

**GLOBAL OBLIGATIONS FOR SUSTAINABLE
DEVELOPMENT: HARMONIZING THE 2030 AGENDA FOR
SUSTAINABLE DEVELOPMENT AND INTERNATIONAL
HUMAN RIGHTS LAW**

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*We are resolved to free the human race from the tyranny of poverty
and want and to heal and secure our planet.*

*We resolve to build a better future for all people, including the
millions who have been denied the chance to lead decent, dignified and
rewarding lives and to achieve their full human potential.*

*Transforming Our World: the 2030 Agenda for
Sustainable Development*

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ABSTRACT

Poverty eradication is a common fundamental goal of the human rights agenda and the sustainable development agenda. International human rights law considers poverty to be a denial of human rights and acknowledges shared global obligations to alleviate poverty and realize socio-economic rights indispensable for leading a decent life universally. In unison with the human rights agenda, sustainable development instruments declare healing the planet from poverty and freeing people from the tyranny of want as a primary goal of the contemporary globalized world. This was reaffirmed by a recent important document—*Transforming our World: the 2030 Agenda for Sustainable Development*. That *Agenda* declares that “eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development.” This Article represents a systematic analysis of the global obligations to eradicate poverty and ensure a decent standard of living universally embedded in the *2030 Agenda for Sustainable Development*. It provides a general outline of the conception of global obligations for sustainable development and opens a novel understanding of their nature, status, content, scope, and duty-bearers, as well as the mechanisms necessary for their implementation. This Article also examines special features, strengths and limitations, and the interrelation between commitments for sustainable development and global obligations in the area of socio-economic rights. Based on that analysis, this Article puts forward suggestions for how the contemporary sustainable development agenda might be further improved in order to realize global obligations for sustainable development. Additionally, this Article explores modes of global governance and accountability that are necessary to realize human rights and reach the Sustainable Development Goals. It concludes by suggesting how the human rights and sustainable development agendas should be harmonized in a way that enriches both agendas at normative and institutional levels, in the service of realizing their common goals of combating poverty and ensuring a decent standard of living universally.

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I. INTRODUCTION

Poverty eradication is one of the most significant and pressing contemporary problems. There is a universal consensus that poverty represents a severe socio-economic deprivation, a form of unfreedom, and a deadly social disease.¹ We can identify four major features of this deprivation, each with its own caveat. First, the deprivation is caused by social practices and institutions – although there are debates on which particular institutions and practices cause poverty. Second, it is curable through the correction of these practices and institutions – although the set of most relevant and effective measures is uncertain. Third, we have an aspiration and sufficient aggregate resources to heal it in all of its manifestations – yet, even if the aspiration has found expression in numerous international documents, the resources call for urgent mobilization and efficient usage. Fourth, many global actors, experts, and empathic people all over the world are involved in the current fight against poverty – though the voices of poor individuals and developing societies are still rarely heard and anti-poverty programs are often uncoordinated, inefficient, and even violative of human rights.

The focus of this Article is the human rights agenda and the sustainable development agenda, which share the same fundamental goal of global poverty eradication. International human rights law considers poverty to be a denial of human rights²

¹ Approximately one third of all human deaths have poverty-related causes. Thomas Pogge & Mitu Sengupta, *Assessing the Sustainable Development Goals from a Human Rights Perspective*, 32(2) J. INT'L & COMP. SOC. POL'Y 83, 86 (2016). In 2018, 6.2 million children under fifteen years, out of which 5.3 million children were under five, died from mostly preventable or treatable poverty-related causes. This means that one child dies every five seconds. U.N. Inter-Agency Group for Child Mortality Estimation, *Levels & Trends in Child Mortality*, at 4 (2019).

² See World Conference on Human Rights, *Vienna Declaration and Programme of Action*, U.N. Doc. A/CONF.157/23, para. 14 (July 12, 1993) [hereinafter *Vienna Declaration*]; Third U.N. Conference on the Least Developed Countries, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights*, U.N. Doc. A/CONF.191/BP/7, para. 1 (May 13, 2001). Human rights theory and practice interpret poverty as a violation of human rights in case it is the result of a failure of responsible actors to fulfill their negative or positive obligations. See Thomas Pogge, *Severe Poverty as a Human Rights Violation*, in

and acknowledges shared global obligations to alleviate poverty and realize socio-economic rights indispensable for leading a decent life universally.³ In unison with the human rights agenda, sustainable development instruments declare healing the planet from poverty and freeing people from the tyranny of want as the primary goal of the contemporary globalized world; this was reaffirmed by a recent important document—*Transforming our World: the 2030 Agenda for Sustainable Development* (hereinafter the *2030 Agenda*).⁴ The *2030 Agenda* declares that “eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development.”⁵

Global obligations to eradicate poverty and ensure a decent standard of living universally derived from the *2030 Agenda* form the *subject* of this Article. The main *objectives* of this Article are, first, to analyze the nature, status, content, and scope of global commitments to combat poverty and secure access to a decent standard of living embedded in the *2030 Agenda*; second, to examine their relation with global obligations in the area of socio-economic rights; third, to explore how the sustainable development agenda and human rights agenda should interact and enrich one another at normative and institutional levels in order to achieve their common goal of poverty eradication; and, finally, to suggest ways in which the contemporary sustainable development agenda might be further improved, including the international organizational structure that is necessary to realize global obligations for sustainable development.

FREEDOM FROM POVERTY AS A HUMAN RIGHT: WHO OWES WHAT TO THE VERY POOR? (Thomas Pogge ed., 2007); CTR. FOR ECON. & SOC. RIGHTS, HUMAN RIGHTS AND POVERTY: IS POVERTY A VIOLATION OF HUMAN RIGHTS? 3-4 (Dec. 2009), http://www.cesr.org/sites/default/files/CESR_Briefing_-_Human_Rights_and_Poverty_-_Draft_December_2009.pdf [<https://perma.cc/WCJ3-MQTF>].

³ See Elena Pribytkova, *Global Human Rights Obligations Relating to a Decent Standard of Living* (2019) (unpublished J.S.D. dissertation, Columbia University).

⁴ G.A. Res. 70/1, *Transforming our World: the 2030 Agenda for Sustainable Development*, pmbl. (Sept. 25, 2015) [hereinafter *2030 Agenda*].

⁵ *2030 Agenda*, *supra* note 4, para. 2.

Since the *2030 Agenda* is quite a new document,⁶ there is still no comprehensive research on global commitments to combat poverty and secure the decent standard of living it enshrines.⁷ A few legal studies addressing different types of global commitments⁸ presupposed by the sustainable development agenda focus primarily on commitments of conduct (i.e., duties of development cooperation and assistance)⁹ rather than on commitments of result (i.e., duties to create and maintain a just and sustainable global institutional scheme¹⁰ and to provide for minimum socio-economic guarantees indispensable for leading a decent life).¹¹ The same

⁶ The elaboration of the SDGs' indicators is still an ongoing process. *See infra* Section IV.C.

⁷ For some significant studies on the topic, see Pogge & Sengupta, *supra* note 1; MARKUS KALTENBORN, *SOCIAL RIGHTS AND INTERNATIONAL DEVELOPMENT: GLOBAL LEGAL STANDARDS FOR THE POST-2015 DEVELOPMENT AGENDA* (2015); TAHMINA KARIMOVA, *HUMAN RIGHTS AND DEVELOPMENT IN INTERNATIONAL LAW* (2016).

⁸ For a classification of global obligations, *see infra* Section III.A.

⁹ *See, e.g.*, PHILIPP DANN, *THE LAW OF DEVELOPMENT COOPERATION: A COMPARATIVE ANALYSIS OF THE WORLD BANK, THE EU AND GERMANY* (Andrew Hammel trans., 2013); Philipp Dann, *Accountability in Development Aid Law: The World Bank, UNDP and Emerging Structures of Transnational Oversight*, 44 *ARCHIV DES VÖLKERRECHTS* 381 (2006); André Frankovits, *Rejoinder: The Rights Way to Development*, 21 *FOOD POL'Y.* 123 (1996); Hanne Lund Madsen, *Development Assistance and Human Rights Concerns*, 61/62 *NORDIC J. INT'L L.* 129 (1994); Wouter Vandenhoe, *Economic, Social and Cultural Rights in the CRC: Is There a Legal Obligation to Cooperate Internationally for Development?*, 17 *INT'L J. CHILD. RTS.* 23 (2009).

¹⁰ For an analysis of global institutional obligations implied by the sustainable development agenda, *see, e.g.*, MARGOT E. SALOMON, *GLOBAL RESPONSIBILITY FOR HUMAN RIGHTS: WORLD POVERTY AND THE DEVELOPMENT OF INTERNATIONAL LAW* (2007); CELINE TAN, *GOVERNANCE THROUGH DEVELOPMENT: POVERTY REDUCTION STRATEGIES, INTERNATIONAL LAW AND THE DISCIPLINING OF THIRD WORLD STATES* (2011); Arne Vandenbogaerde, *The Right to Development in International Human Rights Law: A Call for Its Dissolution*, 31 *NETH. Q. HUM. RTS.* 187 (2013).

¹¹ On various sustainable development commitments indispensable for a decent standard of living, *see, e.g.*, PEDI CHIEMENA OBANI, *STRENGTHENING THE HUMAN RIGHT TO SANITATION AS AN INSTRUMENT FOR INCLUSIVE DEVELOPMENT* (2018); Audrey R. Chapman, *Evaluating the Health-Related Targets in the Sustainable Development Goals from a Human Rights Perspective*, 21 *INT'L J. HUM. RTS.* 1098 (2017); Ricard Gine et al., *Monitoring Sanitation and Hygiene in the 2030 Agenda for Sustainable Development: A Review through the Lens of Human Rights*, 580 *SCI. TOTAL ENV'T* 1108 (2016); Owen McIntyre, *International Water Law and SDG 6: Mutually Reinforcing Paradigms*, in *SUSTAINABLE DEVELOPMENT GOALS: LAW, THEORY AND IMPLEMENTATION* (Duncan French & Louis J. Kotzé eds., 2018); Jose Luis Vivero Pol & Claudio Schuftan, *No Right to Food and Nutrition in the SDGs: Mistake or Success?*, 1 *B.M.J.*

tendency can be traced in economic,¹² political,¹³ philosophical,¹⁴ development,¹⁵ and interdisciplinary¹⁶ studies on commitments for sustainable development. A number of important studies explore global interactional and institutional obligations corresponding to

GLOBAL HEALTH (2016); Carmel Williams & Paul Hunt, *Neglecting Human Rights: Accountability, Data and Sustainable Development Goal 3*, 21 INT'L J. HUM. RTS. 1114 (2017).

¹² See, e.g., PAUL COLLIER, *THE BOTTOM BILLION: WHY THE POOREST COUNTRIES ARE FAILING AND WHAT CAN BE DONE ABOUT IT* (2007); WILLIAM EASTERLY, *THE WHITE MAN'S BURDEN: WHY THE WEST'S EFFORTS TO AID THE REST HAVE DONE SO MUCH ILL AND SO LITTLE GOOD* (2006); DAMBISA MOYO, *DEAD AID: WHY AID IS NOT WORKING AND HOW THERE IS A BETTER WAY FOR AFRICA* (2009); JEFFREY D. SACHS, *THE AGE OF SUSTAINABLE DEVELOPMENT* (2015); JEFFREY D. SACHS ET AL., *CLOSING THE SDG BUDGET GAP* (2018); José Antonio Alonso, *From Aid to Global Development Policy* (U.N. Dep't of Econ. & Soc. Affairs, Working Paper No. 121, 2012).

¹³ See, e.g., JOACHIM MONKELBAAN, *GOVERNANCE FOR THE SUSTAINABLE DEVELOPMENT GOALS: EXPLORING AN INTEGRATIVE FRAMEWORK OF THEORIES, TOOLS, AND COMPETENCIES* (2019); ELHAM SEYEDSAYAMDOST, *A WORLD WITHOUT POVERTY: NEGOTIATING THE GLOBAL DEVELOPMENT AGENDA* (2015) (unpublished Ph.D. dissertation, Columbia University); Bob Deacon, *Assessing the SDGs from the Point of View of Global Social Governance*, 32(2) J. INT'L COMP. SOC. POL'Y 116 (2016); Pogge & Sengupta, *supra* note 1; Thomas Pogge & Mitu Sengupta, *Rethinking the Post-2015 Development Agenda: Eight Ways to End Poverty Now*, 7 GLOBAL JUST.: THEORY PRAC. RHETORIC 3 (2014); Thomas Pogge & Mitu Sengupta, *The Sustainable Development Goals: A Plan for Building a Better World?* 11(1) J. GLOBAL ETHICS 56 (2015); Thomas Pogge & Mitu Sengupta, *The Sustainable Development Goals (SDGs) as Drafted: Nice Idea, Poor Execution*, 24(3) WASH. INT'L L. J. 571 (2015); Mitu Sengupta, *Transformational Change or Tenuous Wish List? A Critique of SDG-1 ('End Poverty in All Its Forms Everywhere')* 37(1) SOC. ALTERNATIVES 12 (2018).

¹⁴ See, e.g., DIETER BIRNBACHER & MAY THORSETH, *THE POLITICS OF SUSTAINABILITY: PHILOSOPHICAL PERSPECTIVES* (2015); MARTHA C. NUSSBAUM, *CREATING CAPABILITIES: THE HUMAN DEVELOPMENT APPROACH* (2011); THOMAS POGGE, *POLITICS AS USUAL: WHAT LIES BEHIND THE PRO-POOR RHETORIC* (2010); AMARTYA SEN, *DEVELOPMENT AS FREEDOM* (1999).

¹⁵ See, e.g., *DEVELOPMENT COOPERATION: CHALLENGES OF THE NEW AID ARCHITECTURE* (Stephan Klingebiel ed., 2014); OLAV STOKKE, *THE U.N. AND DEVELOPMENT: FROM AID TO COOPERATION* (2009); Deborah Eade, *Capacity Building: Who Builds Whose Capacity?*, 17 DEV. IN PRAC. 630 (2007); Paolo de Renzio & Jurek Seifert, *South-South Cooperation and the Future of Development Assistance: Mapping Actors and Options*, 35 THIRD WORLD Q. 1860 (Nov. 26, 2014); Anup Shah, *Foreign Aid for Development Assistance*, GLOBAL ISSUES (Sep. 28, 2014), <http://www.globalissues.org/article/35/foreign-aid-development-assistance> [<https://perma.cc/S3LV-RQXX>].

¹⁶ See, e.g., ANDY SUMNER & TOM KIRK, *THE DONORS' DILEMMA: EMERGENCE, CONVERGENCE AND THE FUTURE OF FOREIGN AID* (2014); *THE FRAGMENTATION OF AID: CONCEPTS, MEASUREMENTS AND IMPLICATIONS FOR DEVELOPMENT COOPERATION* (Stephan Klingebiel et al. eds., 2016).

the right to development.¹⁷ A significant part of research is concentrated on commitments for global partnership proclaimed in Millennium Development Goal (hereinafter MDG) 8.¹⁸ That research, however, does not examine the *2030 Agenda's* substantial transformations of the MDGs' stipulations.

