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March 23, 2013

H.E. Mr. Susilo Bambang Yudhoyono
President of Indonesia, Co-Chair, High-level Panel
H.E. Ms. Ellen Johnson Sirleaf
President of Liberia, Co-Chair, High-level Panel
H.E. Mr. David Cameron
Prime Minister of the United Kingdom, Co-Chair, High-level Panel

Cc: High-level Panel of Eminent Persons on the Post-2015 Development
Agenda, High-level Panel Secretariat
Ms. Amina J. Mohammed, Special Advisor of the Secretary-General for Post-
2015 Development Planning

Dear Members of the High-level Panel of Eminent Persons on the Post-2015
Development Agenda,

Human Rights Watch welcomes the High-level Panel's efforts to advance a
Post-2015 Development Agenda that seeks to learn from and build on the
progress achieved through the Millennium Development Goals (MDGs). The
Post-2015 consultations have revealed a strong international consensus for
placing human rights at the center of the Post-2015 framework.¹ The human
rights framework unites the core aims of economic development, equality, and
environmental sustainability, and its use will ensure accountability for the new
Agenda by anchoring it in existing international human rights obligations.²

The Post-2015 process must now move beyond general discussions to
operationalize specific goals, targets and indicators that reflect a widespread

1 The consensus surrounding the adoption of a human rights framework was especially evident in the thematic consultations on inequalities and governance. See, International Institute for Sustainable Development, "Summary of the Public Dialogue and Leadership Meeting on Addressing Inequalities in the Post-2015 Development Agenda," February 22, 2013,

<http://www.iisd.ca/download/pdf/sd/crsvol208num1e.pdf> (accessed March 22, 2013); International Institute for Sustainable Development, "Summary of the Final Consultation meeting of the Post-2015 Thematic Consultation on Governance," March, 3-4, 2013,

<http://www.iisd.ca/download/pdf/sd/crsvol208num3e.pdf> (accessed March 22, 2013).

2 See United Nations, "Terms of Reference for the High-level Panel of Eminent Persons on the Post-2015 Development Agenda," 2012, <http://www.un.org/sg/management/pdf/ToRpost2015.pdf> (accessed March 22, 2013).

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commitment to equality, transparency, and accountability. As an independent international human rights organization, Human Rights Watch is strongly positioned to make recommendations on the interrelationship of human rights and development.

Based on our work in developing countries in all regions of the world, we believe that the Rio+20 sustainable development goals (SDGs) and the Post-2015 framework should be consolidated into a single and cohesive development Agenda within a human rights framework.³ At the global level, international human rights standards should be accepted as the baseline, providing coherence between human rights, trade, investment, intellectual property, environmental, and other key policy domains.

Human Rights Watch believes the following six elements, which are distinct but mutually reinforcing, should be comprehensively incorporated into a sustainable and human rights-respecting Post-2015 Development Agenda. The Agenda should be progressive; current capacities should not place a limit on the goals we adopt. Instead, we should “measure what we treasure,” and let our vision for the future act as the catalyst for building capacity and expanding that which we are capable of measuring.⁴

Human Rights Watch believes the Post-2015 Development Agenda should:

1. Measure Development by Measuring Advancement of Human Rights

Human Rights Watch commends the High-level Panel’s recognition that economic growth alone is insufficient to ensure social justice, social inclusion, and environmental protection.⁵ Human Rights Watch’s work in Equatorial Guinea—a country with a GDP equivalent to a middle-income country but where most of the population lives in poverty—demonstrates that without effective public oversight and accountability over the use of funds, meaningful development that advances the rights of individuals is illusory. Without a free press, an active civil society enabled by protection of the rights of freedom of

³ See, Jeffrey D. Sachs, “From Millennium Development Goals to Sustainable Development Goals,” *The Lancet*, vol. 379, issue 9832, June 9, 2012, <http://jeffsachs.org/wp-content/uploads/2012/06/From-MDGs-to-SDGs-Lancet-June-2012.pdf> (accessed March 22, 2013), pp. 2206-2211; Markus Loewe, “Post 2015: How to Reconcile the Millennium Development Goals (MDGs) and the Sustainable Development Goals (SDGs)”, *German Development Institute*, Briefing Paper 18/2012, 2012, [http://www.die-gdi.de/CMS-Homepage/openwebcms3.nsf/\(ynDK_contentByKey\)/ANES-935C9R?Open](http://www.die-gdi.de/CMS-Homepage/openwebcms3.nsf/(ynDK_contentByKey)/ANES-935C9R?Open) (accessed March 22, 2013).

