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Introduction

By Dr Jaakko Kuosmanen

The world leaders are renewing their commitment to global development in September 2015. The expiring Millennium Development Goals (MDGs), which were adopted in 2000, will be replaced from the beginning of 2016 with a new set of Sustainable Development Goals. The posts in this chapter primarily focus on the United Nations processes aiming to establish the new goals.

In the first post ('The Sustainable Development Goals: a new vision of development?' p 367) Tessa Khan considers the differences between the MDG process and the Post-2015 process, and highlights the political disagreements on development issues between different countries. In her second post ('Charting the Future of Development: A Tale of Two Agendas' p 368), she considers two parallel international processes – the Post-2015 discussions and the new agenda on global trade, which includes negotiations on various trade agreements (TPPA, TTIP, and TISA). Khan emphasises the potential role both processes have in the realisation of human rights. She juxtaposes the two processes, and notes that while the Post-2015 Development process has been participatory and internationally endorsed, the new global trade agenda is secretive, driven by corporate interests, and backed by powerful and oppressive enforcement mechanism.

The participatory process aiming to integrate the voices of civil society in the new development goals has been impressive in many ways. In my post ('Civil Society Wants its Voice Heard in Post-2015' p 369) I give a briefing on a civil society gathering that took place at the UN in New York in September 2014. Thousands of civil society representatives gave a detailed response to the Open Working Group 'Zero Draft' on Sustainable Development Goals, and reaffirmed their commitment to be watchdogs in the process. As the Post-2015 process was shifting from open consultations towards intergovernmental negotiations, civil society representatives showed a united front and reminded governments that the voices of those who have participated in the various consultations around the world should not be lost at the final stages of the process to *realpolitik*.

Janine Ewen's post ('An Unsecured Commitment: Security and Justice in the Post-2015 Development Agenda' p 370) focuses on security and justice in the Post-2015 Development Agenda. Intentional homicidal violence and armed conflicts constitute a major challenge for human well-being globally. Ewen highlights the importance of integrating the demands of security and justice in the final Sustainable Development Goals, and emphasises the fundamentally important nature of these demands: our ability to go about our daily lives depends on our safety.

Another crucial issue in the process has been the development of indicators for measuring progress on development targets. In her post ('Against Happiness: Why 'Happiness' is not a Good Measure of Progress' p 371), Professor Frances Stewart criticises the use of Gross National Income as a problematic indicator of progress, and evaluates the strengths and weaknesses of the more nuanced Human Development Index. Her broader claim is that there are serious problems in using 'happiness' as measure of progress. One important issue is that happiness of those alive today may be achieved at the cost of future generations. In addition, an approach focusing on happiness fails to adequately acknowledge the problem of adaptive preferences.

Ken Gee-Kin's post 'Chinese Environmental Protection Law – The Illusion of Enhanced Human Rights Safeguards' (p372) focuses on environmental protection in China. More specifically, Gee-Kin discusses the amended Environmental Protection Law adopted by the Chinese Government. He argues that there are important obstacles for the enforcement of the law, including those arising from the lack of funding, resources, and motivations. He also highlights institutional deficiencies that hinder the law from moving from rhetoric to practice. In the final post in this chapter 'Should There Be A Human Rights Approach for Environmental Protection?' (p x), Avani Bansal discusses a human rights approach to environmental protection. She contends that human rights law and environmental law should continue to develop as two independent but closely linked fields. Bansal concludes by emphasising the importance of not understanding environmental concerns and developmental concerns to be something in conflict, but rather as concerns that need to be integrated in order to achieve the goal of sustainable development.

As all of the blog posts highlight, development is a complex issue. However, it is also a fundamentally important issue. The process of setting the new global development goals is one unlike any we have seen before. Much has been learned during the past 15 years since the MDGs were first set. The process has been much more inclusive. There is now also a much greater understanding of the interlocking nature of the various development challenges the world is facing, and this has been recognised better in the new Sustainable Development Goal setting process. However, we are far from a point where there is any room for complacency. The new goals, even if improved from the MDGs, only mark the beginning. As we have witnessed with the MDGs, it is easy to make promises; it is much harder to make them reality.