This Article seeks to fill the existing gaps and suggest answers to a set of vital questions about which there is still no consensus in literature and practice. First, what are the strengths and weaknesses of the MDGs' and Sustainable Development Goals' (hereinafter SDGs) approaches to determining global commitments to combat poverty and secure a decent standard of living universally? Second, how do sustainable development commitments and global obligations in the area of socio-economic rights interrelate? Third, to what extent do the right to development and corresponding obligations serve as tools for harmonizing the human rights agenda and the sustainable development agenda? Fourth, what types of

¹⁷ See, e.g., REFLECTIONS ON THE RIGHT TO DEVELOPMENT (Arjun Sengupta et al. eds., 2005); ISABELLA D. BUNN, THE RIGHT TO DEVELOPMENT AND INTERNATIONAL ECONOMIC LAW: LEGAL AND MORAL DIMENSIONS (2012); DEVELOPMENT AS A HUMAN RIGHT: LEGAL, POLITICAL, AND ECONOMIC DIMENSIONS (Bård A. Andreassen & Stephen P. Marks eds., 2007); Arjun K. Sengupta, *Conceptualizing the Right to Development for the Twenty-First Century*, in UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, REALIZING THE RIGHT TO DEVELOPMENT: ESSAYS IN COMMEMORATION OF 25 YEARS OF THE UNITED NATIONS DECLARATION ON THE RIGHT TO DEVELOPMENT 67 (2013); Stephen Marks, *The Human Right to Development: Between Rhetoric and Reality*, 17 HARV. HUM. RTS. J. 137 (2004); Arjun Sengupta, *Realizing the Right to Development*, 31 DEV. & CHANGE 553 (2000); Vandenbogaerde, *supra* note 10; Wouter Vandenhole, *The Human Right to Development as a Paradox*, 36(3) VERFASSUNG UND RECHT IN ÜBERSEE (LAW AND POLITICS IN AFRICA, ASIA AND LATIN AMERICA) 377 (2003).

¹⁸ See, e.g., THE MDGs, CAPABILITIES AND HUMAN RIGHTS: THE POWER OF NUMBERS TO SHAPE AGENDAS (Sakiko Fukuda-Parr & Alicia Ely Yamin eds., 2015); POGGE, *supra* note 14; CASTING THE NET WIDER: HUMAN RIGHTS, DEVELOPMENT AND NEW DUTY BEARERS (Margot E. Salomon et al. eds., 2007); SALOMON, *supra* note 10; Magdalena Sepúlveda Carmona, *The Obligations of 'International Assistance and Cooperation' under the International Covenant on Economic, Social and Cultural Rights. A Possible Entry Point to a Human Rights Based Approach to Millennium Development Goal 8*, 13(1) INT'L J. HUM. RTS. 86 (2009); Sakiko Fukuda-Parr & David Hulme, *International Norm Dynamics and the "End of Poverty": Understanding the Millennium Development Goals*, 1 GLOBAL GOVERNANCE 17 (2011); Sakiko Fukuda-Parr, *Millennium Development Goal 8: Indicators for International Human Rights Obligations?*, 28 HUM. RTS. Q. 966 (2006); Sakiko Fukuda-Parr et al., *The Power of Numbers: A Critical Review of Millennium Development Goal Targets for Human Development and Human Rights*, 15(2-3) J. HUM. DEV. & CAPABILITIES 105 (2014); SEYEDSAYAMDOST, *supra* note 13.

global obligations for sustainable development are embodied in the *2030 Agenda*? Fifth, how do the SDGs define institutional obligations to create and maintain a just and sustainable global order? Sixth, what is the status, content and scope of global obligations to ensure a decent and sustainable standard of living enshrined in the *2030 Agenda*? Seventh, what global actors are bound by shared obligations to cooperate for sustainable development? Eighth, how should global obligations of development assistance be interpreted? Finally, what institutional guarantees are necessary to promote global partnership for sustainable development?

It goes without saying that an article of this scope cannot hope to comprehensively answer all these momentous questions. This Article is aimed instead at providing a general outline of the conception of global obligations for sustainable development relating to poverty eradication and ensuring a decent standard of living. The specification of the exact content and scope of various global obligations for sustainable development, as well as rules and methods of attributing them to particular actors, goes beyond its scope and requires further careful and critical research.

This Article intends to elaborate an appealing coherent framework for global obligations for sustainable development based on well-defended principles of global justice, many of which are also embedded in existing international human rights and sustainable development instruments. On this ground, the study suggests ways to reform and bring into sync both the contemporary human rights and sustainable development agendas. This interdisciplinary research involves normative and descriptive components and addresses contemporary legal and political discourses and practices relating to global obligations for sustainable development. It engages principles developed in moral, legal and political philosophy and compelling empirical studies concerning various types of commitments for sustainable development.

This Article's structure is designed to probe the most contentious questions enumerated above. It contains three parts. Following this introduction, the second part examines the interrelation between the human rights agenda and the sustainable development agenda. In particular, it focuses on the evolution of the sustainable development movement from the *United Nations Millennium Declaration* (hereinafter the *Millennium Declaration*) to the *2030 Agenda* (Section II.A), on the correlation between human rights

obligations and sustainable development commitments (Section II.B), and on the role of a human rights-based approach and the right to development in bringing the sustainable development agenda in line with the international human rights agenda and on ways of mutually enriching both agendas (Section II.C).

The third part provides a general overview and classification of global obligations, explores which global obligations for sustainable development are presupposed by the *2030 Agenda* (Section III.A), and analyzes global obligations of result—that is, obligations to create and maintain a just and sustainable global order (Section III.B) and obligations to ensure a decent and sustainable standard of living universally (Section III.C).

The fourth part of this Article addresses global obligations of conduct—obligations to cooperate for sustainable development (Section IV.A) and obligations to assist those in poverty (Section IV.B)—and discusses institutional guarantees of global partnership for sustainable development (Section IV.C).

II. HUMAN RIGHTS AGENDA AND SUSTAINABLE DEVELOPMENT AGENDA

A. Sustainable Development Agenda: From Millennium Development Goals to Sustainable Development Goals

Sustainable development implies “meet[ing] the needs of the present without compromising the ability of future generations to meet their own needs.”¹⁹ It is proclaimed (along with human rights and international peace and security) as one of the three main pillars of the United Nations.²⁰ The *Declaration on the Right to Development* (hereinafter DRD) defines sustainable development as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the

¹⁹ United Nations, *Report of the World Commission on Environment and Development: Our Common Future*, ch. 2, para. 1 (1987); see G.A. Res. 42/187, Report of the World Commission on Environment and Development, pmbl. (Dec. 11, 1987).

²⁰ United Nations, *The Three Pillars of the United Nations*, <https://www.un.org/un70/en/content/videos/three-pillars> [<https://perma.cc/99XH-PABP>].

entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.”²¹ Similar to the concept of human rights, the concept of sustainable development is quite general, multi-faceted and capable of accommodating multiple normative meanings and expectations, which most likely contributed to its worldwide acceptance.²²

One can distinguish four interrelated basic dimensions of sustainable development: social development, economic development, environmental development, and political development.²³ For instance, the Report to the U.N. Secretary-General *Realizing the Future We Want for All* (2012) describes these four core aspects of sustainable development and their “enablers” as follows.²⁴ Inclusive social development calls for guarantees of social security; a decent standard of living, including secure access to adequate food, water, sanitation, housing, clothing, and health; social and gender equality; quality education and cultural diversity; as well as guarantees of demographic dynamics and migration.²⁵ Inclusive economic development embraces guarantees of income poverty eradication, reduction in economic inequality, decent work and productive employment, green economic growth, fair and stable global trade and financial systems, sustainable energy, and affordable access to knowledge and technology.²⁶ Environmental sustainability encompasses biodiversity protection, a stable climate, the sustainable use of natural resources and waste management, and

²¹ G.A. Res. 41/128, Declaration on the Right to Development, pmbl. (Dec. 4, 1986) [hereinafter DRD].

²² See MONKELBAAN, *supra* note 13, at 9-10; THE POLITICS OF SUSTAINABLE DEVELOPMENT: THEORY, POLICY AND PRACTICE WITHIN THE EUROPEAN UNION 5 (Susan Baker et al. eds., 1997).

²³ There is also an alternative approach to classifying three dimensions of sustainability—social, economic, and environmental sustainability—that was expressed in the U.N. Conference on Sustainable Development (Rio+20) Outcome Document, “The Future We Want,” and the 2030 Agenda. The latter, however, also incorporates the SDGs related to political sustainability. See *infra* notes 49-50. As shown above, the DRD also determines four fundamental aspects of development—that is, economic, social, cultural, and political development. DRD, *supra* note 21, pmbl., art. 1.

²⁴ U.N. System Task Team on the Post-2015 U.N. Development Agenda, *Realizing the Future We Want for All: Report to the U.N. Secretary-General*, 24-32 (2012).

²⁵ *Id.*

²⁶ *Id.*

resilience to natural hazards.²⁷ Political sustainability (peace and security) emphasizes the necessity to ensure human rights; the rule of law; democratic and fair global and local governance and institution-building; freedom from violence, conflicts and abuses; global partnership for development; and equal access to justice and public services.²⁸

These four dimensions of development were manifested in the *Millennium Declaration* adopted on September 8th, 2000.²⁹ 193 U.N. member states agreed to achieve eight MDGs by the year 2015. It is important to note that the *Millennium Declaration* stressed that achieving the MDGs depends not only on good territorial governance, but also on good global governance.³⁰ It acknowledged that states possess “a collective responsibility to uphold the principles of human dignity, equality and equity” not only territorially but also “at the global level.” States are therefore bound by shared global duties towards “all the world’s people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs.”³¹ They promised to “spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected.”³² The *Millennium Declaration* also expressed the commitment to make “the right to development a reality for everyone and to freeing the entire human race from want.”³³

The *Millennium Declaration* recognized not only interactional, but also institutional global commitments to build and maintain a sustainable global order: “We resolve . . . to create an environment—at the national and global levels alike—which is

²⁷ *Id.*

²⁸ *Id.*

²⁹ G.A. Res. 55/2, United Nations Millennium Declaration (Sept. 8, 2000) [hereinafter *Millennium Declaration*]. The MDGs are as follows: first, to eradicate extreme poverty and hunger; second, to achieve universal primary education; third, to promote gender equality and empowering women; fourth, to reduce child mortality rates; fifth, to improve maternal health; sixth, to combat HIV/AIDS, malaria, and other diseases; seventh, to ensure environmental sustainability; and eighth, to develop a global partnership for development.

³⁰ *Id.* para. 13.

³¹ *Id.* para. 2.

³² *Id.* para. 11.

³³ *Id.*

conducive to development and to the elimination of poverty.”³⁴ Institutional guarantees, however, had not crystallized into specific MDGs. While focusing predominantly on states’ commitments in the area of sustainable development, the *Millennium Declaration* also called for developing “strong partnerships with the private sector and with civil society organizations in pursuit of development and poverty eradication.”³⁵

The *Millennium Declaration* and the MDGs were widely criticized for the way in which they were drafted: first, through a decision-making process behind closed doors that involved only developed states, and, second, through a top-down procedure without consultations with global/local civil society.³⁶ Additionally, the majority of developing countries did not agree with the document issued by the Organization for Economic Cooperation and Development (hereinafter OECD), *Shaping the 21st Century: The Contribution of Development Co-operation* (1996), that contained six development goals, on the basis of which the MDGs were formulated,³⁷ and in particular, with the definition of poverty

³⁴ *Id.* para. 12.

³⁵ *Id.* para. 20.

³⁶ As Elham Seyedsayamdost notes, for the very first time, a significant document of this level was elaborated without preliminary consultations with other global actors, including global civil society. See SEYEDSAYAMDOST, *supra* note 13, at 197, 207; YASH GHAI & JILL COTTRELL, THE MILLENNIUM DECLARATION, RIGHTS AND CONSTITUTIONS 70 (2011). For an excellent overview of approaches to MDGs’ critique, see 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*, 27 HUM. RTS. Q. 755, 762-66 (2005); see also Maya Fehling et al., *Limitations of the Millennium Development Goals: A Literature Review*, 8 GLOBAL PUB. HEALTH 1109 (2013).

³⁷ *Shaping the 21st Century: The Contribution of Development Co-operation* includes the following six development goals combined into three groups: (1) economic well-being: the proportion of people living in extreme poverty in developing countries should be reduced by at least half by 2015; (2) social development: there should be substantial progress in primary education, gender equality, basic health care and family planning, as follows: (a) there should be universal primary education in all countries by 2015; (b) progress toward gender equality and the empowerment of women should be demonstrated by eliminating gender disparity in primary and secondary education by 2005; (c) the death rate for infants and children under the age of five years should be reduced in each developing country by two-thirds of the 1990 level by 2015; the rate of maternal mortality should be reduced by three-quarters during this same period; (d) access should be available through the primary health-care system to reproductive health

enshrined in it.³⁸ For these reasons, the MDGs are often believed to be the product of the North and to not correspond to interests of the South and especially poor societies.³⁹

According to the U.N.'s official position, the MDGs were just a summary of previous commitments by the international community.⁴⁰ It is not clear, however, why many obligations, both in terms of human rights and development, were not embodied in the MDGs.⁴¹ Civil society representatives claimed that the MDGs substantially deviated from sustainable development and international law agreements that were already in place.⁴² It has been widely argued that if the MDGs had been drafted under conditions of active, full-fledged and meaningful participation by developing states, consultation with global civil society, and

services for all individuals of appropriate ages, including safe and reliable family planning methods, as soon as possible and no later than the year 2015; and (3) environmental sustainability and regeneration: there should be a current national strategy for sustainable development, in the process of implementation, in every country by 2005, so as to ensure that current trends in the loss of environmental resources forests, fisheries, fresh water, climate, soils, biodiversity, stratospheric ozone, the accumulation of hazardous substances and other major indicators are effectively reversed at both global and national levels by 2015. On the basis of these six goals, the first seven MDGs were formulated, while goal 2(c) included two sub-goals, that is, to reduce the death rate for infants and children under the age of five and to reduce the rate of maternal mortality. A development goal concerning reproductive health was replaced with MDG 6 to combat HIV/AIDS, malaria, and other diseases. See ORG. FOR ECON. COOPERATION & DEV., SHAPING THE 21ST CENTURY: THE CONTRIBUTION OF DEVELOPMENT CO-OPERATION 9-11 (1996) [hereinafter SHAPING THE 21ST CENTURY].

³⁸ As later MDGs, *Shaping the 21st Century* referred to the World Bank's extreme poverty threshold, defined as \$1 income per capita per day, or \$370 annual income. See SEYEDSAYAMDOST, *supra* note 13, at 79 n.13.

³⁹ See POGGE, *supra* note 14, at 57-74; William Easterly, *How the Millennium Development Goals Are Unfair to Africa*, 37 WORLD DEV. 26 (2009); SEYEDSAYAMDOST, *supra* note 13, at 197.

⁴⁰ See SEYEDSAYAMDOST, *supra* note 13, at 153; see also Michael W. Doyle, *Dialectics of a Global Constitution: The Struggle Over the UN Charter*, 18 EUR. J. INT'L REL. 601 (2011); Richard Manning, *Using Indicators to Encourage Development: Lessons from the Millennium Development Goals*, Report for Danish Institute for International Studies 2009:01 (2009); Jan Vandemoortele, *The MDG Story: Intention Denied*, 42 DEV. & CHANGE 1 (2011); David Hulme, *The Millennium Development Goals (MDGs): A Short History of the World's Biggest Promise* (Brooks World Poverty Inst., Working Paper No. 100, 2009).

⁴¹ For a critique, see Pogge & Sengupta, *supra* note 1.

⁴² For an overview, see Fehling et al., *supra* note 36.

adequate representation of the global poor, they would have been formulated differently.⁴³

The first seven MDGs inherited from the OECD development goals focused on states' territorial commitments. The inclusion of commitments for global partnership (MDG 8)⁴⁴ pursued two major objectives. First, it was a way to convince developing countries, which rejected the OECD development goals, to accept the MDGs, rather than a way to reflect the genuine intention to establish a global institutional framework for equal partnership and developing states' empowerment. The lack of actual desire to implement the commitment of global partnership is also confirmed by the fact that MDG 8 was much less concrete than other MDGs, providing for quite vague targets.⁴⁵ The second objective for introducing MDG 8 was to legitimize to the "donor club" countries' citizens that they have duties to provide development aid.⁴⁶ Hence, the MDGs are rightly considered to be not poor-oriented or developing societies-oriented but rather donor-oriented commitments.⁴⁷

On September 25, 2015, the U.N. General Assembly adopted a significant new document—the *2030 Agenda*—which formulated

⁴³ See Peggy Antrobus, *Critiquing the MDGs from a Caribbean Perspective*, 13 GENDER & DEV. 94 (2005); Ashwani Saith, *From Universal Values to Millennium Development Goals: Lost in Translation*, 37 DEV. & CHANGE 1167 (2006); SEYEDSAYAMDOST, *supra* note 13, at 170 (recounting Seyedsayamdost's interview with Richard Manning from Mar. 7, 2013).