⁴ Navi Pillay, United Nations High Commissioner for Human Rights, Opening Remarks for the Global Thematic Consultation “Governance and the Post-2015 Development Agenda,” February 28, 2013.

⁵ See, United Nations, High-level Panel on the Post-2015 Development Agenda, “Communiqué from the Meeting of the High-level Panel of Eminent Persons on the Post-2015 Development Agenda in Monrovia, Liberia,” February 1, 2013, http://www.un.org/sg/management/pdf/Monrovia_Communique_1_Feb_2013.pdf (accessed March 22, 2013).

expression, association, and assembly, and access to information, the benefits of development are likely to remain in the hands of the elite.⁶ Increases in national GDP can occur without any improvement to the daily lives of many segments of the population.

The Post-2015 Development Agenda should measure sustainable development by the degree to which it enhances the fulfillment of rights of every individual, particularly those belonging to the most marginalized and discriminated-against groups. The Post-2015 Development Agenda should emphasize the importance of development reaching the poorest. It can go some way toward achieving this by including a specific target that focuses on the social and economic rights of the poorest two quintiles in each country and by disaggregating development according to wealth quintiles.

2. Ensure that Development is Inclusive of the Most Marginalized and Discriminated-Against

The Post-2015 Development Agenda should prioritize inclusion of marginalized and discriminated-against groups and make targeted efforts to ensure development initiatives benefit them.⁷ Human Rights Watch's work in Nepal, for example, has shown that, although the country is very close to achieving the MDG of universal primary education, children with disabilities are disproportionately excluded from schooling.⁸ The failure to address the needs of children with disabilities has prevented Nepal from reaching its development goal. It also violates the rights of these children to have access to education and be free from discrimination.

6 See, Human Rights Watch, *Well Oiled: Oil and Human Rights in Equatorial Guinea*, July 9, 2009, <http://www.hrw.org/reports/2009/07/09/well-oiled-o>.

7 The right to nondiscrimination and inclusion is grounded in international human rights treaties, and also lies at the core of the Rio +20 outcome document. The Universal Declaration of Human Rights calls for the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family. See preamble, Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A (III), U.N. Doc A/810 at 71 (1948). The International Covenant on Civil and Political Rights undertakes to "ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant." International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 3. The International Covenant on Economic Social and Cultural Rights uses similar language to ensure the "equal rights of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant." International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 3 (3 Jan. 1976). The Future We Want reaffirms "the need to achieve sustainable development by promoting sustained, inclusive and equitable economic growth...." See, "The Future We Want," adopted September 11, 2012 G.A. res. 66/288, annex, U.N. Doc. A/RES/66/288 (2012), http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/288&Lang=E (accessed March 23 2013).

8 Human Rights Watch, *Futures Stolen: Barriers to Education for Children with Disabilities in Nepal*, August 24, 2011, <http://www.hrw.org/reports/2011/08/24/futures-stolen>.

The Agenda should thus include addressing the social and economic rights of the most marginalized and discriminated-against groups in each country, with indicators that identify structural discrimination, including discriminatory laws.⁹ It is important, for instance, to ensure that the right to universal, compulsory, and free primary education is made real, especially for marginalized communities. In order to achieve this, states should disaggregate data, at a minimum, by gender, demographic group (i.e. ethnic background, language, religion), locale (rural/urban/slum household, state/territory), disability, and age. Often, such disaggregation will require improvements to current data collection methods and techniques; for example, new ways of collect data on intra-household inequalities must be developed.¹⁰

3. Measure the Accountability of Governments

The Post-2015 Development Agenda should promote an effective remedy for all victims of human rights violations and measure progress in this area.¹¹ Human Rights Watch’s work in Bangladesh, for example, has shown that inefficiency, dysfunction, and discrimination in the courts have limited women’s access to justice in family matters, instead of providing timely remedies to violence against women and poverty in female-headed households.¹² Improved access to justice empowers individuals and enhances their economic and social development, giving them tools to overcome poverty by seeking redress for violations committed by the government and others, including individuals.