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The Sustainable Development Goals: A New Vision of Development?

By Tessa Khan | 27th July 2014

On 19 July 2014, after eighteen months of fraught negotiation, a UN Open Working Group of seventy governments adopted a proposal for seventeen goals to ensure a sustainable future – economically, socially, and environmentally.



The proposed goals, known as the Sustainable Development Goals (SDGs), will be a key component of negotiations starting in September in the UN General Assembly on the post-2015 international development agenda. The impetus for this whole process is the pending expiration of the Millennium Development Goals (MDGs) which have embodied an international commitment to aspirations like eradicating poverty, universal primary education, and gender equality.

Rather than just consider the content of the newly-adopted SDGs, this post addresses an important, albeit uncomfortable, antecedent question: does the post-2015 development agenda really matter? The agenda's predecessor, the MDGs, has been widely criticised for being substantively a failure of ambition, and politically a framework with little normative weight. The former is apparent in the binary, compartmentalised nature of the goals, as well as their failure to address structural impediments to development. The MDGs were also conceived at a time when the impacts of climate change and the financial crisis were yet to expose some of the deepest flaws in the dominant model of development. The limited normative influence of the MDGs is partly a product of the process by which they were devised: they were essentially plucked from the UN Millennium Declaration by UN staff without any preceding intergovernmental negotiation or debate.

The post-2015 development agenda has distinguished itself procedurally from the MDGs in two important respects. First, formal negotiations will begin in September 2014; a full year before the summit at which the agenda is due to be adopted. Second, the Open Working Group process has generally allowed ample space for open discussion of priorities for development, including with participation of civil society (although not all ancillary processes have been so transparent).

Whether this means that the final outcome will be any more effective than the MDGs is, however, uncertain. While governments have had no choice but to discuss the international structures and dynamics undermining equitable and environmentally sustainable development, negotiation of the SDGs has exposed a clear and deep division between the demands of the 'G77 plus China' bloc (comprising 134 countries) and those of developed countries (namely the US, EU, Australia, and Canada). The policies on which disagreement seems most intractable are those that are at the root of inequities in wealth, resources, and opportunities between and within countries: international trade, finance, and taxation architecture; patterns of production and consumption; responsibility for climate change; and responsibility for financing development.

The G77 plus China have, for example, consistently and stridently demanded expeditious and ambitious reforms of the IMF and World Bank; stronger regulation of the international financial sector; a strengthened global partnership for development with public international finance at its core; a development-oriented trading system; and sovereign debt sustainability. Much of this has been unequivocally resisted by the US, EU, and their allies, the result of which is the ineffectual language on these issues in the adopted text. The text has other weaknesses that reflect the lack of consensus between the global North and South: for example, the language of human rights is conspicuously muted in the proposed goals (although universal access to goods and services like

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health coverage and water are included). Even so, the scope of the SDGs is much more comprehensive than the MDGs, with goals on wealth inequality, decent work, peaceful and inclusive societies, and sustainable ecosystems. Means of implementation have also been included under each goal, recognising the need to create an enabling environment for development rather than simply focus on static targets.

A full appraisal of the proposed SDGs, however, needs to situate the goals within the crowded diplomatic space in which they were negotiated. The SDGs are only one of a number of outcomes that will inform the General Assembly's discussion of the post-2015 agenda, including reports from specialised intergovernmental committees on topics such as technology facilitation and development financing, and outcomes of other relevant negotiations, like the UN climate dialogue. Far from signalling a final outcome for the process of negotiating the post-2015 development agenda, the proposed SDGs are just the beginning.