⁴⁴ UNITED NATIONS, GOAL 8: DEVELOP A GLOBAL PARTNERSHIP FOR DEVELOPMENT, <https://www.un.org/millenniumgoals/global.shtml> [<https://perma.cc/VH2G-MACT>].

⁴⁵ U.N. Development Programme experts stressed that MDG 8 "provided no timetable for policy change; targets and indicators were general statements of objectives rather than policy changes; and it was silent on the need to increase the voices of poor countries in international decision-making." High-Level Task Force on the Right to Development, *Report of the High-Level Task Force on the Implementation of the Right to Development on its Second Meeting*, E/CN.4/2005/WG.18/TF/3, para. 23 (Dec. 8, 2005); *see also* Fukuda-Parr, *supra* note 18.

⁴⁶ Seyedsayamdost defends the idea that the MDGs were "initially a construct of the donor community, who looked for ways to make aid relevant and to justify development assistance to their domestic constituents." SEYEDSAYAMDOST, *supra* note 13, at 150.

⁴⁷ See Saskia Hollander & Pearl Heinemans, *An Unfinished Symphony—The Road Towards the Post-2015 Global Development Agenda*, BROKER (Sept. 27, 2013), <https://www.thebrokeronline.eu/an-unfinished-symphony-d13/> [<https://perma.cc/2LVF-74CJ>]; SEYEDSAYAMDOST, *supra* note 13, at 32.

seventeen SDGs⁴⁸ and 169 targets.⁴⁹ The *2030 Agenda* emphasizes the SDGs' continuity with the MDGs: the former "seek to build on the Millennium Development Goals and complete what they did not achieve."⁵⁰ Among "continuing development priorities," the *2030 Agenda* lists "poverty eradication, health, education and food security and nutrition."⁵¹ It reaffirms the primary commitment "to free the human race from the tyranny of poverty and want" which binds "[a]ll countries and all stakeholders, acting in collaborative partnership."⁵²

At the same time, there are several important differences between the MDGs and SDGs: First, though the adoption of the MDGs was a top-down and donors-oriented process, which excluded the active and meaningful participation of developing

⁴⁸ The SDGs are as follows: first, to end poverty in all its forms everywhere; second, to end hunger, achieve food security and improved nutrition and promote sustainable agriculture; third, to ensure healthy lives and promote well-being for all at all ages; fourth, to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all; fifth, to achieve gender equality and empower all women and girls; sixth, to ensure availability and sustainable management of water and sanitation for all; seventh, to ensure access to affordable, reliable, sustainable and modern energy for all; eighth, to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all; ninth, to build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation; tenth, to reduce inequality within and among countries; eleventh, to make cities and human settlements inclusive, safe, resilient and sustainable; twelfth, to ensure sustainable consumption and production patterns; thirteenth, to take urgent action to combat climate change and its impacts; fourteenth, to conserve and sustainably use the oceans, seas and marine resources for sustainable development; fifteenth, to protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss; sixteenth, to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels; and, seventeenth, to strengthen the means of implementation and revitalize the global partnership for sustainable development. *2030 Agenda*, *supra* note 4, SDG 1-17.

⁴⁹ *2030 Agenda*, *supra* note 4. Though the *2030 Agenda* documents the commitment of "achieving sustainable development in its three dimensions—economic, social and environmental—in a balanced and integrated manner," it includes also goals and targets related to political sustainability, such as democracy, good governance, the rule of law, respect for civil and political rights, equality and non-discrimination, equal access to justice for all. *Id.* paras. 2, 8-9, 18-19, SDG 16.3.

⁵⁰ *Id.* pmbl.

⁵¹ *Id.* para. 17.

⁵² *Id.* pmbl.

states and (global) civil society, during the elaboration of the SDGs, a serious attempt to organize the collaboration of states, intergovernmental organizations, non-state entities and individuals, including those from poor communities, was made.⁵³ Second, while the MDGs addressed only developing countries,⁵⁴ the *2030 Agenda* applies universally – i.e., to all rich and poor societies.⁵⁵ This is crucial because, according to recent convincing studies, a significant proportion of the poor live in middle-income states.⁵⁶ Those in poverty from developed states should be provided with secure access to a decent and sustainable standard of living; and governments of developed states should be held accountable for

⁵³ During my internship with the Rule of Law Unit in the Executive Office of the U.N. Secretary-General, I was involved in discussions of the *Post-2015 Agenda*, which included consultations with multiple stakeholders guided by the U.N. See also Sakiko Fukuda-Parr, *From the Millennium Development Goals to the Sustainable Development Goals: Shifts in Purpose, Concept, and Politics of Global Goal Setting for Development*, 24 *GENDER & DEV.* 43, 45-47 (2016).

⁵⁴ For instance, Sakiko Fukuda-Parr calls the MDGs “a North-South aid agenda.” Fukuda-Parr, *supra* note 53, at 44. By Ashwani Saith’s apt comment, the MDGs’ approach was “insufficiently global” and tended “to ghettoize the problem of development and locate[d] it firmly in the third world – as if development is fundamentally and exclusively an issue of absolute levels of living.” Saith, *supra* note 43, at 1184. MDG 8 “effectively polarizes and stereotypes the rich and powerful developed countries against the poor and corrupt developing countries.” Joy Paton & Elisabeth Valiente-Riedl, *Re-evaluating the MDG Framework in Papua New Guinea*, in *THE CAPABILITY APPROACH: DEVELOPMENT PRACTICE AND PUBLIC POLICY IN THE ASIA-PACIFIC REGION* 168, 176 (Francesca Panzironi & Katharine Gelber eds., 2012).

⁵⁵ “The Sustainable Development Goals and targets are integrated and indivisible, global in nature and universally applicable, taking into account different national realities, capacities and levels of development and respecting national policies and priorities.” *2030 Agenda*, *supra* note 4, para. 55.

⁵⁶ Currently, approximately 60% of those in extreme poverty live in middle-income countries. MARCUS MANUEL ET AL., *FINANCING THE END OF EXTREME POVERTY*, OVERSEAS DEVELOPMENT INSTITUTE 42 (Sept. 2018), <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12411.pdf> [<https://perma.cc/XZ9H-RFW8>]; see Joe DeCapua, *Where Do the World’s Poor Live?*, VOA (Aug. 28, 2012, 07:33 AM), <https://www.voanews.com/a/poverty-projections-28aug12/1496954.html> [<https://perma.cc/FH5T-P7NM>]; see also United Nations Human Rights Office of the High Commissioner, *Statement on Visit to the United Kingdom*, by Professor Philip Alston, *United Nations Special Rapporteur on Extreme Poverty and Human Rights* (Nov. 16, 2018); United Nations Human Rights Office of the High Commissioner, *Statement on Visit to the USA*, by Professor Philip Alston, *United Nations Special Rapporteur on Extreme Poverty and Human Rights* (Dec. 15, 2017) (demonstrating that the poverty rate is very high in the world’s richest countries).

non-compliance with their human rights and sustainable development obligations towards their poor populations.⁵⁷ Third, the SDGs are more comprehensive than the MDGs and better interlinked.⁵⁸ Many SDGs are so-called “zero goals” requiring not just reduction, but full (though progressive) eradication of extreme poverty and poverty-related severe socio-economic deprivations, such as hunger⁵⁹ and the preventable deaths of children.⁶⁰ Fourth, one can draw a clear line between the seven MDGs that are presumed to be exclusively local, and only one global goal, MDG 8. In the *2030 Agenda*, international collaboration is recognized not only as one of the development goals⁶¹ but also as an important tool for achieving all of the other SDGs.⁶² Fifth, the MDGs and SDGs interpret global partnership differently: although the former see it as bilateral donor-recipient relations, in which developed countries should play a pivotal role,⁶³ the latter call for a multilateral and multilevel partnership inclusive of all stakeholders (“no one will be left behind”)⁶⁴ and put emphasis on guarantees of equal and full-fledged agency of developing societies and poor individuals in the process of poverty eradication.⁶⁵

These differences demonstrate that the *2030 Agenda* represents a partial, positive response to the critique voiced against the MDGs.⁶⁶ Nevertheless, the *2030 Agenda* does not resolve some essential problems. The MDGs and SDGs are fairly criticized for several reasons: First, though they both declare their application of a human rights-based approach, the MDGs and SDGs, in fact, do not pay sufficient attention to human rights and the corresponding obligations. The progressive commitments for development do not have the status of human rights and, as will be shown, conflict with human rights-based obligations that should be fulfilled

⁵⁷ See Pogge & Sengupta, *supra* note 1, at 88-89; Saith, *supra* note 43, at 1184.

⁵⁸ See MONKELBAAN, *supra* note 13, at 4.

⁵⁹ *2030 Agenda*, *supra* note 4, SDG 2.

⁶⁰ *Id.* SDG 3; see *infra* Section III.C.

⁶¹ *Id.* SDG 17.

⁶² See *infra* Section IV.A.

⁶³ See UNITED NATIONS, *supra* note 44.

⁶⁴ *2030 Agenda*, *supra* note 4, pmbl.

⁶⁵ *Id.* SDG 17.

⁶⁶ See, e.g., Fukuda-Parr, *supra* note 53.

immediately.⁶⁷ Second, the MDGs and SDGs bypass the issue of developed states' and other powerful actors' remedial extraterritorial responsibilities to compensate for the harm caused by them and often substitute the former with duties of development assistance.⁶⁸ Third, though they recognize the injustice of the international institutional structure, the MDGs and SDGs concentrate predominantly on territorial measures rather than global institutional reforms that are necessary to reduce poverty and create a just and sustainable global order.⁶⁹ Fourth, they both use the World Bank's inadequate and much-criticized definition of poverty.⁷⁰ Fifth, despite the acknowledgement that non-state actors, including transnational corporations, individuals and global civil society, also have sustainable development commitments, the *Millennium Declaration* and the *2030 Agenda* remain state-centered and do not focus on obligations of actors other than states.⁷¹ Sixth, the MDGs and SDGs assume that development assistance obligations are interactional and do not call for their institutionalization.⁷² Finally, they are often rightly criticized for their lack of independent monitoring and accountability mechanisms to assess the progress of development goals' realization and hold multiple actors responsible.⁷³ The rest of this Article explores ways to fill these gaps.

⁶⁷ See *infra* Section II.C.

⁶⁸ See *infra* Section III.A.

⁶⁹ See *infra* Section III.B. The MDGs and SDGs interpret poverty predominantly as a territorial problem that should be solved through good domestic governance and not as an extraterritorial issue that calls for global governance solutions. See Pogge & Sengupta, *supra* note 1, at 89.

⁷⁰ See *infra* Section III.C.

⁷¹ See *infra* Section IV.A; see also Kathleen Sexsmith & Philip McMichael, *Formulating the SDGs: Reproducing or Reimagining State-Centered Development?*, 12 *GLOBALIZATIONS* 581 (2015).

⁷² See *infra* Section IV.B.

⁷³ See *infra* Section IV.C.

B. Human Rights Obligations and Sustainable Development Commitments

The *2030 Agenda* expresses global commitments with respect to certain socio-economic guarantees, in the first instance to eradicate extreme poverty and inequality, that are, at the same time, objects of internationally recognized socio-economic rights.⁷⁴ This Section examines the main distinctions between human rights obligations and sustainable development commitments. This analysis will enable us to assess the strengths and limitations of the human rights and sustainable development agendas.⁷⁵

The contrast between human rights-based obligations and sustainable development commitments may be explained through the parallel with the distinction between perfect duties of justice and imperfect humanitarian duties, which was proposed by Kant.⁷⁶ Perfect duties of justice are assigned, specified, claimable and enforceable human rights obligations. In comparison to them, imperfect humanitarian (beneficence) duties do not determine concrete content and scope, holders and duty-bearers but are rather aimed at establishing a normative framework giving various duty-bearers reasons to act.⁷⁷

The main differences between human rights obligations and sustainable development commitments may be formulated as follows (see *infra* Table No. 1): First, while human rights obligations

⁷⁴ For a critique of the position that human rights are aimed to and capable of guaranteeing equality, see SAMUEL MOYN, *NOT ENOUGH: HUMAN RIGHTS IN AN UNEQUAL WORLD* (2018).

⁷⁵ On various interpretations of the interrelation between the human rights agenda and the sustainable development agenda, see Stephen P. Marks, *The Human Rights Framework for Development: Seven Approaches*, in *REFLECTIONS ON THE RIGHT TO DEVELOPMENT* 23 (Arjun Sengupta et al. eds., 2005); Alston, *supra* note 36.

⁷⁶ IMMANUEL KANT, *THE METAPHYSICS OF MORALS* 29 (Mary Gregor trans. & ed., 1996). This distinction between perfect and imperfect obligations was employed and developed by many contemporary researchers and practitioners. See ONORA O'NEILL, *CONSTRUCTIONS OF REASON: EXPLORATIONS OF KANT'S PRACTICAL PHILOSOPHY* 191 (1989); Stefan Gosepath, *Deprivation and Institutionally Based Duties to Aid*, in *DOMINATION AND GLOBAL POLITICAL JUSTICE: CONCEPTUAL, HISTORICAL, AND INSTITUTIONAL PERSPECTIVES* 251, 254 (Barbara Buckinx et al. eds., 2015); Marks, *supra* note 75, at 20-21.

⁷⁷ See CHARLES R. BEITZ, *THE IDEA OF HUMAN RIGHTS* 167 (2009); Gosepath, *supra* note 76, at 254; O'NEILL, *supra* note 76, at 191.

refer to international legal framework, sustainable development commitments appeal to political agreements that have no status of legally binding human rights instruments.⁷⁸ Second, whereas human rights obligations are grounded in and correspond to internationally recognized human rights, the *2030 Agenda* records unilateral humanitarian self-obligations of actors.⁷⁹ Third, right-holders are entitled to claim the performance of human rights obligations from certain duty-bearers. As humanitarian self-obligations, sustainable development commitments are not owed to any particular right-holders and are, therefore, not claimable. Nonetheless, in contrast to acts of charity, sustainable development commitments are not optional.⁸⁰ Fourth, while human rights obligations should be assigned to concrete duty-bearers, the *2030 Agenda* does not specify actors responsible for the implementation of sustainable development commitments. Fifth, the U.N. Committee on Economic, Social and Cultural Rights (hereinafter CESCR) formulates general and specific criteria of adequacy for determining the scope of socio-economic rights obligations.⁸¹ Though the *2030 Agenda* refers to some of these criteria of adequacy, it operates mainly with its own set of indicators. Sixth, although socio-economic rights obligations are of both progressive and immediate character, sustainable development commitments are to be implemented only progressively within a certain timeframe (by 2020, 2025, or 2030).⁸² Finally, human rights require the creation of special legal monitoring and accountability mechanisms,⁸³

⁷⁸ Some researchers consider that the MDGs and SDGs form customary international law, which means that development commitments have a status of legal obligations, even if they do not derive from binding legal instruments. See Philip Alston (Special Adviser to the U.N. High Commissioner for Human Rights on the Millennium Development Goals), *A Human Rights Perspective on the Millennium Development Goals*, para. 48; Alston, *supra* note 36, at 758; ANDREW CLAPHAM, HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS 86-87 (2006).

⁷⁹ The *2030 Agenda* represents a set of “commitments” to implement the SDGs. The word “obligations” is used only twice in the *2030 Agenda*, meaning obligations under international law. *2030 Agenda*, *supra* note 4, para. 18, SDG 15.1.