Justice has a human—not just legal—imperative, giving victims a chance to achieve a measure of redress for the harms they have suffered and strengthening the rule of law, which in turn helps to promote long-term peace and stability. Notably, the World Bank’s 2011 report, *Conflict, Security, and Development*, identified justice as one of three crucial elements needed “to break cycles of violence.”¹³

⁹ See, Human Rights Watch, *Discrimination, Inequality, and Poverty—A Human Rights Perspective*, January 2013, <http://www.hrw.org/news/2013/01/11/discrimination-inequality-and-poverty-human-rights-perspective>.

¹⁰ Methods of monitoring should ensure data is collected in a rights respecting manner. Data collection must not expose individuals to potential government abuse; this is particularly a concern for those wishing to remain unidentified, such as LGBT communities. *Ibid.*

¹¹ This is a widely shared concern. See, Center for Economic and Social Rights (CESR), “Just Governance for the World We Need: A critical cornerstone for an equitable and human rights-centered sustainable development agenda post-2015,” February 2013, http://cesr.org/downloads/Beyond%202015_Governance_position_paper.pdf?preview=1 (accessed March 23, 2013).

¹² See, Human Rights Watch, “*Will I Get My Dues ... Before I Die?*”: Harm to Women from Bangladesh’s Discriminatory Laws on Marriage, Separation, and Divorce, September 17, 2012, <http://www.hrw.org/reports/2012/09/17/will-i-get-my-dues-i-die-o>.

¹³ World Bank Group, “World Development Report 2011: Conflict, Security, and Development,” April 1, 2011, <http://go.worldbank.org/1BOIJMD8Ho> (accessed March 3, 2013).

Human Rights Watch has found this is particularly true in Guinea where the persistent state failure to investigate and hold accountable alleged perpetrators has contributed to more violations.¹⁴

The Post-2015 Development Agenda should include a target on increasing accountability at all levels. In addition to enhancing access to justice, including both the formal judicial system and alternative dispute resolution mechanisms, this should extend to administrative, political, quasi-judicial, and social accountability. Measurement should be disaggregated by marginalized groups, extend to people's actual experiences (e.g. through public perception surveys on the responsiveness and trustworthiness of the police and courts), and consider the availability of free legal assistance.

The Post-2015 Development Agenda should also include indicators that measure recognized standards of governmental transparency and accountability, such as the International Monetary Fund's Code of Good Practices on Fiscal Transparency, and the existence of independent oversight bodies.¹⁵ Without such transparency, those who should benefit from the investment of public funds for development will not be able to meaningfully exercise their right to information or ensure responsible use of public funds.

4. Require Participatory, Rights-Respecting Development

People should be able to participate in national development practices, including through the exercise of civil and political rights and discussions of the fulfillment of their right to development. Participatory development empowers individuals and is a necessary protective mechanism to ensure that human rights are not violated in the name of development, as Human Rights Watch research has documented in Ethiopia. To make way for commercial agricultural projects, tens of thousands of Ethiopians have been forcibly removed to new villages, where the government has failed to provide basic services for survival.¹⁶ The government has curtailed free expression throughout the country. For development to respect human rights, intended beneficiaries and affected communities must have the capacity to shape development policy, voice their concerns, and obtain redress for violations.¹⁷ Governments,

¹⁴ Human Rights Watch, *Waiting for Justice: Accountability before Guinea's Courts for the September 28, 2009 Stadium Massacre, Rapes, and Other Abuses*, December 5, 2012, <http://www.hrw.org/reports/2012/12/05/waiting-justice>.

¹⁵ International Monetary Fund (IMF), "Code of Good Practices on Fiscal Transparency," 2007, www.imf.org/external/np/pp/2007/eng/051507c.pdf (accessed March 23, 2013); and IMF, "Guide on Resource Revenue Transparency," 2007, www.imf.org/external/np/pp/2007/eng/051507g.pdf (accessed March 23, 2013).

¹⁶ Human Rights Watch, *"Waiting Here for Death": Forced Displacement and 'Villagization' in Ethiopia's Gambella Region*, January 16, 2012, <http://www.hrw.org/reports/2012/01/16/waiting-here-death>.

