the protection of their rights in the designing process of the UN global development goals.

Different studies have shown that minorities are prone to face exclusion and absence of access to power in state affairs which have been argued to make them “entitled to special protection measures” by states.³ Protection of individuals belonging to the minority groups has been addressed through different national and international legal standards, created to bring the minorities on equal stances with other groups of the population. It has been, however, argued that protection through legal measures alone is not sufficient to fully protect rights of the minorities⁴ and the protection would realize more comprehensively if given due consideration also within development framework. The international community

² Throughout the history minorities have been at the most at risk of gross violations such as crime against humanity, war crimes and genocide. It must be however noted that minority groups are highly diverse and divergent possessing different characteristics, status, capabilities and aims, and even though generalizations should be avoided some had to be made within this thesis in order to keep the text as clear as possible. Minorities are also not always a numerical minority compared to the majority group and for example in Nepal the power holding “majority” is smaller in number compared to sum of various minorities. For more information on different formation of minority groups, see more e.g.: Thio, Li-ann. *Managing Babel: The International Legal Protection of Minorities in the Twentieth Century*. Leiden: Marnitus Nijhoff Publishers, 2005. p 11

³ It has been argued, that minorities, particularly minority women, are especially in danger to experience multiple or intersectional discrimination and are prone to human rights violations and denial of their rights both in public and private life. See more: Independent Expert on Minority Issues of the United Nations Commission on Human Rights. News Release, “Hidden Victims of Multiple-Discrimination: UN Expert on Minority Issues Calls for “Gender Lens” to Focus on Minority Women,” n.d. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=6334&LangID=E#sthash.EDcCEAgY.dpuf>.

See also: Human Rights Watch. *India, Hidden Apartheid, Caste Discrimination against India's “Untouchables”, Shadow Report to the UN Committee on the Elimination of Racial Discrimination*. Vol. 19, no. 3 (C), (2007).

⁴ Castellino, Joshua. “The MDGs and international human rights law: a view from the perspective of minorities and vulnerable groups.” *The International Journal of Human Rights* 13, no. 1 (2009): 10–28.

has been however accused for failing to protect minorities⁵ in the development processes because, for instance, the policies on indigenous peoples' rights have been rethought and discrimination against women has been responded to, the comprehensive considerations on the rights of the minorities continue to be overlooked.⁶

The protection of minority rights should be therefore given more consideration, not only because of its importance as a primary end itself, but because of its relevance as a factor in maintaining stability⁷ and as a means to reach the development targets more comprehensively. Minority issues have been argued to be a reason for many conflicts of the world, created by economic and political exclusion of minorities and the reluctance of governments to recognize minorities on their territories⁸ which often lead to increased tension and consequently to extreme reactions.⁹

The Millenium Development Goals (MDGs) were created as a roadmap for the Millenium Declaration signed by 189 countries in 2000. The MDGs were drafted by the UN Secretary General a year later to present 8 goals and 21 more specific targets to address global problems by, most importantly addressing extreme poverty, increasing education, fighting disease and to address other global issues by the end 2015.¹⁰

The MDGs have presented the biggest development achievements in history and many of the goals and targets have been considered as reached by the end of 2015. The MDGs have however also received criticism. They have been criticized for not

⁵ "Minority Rights and Development: Overcoming Exclusion, Discrimination and Poverty, Paper Submitted to the UN Working Group on Minorities, Executive Summary." *International Minority Rights Group*, 29 May 2002. <http://www.minorityrights.org/810/advocacy/minority-rights-and-development-overcoming-exclusion-discrimination-and-poverty.html>.

⁶ Ibid.

⁷ In the 2005 World Summit Outcome Document the states commonly agreed that "the promotion and protection of the rights of persons belonging to national or ethnic, religious, and linguistic minorities contribute to political and social stability and peace and enrich the cultural diversity and heritage of society". 2005 World Summit Outcome, General Assembly resolution 60/1 (24 October 2005). para. 130

⁸ Supra, note 4 Castellino. p 11

⁹ Supra, note 5. MRG "Minority Rights and Development: Overcoming exclusion, discrimination and poverty".

¹⁰ Millenium Development Goals, Annex 1 of this thesis. See more also: Inter-Agency and Expert Group on MDG Indicators, Department of Economic and Social Affairs of the United Nations Secretariat, ed. Tessa Too-Kong. *The Millennium Development Goals Report 2014*, 2014. [http://www.un.org/millenniumgoals/2014 MDG report/MDG 2014 English web.pdf](http://www.un.org/millenniumgoals/2014%20MDG%20report/MDG%2014%20English%20web.pdf).

sufficiently addressing human rights, including minority rights protection,¹¹ for not being ambitious enough¹² and for leading to unfair distribution of benefits.¹³ The unequal distribution of the benefits can consequently be argued to enable maintaining, or even increasing inequality, discrimination and lack of inclusion of minorities in relation to majority groups.

The unequal treatment and lack of protection of minority rights under the UN development framework is closely related to the problems faced in the international legal framework. One problematic factor is the reluctance of governments to address the issue of minority rights which can be detected in the lack of common definition for minorities and shortage of agreed, legally binding standards protecting explicitly rights of the minorities. These reasons can be argued to be related to the sensitiveness of the topic from the part of governments due to feared self-determination claims within their territories. Minority rights can, however, be divided into two distinctive categories, firstly, to the individual rights of persons belonging to minority groups, which this thesis concentrates on, and secondly, to the rights granted to minorities as groups, which includes the right to self-determination and which shall not be discussed in this thesis. The issue of individual minority rights should therefore be discussed separately from the group rights and as a separate issue also be addressed in the development programmes.

This thesis argues that especially with more cooperation between the two regimes, international human rights law and development framework, some of the problematic issues in the protection of minorities could be solved more efficiently. It can be however argued that the two frameworks have not enough been worked with in cooperation.¹⁴ A tool known as “Human Rights-Based Approach to Development” (HRBAD)¹⁵ was created as a tool that could be used to integrate

¹¹Farah, Mihlar. *Voices from the Margins: Including the Perspectives of Minorities and Indigenous Peoples in the Post-2015 Development Agenda*. Minority Rights Group International, 2013. p 2

¹²Thomas, Pogge. “The First United Nations Millennium Development Goal: A Cause for Celebration?” *Journal of Human Development* Vol. 5, no. 3 (2004). p 377

¹³Lennox, Corinne. *Religious Minorities and the Millennium Development Goals, State of the World's Minorities and Indigenous Peoples, Events of 2009, Focus: Religious Minorities*. Minority Rights Group International, 2010. p 34

¹⁴See for example: Philip, Alston. “Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals.” *Human Rights Quarterly*. The Johns Hopkins University Press, 2005. p 755

¹⁵*The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies*, 2003.

human rights principles, standards and mechanisms to development programmes. HRBAD could be used also to safeguard that, not only minority rights would be better addressed, but also that the development goals themselves would be reached more sustainably and comprehensively.

When the MDGs were drafted HRBAD-considerations were not integrated into the design or implementation process of the MDGs. It seems however, that the new UN Post 2015 Agenda replacing the MDGs after 2015 have given more consideration to human rights aspects. According to the UN Secretary-General also special protection to the vulnerable groups will be given¹⁶, better inclusion of different groups, including minorities will be protected¹⁷ and more attention to inequalities will be addressed.¹⁸ Out of the 17 goals and their 167 more specific targets called the Sustainable Development Goals (SDGs), did not explicitly mention minorities. This raises a question of whether the protection of minorities have actually received due consideration in the design of the new set of goals and whether the rights of the minorities will be protected.

Therefore, this thesis tries to answer to the question of, to what extent rights of the minorities can be considered taken into account and protected, in the light of HRBAD, in the design and content of the new Sustainable Development Goals.

This thesis aims to provide a comprehensive overview to answer the research question, by examining four chosen aspects of minority rights protection, namely firstly, the recognition of minorities and the legal standards; secondly, discrimination and equality; thirdly, inclusion and participation of the minorities and lastly, the standing of the states and their accountability in regard protection of minority rights.

¹⁶ *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet, Synthesis Report of the Secretary-General on the Post-2015 Sustainable Development Agenda*. United Nations, General Assembly. A/69/700 (4 December 2014). para 33. http://www.un.org/ga/search/view_doc.asp?symbol=A/69/700&Lang=E.

¹⁷ *Supra*, note 16. *The Road to Dignity by 2030*. para 51

¹⁸ *Supra*, note 16. *The Road to Dignity by 2030*. para 15

Methods

The first chapter of the thesis establishes the theoretical legal framework of minority rights protection, especially in regard the four mentioned main aspects of protection of minority rights, with an insight to the political and historical background of the topic. In this theoretical section primarily scholarly material was relied upon, chosen according to the reference to both, minority rights and development. The UN human rights instruments such as the UDHR, UN Charter, ICCPR, ICESR and ICERD alongside the non-binding Minorities Declaration were used however concentrating largely on the Article 27 of the ICCPR. The case-law of Permanent Court of International Justice and Human Rights Committee was also used to give more understanding to the scope of the instruments. In order to understand the scope of the minority right standards, the General Comments of the Human Rights Committee (HRC) and CERD-committee were explored. Due to limitations, regional instruments or other articles that surpass the rights of the minorities, such as the Article 30 of the Convention on Rights of a Child referring minorities in regard the right to education were not addressed. Also, the concluding observations of the treaty bodies were also not examined due to limitations to address issues in particular countries or regions.

The second chapter takes the HRBAD framework under examination and using the MDGs as an example and comparison for the analysis regarding the SDGs. Reports and communications given by organisations concentrating on minority rights as well as UN institutions and especially the Independent Expert of Minority Issues in addition to scholarly material were used to establish the main issues and drawbacks in regard minorities and MDGs.

The last chapter studies the response of to the drawbacks on minority protection in the MDGs established in the previous chapters, by examining designing the SDGs. The designing process and content of the proposed SDGs were examined through the lenses of HRBAD by looking at the different phases of the process. The issue is still unexplored by scholars and therefore no scholarly material was used. Statements, reports, documents and communications made by the different mechanisms and stakeholder groups in the ongoing process were studied, especially concentrating on three online platforms created for the Post 2015 process, namely “www.worldwewant2015.org”, “sustainabledevelopment.un.org”, and “www.beyond2015.org”. The platforms most used to search for information

was the millionvoices-database¹⁹ at Worldwewant2015.org-platform, which was used to search for documents in national and thematic consultations as well as relevant mechanisms mentioning a keyword “minority”. Due to the extensive amount of documents separated into several platforms not moderated by a single entity the information was narrowed only to these main platforms. Most importantly, the comments and inputs of the minority stakeholders left to the thematic consultation on Inequalities and minorities organized in 2012-2013 as well as the online discussions including the one organized in fall 2014 about Inequalities²⁰ were examined and their inputs to the negotiations was analyzed. Due to limitations this thesis does not discuss the financial discussions or their effects of the SDG process. Three active minority rights organisations in the discussion were contacted for further information with questions about the four main aspects of this thesis, with one response, from the Minority Rights Group International (MRG). Other responses did not arrive or did not arrive in time for submission.

Three interviews were conducted, with Carl Soderbergh the Minority Rights Group International’s Director of Policy & Communications; Julia Kercher, Policy Advisor Development and Human Rights, German Institute for Human Rights and Ruben Zondervan, the Executive Director, Earth System Governance Project, International Project Office, Lund University that all offered a very helpful insight to the SDG design process.

¹⁹”Million Voices”. World We Want 2015. <http://millionvoices.data.worldwewant2015.org/>.

²⁰“Inequalities”. United Nations, World We Want 2015. <https://www.worldwewant2015.org/inequalities>.

1. Minority rights in international human rights law

In order to answer the question of to what extent protection of minority rights have been taken into account and protected in the design and proposed set of Sustainable Development Goals the discussion must be started by establishing the theoretical background of minority rights.

Before starting the actual discussion, establishing the definition and scope of minority rights, it must be noted that protection of minority rights has usually been divided into two main parts which are firstly, individual rights vested in each person by virtue of membership in a group, and secondly to group rights, also known as collective rights, that persons enjoy and exercise collectively, such as the right to self-determination. This thesis only looks at the aspects of individual minority rights and leaves the group rights for another discussion. The individual minority rights can again be divided into two approaches or pillars, namely to equal or similar treatment of all on the one hand and to protection of particularities of minorities, for instance through positive measures, to another. This thesis aims to show the differences and create a balance between these two approaches and argues that the protection of minority rights can only be sufficiently protected when also the second pillar, namely protecting the particularities of minorities, is giving due consideration.

In regard the individual minority rights, there could also be identified four main aspects in the research made and which are specified in this thesis to be firstly, rights of the minorities, especially including the rights protected under Article 27 of the ICCPR. Secondly, the aspect of equality and non-discrimination of minorities and thirdly, aspects in regard the standing and accountability of the states. The fourth aspect, namely the participation of minorities can be considered as a prerequisite for the three first aspects and functions as supporting aspect and should be given a lot of importance. These issues were chosen to be concentrated upon as the most important indicators to answer the research question in what extent the minority rights have been taken into account in the SDG goals and design process.

The theoretical background discussed in this chapter is divided into the four aspects of minority protection. Firstly, the content and scope of relevant human rights standards of minorities, shall be discussed. The rights have been vested the most

importantly in the Article 27 of the ICCPR including preserving and protecting one's ethnic, cultural or linguistic particularities. Secondly, the aspect of equal treatment of minorities and protecting them from discrimination, by looking into the approach of "affirmative action" or "positive discrimination", taking into account the particularities of minorities shall be analyzed. The third aspect shall be discussed by looking what is meant by participation and the final aspect, the standing of the states and their accountability for minority rights in regard the development goals shall be discussed by giving some insight to historical and political background of the issue in order to understand the standing of the states.

All of the aspects of minority rights protection chosen to be examined in this thesis are also fundamental elements of the HRBAD. The HRBAD, a tool created for development programmes began to form itself already in 1990's among different donor agencies and was agreed upon, even though non-bindingly, between the UN development agencies in 2003 by a common understanding.²¹ It also applies, at least in theory²², in the UN global development goals. This tool shall be used as a framework for the four main aspects of minority protection to provide more profound understanding of their meaning and scope.²³ The chapter will end providing a short insight to the historical and political background of the minority rights to put forward some possible explanations for the approach the states have been taking to the issues discussed in first parts of this chapter.

²¹ Supra, note 15, Common Understanding Among UN Agencies, 2003.

²² In theory, the HRBAD should guide all UN development processes, including "all development cooperation directed towards the achievement of the Millennium Development Goals and the Millennium Declaration. [...] in all phases of the programming process, including assessment and analysis, programme planning and design (including setting of goals, objectives and strategies); implementation, monitoring and evaluation." Supra note 15, UN Common Understanding.

²³ The four aspects have also been recognized to be included to the most important factors in minority protection by, for instance Kempin Reuter, from which they were been slightly altered to present the most important aspects mentioned in different documents concerning the topic. Kempin Reuter established the three elements to be, firstly, protecting minorities from extinction and discrimination through recognizing their culture and religion and language, secondly, preserving and safeguarding their ethnic and cultural identity and thirdly, ensuring the participation and empowerment of minorities, to suit the purpose of discussion about minority rights in relation to development from the aspects of minority rights protection established by Kempin Reuter. See more: Kempin Reuter T. "Including Minority Rights in Peace Agreements: A Benefit or Obstacle to Peace Processes after Ethnic Conflicts?" *International Journal on Minority and Group Rights* 19 (2012). p 364. Also, the Office of the High Commissioner of Human Rights have considered these aspects to be the key issues in achieving the MDGs. See more: "Human Rights are the basis for achieving the MDGs", Office of the High Commissioner of Human Rights, n.d. <http://www.ohchr.org/EN/Issues/MDG/Pages/FoundationforEngagement.aspx>.

1.1 The scope of minority rights - What and to whom are minority rights granted to

The theoretical part of the discussion shall be started by looking at the Article 27 of the ICCPR and its content and scope. The discussion shall continue to establish who are considered to fall under this Article by looking at the questions of identification and recognition of minorities.

1.1.1 Rights of minorities - Article 27 of the International Covenant on Civil and Political Rights

The Article 27 of the International Covenant on Civil and Political Rights (ICCPR)²⁴ is still the only legally binding article explicitly targeted to rights of the minorities.²⁵ The Article 27 which over 150 states are party to, sets out a universal application of minority rights protection and provides as follows

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to these minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.²⁶

The rights protected under Article 27 can be considered as the most influential, even if sometimes inadequate,²⁷ protection for the particularities of minorities. It has been further expanded in later international instruments. Most importantly the influence of the Article shows in the non-binding Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Minorities Declaration)²⁸ which in 1992 as the first UN document actually detailed the rights of persons belonging to minorities by containing provisions protecting and promoting minority participation in the political and economic life.

²⁴ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999.

²⁵ Also the Article 30 of the Convention on the Rights of the Child ensuring that children belonging to minority groups have adequate means to an appropriate education also addressed minorities, the Article 30 CRC shall not however be discussed in further detail in this thesis due to limitations.

²⁶ Supra, note 24, International Covenant on Civil and Political Rights.

²⁷ Supra, note 4, Castellino. p 13

²⁸ UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 3 February 1992, A/RES/47/135

The Human Rights Committee (HRC), which is the treaty body of the ICCPR, established in the General Comment 23 interpreting the Article 27 that protection under the Article is distinct from, and additional to, all the other rights set out in the Covenant²⁹ and therefore the Article has sometimes been considered to extend the special protection of the groups under its scope, from prohibition of discrimination and equal treatment of all.³⁰ As stated, Article 27 should not however be confused with the collective rights of the peoples to right to self-determination which are laid down in the Article 1 of the Covenant. Therefore, the special protection does not afford the rights of minorities to threat the sovereignty or territorial integrity of a state, which sometimes seems to be the opinion as shall be discussed later in this thesis.³¹

1.1.2 Who constitute a minority – addressing the definition and identification of minorities

Even though I may not have a definition of what constitutes a minority, I would dare to say that I know a minority when I see one.³² – Max van der Stoel

An important issue in defining the scope of minority rights, is defining the persons to whom the minority rights are granted. Defining who can be considered as a “minority” is important not only for the better identification of the substance and scope of the minority rights but also for the reason that minority rights are granted solely to the individuals who are addressed in the provisions, based on their affiliation to referred “minorities”.³³ The membership to a group is, therefore *sine qua non*, a condition, of the engagement of the rights which has, among others, been established by the Human Rights Committee, the treaty body of the International Covenant on Civil and Political Rights.³⁴ There exist however several problematic issues regard to legal aspects of minority rights protection, relevant also regard to the discussion about the protection of minorities in the SDGs and

²⁹ Human Rights Committee. General Comment No. 23: The Rights of Minorities (Art. 27). 8 April, 1994, CPR/C/21/Rev.1/Add.5, para 1.

³⁰ Supra, note 29, General Comment 23, para 4.

³¹ Supra, note 29, General Comment, para 3.1 and para 3.2.

³² van der Stoel, Max, CSCE High Commissioner on National Minorities. Keynote “Case Studies on National Minority Issues: Positive Results.” *CSCE Human Dimension Seminar*. Warsaw: OSCE, May 24 1993. <http://www.osce.org/hcnm/38038?download=true>.

³³ Supra, note 2, Thio, Li-ann, p 2.

³⁴ Supra note 29, General Comment No. 23, para 5.1.

shall therefore be outlined in this chapter in order to be further analyzed in the following chapters two and three.

The application of Article 27 of the ICCPR to “ethnic, religious or linguistic minorities” has also been considered to be narrower to the one used in the general non-discrimination instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) which defined the features that could be considered to create racial discrimination.³⁵ It has been however argued that reference to “ethnic” in Article 27 has been considered in broader meaning than before and does therefore include groups under its scope more broadly than if read literally.³⁶ The Minorities Declaration which later advanced Article 27 has been interpreted to include also reference to “cultural” identity therefore having advancing also the scope of the people falling under “minorities”.³⁷ Also, the terminology regarding ethnicity and race, have also been argued to be interchangeable in the UN instruments over time and therefore, for instance the cultural characteristics can be considered to be covered by the concepts of ethnicity, religion and language.³⁸

The lack of clarity on the categories of minorities in the international standards causes problems for example when it comes to Dalit-minority, a group that does not readily meet the internationally-agreed criteria for minorities. Castes, outside which the Dalits are seen to belong, is usually seen either falling under the “ethnic” minorities or “cultural” minorities, or protected as a form of racial discrimination under the category of “descent” of the Article 1.1 of the ICERD.³⁹ Protection for Dalits is granted in India under the law only for Dalits belonging to Hindu, Buddhist or Sikh religions, protected through affirmative actions as “Scheduled

³⁵ *International Convention on the Elimination of All Forms of Racial Discrimination*. United Nations. Treaty Series. (660): 195, 1966. Article 1.1. provides that “In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

Article 1.2. “This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.”

³⁶ *Supra*, note 2, Thio, Li-ann., p 13.

³⁷ Račkuskaitė-Burneikienė, Aistė. “The Impact of General Human Rights on the Protection of Persons Belonging to National Minorities”, *Jurisprudence: Mykolas Romeris University*,. 2013, 20(3): 923–950. p 939

³⁸ Smith, Rhona K. M. 2010. *Textbook on international human rights*. n.p.: Oxford ; New York : Oxford University Press, 2010, 2010. p 334

³⁹ *Supra*, note 35, ICERD.

Caste”⁴⁰. However, in case an individual belongs to a Dalit minority but is a Christian and Muslim by religious affiliation, he or she is not granted with the status of Scheduled Caste and therefore falls outside the protection measures for instance in regard equal access to education⁴¹ and development programs.⁴² A comprehensive common definition would therefore be even more important in such cases, where intersectional discrimination exist on the basis of both religious identity and to ethnic identity for example, in addition to lack of equal protection under the law.

Because of the lack of clear definition on who falls under the protection granted to “minorities” there has been a recognized ”need to define the category of persons”.⁴³ The states have however shown only little interest in defining who can be considered as minority groups within their territories. Even if there are in existence several definitions used among scholars, legal practitioners and treaty bodies⁴⁴ there are some important differences between these definitions, which might have even crucial divergences in their emphasis. For the purpose of this thesis, one of the most widely cited definitions, the one proposed by Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities Francesco Capotorti, is the most describing. According to him, a minority is

A group, numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of

⁴⁰ *Constitution of India (Updated Upto (Ninety-Eighth Amendment) Act, 2012)*, n.d. <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>.

⁴¹ Human Rights Watch. “*They Say We’re Dirty*” *Denying an Education to India’s Marginalized*. Human Rights Watch, 2014. http://www.hrw.org/sites/default/files/reports/india0414_ForUpload_1.pdf.

⁴² Human Rights Watch. *Hidden Apartheid Caste Discrimination against India’s “Untouchables.”* Vol. 19, No. 3 (c), 2007. . p 41 <http://www.hrw.org/en/reports/2007/02/12/hidden-apartheid-0>.

⁴³ Sandra Lovelace v. Canada, No. R.6.24/1977, 30 July, 1981, U.N. Doc. Supp. No. 40 (A/36/40) at 166 (1981), para 15

⁴⁴ Pentikäinen, Merja. “Integration of Minorities into Society: How It Is Reflected in International Documents and in the Work of ECRI and the Advisory Committee of the Framework Convention.” In *Rethinking Non-Discrimination and Minority Rights*, edited by Martin Scheinin and Reetta Toivanen. Turku, Finland: Institute for Human Rights, Åbo Akademi University Turku, Gummerus Printing, 2004. p 101-103

the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.⁴⁵

Whereas the definition given by the Sub-Commission member Jules Deschenes, which otherwise started in similar, had a different approach in the end. He defined that a minority is

A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.⁴⁶

Minority groups can therefore be considered to be divided into “negative” and “positive” minorities based on their motivation as a group, which can be reflected in the two definitions. The “positive minorities” can be seen as a group with strong motivation and aim of pursuing shared interest, as an example the Swedish speaking minority group in the Finnish Åland islands who wish to preserve their own linguistic characteristics. They are already empowered to claim for their rights for equality, non-discrimination and linguistic identity. The “negative minorities” on the other hand refer to groups in weaker position, who continue to be marginalized in the society and are trying to survive amongst majority population. An example of such a group is the minority group of the Dalit in India, who cannot be considered to be “directed towards preserving” their minority identity, but who, because of historical, religious and cultural reasons, have been oppressed by the majority. Even if both types of minority groups are reaching to same goals of fairness, enjoyment of freedom and fundamental equality⁴⁷ the differences driving for these motivations⁴⁸ cannot be overlooked, since the emphasis might be crucial in regard the amount of their protection. For instance, the definition might have an

⁴⁵ Emphasis added. Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities Francesco Capotorti. ”Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities”, E/CN.4/Sub.2/384/Rev.1, 1977. para 568

⁴⁶ Emphasis added. Jules Deschenes ”Proposal concerning a definition of the term minority”, UN Doc. E/CN.4/Sub.2/1985/31/Corr.1, 1985. para. 181

⁴⁷ Packer, John. “On the Content of Minority Rights.” In *Do We Need Minority Rights*, edited by Rääkkä J, 121–78. the Netherlands: Kluwer Law International, 1996. p 124

⁴⁸ For more analysis about the motivation of minority groups, see: Packer, John. “On the Content of Minority Rights.” In *Do We Need Minority Rights*, edited by Rääkkä J, 121–78. the Netherlands: Kluwer Law International, 1996. p 124

influence in the extent of protection of minorities are given in development programmes in cases where it is important whether the minority group is seen more in a role of a victim or as a group with strong potential. Undervaluing the potential of the participation of a minority group might harm the minorities and make the process itself weak, then again seeing negative minorities as coherent group with strong motivation might ignore the special needs of the group. Therefore, it would be important that the minorities are defined and discussed properly to be able to take into account their potential to the whole realization of the development programmes but also their special needs.

The Human Rights Committee has established that under Article 27 minorities “need not be citizens of the State party”⁴⁹ therefore the Article also applies to all individuals “existing” within the jurisdiction of a State party, including, inter alia, so called “new minorities” which includes the non-permanent residents, migrant workers and even visitors.⁵⁰ The scope of these applications has been criticized and has been said to be too liberal to European states which, for instance, in the regional interpretation of EU instruments has been more restrictive.⁵¹

1.1.3 Recognition of minorities

Even if there are different views of the definition of minorities in existence, it is common understanding that the identification as a minority should include both, objective and subjective aspects.

Only an objective identification of minorities would be problematic as it has been stated that if it was solely on the hands of the government to make the identification of minorities externally, minorities would have less protection for their rights. This would be caused because in most of the cases the states would apply the narrower category of people falling under the protection of the Article 27 of ICCPR⁵² and therefore, sufficient protection of the rights of the minorities would not be sufficiently guaranteed.

⁴⁹ Supra, note 29, General Comment No. 23, para 5.1.

⁵⁰ Supra, note 29, General Comment 23. para 5.2.

⁵¹ Supra, note 2, Thio, Li-ann. p 14.