⁸⁰ Alston, *supra* note 36, at 758.

⁸¹ See *infra* Section III.C.

⁸² See *infra* Section III.C.

⁸³ In Alston’s important note, “accountability mechanisms are the *sine qua non* of a human rights approach.” Alston, *supra* note 78, at 51; see Alston, *supra* note 36, at 813.

including judicial and quasi-judicial bodies. The *2030 Agenda* relies on periodic monitoring and political pressure as major tools for holding actors accountable. It uses targets and indicators for evaluating actors' efforts in achieving the SDGs and political pressure to influence their conduct.⁸⁴

TABLE NO. 1

No.	Aspects	Human Rights Obligations	Sustainable Development Commitments
1	Normative Basis	Legal Instruments	Political Agreements
2	Nature	Human Rights-Based Obligations	Humanitarian Self-Obligations
3	Claimability	Claimable	Non-Claimable
4	Duty-Bearers	Concrete Actors	Not Specified
5	Scope	Criteria of Adequacy (AAAQ)	SDGs Indicators
6	Urgency of Realization	Immediate & Progressive	Progressive
7	Accountability	Legal (Justiciable)	Political (Periodic Monitoring)

The human rights agenda has several important interrelated strengths regarding obligations when compared to the sustainable

⁸⁴ See *infra* Section IV.C.

development agenda. First, as universal legitimate entitlements that individuals have against relevant others,⁸⁵ human rights ground the corresponding obligations of particular actors and give right-holders a certain level of control over the objects of their rights and the behavior of the obliged actors.⁸⁶ Second, human rights imply an opportunity to hold perpetrators accountable for their violations.

The sustainable development agenda is therefore marred by identifiable weaknesses. Without being rooted in human rights, sustainable development commitments are entirely at the disposal of self-obliging global actors. In other words, without enjoying the status of right-holders, poor individuals and developing societies cannot demand the fulfillment of SDGs from their states, the international community and concrete global entities and hold these actors accountable for their non-compliance with sustainable development commitments. For these reasons, the *2030 Agenda* is compared with “a long list of Sustainable Development Wishes.”⁸⁷ In order to be more than just a promise of development improvements, the SDGs should specify responsible global actors, principles of distributing shared sustainable development commitments among them, means for their implementation, as well as monitoring and accountability mechanisms.

According to Philip Alston’s persuasive argument, one should not unreasonably extol the legal framework and practice of human rights and belittle the normative framework and practice of sustainable development.⁸⁸ Traditional points of critique directed at socio-economic rights to a large extent coincide with the above listed characteristics of the SDGs. Obligations corresponding to socio-economic rights are often accused of being non-binding, programmatic (or political), progressive, non-claimable, non-enforceable, and non-justiciable commitments that are neither

⁸⁵ See JEFF KING, *JUDGING SOCIAL RIGHTS* 20-21 (2012); JAMES W. NICKEL, *MAKING SENSE OF HUMAN RIGHTS* 13-15 (2nd ed. 2007); HENRY SHUE, *BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY* 13 (2nd ed. 1996).

⁸⁶ See LEON PETRAZYCKI, *LAW AND MORALITY* 45-48 (2011); Joseph Raz, *Human Rights in the Emerging World Order*, 1 *TRANSNAT’L LEGAL THEORY* 31, 35 (2010).

⁸⁷ Pogge & Sengupta, *supra* note 1, at 90; see Thomas Pogge & Mitu Sengupta, *New Millennium Development Goals: A New Version, An Old Wish List*, 48 *ECON. & POL. WKLY.* 23 (Sept. 28, 2013); Sengupta, *supra* note 13.

⁸⁸ Alston, *supra* note 36, at 767.

specified nor assigned to concrete actors.⁸⁹ Thus, socio-economic rights obligations face the same criticisms as do sustainable development commitments. As shown by many researchers and practitioners, this critique regarding socio-economic rights is refutable.⁹⁰ Means and strategies to overcome the skepticism about socio-economic rights obligations and sustainable development commitments partly overlap and may mutually enrich each other.

One of the ways to overcome the above-mentioned criticism of sustainable development commitments, which is also often applied to socio-economic human rights obligations, is to justify imperfect duties as obligatory, claimable and enforceable legal duties. Charles Beitz, for example, argues against a “modern prejudice” to consider imperfect humanitarian self-obligations to be discretionary and generate less serious grounds for action. He develops the concept of “strong beneficence” obligations conditional on three factors: first, the interest requiring protection should be “maximally urgent”; second, there should be actors capable of implementing their shared obligations/commitments; and third, the realization of these obligations/commitments demand only minor or moderate sacrifice from these actors.⁹¹ Beitz comes to the conclusion that “in some cases of severe poverty considerations of (‘strong’) beneficence may be enough” to give actors “strong reasons” to contribute to the realization of shared global obligations.⁹² Sustainable development commitments to eradicate poverty and ensure a decent standard of living satisfy the “strong beneficence” criteria. First, saving the lives of those in extreme poverty is a demand of extraordinary urgency. Second, many global actors are capable of implementing sustainable development commitments. Although contemporary studies assess various amounts of resources needed to end poverty universally, they agree that cumulative efforts would be sufficient to implement relevant SDGs.⁹³ Finally, the burdens of the realization of these commitments are quite moderate, provided they are fairly

⁸⁹ See, e.g., Marks, *supra* note 75, at 3.

⁹⁰ See, e.g., *id.*; SHUE, *supra* note 83.

⁹¹ BEITZ, *supra* note 77, at 167.

⁹² *Id.* at 169.

⁹³ See, e.g., Manuel et al., *supra* note 56, at 42-43; SACHS ET AL., *supra* note 12, at 1-2.

distributed among all members of the international community.⁹⁴ As Pogge and Sengupta assert, “[n]ever in human history has severe poverty been so easily and completely eradicable as in the present period.”⁹⁵

Strong beneficence obligations have a potential to become legal obligations through their legal recognition, specification of right-holders and duty-bearers, and institutionalization.⁹⁶ Individuals may, therefore, assert claims that sustainable development commitments be performed by concrete actors on the basis of international instruments and agreements specifying and assigning these commitments to concrete actors.⁹⁷ Arjun Sengupta, the former Independent Expert on the Right to Development for the U.N. Commission on Human Rights, pursues a similar logic in addressing the problem of perfect and imperfect obligations corresponding to the right to development. He maintains that since a development program clearly attributes obligations to various actors—states, intergovernmental organizations, and non-state actors, including transnational corporations and agencies of global civil society, and the international community as a whole—the right to development “becomes a complete right; having all the justification of a human right with fully identified duties and obligations.”⁹⁸

⁹⁴ See, e.g., THOMAS POGGE, *WORLD POVERTY AND HUMAN RIGHTS: COSMOPOLITAN RESPONSIBILITIES AND REFORMS* ch. 8 (2nd ed. 2008); POGGE, *supra* note 14, at 21-24; SACHS ET AL., *supra* note 12, at 1-2; Oxfam International, *Public Good or Private Wealth?* 60-71 (Briefing paper, 2019), <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620599/bp-public-good-or-private-wealth-210119-en.pdf> [<https://perma.cc/9JCK-DVBD>].

⁹⁵ Pogge & Sengupta, *supra* note 1, at 86.

⁹⁶ See BEITZ, *supra* note 77, at 169; O’NEILL, *supra* note 76, at 191; Gosepath, *supra* note 76, at 285.

⁹⁷ William Easterly also argues that global actors should be held individually responsible for their impact on sustainable development, since unallocated shared responsibilities are not efficient. EASTERLY, *supra* note 12, at 205.

⁹⁸ Arjun Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, U.N. Doc. E/CN.4/2002/WG.18/2, para. 16 (Dec. 20, 2001). Arjun Sengupta draws a parallel between the right to development and the concept of a “metaright” formulated by Sen: “A *metaright* to something x can be defined as the right to have *policies* p (x) that genuinely pursue the objective of making the right to x realizable.” See Amartya Sen, *The Right Not to Be Hungry*, in *THE RIGHT TO FOOD* 70 (Philip Alston & Katarina Tomasevski eds., 1984). Following Sen, Sengupta concludes: “Even if the right to x remains unfulfilled or immediately unrealizable,

As shown in this Section, obligations corresponding to and arising from human rights differ significantly from humanitarian (beneficence) commitments. Though the former call for legal recognition and implementation, the latter may, only under certain conditions, enjoy them as well. In this respect, the application of a human rights-based approach seems to be the most efficient way of overcoming the criticism of sustainable development commitments and harmonizing the human rights and sustainable development agendas. This idea will be defended in the next Section.

C. From Commitments to Obligations: A Human Rights-Based Approach to Sustainable Development

Alston compares the sustainable development agenda and the human rights agenda with ships passing in the night unaware of each other, though they are directed towards similar goals.⁹⁹ He analyzes several interpretations of the relationship between human rights and development goals: “(i) they are entirely consistent with one another; (ii) they are potentially complementary; (iii) they are not necessarily inconsistent; (iv) they are duplicative; or (v) they actually represent competing alternatives.”¹⁰⁰ From the previous Section, it is clear that options (i) and (iv) are incorrect as the SDGs display many differences and inconsistencies with internationally recognized human rights. The question, then, is, which of the other three alternatives are valid?

Though human rights and the SDGs are often seen as competing alternatives (v),¹⁰¹ an adequate understanding of their nature does

the metaright to x, p (x), can be a fully valid right if all the obligations associated with p (x) can be clearly specified.” Arjun Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, U.N. Doc. E/CN.4/2002/WG.18/2, para. 16 (Dec. 20, 2001). According to Stephen Marks’ important observation, both perfect and imperfect human rights obligations should be recognized as legal obligations. Marks, *supra* note 75, at 17-21.

⁹⁹ Alston, *supra* note 36, at 755, 825.

¹⁰⁰ *Id.* at 759. Though Alston focuses on the links between the MDGs and human rights, his analysis is also relevant for the 2030 Agenda.

¹⁰¹ To this category of criticism, one can attribute a position which refuses the SDGs’ potential to realize or advance human rights. See, e.g., Pogge & Sengupta, *supra* note 1; Thomas Pogge, *The Sustainable Development Goals: Brilliant Propaganda?*, 2 ANALELE UNIVERSITĂȚII DIN BUCUREȘTI 25 (2015).

not provide reasons for this conclusion. This idea was put forward in a human rights-based approach to development encapsulated in the *2030 Agenda*. The very idea of a human rights-based approach indicates that (v) is wrong, while (ii) and (iii) remain potentially correct. According to a human rights-based approach, human rights and the SDGs are potentially complementary (ii) and the latter should be brought in accordance with the former by eliminating unnecessary discrepancies (iii). The *2030 Agenda* itself expressed the intention to synchronize the human rights and sustainable development agendas: “we reaffirm our commitment to international law and emphasize that the Agenda is to be implemented in a manner that is consistent with the rights and obligations of States under international law.”¹⁰² Alston comes to the conclusion that the development agenda only partly expresses internationally recognized human rights and “a clear challenge exists to ensure that there is full mutual compatibility.”¹⁰³ In his compelling opinion, there are ways to create a “human rights friendly” development strategy within which both agendas can “reinforce one another” and create “a win-win outcome.”¹⁰⁴

Hence, the agendas have ample potential for complementarity, and sustainable development commitments should be harmonized with human rights obligations. It should be stressed, however, that there cannot be complete parity between them. Human rights are high-priority entitlements giving rise to obligations that “trump” all other commitments and designate priorities in allocating resources by duty-bearers.¹⁰⁵ Human rights should, therefore, be considered an essential part of the sustainable development framework and corresponding human rights obligations should be integrated into global obligations for sustainable development.

While declaring the application of a human rights-based approach, the *2030 Agenda* stipulates an international commitment “to realize the human rights of all:”¹⁰⁶ “We envisage a world of

¹⁰² *2030 Agenda*, *supra* note 4, para. 18.

¹⁰³ Alston, *supra* note 36, at 760; Alston, *supra* note 78, para. 4.

¹⁰⁴ Alston, *supra* note 36, at 766-7; Alston, *supra* note 78, paras. 4, 24-25.

¹⁰⁵ See RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* xi (1977). For a critique of this position, see Joseph Raz, *Professor Dworkin's Theory of Rights*, 26 *POL. STUD.* 123 (1978); András Sajó, *Socioeconomic Rights and the International Economic Order*, 35 *N.Y.U. J. INT'L L. & POL.* 221, 223-24 (2002).

¹⁰⁶ *2030 Agenda*, *supra* note 4, pmb1.

universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination.”¹⁰⁷ The *2030 Agenda* stresses the significance of international human rights instruments, including the *Universal Declaration of Human Rights* (hereinafter UDHR) and the DRD, and reaffirms obligations derived from the *Charter of the United Nations* (hereinafter *U.N. Charter*).¹⁰⁸ It does not, however, appeal to specific human rights (apart from the human right to safe drinking water and sanitation) even when it expresses commitments to guarantee secure access to the objects of these human rights.¹⁰⁹ The DRD proceeds from the assumption that development in all its forms and directions presupposes the realization of fundamental rights: “All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.”¹¹⁰

What, in this context, does the requirement of making the sustainable development agenda consistent with international human rights law imply? It entails several important measures:¹¹¹

¹⁰⁷ *Id.* para. 8.

¹⁰⁸ *Id.* paras. 10, 19. *Cf.* DRD, *supra* note 21, art. 3, para. 2 (“The realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.”)

¹⁰⁹ *See infra* Section III.C. Alston asserts that even if sustainable development instruments “do not address human rights per se, they do address issues that are in fact the subject of human rights even if discussed in a different terminology.” Alston, *supra* note 36, at 796. According to the Danish Institute for Human Rights, 92 % of the SDGs targets are linked to core international human rights instruments. THE DANISH INST. FOR HUMAN RIGHTS, HUMAN RIGHTS AND THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT 9, https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/sdg/hr_and_2030_agenda-web_2018.pdf [<https://perma.cc/K2CN-MY6L>]; *see also* THE DANISH INST. FOR HUMAN RIGHTS, THE HUMAN RIGHTS GUIDE TO THE SUSTAINABLE DEVELOPMENT GOALS, <http://sdg.humanrights.dk> [<https://perma.cc/L88F-QN2J>].

¹¹⁰ DRD, *supra* note 21, art. 6, para. 1.

¹¹¹ The listed measures are consonant with the three (ii, i, and iv) “key elements in a new approach to ensuring effective complementarity between human rights and the MDGs” delineated by Alston: “(i) overt recognition of the relevance of human rights obligations; (ii) ensuring an appropriate legal framework; (iii) encouraging community participation but doing so in a realistic and targeted way; and (iv) promoting MDG accountability mechanisms.” Alston, *supra* note 36, at 827.

First, the recognition that the human rights framework is a normative basis for certain global obligations for sustainable development, the objects of which coincide with the objects of internationally recognized human rights, including socio-economic rights. A serious obstacle to synchronizing the human rights and sustainable development agendas is connected to the fact that it presumes the recognition of socio-economic rights and corresponding territorial and extraterritorial obligations in national legal orders for which some developed states are not ready.¹¹²

Second, the acknowledgement that certain sustainable development commitments are, at the same time, claimable human rights obligations to which global obligations of certain actors correspond. This does not mean that sustainable development commitments should be formulated in the language of human rights obligations.¹¹³ It does, however, mean that sustainable development commitments should not be in conflict with human rights obligations in their content and scope, as well as in the urgency of their implementation. This implies that the SDGs should in no case be interpreted as a basis for exemption from human rights obligations.¹¹⁴

Third, the creation of monitoring and accountability mechanisms or using the existing human rights accountability mechanisms¹¹⁵ (with respect to sustainable development commitments overlapping with human rights obligations) is necessary for evaluating the progress of the realization of global obligations for sustainable development and holding global actors responsible.¹¹⁶

¹¹² See Sengupta, *supra* note 98, para. 46.