¹⁷ Those most affected by poverty and discrimination must be enabled to "shape the design, implementation and monitoring of development process and outcomes." See, Center for Economic and Social Rights (CESR), "Just Governance for the World

corporations, and international institutions should respect the rights of indigenous peoples, in particular, and ensure their free, prior, and informed consent to development projects affecting them.

The Post-2015 Development Agenda should include indicators that measure the existence and enforcement of laws that protect freedom of expression, association, and assembly, and provide for freedom of information, including the ability to monitor budgets, revenue, and expenditures. International human rights standards should be accepted as the baseline and metric to assess the internal coherence of public policies at both the national and global levels. Donor states and international organizations should also require analysis of the human rights impacts of development projects, trade agreements, and the like, identifying human rights risks, avoiding or mitigating harm, and emphasizing successful rights-based approaches to development.

5. Ensure Corporate Responsibility and Accountability

The Post-2015 Development Agenda should recognize the considerable impact that non-state actors, including transnational corporations, have on development and human rights, as these actors are often key economic engines for development. As the United Nations recognized through the “Protect, Respect, Remedy” framework, states have an obligation to protect citizens against violations by third parties and to provide a remedy when violations occur. Human Rights Watch has documented how corporations have been complicit in governments’ human rights violations. In Eritrea, for example, corporations have ignored the government’s use of forced labor and profited from its use.¹⁸

The Post-2015 process should address all relevant forces that impact development. States should hold corporations to account for human rights violations, including those relating to the environment. As states bear the responsibility for regulating corporations, the Agenda should develop an indicator to measure whether states adequately fulfill this responsibility, including through, for instance, strong, rights-respecting, and non-discriminatory labor laws and should ensure that corporations are regulated both in their home territory and abroad.¹⁹

We Need: A critical cornerstone for an equitable and human rights-centered sustainable development agenda post-2015,” February 2013, http://cesr.org/downloads/Beyond%202015_Governance_position_paper.pdf?preview=1 (accessed March 23, 2013).

¹⁸ See, Human Rights Watch, *Hear No Evil: Forced Labor and Corporate Responsibility in Eritrea’s Mining Sector*, January 2013, <http://www.hrw.org/reports/2013/01/15/hear-no-evil-o>.

¹⁹ See, “Guiding Principles on Businesses and Human Rights,” adopted by the Human Rights Council July 6, 2011, U.N. doc, A/HRC/RES/17/4 (2011); United Nations Office of the High Commissioner for Human Rights (OHCHR), “Implementing the United Nations ‘Protect, Respect and Remedy’ Framework,” U.N. doc. HR/PUB/11/04 (2011), http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed March 23, 2013); and

6. Develop International Mechanisms for Accountability and Redress

The Post-2015 Development Agenda should require states to hold each other internationally accountable to the Agenda and obligations to progressively realize economic, social, and cultural rights. An international accountability mechanism should require reporting on the realization of rights through development, transparent information regarding challenges or failures, and responses to claims of human rights abuse in “development” initiatives, with explicit reference to international human rights treaty standards. While proposals for international mechanisms of redress in the Agenda have been wide ranging,²⁰ regardless of whether states decide to create new mechanisms of redress or enhance existing mechanisms, the Agenda must ensure accountability at the international, national, and local levels. Any international mechanism should ensure effective civil society participation and recognize the important role played by existing international human rights accountability mechanisms, avoid unnecessary duplication, and ensure against deducting resources or status from existing mechanisms.

Human Rights Watch believes that the critical elements and recommendations described above are important steps toward operationalizing a human rights-based development framework. It is our hope that the High-level Panel will incorporate these elements into its report to the Secretary General this May.

Please do not hesitate to contact us, as we would be delighted to meet with you or any of your staff, at your earliest convenience, to further discuss these recommendations.

Sincerely,



Jan Egeland
Europe Director and Deputy Executive Director
Human Rights Watch

Convention on the Rights of the Child (CRC), General Comment No. 16, “On State obligations regarding the impact of the business sector on children’s rights,” U.N. Doc. CRC/C/GC/16 (2013), <http://www2.ohchr.org/english/bodies/crc/comments.htm> (accessed March 23, 2013).

²⁰ Examples include: utilizing existing UN oversight mechanisms, such the Universal Periodic Review process; and developing new mechanisms, such as a special General Assembly body to review States’ progress.