⁵² According to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the Article 27 also includes “cultural” characteristics. Supra note 38, Smith, Rhona K. M. p 334

Yet again, it has been argued that if persons themselves could decide only based on their subjective aspirations on their membership to a minority group, through “the sense of solidarity” mentioned in the definitions for minorities earlier, it might be too ambiguous and difficult to prove the connection. More so in cases where a state is hostile towards a minority groups identity.⁵³ Therefore, some objective criteria, through language, culture, ethnic origin and religion that differentiate a minority from the other rest of the population⁵⁴, in addition to subjective identification, interpreted in the light of existing facts, would be needed.⁵⁵

The requirement for a test to determine minority status objectively was given by the HRC in its General Comment 23, which reads that

[...] The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria.⁵⁶

The Committee did not, however, indicate what kind of test to apply. Later the objective identification was addressed by the UN Working Group on Minorities as well as in the case by Permanent Court of Justice in the Greco-Bulgarian Communities⁵⁷ also establishing the need for subjective and objective determination of groups. In the case of *Lovelace v. Canada*⁵⁸ the HRC noted that if a group can be distinguished from the majority, by one way or more elements under the Article, they can rely on it.⁵⁹

Another related problematic issue related to the abilities of the minorities to rely on their rights is the lack of recognition of minorities by the states. It has been argued that for instance France and Senegal who treat everyone and each group within their state territories equally, without legally recognizing minorities, has led to situations that resemble a denial of minority groups.⁶⁰ Furthermore, Germany has declared that it must have the final say in determining who is minority, using the

⁵³ Supra, note 2, Thio, Li-ann, p 2.

⁵⁴ Henrard, K. *Devising an Adequate System of Minority Protection. Individual Human Rights, Minority Rights and the Right to Self-Determination. Kluwer Law International.* Hague, 2000. p 55

⁵⁵ Supra, note 2, Thio, Li-ann p 2.

⁵⁶ Supra, note 29, General Comment 23, para 5.2.

⁵⁷ Greco-Bulgarian Communities 1930 P.C.I.J. (ser C) No. 18 (June 20, 1930).

⁵⁸ Sandra Lovelace v. Canada, No. R.6.24/1977, U.N. Doc. Supp. No. 40 (A/36/40). 30 July, 1981

⁵⁹ Supra, note 58, Lovelace v. Canada, para 14-19.

⁶⁰ Supra, note 2, Thio, Li-ann. p 7.

regional European Framework Convention on National Minorities.⁶¹ Raising a question on the definition to be applied and whether minorities does indeed include “new minorities”.⁶²

Recognizing minorities would be especially important in regard the rights in development programmes, as the assessment of the situation and recognizing the needs of different groups to ensure comprehensive distribution the benefits to everyone equally requires identifying and recognizing the groups within the state territories. The lack of state recognition however remains.

1.2 Equal treatment - protecting the particularities of minorities

After establishing the scope of protection of minorities under the Article 27 and those who actually fall under the definition of minorities, the second aspect, namely the equality and non-discrimination of minorities must be addressed. What are the different issues that should be considered in the development programmes and how to balance between protecting particularities and identity of minorities in regard the society as a whole shall be discussed in this subchapter.

The discussion shall be started with few notices; firstly, individual minority rights protection can be divided and approached as two pillars which are first of all, the prohibition of discrimination and providing equality “of all” that guarantees the “formal” equality and secondly, protection and promotion of the separate identity of the minorities, realizing the “substantive” equality. It has been argued that the first pillar prohibiting discrimination works as a prerequisite for the second pillar, as the second pillar requires differential treatment including distinguishing minorities from the majority, satisfying their special needs and preservation of their racial peculiarities, traditions and national characteristics.⁶³ This second pillar can be considered to be protected through the Article 27 of the ICCPR. It can be argued, that without due consideration to particularities of minorities under the Article 27, sometimes requiring even positive discrimination, the rights of the minorities cannot be fully considered to be protected.

Minority protection has often been, also in the UN global development goals, approached through the approached of equal treatment and non-discrimination of

⁶¹ Ibid.

⁶² Supra note 2, Thio, Li-ann. p 14

⁶³ Supra, note 1, Henrard, Kristin. p 43.

people. This includes obliging states to ensure equal treatment and realization of the human rights equally for everyone⁶⁴ and has been argued to the best protection for the rights of the minorities.⁶⁵ The protection of cultural, ethnic, religious or linguistic groups against discrimination has therefore been mostly merged into the notion of universal human rights ”of all” and “inherent dignity and equal worth of every human being”⁶⁶.

The basic guarantee prohibiting discrimination has been addressed through, most importantly, under the general human rights instruments, most importantly in the Universal Declaration of Human Rights (UDHR)⁶⁷, UN Charter, establishing in several articles the principle of fundamental freedoms, universal equality and non-discrimination⁶⁸, in the Common Article of the legally binding documents of the ICESCR and ICCPR Article 2⁶⁹ and under Article 1 of the ICERD.⁷⁰ The explicit non-discrimination of minorities has been protected through the non-binding provisions of Minorities Declaration and binding regional instruments such as the European Framework Convention⁷¹ in addition to different communications such

⁶⁴ Supra, note 37, Račkauskaitė-Burneikienė. p 938.

⁶⁵ Paul M. Taylor, *Freedom of Religion: UN and European Human Rights Law and Practice*, Cambridge University Press, Cambridge UK, 2005. p 197.

⁶⁶ Supra, note 4, Castellino, Joshua. p 10.

⁶⁷ “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Art. 2, para. 2. Universal Declaration of Human Rights. Adopted by United Nation General Assembly Resolution 217 A (III) of 10 December, 1948. The principle has been also in the regional instruments, such as in the European Convention of Human Rights, African Convention on Human and Peoples Rights, American Convention on Human Rights, Arab Charter on Human Rights and Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms.

⁶⁸ Article 1.3 and Article 55 (c) of the United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI.

⁶⁹ ”The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 2. Supra, ICCPR and ICESCR.

⁷⁰ “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”. Art. 1, para. 1. Supra, note 37, ICERD.

⁷¹ Article 24 of the Council of Europe, *Framework Convention for the Protection of National Minorities*, 1 February 1995, ETS 157.

as the Copenhagen Document⁷² and Durban Declaration and Programme of Action.⁷³

It can be however argued, that the protection of minorities would often require more than just “negative” abstaining from discrimination or treating people the same, when the individuals would in fact need special protection. The origin of the minority rights lays in the aim to protect individuals who are in vulnerable, disadvantaged or marginalized position in society, from discrimination, assimilation, and violence which they might otherwise be prone to because of their minority status.⁷⁴ This means that to bring the individuals on the equal standing with the majority groups actions are needed and they might sometimes have to be positively discriminatory. This also applies to development programmes, as discrimination prevents realization of equality, which again creates poverty. Therefore, it can be argued that in case inequality of minorities would be combatted more effectively, poverty reduction would also be better achieved.

1.2.1 Equality and non-discrimination of minorities

Studies show, that minorities are prone to different forms of discrimination, including direct, indirect discrimination, multiple and intersectional discrimination discrimination,⁷⁵ which can be found in situations where there exists inequality “because they belong to particular groups of society”.⁷⁶ The ICCPR treaty body HRC has established, that

[...] the Covenant neither defines the term "discrimination" nor indicates what constitutes discrimination. However, article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or

⁷² Article 31 of the Organization for Security and Co-operation in Europe. *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*. (29 June 1990).

⁷³ United Nations, *Durban Declaration and Plan of Action, Adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence*, 8 September 2001.

⁷⁴ See more: Izsák, Rita “Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”. Report of the Special Rapporteur on minority issues. A/69/266, (6 August 2014).

⁷⁵ Supra, note 35, ICERD.

⁷⁶ McKean, W. “Equality and Discrimination under International Law”, *Clarendon Press*, Oxford. 1993. p 10-11.

impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.⁷⁷

Therefore, states are obliged to respect and ensure the protection of rights equally for everyone under the Covenant. The special needs of minorities do, however, also require consideration above the equal treatment, through special measures. It has been stated by a minority organization ECMI, that

A pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop their identity.⁷⁸

Equality and non-discrimination can therefore be divided into two components regarding the state duties, namely to negative aspect which means abstaining from arbitrary or unreasonable differentiation of people. Secondly, to positive discrimination, which means protecting and fulfilling human rights, including minority rights, by creating equal opportunities through positive measures. Only this would lead to *de facto*, in practice, equality in societies. The extent of the protection measures needed to be taken by a state has been considered “justified”, “encouraged” or even “a duty” depending on the human rights instrument applied.⁷⁹ The minimum obligations regarding positive measures of the states shall be discussed below.

1.2.2 Minority rights protection through positive discrimination and affirmative actions

In order to safeguard the substantive or *de facto* equality of minorities in relation to other groups of the society, it is important that the special needs of minorities are addressed. This might require “positive discrimination” and positive measures also

⁷⁷ Human Rights Committee, General Comment 18, Non-discrimination, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 26 (1994). para 6.

⁷⁸ “Communities in Kosovo: A guidebook for professionals working with communities in Kosovo”. European Centre for Minority Issues (ECMI) Kosovo. December 2013. p 10 http://www.ecmikosovo.org/wp-content/uploads/2013/12/ECMI-Kosovo_Dec-2013_Guidebook-for-Professionals_ENG.pdf

⁷⁹ Pentassuglia, Gaetano. *Minorities in international Law. Minority Issues Handbook*. European Centre for Minority Issues, Council of Europe: Council of Europe Publishing, 2002. p 89.

known as "affirmative actions", both in the human rights and the development framework. The protection of minority rights has therefore developed in the recent years into the direction of positive discrimination and protection of individual rights and freedoms from treating everyone the same.⁸⁰

International Covenant on Elimination of all forms of Racial Discrimination, arguably the most useful instrument against discrimination against minorities⁸¹, has been considered to protect minorities especially through Article 1.4. The Article 1.4 establishes that discriminatory treatment is created when similar situations are treated differently, or different situations are treated similarly and that special measures may be appropriate in order to ensure equal enjoyment or exercise of human rights and fundamental freedoms.⁸² These measures were reiterated by the CERD-committee, who stated that

Discrimination is constituted not simply by an unjustifiable "distinction, exclusion or restriction" but also by an unjustifiable "preference", making it especially important that States parties distinguish "special measures" from unjustifiable preferences.⁸³

This means, that in order for the situation to be equal not only *de jure*, according in law, but also *de facto*, in practice, special or different treatment is needed in certain cases to favour the persons or groups in a less advantageous situation to provide *equitable* or fair distribution of benefits for all.

Also, already in 1935 by the Permanent Court of Justice, in Advisory Opinion on the Minority School Albania who stated that

⁸⁰ Supra note 44, Pentikäinen. p 100.

⁸¹ Supra note 4, Castellino, p 13.

⁸² Article 1.4 ICERD set out that "Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved." Supra note 37, ICERD.

⁸³ CERD Committee. General recommendation No. 32, "The meaning and scope of special measures in the International Convention on the Elimination of All Forms Racial Discrimination", CERD/C/GC/32, 24 September 2009. Section II (B).

Equality between members of the majority and minority must be an effective and genuine equality⁸⁴

Thereby acknowledging the need for "positive discrimination" of minorities. It was subsequently acknowledged also by the HRC that positive measures to protect the particularities of minorities were a precondition for substantive equality in regard the Article 27. In its General Comment 23 the HRC noted that

positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practise their religion, in community with the other members of the group.⁸⁵

There exist however limitations also in the positive measures as they must be in accordance with the Articles 2.1 and 26 of the ICCPR, meaning that they must be not only based on reasonable and objective criteria, as set out in the General Comment 23, but must also respect equal and non-discriminatory treatment between different minority groups as well as between minorities and majority population⁸⁶. The committee established that as long as the measures follow these criteria and are aimed at correcting conditions which prevent or impair the enjoyment of the rights guaranteed under article 27, they may constitute a legitimate differentiation under the Covenant.⁸⁷ Also the General Comment 20 commenting discrimination clause under the ICESCR stated, that if positive measures are reasonable, objective and proportional to redress *de facto* discrimination, they are allowed.⁸⁸

It must be also noted, that affirmative actions may be important even in a case where a minority group is not vulnerable as it has been argued that it is from the principle of equality that the these positive measures stem from and not only from the condition of vulnerability.⁸⁹ In other words, it is included in the notion of equality that the ones who have worse stances in a society are eligible to an equal

⁸⁴ Permanent Court of International Justice. Advisory Opinion of 6 April, 1935. Minority Schools in Albania. Series A./B., No. 64. para 64.

⁸⁵ Supra, note 29. General Comment No. 23, para 6.2

⁸⁶ Ibid.

⁸⁷ Supra, note 38. Rhona K. M. Smith. p 336

⁸⁸ General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights). E/C.12/GC/20. 2 July 2009., para 9

⁸⁹ Supra, note 47, Packer. p 152.

stance with others, even if it included special discrimination for some, without it being an act of charity.

Therefore, states should not only refrain from intervening to the right of minorities to exist and practice their minority identity but also ensure the equal enjoyment for all by facilitating the minority groups' position through affirmative action. These facilitation though affirmative measures cannot therefore be considered as a "privilege" when they only ensure the equality in opportunity⁹⁰, freedom and enjoyment of rights for all.

1.2.3 Equality and the "right to be different" – preserving identity of minorities

It has been argued that because of globalization, stronger cultures will, over time, win over minority cultures and it is the reason why human rights framework should be used as means to protect and promote the dignity of every human being equally and work for expanding the protection of persons belonging to minority groups.⁹¹ This should be done through positive discrimination as described and also through acknowledging minority identity as an important part of equality and human dignity.⁹² Cultural identity, which refers inter alia to the right to name language, values, traditions, religious faith and culture⁹³ has been considered as an "anchor" of self-identification and belonging,⁹⁴ and has been argued to be the first internationally recognized right given to groups.⁹⁵ Therefore, the importance of cultural identity should not be surpassed in any development programming either.

The Article 27 laid down the right of the minorities to preserve and practice their cultural, religious or linguistic particularities, which constitutes a fundamental element forming their identity. Also the Article 4.2 of the UN Declaration on Minorities, which has been considered as a continuation to the Article 27 of the ICCPR⁹⁶, in addition to the ICERD, sets out the responsibility of states to

⁹⁰ Supra, note 47, Packer. p 153.

⁹¹ Supra, note 4, Castellino. p 11.

⁹² Explicit right to dignity has been set out in the Article 8 of the CRC.

⁹³ Diaconu, Ion. Identity and human rights specific to persons belong to minorities, Minorities, from Non-discrimination to Identity, Bucuresti: Lumina lex, 2004. p 103

⁹⁴ Kymlicka, Will. The Rights of Minority Cultures. New York: Oxford University Press, 1995. p 8

⁹⁵ Christian J. Tams, James Sloan, ed. *The Development of International Law by the International Court of Justice*. Oxford: Oxford University Press, 2013.

⁹⁶ Supra, note 37, Račkauskaitė-Burneikienė. p 938 .

encourage the different identities and cultures under the principles of equality and non-discrimination.⁹⁷ The Minorities Declaration established that minorities should be protected in a broad sense within the individual human rights in order to survive as a group,⁹⁸ even if the practices forming cultural identity has also limitations and cannot be in “violation of national law” or “contrary to international standards”.⁹⁹

Additionally, the Permanent Court of International Justice has established that states should not only ensure the equal position of minorities with the rest of the population but also the preservation of their “racial particularities, their traditions and their national characteristics”.¹⁰⁰ It noted that if the minorities were deprived from their own particularities no true equality cannot be argued to exist.¹⁰¹

The trend to move towards positive discrimination of minorities has also included measures in protecting the right to preserve and develop one’s identity and connection to a minority group. The trend has therefore been said to changed, from what has earlier been “right to be the same”, towards, not only protection but what can be even called promotion, of the “right to be different”.¹⁰² In other words, where the principle of non-discrimination is often striving for equality and sameness of individuals and groups, minority rights guarantee the right to be treated differently and preserve and practice their identity as individuals as well as in groups.¹⁰³ The issue similarly arises within development framework, where questions is whether to take the approach of formal equality derived from “right to be the same” or rather, of “the right to be different”, prerequisite of substantive equality and further, more comprehensive development achievements.

It is for the states to protect the identity of minorities, the prerequisite of cultural diversity of society.¹⁰⁴ The states therefore should encourage the integration of minorities into a society in a way that makes them part of the wider national identity however, without eradicating their minority identity. Identity, is not only

⁹⁷ Supra, note 30, UN Declaration on Minorities. Art. 4.4

⁹⁸ Supra, note 37, Račkauskaitė-Burneikienė. p 939

⁹⁹ Supra, note 28, Minorities Declaration. Article 4.

¹⁰⁰ Supra, note 84, Minority Schools in Albania.

¹⁰¹ Supra, note 84, Minority Schools in Albania, para. 17.

¹⁰² Ibid.

¹⁰³ Scheinin Martin and Toivanen Reetta, Rethinking non-discrimination and Minority Rights, Institute for Human Rights, Åbo Akademi University Turku, Turku: Gummerus Printing, 2004. Preface

¹⁰⁴ Supra, Marginalised Minorities in Development Programming, A UNDP Resource Guide and Toolkit, p 18

an important factor in creating fruitful development, but also in creating stability within societies.¹⁰⁵

Integration of minorities and protecting their equal access to socio-economic and political life has seen to have a danger of “forced assimilation”, a threat to cultural diversity, prohibited also by the Article 27 of the ICCPR.¹⁰⁶ Furthermore, careful attention should be given on how the rights of minorities should be reconciled in respect of majority part of the population; to work on non-discrimination and on special protection, but also, how to reconcile the minorities within the minorities.¹⁰⁷ Therefore, it should be kept in mind, that “Assimilation is coerced; integration is voluntary”¹⁰⁸, meaning, that it would be important that the development programmes effectively integrate minorities into the scope of their implementation in a manner that respects the particularities of minorities, with their conditions and without forcibly assimilating them into the majority groups.

Therefore, a fully successful system of minority protection enables effective integration of the groups, while at the same time allowing them to retain their particularities, referred to as “integration without forced assimilation”.¹⁰⁹

It has been stated, that it is the presence of “societal culture” that makes the ground for a choice and condition for individual freedom to exist.¹¹⁰ Therefore, the “right to be different” is an essence for the freedom preserving and protecting one’s societal culture, access to one’s language and culture.¹¹¹ Freedom in addition to dignity are also the main principles of the UN development goals and should therefore be acknowledged to include these essential aspects of minority identity, also in the designing process of the Goals. The problem however, also regarding development programmes, is how to balance the protection of particularities and special needs of minorities through special protection in relation to the society as a

¹⁰⁵ Ibid.

¹⁰⁶ Henrard, Kristin, and Robert Dunbar. 2008. *Synergies in minority protection: European and international law perspective*. n.p.: Cambridge : Cambridge University Press, 2008. p 13

¹⁰⁷ Rodley, Nigel S. Conceptual Problems in the Protection of Minorities: International Legal Development, *Human Rights Quarterly*. 7 (1995).

¹⁰⁸ “Marginalised Minorities in Development Programming”. A UNDP Resource Guide and Toolkit, United Nations Development Programme, Democratic Governance Group Bureau for Development Policy. New York, USA May 2010. p 18.

¹⁰⁹ Supra, note 1, Henrard, Kristin. p 43

¹¹⁰ Kymlicka, Will, *Multicultural Citizenship*. A Liberal Theory of Minority Rights. Oxford: Clarendon Press, 1995. p 76

¹¹¹ Gaetano Pentassuglia citing Kymlicka. Supra note 79, Pentassuglia, Gaetano. p 46-4.

whole. In other words, it raises the discussion whether emphasis should be rather given to a unit or to the whole.¹¹²

1.3 Participation of minorities

After discussing the different approaches that can be taken in development programmes in protecting the equality of minorities, it is important to note that participation and inclusion of minorities themselves are an important aspect in protection of their rights. Participation can be considered to be the prerequisite for the rights to realize but it also functions as a right in itself, as shall be discussed below.

It can be argued that the extent in which a person may participate in different domains of life reveals the amount of freedom the person owns and consequently, how much human dignity. Therefore, it would be important, also in the development framework, that no discrimination, direct or indirect, is overlooked in any phase of the process and that minorities have the authority to decide on issues affecting their lives through participation.

The Nobel economist Amartya Sen has argued in his capabilities approach theory that the “doings and beings” of a person reveal and reflect the person’s freedom to choose between the ways of living.¹¹³ He argued that the mere enhancing of economic average in the development programmes is not sufficient to show the “capabilities” of a person, but it is through the evaluation of quality of life measured through the person’s “capabilities” to do things and to be active, that should be the determinants in the development programmes. Capabilities as primary determinants of a person’s well-being should therefore be the primary “end” of development processes rather than seeking wealth as an end itself.¹¹⁴

It can therefore be argued that it is the freedom to preserve and practice one’s cultural, ethnic, religious or linguistic identity, which enables the individuals to realize themselves and to participate in the society to the full extent and should therefore be the primary “end” of development processes. Participation should not only be seen as a tool in reaching economic goals, but it should be the end goal in

¹¹² Raju, M. P., *Minority Rights, : Myth or Reality, A Critical Look at the 11- Judge Verdict with Full Text*, Delhi: Media House, 2002. p 12.

¹¹³ Sen A. Development as Capability Expansion. In: Fukuda-Parr S, et al Readings in Human Development. New Delhi and New York: Oxford University Press; 2003

¹¹⁴ Supra, note 113, Sen, p 4.

itself. Participation can further be considered to include two goals: a goal as being able to participate in the development processes itself and as a goal which ensures better capabilities for participation also in other domains because of the gained freedom, empowerment and knowledge of one's rights that will be gained as a result of the process.

Participation is also a right that should be ensured and protected by states. The minority's right to participation was established, in addition to the general human rights guarantees,¹¹⁵ under the non-binding Minorities Declaration.¹¹⁶ The right to participate can be divided into three different aspects¹¹⁷ that provide first of all, establishing the right to participate in public life and decision making¹¹⁸, secondly to the participation in the life affecting their own community, and thirdly in the progress and development in their country.¹¹⁹ This means that the right and importance of participation of minorities should not be forgotten in the design and implementation of the UN development goals either.

Also the earlier discussed positive measures also apply to participation. Positive measures in participation could be realized for instance through proportional representation in government positions¹²⁰ and through quotas, if needed. The positive measures have been acknowledged by HRC, who noted that positive measures in regard the Article 27 ICCPR also applied to effective participation of minorities in decisions making.¹²¹ The Minorities Declaration again, addressing also the participation of minorities, provides that minorities should be protected by

¹¹⁵ Right to participate has been established equally for everyone through binding Article 25 of the ICCPR.

¹¹⁶ Right to participate of minorities can be found from the non-binding Minorities Declaration Article 1. The legally binding Conventions ICCPR and ICESR provide participation rights equally to everyone, for instance under Article 13 ICESR stating that "They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace." And in the ICCPR Article 25 that "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:(a) To take part in the conduct of public affairs, directly or through freely chosen representatives".

¹¹⁷ Supra, note Marginalised Minorities in Development Programming, A UNDP Resource Guide and Toolkit, p 24

¹¹⁸ Supra, note 28, Minorities Declaration Article 2.2.

¹¹⁹ Supra, note 28, Minorities Declaration Articles 4.5 and 9.

¹²⁰ Supra, note 23, Kempin Reuter T. p 364

¹²¹ Supra, note 29, General Comment No. 23, para 7.

states through positive measures¹²² providing special guarantees that recognize the preferential treatment of these groups.¹²³ Minorities Declaration has been considered to "only be seen as a stepping stone in the forward movement of minority rights".¹²⁴ This can be interpreted to refer to it as a tool for minorities, through which they can help themselves to reach the goals they want to achieve, but which also requires actions from other actors, especially from those in charge of the development programmes.

1.4 Minority rights and a state

The fourth aspect in minority rights protection discussed in this thesis is the standing and accountability of states. The recognition of minority groups and the amount of accountability measures are in the end in the hands of the states, who, depending on the political and historical reasons seem to have approached minority rights with a reservation. In order to understand the sensitive approach by the states to the topic, political and historical background shall be discussed below.

1.4.1 Historical background

Illuminating a bit the historical background of the protection of minorities, we may look as far as to the beginning of 20th century to provide some reasons for the lack of recognition of minorities and lack of addressing the definition and legally binding rights of the minorities. It can be argued, that one of the reasons has been among others the impotence of the League of Nations at the time of outbreak of the World War II to make Germany accountable for the minority protection that affected states' approach on the minority issue.¹²⁵ It has been argued that the outbreak of World War II which lead also to the collapse of the League¹²⁶ and subsequently to the establishment of the United Nations, showed the sensitivity of the minority issue and made it stay that way ever since.

¹²² "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law" Supra, note 30, Minorities Declaration. Article 4.1.

¹²³ Art. 2, para. 2; Art. 2, para. 3; Art. 2, para. 4 of the Minorities Declaration. Supra, note 37, Račkauskaitė-Burņeikienė, Aiste .p 939.

¹²⁴ Supra, note 37, Račkauskaitė-Burņeikienė, Aiste.p 939.

¹²⁵ Supra, note 38, Smith, Rhona, p 17-18, 40 and 332-334.

¹²⁶ It has been argued that the minority rights issue was one of the factors which led to the collapse because the League was incapable to enforce minority protection and to prevent state action when Germany's membership to the League was withdrawn just before the start of World War II. See more: Supra, note 38, Smith Rhona, p 17-18, 40 and 332-334.

The sensitivity of the issue have seemed to have pushed minority rights protection towards the approach of universal application of equal individual rights, rather than to protection of particularities of individuals and cultural diversity. The sensitivity can be seen in the fact, that the lack of equality between different groups was already understood when drafting the UDHR and the subsequent ICCPR and ICESR leading to a proposal of including an explicit Article on minorities to the UDHR. However, political considerations outweighed the so called “humanitarian idealism” and the proposed clause was excluded from the document and integrated to right to religion, freedom of expression and other similar rights in the UDHR which were considered to be understood to include protection of minorities in the light of Article 2 on principle of non-discrimination.¹²⁷ It was decided that the explicit protection of minorities would be transferred to the agenda of ECOSOC and the Commission of Human Rights, that were meant to draft a Convention on rights of minorities alongside with the ICCPR and ICESR, but which was however withdrawn because of the controversial issue of self-determination. The approach of equality and non-discrimination in the UDHR turned out later to be incapable in protecting the minority rights and the formation of the Article 27 targeted explicitly on minorities was therefore in the end added to the ICCPR, even if cautiously.¹²⁸

It was only in the end of 80’s with the re-emergence of violence between ethnic and religious groups followed by the collapse of communist block and end of cold war in addition to the accelerated globalization which lead to a re-evaluation of the importance of addressing the minority issue explicitly and to the creation of instruments and mechanisms protecting minority rights.¹²⁹ Firstly, non-binding OSCE’s Copenhagen Document in 1989 provided a wide range of minority rights, followed by UN General Assembly adopting a Declaration on Rights of Persons Belonging to a National or Ethnic, Religious or Linguistic Minorities in 1992 and the same year Council of Europe adopting European Charter for Regional or Minority Languages followed by the legally binding Framework Convention in Europe in 1994. The Working Group on Minorities by the Sub-Commission of the Commission on Human Rights was created in 1995 to review the promotion and practical realization of the Declaration and held sessions until 2006 when it was replaced by the Forum on Minority Issues in 2007, which, guided by the Independent Expert on minority issues created by mandate from the Commission

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Supra, note 44, Pentikäinen, Merja. p 97-98.

on Human Rights in 2005, addresses the most important aspects of minority right protection¹³⁰, including within the UN development goal schemes.

The rights of the minorities have therefore been given some attention in recent decades, however, the lack of binding legal obligations still exists and the reluctance to recognize minority groups still remains.