¹¹³ An opposite position is expressed by Arjun Sengupta: “[f]rom a human rights perspective the *objectives of development are to be regarded as entitlements, or as rights that can be legitimately claimed by individuals, as right holders, against corresponding duty holders*, such as the State and the international community, which may have specified obligations to enable those rights to be enjoyed.” Sengupta, *supra* note 98, para. 22 (emphasis added).

¹¹⁴ See *infra* Section III.C.

¹¹⁵ Alston, *supra* note 36, at 814-25; Alston, *supra* note 78, pt. 7.

¹¹⁶ See *infra* Section IV.C. As Arjun Sengupta notes, implementing development objectives as human rights implies “accountability and, where possible, the culpability for not realizing those rights clearly established, leading to the adoption of remedial measures.” Sengupta, *supra* note 98, para. 22.

The right to development is a legal embodiment of a human rights-based approach to development.¹¹⁷ This right, standing at the intersection of the sustainable development agenda and the human rights agenda, carries the potential to reconcile the agendas. Although it was pronounced in the DRD more than thirty years ago, the status, content, and scope of the right to development are highly debatable in legal literature and in practice.¹¹⁸ The DRD stipulates that the right to development is “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all *human rights and fundamental freedoms can be fully realized.*”¹¹⁹ The right to development is both an individual and collective right. According to the DRD, the right to development is a claim-right to the creation and implementation of programs and institutions for the progressive realization of development goals, which should lead to their full achievement. The same impulse motivated Arjun Sengupta to define the right to development as the right to a “process of development.”¹²⁰ However, the right to development is also the right to the results of development.¹²¹ Thus, the DRD calls for ensuring both “the *full exercise and progressive enhancement* of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.”¹²²

The *Vienna Declaration and Programme of Action* reaffirmed that the right to development is a “universal and inalienable right and an

¹¹⁷ According to Arjun Sengupta, “the process of realizing the right to development” should be interpreted “as a method of implementing and designing” the sustainable development agenda. Sengupta, *supra* note 98, para. 42.

¹¹⁸ See, e.g., Vandenbogaerde, *supra* note 10, at 188; Vandenhole, *supra* note 17, at 378.

¹¹⁹ DRD, *supra* note 21, art. 1, para. 1 (emphasis added). The *African Charter on Human and Peoples’ Rights* first acknowledged the right to development. African Charter on Human and Peoples’ Rights, Organization of Afr. Unity [OAU], art. 22, para. 1 (June 27, 1981).

¹²⁰ See Sengupta (2013), *supra* note 17, at 68; Sengupta (2000), *supra* note 17, at 563; see also Vandenbogaerde, *supra* note 10, at 197-98.

¹²¹ See *infra* Part III.

¹²² DRD, *supra* note 21, art. 10 (emphasis added).

integral part of fundamental human rights.”¹²³ The *Millennium Declaration* defined the enjoyment of the right to development as an important development target.¹²⁴ As demonstrated, the *2030 Agenda* also expresses the commitment to respect human rights, including the right to development.¹²⁵

The right to development is aimed at converting development goals “into rights of individuals and identifies the responsibility of all the duty holders, in accordance with human rights standards.”¹²⁶ The right to development serves, therefore, as a normative basis for claimable human rights obligations in the area of sustainable development. Giving rise to global human rights obligations for sustainable development—i.e., obligations to create and maintain a just and sustainable global order,¹²⁷ obligations to ensure a decent and sustainable standard of living universally,¹²⁸ and obligations of development cooperation¹²⁹ and assistance¹³⁰—the right to development is key for understanding their nature.

To what extent do the human rights-based approach to development and the right to development as its embodiment contribute to bringing the sustainable development agenda in line with the international human rights agenda? As shown, they entail two interrelated demands: on the one hand, certain sustainable development commitments, the objects of which coincide with the objects of international human rights, should be acknowledged as human rights obligations for sustainable development;¹³¹ and on the other hand, territorial and extraterritorial human rights obligations

¹²³ *Vienna Declaration*, *supra* note 2, para. 10; *see also* G.A. Res. 61/295, United Nations Declaration on the Rights of Indigenous Peoples, art. 23 (Sept. 13, 2007); United Nations Conference on Environment and Development, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26 (Vol. 1), princ. 3 (Aug. 12, 1992); World Summit for Social Development, *Copenhagen Declaration on Social Development*, U.N. Doc. A/CONF.166/9, para. 26, commitments 1, 6 (Mar. 14, 1995).

¹²⁴ *Millennium Declaration*, *supra* note 29, paras. 11-12.

¹²⁵ *2030 Agenda*, *supra* note 4, para. 35.

¹²⁶ Sengupta, *supra* note 98, paras. 8-9.

¹²⁷ *See infra* Section III.B.

¹²⁸ *See infra* Section III.C.

¹²⁹ *See infra* Section IV.A.

¹³⁰ *See infra* Section IV.B.

¹³¹ The DRD does not specify, however, which monitoring and accountability mechanisms are necessary for the realization of human rights obligations for sustainable development. *See* DRD, *supra* note 21.

relating to sustainable development should be integrated into the contemporary sustainable development agenda. Moreover, obligations corresponding to basic human rights, including basic socio-economic rights, form a *minimum core* of sustainable development commitments. In other words, local and global human rights obligations to combat poverty and ensure a decent standard of living delineate the lower threshold below which the sustainable development commitments should not fall.

Whereas the human rights agenda is capable of expressing only minimum ethical demands,¹³² the sustainable development agenda may set goals that go beyond these basic ethical requirements. The sustainable development agenda should, therefore, include not only human rights obligations, but also more comprehensive ethical (as well as economic, social, and political) commitments aimed at “the constant improvement of the well-being of the entire population and of all individuals.”¹³³ The sustainable development commitments that transcend human rights obligations represent beneficence commitments.¹³⁴ As Amartya Sen notes, sustainable development should mirror “the richness of human life.”¹³⁵ Additionally, the idea of sustainability itself calls for going beyond the brackets of social relationships and implies principles and commitments ensuring that “humanity lives in harmony with nature and in which wildlife and other living species are protected.”¹³⁶

¹³² Following proponents of the ethical minimum theory, such as Georg Jellinek, Eduard von Hartmann, Vladimir Solov'ev, Jacques Maritain, Henry Shue, David Miller, Charles Beitz, and Joshua Cohen, I develop an idea that human rights give protection only to minimum ethical demands.

¹³³ DRD, *supra* note 21, pmb1.

¹³⁴ As demonstrated in Section II.B, the most urgent human rights obligations for sustainable development aimed at eradicating poverty and ensuring a decent standard of living (minimum core obligations for sustainable development) may also be interpreted as “strong beneficence” obligations.

¹³⁵ *Amartya Sen: A More Human Theory of Development*, Interview by Nermeen Shaikh with Amartya Sen, ASIA SOCIETY (Dec. 6, 2004), <https://asiasociety.org/business/development/amartya-sen-more-human-theory-development> [<https://perma.cc/TB7Q-KHHD>].

¹³⁶ 2030 Agenda, *supra* note 4, para. 9; *see also id.* SDG 13-15 (demanding to combat climate change and its impacts, conserve and sustainably use the oceans, seas and marine resources as well as to “[p]rotect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss”).

Since some commitments undertaken in the *2030 Agenda* are substantially narrower than basic socio-economic rights obligations,¹³⁷ this creates a task to further evolve the sustainable development agenda. The achievement of this task may be facilitated through the successful implementation of the *2030 Agenda*, particularly the SDGs relating to poverty and extreme inequality eradication and securing access to a decent standard of living, which overlap with basic human rights obligations.

It is important to point out some essential virtues of the sustainable development agenda, through which it can enrich the human rights agenda. First, it is legitimized through a more inclusive political consensus, involving not only states but also non-state actors, in particular representatives of global civil society.¹³⁸ Second, the key principle of the sustainable development agenda—sustainability—allows for a rethink of the content and scope of human rights obligations. Arjun Sengupta emphasizes the significance of sustainability measures for the human rights agenda: “a better way of using the existing resources, i.e., more efficiently and less wastefully, may have a much greater impact on realizing the rights than increasing the supply of resources.”¹³⁹ Moreover, sustainability is recognized as an important element of the criterion of adequacy, which is used to assess socio-economic rights.¹⁴⁰ Third, the SDGs’ indicators allow the progressive realization of global obligations for sustainable development to be monitored and may complement the human rights agenda, in which these firm benchmarks are lacking.¹⁴¹ Fourth, comprehensive sustainable development commitments based on solidarity should supply sharply determined and narrower human rights-based obligations. Fifth, while recognizing individuals as central subjects, major participants and beneficiaries of development, the sustainable development agenda may play a crucial role in promoting the shift from a state-centered to human-centered global order and the

¹³⁷ See *infra* Sections III.B-III.C.

¹³⁸ See *supra* Section II.A.

¹³⁹ Arjun Sengupta, *On the Theory and Practice of the Right to Development*, 24 HUM. RTS. Q. 837, 866 (2002).

¹⁴⁰ See *infra* Section III.C.

¹⁴¹ See *infra* Section IV.C. As Alston notes, development goals are designed in such a way that their progressive realization is to be measured and should provide a basis for accountability. Alston, *supra* note 36, at 756.

rooting of this idea in contemporary international law.¹⁴² Sixth, taking commitments towards the natural world and other species seriously, should lead to reconceptualizing obligations towards human beings, as well as the practices of their implementation. Finally, the sustainable development agenda calls for designing alternative modes of global governance capable of overcoming state-centrism in the world institutional order.¹⁴³

In view of their significant potential to enrich one another and further the achievement of their common goal to fight poverty, the sustainable development agenda and human rights agenda should be brought into sync. This implies the recognition of global obligations corresponding to basic socio-economic rights as minimum core obligations for sustainable development.

D. Summary

The second part of this Article analyzed relations between the human rights agenda and the sustainable development agenda and argued that they should be brought into harmony. Focusing on the evolution of the sustainable development agenda from the *Millennium Declaration* to the *2030 Agenda*, Section II.A noted its significant achievements as well as the urgent necessity of filling its substantial gaps. Section II.B further explored the similarities and differences, the strengths and weaknesses, of human right obligations and sustainable development commitments. Section II.C examined special features of the human rights-based approach to development and the right to development as its embodiment, as well as their role in harmonizing international human rights law and the sustainable development agenda. It defended the idea that global obligations corresponding to socio-economic rights indispensable for leading a decent life should be recognized as minimum core obligations for sustainable development.

¹⁴² See *infra* Section IV.A.

¹⁴³ See *infra* Section IV.C.

III. GLOBAL OBLIGATIONS FOR SUSTAINABLE DEVELOPMENT

A. *Extraterritorial Obligations Presupposed by the 2030 Agenda for Sustainable Development*

Extraterritorial obligations are neither horizontal obligations of equal (non-subordinate to one another) actors such as states, intergovernmental organizations, and non-state entities, nor vertical obligations towards actors at different levels of a hierarchy, such as governments and citizens, or an organization's or enterprise's governing bodies and its ordinary members or employees. Rather, extraterritorial obligations are diagonal obligations of global actors towards individuals.¹⁴⁴

In legal literature and practice, the major criterion for distinguishing among various types of extraterritorial obligations is the possibility of identifying a causal link between acts/omissions of actors and human rights violations. On this basis, it is possible to classify remedial responsibilities for negative effects on the enjoyment of socio-economic rights (hereinafter remedial extraterritorial obligations) and global human rights obligations (hereinafter global obligations) arising when socio-economic deprivations, which amount to human rights violations, cannot be attributed to any particular global actors or institutions.¹⁴⁵

To what extent are extraterritorial obligations presupposed by the *2030 Agenda*? First, the *2030 Agenda* does not provide a framework for remedial extraterritorial obligations. The DRD enshrines obligations of states to "eliminate obstacles to

¹⁴⁴ See Elena Pribytkova, *What Global Human Rights Obligations Do We Have?*, 20 CHL. J. INT'L L. 384, 407-412 (2020).

¹⁴⁵ In this respect, the *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights* [hereinafter *Maastricht Principles*] distinguish between two types of extraterritorial obligations: first, "obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State's territory"; and, second, "obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realize human rights universally." ETO CONSORTIUM, *MAASTRICHT PRINCIPLES ON EXTRATERRITORIAL OBLIGATIONS OF STATES IN THE AREA OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS* princ. 8 (Jan. 2013).

development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights,"¹⁴⁶ especially "the massive and flagrant" human right violations "resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination."¹⁴⁷ The *2030 Agenda* reaffirms states' commitments "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."¹⁴⁸

Thus, both documents recognize the injustice of the global order and the role of developed states and other powerful actors in creating and maintaining it, as well as obligations to remove obstacles for development. The DRD and the *2030 Agenda*, however, do not address the issue of remedial extraterritorial obligations of responsible actors to compensate the victims for the harm¹⁴⁹ caused by them or international institutions under their control.¹⁵⁰ This explains why, in the SDGs, the language of assistance prevails over the language of compensation for severe extraterritorial human rights violations caused by global actors.¹⁵¹

¹⁴⁶ DRD, *supra* note 21, art. 6, para. 3.

¹⁴⁷ *Id.* art. 5; *see also* Economic and Social Council, Study on the Current State of Progress in the Implementation of the Right to Development Submitted by Mr. Arjun K. Sengupta, Independent Expert, Pursuant to Commission Resolution 1998/72 and General Assembly Resolution 53/155, U.N. Doc. E/CN.4/1999/WG.18/2, para. 59 (July 27, 1999) [hereinafter Study on the Current State of Progress in the Implementation of the Right to Development] (stressing extraterritorial aspects of obligations corresponding to the right to development: "every State having recognized the right to development is obliged to ensure that its policies and actions do not impede enjoyment of that right in other countries and to take positive action to help the citizens of other States to realize that right").

¹⁴⁸ *2030 Agenda*, *supra* note 4, para. 35.

¹⁴⁹ For a discussion of the difficulties of holding actors accountable for their non-fulfilment of human rights obligations for sustainable development and applying adequate corrective measures, *see* Sengupta, *supra* note 98, at para. 31.

¹⁵⁰ *See also* Malcolm Langford, *Lost in Transformation? The Politics of the Sustainable Development Goals*, 30 *ETHICS & INT'L AFF.* 167, 172 (2016).

¹⁵¹ For an analysis of the inadmissibility of substituting remedial responsibilities with duties to assist, *see* Pribytkova, *supra* note 3, at 258-67.

Second, global obligations derived from the *2030 Agenda* are aimed not at transforming the unfair international order, but rather at undertaking national reforms. As shown above in Section II.A, the *2030 Agenda* purports to embody the principle of universality, i.e., the SDGs extend to individuals in both developing and developed societies. For this reason, SDG 17 calls for the revitalization of the “Global Partnership for Sustainable Development, based on a spirit of strengthened global solidarity, focused in particular on the needs of the poorest and most vulnerable and with the participation of all countries, all stakeholders and all people.”¹⁵² In addition, Target 16.6 is to “develop effective, accountable and transparent institutions at all levels.”¹⁵³

However, the *2030 Agenda* does not succeed in embodying the principle of the universality of sustainable development commitments, since it focuses principally on supporting national development plans, not on creating a global institutional framework. In this sense, the SDGs represent a *global agenda for territorial sustainable development*. They require, in particular, the “[e]nhance[ment of] 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.”¹⁵⁴ In this context, Malcolm Langford’s assertion that the SDGs embody “a form of institutional cosmopolitanism” is premature.¹⁵⁵ Although the *2030 Agenda* has the potential to promote a cosmopolitan global order, necessary institutional guarantees have not yet been expressed in the current sustainable development plan. This lacuna may be filled, in particular, through the inclusion of targets and indicators specifying

¹⁵² *2030 Agenda*, *supra* note 4, pmb1.