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Charting the Future of Development: A Tale of Two Agendas

By Tessa Khan | 2nd August 2014

For its sheer scale, poverty is the greatest systemic human rights violation of our time. Roughly 1.2 billion people live on less than \$1.25 a day, the internationally accepted (though absurdly low) threshold defining extreme poverty. Double that number lives on less than \$2.50 a day, an amount with which they are expected to secure sufficient food, housing, healthcare, and education.



The imperative to address this deplorable situation and to reduce poverty and promote economic development is powerful and urgent. It has recently triggered two international processes that are unfolding in parallel. The first concerns the UN post-2015 international development agenda; the second, a new agenda for global trade. Each has the potential to significantly influence progress towards equitable development and the fulfilment of human rights.

At the UN, governments are debating the goals of an international development agenda to be adopted in 2015. A key premise of the negotiations is that the current level and distribution of poverty is neither inevitable nor merely a matter of poor national planning. Rather, it is the product of an asymmetrical international political and economic order that has historically contributed to the depletion of developing countries' resources and diminished their policy space to make development and human rights-oriented fiscal decisions. Creating an effective enabling environment for development is therefore a core priority of the largest bloc of developing countries (the G77 plus China), whose demands include expeditious and ambitious reforms of the international trade and finance architecture, and international financing that respects the need for domestic policy space.

Negotiation of the post-2015 development agenda has commanded the attention of media, human rights advocates, and thousands of civil society organisations. The process has generally been transparent and open to the participation of civil society.

In stark contrast, the second global process is not only closed to civil society, but also most of our elected representatives. That process is the negotiation of the Trans-Pacific Partnership Agreement (TPPA), the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TISA). Together they cover most of the world's trade – the TPPA covers one-third of global trade, the TTIP covers all EU-US trade, and the TISA encompasses two-thirds of global trade in services – and represent an

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alarming new paradigm for multilateral trade and investment agreements.

The degree of secrecy surrounding these agreements is extraordinary. The texts are not publicly accessible (although hundreds of corporate lobbyists have acted as advisers) and even after the agreements are finalised, they will remain classified for at least four years, defeating any semblance of public accountability. Leaked drafts indicate that the basic intent of the agreements is to create an environment that is favourable to foreign investment by severely constraining governments' regulatory powers, with only a small share of the text dedicated to traditional trade issues. Crippling the ability of governments to regulate to protect the environment, public health, and to ensure fair provision of other essential services jeopardises key human rights safeguards and the capacity to ensure that development is socially and environmentally sustainable. All three agreements also seek to significantly liberalise financial sector regulation to allow unhindered movement of foreign capital, undermining post-GFC attempts to regulate financial speculation and maintain balances between local and foreign capital.

More concerning still is that the TPPA and TTIP (and potentially TISA) rely on investor-state dispute settlement (ISDS) as an enforcement mechanism. Aside from grave concerns regarding the impartiality and transparency of ISDS, under the current TPPA and TTIP drafts companies can sue governments for 'indirect expropriation,' which has been used by companies to claim losses because of government policies made in the public interest. ISDS awards in favour of transnational corporations have also been astronomical (for example, Occidental Petroleum successfully sued Ecuador for \$USD1.77 billion).

The contrast between the processes to develop the post-2015 development agenda and a new trade agenda, both of which will impact the finances and policy-making autonomy of governments, could not be more dramatic. One is participatory, internationally endorsed, but with weak accountability. The other is secretive, driven by corporate interests, and backed by a powerful and oppressive enforcement mechanism. The first is rightly under public scrutiny. The second deserves equal, if not greater, vigilance.

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Civil Society Wants its Voice Heard in Post-2015 Development

By Jaakko Kuosmanen | 8th September 2014

In the last week of August 2014 the UN headquarters in New York was effectively taken over by civil society. Over 4000 participants from non-governmental organisations around the world gathered for a three-day conference aiming to ensure that all voices are heard in the Post-2015 development process.