1.4.2 Political background

It seems that governments fear recognizing a minority for the reason of claims for self-determination and autonomy through independent statehood¹³¹ even if the HRC among others has established that the individual rights of the minorities provided by Article 27 of ICCPR should not be confused with the Article 3 on self-determination.¹³²

Notwithstanding the developments in regard the concept of minority rights, cautiousness can be detected towards minority issues because of the highly political connotations of issues. The type of minority instruments; most of them being non-binding declarations and political documents, and the large margin of discretion within the implementation of the instruments taken by the states to the legally binding instruments show the reluctance to be legally bound in regard the issue.¹³³ Also the cautioning in the financial side and in setting up supervisory machinery for the monitoring the implementation of instruments have been criticized for being avoided.¹³⁴

Human rights have usually been considered as rights of individuals, minority rights again mean that also groups can invoke for protection, and consequently create obligations on states by virtue of a group affiliation. It has been argued, that one of the reasons for the cautiousness might be created by this issue of minority rights considered to give something extra to the basic guarantees for universal human rights protection, developing the whole international law regime itself. Therefore,

¹³⁰ See more: Office of the High Commissioner of Human Rights, “Promoting and Protecting Minority Rights, A Guide for Advocates”. Geneva and New York: United Nations Publications, 2012. http://www.ohchr.org/Documents/Publications/HR-PUB-12-07_en.pdf

¹³¹ Supra, note 2, Thio, Li-ann. p 1.

¹³² Supra, note 29, General Comment 23, para 3.1.

¹³³ Supra, note 44, Pentikäinen, Merja, p 130-131.

¹³⁴ Ibid.

minority rights can be considered to create pressure on state sovereignty, territorial integrity and political independence.¹³⁵

It has also been argued, that it is the liberal notion of human rights and development imposed to developing countries that does not always fit to the situations non-Western societies have because of the lack of recognition of a pluralistic, multiethnic-based notion of democracy.¹³⁶ Human rights and development programs, of the UN for example, are committed to this exact idea of democratic state that protects equality and pluralism¹³⁷ which allows minorities to be recognized in the political structure giving them necessary space to assert their rights.¹³⁸ It has been argued that it would be exactly this minority-friendly approach that would save countries from civil wars often related to ethnicity.¹³⁹ Therefore, minority rights should be used as a solution rather than as a threat for the ever-growing multi-ethnic, -religious and –linguistic states.

Human rights are indeed political in their nature, constantly shifting matter and a result of political struggles.¹⁴⁰ It has therefore been argued that at the point when development projects start to move beyond charity and development assistance to claims and rights more attention will be given to inequalities, oppression and other violations of human rights by the states. These range of factors might make the states reluctant to cooperate in regard the issue. The human rights-based approach to development has been criticized for this exact reason, as it explicitly focuses on people achieving minimum conditions in achieving dignity and exposing root causes of the vulnerability and marginalization of different groups.¹⁴¹ Also, it has been stated, that even if human rights framework has been criticized for being too political it is not different in the development field either.¹⁴² Therefore, it would be only a matter of will to include more minority rights issues into the political discussions within the development framework.

¹³⁵ Supra, note 2, Thio, Li-ann. p 16.

¹³⁶ Rajan, Nalini. *Democracy and the Limits of Minority Rights*. New Delhi: Sage Publications Inc India Pvt Ltd, 2002. p 23

¹³⁷ Supra, note 136, Rajan Nalini. p 23.

¹³⁸ Supra, note 136, Rajan, Nalini. p 501.

¹³⁹ Ibid.

¹⁴⁰ Ulvin, Peter. *Human Rights and Development*, Bloomfield: Kumarian Press, 2004. p 134-135

¹⁴¹ Ibid.

¹⁴² Robinson, Mary. *Human Rights and Development*. ed. Alston Philip and Robinson M., Oxford, New York: Oxford University Press, 2005. Introduction

The first chapter of this thesis have discussed the four important aspects in minority rights protection. Firstly, who are allowed to claim protection as a minority, what are the standards and the scope of protection, especially in regard the Article 27. Secondly, the aspect of equality and discrimination of minorities was discussed in the light of balancing between the individual and the society as a whole. Thirdly, the importance of participation as a goal in itself was studied continuing to the end of the chapter with an insight to how sensitive the topic might be for the states to address. It is the main aim of this thesis however, to argue that together, the development and human rights framework could address the sensitive question of minority rights. Therefore, the next chapter will discuss how human rights could be integrated into development goals through the tool of human rights-based approach to development by using the millennium development goals as a reference point in how the issue has been approached so far.

2. Protecting minority rights in the UN development goals through a human rights-based approach

It has been argued, that it is no coincidence that the very same key factors that create poverty create also most of the human rights abuses. Poverty can be considered to be fundamentally a denial of human rights¹⁴³ which also applies to minorities, who have been argued to fall among the category of the “poorest of the poor”.¹⁴⁴ Discrimination can be considered to be one of the main factors of poverty and a major cause preventing the full realization of development goals.¹⁴⁵ Therefore, it has been argued that by including more human rights aspects to the development work poverty could be tackled more efficiently.¹⁴⁶ By using the instrument of HRBAD, some of the human rights gaps in the development programmes could be addressed.

In the Common Understanding, in which the UN development agencies agreed in 2003 to apply HRBAD into all their work, the agencies held that

Human development and human rights are close enough in motivation and concern to be compatible and congruous, and they are different enough in strategy and design to supplement each other fruitfully.¹⁴⁷

Therefore, by targeting the common goals of the two frameworks in cooperation, namely freedom and human dignity of every human being,¹⁴⁸ justice and “a more peaceful, prosperous and just world in addition to equality and non-

¹⁴³ Shetty, Salil, “Millennium Declaration and Development Goals: Opportunities for Human Rights”. *International Journal on Human Rights*. 2:2 (2005). p 12

¹⁴⁴ Supra, note 106, Henrard, Kristin, and Robert Dunbar. p 74.

¹⁴⁵ “Minority Rights and Development: Overcoming Exclusion, Discrimination and Poverty, Paper Submitted to the UN Working Group on Minorities, Executive Summary.” *International Minority Rights Group*. Available at: <http://www.minorityrights.org/810/advocacy/minority-rights-and-development-overcoming-exclusion-discrimination-and-poverty.html>.

¹⁴⁶ Supra note 14, Alston, p 755.

¹⁴⁷ United Nations Development Programme. “Human Development Report 2000.” New York, Oxford: Oxford University Press, 2000. p 19. http://hdr.undp.org/sites/default/files/reports/261/hdr_2000_en.pdf.

¹⁴⁸ See more: Report by the UN Secretary- General Kofi Annan, “In Larger Freedom”, A/59/2005, 21, March 2005 and the Report by UN Secretary-General Ban Ki-moon, “A Life of Dignity for All: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015”, A/68/202, 25 September 2014. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/409/32/PDF/N1340932.pdf?OpenElement>

discrimination”¹⁴⁹ the two frameworks could have more comprehensive results. The two frameworks share the same strengths as well as weaknesses but have nevertheless been described as “two ships passing at night”, because even though the two are heading to very similar goals, they lack in doing it in unison.¹⁵⁰

Therefore, this thesis aims to demonstrate, through integrating human rights into development framework, not only so that common goals could be better reached but also minority rights could be better protected.

This chapter looks into the realization of minority protection, addressing the four main issues presented in the previous chapter, namely, rights of minorities including the preservation of their particularities creating their identity, equality and non-discrimination, participation and inclusion, and finally the approach and accountability of the states, in the context of the MDGs. These aspects have received criticism among others by the Independent Expert on Minority Issues (Independent Expert)¹⁵¹ and Minority Rights Group International (MRG)¹⁵² in the realization of MDGs and therefore they can be used to show what could be improved in the future SDGs. The issue shall be discussed through the lenses of “human rights-based approach to development” (HRBAD) framework to point out what human rights could contribute to the minority rights protection in the global development goals. The chapter starts by short overview of the MDGs and HRBAD in general, before moving on into discussing each of the four specific aspects of minority protection through the HRBAD lenses.

2.1 Millenium Development Goals and Human Rights-Based Approach to Development

The UN global development goals have the potential of working as the ground for improving the lives of people and protecting the human rights of everyone, if designed to include everyone and taking into consideration the needs of those who

¹⁴⁹ United Nations Millennium Declaration. The Article 1.2 Values and principles of the Millenium Declaration refers human dignity, equality and equity and vulnerable groups. UN General Assembly, *United Nations Millennium Declaration, Resolution Adopted by the General Assembly*, 18 September 2000, A/RES/55/2. The UN Declaration on Human Rights, Preamble again states the aims being “freedom, justice and peace in the world” and protection of the vulnerable groups. UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

¹⁵⁰ Supra, note 14, Alston, Philip, Introduction.

¹⁵¹ See for example: Minority Rights Group International on report on poverty reduction, Available at: <http://www.minorityrights.org/download.php?id=873>

¹⁵² See for example: McDougall, Gay. A/HRC/4/9, para 19.

need it the most. It can be argued that the tool of HRBAD would be a suitable tool for showing how this could be done. Below, the MDGs and HRBAD shall be presented shortly before going into detailed discussion on how to use HRBAD to consider important aspects in the UN development goals to better protect minority rights.

2.1.1 Millenium Development Goals – a step towards better lives

The UN global development goals, which have roots already before the adoption of the Millenium Declaration, have reached a higher level of commitment from the part of the states, than any other global development scheme before. The MDGs started with the Millenium Development Goals deriving from the Millenium Declaration drafted in 2000 and set up eight clear goals¹⁵³, divided into 21 concrete targets and 64 indicators. These goals targeted to eradicate poverty and hunger, aimed to achieve universal primary school education and reducing maternal and child mortality. The Millenium Development Goals were aimed to be reached by the end of 2015, in which have been succeeded in regard some of the goals such as halving poverty and access to clean drinking water, some of the set goals however, such as halving extreme poverty and maternal mortality are still far from being reached.

Compared to the new set of Sustainable Development Goals, it must be noted that as already the creation of the MDGs was conducted in a very different manner than the new set of SDGs, the minority rights considerations, or even human rights considerations, were much simpler and therefore shorter to discuss than the SDGs that are currently under the designing process. The MDGs, were initially an annex created by the UN Secretary General Kofi Annan in his report¹⁵⁴ giving examples of a roadmap on how to put practice the Millenium Declaration adopted by the states at the Millennium Summit of the United Nations in 2000, but which surprisingly caught a widespread and unexpected attention among the development community. The SDGs on the other hand have from the beginning been taken as a

¹⁵³ The Millenium Goals and their targets are added as an annex 1 to this paper. They were: 1. To eradicate extreme poverty and hunger; 2. To achieve universal primary education; 3. To promote gender equality; 4 To reduce child mortality; 5. To improve maternal health; 6. To combat HIV/AIDS, malaria, and other diseases; 7. To ensure environmental sustainability and 8. To develop a global partnership for development. See more at the official webpage of the MDGs: <http://www.un.org/millenniumgoals/>.

¹⁵⁴ Secretary-General of the United Nations, Kofi A. Annan. *We the People*. New York, 2000. <http://www.unmillenniumproject.org/documents/wethepeople.pdf> .

comprehensive and transformative intergovernmental project, more ambitiously, inclusively and comprehensively than their predecessors by addressing criticized gaps¹⁵⁵ and by putting the states among other different stakeholders on a driver's seat. Therefore, as it will be discussed, even if the MDGs have been criticized for leaving important aspects of minorities, or vulnerable groups in general, without due attention the comparison to the new set of goals might reveal what have actually been learned.

Despite the achievements made, the MDGs have also received criticism¹⁵⁶. The issue that goals did not integrate human rights standards in the planning or implementation of the goals left out important considerations regarding protection of vulnerable groups. The goals did neither address the rootcauses hindering development, such as different forms of discrimination in the process. In the same tone, the MDGs have been criticized for taking into account averages of states, disregarding the economic background of the states, by taking into account only the already fairly wealthy part of the population and ignoring the poorest part. Furthermore, the monitoring of the achievements has not been as effective as it could be. Therefore, integrating rights-based approach to the MDGs more equal, or equitable development might be better guaranteed.¹⁵⁷

The new set of goals should therefore aim to address root causes of poverty, taking into account not only different levels of development of states, but also of different situations of groups by disaggregating the data addressing especially the needs of the vulnerable.

¹⁵⁵“Thus, the advancement and completion of the most off-track MDGs is the starting point, the *sine qua non*, of the SDGs. But the SDGs will need to be more comprehensive, balanced, ambitious and transformative, also addressing the challenges ahead.” para 21. Open Working Group of the General Assembly on the Sustainable Development Goals. United Nations. *Progress Report*, n.d. <https://sustainabledevelopment.un.org/content/documents/3238summaryallowg.pdf>.

¹⁵⁶ See more about the achievements for example at United Nations, Official web-page for Millenium Development Goals <http://www.un.org/millenniumgoals/>. More specific information in regard MDGs and minority rights gathered by Minority Rights Groups International, Supra note, 13, Farah Mihlar.

¹⁵⁷ Ali-Lekkala, Annastiina. Human Rights and Right to Development exam submission. Exam Question No. 2. Lund: Lund University. Submitted May 9 2014. p 1-2

2.1.2 Human Rights-Based Approach to Development – a step towards better protection of minority rights protection

The HRBAD, which is a conceptual framework based on international human rights standards and directed to promoting and protecting human rights, can be used to integrate and link the norms, standards and principles of international human rights system into all the phases of development policies and processes. The HRBAD introduced the main principles of human rights framework into all work of the UN Agencies by the Common Understanding in 2003. The important aspects of HRBAD namely, empowerment, participation, accountability, non-discrimination and attention to vulnerable groups as well as access to information can be integrated to different projects by using a number of instructions¹⁵⁸ and guidelines¹⁵⁹ written by different organisations and practitioners. The relevant human rights concerns should be considered through all the cycles of development processes namely in the assessment, analysis, planning, implementation, monitoring and evaluation of the process.

HRBAD identifies rights holders, namely, individuals who in the context of this thesis refer to the individuals belonging to national, ethnic, religious or linguistic minority groups, and their entitlements corresponding duty bearers usually referring to states.¹⁶⁰ It gives guidance on how the state obligations to respect, protect and fulfill the services or goods meet the requirement of accessibility, adequacy, acceptable and high quality set out by human rights framework. The HRBAD also addresses also tools such human rights impact assessment and human rights indicators to create development outcomes that take minorities and vulnerable groups into account not only in the outcomes, but also in the processes.

To answer why the HRBAD would function as a good tool in protecting minorities, there can be found two rationales, which present the reasons why the tool usually has been applied.¹⁶¹ According to the first rationale, namely, “intrinsic rationale”,

¹⁵⁸ For instance, United Nations. Office of the High Commissioner of Human Rights. “Frequently Asked Questions on Human Right Based Approach to Development Cooperation”. New York and Geneva: United Nations, 2006.

¹⁵⁹ For instance, UNFPA and Harvard School of Public Health” A Human Rights–Based Approach to Programming. Practical Implementation Manual and Training Materials”. UNFPA, 2010. P 7. Available at: http://www.unfpa.org/sites/default/files/jahia-publications/documents/publications/2010/hrba/hrba_manual_in%20full.pdf

¹⁶⁰ In human rights framework the duty bearers are the institutions obligated to fulfill the rights holders' rights, usually referring to states.

¹⁶¹ Supra note 158, “Frequently Asked Questions”. p 16.

the human rights-based approach is the right thing to do, morally or legally. Morally, it can be argued that human rights are universal and based on morally valued principles such as human dignity, equality and freedom. Legally, it can be found that there exist international human rights commitments that are based on legally binding documents such as the ICCPR and ICESCR and non-binding documents such as the Minorities Declaration. According to the second rationale, the human rights-based approach has been applied because an “instrumental rationale” recognizing that by applying the human rights more sustainable human development outcomes will follow.¹⁶² This is because HRBAD takes a holistic view to development and considers broadly different stakeholders, including family, community, civil society, local and national authorities and does this within different contexts such as the social, political and legal frameworks¹⁶³ that might be without the tool left without such profound analysis.¹⁶⁴ In practice the reason for mainstreaming human rights into development is usually a combination of the two rationales.¹⁶⁵

2.1.3 The relation of Millenium Development Goals and legal human rights standards

Through HRBAD the standards of state obligations can be brought to a closer examination; what duties the states actually have and to what extent as a duty bearers they have obligations to respect, protect and fulfill human rights provisions. Also the aspects of what can be considered as adequate through measuring accessibility, availability, acceptability and quality can be discussed through HRBAD.¹⁶⁶ Human rights take into account the different financial levels of each country and therefore, the HRBAD can be used to establish the limitations of resources, which can impede the realization of human rights to certain extent, however safeguarding at least the minimum essential level of ESC-rights. For example, according to the Article 2 of the ICESCR¹⁶⁷, the state has positive

¹⁶² Ibid.

¹⁶³ Supra note 158, “Frequently Asked Questions”, p 17.

¹⁶⁴ United Nations, HRBAD Portal, UN Practitioners’ Portal on Human Rights Based Approach to Programming. N.d. Available at: <http://hrbaportal.org/archives/faq/what-value-does-a-human-rights-based-approach-add-to-development>

¹⁶⁵ Ibid.

¹⁶⁶ Each right has their scope and content defined and discussed in the general comments of the treaty bodies with different amount of focus one or each of the ”tribe AQ’s”.

¹⁶⁷ Article 2(1.) ”Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively

obligations to “take steps, not to discriminate and to monitor” the realization of human rights with an immediate effect¹⁶⁸ which in regard minorities means that states are expected to be in progress towards better realization of equal rights for minority groups.

The central issue of the HRBAD is to establish the rights of the individuals as rights holders to identify the obligations of the states as duty bearers.¹⁶⁹ Inherent rights of the persons belonging to minority groups were identified in the first chapter, and it has been stated, that even if the UN global development goals are not legally binding, they can be considered to reflect internationally agreed human rights standards.¹⁷⁰ According to some commentators, the MDGs can be considered more precisely in the light of Economic Social and Cultural rights (ESC-rights)¹⁷¹. For example the goal to eradicate extreme hunger can be considered in a light of a right to food found in Article 11 ICESR and the goal to improve maternal health can be considered in the light of right to health under Article 12 ICESR whereas increasing the number of persons attending in primary school a right to education Article 13 of the ICESCR.¹⁷²

The issue is not however that simple, as the MDGs have not been agreed upon in any way bindingly, they are vague and were not even intended to provide same level of protection, than the legally binding ESC-rights set out in the human rights instruments. For example, the goal of achieving universal primary education, can

the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

¹⁶⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23, available at: <http://www.refworld.org/docid/4538838e10.html>, para 1.

¹⁶⁹ According to the Common Understanding it is necessary in the development processes to conduct “Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.” Supra, note 15, Common Understanding.

¹⁷⁰ Minority and Indigenous Peoples' Rights in the Millennium Development Goals, Minority Rights Group International. Executive Summary. May 2003. p 3 <http://www.minorityrights.org/download.php?id=42>

¹⁷¹ See for example: Damman, Siri. “Indigenous Vulnerability and the Process Towards the Millennium Development Goals–Will a Human Rights-Based Approach Help?”, *International Journal on Minority and Group Rights*. Vol 14, 2007: 489–539, p 500.

¹⁷² See more on the OHCHR, Millennium Development Goals and human rights standard, <http://www.ohchr.org/EN/Issues/MDG/Pages/MDGsStandards.aspx> or Minority and Indigenous Peoples' Rights in the Millennium Development Goals, Minority Rights Group International. Executive Summary. May 2003. p 3 Available at: <http://www.minorityrights.org/download.php?id=42>

be reflected through the human rights framework, which ensures high standard of protection of rights, for instance, under the Convention on the Rights of the Child and which in the Article 28.1 makes an obligation the states to make primary education compulsory, free and available to all.¹⁷³ Also, there would be also many human rights issues, that would be important but were not addressed in the MDGs.¹⁷⁴

Development goals can also be argued to have a status of customary norms, widely accepted practice, and therefore binding. Critics have however argued that since the development goals mostly relate to ESC-rights which are often not customary norms, the development goals cannot be such either.¹⁷⁵ Also, as the global development goals have not been made with a requisite *opinion juris*, intent to be bound by, they cannot be made binding as customary norms.¹⁷⁶ Whichever the approach is, the MDGs have been criticized for their inadequate attention to ESC-rights.¹⁷⁷

By integrating a rights-based approach to UN global development schemes, the standards could however be raised. Each target could be taken example from the corresponding human rights standard to establish the content and scope of the rights in identifying the obligations of the states as duty bearers.¹⁷⁸ Through human rights, the scope including purpose, intent, extent and measurements of "adequacy" of rights of individuals could be examined and mechanisms such the country-specific recommendations and general comments of the human rights treaty bodies¹⁷⁹ that would help the monitoring of achievements of the goals. Reciprocally, it has been stated, the goals contain objectives that are important for the development of the normative system of human rights and could be used to improve the human rights system in return.¹⁸⁰

¹⁷³ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577.

¹⁷⁴ Supra, note Minority Rights Group International, "Minority and Indigenous Peoples' Rights in the Millennium Development Goals". p 3.

¹⁷⁵ Supra, note 14, Alston, Philip, p 771.

¹⁷⁶ Supra, note 14, Alston, Philip, P 773.

¹⁷⁷ Supra, note 171, Damman, Siri, p 496.

¹⁷⁸ According to the Common Understanding it is necessary in the development processes to conduct "Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights."

¹⁷⁹ Supra, note 158, "Frequently Asked Questions", p 23.

¹⁸⁰ Supra, note 171, Damman, Siri, p 500.

How human rights aspects have been taken into account in the four main issues of minority rights protection, shall be discussed below.

2.2 Equality and non-discrimination of minorities in development

Better realization of equality and non-discrimination in the implementation of the MDGs has been called for by different commentators. The Office of the UN High Commissioner for Human Rights¹⁸¹ alongside with different minority rights organizations have emphasized the importance in common international efforts to ensure non-discrimination in the MDGs. One of the organization papers for example commented that

The MDGs, in focusing largely on national averages, without addressing inequalities explicitly, may have led to perverse outcomes whereby already-marginalized groups have tended to be 'left until last', thus exacerbating existing inequalities.¹⁸²

Also a report conducted by Minority Rights Group International (MRG) stated that because of discrimination the MDG benefits had not reached minorities, who would be in need of the benefits the most and commented that this might result "in greater inequality and increase the danger of conflict."¹⁸³ The report argued that actions that did not take discrimination sufficiently into account could not truly improve development targets. It argued that for instance, building a school in an area where minorities could not access it because of discriminatory reasons when, for example being part of a Dalit group, did not improve education of the minorities.¹⁸⁴ In another paper for example, the MRG noted that the MDG health education campaigns were only given in majority languages and according to majority cultural practices which failed to share the benefits with the minority

¹⁸¹ Amnesty International encourages an active role for the UN Special Procedures around the MDG Summit, Public Document International Secretariat, Amnesty International. 30 June 2010, London, UK, p 1. Available at: <file:///C:/Users/oem/Downloads/ior410212010en.pdf>

¹⁸² UNICEF, UN Women, UNDP and OHCHR, and other agencies of the TST, "Promoting Equality, including Social Equity", TST Issues Brief: p Available at: https://sustainabledevelopment.un.org/content/documents/2406TST%20Issues%20Brief%20on%20Promoting%20Equality_FINAL.pdf

¹⁸³ Supra, note 11, Mihlar, Farah. p 13.

¹⁸⁴ Supra, note 11, Mihlar, Farah. p 5-6.

groups. The organisation therefore recommended that the human rights impact assessment, a tool of the HRBAD, would help to target such discrimination.¹⁸⁵

Direct discrimination, such as refusing minorities from humanitarian aid based on their ethnic, cultural or other origin¹⁸⁶ can be considered easier to address than indirect discrimination, especially in the first phases of assessing and planning development processes seems to be more problematic. Indirect discrimination is easily overlooked, and therefore special attention should be given to the minority groups, especially to the minorities living in the areas where development schemes usually do not extent to. Often development programmes do not reach the minorities because they simply live outside the investor-friendly areas.¹⁸⁷ Therefore, areas such as remote tea-gardens where many of the Dalit women work without adequate health facilities or slums where education is difficult to organize should be taken under the scope of the programmes.

Also the issue of none or little presentation in participation of the minorities in the planning of the schemes should be given extra attention. Development goals should already in the designing phase make large mapping of the affected vulnerable minorities, give direct priority attention to those suffering direct and indirect discrimination and pay special attention to those facing multiple discrimination such as minority women. This means that in the designing phase, information should be provided in minority languages and should not only be easily accessible, but also provided without asking¹⁸⁸ and foster non-discriminatory attitudes in all the phases of the development processes.

The Special Rapporteur on Minority Issues Rita Izsák has been one of the concerned calling for greater attention for the discrimination of disadvantaged minorities in the Post 2015 agenda, noting that with the current approach minorities

¹⁸⁵ The Millennium Development Goals: Helping or Harming Minorities? Working paper submitted by: Minority Rights Group International, Summary presentation delivered by Corinne Lennox, Advocacy Officer Commission On Human Rights, Sub-Commission on Promotion and Protection of Human Rights, Fifty-fifth Session, Working Group on Minorities, Eleventh session, 30 May – 3 June 2005. p 3

¹⁸⁶ For instance, when the Asian Tsunami in 2004 hit, because of discrimination Dalit groups were stated not to be not allowed to enter relief camps and were left out from the promised relief compensations. India Overview, Dalit, Minority Rights Group International. <http://www.minorityrights.org/5652/india/dalits.html>

¹⁸⁷ Facts and figures: minorities and the MDGs, Minority Rights Group International, January 201, p 6. Available at: <http://www.minorityrights.org/download.php?id=933>

¹⁸⁸ Supra, note 158, “Frequently Asked Questions”, p 26.

might even be end up "backsliding" in regard both, development and human rights.¹⁸⁹ She stated that

Tens of millions of people belonging to national, ethnic, religious and linguistic minorities worldwide are trapped in a cycle of discrimination, exclusion, poverty and underdevelopment from which they cannot break free without targeted attention being given to their situations.¹⁹⁰

The unequal distribution of MDG benefits can be seen for example from the figures revealed by the MRG showing that for instance in 2009 between 50 and 70 per cent out of the 101 million children out of school belonged to minority and indigenous groups.¹⁹¹ The amount of children out of school was reduced by 2011 to 69 million children, however minorities still consisted the same amount, half of the children.¹⁹² Furthermore, more than a quarter of the 776 million illiterate adults of the world belonged to an ethnic, religious and linguistic minority or indigenous groups.¹⁹³ The reports conducted by MRG again argued that lack of education might consequently lead to decreased protection in regard the Goal number 4 aiming to reduce child mortality and Goal number 5 improving maternal health, as women belonging to minority groups and living in poor areas were three times less likely be attended by professional health-care practitioners when giving birth.¹⁹⁴

By integrating HRBAD considerations into different phases of UN development goal programmes direct and indirect discrimination of minorities could be better addressed within the projects.

¹⁸⁹ Independent Expert on minority issues, Rita Izsák "Ensuring the inclusion of minority issues in post- 2015 development agendas", A/HRC/25/56. 6 January 2014. para 33.

¹⁹⁰ Supra, note 189 Rita Izsák A/HRC/25/56, para 31.

¹⁹¹ Curtis, M., 'A world of discrimination: minorities, indigenous peoples and education', in MRG, State of the World Minorities and Indigenous Peoples 2009, London, MRG, July 2009, P 13. Available at: http://www.oei.es/pdf2/estado_mundial_minorias_unicef_2009.pdf

¹⁹² Bernadett Sebály. "Facts and figures: minorities and the MDGs". Minority Rights Group International. January 2010, P 3 <http://www.minorityrights.org/download.php?id=933>
The report gives different explanations for the phenomenon, for example too extensive school fees are too extensive for poor minority families, language issues and problems regarding transportation from the rural areas and segregation in school.

