

Treaty Bodies and Related Institutions: The Centrality of Human Rights Treaty Bodies to the UN Sustainable Development System

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This submission to the Regional Consultation for the Middle East and North Africa Region on the 2020 review of the United Nations Treaty Body System emphasizes the role of the Human Rights Treaty Bodies (HRTBs) in restoring a human rights approach, in particular, states' individual, collective, domestic and extraterritorial human rights obligations, to implementation, monitoring and evaluation of the global agendas formulated in the recent period (2015–16). It rests on a clear distinction between the “commitments” negotiated and adopted in those UN processes and their outcome documents, on the one hand, and the superior “obligations” of states under treaty law.

The [2030 Agenda for Sustainable Development](#), the so-called “[New Urban Agenda](#)” (NUA), the [World Humanitarian Summit outcomes](#), the [Sendai Framework for Disaster Risk Reduction](#), the [New Deal for Engagement in Fragile States](#), the [Addis Ababa Action Agenda](#) (on financing for development), the [Paris Agreement](#) (on climate change) and the [Committee on World Food Security policy products](#) constitute the main references accompanying the Human Rights Treaties. This perspective reflects also forty years of experience of Habitat International Coalition (HIC), especially the past 25 years of its Housing and Land Rights Network, at linking global policy formulation with human rights. As a long-time participant in the HRTBs interpretive and country-review processes, that diverse structure composed of academic centers, professional associations, CSOs and social movements holds a keen interest in the Human rights Treaty Body review process. It also considers the UNTBs' roles and functions as indispensable to the UN systemwide changes proposed by the ECOSOC-appointed [International Team of Advisors](#) (ITA) to constitute the new UN Sustainable Development System.

The New Global Policy Framework

Much of the past three years has seen the UN and its Member States involved in the Habitat III process to prepare for the new iteration of the global Habitat Agenda and its successor to Habitat II (Istanbul, 1996), which had enshrined clear and repeated commitments to the centrality of human rights in balanced rural and urban human settlements development. While that human rights approach resulted largely from HIC and other civil society participation, Habitat II contained reiterated state and UN commitments to “the full and progressive realization of the human right to adequate housing,” expressed 61 times in the [Istanbul Declaration and Habitat Agenda](#). The Habitat III process culminated in a “[New Urban Agenda](#)” at the recent UN Conference on Housing and Sustainable Urban Development (Habitat III), 17–20 October 2016 with little reference to foregoing key commitments and explicit reference to the corresponding human rights obligations. HIC and others demanded that the new global policy (1) uphold the previous human rights commitments; (2) note the further development of relevant norms and standards since 1996, including newly adopted Human Rights treaties and the guidance arising from the monitoring and interpretation functions of the treaty bodies; (3) maintain the integral “habitat” approach (not a narrower and divisive focus exclusively on urban development); (4) maintain

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at least the same substantive level of stakeholder participation as in Habitat II processes; and (5) be informed by lessons derived from a proper evaluation of the performance of commitments made at Habitat II.

These demands (1–5) were informed by the roles and functions of the HRTBs. These combined with the ambition that such global policies would complement, reflect, support and integrate with the normative and evaluative example that the HRTBs have set.

With some positive outcomes, Habitat III’s “New Urban Agenda” rather reflects a decline in commitment and content related to human rights, in general, and the human right to adequate housing, in particular. In fact, despite normative progress in other global processes related to sustainable development and human rights, Habitat III failed to meet any of these five essential criteria. Similarly, the Paris Agreement and 2030 Agenda make perambulatory references to human rights—among other urgencies¹—but have failed to integrate the corresponding and binding obligations into operative clauses, goals, targets or indicators.

Arrangements for implementing, monitoring and evaluating state performance of the 2030 Agenda, Paris Agreement, “New Urban Agenda” (NUA), CFS policies and other global standards remain unclear. Operationalizing the corresponding responsibilities within the UN system is also a subject of much speculation. Part of the ambiguity about the “follow-up and review” (FUR) of Habitat III outcomes (Section C of the NUA), is attributed to the fluid nature of the ITA’s foreseen integrated system of implementation and monitoring (not to mention evaluation) of the combined global policy instruments, which envisions system-wide integration and alignment within the priorities of the Paris Agreement on climate change and the 2030 Sustainable Development Agenda.

The broad contours of the proposed new UN Sustainable Development System (UNSDS) forecast a UN system-wide coordination of implementation, monitoring and reporting through ECOSOC and a new Deputy Secretary-General for Sustainable Development. In such a transition, including the installation of the new UN Secretary-General in 2017, certain questions, as well as opportunities emerge. However, the new vision need not give way to ambiguity, speculation and doubt with a view to the HRTB system as a model. And while much discussion in the present Treaty Body review seeks ways to give deference to the SDGs, “Transforming Our World” into the “World We Want,” or rather the world we need, instead calls for a return to the primacy of human rights.