The conference participants laid out a critical view of the Millennium Development Goals, and approached Post-2015 Development-related issues from various perspectives. A central underlying aim of the conference was the drafting of a Declaration that 'defines an ambitious, inspiring, and concrete action agenda' for the intergovernmental political negotiations beginning in September.

The Declaration was successfully drafted through a consultation process during the three days – not least due to hard work of the drafting committee that was composed of over twenty civil society representatives. The Declaration highlights that civil society organisations' 'vision for the post-2015 Development Agenda is that of an equitable, inclusive, and sustainable world where every person is safe, resilient, lives well, and enjoys their human rights, and where political and economic systems deliver well-being for all people within the limits of our planet's resources'.

The Declaration also included a detailed statement on how each of the 17 Goals identified in the Open Working Group 'Zero Draft' document should be revised and developed in the final stages of the Post-2015 Development process.

One of the main questions looming large at the conference was the ability of civil society organisations to have an impact on the goals that – in all likelihood – will be adopted in September 2015.

The Declaration adopted in the conference will now be passed on to the member states engaging in political negotiations as well as to the UN Secretary-General. Yet, there is no certainty what – if any – impact these actions will have in the final decision-making process.

During the last year of the process there is an important shift from development discussions to international political negotiations. As generally is the case in international relations, also in the upcoming Post-2015 negotiations there is a strong presumption that national interests will have a key influence in the final goals.

So why talk about development and adopt a Declaration when you have no right to vote and influence the final stages of the process? At the conference the spirit of civil society appeared strong in the face of political realism. This is centrally because there was a sense of recognition that the only way to influence international development is not by sitting at international decision-making

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tables.

With the Declaration civil society organisations sent a reminder to governments around the world. While the Declaration stated that civil society organisations are 'committed to working hand in hand with governments in this universal quest for a life of dignity for all within planetary boundaries', they are also committed to holding governments accountable. They also declared: 'We are here... and here to stay'.

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An Unsecured Commitment: Security and Justice in the Post-2015 Development Agenda

By Janine Ewen | 27th January 2015

Insecurity and injustice are a daily reality for large numbers of people around the world. Although gathering data on areas torn by public fear, human tragedy and below average living conditions can be challenging, we know from previous years that at least half a million people have been killed yearly as result of intentional homicidal violence (UNODC, 2011). Armed conflict has produced an average of 50,000 deaths annually, with 200,000 persons dying as a result of non-violent causes from the effect of living in a war zone (The Geneva Declaration, 2008).



A mixture of experiencing direct physical violence (e.g. sexual assault; harassment; fatal injury from weapons) and living in terror (organised crime, corruption) has led to the establishment of targets and indicators for improved security and justice by the United Nations Office of Drugs and Crime (UNODC), with consultation from the United Nations Development Programme (UNDP). The paper, 'Accounting for Security and Justice in the Post-2015 Development Agenda' draws on recommendations generated during a two day gathering of technical experts in the fields of rule of law, security and justice organised by UNODC in Vienna back in 2013.

Section 1.1. outlined targets in the agenda 'Accounting for Security and Justice in the Post-2015 Development Agenda'

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- Prevent and eliminate all forms of violence against women and girls.
- Reduce bribery and corruption and ensure officials can be held accountable.
- Reduce and prevent violent deaths per 100'000 and eliminate all forms of violence against children.
- Enhance the capacity, professionalism, accountability, security, police and justice institutions.
- Ensure justice institutions are accessible, independent, well-resourced and respect due-process rights.
- Stem the stressors that lead to violence and conflict, including those related to organized crime.
- Reduce illicit flows and tax evasion and increase stolen asset recovery.

The stance is that they all should be included in the future Sustainable Development Goals (SDGs); however this is by no means a secured commitment. The SDG's will build upon the Millennium Development Goals, eight international development goals that were established from the Millennium Summit of the United Nations in 2000, following the adoption of the United Nations Millennium Declaration. Shaping our future by investing resources on: maternal health; education; gender equality and environmental sustainability, categorised as individual targets, but grouped together as a means to an end on poverty and equality, leads to the question on how can any of these goals really succeed long term stability and survival without justice or security? The answer is obvious; they cannot.