¹⁹³ Ibid.

¹⁹⁴ Supra, note 187, MRG Facts and figures, p 5.

2.2.1 Positive measures and affirmative actions

As discussed, substantive equality within the human rights framework does not necessarily mean that everyone is to be treated the same and provided with similar opportunities, but might also entail need for "positive discrimination" affording special treatment or "affirmative action". In development framework the principle of "positive discrimination" is often considered as part of the notion of "equity".

According to the Special Rapporteur MacDougal, it is part of the positive actions of the states regarding poverty reduction to provide disaggregated data on poverty of minorities, adopting poverty strategies concerning specially minorities and using other kind of affirmative actions to provide them employment opportunities.¹⁹⁵ Affirmative actions and differential treatment have also been called for by MRG in regard minority children, emphasizing the fact that the particularities of minorities require special attention under the ICERD and they must be brought into the knowledge through quantitative data showing their relative situation and particular needs for example in regard education¹⁹⁶. The MRG stated that affirmative actions are needed to address the unique problems faced by students belonging to minority groups and continued that

The principle of equality does not require uniform treatment in the field of education regardless of circumstances, but rather that differential treatment of individuals and groups is justified when circumstances warrant it. Standardized education policies overlook the unique problems faced by specific groups of students. In order to create an even playing field, targeted, specialized programmes must be employed that take into account the existence of structural factors that have impeded the full participation of minorities.¹⁹⁷

The Special Rapporteur Izsák joined the view by stating that overcoming the discrimination of minority groups require more than just increasing income, but must include defeating

¹⁹⁵ Supra, note 4, Castellino, Joshua, p 17.

¹⁹⁶ "State of the World's Minorities and Indigenous Peoples 2009 Events of 2008". Minority Rights Group International. ed. Preti Taneja. 2009. p 9 http://www.oei.es/pdf2/estado_mundial_minorias_unicef_2009.pdf

¹⁹⁷ Ibid.

[...]structural inequality and long-standing discrimination and social exclusion which defy “one-size-fits-all” solutions.¹⁹⁸

Also, a paper conducted by MRG found out through several stakeholder interviews that one of the main issues in the MDGs has been the lack of addressing the discrimination and inequalities through affirmative actions¹⁹⁹ based on the special needs of these groups. The development goals should therefore take into account the needs for affirmative action and positive discrimination. For example, the minorities in India have been afforded affirmative actions under the Constitutions for the Dalits who belong to Hindu, Buddhist or Sikh religions, however the Dalit belonging to Christianity or Islam have been excluded such protection. Therefore, it should be made sure already in the planning and assessing phases of the new goals, the vulnerable groups are not discriminated against. Especially girls and women belonging to minority groups, such as the Dalits who face severe multiple forms of discrimination, should be provided special measures for instance through special forums in order to secure substantive equality in participation.

2.3 Participation and inclusion of minorities in global development programmes

Development needs to come from the communities themselves. -
Estebancio Castro Diaz²⁰⁰

Participation can be considered to be one of the four aspects in minority rights protection also in regards development processes. The notion of participation can be again divided into four issues in development framework, namely to obligations, rights, representation, and alternatives.²⁰¹ Obligations, first of all, means that the UN development Goals should be interpreted in the light of human rights and minority instruments creating obligations to states. Secondly, rights refer to the right to participation laid down in different instruments, such as Minorities Declaration. Thirdly, representation refers to the fact that remote and marginalized

¹⁹⁸ Supra, note 189, Rita Izsák A/HRC/25/56, para 32.

¹⁹⁹ Supra, note 11, Mihlar, Farah. p 7.

²⁰⁰ Estebancio Castro Diaz, International Alliance of Indigenous and Tribal Peoples of Tropical Forests, Republica de Panama. Stated at the interviews conducted by MRG. Supra, note 11, Mihlar, Farah. p 5

²⁰¹ Minority and Indigenous Peoples’ Rights in the Millennium Development Goals, Minority Rights Group International. Executive Summary. May 2003. p 3-4
<http://www.minorityrights.org/download.php?id=42>

minority groups are often unrepresented in the development processes and should be brought into decision making equally including programme design, implementation and evaluation in their own languages. The representation must be started with the recognition of the minority group made by the state, which however, has often political hindrances and difficulties as discussed in the first chapter. Finally, the alternatives means that minority groups should be provided with attention to their special needs including impact assessment on the discriminatory effects of the development policies, thus creating space for their alternative proposals.²⁰² These issues should therefore be considered also in the UN global development goals, to protect the participation of minorities satisfactorily.

The importance of participation was acknowledged in the Millenium Declaration before the MDGs, stating that for the process to be “truly participatory”, it should be “active, free and meaningful”.²⁰³ When the MDGs were created no guidelines were however given on how and through what kind of processes, and how involve vulnerable groups, such as minorities into the processes.²⁰⁴ The process towards the goals should be however, valued equally as much as the outcomes as the success, or the harm, of the outcomes depend on the process.²⁰⁵ Therefore, especially in regard to the rights of the minorities, participation in all the phases of the development goal processes would be crucial.

In the HRBAD procedures it is acknowledged that it is not only a matter of recognizing the underdevelopment and poverty of minorities, but it should be a question of giving minorities the space and opportunity to contribute to helping themselves.²⁰⁶ It has been stated that the soft governance and policy approach in regard the participation of minorities which might be taken without HRBAD, is not enough to safeguard the protection of the rights of the minorities, as it makes the rights of the minorities dependable on the political climate. Therefore, positive

²⁰² Ibid.

²⁰³ UN General Assembly, *United Nations Millennium Declaration, Resolution Adopted by the General Assembly*, 18 September 2000, A/RES/55/2.

²⁰⁴ Lennox, Corinne. *Minority and Indigenous Peoples' Rights in the Millennium Development Goals*. Minority Rights Group International, 2003. <http://www.minorityrights.org/download.php?id=42>. p 3

²⁰⁵ Ibid.

²⁰⁶ K. Appiagyei-Atua, "Minority rights, democracy and development: The African experience" *International Journal on Minority and Group Rights* Vol. 15. 2008: 489–503. p 501

measures, including positive legal duties for the states would be needed also in this regard.²⁰⁷

Also, the empowerment of the vulnerable is important for the accountability of states. When the marginalized groups are empowered and able to participate in the society, they can hold duty bearers accountable by demanding education and other human rights, action for social change and encourage different forms of freedom, including media freedom.²⁰⁸ Signs for increased empowerment can be detected in the fact that the ESC-rights have been seen increasingly more judiciable at global level, which can be seen for example in the cases of the right to food and the right to education.²⁰⁹ This means, that by empowering people to claim their rights before the courts, governments can be made to acknowledge their obligations towards even the most vulnerable groups, and consequently their participation and benefitting of the development achievements can be improved.

The MDGs have been criticized for failing to ensure the participation of minorities and to take them into account in the different levels of MDG processes which might have even lead to further increasing the gap between minority and majority groups in the political, economic and social life.²¹⁰ The MDGs have been criticized for not letting civil society any decisive role in the formulation of goals, targets, indicators and processes. For instance, according to interviews conducted by the MRG the processes failed to conduct consultation of minorities in the design of the goals and to address the specific needs of minority groups, for example the close relationship to the land, as well as a failure to reach the isolated, in need of special protection as well as special attention regarding their culture and other particularities, which might be threatened by the development processes.²¹¹

The importance of inclusion of minorities has also been recognized as a prerequisite for peace, stability and prosperity²¹² yet they have been often left unrepresented in the political and social decision-making processes concerning

²⁰⁷ Kostadinova, Galina, "Substantive Equality, Positive Action and Roma Rights in the European Union". Minority Rights Group International, 2006. Published September 2006. p 1. <http://www.minorityrights.org/download.php?id=65>

²⁰⁸ Supra, note 158. p 25.

²⁰⁹ Supra, note 4, Castellino, p 11.

²¹⁰ Supra, note 11, Mihlar, Farah. p 5.

²¹¹ Supra, note 11, Mihlar, Farah. p 5-6.

²¹² Ramsay, Kathryn. "Disaggregated Data Collection: A Precondition for Effective Protection of Minority Rights in South East Europe". Minority Rights Group International. 8 August 2006. p 8 <http://www.minorityrights.org/download.php?id=66>

their interests. Also, especially the empowerment and participation of minority women would be crucial in attaining the development targets, in particular in relation to poverty reduction, education and health targets as women are more vulnerable to discrimination²¹³ and should be therefore invested in more.

Furthermore, the MDGs have been argued to put different groups, including minorities into a role of a victim²¹⁴ therefore undermining the value of their participation. In the regional consultation held by OHCHR in Bangkok in 2012 on the implementation of the UN Minorities Declaration, the importance of participation of minorities in reaching the MDGs was emphasized and noted that “the UN should see minorities very much as partners, rather than purely as beneficiaries.”²¹⁵

Therefore, development programs should be designed to protect and promote equality by being truly participatory, through social and political participation that sometimes require affirmative actions, empowerment, awareness raising and through promoting dialogue and debate, not only to address inequalities from a victim perspective.²¹⁶ In respect of the goals, participation means that cooperation should be created and the targets should reflect the consensus of the stakeholders, namely those whose rights have been violated, and of those who have the duty to act.²¹⁷ The MDGs have therefore ignored the fact that inclusion of minorities could not only help to reach the aimed goals more comprehensively but also to bring to development processes something extra in return.

²¹³ “Millennium Development Goals set to be missed if aid continues to fail minorities, says MRG”. Minority rights Group International, 16 September 2010. <http://www.minorityrights.org/10286/press-releases/millennium-development-goals-set-to-be-missed-if-aid-continues-to-fail-minorities-says-mrg.html>

²¹⁴ Fukuda-Parr, Sakiko, Millennium Development Goal 8: Indicators for International Human Rights Obligations, Human Rights Quarterly 28 (2006) 966-977. *The John Hopkins University Press*. P 968

²¹⁵ Office of the High Commissioner for Human Rights “The role of the UN, and other human rights and development actors in advancing the participation of minorities in poverty reduction and development strategies in South East Asia” Regional Consultation Bangkok Report. 25-26 September 2012, p 3. <http://www.ohchr.org/Documents/Events/Minority2012/ReportBangkok.pdf>

p 7

²¹⁶ “Global Thematic Consultation on Addressing Inequalities, Minorities and Inequalities Online Discussion Synopsis”. Moderated by: Office of the UN High Commissioner for Human Rights, Minority Rights Group and Experts from the Universities of Oxford and Middlesex, UK. e-discussion organized between 7-18 January 2013 p 1

²¹⁷ *Supra*, note 158, Frequently asked questions, p 17.

2.4 Accountability – the standing of the states in the Millenium Development Goals

Accountability is an important key component in the protection and promotion of human rights and presents the fourth aspect, the standing of the states in the minority rights protection. Below, the importance of accountability of states shall be discussed through discussing the role of the HRBAD in accountability mechanisms, monitoring, indicators and disaggregated data.

Accountability is important also in the development framework; as it has been argued, it is not a coincidence that it is often the governments of less developed countries that are not accountable for their citizens.²¹⁸ Therefore, in order for full protection of rights of the minorities and for the development goals to be effective, it is important that different stakeholders, including development agencies, donors and states, can be held accountable for both, outcomes and processes, of the development goals. In the Common Understanding the UN development agencies established that

States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.²¹⁹

In the development framework accountability is usually referred to in relation to good governance. HRBAD is closely linked to the good governance, however, it is more based on the different aspects of the duties of a state and gives especially importance to how individuals can hold duty bearers legally accountable by empowering individuals to reach the life in dignity and freedom.²²⁰

It has been established also by the Office of High Commissioner of Human Rights, that important aspects of good governance in securing equitable and sustainable MDG achievements and to ensure enforceable minority rights protection is by

²¹⁸ Supra, note 140, Ulvin, Peter. p 131.

²¹⁹ Supra, note 15, UN Common Understanding 2003.

²²⁰ Supra, note 158, Frequently Asked Questions, p 10.

promoting human rights through human rights accountability mechanisms²²¹ such as the Independent Expert on Minority Issues, the Forum on Minority issues and treaty body reporting with the help of the OHCHR. The accountability mechanisms are also a factor to distinguish the UN development goal processes from charity and strengthen the international cooperation.

An important aspect of HRBAD regarding the standing of states is it does not require or preclude effective government but rather aims to help creating one and to strengthen the capacities of states for them to meet their obligations by identifying and removing faced obstacles.²²² HRBAD increases incentives for better performance for duty bearers, helps in building capacities and strengthens the central and local accountability mechanisms as well as human rights institutions, encouraging states to ratify human rights treaties and promoting the rule of law through social changes, participation, promoting cultural diversity and awareness raising.²²³ This way the HRBAD does not also only aim to strengthen the capacities of individuals to make claims against the duty bearers through participation and empowering, but also aims at strengthening the capacities of duty bearers to meet their obligations supported by monitoring mechanisms of human rights framework²²⁴ and in that way aims to build a stronger government.

The MDGs have been criticized for the lack mechanisms for accountability and for example the International Monetary Fund, the World Bank and UNDP have earlier called for enhanced monitoring mechanisms for the MDG processes. It was argued by some commentators that these institutions did not, however, take account of the monitoring mechanisms that already exist within the human rights framework and which could be used in development sphere as well to fulfill this gap.²²⁵ On the other hand, it was argued, that it would be also for the human rights treaty bodies to give more interest to the development goals and to give recommendations in their

²²¹ Office of the High Commissioner for Human Rights “The role of the UN, and other human rights and development actors in advancing the participation of minorities in poverty reduction and development strategies in South East Asia” Regional Consultation Bangkok Report. 25-26 September 2012, p 3. p 6-7

<http://www.ohchr.org/Documents/Events/Minority2012/ReportBangkok.pdf>

²²² Supra, note 158, Frequently Asked Questions, p 10-11

²²³ Supra, note 158, Frequently Asked Questions. p 10-11

²²⁴ Supra, note 158, Frequently Asked Questions. p 24

²²⁵ Supra, note 171, Damman, Siri p 513

concluding observations to states in regards to their efforts and share them in media, which might help to improve the political process attached to the Goals.²²⁶

2.4.1 Monitoring of minority rights in the UN development goals

International instruments creating accountability of states through monitoring both the processes and the outcomes, is indispensable in regard human rights, including minority rights, and is equally important in the context of the development goals.²²⁷

Distinctive to the UN global development goals system that consists of measurable targets and indicators, the human rights framework has a reporting system that address the special need of minorities in human rights treaty bodies, such as under international human rights treaty bodies of ICERD and ICCPR. These reporting mechanisms create obligations on states through regular submissions for “periodic reviews”, taking complaints and communications from individuals and other states, every two to five years depending on the treaty body.

Concerning the rights of the minority groups as such, there exist only one direct reporting requirement at the moment, that is, under Article 27 of the ICCPR. There has been some data regarding minorities also requested under other related ICCPR Articles, such as under Article 15 on culture. It has been however argued that if the Human Rights Committee would request the states to provide more disaggregated data under Article 27 of the ICCPR, especially in the context of development projects and their impact on marginalized communities it could lead more protection of minority rights in many ways.²²⁸ Under the ICESCR there exist no specific minority provision, and therefore, in order to adequately address the socio-economic status of minorities, states should provide disaggregated data about the realization of rights of the minorities under each of the substantive articles in the Covenant.²²⁹

Some regional institutions such as European Framework Convention on National Minorities rely on state reporting but also having an advisory committee as a treaty monitoring body that considers also reports made by other monitoring bodies such as HRC, OSCE and international on Non-Governmental Organizations (NGO’s)

²²⁶ Ibid.

²²⁷ Supra, note 171, Damman, Siri p 513

²²⁸ Supra, note 4, Castellino, Joshua p 23

²²⁹ Ibid.

including Minority Group International. The reporting system indicates the current situation and progress of the member states in regard the fulfilment of their human rights, including minority rights obligations. Different monitoring bodies also share information and data, for example conducted on country visits regarding minority issues among themselves which helps the monitoring.²³⁰

There also exists some cross-referencing between different international instruments, which can be used for monitoring minority issues and therefore their protection wider, but as it has been argued, also fragmented.²³¹ Some non-minority specific standards and instruments have for instance taken approaches from minority specific instruments and standards, for example the treaty monitoring bodies of ICCPR and ICESR have included minority issues in the interpretation of some of the treaty articles, which has been called as “ethnicity-sensitization”²³² which might also increase the protection of minority rights protection and which could also be taken into use in the development framework.

In minority rights monitoring, some states have received good feedback on taking action and publishing disaggregated data on poverty faced by the minorities in their territories.²³³ Unfortunately, most of the governments do not however report on state of vulnerability of their minorities and it has been argued that it is because the UN does not require them to do so.²³⁴ It has been argued that especially in regard intersectional discrimination experienced by minority women, indicating that inclusion of minorities into the MDG process has still been low in priority for the states.²³⁵ The survey conducted by the former Independent Expert on minority issues Gay McDougal, showed that ethnic or linguistic minorities are mentioned in only 19 of the 50 reviewed MDG country reports.²³⁶ Also, even if some

²³⁰ Supra, note 106, Henrard, Kristin, and Robert Dunbar p 16.

²³¹ Ibid.

²³² See more: UN Guide for Minority concern in ”Minorities and the UN: Human Rights treaty bodies and individual complaint mechanisms E/CN4/Sub2/Ac5/2006/4

²³³ Office of the High Commissioner for Human Rights “The role of the UN, and other human rights and development actors in advancing the participation of minorities in poverty reduction and development strategies in South East Asia” Regional Consultation Bangkok Report. 25-26 September 2012, p 3. <http://www.ohchr.org/Documents/Events/Minority2012/ReportBangkok.pdf>

²³⁴ Supra, note 171, Damman, Siri.

²³⁵ McDougal Gay, “Achieving the Millennium Development Goals (MDGs) for Minorities: A review of MDG Country Reports and Poverty Reduction Strategies”. A/HRC/4/9/Add.1/Corr.1 23 May 2007. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/126/61/PDF/G0712661.pdf?OpenElement>

²³⁶ McDougal, Gay, Report of the independent expert on minority issues, - A review of MDG country reports and poverty reduction strategies, A/HRC/4/9/Add.1. Para 23.

countries had conducted the implementation of MDGs in regard of the protection of minority groups well, it was only a few countries who revealed the situation of minorities within their countries, most of them being unwilling to address the issues of inequalities and disproportionately high levels of poverty faced by the minorities.²³⁷ It has been therefore argued that the approach should be changed from top-down approach to more locally relevant and participatory approach which the UN could lead and facilitate through HRBAD.²³⁸

Also, the model of "one size fits for all" used in the MDGs has been criticized to inadequately monitor the real level of achievements, as they often reflect the global level and national averages without showing the situation of the minorities and growing inequalities within the countries. For instance, the statistics showing the disparities in the achievement of the goals show that the number of people whose income was less than US \$1 a day fell by 20 per cent between 1990 and 2010 globally.²³⁹ The statistics however have disregarded the fact that for example in India poverty rates of the Dalits and tribes remain 46 per cent compared to 29 per cent at a national level.²⁴⁰ Furthermore, whereas the amount of children attending primary school reached 90% in 2010 globally, in Peru only 16.26 per cent of children belonging to the Afro-Peruvian minority group, completed their primary school, compared to 100 per cent at a national level.²⁴¹ These figures reveal the very little data on the situations of the minorities, that has been collected in regard minorities during the MDGs.

According to Amnesty International, a reference to human rights and state obligations in MDGs has been "largely absent in the assessment of outstanding obstacles" in reaching the targets.²⁴² This especially applied to minority rights, that according to the research conducted by the Independent Expert McDougall, were not given enough attention and were for example visible only in "a handful" of the

²³⁷ Izsák, Rita, *Report of the Independent Expert on minority issues - Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, A/HRC/25/56, 6 January 2014, Para 35.

²³⁸ Supra, note 171 Damman. p 519.

²³⁹ Supra note 11, Farah Milar, p 3.

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² "Amnesty International Encourages an Active Role for the UN Special Procedures around the MDG Summit." International Secretariat Amnesty International, London, UK, 30 June 2010. p 1 file:///C:/Users/oem/Downloads/ior410212010en.pdf.

Country Reports reporting MDGs achievements.²⁴³ The lack of monitoring or reporting the situation of minorities in the MDG reporting received criticism also Philip Alston, who commented that

If it is not possible to mention sensitive issues such as deeply entrenched discrimination against women, the effective exclusion of certain racial, religious, linguistic or other minority groups from the development process, or the systematic harassment of anyone expressing dissenting or alternative viewpoints, the report not only will be unrealistic in nature but will also be unable to address the critical steps that need to be taken if the MDGs are to be met.²⁴⁴

Therefore, the human rights monitoring mechanisms could be useful in the UN development goal processes to measure the process and the outcomes more comprehensively. Governments could take relevant human rights instruments, such as UN treaties, human right committees' general comments and special rapporteurs' guidelines among others for guidance in the development processes and cooperate more with organisations specialized on minority groups' rights on the international and local level.²⁴⁵ Also, disaggregated data giving information about the level of development of minorities should be paid more attention to in order to improve the rights of the minorities but it could also be used to address the problematic issues in reaching the goals, which often relate to the most vulnerable groups.

2.4.2 Indicators

It can be considered that indicators are almost as important as the goals itself as defining the indicators is practically defining the content of the rights.²⁴⁶ Therefore, defining indicators, with an emphasis to disaggregation of data, which means breaking the results down into groups, should be given special importance also in the UN global development goals.

²⁴³ McDougall, G., Report of the UN Expert on Minority Issues, A/HRC/4/9, Para 68, 2 February 2007, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/105/93/PDF/G0710593.pdf?OpenElement>

²⁴⁴ Supra, note 14, Alston. p 796-797.

²⁴⁵ Ibid.

²⁴⁶ Maria Green, lecture on indicators. (Course on Human Rights and Right to Development in Lund University, Lund, April 2014).

The 8 MDGs included 18 more specific targets for which 48 indicators were set to measure the progress and achievements. Some of the indicators, such as the Goal 3 required disaggregated data based on sex, however none of them included requirements on disaggregating the data to trace ethnic or other status.

It has been showed that synergies between human rights and development should be increased, also in regard indicators, as human rights indicators can be incorporated to development indicators and vice versa²⁴⁷ and they through this could be mutually beneficial.²⁴⁸ This “double process” could help to improve monitoring both human rights and MDGs.²⁴⁹ The human right indicators could be used to achieve progressive realization of ESC-rights in the development framework and bring more knowledge about human rights and especially about discrimination. On the other hand discussing the human rights indicators in the development context could again bring more practical approach to human rights.²⁵⁰

The human rights indicators have been divided into three categories by the OHCHR, namely structural indicators measuring state’s intention to abide to international human rights law showing the amount of ratified treaties, process indicators measuring the efforts of the state to implement the rights and outcome indicators measuring the human right performance.²⁵¹ Also the NGO’s, national human rights institutions and academics have all further developed the concept of indicators, however all these indicators having important common characteristics, namely requirement for disaggregated data showing the situation of vulnerable people and measuring individual cases rather than quantifiable targets that was done in the MDGs.²⁵²

The MDG indicators have been criticized for not being based on human rights framework, especially as they also failed to address the root causes for poverty and under development, namely discrimination and inequality, therefore not addressing minority issues either. Due to indicators showing the progress based on national averages regardless of the differences between the states’ economic levels, the

²⁴⁷ de Beco, Gauthier. “Human Rights Indicators and MDG Indicators, Building a Common Language for Human Rights and Development Organisations.” In *Human Rights and Development in the New Millennium, Towards a Theory of Change*, edited by P. Gready and Wouter Vandenhoule. New York: Routledge, 2014. p 65

²⁴⁸ Supra. note 247, de Beco. p 53.

²⁴⁹ Supra. note 247, de Beco, Gauthier. p 65.

²⁵⁰ Ibid.

²⁵¹ Supra. note 247, de Beco. p 54.

²⁵² Ibid.

inequalities between different groups were left untargeted, also regarding the collected disaggregated data on minorities.²⁵³

It has been stated, that the fact that the MDG monitoring did not require collecting disaggregated data, except for some gender disaggregation, has been one of the biggest failures of the MDGs²⁵⁴ and therefore would require special attention. Because minorities are often geographically and socially harder to reach it has been criticized that states often gather only aggregated data that is more easily available and less costly to address.²⁵⁵ Only few states collected socio-economic data based on ethnic, religious, racial or indigenous status, which has made it very difficult to determine the situation and progress of the minorities in the development goals accurately.²⁵⁶ As stated, minority groups often experience poverty differently and without the disaggregated data, not only the actual socio-economic situation of countries²⁵⁷, but also the distribution of benefits and the negative impacts it might have to minorities, might be left unnoticed.²⁵⁸ Due to the lack of data, there exist only few measurements on the situation of minorities towards the goals.²⁵⁹ Also, the widening gap between minority groups and other groups and how far the minorities have been left behind in the development goal processes is difficult to define.²⁶⁰ Therefore, it has been argued that achieving the goals have failed to address the minority groups and their particular needs.²⁶¹

²⁵³ Supra. note 11, Mihlar, Farah. p 3.

²⁵⁴ Lennox, Corinne. *Addressing Health Inequalities in the Post-2015 Development Framework*. Minority Rights Group International, p 10. <http://www.minorityrights.org/download.php?id=1273>.

²⁵⁵ Ibid.

²⁵⁶ Supra, note 4, Castellino. p 13-14

²⁵⁷ Supra, note 4, Castellino. p 23

²⁵⁸ Supra, note 4, Castellino. p 14

²⁵⁹ Supra. note 254, Lennox, Corinne. p 10

²⁶⁰ Supra, note 11, Mihlar, Farah. p 5

²⁶¹ Supra, note 254 Lennox, Corinne. "Addressing health". p 10

The chapter has discussed the relevant issues in regard minority rights protection within the MDGs have been discussed through the lenses of HRBAD. According to the Independent Expert on Minority Rights Rita Izsák one of the reasons why states have not been able to reach the MDGs is the lack of attention to rights of persons belonging to the minorities. Izsák noted that the discussion about why minorities experience a disproportionately high level of poverty has often been lacking and therefore, the future goals should pay attention who can profit from the benefits, by among other things, aggregating the targets better.²⁶² Minority Rights Group International have supported the integration of HRBAD and calling for states to take into full consideration the situation of disadvantaged minorities in the new set of Sustainable Goals, and encourages the states to “make sure that, this time, minorities will not be left behind”.²⁶³

It can be therefore withdrawn that the considerations on minorities have been insufficient in the four main aspects of minority rights protection. In the next chapter the mentioned aspects shall be discussed regarding the new set of goals and their design.