The theoretical new UNSDS—evolving out of the former UN Development System—pursues an approach in which crisis response, peace building and conflict prevention become integral to sustainable development. The ITA’s [Findings and Conclusions](#) also emphasize the UN Charter’s opening “we the peoples” principle, which the 2030 Agenda also enshrines (para. 52), while, at once, minimizing “institutional tensions” that constitute a historical weakness of the UN and pose an obstacle to “the UN we need.” The ITA interprets the 2030 Sustainable Development Agenda “to give political and policy leadership to the United Nations System” such that could succeed only by replacing “fragmentation” of efforts, including that produced through “bilateralism.”² This suggests also a predisposition away from the costly proliferation of multiple, parallel implementation and monitoring mechanisms for new policy commitments. The ITA has concluded that this new vision requires a “new and coherent approach based on addressing root causes,” which is consistent with the current generation of CFS policy guidance,³ but also a long-standing method of the HRTBs.

This reflects a new—if not overdue—wave of thinking for development discourse that pursues more-integrated approaches within the normative system applicable UN wide, including for working *on* protracted crises, rather than merely working *in* crises.⁴ That, in turn, calls for a more-integrated, “hybrid” approach to the world’s most pressing and costly problems that combines, aligns and harmonizes (1) the short-term emergency relief interventions with (2) the longer-term, institutional-building and policy-relevant development approach within (3) the over-arching framework of human rights, with its preventive and remedial dimensions.⁵

Human Rights Treaty Bodies Should Lead

This more-integrated vision within the normative framework of human rights and corresponding state obligations requires the HRTBs to assume a leading role, rather than leaving reference to human rights as a mere addendum to the global agendas, as the UNSDS flounders to reinvent means of implementation, monitoring and evaluation. The current state of the world’s development and humanitarian crises urgently needs to move toward a deliberate and more-practical approach with preventive and remedial human rights implementation as a central pillar.

Solutions may lie in turning wheels already invented. In fact, an inventory of the UN’s Treaty Body repertoire of methods may fortify one of the three pillars standing as the defined purposes of the UN system as set out in the UN Charter (with peace and security, along with forward development).⁶

The ITA cites the 2030 Agenda as constituting a New Development Understanding by which “We commit to making fundamental changes in the ways that our societies produce and consume goods and services,” to sustainably manage our planet’s natural resources. The Advisors remind us of the commitment that “We will work to build dynamic, sustainable, innovative and people-centered economies, promoting youth employment and women’s economic empowerment and decent work for all.” Furthermore, the ITA’s vision reiterates that, in implementing the 2030 Agenda, “There can be no sustainable development without peace and no peace without sustainable development” and that “We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination.” This language returns us to basics long sublimated in the practice of international relations.

At this juncture, a decade after the Secretary-General’s theses “[In Larger Freedom](#),” such policy coherence seems even more urgently needed. The recognition turns our attention to the UN treaty-based bodies as central to realizing the ITA’s timely and ambitious vision, as well as the global policies’ stated objectives. Even though those Advisors’ outline of recommendations does not explicitly propose a position for the treaty bodies in this new UNSDS configuration, we see them as indispensable actors whose example is eminently relevant like never before.

An evaluation of performance of previous commitments of the Habitat II Agenda (1996), [Istanbul+5](#) (2001), the [Millennium Declaration](#) (2000) and its reduction in the form of the [Millennium Development Goals](#) should have concluded their respective performance period. However, with the partial exception of the [MDGs](#), did not take place. However, the recognition is growing that the next iteration of global policy commitments cannot escape the results-based management requirement of monitoring and evaluation (M&E), if only to ensure return on the yet-untold multilateral investment.

Exemplary Models and Methods

In light of this growing recognition, the Human Rights treaty bodies represent the few models of monitoring and evaluation (M&E) of state commitments—indeed obligations—within the UN system. We are convinced that now is the time for greater relevance of, and deference to the treaty bodies' experience in the pursuit of the ITA's pursuit of greater coherence that presumes to centralize Human Rights.

It is appropriate for the current review of the treaty bodies' performance and experience to seek relevance to the 2030 Agenda and the constituent Sustainable Development Goals (SDGs), especially as they form a system-wide priority. However, in our view, it is not sufficient that the treaty bodies seek alignment with the SDGs without UN system-wide reciprocity. Rather, the needed approach is the other way around: In particular, the pursuit of the new UNSDS should seek to become relevant to the treaty bodies, their mandated functions, their experience and methods as the preeminent monitors of states' binding obligations.

Not least of the HRTBs' exemplary methods is their integration of civil society organizations (CSOs) in their treaty implementation, monitoring and evaluation purview. CSO reporting is intended to be "parallel"—in both form and content—to the state's report. That is, CSO and other relevant reports are not ancillary or alternative to, nor are they "shadowy" or otherwise clandestine to the national and/or government reporting process, but indispensable to the fact-checking and triangulation needed for HRTBs to conduct any country review.