Professor Clifford Shearing, a world leading academic and former Director of the Centre of Criminology at the University of Cape Town, has given a simple and clear message throughout his academic work on the theoretical understandings of security governance; all multi elements that form our social life, depends on our safety, or this will naturally disturb our daily living. We must feel safe, secured through a lasting presence of accountable security.

The principle of justice, from upholding fairness and equal treatment, serves our judgement on what is deemed to be right or appropriate behaviour, together with societal wrong doings. Without this basis, we will fail to not only recognise, but provoke a response to the standards of good, which may be considered bad, or the bad that is considered as the good. Justice also acts as a means for protection, strongly linking to security.

Although an undeniable need as a future priority, the suspected challenges arising from government resistance, significant disagreement and calculation challenges could prevent support and initiation of a security and justice post-2015 development framework. International experts believe an element of convincing is an immediate necessity to accompany the current conversation and running countdown.

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Against Happiness: Why 'Happiness' is not a Good Measure of Progress

By Frances Stewart | 17th March 2014

'Happiness is the meaning and the purpose of life, the whole aim and end of human existence.' (Aristotle).

Gross national income (GNI) per head is generally accepted as the dominant indicator of country progress. Yet, it is a poor indicator. It does not account for externalities, income distribution or the many aspects of human well-being which are not measured by income – such as health, education, personal safety, social relations, work conditions, spirituality, and so on. Incomes are a means rather than an end. Dissatisfaction with GNI per capita as a measure of country progress has led to the development of a number of alternative indicators. One well-known example is Morris Morris' suggestion, in the 1970s, of PQLI (Physical Quality of Life Index), a composite indicator including a measure of infant mortality, life expectancy and education. Yet, in the context of the debt crisis of the 1980s, this proposal never took off, and indeed growth of GNP per capita appeared more attractive as an indicator at a time of declining incomes.

The UNDP's Human Development Index (HDI), consisting of a composite of life expectancy, a measure of education and modified incomes per head, gained more traction. Yet, it too has been subject to many criticisms, including that it does not account for the distribution of resources, it is not a good guide to many aspects of human development, it does not sufficiently differentiate progress among developed countries, and it does not account for environmental change. Moreover, all of these indicators are 'objective' – i.e. they consist of external measures of people's conditions. A recent, powerful criticism of them all – and in particular of GNP per capita – is that progress should be assessed according to people's perceptions of their own condition. In short, we should measure people's own assessment of their lives, or their perceived 'happiness.'

But there are serious problems with measures of happiness as the exclusive measure of progress. Apart from huge measurement problems, especially across countries due to cultural specificities, people adapt to their conditions, so that subjective assessments of well-being may rank high despite appalling health, bad housing, poor nutrition, and so on. Moreover, like the other indicators mentioned, it neglects agency. Human rights may be sacrificed so long as the happiness indicator looks good. Current levels of

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happiness may be achieved at the cost of future generations whose happiness, by definition, cannot be assessed.

Intergenerational problems have come to the forefront as a result of present environmental threats, and it is critical that we adopt measures of progress which take this into account. There is also an 'adding up' problem: measures of happiness invariably consist of individuals' rankings of their situation, and therefore cannot be added up in the way income can. This makes it impossible to generate a legitimate societal measure, yet this is precisely what the happiness gurus do.

Human progress includes many non-commensurate dimensions. While composite indicators are attractive as a way of summarising a great deal of information, they are invariably misleading, because they involve a particular weighting system across dimensions and people. This is true of the happiness indicators as much as of the income ones, and indeed of other composite indicators, such as the HDI. Assessing a multi-dimensional phenomenon requires information and evaluation on the important different dimensions. My perspective on this is that country progress should be evaluated on the basis of a range of indicators including the main human rights and their sustainability as well as indicators of agency. A 'happiness' measure may also be relevant to ensuring that progress in promoting human rights is not achieved at the cost of making people unhappy – but any measure of happiness or unhappiness should be one indicator among many, not the exclusive measure of progress. While internationally agreed-upon human rights would seem to provide an acceptable basis for choice of dimensions for global comparisons across countries, it would be preferable for dimensions at the country or community level to be selected by participatory processes, and equally, a weighting system developed in a participatory way, if aggregation is desired.