²⁶² Independent Expert on minority issues, Rita Izsák “Ensuring the inclusion of minority issues in post- 2015 development agendas”, A/HRC/25/56. 6 January 2014, See for instance para 36

²⁶³ Reaction to the report of the UN Independent Expert on minorities in the post-2015 development agendas - Human Rights Council - 25th Session, 19 March 2014, Interactive Dialogue with the Independent Expert on Minority Issues (item 3), Human Rights Council, 25th Session, 3-28 March 2014, Statement given by Glenn Payot, Geneva Representative, MRG, Available at: <http://www.minorityrights.org/12301/advocacy/reaction-to-the-report-of-the-un-independent-expert-on-minorities-in-the-post2015-development-agendas-human-rights-council-25th-session.html>

3. Protection of minority rights in the Sustainable Development Goals

The criticism presented by different commentators about the shortcomings of the Millennium Development Goals (MDGs) and especially about their fault to address human rights considerations, had an impact in the process in the late first decade of 2000. The Millennium Summit Outcome in 2001 explicitly recognized “respect for all human rights” as an important precondition for the achievement of the MDGs. It was noted in the outcome documents that human rights, and especially ESC-rights, could provide not only guiding principles, but actual operational strategies for the problems development goals were trying to tackle. The commentators nevertheless argued that despite the shift towards better direction to formally recognize the importance of human rights, human rights still seemed to be taken as “general policy narrative” rather than specific legal obligations deriving from legally binding instruments.²⁶⁴

The planning what should be done after 2015 when the MDGs expire was actively started in 2012 in the United Nations Conference on Sustainable Development, also known as Rio+20 Summit. The Rio +20 Summit was held as a 20-year follow-up to the 1992 United Nations Conference on Environment and Development²⁶⁵ which originally led to implementation of the Agenda 21 action plan²⁶⁶ for common efforts for sustainable development. The Rio +20 conference reaffirmed the Agenda 21 in the outcome document "The Future We Want"²⁶⁷ which paved the way for the new Sustainable Development Goals (SDGs).

The importance and need for better human rights protection, including also more emphasis on minority rights considerations, was already established in the beginning of the SDG designing process. Among others, Rita Izsák, the Independent Expert on Minority Issues emphasized the importance of integrating the human rights-based approach in the new set of SDGs and noted that the approach was essential in

²⁶⁴ Golay, Christopher et al. The Contribution of the UN Special Procedures to the Human Rights and Development Dialogue, *International Journal on Human Rights*. 17, 2012. p 19

²⁶⁵ Also known as Earth Summit 1992.

²⁶⁶ Agenda 21, United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992. Available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> . Accessed at 2 August 2015.

²⁶⁷ United Nations General Assembly. “The Future We Want”. Resolution adopted by the General Assembly on 27 July 2012. A/RES/66/288. 11 September 2012. <http://sustainabledevelopment.un.org/focussdgs.html>.

the promotion and protection of minority rights, which offers an important path to development for national, ethnic, religious and linguistic minorities.²⁶⁸

Also Amnesty International invoked that:

Any development agenda agreed by world leaders cannot leave the poorest, most marginalised and excluded people behind. Unless world leaders commit to placing human rights at the heart of the development agenda, we cannot achieve real change. It is time for world leaders to deliver.²⁶⁹

The discussion embarked by the “Future We Want” outcome document started a profound designing process for the new set of goals. So far, the member states managed to agree on the goals on the 2 August resulting to an outcome document released by the General Assembly and co-facilitators on the 12 August 2015.²⁷⁰ This document is considered to present the goals in their final form. The new goals will finally, after a long process, come into effect on the 1 January 2016.

This chapter examines to what extent minority rights protection has been taken into account in the SDGs designing process and content.

The chapter is separated into two different parts: firstly, into a discussion about the designing process of the goals and secondly, about the content of the goals. This division supports also the approach of the human rights-based approach (HRBAD), according to which value to the process should be given equally to the outcome. The two parts shall be examined in the light of the four relevant HRBAD aspects discussed in the previous chapter, namely the individual minority rights including preservation of particularities, principles of equality and non-discrimination, aspect of inclusion and participation, and finally the standing and accountability of states in regard minorities.

²⁶⁸ *Supra*, note 189, Rita Izsák, A/HRC/25/56

²⁶⁹ Amnesty International, News post, “UN Millennium Development Goals: Human rights must not be marginalized in post-2015 agenda”, 23 September 2013, http://sustainabledevelopment.un.org/content/documents/2406TST%20Issues%20Brief%20on%20Promoting%20Equality_FINAL.pdf

²⁷⁰ Transforming our world: the 2030 Agenda for Sustainable Development. Outcome Document of the Sustainable Development Summit 25-27 September. New York. United Nations. Available at: <https://sustainabledevelopment.un.org/post2015/transformingourworld>. Accessed 8 August, 2015

Before going into the discussion of minority aspects, the discussion shall be started with a short overview about the creation of SDGs and how human rights consideration in general have been included into the process.

3.1 Towards Sustainable Development Goals with human rights-based approach

The SDGs have been approached from the beginning with a very different design process compared to the MDGs. The new set of goals has been targeted to deal with development universally, avoiding the criticized patriarchal top-down approach that the MDGs were criticized for. This means that they should apply to every state equally rather than being targeted only to cover the less developed countries. The designing process is unique also in regarding the mandate, as the SDG process was started by establishing a mandate for Open Working Group (OWG) of the General Assembly, consisting of 30 clustering seats shared by 70 member states representatives to develop a new set of goals. The UN processes usually start by first adopting a resolution by the General Assembly and by negotiating and refining the text. In the SDG designing process however started with exploring different subjects discussed in OWG sessions dedicated for individual topics, through exchanging and negotiating ideas and organizing large consultation processes. These meetings and consultations were gathered to a proposal by the OWG in July 2014 and which shall be drafted into a General Assembly resolution.

From the beginning of the process towards the new set of goals, the designing of the SDG process has been aimed to be inclusive, participatory and transparent as was stated in the Rio+20 outcome document²⁷¹, by giving platform broadly to different stakeholders in all the phases through different means. The process was started by the UN Secretary-General who took several initiatives in order to secure the continuation of the common development efforts by establishing several main

²⁷¹ See for example para 75. "We underscore the importance of a strengthened institutional framework for sustainable development which responds coherently and effectively to current and future challenges and efficiently bridges gaps in the implementation of the sustainable development agenda. The institutional framework for sustainable development should integrate the three dimensions of sustainable development in a balanced manner and enhance implementation by, inter alia, strengthening coherence and coordination, avoiding duplication of efforts and reviewing progress in implementing sustainable development. We also reaffirm that the framework should be inclusive, transparent and effective and that it should find common solutions related to global challenges to sustainable development.", *Supra*, note 267, "The future we want".

UN actors for Post 2015 Agenda. These actors included the UN System Task Team on the Post-2015 UN Development Agenda established in 2011 bringing together the efforts of more than 60 UN agencies and international organizations to coordinate system-wide preparations for the agenda, in consultation with all stakeholders and defining the roadmap towards the SDGs. Subsequently, the UN Secretary General gathered a High-level Panel of Eminent Persons in 2012 to advise on the Post 2015 Agenda and even appointed his own Special Advisor on Post-2015 Development Planning, Amina J. Mohammed to also function as a link between different Post 2015 designing actors. These actors in addition to an inter-agency technical support team and expert panels and the Economic and Social Council, ECOSOC which has also played a major role in the preparations, monitoring and implementation of a Agenda have substantively contributed in designing the future SDGs in cooperation with the Open Working Group.²⁷²

The new goals have aimed to take human rights more comprehensively into account and to give voice to both, to the recipients and to states. This is shown for instance in the UN Task Team's three fundamental principles in the post 2015 Agenda, which included human rights among equality and sustainability.²⁷³ The Task Team emphasized the importance and obligations set out by the principles of equality and non-discrimination, social and economic rights, social and cultural dignity and accountable governance as underpinning factors in the new "transformative" development agenda.²⁷⁴ These issues were seen as "enablers of participation, accountability, non-discrimination, empowerment and rule of law",²⁷⁵ a text which was almost identically copied from an open letter given earlier by the UN High Commissioner of Human Rights, Navi Pillay, to the states to underline the strong role of the human rights in the development goals.²⁷⁶

Subsequently, the OWG whose task was to propose a draft of the goals to the General Assembly in 2014 engaged human rights in one of its eight thematic sessions called as "stocktaking phase" held between 2013 and 2014. The thematic

²⁷² "Realizing the Future We Want for All". *Report to the Secretary-General*. UN System Task Team on the Post-2015 UN Development Agenda, New York. June 2012. p 1-3. http://www.un.org/en/development/desa/policy/untaskteam_undf/untt_report.pdf

²⁷³ Supra, note 272, "Realizing the Future We Want for All". p 23.

²⁷⁴ Supra, note 272, Task Team "Realizing the Future We Want for All". para 58.

²⁷⁵ Supra, note 272, Task Team "Realizing the Future We Want for All". para 59

²⁷⁶ UN High Commissioner for Human Rights, Navi Pillay, Open letter to all Permanent Missions in New York and Geneva, 30 March 2012, available at: <http://www.ohchr.org/Documents/Issues/Development/OpenLetterHC.pdf>

session of “Human rights, including right to development and global governance” gathered views of the states and stakeholders and considered comments and documents from different stakeholders to address integrating human rights to the SDG process. Based on the discussions at the thematic session on human rights the OWG acknowledged in its progress report that human rights were indeed “essential for equitable and sustainable development.”²⁷⁷

The OWG continued by acknowledging the universality and interdependency of human rights, including civil and political rights as well as ESC-rights.²⁷⁸ It also emphasized that the HRBAD was not only to be taken as a goal in itself but should be integrated to all the domains of the new Agenda²⁷⁹, especially targeting to better protection of marginalized and vulnerable groups.²⁸⁰ Human rights were also integrated to the proposed goals, where the states reaffirmed the importance of UNDHR and their commitment to international law and human rights,²⁸¹ which also presented a good progress towards better protection and promotion of minority rights.

The issues presented above show only a small fragment of the human rights considerations in the designing process of the SDGs but are enough to reveal that human rights have been given consideration in the SDG designing processes. Next, the discussion will move on to address the content of the SDGs followed by the discussion about the designing process.

3.2 Minority protection in the designing process of the Sustainable Development Goals

The discussion will now concentrate on the design process of the SDGs by looking at the four aspects of minority rights protection. First, the considerations regarding equality shall be discussed followed by analysis about the results of the

²⁷⁷ Progress report of the Open Working Group of the General Assembly on Sustainable Development Goals. United Nations. Available at: <https://sustainabledevelopment.un.org/content/documents/3238summaryallowg.pdf>. para 139.

²⁷⁸ Supra note 277, Progress report of the Open Working Group, para 140.

²⁷⁹ Supra note 277, Progress report of the Open Working Group para 140 and 141

²⁸⁰ Supra note 277, Progress report of the Open Working Group para 143, mentioned as vulnerable groups “including indigenous peoples, migrants and persons with disabilities, as well as to eliminate all forms of discrimination, including against women and girls, and to promote economic and legal empowerment of the poor, of vulnerable groups and of women.” without explicitly addressing minorities.

²⁸¹ Supra, note 270, Transforming Our World. para 18

consultation process in regard participation and accountability. The designing process can be divided roughly into two main parts namely, firstly, to thematic, national and online discussion consultations which involved large scale of different stakeholders and national consultations in 88 countries²⁸² and secondly, to the high level negotiations, most importantly held by the OWG, holding sessions on different themes throughout the passing three years.

In order to find out to what extent the four aspects of minority protection were considered, main documents that mentioned minorities were gone through by searching key words with minorities in a “million-voices” data-tool.²⁸³ The “million-voices” was created to find the data about the consultations with keywords, including also the keyword for “minority” which was used to find information of the documents and context in which the topic was discussed. According to the tool, minorities had been discussed in 1108 sentences in 255 documents submitted to the SDG design process by 20th May 2015. For instance, when searched in “million-voices” data-tool with a keyword “minorities” according to appearance in different design process mechanisms, it could be found out that minorities were discussed in 169 national consultation documents and six thematic consultations. In High Level Panel of Eminent Persons the tool showed that 12 letter were sent to the Panel concerning minorities on diverse issues, including a letter and communications from civil society around the world. The results of the study of the documents shall be discussed below.

3.2.1 Equality and positive discrimination of minorities in the designing process

As discussed in the previous chapter, one of the main issues criticized in the MDGs was their shortcoming to address discrimination and inequalities sufficiently. The importance of the non-discrimination and equal treatment, laid down in the Universal Declaration of Human Rights, was reaffirmed in the SDG process by the states in the Rio+20 Summit²⁸⁴ and several documents subsequently. For instance,

²⁸² See more: United Nations, DESA, Development Policy and Analysis Division, “Preparing for the Development Agenda beyond 2015”.

http://www.un.org/en/development/desa/policy/untaskteam_undf/index.shtml

²⁸³ See the status at: United Nations, “The World We Want, Million Voices”. <http://millionvoices-data.worldwewant2015.org/>

²⁸⁴ We reaffirm the importance of the Universal Declaration of Human Rights,1 as well as other international instruments relating to human rights and international law. We emphasize the responsibilities of all States, in conformity with the Charter, to respect,

the OWG addressed the issue by stating that the universal coverage of the targets would *ipso facto* address inequalities, therefore protecting also the poorest and most vulnerable.²⁸⁵

It can however be argued, that the universal coverage of equal treatment is not enough to protect minorities with particularities differing from the majority population. As discussed in the first chapter, it has been established by several human rights mechanisms that protection of minorities might require affirmative actions or “positive discrimination” in order to protect the substantive equality of minorities. In the SDGs special attention should be therefore given to the needs of the minorities, which might differ from the majority needs. The process should give attention on how minorities experience poverty differing from the experiences of the major groups and which might even be exacerbated by discrimination.²⁸⁶ The question is therefore, how and to what extent the SDG process should apply and balance with the notion of equality through “positive discrimination” also known as *equity* in the development process as a whole.

The answer to these questions can be found from different HRBAD guidelines created for the development programmes to make sure that human rights are protected in all the different phases of the processes. One of these guidelines is the checklist created by UNFPA and Harvard School of Public Health for development programmes pointing out issues that should be paid attention to in the implementation of different phases of development programmes to better protect vulnerable groups, including minorities. The UNFPA checklist²⁸⁷ targets discrimination in the designing phase by making the actors ask themselves for instance what measures have been taken to make sure that the designing process is not discriminatory; how vulnerable groups, such as minorities, have been identified and targeted in the designing phase; have interviews conducted also in minority

protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.” Supra, note 267, “The Future We Want”. para 9.

²⁸⁵ Supra, note 277, Progress report of the Open Working Group, Para 36.

²⁸⁶ Ramsay, Kathryn. “Disaggregated Data Collection: A Precondition for Effective Protection of Minority Rights in South East Europe”. Minority Rights Group International. 8 August 2006. <http://www.minorityrights.org/download.php?id=66>

²⁸⁷ UNFPA and Harvard School of Public Health” A Human Rights–Based Approach to Programming. Practical Implementation Manual and Training Materials”. UNFPA, 2010. http://www.unfpa.org/sites/default/files/jahia-publications/documents/publications/2010/hrba/hrba_manual_in%20full.pdf Accessed 2 August 2015

languages and in remote places inhabiting minorities²⁸⁸ and what measures have been taken to ensure that the aimed benefits shall not aggravate discrimination or inequalities?²⁸⁹ Answers to these questions, in the light of the SDG design process, aim to be found below.

It can be first of all argued that different groups, including minorities, have been tried to identify and have a say in the designing phase, referring also to the issue of inclusion which shall be more closely addressed in the following subchapter. The identification of the vulnerable groups was aimed to target also through the above mentioned UNDG instructions that were created for the national consultation. The instructions were aimed to target vulnerable groups within states encouraging states to identify the groups with special needs which present a good step from the previous MDG process to better protect and recognize minorities as well.

Different actors and mechanism in the design process have also acknowledged the different situations and needs of the minorities in their documents and found that these groups should be paid attention in order to protect the equal benefiting of the the SDG process by everyone. For instance, the High Level of Eminent Persons emphasized the importance of non-discrimination and minorities in its “A New Global Partnership” report released in 2013.²⁹⁰ It referred to Minorities in regard the Goal 3 on healthy lives and well-being, highlighting equity as the core principle of education and healthy lives. It recognized the gaps between different groups enrolled in school showing that despite the raised average enrolment rates achieved during the MDGs, rural minority communities still remained in a weak position compared to majority groups. It also noted that some countries had already achieved in reducing disparities based on elements including ethnicity and language or religious background in their education systems.²⁹¹

The High Level of Eminent Persons also acknowledged accountability as important factor in the protection of non-discrimination of minorities. It noted in regard the Goal 10 on reducing inequalities that in order to achieve peace leaders must enhance accountability and access to basic services and rights, without

²⁸⁸ Supra, note 287, UNFPA and Harvard School of Public Health P 7.

²⁸⁹ Supra, note 287, UNFPA and Harvard School of Public Health Question 20.

²⁹⁰ United Nations. “A New Global Partnership: Eradicate Poverty And Transform Economies Through Sustainable Development The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda”. New York: United Nations, 2013. http://www.un.org/sg/management/pdf/HLP_P2015_Report.pdf

²⁹¹ Supra, note 290, “A New Global Partnership”, p 37.

discrimination which also should include outreach efforts of vulnerable groups, including ethnic minorities and Dalits.²⁹² It also noted that the new agenda should be based on the HRBAD and especially include goals on inequality and non-discrimination.²⁹³ It continued that affirmative actions should be introduced to empower vulnerable groups in participation in formal economy.²⁹⁴ This kind of acknowledgments providing examples of good practice have the potential to be reflected in practices of states also in the later implementation phases and pave the way for further positive actions. They however are in danger to remain as “lip service” as merely words unless they are taken seriously in targeting discrimination in the actual implementation the phases of the SDG project.

Addressing inequalities would mean resolving the structural causes of discrimination which could be started by common agreement of state to make an effort to address discrimination exactly in these kind of development projects. The UN Task Team noted in its report that the structural root causes of poverty, deprivation and discrimination touching upon also minority groups should indeed be targeted.²⁹⁵ The UN Task Team also noted that it was important to include everyone to the process, not only from the ethical perspective but because of peace and security²⁹⁶ and stated that highest priority should be given not only to women and youth but also to groups that are the

most deprived and impoverished and seek the greatest potential for “catch-up” progress—including by removing social, cultural, legal, administrative and financial barriers in their access to services, decent jobs, land and other economic resources [...]”²⁹⁷

Such encouraging of states in removing barriers is crucial in eliminating discrimination and should be visible in all the phases of the SDGs, from interstate design to national implementation. Through HRBAD abolishing the barriers creating discrimination could be attached to the accountability of states and enforced through international legal standards and accountability mechanisms.

²⁹² Supra, note 291, A New Global Partnership. p 53

²⁹³ Supra, note 291, A New Global Partnership. p 63

²⁹⁴ Ibid.

²⁹⁵ Supra, note 272, Realizing Future We Want, para 62.

²⁹⁶ Supra, note 272,, Realizing Future We Want, para 60.

²⁹⁷ Ibid.

Furthermore, it would be important that not only direct, but also indirect discrimination is targeted if sufficient consideration of minority rights is aimed for. The national implementation guidelines for instance could be used to target indirect discrimination to provide instructions for states on how to avoid discriminatory practices in the implementation phase. As an example, when working on with the Goal 3 on healthy lives and well-being, it is not sufficient that the average achievements in reducing maternal mortality is considered, but also the access of minority women to the health care improvements should be carefully taken into account, monitored and reported. As mentioned previously, many minorities live in the rural country side, face discrimination or own cultural or religious reasons which might prevent them from attending same hospital procedures than the majority groups but should not leave outside the health care because of this. It would be therefore important that the health education, for instance about HIV/AIDS is planned in a manner that does not leave out those who do not speak the majority language. This would ensure equal benefits for everyone. It can be argued, that equality cannot be reached if the SDGs fail to make more effort in this regard than the MDGs did, by only targeting numbers, measuring the average achievements and leaving the needs of the vulnerable groups without the special attention they might need. So far, the attention to discrimination of minorities in regard of access to health care in the SDGs have been criticized to be “tragically illustrated”²⁹⁸ and would therefore require further analysis and more effort on the national implementation level.

According to the research conducted in this thesis on the documents referring to minorities and discrimination, most of the documents seemed to refer to education. Discrimination of minorities in education was raised especially in the consultation reports, but also the UN Secretary General called for stronger efforts to improve the quality of education especially for “those belonging to ethnic minorities”.²⁹⁹ He encouraged states to allocate more resources for essential services and gave proposals on how to ensure the access to education for everyone through positive measures in the implementation of the goals. The suggestions included eliminating

²⁹⁸ Reaction to the report of the UN Independent Expert on minorities in the post-2015 development agendas - Human Rights Council - 25th Session, 19 March 2014, Interactive Dialogue with the Independent Expert on Minority Issues (item 3), Human Rights Council, 25th Session, 3-28 March 2014, Statement given by Glenn Payot, Geneva Representative, MRG. <http://www.minorityrights.org/12301/advocacy/reaction-to-the-report-of-the-un-independent-expert-on-minorities-in-the-post2015-development-agendas-human-rights-council-25th-session.html>

²⁹⁹ Supra, note 148, UN Secretary General “A life of dignity for all”, para 25.

school fees, reducing indirect costs of schooling targeting children in vulnerable situations, stipend programmes as well as introducing financial support mechanisms for ethnic minority students, which were all considered to be helpful in accelerating equality in education.³⁰⁰ These kind of positive measures aiming to place minorities to an equal level with majority groups would be welcomed also in regard other goals, not only the few presented above as their rights cannot always be protected through “equal” treatment with others. The amount of documents referring to minorities and special measures can also be argued to be small compared to the extensive amount of documents in total created throughout the process. Below, the amount and ways for participation of minorities shall be discussed.

3.2.2 Participation and inclusion of minorities in the designing process

One of the main aspects that should be taken into account in protecting minority rights, namely the participation, has been an important aspect also in regard the Post 2015 Agenda. Among others, the Secretary General has expressed his wish for the SDGs to be “the most inclusive global development process the world has ever known”.³⁰¹

Below, the ways in which minorities have been able to participate in the process shall be discussed, by looking into the thematic as well as national consultations and how the voices of minorities raised in the consultation have been taken into account in the Open Working Group negotiations.

In order to find out to what extent minorities have really been included and able to participate in the designing process, it must be examined to what extent the voices of minorities have been heard in the designing phase, have they been included in the decision making in all the phases and has the participation been active and meaningful for minorities, or have they been merely considered ‘token’. These and other similar questions helping to find out whether minorities have sufficiently been taken into account can be found from different HRBAD

³⁰⁰ Supra, note 290, A New Global Partnership. para 39.

³⁰¹ Message from the UN Secretary General Ban Ki-moon after giving one’s voice in “My World” survey. United Nations, “My World, Have your say” Available at: <http://vote.myworld2015.org/>

guides and toolkits, for instance from the UNFPA guidelines which shall be used as guidance in the analysis below.³⁰²

In the SDG designing process it should be firstly noted, that even if minorities have been able to participate to the designing process, they have not been considered as one of the nine Major Group of stakeholders³⁰³ that were created at the original Rio Summit to establish the important role of the nine major groups in achieving sustainable development. It can be therefore argued that falling outside the Major Groups crucially effects to the amount of voice the minority groups get in the design process. The nine Major Groups were reaffirmed in the Rio+20 outcome document "The Future We Want" as the nine major groups also within the Post 2015 process and were given the right to attend and intervene in all official meetings, access and submit official information and documents, written and oral contributions and recommendations and organize side-events and round tables with the Member States.³⁰⁴ Other stakeholders do not have same amount of voice in the process. Being left out from a Major Groups does not however mean that minority groups would not be presented in the process at all as their views can be presented on behalf of some of the Major Groups for example women, indigenous group or farmers. Also, in the Rio+20 Summit governments invited also other stakeholders to participate in the process, including local communities, volunteer groups and foundations, migrants and persons with disabilities to work in collaboration with the Major Groups.³⁰⁵

The most influential way for the voices of minority groups to be heard has through stakeholder consultations, in both of the two different consultation approaches, national and thematic consultations which were gathered to "A Million Voices" Report, which shall be discussed below.

3.2.2.1 Thematic consultations

One of the eleven thematic consultations each of which went on for three weeks in January 2013 aiming to gather comments from the civil society, ran under a theme

³⁰² Supra, note 159, UNFPA. p 6.

³⁰³ The Major Groups are Children and Youth, Indigenous Peoples, Non-Governmental Organizations, Local Authorities, Workers and Trade Unions, Business and Industry, Scientific and Technological Community, Farmers

³⁰⁴ Supra, note 267, "The Future We Want".

³⁰⁵ See more about the Major Groups at: "Major Groups". United Nations, Sustainable Development. <https://sustainabledevelopment.un.org/majorgroups/about>

“Inequalities”³⁰⁶ and covered the subtopic of inequalities faced by minorities.³⁰⁷ The thematic consultation on Inequalities and minorities was held in January 2013 gathering 4,500 registered people to the site and 108 comments given on the topic.³⁰⁸ The conclusions of the consultation gathered into a discussion synopsis proposing nine key recommendations given by the participants on how to comprehensively consider minorities within the post 2015 framework to be used as a material for subsequent high-level negotiations and other parts of the process.

The issues raised in the inequalities and minorities discussion were most importantly related to the importance of inclusion of the minority communities to the process and goals, the special relation of minorities to their livelihoods, making sure that minorities are able to benefit from the SDGs equally to the others and that the high levels of poverty among minorities worldwide caused by discrimination, marginalization and exclusion are targeted and abolished.³⁰⁹ Discussers raised also issues such as lack of access to resources, justice education, labour markets, economic and political participation power and health inequalities. The need for integrating HRBAD was emphasized by the participants, who called for promoting concrete implementation of the standards of the Minorities Declaration and Conventions on the Rights of the Child.³¹⁰ Participants also reminded that minorities should not be considered only in a position of a victim in the new development agenda³¹¹ by calling for more dialogue and awareness raising.³¹²

Root causes for structural and institutional discrimination, based on historical, geopolitical as well as social, economic and culture factors were considered as causes for discrimination, stigmatization and limited the opportunities that some

³⁰⁶ The eleven thematic consultations set by UNDP for the Post 2015 Agenda are: conflict and fragility; education; environmental sustainability; governance; growth and employment; health; hunger, food and nutrition; inequalities; population dynamics; energy; and water.

³⁰⁷ The online discussion, moderated by Dr. Nazila Ghanea and Prof. Joshua Castellino was based on following questions: “(1) forms of inequalities faced and the structural factors at the root of these; (2) successful strategies and recommendations; and finally, (3) actions and initiatives.” United Nations, World We Want. Online Discussion on Inequalities and Minorities. <https://www.worldwewant2015.org/node/298677>

³⁰⁸ “Global Thematic Consultation on Addressing Inequalities, Minorities and Inequalities Online Discussion Synopsis”. Moderated by: Office of the UN High Commissioner for Human Rights, Minority Rights Group and Experts from the Universities of Oxford and Middlesex, UK. e-discussion organized between 7-18 January 2013. p 4.