¹⁵³ *Id.* SDG 16.6.

¹⁵⁴ *Id.* SDG 17.9.

¹⁵⁵ Langford, *supra* note 150, at 172. Langford also finds that “the universal targets across the SDGs are often vague”, while “[t]he goals are weak on global partnership and the corresponding targets are rarely quantified”. *Id.* at 173.

shared and individual obligations of members of the international community concerning global institutional reforms.¹⁵⁶

Thus, the *2030 Agenda*, on the one hand, recognizes the injustice of the global institutional scheme and, on the other hand, concentrates predominantly on states' territorial obligations and does not specify which particular global improvements are necessary to ensure sustainable development universally. This contradiction reflects the lack of states' consensus on questions concerning the causes of poverty and extreme inequality, which represent obstacles for sustainable development. These questions are at the center of ethical, legal and political debates, in which the Global North and the Global South hold divergent positions.¹⁵⁷ These debates over the causes of poverty and inequality between the North and the South are cognate with philosophical discussions between statist (nationalists)¹⁵⁸ and cosmopolitans¹⁵⁹ on the topic.¹⁶⁰ Developed North countries, the Bretton Woods

¹⁵⁶ See Pogge & Sengupta, *supra* note 1, at 86-87. Unlike Pogge and Sengupta, I consider that these global institutional obligations for sustainable development are not only of a remedial character and should be allocated not only to developed states, but to all global actors.

¹⁵⁷ It is worth noting that the division between the Global North and the Global South is rather relative. One often distinguishes a third group of so called "emerging economies". In addition, some North representatives, for instance, the Scandinavian states, explicitly took the side of Global South countries during the debates. For an analysis of the North-South debates, see SEYEDSAYAMDOST, *supra* note 13, at 12-16, 35.

¹⁵⁸ See, e.g., WILL KYMLICKA, *POLITICS IN THE VERNACULAR: NATIONALISM, MULTICULTURALISM, AND CITIZENSHIP* (2001); MICHAEL WALZER, *SPHERES OF JUSTICE: A DEFENSE OF PLURALISM AND EQUALITY* (1983); MICHAEL WALZER, *THICK AND THIN: MORAL ARGUMENT AT HOME AND ABROAD* (1994); Robert E. Goodin, *What Is So Special About Our Fellow Countrymen?* 98 *ETHICS* 663 (1988); Thomas Nagel, *The Problem of Global Justice*, 33 *PHIL. & PUB. AFF.* 113 (2005).

¹⁵⁹ See, e.g., SIMON CANEY, *JUSTICE BEYOND BORDERS: A GLOBAL POLITICAL THEORY* (2005); MARTHA C. NUSSBAUM, *FRONTIERS OF JUSTICE: DISABILITY, NATIONALITY, SPECIES MEMBERSHIP* (2006); POGGE, *supra* note 94; KOK-CHOR TAN, *JUSTICE WITHOUT BORDERS: COSMOPOLITANISM, NATIONALISM, AND PATRIOTISM* (2004); PETER UNGER, *LIVING HIGH AND LETTING DIE: OUR ILLUSION OF INNOCENCE* (1996); Richard Arneson, *What do we Owe to Distant Needy Strangers?*, in PETER SINGER *UNDER FIRE: THE MORAL ICONOCLAST FACES HIS CRITICS* (Jefferey Schaler ed., 2009); Peter Singer, *Famine, Affluence, and Morality*, 1 *PHIL. & PUB. AFF.* 229 (1972).

¹⁶⁰ See Pribytkova, *supra* note 3, at 248-253.

institutions,¹⁶¹ and some Western NGOs are quick to blame poor countries' domestic institutional shortcomings—such as undemocratic regimes, corruption, the lack of human rights guarantees, and distortions of the free market—for the persistence of severe socio-economic deprivations. Countries of the Global South, in contrast, point to injustices of the global order—the exclusion of developing societies from international decision-making, norm-setting and institution-designing, the lack of transparency of global governance, extreme relational and distributive inequalities among nations, as well as the unfairness of the international financial and trade systems—as driving causes of world poverty.¹⁶² Ironically, the same actors from the North that insist on good domestic governance do not give equal weight to improvements in global governance. At the same time, the Global South countries, struggling for their voice to be heard and taken seriously in the international arena, often do not consider it necessary to guarantee this right to their own people within their territory.

I argue that the origins of poverty do not by themselves determine the existence or absence of global obligations to eradicate it and to assist poor individuals and societies in the realization of their basic socio-economic rights.¹⁶³ Understanding the causes of poverty is, however, important for determining what efforts should be undertaken for its elimination. Each end of the ideological spectrum identifies a truth concerning anti-poverty measures: both domestic and international institutional reforms are necessary for

¹⁶¹ The Bretton Woods institutions represent predominantly the developed North states, while the U.N. puts forward the interests of the Global South. The OECD “donor club” states are, at the same time, the most authoritative members of the World Bank, that traditionally grants privileges to the richest states. The so-called “Group of 77” (G-77), which currently includes 135 developing countries, is a powerful South voting bloc within the U.N. See SEYEDSAYAMDOST, *supra* note 13, at 35.

¹⁶² Fukuda-Parr classifies three types of international obstacles which are “beyond the reach of national action”: resource constraints, international policies, and “systemic asymmetry in global governance”. Fukuda-Parr, *supra* note 18, at 976-78; Sakiko Fukuda-Parr, *A Right to Development Critique of Millennium Development Goal 8*, in UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, *REALIZING THE RIGHT TO DEVELOPMENT* 201, 206 (2013), <https://www.ohchr.org/EN/Issues/Development/Pages/RTDBook.aspx> [<https://perma.cc/XM7J-DPWC>]; see also SALOMON, *supra* note 10, at 99.

¹⁶³ See Pribytkova, *supra* note 3, at 250.

the implementation of the sustainable development agenda and the eradication of global poverty. From both standpoints, the tools proffered by the *2030 Agenda* for overcoming territorial obstacles to sustainable development and to the realization of socio-economic rights are grossly inadequate.

Based on the classification of global human rights obligations suggested in my article, *What Global Human Rights Obligations Do We Have?*, we can identify three relevant pairs of global obligations for sustainable development:¹⁶⁴ first, *institutional obligations* that apply to the organization of global order and *interactional obligations* that determine the conduct of global actors towards individuals;¹⁶⁵ second, *obligations of result* concentrated on the achievements and outcomes of global actors' activities (obligations to create a just and sustainable global order and obligations to ensure a decent and sustainable standard of living universally) and *obligations of conduct* relating to global actors' efforts to achieve the SDGs (obligations of global development cooperation and assistance); and, third, *obligations of relational justice* that require treating and regarding individuals and societies as equals, that is, with equal concern and respect, and as full-fledged partners for sustainable development, and *obligations of distributive justice* that call for a fair allocation of social goods and resources necessary for sustainable development as well as benefits resulting from it.

All of the three pairs of global obligations are to some extent envisioned by the *2030 Agenda*. They will be addressed in the next Sections. This part will concentrate on global obligations of result, including relational and distributive institutional obligations to create and maintain a just and sustainable global order (Section III.B) and obligations to secure a decent and sustainable standard of living universally (Section III.C). The fourth part will address global obligations of conduct, including obligations to cooperate for sustainable development (Section IV.A) and obligations of development assistance (Section IV.B). These Sections will consider in more detail, first, to what degree these global obligations for

¹⁶⁴ See Pribytkova, *supra* note 144, at 384.

¹⁶⁵ According to the Human Development Report 2000, human rights have both interactional and institutional aspects, that is, they are "claims on the behaviour of individual and collective agents, and on the design of social arrangements." UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 2000, at 25 (2000).

sustainable development are incorporated in the *2030 Agenda*, and, second, what potential the contemporary sustainable development agenda and human rights agenda have to solve current problems and fill existing gaps concerning global obligations.

B. Obligations to Create and Maintain a Just and Sustainable Global Order

A normative basis for the right to a just global order is Art. 28 of the UDHR that recognizes a fundamental entitlement of an individual “to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.”¹⁶⁶ The DRD reaffirms the UDHR entitlement to a social and international order in which human rights are fulfilled. It stresses shared institutional obligations for sustainable development and demands that “efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order.”¹⁶⁷ The idea of a new international economic order (NIEO) advocated by the states of the Global South was designed to empower poor countries and promote relational justice between them and the countries of the Global North.¹⁶⁸ The DRD demands that “States should realize their rights and fulfil their duties in such a manner as to promote a *new international economic order* based on sovereign equality, interdependence, mutual interest and co-operation among all States,

¹⁶⁶ Following the UDHR, the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* acknowledges “the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.” G.A. Res. 53/144, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote Universally Recognized Human Rights and Fundamental Freedoms*, art. 18, para. 3 (Dec. 9, 1998) [hereinafter *Declaration on the Right and Responsibility*].

¹⁶⁷ DRD, *supra* note 21, pmb1.

¹⁶⁸ See G.A. Res. 3201(S-VI), *Declaration on the Establishment of a New International Economic Order* (May 1, 1974). On institutional obligations relating to equitable global institutional structure, see ANDREASSEN & MARKS, *supra* note 17; SALOMON, *supra* note 10, at 14, 64.

as well as to encourage the observance and realization of human rights.”¹⁶⁹

As demonstrated above in Section II.C, the right to development embodies a human rights-based approach to development and serves as a normative foundation for human rights obligations for sustainable development. The High-Level Task Force on the Implementation of the Right to Development (HLTF) has defined the right to development as “the right of peoples and individuals to the *constant improvement of their well-being* and to a national and *global enabling environment conducive to just, equitable, participatory and human-centered development respectful of all human rights.*”¹⁷⁰ In this interpretation, the content of the right to development has clear connotations of two human rights: the right to “the continuous improvement of living conditions” and the right to a just global order.¹⁷¹ Although, in the International Covenant on Economic, Social and Cultural Rights (hereinafter the ICESCR), the right to “the continuous improvement of living conditions” is attached to the right to an adequate standard of living,¹⁷² the DRD does not enshrine the latter.¹⁷³ An institutional aspect of the right to development is the entitlement to a global enabling environment indispensable for sustainable development and human rights realization.¹⁷⁴ The *2030 Agenda* recognizes commitments to create “an enabling environment for sustainable development at all levels and by all actors.”¹⁷⁵ In particular, it requires “national development efforts... to be supported by an enabling international economic environment,

¹⁶⁹ DRD, *supra* note 21, art. 3, para. 3 (emphasis added); *see also Vienna Declaration, supra* note 2, para. 10 (reaffirming that the implementation of the right to development demands “equitable economic relations and a favourable economic environment at the international level.”)

¹⁷⁰ Human Rights Council, Right to Development: Report of the High-Level Task Force on the Implementation of the Right to Development on its Sixth Session, U.N. Doc. A/HRC/15/WG.2/TF/2/Add.2, annex at 8 (Mar. 8, 2010) [hereinafter Right to Development] (emphasis added).

¹⁷¹ *See* G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, art. 11, para. 1 (Dec. 16, 1966) [hereinafter ICESCR]; G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 28 (Dec. 10, 1948) [hereinafter UDHR].

¹⁷² ICESCR, *supra* note 171, art. 11, para. 1.

¹⁷³ *See infra* Section III.C.

¹⁷⁴ Right to Development, *supra* note 170, annex at 8.

¹⁷⁵ *2030 Agenda, supra* note 4, para. 63.

including coherent and mutually supporting world trade, monetary and financial systems, and strengthened and enhanced global economic governance.”¹⁷⁶

How do the right to a just global order and the institutional side of the right to development—the right to a global enabling environment necessary for sustainable development “respectful of all human rights”¹⁷⁷—interrelate? Are these rights identical, as some researchers claim?

Arne Vandebogaerde reduces the right to development to its institutional aspect and maintains that the right coincides completely with the right to a just global order.¹⁷⁸ This position overlooks two important aspects: first, as shown, the right to development also embraces an interactional entitlement to the constant improvement of well-being; and second, the particularities and “added value” of the right to development are determined by the concept of sustainability.¹⁷⁹ Based on the discussion in Section II.C, the guarantees of a just global order, in which human rights are realized, represent a minimum fundamental requirement for a sustainable global environment, or order.¹⁸⁰ A global enabling environment for sustainable development should not only be just and “respectful of all human rights,” but also ensure equitable, participatory and human-centered sustainable development.¹⁸¹ And, as shown in Section II.A, sustainable development implies that the enjoyment of the right to a just global order by the present generation does not compromise the ability of future generations to enjoy this right. The principle of sustainability requires changing patterns of consumption that promotes not only economic

¹⁷⁶ 2030 Agenda, *supra* note 4, para. 63.

¹⁷⁷ Right to Development, *supra* note 170, annex at 8.

¹⁷⁸ On this basis, Arne Vandebogaerde argues that the right to development is “doing a disservice to other human rights,” in the first instance, to socio-economic rights. Vandebogaerde, *supra* note 10, at 187, 209.

¹⁷⁹ See *supra* Section II.C.

¹⁸⁰ The concepts of “global enabling environment” and “global order” are used synonymously in this Article. For development of the conception of “human rights ecosystem,” see César Rodríguez-Garavito, *Business and Human Rights: Beyond the End of the Beginning*, in BUSINESS AND HUMAN RIGHTS: BEYOND THE END OF THE BEGINNING 11, 12 (César Rodríguez-Garavito ed., 2017), and César Rodríguez-Garavito, *The Future of Human Rights: From Gatekeeping to Symbiosis*, 11 SUR—INT’L J. ON HUM. RTS. 499, 505-506 (2014).

¹⁸¹ Right to Development, *supra* note 170, annex at 8.

development, but also the realization of human rights. Therefore, the right to development substantially enriches the content and scope of the right to a just global order, challenging the view that the former simply duplicates the latter. In this respect, in representing an institutional aspect of the right to development, the right to a just and sustainable global order lies at the intersection of the human rights agenda and the sustainable development agenda, embodies their characteristics, and calls for the realization of corresponding human rights obligations and sustainable development commitments.

An analysis of global obligations corresponding to the right to a just and sustainable global order should take into account key distinctions between *global obligations of relational justice* that require treating and regarding individuals as equals, that is, with equal concern and respect regardless of their place of origin, citizenship, or social status, and *obligations of distributive justice* that call for a fair allocation of certain social goods or resources indispensable for leading a decent life.

I argue that global obligations of relational justice imply two important guarantees to enable individuals to enjoy equal status and to act as full-fledged actors in the global domain, i.e., to take part in creating and maintaining a just global order. The first guarantee is for the correction of the asymmetries in global decision-making processes through ensuring developing states' inclusion as independent and equal members of the international community, and for respect of the interests and fulfillment of the human rights of people they are representing.¹⁸² The second is the recognition of individuals as subjects of extraterritorial relations and promotion of their ability to claim the realization of their human rights directly or through their networks and representatives. Individuals should enjoy access to information about and participation in all decision-making processes concerning their human rights, including

¹⁸² These requirements were embodied in the norm that states designing global poverty reduction programs should "ensure that all bilateral and multilateral decision-making processes are fair, equitable and transparent, and sensitive to the needs of developing States, especially their disadvantaged and marginalized individuals and groups, including the poor." Office of the United Nations High Commissioner for Human Rights, *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, U.N. Doc. HR/PUB/06/12, para. 104(c) (2006).

participation in *ex ante* and *ex post* human rights impact assessments and human rights due diligence, as well as direct access to effective and affordable remedies.

Along with relational justice guarantees, obligations to create and maintain a just global order presuppose certain distributive arrangements. I showed elsewhere that global distributive justice does not require an equal distribution of resources, wealth, or income, whether among states or individuals. It rather demands ensuring universal access to a decent standard of living.¹⁸³ Multiple actors (states, non-state entities, intergovernmental organizations, and individuals) share global human rights obligations to create an institutional system necessary for the enjoyment of all components of the composite human right to an adequate standard of living universally. In particular, it implies elaborating an international normative framework and institutions indispensable for enabling a decent life, including mechanisms for mobilizing resources and providing development assistance to those in poverty.¹⁸⁴

Creating and maintaining a just and sustainable global order that satisfies the minimum demands of relational and distributive justice is an important tool for poverty eradication as well as for achieving the other SDGs.