This proposal, curiously enough, is in the spirit of what Bhutan does in its famous National Happiness Index, where the subjective indicator forms just one of nine total indicators that contribute to the aggregate indicator.

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Chinese Environmental Protection Law – The Illusion of Enhanced Human Rights Safeguards

By Ken Gee-kin Ip | 30th June 2014

In April 2014, the Chinese legislature amended significantly the Environmental Protection Law adopted in 1989. This post seeks to predict the amendment's implications for Chinese citizens' substantive and procedural environmental rights.

Substantive environmental rights refer to economic and social rights to which individuals are entitled, prescribing the level below which environmental standards must not fall. Procedural environmental rights denote civil and political rights such as information rights, access to justice and remedies.

The first goal of the amendment is to consolidate existing environmental regimes. The revised law (1) reinforces the Environmental Impact Assessment (EIA) Law (articles 19, 44, 56, 61 & 63), (2) standardizes (a) the total emission control quota system for key pollutants (article 44), (b) the pollutant discharge permit system (article 45) and (c) the risk and emergency control system (article 47).

However, only a tiny portion of all construction projects are subject to the obligation to prepare EIA reports, leaving the rest without any professional or scientific assessment. There is little supervision for compliance after approval of these projects. Also, the Local People's Governments (LPGs) may encourage cursory EIA evaluation for investments conducive to local GDP targets although the relevant standards have not been met.

The second objective of the revised law is to strengthen environmental governance. The revised law requires public authorities to: (1) solicit opinions from experts and relevant stakeholders (article 14), (2) set up (a) environmental quality monitoring stations, (b) information sharing systems (article 17), (c) an inter-jurisdictional joint coordination mechanism (article 20), (3) eliminate pollution-intensive techniques (article 46). Enhanced enforcement measures include imposing daily fines (article 59), the power to seal up and detain facilities (article 25) and administrative detention (article 63).

Nevertheless, some local Environmental Protection Bureaus (EPBs) which are responsible for enforcement may suffer from lack of funding, resources and motivations. Despite the rigorous enforcement measures, business operators in some localities may still find it more cost-effective to break the law than to comply with it. More importantly, there is no distinct right to a healthy environment which would allow a victim to seek judicial redress when the pollution level has increased because a particular project exceeds the permissible standard. The victim must wait until significant injury manifests itself and then prove the violation of other indirect rights pursuant to China's civil law, property law and tort law.

The third theme of the revised law is to facilitate public participation in environmental decision-making. The revised law provides for: (1) the role of the news media in supervising violations (article 9), (2) citizens' right to: (a) obtain environmental information

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(article 53), (b) obtain pollutant-discharging information (article 55), (c) lodge confidential complaints (article 57), (3) the obligation to disclose (a) accident assessment results (article 47), (b) national environmental quality, (c) key pollutant monitoring data (d) administrative actions taken (article 54), and above all, (4) public participation in the EIA process (article 56).



While the revised law enhances the adequacy and accuracy of construction project information available to the public, it does not make those rights enforceable by an independent tribunal. As a corollary, there is no check over the legality of agency behavior and affected citizens are left without any redress. Moreover, only a fraction of projects are subject to the compulsory public participation requirement. The project proponents and EIA institutions' great discretion over the public consultation process may sometimes result in a biased reflection.

The fourth aspect of the revised law is to stipulate the right of access to justice by registered environmental NGOs which have specialized in relevant public interest activities for five years (article 58).