³⁰⁹ Supra, note 308, “Global Thematic Consultation on Addressing Inequalities, Minorities and Inequalities Online Discussion Synopsis”. p 3

³¹⁰ Supra, note 308. Online Discussion Synopsis. p 4

³¹¹ Supra, note 308. Online Discussion Synopsis p 1

³¹² Ibid.

minorities face, according to the discussers "often on the basis of their ethnicity, religion, or colour."³¹³ The participants also highlighted the importance of "affirmative action to enable minorities access to political participation, at local, national and global levels."³¹⁴ They also noted that development processes should be conducted more on the local level, with knowledge of local languages and cultures.³¹⁵ Furthermore, the loss of identity and cultural rights concerns were raised by the discussers who noted that recognition of certain ethnic and language groups were lacking under some constitutions which resulted to losing farmland rights and homes causing poverty,³¹⁶ loss of cultural identity, sexual harassment and violence.³¹⁷

As a part of the thematic consultation on Inequality there was also a panel discussion organised addressing minorities as a side-event for Fifth session of the Forum on Minority Issues that concluded that the issue of inequality and poverty in regard minorities should be used as "a pivotal starting point [...] to design the post-2015 development framework" to "help generate innovative and insightful discussion in constructing future development frameworks."³¹⁸ and used as practical guidance on how to implement the development goals, among other things by addressing inequalities in monitoring the issue in the Universal Periodic View better.³¹⁹ The findings of the Inequalities Consultations were concluded to an overview given to the OWG in its 8th session making reference to minorities in regard social inequalities, mentioning that the discussions should be expanded from the economic inequalities to consider also more social aspects they had so far remained unconsidered.³²⁰

³¹³ Supra, note 308. Online Discussion Synopsis, p 3.

³¹⁴ Supra, note 308. Online Discussion Synopsis, p 4.

³¹⁵ Ibid.

³¹⁶ Supra, note 308. Online Discussion Synopsis, p 3.

³¹⁷ Ibid.

³¹⁸ Panel Discussion: Addressing inequalities faced by minority groups in the post-2015 development agenda, 28 November 2012, Side Event, Fifth session of the Forum on Minority Issues, Geneva. *More information at: <https://www.worldwewant2015.org/node/295306>*

³¹⁹ Redondo, Elvira Dominguez. Panel Discussion: Addressing inequalities faced by minority groups in the post-2015 development agenda, Side Event, Fifth session of the Forum on Minority Issues, Geneva, moderated by the Chief of the Indigenous Peoples and Minorities Section of the Office of the High Commissioner for Human Rights, Antti Korkeakivi, 28 November 2012. <https://www.worldwewant2015.org/node/295306>

³²⁰ Addressing Inequalities Networked Alliance (AINA), *A Global Network of Voices Addressing Inequalities in the Post-2015 Development Agenda Debates*, E-Discussion Key Messages, Addressing Inequalities Networked Alliance (Aina) Consultation On The Open

The results of all of the eleven thematic consultations were collected into a report “The Global Conversation Begins”³²¹, that gathered in total 175 written submissions and moderated online discussions.³²² Some of the important issues raised by the participants of the minority discussion were included to the report, for example, criticism that was given by the participants on the tendency of the MDGs to measure national level progress through averages creating a “quick wins” situation which was argued to work as an incentive to states to overlook inequalities and ignore the most excluded populations.³²³ This was argued to make the inequalities more entrenched than what the numbers actually revealed and resulted to a exclusion of groups including ethnic and religious minorities.³²⁴ The report mentioned minorities in total 6 times and showed that the online discussion on minorities received 118 inputs and comments, compared to for example gender equality of 372 inputs and comments and indigenous peoples 109 and young people 241.³²⁵ Minorities were mentioned under a request “From vulnerability to empowerment” as a priority theme for the process, discussing the issue of lack of education opportunities, inadequate recognition and outright discrimination which was often seen as a reason for marginalization of certain groups including minorities in labour markets.³²⁶ Some of the issues discussed by the participants in the Inequality and minorities-discussion were therefore taken into account in this important process report, especially emphasizing the importance of participation and inclusion of different groups mentioning also identity as important part of inclusion³²⁷, however not all the issues were addressed, for example the issue of recognition, affirmative actions in regard minorities and implementation of the standards of Minority Declaration.³²⁸

The consultation on Inequalities in general showed that the question of gender equality was the biggest topic under the topic of Inequalities, but showed that the discussion on minorities received quite a number of inputs also. Therefore it would

Working Group Issues Brief, “Promoting Equality, Including Social Equity” Date: February 2014, p 1

³²¹ United Nations Development Group. “The Global Conversation Begins. Emerging Views for a New Development Agenda.” United Nations, 2013. <https://www.worldwewant2015.org/the-global-conversation-begins>

³²² Supra, note 321, The Global Conversation Begins. p 54

³²³ Supra, note 321, The Global Conversation Begins. p 15

³²⁴ Ibid.

³²⁵ Supra, note 321, The Global Conversation Begins.”p 54

³²⁶ Supra, note 321, The Global Conversation Begins.” p22

³²⁷ Supra, note 321, The Global Conversation Begins. p 32,

³²⁸ Supra, note 308, “Global Thematic Consultation on Addressing Inequalities, Minorities and Inequalities Online Discussion Synopsis”. p 3

be important that the issue is acknowledged by the states as its own matter, not only as an incorporated matter with inequality faced by marginalized or vulnerable women and indigenous people.

All the issues raised by the discussers during the thematic consultation were therefore identical to the aspects of minority rights protection that should be protected by law as discussed in the first chapter of the thesis. They were also the same issues which the HRBAD aims to target and which were criticized for failing to sufficiently protect during the MDGs. Some of the issues were indeed included to the concluding reports, however, it must be noted that unfortunately many of the crucial issues raised by the minority commentators in the consultation were left out from these documents. Therefore, even if the minorities were taken as active participants in the process, in case they will not be taken as active actors also in the implementation phase of the SDGs, their issues are in danger of being left as ‘token’.

3.2.2.2 National consultations

As a part of the SDG consultation process also consultations on national level in 88 countries in all the regions were conducted to “amplify the voices of the poor and other marginalized in formal negotiation processes” and to “ensure people’s “active, free and meaningful participation in development”.³²⁹ The country consultations were conducted between June 2012 and the beginning 2013 to inform the post 2015 discussion of the people’s experiences. To provide guidance for the national level consultation UNDG created guidelines which were designed in a manner that the UN country teams in coordination with governments, the private sector, think tanks and civil society could together form a common understanding of the needs of the society, including the needs of the most vulnerable groups.

The UNDG guidelines outlined the wish for the process be “bottom-up approach defined by national and local priorities and stakeholders”³³⁰, by giving “particular focus on effectively involving those who are commonly underrepresented or

³²⁹ UNDG, United Nations, Post-2015 Development Agenda: Guidelines for Country Dialogues – What future do you want?, June 2012, p 13. <http://www.beyond2015.org/sites/default/files/Post%202015%20Guidelines%20ENG1.pdf>

³³⁰ Supra, note 329, Guidelines for Country Dialogues, p 12

marginalized in decision-making processes”.³³¹ It was stated that in order to provide inclusive and accountable process everyone who might be affected should be included but also the dynamics between these groups should be understood. The consultation data was also encouraged to be disaggregated to include knowledge about ethnic, gender and geographical location and to make sure that balance between different groups was taking into account, so that also ethnic groups were given voice.³³² The guidelines recommended the consultation should be conducted in a manner that understood the particularities of different groups by proposing to take into account issues, such as whether there were constraints that might block the participation of certain groups; how could it be ensured that communication channels were tailored to each stakeholder groups’ values, norms and languages; and what culturally appropriate consultation mechanisms could be established.³³³ In regard the accountability of the process, the guidelines proposed to make sure that the communication tools were tailored to meet the values of stakeholders³³⁴ and that the consultation guaranteed a culturally sensitive approach, were conducted in local languages to be more accessible³³⁵ and to consider the constraints that might block the participation of certain groups, such as mobility issues.³³⁶

In the end of the document, also key considerations were recommended for each issue, for instance in case of civil society having language barriers, it was recommended that prevailing cultural biases were considered, such as the issue of being member of a minority, by respecting practices, gestures, and historical context.³³⁷

All the country reports revealing the results of the national consultations were uploaded online on the World We Want platform <https://www.worldwewant2015.org/sitemap>. For instance, the country report of India, which was used as an example in the previous chapter to point out issues faced by minorities, referred to minorities 14 times. The report revealed that

³³¹ Supra, note 329, Guidelines for Country Dialogues, p 20

³³² Supra, note 329, Guidelines for Country Dialogues, p 21

³³³ Supra, note 329, Guidelines for Country Dialogues, p 22

³³⁴ Supra, note 329, Guidelines for Country Dialogues, p 23

³³⁵ Supra, note 329, Guidelines for Country Dialogues, p 23

³³⁶ Supra, note 329, Guidelines for Country Dialogues, p 24

³³⁷ Supra, note 329, Guidelines for Country Dialogues, p 46-51

With limited skills, few assets, minimal access to financial products and sometimes victimized socially, evidence indicates that minority women have benefitted the least from India's economic advancement.³³⁸

The report also noted that disparities between population were expected to rise, especially along minorities³³⁹ and that minority children faced discrimination in their attendance to school which needed to be addressed³⁴⁰. Therefore, it was seen important that the new indicators would also consider also minorities.³⁴¹ The report stated, that states should confirm that the new development agenda

requires that national governments, as signatories to fundamental UN human rights conventions, are expected to take strong actions to ensure their applicability to all citizens regardless of sex, caste, ethnic group or minority status.³⁴²

The report "Million Voices" gathering the results of all the conversations, took into account the results also in regard minorities and referred to minorities in the results in 3 regions. The section of the national consultations of the report showed that in sub-Saharan region minorities saw education important³⁴³ and that governments should ensure equal access to social services for minority groups.³⁴⁴ Minimum social protection rights to minorities were asked for and in Togo minority groups called for free health care.³⁴⁵ Minorities also wished to contribute meaningfully to policy formulation, planning, budgeting implementation, and monitoring of development agendas.³⁴⁶ The report concluded in regard Africa, that

the consultations in Africa reveal the unfinished business on the MDG agenda, and more: they expose new realities and challenges that need to be addressed, such as quality of education and health care, growing inequalities and unemployment even in countries experiencing economic

³³⁸ National Consultation Report Post-2015 Development Framework INDIA. May 2013. p 8. Access at: <https://www.worldwewant2015.org/regions/160512>

³³⁹ Supra, note 338, Country Report, India p 67

³⁴⁰ Supra, note 338, Country Report, India p 9

³⁴¹ Supra, note 338, Country Report, India p 22

³⁴² Supra, note 338, Country Report, India. p 11

³⁴³ UNDG Millennium Development Goals Task Force, "A Million Voices: The World We Want, A Sustainable Future with Dignity for All", 2013. <https://www.worldwewant2015.org/bitcache/cb02253d47a0f7d4318f41a4d11c330229991089?vid=422422&disposition=inline&op=view>. p 53

³⁴⁴ Supra, note 343, A Million Voices. p 54

³⁴⁵ Supra, note 343, A Million Voices. p 55

³⁴⁶ Supra, note 343, A Million Voices. p 56

growth, the strong connection between the environment and people's livelihoods, and the importance of taking an integrated approach to development.³⁴⁷

In the region of Asia and Pacific, participants in Thailand had noted that some rights were not fully enjoyed by many marginalized groups and minorities.³⁴⁸ In the Eastern Europe and Central Asia again, it was mentioned that especially in regard ethnic minorities persistent inequalities dominated the life experiences and for instance in Tajikistan, minorities pointed out that maternal and child mortality remained worryingly high.³⁴⁹ In the region, also discrimination in employment, particularly among Roma and other ethnic minorities were noted to be an issue needing to be addressed in the new set of goals.³⁵⁰

One of the main issues that the results revealed by the consultation report was that national averages in the MDGs were seen as concealing the uneven progress towards the targets, and therefore groups such as ethnic minorities were being left behind.³⁵¹ It also noted that inequalities and discrimination faced by people with ethnic minorities were mentioned frequently in the process.³⁵² The key findings of the report were that not only quantitative targets should be concentrated upon in poverty reduction, but also increased access and quality of services should be improved and inequalities towards people who were marginalized because of religion or ethnicity should be better addressed. Therefore more commitment to human rights, and universal values of equality, justice and security were demanded for the new goals.³⁵³

3.2.2.3 Open Working Group sessions

The minority groups have been able to participate in the designing process through consultation processes as described. How these voices have been taken into consideration in the more high level negotiations, especially in the Open Working Group negotiations that functions as the most important driver force constituting of state representative in the design of the goals, shall be discussed below.

³⁴⁷ Supra, note 343, A Million Voices. p 58

³⁴⁸ Supra, note 343, A Million Voices. p 73

³⁴⁹ Supra, note 343, A Million Voices. p 95

³⁵⁰ Supra, note 343, A Million Voices. p 96

³⁵¹ Supra, note 343, A Million Voices. p 11

³⁵² Supra, note 343, A Million Voices. p 18

³⁵³ Supra, note 343, A Million Voices. p 2-3

In the negotiation phase the issues that receive the most visibility can be used to create pressure on states and therefore it is important that the voices of minorities received during the consultation are being heard at the decision level. Minority rights can therefore be considered to be easily sidestepped because firstly, they are not a Major Group and do not have legitimate representatives in the design process. There does not exist a system even for the actual Major Groups to select their delegation representatives through legitimate process which demonstrates how difficult it is be for the non-Majority Groups and possibly marginalized to be represented with strong common representation. Secondly, “minorities” covered by the Article 27 includes very wide range of different groups which further complicates constituting a coherent group to present common interest.

The OWG held eight thematic sessions between March 2013 and February 2014 that were summarized into a Progress Report³⁵⁴ gathering together comments from states in regard wide range of issues. In the negotiations the matter of inequality was addressed explicitly on the OWG’s 8th session under a topic of “Promoting equality, including social equity, gender equality and women's empowerment” held between 3rd and 7th of February 2014. The session mostly concentrated on calling for an ambitious goal on gender equality³⁵⁵ but also the importance of for example indicators that “show progress among the poorest and most marginal, relative to those better off” were discussed.³⁵⁶ The session included different side-events and supportive documents³⁵⁷ sidelining inequality also in regard minorities. One out of the two documents that mentioned minorities in the 8th OWG session, was a summary made by International Institute for Sustainable Development (IISD), which noted that although addressing inequalities and marginalization faced also by minorities had to wait until the 8th OWG session, the issue had been referred to

³⁵⁴ Supra, note 277, Progress report of the Open Working Group.

³⁵⁵ International Institute for Sustainable Development (IISD). Earth Negotiations Bulletin Vol. 32 No. 8. 10 February 2014. p 8 <http://www.iisd.ca/sdgs/owg8/>

³⁵⁶ Supra, note 355, Earth Negotiations Bulletin p 9

³⁵⁷ Unicef et al., Technical Support Team (TST) Issues Brief: Promoting Equality, including Social Equity. n.d. p 4. https://sustainabledevelopment.un.org/content/documents/2406TST%20Issues%20Brief%20on%20Promoting%20Equality_FINAL.pdf and United Nations Development Group, People’s Voices – Issue Brief to the SDG Open Working Group, mentioned that “inequalities predominantly affecting people who suffer multiple human rights violations and discrimination based on, for example: age, caste, race, ethnic and indigenous identity, minority status” p 3. <https://sustainabledevelopment.un.org/content/documents/3145UNDG-PeoplesVoicesIssueBrief-30JAN14.pdf>

“during the discussions on nearly every issue on the OWG’s agenda.”³⁵⁸ Yet, the amount of reference to minorities in the OWG documents cannot be considered extensive. For instance, the Progress Report the OWG stated that in order to reduce inequalities actions such as anti-discrimination laws and policies, affordable access to quality education, social protection and health care would be needed.³⁵⁹ Special attention to vulnerable groups was called for in the decision making processes, however without explicitly mentioning minority groups.³⁶⁰

The research showed that minorities were brought up in several stakeholder documents related also to other OWG sessions. In the 6th OWG session held to discuss employment, social protection, youth, education and culture, health and population dynamics, Nigeria underscored the importance of the health needs of minorities.³⁶¹ In regard the 11th OWG session minorities were mentioned in the stakeholder morning session hearings, in which the access of minorities inclusive education, skills development and vocational training³⁶² was advocated for. This issue was consequently included in the 12th session where it was proposed that the wording of the target 4.6 on education would be constructed as follows

by 2030 ensure that women and people in vulnerable situations and marginalized people including adolescent girls, persons with disabilities, and indigenous peoples, *and racial/ethnic minorities* have equal access to inclusive and *culturally appropriate* quality education, skills development and vocational training.³⁶³

The session also gathered proposals for changes for the proposed goals which showed that stakeholders had advocated for more inclusion of minority matters to the text, among other to the introductory text, which was proposed to state

[...] we commit to work together to promote sustained and inclusive economic growth, social development and environmental protection and

³⁵⁸ Supra, note 355, Earth Bulletin Vol. 32, p 16.

³⁵⁹ Supra, note 277, Progress report of the Open Working Group para 191.

³⁶⁰ Supra, note 277, Progress report of the Open Working Group para 192.

³⁶¹ Supra, note 355, Earth Negotiations Bulletin Vol. 32 p 11

³⁶² Open Working Group on Sustainable Development Goals. Eleventh Session of the Major Groups and other Stakeholders Morning Hearings ((5-9 May, 2014). Summary of Statements (FA 1-10) Focus Area 1: Poverty eradication, building shared prosperity and promoting equality. p 8. http://millionvoices-data.worldwewant2015.org/documents/set_OWG/OWG%20Session%2012.pdf

³⁶³ Emphasis added, Supra, note 362, Open Working Group on Sustainable Development Goals. Eleventh Session of the Major Groups and other Stakeholders Morning Hearings ((5-9 May, 2014) p 14.

thereby to benefit all, particularly the poor, the marginalized and people in vulnerable situations, including indigenous peoples, women, *minorities*, migrants[...]³⁶⁴

It was also proposed that minorities would be included in the target 10.1 on reducing inequalities and achieving income growth³⁶⁵, to target 10.5 on monitoring global financial markets³⁶⁶ and to target 17.15 on adopting investing regimes at the least developed countries.³⁶⁷

Furthermore, minorities were discussed in the cluster statements of the major stakeholders on behalf of Women, Children & Youth, Indigenous Peoples, NGOs, who noted, that minorities should be recognized as citizens with equal rights by all states³⁶⁸ and that the targets concerning education “should include references to cultural rights including cultural heritage, traditional knowledge systems and practices”³⁶⁹ and provide “culturally-appropriate and inter-cultural education” also in regard minorities.³⁷⁰ It seems however, that each major group has had a different approach in the process, which has a great effect in how the voices of each interest group is being heard. For instance the Major Group of youth was commented to conduct the consultation within their group very profoundly compared to the major

³⁶⁴ Paragraph 5: “We recognize that people of all ages and abilities are at the centre of sustainable development and, in this regard, we strive for a world that is just, equitable and inclusive, and we commit to work together to promote sustained and inclusive economic growth, social development and environmental protection and thereby to benefit all, particularly the poor, the marginalized and people in vulnerable situations , including indigenous peoples, women, minorities, migrants, persons with disabilities, older persons, children and youth. Supra, note 362, Morning Hearings ((5-9 May, 2014), p 4.

³⁶⁵ ”by 2030 eliminate discriminatory laws, policies and practices and recognize and fulfill the cultural, social, economic, civil, political, and environmental rights for all human populations, subgroups, and minorities”, Supra, note 362, Morning Hearings ((5-9 May, 2014), p 29 .

³⁶⁶ ”by 2030 ensure, empower and promote the social, political and economic inclusion of the poor, the marginalized and people in vulnerable situations, including indigenous peoples, women, minorities, migrants, persons with disabilities, older persons, children and youth, and all other human populations, subgroups, and minorities”, Supra note note 362, Morning Hearings ((5-9 May, 2014). p 29

³⁶⁷”by 2020 expand by x% globally the number of scholarships for students from developing countries to enrol in higher education programmes nationally, as well as in developed countries and other developing countries, with a particular attention to women, racial/ethnic minorities and the poor, the most marginalized and people in vulnerable situations, and a focus on science, engineering, health, economics, finance, management, and sustainable development” Supra, note 362, Morning Hearings ((5-9 May, 2014) p 51

³⁶⁸ Summary Document 1 Cluster Statements Cluster 8: Peaceful and non-violent societies, rule of law and capable institutions (FA19) On behalf of Women, Children & Youth, Indigenous Peoples, NGOs. p 1. http://millionvoices-data.worldwewant2015.org/documents/set_OWG/OWG%20Session%2010.pdf

³⁶⁹ Supra, note 368, Cluster Statements, Cluster 8. p 7.

³⁷⁰ Ibid.

group of business that rather concentrated on strong statements than to consultation within the interest group.³⁷¹ The documents reveal, that the major group of youth reported the views and recommendations of different participants on the situations of their countries with all the details dividing comments on thematic areas, providing information regarding the number of people participate online (700) and in person (100), the amount of urban (500) and rural (150) person as well as female and males.³⁷² The profound consultation of the Youth Major Group can be argued to result in a way that in different meetings the group seemed to be short in time to have prepared as extensive presentation than for example the Major Group of business who had concentrated more in bringing their strong views heard in the meetings. Therefore, even if it is important that Major Groups present the interest of minorities as well, it would be important that minorities could bring their voice heard with their own terms and not to have to rely on other groups' presentations.

It can be concluded from the above, that minorities were included and were able to participate to the SDG design process increasingly more than in the MDG process, however their position has been not equal to the groups having a status of Major Group stakeholder, which puts them in a weaker position in advocating for their rights in the process.

3.2.3 Accountability of the process

One of the aspects in minority rights protection is the ability of the rights holders, in this case minorities, to hold accountable the duty bearers, namely states and other SDG design process actors. In order to see whether the SDG process can be considered sufficiently accountable, issues that can determine this are: how transparent the designing process has been for everyone and how it is ensured that the designing process contributes to the promotion of human rights also in regard marginalized minorities?³⁷³ These questions are aimed to be answered below.

The aim of the SDG process has not only been to be inclusive for all, but also to support this inclusiveness through effective accountability mechanisms as was

³⁷¹ Personal Communication with Ruben Zondervan, the Executive Director, Earth System Governance Project, International Project Office, Lund University

³⁷² African Youth Conference on Post-2015 Development Agenda, UN Gigiri, 18th-20th November 2012, Organized by Organization of African Youth-Kenya in partnership with UNDP, UN-Habitat, PACJA, FEMNET, VSO Jitolee and Faces of Peace Kenya.

³⁷³Supra, note 287, UNFPA. P 8.

stated in the Future We Want outcome document³⁷⁴ and consequently acknowledged vital among others by the UN Task Team stating

The ability of people to hold institutions accountable—for delivery of quality services; for responsiveness, recourse and transparency; and for setting and adjusting priorities and targets—is key to people’s empowerment.³⁷⁵

It can be argued, that the designing process of the SDGs has from the beginning been aimed to be conducted as transparently as possible by uploading all the process material online and making the discussion platforms open for all, everywhere. Many of the negotiations and discussions have also been live-streamed. Different platforms were created to find the information, statements of the meetings and related documents online. In addition, the ”world we want” platform included online discussions on each 11 thematic topic gathering views of the civil society whereas the UNDG guidelines³⁷⁶ provided recommendations on how to make the country consultations accountable and transparent, by providing information and distributing the results in the end of the process.

The “million-voices”-database was created to easily find information about the consultations in each topic with suggested keywords making finding each interest group easily and transparently. With the keyword of “minorities” the topic could be searched for example country- and region-wise and in regard mechanisms or sessions, among other categories. The study showed that for instance in August 2015 minorities were mentioned 1108 times in 255 different documents out of the 1678 consultation documents in total found in the tool. The amount of reference could also be visualized in graphic models in regard overlapping issues. In comparison women were mentioned in 893 documents, disabilities in 501 documents and youth in 93 documents.³⁷⁷

Regional-wise minorities were mentioned in Africa in 45 documents, in Asia 75 documents, in Europe in 16 and in South America 9 documents whereas in North America no documents on the topic were found³⁷⁸. The conclusion of this result can

³⁷⁴ Supra, note 267, Future We Want, See for instance, para 78

³⁷⁵ Supra, note 272, Realizing Future We Want, para 117.

³⁷⁶ Supra, note 329, Guidelines for Country Dialogues

³⁷⁷ Million Voices-database, available at: <http://millionvoices-data.worldwewant2015.org/>

³⁷⁸ These presented result by the 18th May 2015 on the Million Voices-database, available at: <http://millionvoices-data.worldwewant2015.org/>

be interpreted in several ways³⁷⁹, but the issue would require such a profound analysis and research that is unfortunately too to be discussed in this thesis.

Also, during the design process, many suggestions for improved monitoring and reporting mechanisms for the implementation of the SDGs were given. Many of them advocated for accountability system, that would better reveal the actual situations and inequalities faced by the marginalized groups. The UN Task Team among others acknowledged the drawbacks in measuring the MDGs and proposed that the new goals could be measured in terms of absolute or relative progress.³⁸⁰ It was stated that expressing the targets in relative terms would avoid the shortcomings of the MDGs which only measured development achievements by simple targets such as “cutting infant mortality two thirds” and “cutting poverty in half” that had received critic because they “implicitly put a higher burden of achievement on countries with lower levels of human development”.³⁸¹ The results were therefore argued to be reached already because of population growth.³⁸² Therefore, the Task Team suggested formulating the SDG targets that combined relative and absolute benchmarks³⁸³ taking into account population dynamics and geographic structures better, including among others, rates of fertility and mortality.³⁸⁴ These kind of targets combined with requirement for increased monitoring and reporting according to disaggregated data can be argued to protect also the rights of the minorities better.

Furthermore, the UN Task Team called for rule-of-law-based standards and benchmarks for accountability³⁸⁵ and suggested that the new targets should measure inequalities through qualitative indicators. It also called for “availability of data disaggregated by sex, age, geography, migrant status and rural-urban location”³⁸⁶ without however mentioning minority element. It stated that the disaggregation would require strengthening statistical capacities in most

³⁷⁹ One reason could be for instance the level of actual protection of minorities in the region but might be also the level of awareness and activity in regard the topic in the region. The knowledge about the SDG process or monitoring of issues in general in these regions might reflect large differences in the number of reference to minorities.

³⁸⁰ Supra, note 272, Task Team, Realizing Future We Want, para 113

³⁸¹ Ibid.

³⁸² Ibid.

³⁸³ Supra, note 272, Task Team, Realizing Future We Want para 114

³⁸⁴ Supra, note 272, Task Team, Realizing Future We Want para 115

³⁸⁵ Supra, note 272, Task Team, Realizing Future We Want para 117

³⁸⁶ Supra, note 272, Task Team, Realizing Future We Want para 116

countries³⁸⁷ and suggested some means to strengthen the accountability mechanisms, which in addition to strong media could include for instance "household survey programmes, while promoting community-led monitoring, wider access to ICT resources and the use of social media for development."³⁸⁸ It can therefore be suggested that in case such disaggregation procedures would be taken into use, they could as well be used to monitor the situation and special needs of minorities.

There exist however, some practical issues in the realization of disaggregating data. As it has been discussed, the new set of goals shall be universal and therefore require national adaptation to fit the societal context in which they are being applied. This means that the targets should be accommodated to the needs and level of development of each country. Disaggregation of data was agreed upon in the new goals to be decided on the national level.³⁸⁹ At the national level, a situation should be avoided where groups in which the data is disaggregated to are decided on top-down approach.³⁹⁰

Indicators of the SDGs, which are also important in regard the effectiveness of the accountability, shall be created by the March 2016. The OWG included a requirement in the proposal for the indicators to be "action oriented, global in nature and universally applicable"³⁹¹, which did not give much more substantively to the previous MDG indicators. The proposal continued, however, that the indicators should "take into account different national realities, capacities and levels of development".³⁹² Also the High Level of Eminent Persons acknowledged that the indicators should "ensure no one is left behind and targets should only be considered 'achieved' if they are met for all relevant income and social groups." The Group recommended for "independent and rigorous monitoring system" with a "data revolution" with the innovative forms of new technology to "improve the

³⁸⁷ Supra, note 272, Task Team, Realizing Future We Want, para 116

³⁸⁸ Supra, note 272, Task Team, Realizing Future We Want para 117

³⁸⁹ Supra, note 270, "Transforming our world", para 74 G.