These two aspects of the right to a just and sustainable global order—relational and distributive¹⁸⁵—are central to debates between the Global North and the Global South. If representatives of the Global North argue that poverty eradication requires liberalizing and democratizing governance at the national level, the Global South sees the solution in reducing local and global inequality and ensuring a fair distribution of basic social goods. These arguments of the North's and South's development debates are in accord with their positions in human rights disputes, in particular concerning the right to development.¹⁸⁶ As shown above in Section III.A, if the Global South suggests a distributive justice agenda at both the local and global levels, the Global North argues

¹⁸³ See Pribytkova, *supra* note 144, at 445-448.

¹⁸⁴ See *infra* Section III.C.

¹⁸⁵ As Tan notes, "while the demands of political justice are directed primarily at nonliberal countries, the demands of economic justice are directed primarily at liberal countries." TAN, *supra* note 159, at 8.

¹⁸⁶ See Vandenbogaerde, *supra* note 10, at 189-90.

mainly for improving domestic governance and does not welcome guarantees of relational justice in the international domain.¹⁸⁷ On the contrary, some leading developed states make every effort to preserve their domination in the global institutional system from which they disproportionately benefit.¹⁸⁸ In this sense, the democratization of governance should begin with the retraction of the developed states' domination of the global order.

A broad ideological conflict between the Global North and the Global South reinforces their longstanding reluctance to take greater programmatic steps towards each other: the demands for distributive justice are considered to promote socialist values of equality, while the calls for democratic governance are often seen as an appeal to neoliberal imperialism.¹⁸⁹ A long struggle for consensus gave the appearance of successful compromise in the recognition of poverty reduction as a common denominator and a fundamental goal. Poverty reduction was suitable for the role of the common objective for the human rights and sustainable development agendas because it did not jeopardize the core interests of either the Global North or South.¹⁹⁰ However, the compromise between the two political camps, sealed by the MDGs, intended to reduce neither relational nor distributive injustice. The MDGs were not aimed at fighting the causes of poverty, but only its visible symptoms.¹⁹¹ Since reducing poverty requires structural institutional changes in the spheres of both relational and distributive justice at the global and local levels, the MDGs did not achieve, in substance, their primary goals.

¹⁸⁷ While the West "prioritize[s] political inclusiveness and the removal of discrimination at the *domestic level*," the Rest consolidated by the G-77 advocates for relational justice at the *international level*, especially for fair trade and developing countries' full-fledged representation in international financial institutions. Langford, *supra* note 150, at 171; *see also* SALOMON, *supra* note 10, at 99.

¹⁸⁸ *See, e.g.*, POGGE, *supra* note 14, at 20-24; POGGE, *supra* note 94, at 118-22; TAN, *supra* note 159, at 25-26.

¹⁸⁹ *See* SEYEDSAYAMDOST, *supra* note 13, at 18-9; Langford, *supra* note 150, at 171; Vandenbogaerde, *supra* note 10, at 189-90.

¹⁹⁰ In Seyedsayamdost's opinion, the focus on poverty succeeded because it was legitimized by powerful North states that are also the most influential members of the OECD and the World Bank. SEYEDSAYAMDOST, *supra* note 13, at 60; *see also* MOYN, *supra* note 74.

¹⁹¹ POGGE, *supra* note 14, at ch. 3; SEYEDSAYAMDOST, *supra* note 13, at 161.

Does international development law provide for relational and distributive guarantees of a just and sustainable order? The preamble to the DRD emphasizes relational and distributive aspects of development, and demonstrates that development is aimed “at the constant improvement of the well-being of the entire population and of all individuals on the basis of their *active, free and meaningful participation in development* and in the *fair distribution of benefits resulting therefrom*.”¹⁹² Arjun Sengupta rightly notes that “equity and justice are primary determinants of development and the whole structure of development is shaped by these determinants.”¹⁹³ He also shows that the sustainable development agenda envisages relational and distributive justice guarantees. According to him, the empowerment of developing states in international economic relations with developed countries was one of the fundamental motives to recognize the right to development as a human right. Partnership relations between the North and South should guarantee developing states’ equitable treatment and participation in decision-making as well as their secure access to the benefits of the development process.¹⁹⁴ The HLTF is also sensitive to relational and distributive aspirations of the right to development, incorporating the three main attributes of the right: “[c]omprehensive and human-centered development policy,” “[p]articipatory human rights processes,” and “[s]ocial justice in development.”¹⁹⁵

To what extent does the *2030 Agenda* acknowledge global relational and distributive obligations as tools for creating and maintaining a just and sustainable global order? SDG 16 mandates the development of “effective, accountable and transparent institutions”¹⁹⁶ and “responsive, inclusive, participatory and representative decision-making at all levels”¹⁹⁷ as well as the broadening and strengthening of “the participation of developing

¹⁹² DRD, *supra* note 21, pmb. (emphasis added).

¹⁹³ Study on the Current State of Progress in the Implementation of the Right to Development, *supra* note 147, para. 53.

¹⁹⁴ Sengupta, *supra* note 98, para. 45.

¹⁹⁵ Right to Development, *supra* note 170, annex at 8-15.

¹⁹⁶ *2030 Agenda*, *supra* note 4, SDG 16.6.

¹⁹⁷ *Id.* SDG 16.7.

countries in the institutions of global governance.”¹⁹⁸ An important innovation of the *2030 Agenda* was the recognition of equality, not only as a means, but also as a separate goal of sustainable development. SDG 10 requires reducing relational inequality within and among countries and ensuring an “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.”¹⁹⁹ SDG 10 has been reasonably criticized for not requiring systemic global institutional transformations to achieve this goal.²⁰⁰

The *2030 Agenda* also calls for relational justice guarantees to empower developing states in the global economic order, i.e., “broadening and strengthening the voice and participation of developing countries—including African countries, least developed countries, landlocked developing countries, small island developing States and middle-income countries—in international economic decision-making, norm-setting and global economic governance.”²⁰¹ SDG 17 has substantially extended the scope of MDG 8 under the banner of revitalizing the global partnership for sustainable development. In particular, the former contains the commitment to ensure a fair-trade global order, that is, to “[p]romote 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.”²⁰²

Despite the substantial importance of the *2030 Agenda’s* relational justice commitments to correct the asymmetries in global decision-making processes by ensuring developing states’ meaningful participation, they remain fragmentary and do not

¹⁹⁸ *Id.* SDG 16.8.

¹⁹⁹ *Id.* SDG 10.6. SDG 10 also demands for local domestic institutional arrangements to empower the most disadvantaged and marginalized individuals and “promote the social, economic and political inclusion of all.” *Id.* SDG 10.2.

²⁰⁰ Thomas Pogge and Mitu Sengupta argue that the “SDGs fail to reflect on the root causes of the huge and persistent poverty-related human rights deficit and they consequently ignore the structural reforms we urgently need to make national and supranational institutional arrangements less skewed toward the interests of a tiny global power elite.” Pogge & Sengupta, *supra* note 1, at 94. For an additional critique, see Deacon, *supra* note 13.

²⁰¹ *2030 Agenda*, *supra* note 4, para. 44.

²⁰² *Id.* SDG 17.10.

presuppose any serious reforms of a global institutional order. This gives ground for Thomas Pogge and Mitu Sengupta to compare the SDGs with “a smokescreen for extreme global inequalities.”²⁰³

In addition, the *2030 Agenda* contains several commitments of global distributive justice relating to poverty and extreme inequality eradication as well as to guarantees of a decent standard of living. It is aimed at the fulfillment of the U.N.’s fundamental task to ensure that poor individuals and societies are not excluded from the beneficiaries of globalization: “[t]he central challenge we face today is to ensure that globalization becomes a positive force for all the world’s people, instead of leaving billions of them behind in squalor.”²⁰⁴ Thomas Pogge and Mitu Sengupta emphasize the important correlation between poverty and distributive inequality: increasing inequality has deprived the global poor of the opportunity to benefit from general economic growth. Since income and wealth inequalities have risen, the global poor have been denied potential significant dividends of economic growth.²⁰⁵

The right to development entitles individuals and societies to an equal access to basic resources and a fair distribution of benefits resulting from development.²⁰⁶ SDG 17 embodies requirements of institutional improvements in the area of global trade: to “significantly increase the exports of developing countries, in

²⁰³ Pogge & Sengupta, *supra* note 1, at 90, 93-4.

²⁰⁴ U.N. Secretary-General, *We the Peoples: The Role of United Nations in the 21st Century* 6 (2000), https://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf [<https://perma.cc/465Y-F3N3>] [hereinafter *We the Peoples*].

²⁰⁵ The poor’s share in global income amounts to only about 2%. See Pogge & Sengupta, *supra* note 1, at 85-86, 94. On the relationship between poverty and inequality, see also Human Rights Council, *Report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, Twenty-Ninth Session*, U.N. Doc. A/HRC/29/31 (2015). For an analysis of SDGs’ potential to reduce inequality, see Michael W. Doyle & Joseph E. Stiglitz, *Eliminating Extreme Inequality: A Sustainable Development Goal, 2015-2030*, 28 ETHICS INT. AFF. 5 (2014); Inga T. Winkler & Margaret L. Satterthwaite, *Leaving No One Behind? Persistent Inequalities in the SDGs, Special Issue: The Sustainable Development Goals and Human Rights: A Critical Early Review*, 21 INT’L J. HUM. RTS. 1073 (2017); Ignacio Saiz & Kate Donald, *Tackling Inequality through the Sustainable Development Goals: Human Rights in Practice*, 21 INT’L J. HUM. RTS. 1029 (2017); Gillian MacNaughton, *Vertical Inequalities: Are the SDGs and Human Rights up to the Challenges?*, 21 INT’L J. HUM. RTS. 1050 (2017); PETER A.G. VAN BERGEIJK & ROLPH VAN DER HOEVEN, *SUSTAINABLE DEVELOPMENT GOALS AND INCOME INEQUALITY* (2017).

²⁰⁶ DRD, *supra* note 21, arts. 2, 8.

particular with a view to doubling the least developed countries' share of global exports by 2020";²⁰⁷ and to provide a "duty-free and quota-free market access on a lasting basis for all least developed countries."²⁰⁸

In addition, the *2030 Agenda* incorporates requirements to, first, "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";²⁰⁹ and second, "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."²¹⁰

As shown, apart from obligations of relational justice, the *2030 Agenda* presupposes obligations of distributive justice aimed at alleviating extreme distributive inequality (see above) as well as at ensuring a decent and sustainable standard of living universally. The latter obligations are analyzed in further detail in the next Section.

C. Obligations to Ensure a Decent and Sustainable Standard of Living Universally

The internationally recognized right to an adequate standard of living is aimed at protecting individuals from extreme poverty, enabling them to lead a decent life, ensuring their involvement in society and access to shared material and intellectual values, and, in the final analysis, providing the opportunity for their moral and intellectual flourishing.²¹¹ The human right to an adequate, or

²⁰⁷ *2030 Agenda*, *supra* note 4, SDG 17.11.

²⁰⁸ *Id.* SDG 17.12.

²⁰⁹ *Id.* SDG 1, 1.b.

²¹⁰ *Id.* SDG 1, 1.a.

²¹¹ For more details, see Elena Pribytkova, *The Human Right to a Dignified Existence: The Ethical Foundations of the Contemporary Legal Order*, in 137 ARCHIV FÜR RECHTS- UND SOZIALPHILOSOPHIE, HUMAN DIGNITY AS A FOUNDATION OF LAW 117 (Winfred Brugger & Stephan Kirste eds., 2013).

decent, standard of living,²¹² is embedded in the International Bill of Human Rights. The UDHR acknowledges that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.”²¹³ The ICESCR reaffirmed both “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” and the corresponding states’ obligation to “take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”²¹⁴ The ICESCR also enshrines “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”²¹⁵ Various components of the right to a decent standard of living are also anchored in the *Convention on the Rights of the Child* (hereinafter CRC), the *Convention on the Rights of Persons with Disabilities* (hereinafter CRPD), and the *Convention on the Elimination of all Forms of Discrimination Against Women* (hereinafter CEDAW).²¹⁶

²¹² The right to an adequate standard of living and the right to a decent standard of living are interpreted as synonyms.

²¹³ UDHR, *supra* note 171, art. 25, para. 1.

²¹⁴ ICESCR, *supra* note 171, art. 11, para. 1. The ICESCR places emphasis on the necessity to cooperate internationally for the realization of “the fundamental right of everyone to be free from hunger” as the core element of the right to an adequate food. In particular, it requires to “ensure an equitable distribution of world food supplies in relation to need.” *Id.* art. 11, para. 2.

²¹⁵ *Id.* art. 12, para. 1.

²¹⁶ See *supra* notes 217-25. The right to a decent standard of living and its components are also recognized in regional human rights systems. See Council of Europe, *European Social Charter*, ETS 163, arts. 4, 13 (May 3, 1996); European Union, *Charter of Fundamental Rights of the European Union*, 2012/C 326/02, art. 34 (Oct. 26, 2012); Organization of American States, *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights*, arts. 6-7, 9, 12, 15 (Nov. 16, 1999).

The core components of the composite right to a decent standard of living embrace the right to adequate food,²¹⁷ water,²¹⁸ sanitation,²¹⁹ housing,²²⁰ clothing,²²¹ and health.²²² Additionally, the right to a decent standard of living is often considered to include the following supplementary elements: the rights to transportation, energy, and communications technology²²³ as well as the right to social services²²⁴ and the right to the continuous improvement of living conditions.²²⁵

It is important to note that international law initially proceeded from the premise that the right to a decent standard of living should be realized not only locally but also globally, and that not only the state, but the international community as a whole, bears obligations corresponding to the right.²²⁶

In the same vein, the *2030 Agenda* stipulates that “a world free of poverty, hunger, disease and want, where all life can thrive” is a primary goal of the contemporary globalized world.²²⁷ It states a commitment not only “to end poverty and hunger, in all their forms

²¹⁷ UDHR, *supra* note 171, art. 25, para. 1; ICESCR, *supra* note 171, art. 11, para 1; G.A. Res. 44/25, Convention on the Rights of the Child, art. 27, para. 3 (Nov. 20, 1989) [hereinafter CRC]; G.A. Res. 61/106, Convention on the Rights of Persons with Disabilities, art. 28, para. 1 (Jan 24, 2007) [hereinafter CRPD].

²¹⁸ CRPD, *supra* note 217, art. 28, para. 2; G.A. Res. 34/180, Convention on the Elimination of All Forms of Discrimination Against Women, art. 14, para. 2 (Dec. 18, 1979) [hereinafter CEDAW].

²¹⁹ CEDAW, *supra* note 218, art. 14, para 2.

²²⁰ UDHR, *supra* note 171, art. 25, para. 1; ICESCR, *supra* note 171, art. 11, para 1; CRC, *supra* note 217, art. 27, para 3; CRPD, *supra* note 217, art. 28, para 1; CEDAW, *supra* note 218, art. 14, para 2.

²²¹ UDHR, *supra* note 171, art. 25, para. 1; ICESCR, *supra* note 171, art. 11, para 1; CRC, *supra* note 217, art. 27, para 3; CRPD, *supra* note 217, art. 28, para 1.

²²² UDHR, *supra* note 171, art. 25, para. 1; ICESCR, *supra* note 171, art. 12, para. 1; CRC, *supra* note 217, art. 24, para. 1; CRPD, *supra* note 217, art. 25; CEDAW, *supra* note 218, art. 12, para. 1.

²²³ CEDAW, *supra* note 218, art. 14, para 2.