The restrictive regulations concerning social organizations' registration promote the monopoly of government-sponsored environmental NGOs. Specifically, the high thresholds relating to human and capital resources as well as an approved body willing to supervise its operation threaten the survival of most environmental NGOs which are not established, funded or staffed by the government. Also, the registration of more than one social organization with a similar function within a region is disallowed. The standing requirement virtually bars members of the public and civic environmental NGOs from seeking judicial review.

The foregoing institutional deficiencies hinder the revised law from advancing from legal rhetoric to a milestone in vindicating citizens' substantive and procedural environmental rights.

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Should There Be A Human Rights Approach for Environmental Protection?

By Avani Bansal | 22nd January 2014

Is climate change just an environmental issue or also a human rights issue? Do we need a new international environmental treaty to address the rights of people displaced from their homes? When the rights of indigenous people are in question, is it a human rights issue or an environmental issue or both? Such issues require us to consider the interaction between environmental laws and human rights law.

There are three commonly discussed approaches to examining the interaction between environment protection and human rights. This piece investigates these three approaches to examine if the human rights law regime should subsume the environmental law regime, if the latter should subsume the former or if both the legal regimes should exist separately, with mutual interaction.

First, human rights laws, institutions and processes can be invoked for asserting a right to clean environment. This usually leads to

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adopting a rights-based approach for environmental protection with an emphasis on the right to clean environment, as in a series of judgments given by the Supreme Court of India under Article 21 of the Indian Constitution (which guarantees protection of life and personal liberty). For instance, in *T.Damodhar Rao v. Municipal Corporation of Hyderabad* AIR 1987 AP 171, the High Court held that 'slow poisoning...caused by environmental pollution and spoilation should also be treated as amounting to violation of Article 21. This approach was also followed in subsequent cases such as *Kinkri Devi v. Himachal Pradesh* AIR 1988 HP 4.

A second approach would be to leverage environmental laws, concepts, institutions and processes for better protection of human rights which could not be attained in the absence of a clean and healthy environment. In other words, tort and statutory regulations which make reference to 'environment protection' could be used to assert protection of human rights. For instance, in the Bhopal Gas Tragedy case, criminal charges were brought for an industrial disaster that had huge environmental ramifications and left around 25,000 people dead and more than 120, 000 people affected.

The final approach could be to interfuse environmental law and human rights. The movement towards "sustainable development," which considers the needs of present and future generations, seems to be heading in that direction.

I argue that human rights law and environmental law should continue to develop as two independent but closely linked fields whilst 'borrowing' apposite concepts. For instance, in countries where a separate right to environment is not formulated in clear terms, the existing human rights provisions regarding right to life and human dignity can be invoked, on the basis that the right to decent life cannot be protected in the absence of its concomitant right to clean environment.

However, a human rights-based approach can lead to an anthropocentric approach to environment protection. Subsuming environmental law into human rights makes the environment only a function of human needs and rights rather than as an issue that deserves protection in and of itself.

The separate existence of environmental and human rights organisations within a multilevel governance structure therefore has its advantages. These institutions can join forces for specific overlapping objectives. For instance, the coming together of OHCHR and UNEP for a joint report on human rights and environmental protection is laudable and it helps both institutions to identify the common ground that they can cover together, strengthening each advocacy platform.

Taking a human rights approach to environmental protection is advantageous in that it reinforces the concept of mutual goals and the serious ramifications each may have on the other. Framing the relationship in terms of an irreconcilable tension between developmental prerogatives and environmental prerogatives stalls progress for environment protection both at international level (by pitching developed countries versus the developing countries in international environmental negotiations), and at national level (by making environment protection subservient to developmental priorities).

It is therefore imperative that developmental concerns and environmental concerns are not seen as conflicting, but that all actors realise the need to integrate them in order to make sustainable development a reality. We need to give more flesh to the concept by having more explicit legal provisions, institutions and practice which refer to it directly and in a binding manner, as this can help us in achieving sustainable development in all its dimensions.

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