³⁹⁰ Personal communication with Julia Kercher. Former Policy Specialist Human Rights and Poverty Reduction at UNDP. 18 May 2015.

³⁹¹ Proposal of the Open Working Group is Annex 2 to this thesis. Report of the Open Working Group of the General Assembly on Sustainable Development Goals, A/68/970. 12 August 2014. Available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/68/970&Lang=E. Para 18

³⁹² Ibid.

quality of statistics and information available to citizens.”³⁹³ The “data revolution”, started already during the designing process, has been hailed by the SDG actors. One of these being the Independent Expert Advisory Group who welcomed data revolution and innovative monitoring mechanisms including ” participatory methods; monitoring inequalities, eliciting citizen feedback on performance of service providers; perceptions data; tracking progress in any of the new areas likely to be covered in the SDGs; citizen generated data.”³⁹⁴ It therefore seems likely, that the new monitoring mechanism with disaggregated data, and comprehensive indicators will be more inclusive, accountable and provides more qualitative aspects all in all.

As an interesting concluding note for the discussion about accountability in the SDGs, the states acknowledged in the OWG sessions that it was important that the role of the UN in monitoring and accountability was kept strong³⁹⁵, not only in regard development but also human rights.³⁹⁶ It also called for better addressing ESC-rights as well as CP-rights connected to strong accountability mechanisms.³⁹⁷

The states acknowledged the need for UN to become ”strengthened and rendered more effective” if it was to remain as a key role, therefore emphasizing the crucial role of the high-level political forum.³⁹⁸

3.3 Minority rights in the content of the Sustainable Development Goals

After presenting the overview of the consultation and negotiation process of the SDGs, the discussion shall continue to examine how minority rights were taken into account in the actual content of the 17 Sustainable Development Goals and their 169 targets. The goals agreed by the states in New York remained almost unchanged to the ones originally proposed by the OWG. The goals can now be

³⁹³ Executive Summary. A New Global Partnership: Eradicate Poverty And Transform Economies Through Sustainable Development, The Report Of The High-Level Panel Of Eminent Persons On The Post-2015 Development Agenda.

³⁹⁴ ”Sustainable Development Goals: measuring progress on new indicators and for all groups”. The UN Secretary General's Independent Expert Advisory Group on a Data Revolution for Sustainable Development. Available at: <http://www.undatarevolution.org/measuring-sustainable-development/>

³⁹⁵ Supra, note 277, “Progress report of the Open Working Group” para 149.

³⁹⁶ Supra, note 277, “Progress report of the Open Working Group” para 148

³⁹⁷ Supra, note 277, “Progress report of the Open Working Group” para 36.

³⁹⁸ Supra, note 277, “Progress report of the Open Working Group” para 149

considered final, and they are to be drafted through General Assembly resolution in September 2015.³⁹⁹ Below, the considerations about protection of minority rights in the goals shall be discussed.

The final content of the Post-2015 Agenda including the SDGs offer a great example of how states can, with the help of development organisations and actors, can together agree upon global development goals in order to make the future world better for all. The last part of the negotiations phase did not go completely smoothly but it showed the reality of inter-state negotiations which sometimes requires long discussions about the wording of the content. Commentators following the negotiations on site have argued, that the states often would like to stick in the “agreed UN language” referring to wording used already in former documents, rather than applying new terms that might leave room to introducing new issues.⁴⁰⁰ Also some goals, especially the goals regarding human rights, revealed to be tricky for states to agree upon. For instance, some of the states wanted to refer only to already existing international human rights conventions and avoid wording that would enable expanding the scope to include also agreements drafted in the future dealing with for instance, rights of persons belonging to sexual minority groups.⁴⁰¹ Taking everything into account, it can be stated that the final outcome document is a great leap towards better consideration of human rights and must be therefore praised.

With regard to the protection of minority rights the analysis of the content of the SDGs can be considered slightly disappointing as the goals themselves do not mention minorities. This is, even if the discussed consultation process revealed the need for special attention to minorities. The Agenda does target equal treatment “of all” and reducing discrimination on the basis of “race, ethnicity [...] language, religion, political or other opinion, national or social origin, [...] or other status”.⁴⁰²

In addition, it is stated that the states envisage a world of

equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity”.⁴⁰³

³⁹⁹ Ibid.

⁴⁰⁰ ”Post 2015: Se on siinä!”. Blog post by Jouni Nissinen, Kepa. 7.8.2015. Available at: <https://www.kepa.fi/teemat/kehitysta-ja-politiikkaa-blogi/16625>

⁴⁰¹ Ibid.

⁴⁰² Supra, note 270, Transforming our world, para 19

⁴⁰³ Supra, note 270, Transforming our world, para 8.

The Agenda also includes an implicit goal on reducing inequalities, the Goal 10, which includes seven smaller targets and three means to achieve it.⁴⁰⁴ The first target aims to ensure that the bottom 40 per cent of the population grows faster than the national average⁴⁰⁵. Second target aims to empower and promote the social, economic and political inclusion of all irrespective to race, ethnicity, origin, religion or economic or other status⁴⁰⁶. The thirds sets out ensuring equal opportunity and reduce inequalities of outcome, including through eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and actions⁴⁰⁷. The rest four targets under the Goal 10 aim to progressively adopt policies to promote greater equality.⁴⁰⁸ This goal and its targets could therefore be considered to cover and protect minorities, even if not mentioning them *per se*. According to interview had with Carl Soderberg from Minority Rights Group International the goal 10 on reducing inequalities can be considered as a success to some extent, in the absence of explicit reference to minorities.⁴⁰⁹

The Agenda did also include ethnicity into equal opportunities in regard the goal on education and stated that

All people, irrespective of sex, age, race, ethnicity, and persons with disabilities, migrants, indigenous peoples, children and youth, especially those in vulnerable situations, should have access to life-long learning opportunities that help them acquire the knowledge and skills needed to exploit opportunities and to participate fully in society⁴¹⁰

The Agenda also highlighted the importance of the protection of vulnerable groups, especially with regard to participation and empowerment, and mentioned equity in total 13 times, for instance in regard to access to education and healthcare.⁴¹¹ The goals, however, failed to include minorities in the list of vulnerable groups whose

⁴⁰⁴ Chantal Line Carpentier, Richard Kozul-Wright and Fabio David Passos. UN Chronicle, “Goal 10—Why Addressing Inequality Matters”. The Magazine of the United Nations. Article Vol. LI No. 4 2014. April 2015. <http://unchronicle.un.org/article/goal-10-why-addressing-inequality-matters/>

⁴⁰⁵ Supra, note 270, Transforming our world, target 10.1

⁴⁰⁶ Supra, note 270, target 10.2

⁴⁰⁷ Supra, note 270, Transforming our world, target 10.3

⁴⁰⁸ Supra, note 404, Chantal Line Carpentier, UN Chronicle.

⁴⁰⁹ Personal communication with Carl Soderberg, the Minority Rights Group International’s Director of Policy & Communications, 10 June 2015. Skype interview

⁴¹⁰ Supra, note 270, Transforming our world: the 2030 Agenda for Sustainable Development, para 25

⁴¹¹ See Annex 2.

special needs were seen to require special attention. For instance, in the paragraph 23 of the Agenda it is stated that

People who are vulnerable must be empowered. Those whose needs are reflected in the Agenda include all children, youth, persons with disabilities (of whom more than 80% live in poverty), people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants.⁴¹²

Therefore, it seems unfortunate that the group of minorities was left out, despite the comments received during the designing process. It consequently creates doubts whether the reference to “vulnerable” elsewhere in the goals⁴¹³ will be interpreted to include minorities and further, how minorities will be considered in the implementation phase. Furthermore, it seems that those who exist within a Major Group and who had the biggest advocating campaigns were able to have their groups specifically mentioned within the Agenda.

Even if the goals include the notion of protecting and promoting the situation and rights “for all” or “all people”⁴¹⁴ it can be argued, based on the discussion about the scope of the notion of equality earlier, that it would be important that the substantive equality is ensured by taking into account the particularities of the minorities. By protecting the rights “all people” might leave important considerations for minority rights without due consideration. It is therefore

⁴¹² Supra, note 270, Transforming our world, para 23

⁴¹³ See for example: the Goal 1. “End poverty in all its forms everywhere” the Goal 1.4 “By 2030, ensure that all men and women, in particular the poor and the vulnerable, have 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” the Goal 2. End hunger, achieve food security and improved nutrition, and promote sustainable agriculture, “ the Goal 2.1 “By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round “ Goal 4. “Ensure inclusive and equitable quality education and promote life-long learning opportunities for all; “the Goal 4.5 “By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations ” and Goal 11. “Make cities and human settlements inclusive, safe, resilient and sustainable,” and the Goal 11.2 “by 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons.”

⁴¹⁴ See for example the Goal 16.3 “promote the rule of law at the national and international levels, and ensure equal access to justice for all”.

important that the notion of equity also covers minorities, and makes it therefore unfortunate that the goals do not explicitly mention minorities.

It must be noted however that the SDGs do refer to “appreciation of cultural diversity”⁴¹⁵ which can also be considered to protect the rights of the minorities. Including this reference was also a victory, as it was initially mentioned by the states in the OWG sessions, that cultural diversity was “widely understood to be important to societies’ creativity, cohesion and resilience” but it was not clear whether “culture *per se* is ‘goalable’”.⁴¹⁶ Also, a reference to “identity” was made in goal 16 when discussing peaceful societies and justice. Therefore, the goals can be considered to take into account minority considerations to some extent.⁴¹⁷

Furthermore, the new requirements for accountability and disaggregated data can be considered to be beneficial for minorities. The OWG initially noted in one of its progress reports that the disaggregated data was important when measuring the progress, as it helps ensure that “that no income or other social group is left behind” from the sessions⁴¹⁸. This was almost copied verbatim in the proposal for the final outcome document, stating that in relation to the systemic issues, in target 17.18, states agreed to

By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts .⁴¹⁹

Furthermore, in paragraph 74G, it was agreed that in regard follow-up and review processes all levels will

be rigorous and based on evidence, informed by country-led evaluations and data which is high-quality, accessible, timely, reliable and disaggregated by income, sex, age, race, ethnicity, migration status,

⁴¹⁵ Supra, note 270, Transforming our world, target 4.7.

⁴¹⁶ Supra, note 277, Open Working Group Proposal, para 83

⁴¹⁷ Personal communication with Carl Soderberg, the Minority Rights Group International’s Director of Policy & Communications, 10 June 2015. Skype interview.

⁴¹⁸ Supra, note 277, “Progress report of the Open Working Group of the General Assembly on Sustainable Development Goals” para 37.

⁴¹⁹ United Nations. “Full report of the Open Working Group of the General Assembly on Sustainable Development Goals” A/68/970. 2014. <http://undocs.org/A/68/970>.

disability and geographic location and other characteristics relevant in national contexts.⁴²⁰

The examination of the proposed goals therefore show that the protection of different groups, have arguably been integrated into the notions of equality and inclusion, as well as included in several Goals and Targets, aiming to address the needs of marginalized minorities. The proposed Goals did not, however, take into account the additional references to minorities proposed by different stakeholders, as was discussed in the first section of this chapter. The reason for this exclusion can be argued to stem from the sensitiveness of the topic, due to political and historical reasons presented. No explicit reference was made to minorities, and therefore it can be argued that the states might not be sufficiently committed to protecting minorities, as an important part of the minority protection is to start by recognizing the groups. Despite some of the issues that cannot be considered fully sufficient from a comprehensive human rights perspective, the outcome however presents a very good progress and tour de force from the international community.

It can be concluded from the research conducted in this chapter consisting of two parts, the process and the content, that in regard the designing process of the SDGs, that minorities seemed to be given platform in the different phases of the designing process, even if not being given as much visibility and impact as the Major Groups. When it comes to the protection of minorities within the content of the actual goals and targets, it can be argued that minorities, whose recognition is one of the main issues in regard their protection, are not necessarily realized to the sufficient extent. Therefore, it can be argued that the protection of minority rights is stronger within the SDG process than in the MDGs.

⁴²⁰ Supra, note 270, Transforming our world, para 74G

Conclusion

This thesis has sought to answer the research question: “to what extent rights of the minorities can be considered taken into account and protected in the design and proposed set of new Sustainable Development Goals”. The four main arguments presented below can be drawn in conclusion.

The first argument that can be made based on the research is that by bringing the frameworks of human rights and development closer together, minority rights could be better protected. It has been presented that the same issues that create poverty also create human rights abuses. Therefore through the cooperation of the two frameworks and especially by employing the HRBAD, the common root causes of poverty and human rights abuses, such as discrimination and inequality, could be tackled more comprehensively. This is because the HRBAD through guidelines and recommendations helps to mainstream important human rights considerations into the development framework. In this way it can be ensured that everyone’s voice is being heard. Furthermore, that the hindrances to participation faced by some groups are taken into account and that the process is made accountable through information dissemination and accessibility. Therefore, by using the HRBAD in the UN global development goals, issues such as the protection of the human rights of minorities would be better taken into account. If the SDGs are to be made truly comprehensive and inclusive, the HRBAD is a tool that would help to achieve the SDGs in a sustainable and comprehensive manner. At the same time, having the biggest political impact in the development world, the SDG process could improve the lives of minorities in a more meaningful way than what the existence of stand alone legal standards could do.

The second argument that can be deduced is that the four main aspects of minority rights protection were not realised satisfactorily in the Millenium Development Goals. Shortcomings could be found in each of the four examined aspects of individual minority rights protection. The first aspect namely, the identification of minorities and their rights, was criticized for being invisible in content as well as in the implementation of the goals.⁴²¹ This could stem from the fact that the MDGs were criticized for not including human rights considerations in the MDGs in

⁴²¹ See chapter 2.

general, leading to shortcomings in the protection of vulnerable groups. The inadequate attention to human rights considerations could be argued to have resulted in shortcomings in the second aspect, namely equal treatment and non-discrimination of minorities, which seem to have had limited scope. The MDGs included a target for increasing equality, but treating everyone the same without giving due consideration to the special needs of some groups can be argued to place these groups comparatively in a worse position to other groups in the society.⁴²² This is for instance in cases where only the majority groups were able to benefit from the MDG accomplishments such as giving HIV/AIDS education conducted only in majority languages and geographical areas.⁴²³

This brings us to the third argument of the thesis which is, that in order for true equality to be realised the particularities and the special needs of vulnerable groups as stipulated under Article 27 of the ICCPR must be recognized and not only concentrating on the non-discrimination approach as such. The means to ensure that minorities attain full participation and benefit from the goals should be met with practical actions that include positive discrimination and affirmative action according to various international human rights standards. This way, minorities are able to make use of all their capabilities⁴²⁴ which means that the freedom of the minorities can be considered satisfactorily protected. Applying the broader understanding of the notion of equality and non-discrimination as introduced in the beginning of the thesis, the UN goals could be considered as protecting not only “formal”, but also “substantive” equality.⁴²⁵

The information about how the MDGs actually affected minorities was vague and difficult to analyse. It was found that only a few states made reference to minorities or used disaggregated data in their MDG monitoring and reporting. Therefore the fourth aspect, Accountability, was criticized to require improvement in the new set of goals. It was suggested that the UN global development goal processes could make use of the already existing human rights monitoring mechanisms and vice versa which would not only save time creating completely new mechanisms⁴²⁶, but also would benefit the process through the sharing of knowledge, data and accountability, thereby making the UN development goals more effective.

⁴²² See chapter 2.2

⁴²³ Ibid.

⁴²⁴ See chapter 1.3 theory of Amartya Sen.

⁴²⁵ See chapter 1.2

⁴²⁶ See chapter 2.4

Despite the criticism presented above, it must be noted that the MDGs have brought about positive development in the lives of people that no other process in the global development framework has before. The efforts of the states can therefore also be praised. The MDGs were originally designed in a completely different manner than are the new SDGs. This explains how the process could be found to be lacking and can now be criticized from a human rights perspective for not being as comprehensive as they could have been. The improvements, especially with regard to Accountability, towards the end of the MDGs can be concluded however to be surprisingly inclusive, especially on the part of certain states. This said taking into account that the goals were originally created as only an annex to an outcome report drafted by the UN secretary General.

With these critiques presented with regard to the protection of minority rights in the MDGs, this thesis aimed to examine whether the shortcomings in the four aspects of protection of minority rights will be substantiated and realised in the SDGs by moving into the last argument that can be withdrawn from this research.

The proposal for the SDGs seem to have included minorities in different phases of the extensive designing process. Multilayered thematic and national consultations organized in the form of field interviews, online discussions and surveys were designed in such a way that the participation of minorities was encouraged and their voices included. The UNDG guidelines⁴²⁷ were created for national level consultations to provide advice on how best to take into account the particularities and special circumstances of the minority groups in different areas. The guidelines encouraged states to identify vulnerable minority groups and their situations within the states and have the results of the consultation forwarded to the negotiations for consideration. The fact that minorities were not granted the status of Major Group in the designing process, made them less represented than some other groups with such status. This however did not prevent them from participating. Minority issues were also included in the agendas of some of the Major Groups under heading pertaining to indigenous people, women and farmers. The level of input was dependent on the activity of the minorities themselves even though, it must be noted, the knowledge of or possibilities for minorities to participate might not have been on equal footing as those belonging to other groups, for instance well-educated Major Group stakeholders. The design process allowed for minorities to

⁴²⁷ Supra, note 329, “Guidelines for Country Dialogues”.

be heard through different means and avenues. Therefore the process can be considered to have given account to the requirement of the HRBAD to take people as key actors in their own development and not only as passive recipients or victims. Hence the requirement, noted in the common understanding for HRBAD by the UN development actors⁴²⁸, that participation should be empowering and focus on the marginalized and excluded groups in order to aim at reducing the disparity of groups further⁴²⁹; thereby protecting the substantive equality of minorities. It must be noted however, that the views received during the consultation were not fully included to the final version of the proposal of the content of the SDGs or extensively referred to in the OWG documents.

Even if the design process took into account minorities and states reaffirmed their commitment to human rights and the UDHR in the wording of the goals, that alone is not enough in protecting minority rights. The special needs of minorities need to be taken into account in the implementation and the differences in the ways that they may experience poverty or discrimination for instance, needs to be targeted with affirmative action as well. Unless the messages gathered during the design process are applied in the implementation phase and states commit to protecting the rights of the minorities also through the setting up of strong accountability mechanisms, these voices remain merely as “tokens” without any practical impact to lives.

Therefore, if states are truly committing to international law and human rights standards as they state in the goals, the HRBAD should be applied to the implementation phase with the help of various HRBAD guidelines. For instance, similar recommendations to the ones created by the UNDG for the national consultation would be needed and the practical guide published in 2011 by the UN High Commission for Human Rights “Minority rights: international standards and guidance for implementation”⁴³⁰ could be taken as guidance. It would be also important that the international minority rights standards and instruments would be implemented and more legally binding instruments protecting minority rights would be created.

⁴²⁸ Supra, note 15, UN Common Understanding

⁴²⁹ Supra, note 15, UN Common Understanding. Sections 1-9.

⁴³⁰ The guide is targeted primarily UN staff, but could be used on the national level as well. UN Office of the High Commissioner for Human Rights (OHCHR), *Minority Rights: International Standards and Guidance for Implementation*, 2010, HR/PUB/10/3, available at: <http://www.refworld.org/docid/4db80ca52.html>

The last argument of this thesis is, that it seems that the findings presented in the first chapter about the sensitivity of the minority issue explained through historical and political backdrops, could be detected also in the SDG process. The proposals presented by the minority rights activists and commentators in the consultation process for the proposed goals were not taken into account in the latest version of goals to the extent that they could be sincerely perceived as protecting minority rights comprehensively. The argument regarding the sensitivity of the topic was confirmed in the interviews held with Julia Kercher and Ruben Zondervan.⁴³¹ They confirmed that addressing discrimination of marginalized groups, including minorities, has been at times a sensitive issue for states during the design process. It therefore remains to be seen how the states will continue from here on towards 2030.

It can therefore be argued that the critique and shortcomings of the MDGs were taken into account. Such shortcomings were to be addressed in the new set of goals and were to furthermore take the rights of minorities into account in a credible manner, especially through the mainstreaming of human rights considerations in the consultation processes. What comes to the actual content and wording of the SDGs and their targets, minorities were not directly mentioned, although protection from non-discrimination based on any grounds, including ethnicity and the protection of identity were mentioned. Therefore, even if it can be argued that the protection of minority rights in the content of the new goals is not as extensive as it could be, compared to the MDGs the process has been inclusive and the improvements have been profound. Thus one can look forward to what lies ahead.

In conclusion, the protection of minority rights on the national implementation phase is fully in the hands of the states. The construction of efficient accountability mechanisms (with the inclusion of disaggregated data in reporting mechanisms) will determine to what extent states actually are committed to the process. There still exist questions such as, how an truly effective accountability mechanisms can be created and to what extent states can, and should, stand in the balance between protecting individual minority rights and "the right to be different" on one hand, and the society as a whole on the other. These are issues that also ought to be

⁴³¹ Personal communication with Julia Kercher. Former Policy Specialist Human Rights and Poverty Reduction at UNDP. 18 May 2015. Personal communication with Ruben Zondervan. the Executive Director, Earth System Governance Project, International Project Office, Lund University 20 May 2015.

addressed within the human rights framework, although this framework can be criticized for the lack of existing binding standards and instruments in the interest of minorities. Having said all, it will be interesting to see how states will conduct the implementation phase of the SDGs and protect individual minority rights in the future.

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Annexes

- Annex 1: Millenium Development Goals, Annex to the “Road map towards the implementation of the United Nations Millennium Declaration”, Report of the Secretary-General to the General Assembly, United Nations, A/56/326, 6 September 2001
- Annex 2: Open Working Group Proposal for the Sustainable Development Goals, Full report of the Open Working Group of the General Assembly on Sustainable Development Goals, A/68/970, United Nations, 2014

Annex

Millennium development goals

1. As part of the preparation of the present report, consultations were held among members of the United Nations Secretariat and representatives of IMF, OECD and the World Bank in order to harmonize reporting on the development goals in the Millennium Declaration and the international development goals. The group discussed the respective targets and selected relevant indicators with a view to developing a comprehensive set of indicators for the millennium development goals. The main reference document was section III of the United Nations Millennium Declaration, "Development and poverty eradication".
2. The list of millennium development goals does not undercut in any way agreements on other goals and targets reached at the global conferences of the 1990s. The eight goals represent a partnership between the developed countries and the developing countries determined, as the Millennium Declaration states, "to create an environment — at the national and global levels alike — which is conducive to development and the elimination of poverty" (see General Assembly resolution 55/2, para. 12).
3. In order to help focus national and international priority-setting, goals and targets should be limited in number, be stable over time and communicate clearly to a broad audience. Clear and stable numerical targets can help to trigger action and promote new alliances for development. Recognizing that quantitative monitoring of progress is easier for some targets than for others and that good quality data for some of the indicators are simply not (yet) available for many countries, we underscore the need to assist in building national capacity while engaging in further discussion (as in the process mandated by the Economic and Social Council) with national statistical experts. For the purpose of monitoring progress, the normal baseline year for the targets will be 1990, which is the baseline that has been used by the global conferences of the 1990s.
4. The United Nations will report on progress towards the millennium development goals at the global and country levels, coordinated by the Department of Economic and Social Affairs of the United Nations Secretariat and UNDP, respectively. Reporting will be based on two principles: (a) close consultation and collaboration with all relevant institutions, including the United Nations Development Group (including WHO and UNCTAD), other United Nations departments, funds, programmes and specialized agencies, the World Bank, IMF and OECD, and regional groupings and experts; and (b) the use of nationally owned poverty reduction strategies, as reported in poverty reduction strategy papers, United Nations common country assessments and national human development reports, which emphasize a consultative process among the development partners. The main purpose of such collaboration and consultation will be to ensure a common assessment and understanding of the status of the millennium development goals at both the global and national levels. The United Nations Secretariat will invite all relevant institutions to participate in and contribute to global and country-level reporting with a view to issuing an annual United Nations report that has the wide support of the international community and that can be used by other institutions in their regular reporting on the goals.
5. The proposed formulation of the eight goals, 18 targets and more than 40 indicators are listed below. Other selected indicators for development, which are not related to specific targets, include population, total fertility rate, life expectancy at birth, adult literacy rate and gross national income per capita. Where relevant, indicators should be calculated for subnational levels — i.e., by urban and rural area, by region, by socio-economic group, and by age and gender.