HRTB methods also exemplify a norm-based approach to multistakeholderism that is lacking in other UN forums. A norm-based approach to the participation would differ from that nominally called for in the above-mentioned policy processes. The Human Rights norm-based participation in development discourse would not be so promiscuous as the apply equivalence to all interested parties. As in the HRTB system, relevant stakeholders are those parties sharing the established norms in the public interest. Privately interested parties do not hold the same weight and credibility as those reflecting the public interest.

As asserted elsewhere,⁷ the successful implementation, monitoring and evaluation of the new global agendas rely upon an enhanced the more-effective participation of civil society, but also of local authorities and subnational governments. While the global agenda language is imprecise as to the corresponding criteria, the treaties,⁸ legal interpretations⁹ and treaty-reporting guidelines¹⁰ clarify the roles and duties of local authorities and local governments.¹¹ The HRTB methods and practices provide a standard for participation of civil society and all spheres of government, but with the normative criteria and other qualifications that the global policies and their operational frameworks still lack.

Conclusion

While this is a historic moment for the enhanced relevance and prominence of the HRTBs in the envisioned, newly integrated UNSDS, that prospect has not yet to emerge from the ITA's principled proposal or the High-level Political Forum. Indeed, despite the ITA's articulated importance of human rights to sustainable development, that 15-member expert team did not include a corresponding composition of Human Rights expertise. It is our suggestion that OHCHR, in general, the Human Rights Treaty Bodies Branch and the High Commissioner himself promote—and be seen promoting—the principle that the HRTBs play a significant role in informing a coherent, integrated and system-wide new UNSDS. This should not lead to a process that absorbs or subsumed the indispensable treaty bodies, but

rather seizes the opportunity to strengthen them with a view to increasing their UN system-wide prominence.

As a civil society movement that operates at the very intersection of human rights and development, HIC proposes to support—and monitor—the development of a new UNSDS vision that realizes the centrality of human rights, as well as the enhancement of the HRTBs’ relevance to it. That prospect would make the reference to the centrality of human not a rhetorical addendum—as currently in the above-cited global policies—but their established M&E function an indispensable part of the UNSDS. This prospect aligns also with efforts to develop its civil society capacities, operating at the intersection of human rights with sustainable development and humanitarian relief.

We recognize that realizing the prospect of the HRTBs’ greater relevance to the theoretical vision of the emerging UNSDS calls for more-precise thinking, detail, articulation and concerted action. It also may suggest the need to augment the sustainable development-related capacity and composition and support functions of the treaty bodies as a UN system-wide priority. However, at this timely opportunity, we look forward to exploring the needed specificity and exerting efforts needed to operationalize the emerging UNSDS vision, while optimizing the role of the HRTBs as the UN system’s only functioning M&E assets supporting the stated goals of the current generation of global policies.

Endnotes

¹ For example, and with relevance to the Middle East/North Africa region, the 2030 Agenda’s introduction embodies recognition of the obstacles that “foreign and military occupation” pose to sustainable development (para. 35), but the Agenda offers no corresponding goal, target or indicator to remedy such illegal situation.

² The ITA does not address “unilateralism” explicitly.

³ See, for example, the [Framework for Action for Food Security and Nutrition in Protracted Crises](#) (CFS-FFA) (2015), at paras. 3, 6, 15, 20 and 31.

⁴ Ibid.

⁵ CFS-FFA, para. 15

⁶ See [In Larger Freedom](#) Report of the Secretary-General of the United Nations for decision by Heads of State and Government in September 2005.

⁷ [Report of the High Level Independent Panel to Assess and Enhance Effectiveness of UN-Habitat](#), A/71/1006, Advance Unedited Version 01 August 2017, paras. 2, 9, 10, 17, 19, 35, 40, 47, 52–53, 55, 60, 65, 74, 79, 8183, 85–87, 89, 92, 97, 100, 102 and 112.

⁸ Both the International Covenant on Civil and Political Rights (ICCPR), at Article 50, and the International Covenant on Economic, Social and Cultural Rights (ICESCR), at Article 28, stipulate that: “The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.”

⁹ International Law Commission has confirmed that “the conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State.” [Draft articles on Responsibility of States for internationally wrongful acts](#), A/56/10 (2001) and [Commentaries](#). See also Human Rights Committee (HRC), HRC General Comment No. 25: Article 25 ([Participation in public affairs and the right to vote](#)) (1996), CCPR/C/21/Rev.1/Add.7, 27 August 1996; and General Comment No. 31: “[The Nature of the General Legal Obligation Imposed on States Parties to the Covenant](#)” (2004), para. 4.

¹⁰ [Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents](#), HRI/MC/2005/3, 1 June 2005, para. 50.

¹¹ For discussion of the distinction between these terms, see: “[Local Government v. Local Authority](#),” *Land Times* Issue 12 (June 2015).