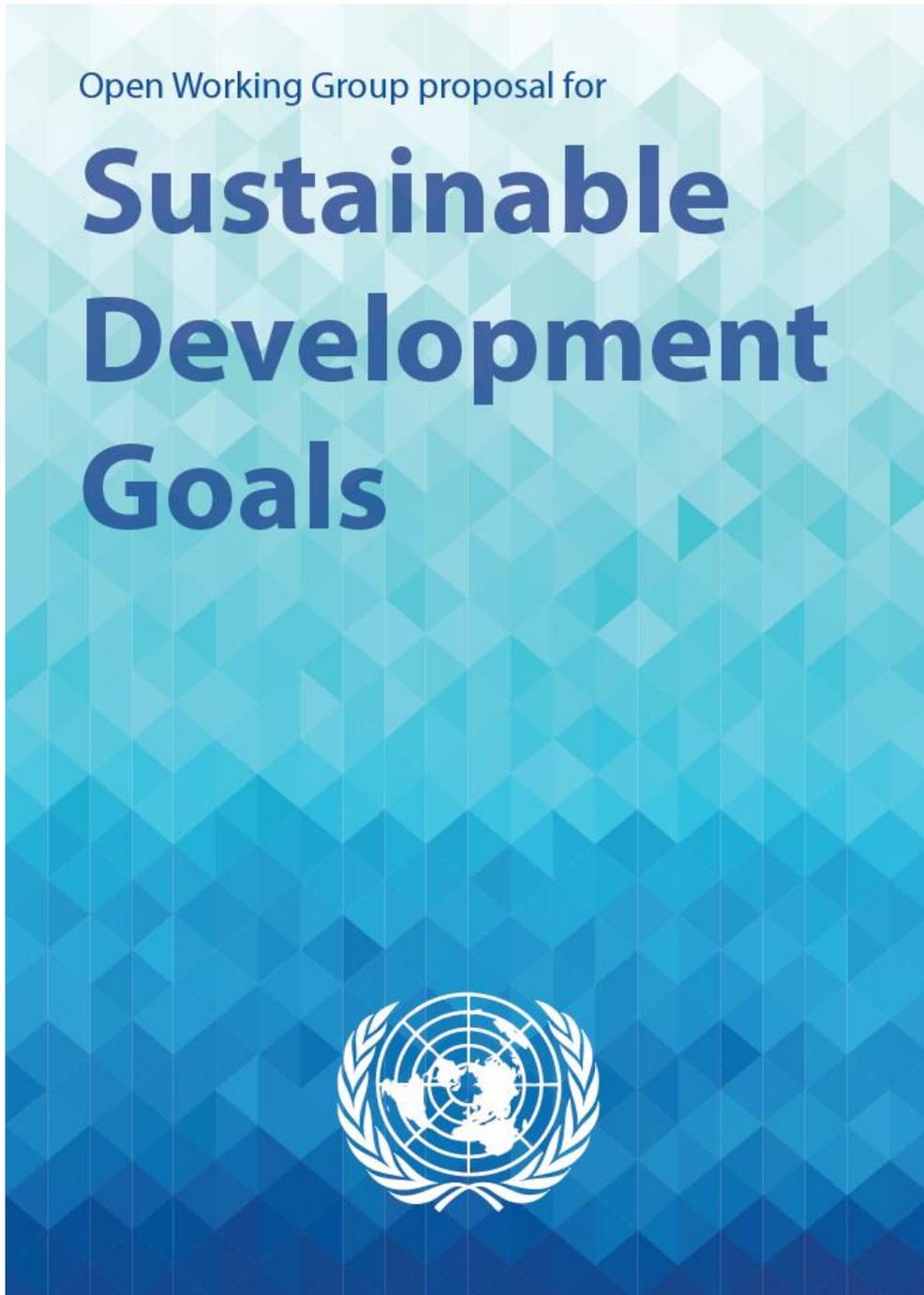
Millennium development goals

<i>Goals and targets</i>	<i>Indicators</i>
Goal 1. Eradicate extreme poverty and hunger	
Target 1. Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day	1. Proportion of population below \$1 per day 2. Poverty gap ratio (incidence x depth of poverty) 3. Share of poorest quintile in national consumption
Target 2. Halve, between 1990 and 2015, the proportion of people who suffer from hunger	4. Prevalence of underweight children (under five years of age) 5. Proportion of population below minimum level of dietary energy consumption
Goal 2. Achieve universal primary education	
Target 3. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	6. Net enrolment ratio in primary education 7. Proportion of pupils starting grade 1 who reach grade 5 8. Literacy rate of 15-24-year-olds
Goal 3. Promote gender equality and empower women	
Target 4. Eliminate gender disparity in primary and secondary education, preferably by 2005, and to all levels of education no later than 2015	9. Ratio of girls to boys in primary, secondary and tertiary education 10. Ratio of literate females to males of 15-to-24-year-olds 11. Share of women in wage employment in the non-agricultural sector 12. Proportion of seats held by women in national parliament
Goal 4. Reduce child mortality	
Target 5. Reduce by two thirds, between 1990 and 2015, the under-five mortality rate	13. Under-five mortality rate 14. Infant mortality rate 15. Proportion of 1-year-old children immunized against measles
Goal 5. Improve maternal health	
Target 6. Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio	16. Maternal mortality ratio 17. Proportion of births attended by skilled health personnel

<i>Goals and targets</i>	<i>Indicators</i>
Goal 6. Combat HIV/AIDS, malaria and other diseases	
Target 7. Have halted by 2015 and begun to reverse the spread of HIV/AIDS	18. HIV prevalence among 15-to-24-year-old pregnant women 19. Contraceptive prevalence rate 20. Number of children orphaned by HIV/AIDS
Target 8. Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases	21. Prevalence and death rates associated with malaria 22. Proportion of population in malaria risk areas using effective malaria prevention and treatment measures 23. Prevalence and death rates associated with tuberculosis 24. Proportion of tuberculosis cases detected and cured under directly observed treatment short course
Goal 7. Ensure environmental sustainability^a	
Target 9. Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources	25. Proportion of land area covered by forest 26. Land area protected to maintain biological diversity 27. GDP per unit of energy use (as proxy for energy efficiency) 28. Carbon dioxide emissions (per capita) [Plus two figures of global atmospheric pollution: ozone depletion and the accumulation of global warming gases]
Target 10. Halve by 2015 the proportion of people without sustainable access to safe drinking water	29. Proportion of population with sustainable access to an improved water source
Target 11. By 2020 to have achieved a significant improvement in the lives of at least 100 million slum dwellers	30. Proportion of people with access to improved sanitation 31. Proportion of people with access to secure tenure <i>[Urban/rural disaggregation of several of the above indicators may be relevant for monitoring improvement in the lives of slum dwellers]</i>

<i>Goals and targets</i>	<i>Indicators</i>
Goal 8. Develop a global partnership for development^a	
Target 12. Develop further an open, rule-based, predictable, non-discriminatory trading and financial system Includes a commitment to good governance, development, and poverty reduction — both nationally and internationally	[Some of the indicators listed below will be monitored separately for the least developed countries (LDCs), Africa, landlocked countries and small island developing States] Official development assistance
Target 13. Address the special needs of the least developed countries Includes: tariff and quota free access for least developed countries' exports; enhanced programme of debt relief for HIPC's and cancellation of official bilateral debt; and more generous ODA for countries committed to poverty reduction	32. Net ODA as percentage of OECD/DAC donors' gross national product (targets of 0.7% in total and 0.15% for LDCs) 33. Proportion of ODA to basic social services (basic education, primary health care, nutrition, safe water and sanitation) 34. Proportion of ODA that is untied
Target 14. Address the special needs of landlocked countries and small island developing States (through the Programme of Action for the Sustainable Development of Small Island Developing States and the outcome of the twenty-second special session of the General Assembly)	35. Proportion of ODA for environment in small island developing States 36. Proportion of ODA for transport sector in landlocked countries
Target 15. Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term	Market access 37. Proportion of exports (by value and excluding arms) admitted free of duties and quotas 38. Average tariffs and quotas on agricultural products and textiles and clothing 39. Domestic and export agricultural subsidies in OECD countries 40. Proportion of ODA provided to help build trade capacity
Target 16. In cooperation with developing countries, develop and implement strategies for decent and productive work for youth	Debt sustainability 41. Proportion of official bilateral HIPC debt cancelled 42. Debt service as a percentage of exports of goods and services 43. Proportion of ODA provided as debt relief 44. Number of countries reaching HIPC decision and completion points 45. Unemployment rate of 15-to-24-year-olds
Target 17. In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries	46. Proportion of population with access to affordable essential drugs on a sustainable basis
Target 18. In cooperation with the private sector, make available the benefits of new technologies, especially information and communications	47. Telephone lines per 1,000 people 48. Personal computers per 1,000 people [Other indicators to be decided]

^a The selection of indicators for goals 7 and 8 is subject to further refinement.



Open Working Group
proposal for
Sustainable Development Goals

Full report of the
Open Working Group of the General Assembly
on Sustainable Development Goals
is issued as document A/68/970,
available at <http://undocs.org/A/68/970>



INTRODUCTION

1. The outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, inter alia, set out a mandate to establish an open working group to develop a set of sustainable development goals for consideration and appropriate action by the General Assembly at its sixty-eighth session. It also provided the basis for their conceptualization. The document gave the mandate that the sustainable development goals should be coherent with and integrated into the United Nations development agenda beyond 2015.
2. Poverty eradication is the greatest global challenge facing the world today and an indispensable requirement for sustainable development. In the outcome document, the commitment to freeing humanity from poverty and hunger as a matter of urgency was reiterated.
3. Poverty eradication, changing unsustainable and promoting sustainable patterns of consumption and production and protecting and managing the natural resource base of economic and social development are the overarching objectives of and essential requirements for sustainable development.
4. People are at the centre of sustainable development and, in this regard, in the outcome document, the promise was made to strive for a world that is just, equitable and inclusive and the commitment was made to work together to promote sustained and inclusive economic growth, social development and environmental protection and thereby to benefit all, in particular the children of the world, youth and future generations of the world, without distinction of any kind such as age, sex, disability, culture, race, ethnicity, origin, migratory status, religion, economic or other status.
5. In the outcome document, all the principles of the Rio Declaration on Environment and Development, including, inter alia, the principle of common but differentiated responsibilities, as set out in principle 7 thereof, were also reaffirmed.
6. In the outcome document, the commitment to fully implement the Rio Declaration, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation) and the Johannesburg Declaration on Sustainable Development, the Programme of Action for the Sustainable Development of Small Island Developing States (Barbados Programme of Action) and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States was also reaffirmed. The commitment to the full implementation of the Programme of Action for the Least Developed Countries for the Decade 2011-2020 (Istanbul Programme of Action), the Almaty Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries, the political declaration on Africa’s development needs and the New Partnership for Africa’s Development was also reaffirmed. The commitments in the outcomes of all the major United Nations conferences and summits in the economic, social and environmental fields, including the United Nations Millennium Declaration, the 2005 World Summit Outcome, the Monterrey Consensus of the International Conference on Financing for Development, the Doha Declaration on Financing for Development, the outcome document of the high-level plenary meeting of the General Assembly on the Millennium Development Goals, the Programme of Action of the International Conference on Population and Development, the key actions for the further implementation of the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action and the outcome documents of their review conferences were reaffirmed. In the outcome document of the special event to follow up efforts made towards achieving the Millennium Development Goals, held in September 2013, inter alia, the determination to craft a strong post-2015 development agenda was reaffirmed. The commitment to migration and development was reaffirmed in the Declaration of the High-level Dialogue on International Migration and Development.

7. In the outcome document, the need to be guided by the purposes and principles of the Charter of the United Nations, with full respect for international law and its principles, was reaffirmed. The importance of freedom, peace and security, respect for all human rights, including the right to development and the right to an adequate standard of living, including the right to food and water, the rule of law, good governance, gender equality, women's empowerment and the overall commitment to just and democratic societies for development was reaffirmed. The importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law, was also reaffirmed.

8. The Open Working Group underscored that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emissions. It recalled that the United Nations Framework Convention on Climate Change provides that parties should protect the climate system for the benefit of present and future generations of humankind on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. It noted with grave concern the significant gap between the aggregate effect of mitigation pledges by parties in terms of global annual emissions of greenhouse gases by 2020 and aggregate emission pathways consistent with having a likely chance of holding the increase in global average temperature below 2°C, or 1.5°C above pre-industrial levels. It reaffirmed that the ultimate objective under the Convention is to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

9. In the outcome document of the United Nations Conference on Sustainable Development, it was reaffirmed that planet Earth and its ecosystems are our home and that "Mother Earth" is a common expression in a number of countries and regions. It was noted that some countries recognize the rights of nature in the context of the promotion of sustainable development. The conviction was affirmed that, in order to achieve a just balance among the economic, social and environmental needs of present and future generations, it is necessary to promote harmony with nature. The natural and cultural diversity of the world was acknowledged, and it was recognized that all cultures and civilizations can contribute to sustainable development.

10. In the outcome document, it was recognized that each country faces specific challenges to achieve sustainable development. The special challenges facing the most vulnerable countries and, in particular, African countries, least developed countries, landlocked developing countries and small island developing States, as well as the specific challenges facing the middle-income countries, were underscored. It was recognized that countries in situations of conflict also need special attention.

11. In the outcome document, the commitment to strengthen international cooperation to address the persistent challenges related to sustainable development for all, in particular in developing countries, was reaffirmed. In that regard, the need to achieve economic stability, sustained economic growth, the promotion of social equity and the protection of the environment, while enhancing gender equality, women's empowerment and equal employment for all, and the protection, survival and development of children to their full potential, including through education, was reaffirmed.

12. Each country has primary responsibility for its own economic and social development and the role of national policies, domestic resources and development strategies cannot be overemphasized. Developing countries need additional resources for sustainable development. There is a need for significant mobilization of resources from a variety of sources and the effective use of financing, in order to promote sustainable development. In the outcome document, the commitment to reinvigorating the global partnership for sustainable development and to mobilizing the resources necessary for its implementation was affirmed. The report of the Intergovernmental Committee of Experts on Sustainable Development Financing will propose options for a sustainable development financing strategy. The substantive outcome of the third International Conference on Financing for Development, in July 2015, will assess the progress made in the implementation of the Monterrey Consensus and the Doha Declaration. Good governance and the rule of law at the national and international levels are essential for sustained, inclusive and equitable economic growth, sustainable development and the eradication of poverty and hunger.

13. In the outcome document, it was reaffirmed that there are different approaches, visions, models and tools available to each country, in accordance with its national circumstances and priorities, to achieve sustainable development in its three dimensions, which is our overarching goal.

14. The implementation of the sustainable development goals will depend on a global partnership for sustainable development with the active engagement of Governments, as well as civil society, the private sector and the United Nations system. A robust mechanism to review implementation will be essential for the success of the goals. The General Assembly, the Economic and Social Council and the high-level political forum will play a key role in this regard.

15. In the outcome document, the commitment was reiterated to take further effective measures and actions, in conformity with international law, to remove the obstacles to the full realization of the right of self-determination of peoples living under colonial and foreign occupation, which continue to adversely affect their economic and social development as well as their environment, are incompatible with the dignity and worth of the human person and must be combated and eliminated.

16. In the outcome document, it was reaffirmed that, in accordance with the Charter, this shall not be construed as authorizing or encouraging any action against the territorial integrity or political independence of any State. It was resolved to take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, strengthen support and meet the special needs of people living in areas affected by complex humanitarian emergencies and in areas affected by terrorism.

17. To monitor the implementation of the sustainable development goals, it will be important to improve the availability of and access to data and statistics disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts. There is a need to take urgent steps to improve the quality, coverage and availability of disaggregated data to ensure that no one is left behind.

18. The sustainable development goals are accompanied by targets and will be further elaborated through indicators focused on measurable outcomes. They are action oriented, global in nature and universally applicable. They take into account different national realities, capacities and levels of development and respect national policies and priorities. They build on the foundation laid by the Millennium Development Goals, seek to complete the unfinished business of the Millennium Development Goals and respond to new challenges. They constitute an integrated, indivisible set of global priorities for sustainable development. Targets are defined as aspirational global targets, with each Government setting its own national targets guided by the global level of ambition, but taking into account national circumstances. The goals and targets integrate economic, social and environmental aspects and recognize their interlinkages in achieving sustainable development in all its dimensions.

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 industrialization 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 revitalize 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.

GOAL 1

End poverty in all its forms everywhere

1.1 By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day

1.2 By 2030, 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

1.3 Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable

1.4 By 2030, ensure that all men and women, in particular the poor and the vulnerable, have 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

1.5 By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters

1.a Ensure significant mobilization of resources from a variety of sources, including through enhanced development cooperation, in order to provide adequate and predictable means for developing countries, in particular least developed countries, to implement programmes and policies to end poverty in all its dimensions

1.b Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions

GOAL 2

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

2.1 By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round

2.2 By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons

2.3 By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment

2.4 By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality

2.5 By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and ensure access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed

2.a Increase investment, including through enhanced international cooperation, in rural infrastructure, agricultural research and extension services, technology development and plant and livestock gene banks in order to enhance agricultural productive capacity in developing countries, in particular least developed countries

2.b Correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round

2.c Adopt measures to ensure the proper functioning of food commodity markets and their derivatives and facilitate timely access to market information, including on food reserves, in order to help limit extreme food price volatility

GOAL 3

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

- 3.1 By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births
 - 3.2 By 2030, end preventable deaths of newborns and children under 5 years of age
 - 3.3 By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases
 - 3.4 By 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well being
 - 3.5 Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol
 - 3.6 By 2020, halve the number of global deaths and injuries from road traffic accidents
 - 3.7 By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes
 - 3.8 Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all
 - 3.9 By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination
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- 3.a Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries, as appropriate
 - 3.b Support the research and development of vaccines and medicines for the communicable and non-communicable diseases that primarily affect developing countries, provide access to affordable essential medicines and vaccines, in accordance with the Doha Declaration on the TRIPS Agreement and Public Health, which affirms the right of developing countries to use to the full the provisions in the Agreement on Trade-Related Aspects of Intellectual Property Rights regarding flexibilities to protect public health, and, in particular, provide access to medicines for all
 - 3.c Substantially increase health financing and the recruitment, development, training and retention of the health workforce in developing countries, especially in least developed countries and small island developing States
 - 3.d Strengthen the capacity of all countries, in particular developing countries, for early warning, risk reduction and management of national and global health risks

GOAL 4

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

- 4.1 By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes
 - 4.2 By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education
 - 4.3 By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university
 - 4.4 By 2030, increase by [x] per cent the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship
 - 4.5 By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations
 - 4.6 By 2030, ensure that all youth and at least [x] per cent of adults, both men and women, achieve literacy and numeracy
 - 4.7 By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development
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- 4.a Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all
 - 4.b By 2020, expand by [x] per cent globally the number of scholarships available to developing countries, in particular least developed countries, small island developing States and African countries, for enrolment in higher education, including vocational training and information and communications technology, technical, engineering and scientific programmes, in developed countries and other developing countries
 - 4.c By 2030, increase by [x] per cent the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially least developed countries and small island developing States

GOAL 5

Achieve gender equality and empower all women and girls

- 5.1 End all forms of discrimination against all women and girls everywhere
 - 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation
 - 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
 - 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate
 - 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life
 - 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
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- 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws
 - 5.b Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women
 - 5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

GOAL 6

Ensure availability and sustainable management of water and sanitation for all

- 6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all
- 6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations
- 6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and increasing recycling and safe reuse by [x] per cent globally
- 6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity
- 6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate
- 6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes
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- 6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies
- 6.b Support and strengthen the participation of local communities in improving water and sanitation management

GOAL 7

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

- 7.1 By 2030, ensure universal access to affordable, reliable and modern energy services
 - 7.2 By 2030, increase substantially the share of renewable energy in the global energy mix
 - 7.3 By 2030, double the global rate of improvement in energy efficiency
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- 7.a By 2030, enhance international cooperation to facilitate access to clean energy research and technology, including renewable energy, energy efficiency and advanced and cleaner fossil-fuel technology, and promote investment in energy infrastructure and clean energy technology
 - 7.b By 2030, expand infrastructure and upgrade technology for supplying modern and sustainable energy services for all in developing countries, in particular least developed countries and small island developing States

GOAL 8

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

- 8.1 Sustain per capita economic growth in accordance with national circumstances and, in particular, at least 7 per cent gross domestic product growth per annum in the least developed countries
 - 8.2 Achieve higher levels of economic productivity through diversification, technological upgrading and innovation, including through a focus on high-value-added and labour-intensive sectors
 - 8.3 Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services
 - 8.4 Improve progressively, through 2030, global resource efficiency in consumption and production and endeavour to decouple economic growth from environmental degradation, in accordance with the 10-year framework of programmes on sustainable consumption and production, with developed countries taking the lead
 - 8.5 By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value
 - 8.6 By 2020, substantially reduce the proportion of youth not in employment, education or training
 - 8.7 Take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, eradicate forced labour and, by 2025, end child labour in all its forms, including the recruitment and use of child soldiers
 - 8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment
 - 8.9 By 2030, devise and implement policies to promote sustainable tourism that creates jobs and promotes local culture and products
 - 8.10 Strengthen the capacity of domestic financial institutions to encourage and expand access to banking, insurance and financial services for all
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- 8.a Increase Aid for Trade support for developing countries, in particular least developed countries, including through the Enhanced Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries
 - 8.b By 2020, develop and operationalize a global strategy for youth employment and implement the Global Jobs Pact of the International Labour Organization

GOAL 9

Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation

9.1 Develop quality, reliable, sustainable and resilient infrastructure, including regional and transborder infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all

9.2 Promote inclusive and sustainable industrialization and, by 2030, significantly raise industry's share of employment and gross domestic product, in line with national circumstances, and double its share in least developed countries

9.3 Increase the access of small-scale industrial and other enterprises, in particular in developing countries, to financial services, including affordable credit, and their integration into value chains and markets

9.4 By 2030, upgrade infrastructure and retrofit industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes, with all countries taking action in accordance with their respective capabilities

9.5 Enhance scientific research, upgrade the technological capabilities of industrial sectors in all countries, in particular developing countries, including, by 2030, encouraging innovation and increasing the number of research and development workers per 1 million people by [x] per cent and public and private research and development spending

9.a Facilitate sustainable and resilient infrastructure development in developing countries through enhanced financial, technological and technical support to African countries, least developed countries, landlocked developing countries and small island developing States

9.b Support domestic technology development, research and innovation in developing countries, including by ensuring a conducive policy environment for, inter alia, industrial diversification and value addition to commodities

9.c Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020

GOAL 10

Reduce inequality within and among countries

10.1 By 2030, progressively achieve and sustain income growth of the bottom 40 per cent of the population at a rate higher than the national average

10.2 By 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

10.3 Ensure 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

10.4 Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality

10.5 Improve the regulation and monitoring of global financial markets and institutions and strengthen the implementation of such regulations

10.6 Ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions

10.7 Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies

10.a Implement the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with World Trade Organization agreements

10.b Encourage official development assistance and financial flows, including foreign direct investment, to States where the need is greatest, in particular least developed countries, African countries, small island developing States and landlocked developing countries, in accordance with their national plans and programmes

10.c By 2030, reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent

GOAL 11

Make cities and human settlements inclusive, safe, resilient and sustainable

11.1 By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums

11.2 By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons

11.3 By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries

11.4 Strengthen efforts to protect and safeguard the world's cultural and natural heritage

11.5 By 2030, significantly reduce the number of deaths and the number of people affected and decrease by [x] per cent the economic losses relative to gross domestic product caused by disasters, including water-related disasters, with a focus on protecting the poor and people in vulnerable situations

11.6 By 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management

11.7 By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities

11.a Support positive economic, social and environmental links between urban, peri-urban and rural areas by strengthening national and regional development planning

11.b By 2020, increase by [x] per cent the number of cities and human settlements adopting and implementing integrated policies and plans towards inclusion, resource efficiency, mitigation and adaptation to climate change, resilience to disasters, develop and implement, in line with the forthcoming Hyogo Framework, holistic disaster risk management at all levels

11.c Support least developed countries, including through financial and technical assistance, in building sustainable and resilient buildings utilizing local materials

GOAL 12

Ensure sustainable consumption and production patterns

12.1 Implement the 10-year framework of programmes on sustainable consumption and production, all countries taking action, with developed countries taking the lead, taking into account the development and capabilities of developing countries

12.2 By 2030, achieve the sustainable management and efficient use of natural resources

12.3 By 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses

12.4 By 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment

12.5 By 2030, substantially reduce waste generation through prevention, reduction, recycling and reuse

12.6 Encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle

12.7 Promote public procurement practices that are sustainable, in accordance with national policies and priorities

12.8 By 2030, ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature

12.a Support developing countries to strengthen their scientific and technological capacity to move towards more sustainable patterns of consumption and production

12.b Develop and implement tools to monitor sustainable development impacts for sustainable tourism that creates jobs and promotes local culture and products

12.c Rationalize inefficient fossil-fuel subsidies that encourage wasteful consumption by removing market distortions, in accordance with national circumstances, including by restructuring taxation and phasing out those harmful subsidies, where they exist, to reflect their environmental impacts, taking fully into account the specific needs and conditions of developing countries and minimizing the possible adverse impacts on their development in a manner that protects the poor and the affected communities

GOAL 13

Take urgent action to combat climate change and its impacts*

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

13.1 Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries

13.2 Integrate climate change measures into national policies, strategies and planning

13.3 Improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning

13.a Implement the commitment undertaken by developed-country parties to the United Nations Framework Convention on Climate Change to a goal of mobilizing jointly \$100 billion annually by 2020 from all sources to address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation and fully operationalize the Green Climate Fund through its capitalization as soon as possible

13.b Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries, including focusing on women, youth and local and marginalized communities

GOAL 14

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

14.1 By 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution

14.2 By 2020, sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience, and take action for their restoration in order to achieve healthy and productive oceans

14.3 Minimize and address the impacts of ocean acidification, including through enhanced scientific cooperation at all levels

14.4 By 2020, effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics

14.5 By 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information

14.6 By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiation (1)

14.7 By 2030, increase the economic benefits to small island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism

14.a Increase scientific knowledge, develop research capacity and transfer marine technology, taking into account the Intergovernmental Oceanographic Commission Criteria and Guidelines on the Transfer of Marine Technology, in order to improve ocean health and to enhance the contribution of marine biodiversity to the development of developing countries, in particular small island developing States and least developed countries

14.b Provide access for small-scale artisanal fishers to marine resources and markets

14.c Ensure the full implementation of international law, as reflected in the United Nations Convention on the Law of the Sea for States parties thereto, including, where applicable, existing regional and international regimes for the conservation and sustainable use of oceans and their resources by their parties

(1) Taking into account ongoing World Trade Organization negotiations, the Doha Development Agenda and the Hong Kong ministerial mandate.

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

15.1 By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements

15.2 By 2020, promote the implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and increase afforestation and reforestation by [x] per cent globally

15.3 By 2020, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land-degradation-neutral world

15.4 By 2030, ensure the conservation of mountain ecosystems, including their biodiversity, in order to enhance their capacity to provide benefits that are essential for sustainable development

15.5 Take urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species

15.6 Ensure fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources

15.7 Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products

15.8 By 2020, introduce measures to prevent the introduction and significantly reduce the impact of invasive alien species on land and water ecosystems and control or eradicate the priority species

15.9 By 2020, integrate ecosystem and biodiversity values into national and local planning, development processes, poverty reduction strategies and accounts

15.a Mobilize and significantly increase financial resources from all sources to conserve and sustainably use biodiversity and ecosystems

15.b Mobilize significant resources from all sources and at all levels to finance sustainable forest management and provide adequate incentives to developing countries to advance such management, including for conservation and reforestation

15.c Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities

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

- 16.1 Significantly reduce all forms of violence and related death rates everywhere
 - 16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children
 - 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all
 - 16.4 By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
 - 16.5 Substantially reduce corruption and bribery in all their forms
 - 16.6 Develop effective, accountable and transparent institutions at all levels
 - 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels
 - 16.8 Broaden and strengthen the participation of developing countries in the institutions of global governance
 - 16.9 By 2030, provide legal identity for all, including birth registration
 - 16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
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- 16.a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime
 - 16.b Promote and enforce non-discriminatory laws and policies for sustainable development

GOAL 17

Strengthen the means of implementation and revitalize the global partnership for sustainable development

Finance

- 17.1 Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection
- 17.2 Developed countries to implement fully their official development assistance commitments, including to provide 0.7 per cent of gross national income in official development assistance to developing countries, of which 0.15 to 0.20 per cent should be provided to least developed countries
- 17.3 Mobilize additional financial resources for developing countries from multiple sources
- 17.4 Assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and address the external debt of highly indebted poor countries to reduce debt distress
- 17.5 Adopt and implement investment promotion regimes for least developed countries

Technology

- 17.6 Enhance North-South, South-South and triangular regional and international cooperation on and access to science, technology and innovation and enhance knowledge sharing on mutually agreed terms, including through improved coordination among existing mechanisms, in particular at the United Nations level, and through a global technology facilitation mechanism when agreed upon
- 17.7 Promote the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed
- 17.8 Fully operationalize the technology bank and science, technology and innovation capacity-building mechanism for least developed countries by 2017 and enhance the use of enabling technology, in particular information and communications technology

Capacity-building

- 17.9 Enhance international support for implementing effective and targeted capacity-building in developing countries to support national plans to implement all the sustainable development goals, including through North-South, South-South and triangular cooperation

Trade

17.10 Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization, including through the conclusion of negotiations under its Doha Development Agenda

17.11 Significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries' share of global exports by 2020

17.12 Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential rules of origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access

Systematic issues

Policy and institutional coherence

17.13 Enhance global macroeconomic stability, including through policy coordination and policy coherence

17.14 Enhance policy coherence for sustainable development

17.15 Respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development

Multi-stakeholder partnerships

17.16 Enhance the global partnership for sustainable development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the sustainable development goals in all countries, in particular developing countries

17.17 Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

Data, monitoring and accountability

17.18 By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts

17.19 By 2030, build on existing initiatives to develop measurements of progress on sustainable development that complement gross domestic product, and support statistical capacity-building in developing countries