²²⁴ UDHR, *supra* note 171, art. 25, para. 1; CRPD, *supra* note 217, art. 28, para. 2.

²²⁵ ICESCR, *supra* note 171, art. 11, para 1; CRPD, *supra* note 217, art. 28, para 1. Being one of the least explored human rights, the right to the continuous improvement of living conditions requires a careful analysis, which is beyond the scope of this Article.

²²⁶ UDHR, *supra* note 171, art. 22; ICESCR, *supra* note 171, art. 2, para. 1, art. 11, para. 1.

²²⁷ *2030 Agenda*, *supra* note 4, para. 7.

and dimensions,” but also “to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment.”²²⁸ The SDGs separately and in their entirety are aimed to ensure that all individuals around the world, especially the most vulnerable, enjoy an opportunity to “lead decent, dignified and rewarding lives and to achieve their full human potential.”²²⁹

The principle of sustainability requires that the enjoyment of the right to a decent standard of living by the current generation not prevent future generations from having secure access to the object of this right. The *2030 Agenda* expresses a commitment to “making fundamental changes in the way that our societies produce and consume goods and services.”²³⁰ It emphasizes that multiple actors bear shared commitments to “contribute to changing unsustainable consumption and production patterns.”²³¹ As shown in Section II.C, promoting sustainable consumption is important for the realization of socio-economic rights. The CESCR has adopted the criterion of sustainability as an essential dimension of the principle of adequacy.²³²

There are several important aspects of the guarantees of freedom from poverty and a decent standard of living that are not fully set forth in the *2030 Agenda*. First, the definition of poverty employed by the *2030 Agenda* is itself highly contested (see below). Second, as demonstrated above in Section II.B, guarantees relating to poverty alleviation and securing components of an adequate standard of living appear to be not human rights obligations, but rather beneficence commitments. Third, sustainable development commitments are extremely minimalistic or “thin” and designed to ensure a “basic standard of living” rather than a decent standard of

²²⁸ *Id.* pmbi. (emphasis added).

²²⁹ *Id.* para. 50 (emphasis added).

²³⁰ *Id.* para. 28.

²³¹ *Id.* para. 28, SDG 12.

²³² See, e.g., U.N. CESCR, *General Comment No. 4: The Right to Adequate Housing*, U.N. Doc. E/1992/23, para. 8 (Dec. 13, 1991) [hereinafter *CESCR General Comment No. 4*]; U.N. CESCR, *General Comment No. 12: The Right to Adequate Food*, U.N. Doc. E/C.12/1999/5, para. 7 (May. 12, 1999) [hereinafter *CESCR General Comment No. 12*]; U.N. CESCR, *General Comment No. 15: The Right to Water*, U.N. Doc. E/C.12/2002/11, para. 11 (Jan. 20, 2003) [hereinafter *CESCR General Comment No. 15*].

living.²³³ The latter is not aimed at enabling a dignified life, but the mere survival of individuals. In this sense, it is not surprising that SDG 1 proclaims poverty eradication, but not the promotion of a “decent,” “dignified,” or “rewarding” life, to be a fundamental goal of sustainable development. This position is contrary to the fundamental intention of the *2030 Agenda* declared in its preamble. Fourth, the SDGs are often believed to ensure minimum core obligations corresponding to the right to an adequate standard of living (and its particular elements) formulated by the CESCR.²³⁴ However, as mentioned above in Section II.B, the *2030 Agenda* deals predominantly with progressive commitments and, therefore, does not guarantee the immediate realization of minimum core obligations. Fifth, a commitment to “end poverty in all its forms everywhere” is interpreted as a global obligation to enable states to implement their territorial obligations rather than to change an international institutional design. The sixth deficient feature is connected with this: the *2030 Agenda* presumes developing countries’ leadership and “ownership of development priorities”²³⁵ and encourages creating national and regional indicators for assessing the progressive realization of the SDGs,²³⁶ but it does not mandate a certain universal minimum standard of a decent life, nor a social protection floor, worldwide.²³⁷ This Section further examines these aspects in more detail.

The SDGs have inherited the World Bank’s definition of extreme poverty, used earlier by the MDGs, and determined the poor as those having less than \$1.25 of purchasing power parity (PPP). SDG 1 has the objective to: “by 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day”;²³⁸ and “by 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty

²³³ *2030 Agenda*, *supra* note 4, para. 24.

²³⁴ Regarding the MDGs, this position is expressed by Alston. *See* Alston, *supra* note 78, at para. 164.

²³⁵ *See infra* Section IV.B.

²³⁶ *See infra* Section IV.C.

²³⁷ SDG 1 does not imply a commitment to ensure a universal social protection floor, but merely the call for territorial social protection systems. *See* Pogge & Sengupta, *supra* note 1, at 89.

²³⁸ *2030 Agenda*, *supra* note 4, SDG 1.1.

in all its dimensions according to national definitions.”²³⁹ This poverty definition provoked a lot of criticism from lawyers, economists, sociologists, philosophers, and politicians.²⁴⁰ They have contested it for several interconnected reasons: (1) it is ill-defined and excludes millions of the poor; (2) it contradicts fundamental moral and legal duties; (3) it does not take into account individuals’ abilities to convert income into guarantees indispensable for leading a decent life; and (4) it serves the interests of developed states and powerful non-state actors, rather than those in poverty. The following subsections will provide a more detailed analysis of these points of critique.

(1) Many researchers and practitioners criticize the SDGs’ metric for poverty for being arbitrary and based on the “absurdly low” purchasing power of \$1.25.²⁴¹ Measuring extreme poverty at this extremely low level disregards millions of the poor that do not enjoy a minimally decent standard of living in developing countries as well as those living below absolute national poverty thresholds in developed states.²⁴² As shown above in Section II.A, the MDGs focused exclusively on developing countries and therefore disregarded the fate of the poor from developed states. Due to its extremely narrow definition of extreme poverty, the *2030 Agenda* cannot match its fundamental goal of universal poverty eradication. Implementing this goal without “leaving anyone behind” requires the recognition of guarantees of the universal social protection floor which embodies criteria of adequacy (see below).

(2) The *2030 Agenda* has also been rightly criticized for allowing an unacceptable postponement of the implementation of moral and legal duties that should instead be fulfilled immediately. Modern theories of justice underpin the shared moral obligation of members of the international community to eradicate extreme poverty as quickly as possible.²⁴³ Although the ICESCR applies the

²³⁹ *Id.* SDG 1.2.

²⁴⁰ See, *i.e.*, DEBATES ON THE MEASUREMENT OF GLOBAL POVERTY (Sudhir Anand et al. eds., 2010); POGGE, *supra* note 14; Amartya Sen, *Capability and Well-Being*, in THE QUALITY OF LIFE 41 (Martha Nussbaum & Amartya Sen eds., 1993).

²⁴¹ Pogge & Sengupta, *supra* note 1, at 95.

²⁴² See *supra* Section II.A.

²⁴³ See, *e.g.*, POGGE, *supra* note 94; TAN, *supra* note 159; Singer, *supra* note 159; UNGER, *supra* note 159; CANEY, *supra* note 159; NUSSBAUM, *supra* note 159; Arneson, *supra* note 159.

“progressive realization” clause in relation to socio-economic rights,²⁴⁴ the CESCR stresses that “minimum core obligations” to secure access to essential foodstuffs, drinking water, basic sanitation, primary health care, and basic shelter are of an immediate character. That is, they should be implemented by states as a matter of priority and regardless of resources at their disposal.²⁴⁵ States’ inability to fulfill their minimum core obligations with their maximum available resources²⁴⁶ gives rise to global obligations of the international community.²⁴⁷

By setting the goals of eradicating extreme poverty,²⁴⁸ ending malnutrition,²⁴⁹ ensuring access to drinking water and sanitation,²⁵⁰ ending preventable deaths of newborns and children under five, ending the epidemics of AIDS, tuberculosis, and malaria,²⁵¹ and ensuring “access for all to adequate, safe and affordable housing and basic services and upgrade slums” only by 2030,²⁵² the *2030 Agenda* permits preventable poverty-related deaths as well as severe socio-

²⁴⁴ ICESCR, *supra* note 171, art. 2.

²⁴⁵ See U.N. CESCR, *General Comment No. 3: The Nature of States Parties' Obligations*, U.N. Doc. E/1991/23 (Dec. 14, 1990) [hereinafter *CESCR General Comment No. 3*]; CESCR *General Comment No. 12*, *supra* note 232; U.N. CESCR, *General Comment No. 13: The Right to Education*, U.N. Doc. E/C.12/1999/10 (Dec. 8, 1999); U.N. CESCR, *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000) [hereinafter *CESCR General Comment No. 14*]; CESCR *General Comment No. 15*, *supra* note 232; U.N. CESCR, *General Comment No. 17: The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from any Scientific, Literary or Artistic Production of Which He or She is the Author*, U.N. Doc. E/C.12/GC/17 (Jan. 12, 2006) [hereinafter *CESCR General Comment No. 17*]; U.N. CESCR, *General Comment No. 18: The Right to Work*, U.N. Doc. E/C.12/GC/18 (Feb. 6, 2006) [hereinafter *CESCR General Comment No. 18*]; U.N. CESCR, *General Comment No. 19: The right to social security*, U.N. Doc. E/C.12/GC/19 (Feb. 4, 2008) [hereinafter *CESCR General Comment No. 19*]; U.N. CESCR, *General Comment No. 21: Right of everyone to take part in cultural life*, U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009).

²⁴⁶ For a critique of the “maximum available resources” clause, see Pribytkova, *supra* note 3, at 292-296.

²⁴⁷ See UDHR, *supra* note 171, art. 22; ICESCR, *supra* note 171, art. 2, para. 1, art. 11, para. 1; CRC, *supra* note 217, art. 4; see also *Vienna Declaration*, *supra* note 2, art. 14 (reaffirming that the obligations of the international community to alleviate poverty are high priority and immediate obligations).

²⁴⁸ *2030 Agenda*, *supra* note 4, SDG 1.

²⁴⁹ *Id.* SDG 2.

²⁵⁰ *Id.* SDG 6.

²⁵¹ *Id.* SDG 3.

²⁵² *Id.* SDG 11.

economic deprivations over the next ten years.²⁵³ This contradicts requirements of both morality and law. In this regard, the 2030 *Agenda* politically justifies the violation of fundamental human rights by states and other members of the international community. Thomas Pogge and Mitu Sengupta notice that during the fifteen-year period of the implementation of MDGs, which also allowed for the progressive realization of urgent duties to eradicate poverty, about 450 million people died from poverty-related causes, which is seven times more than the number of those killed during World War II.²⁵⁴ The contemporary sustainable development agenda should not allow the repetition of this practice.

Against this background, the sustainable development agenda, which embodies a human rights-based approach to development, should recognize commitments to eradicate extreme poverty and to ensure secure access to (the core components of) a decent standard of living as human rights obligations of immediate nature. The acknowledgment of the immediacy of these obligations for sustainable development will limit global actors' discretion to decide when to fulfill them. This does not contradict the nature of the sustainable development agenda which already embodies, as to certain matters, immediate commitments for sustainable development. An example may be found in SDG 8, which requires taking "*immediate and effective* measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers."²⁵⁵

(3) The 2030 *Agenda's* income-based poverty definition appears to be insensitive to difficulties of converting income into a minimally

²⁵³ The same argument can be applied to SDG 10, which has the target to "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" (10.1) and allows the income share of the worst-off to decline within the next decade. See Pogge & Sengupta, *supra* note 1, at 93.

²⁵⁴ *Id.* at 85. Pogge and Sengupta also argue that "if we do regard the eradication of undernourishment and other severe deprivations as a goal to be slowly approached over several lengthy development goal cycles, thereby accepting hundreds of millions of poverty-related deaths and deprivations in the interim, then we are in effect denying that there is a human right to life, a human right to an adequate standard of living, a human right to be free of hunger." *Id.* at 87.

²⁵⁵ 2030 *Agenda*, *supra* note 4, SDG 8.7 (emphasis added).

acceptable standard of living. The pioneers of the capabilities approach, Amartya Sen and Martha Nussbaum, highlight the argument that the relations between actual opportunities of people and means at their disposal are variable. For instance, Sen points to subjective and objective factors, which generate inequalities in individuals' socio-economic positions even if they possess the same quantitative amount of income or any other resource. These factors include individuals' physical or mental features, such as sex, age, health, and disabilities; non-personal resources, including an infrastructure, a health care system, and community cohesion; environmental conditions, such as climate, epidemics, and crime rates; as well as resources required to enjoy relational equality, in particular "to appear in public without shame" (as posited by Adam Smith).²⁵⁶

Sen maintains that "the conversion of income into basic capabilities may vary greatly between individuals and also between different societies, so that the ability to reach minimally acceptable levels of basic capabilities can go with varying levels of minimally adequate incomes."²⁵⁷ Following the capabilities approach, Arjun Sengupta suggests that development programs and projects should be directed not only against income poverty, but also against capability poverty as well.²⁵⁸ In light of the capabilities approach, the sustainable development agenda should take into account the fact that individual and social factors that affect the financial and social state of individuals and societies, as well as their ability to convert income and other resources into valuable opportunities, are of crucial importance for determining both the measure of poverty and the scope of social and global guarantees indispensable for the enjoyment of a decent standard of living.²⁵⁹

(4) The definition of poverty inherited by the 2030 *Agenda* from the MDGs serves the interests of developed states and other

²⁵⁶ Amartya Sen, *Human Rights and Capabilities*, 6 J. HUM. DEV. 151, 154 (2005).

²⁵⁷ Sen, *supra* note 240, at 41; see also MARTHA NUSSBAUM, WOMAN AND HUMAN DEVELOPMENT: THE CAPABILITIES APPROACH 68 (2000).

²⁵⁸ Sengupta, *supra* note 98, at para. 12.

²⁵⁹ Amartya Sen delivered a series of lectures at the World Bank that were later published as a book entitled *Development as Freedom* (1999). In spite of this, his ideas were not reflected in the World Bank's income-based formulation of extreme poverty.

powerful global actors rather than the existential needs of the poor.²⁶⁰

As noted above, Global South countries actively opposed the World Bank's definition of poverty being integrated into the global development agenda. For instance, the G-77 coalition of developing states considered that each country should develop its own definition and criteria of poverty as well as determine their own targets and timeframe for poverty eradication.²⁶¹ That is why they rejected attempts to formulate a universal quantifiable definition of poverty as part of the global development agenda, in particular its inclusion in the action plan of the World Summit for Social Development held in March 1995 in Copenhagen.²⁶² According to developing countries, the intention to formulate a universal definition of poverty stood in tension with the principles of priority of national responsibility for poverty eradication as well as developing societies' leadership and ownership in designing, implementing and assessing the effectiveness of their development programs. Despite this opposition from developing states, the OECD "donor club" issued the document *Shaping the 21st Century: The Contribution of Development Co-operation* (1996), which contained six international development goals²⁶³ applying the World Bank's standard—"370 per capita in annual income, or about \$1 per day"—as the extreme poverty threshold.²⁶⁴ The report *A Better World for All* (2000) produced by the U.N., the World Bank, the IMF, and the OECD, which presented international development goals reflecting the World Bank's extreme poverty definition, had been met with strong criticism by representatives of global civil society.²⁶⁵

²⁶⁰ Seyedsayamdost comes to this conclusion regarding the MDGs and considers that the "global development agenda was initially a construct of the donor community." SEYEDSAYAMDOST, *supra* note 13, at 48f, 150. This gives grounds for arguing that a commitment to reduce poverty was concurrently, in part, a political instrument for developed states to exercise their control over the national policies of developing countries. See Eade, *supra* note 15, at 630; Shah, *supra* note 15; Frankovits, *supra* note 9, at 123-124.

²⁶¹ See SEYEDSAYAMDOST, *supra* note 13, at 162.

²⁶² As Seyedsayamdost notes, the "donor club" states came back from the Copenhagen World Summit "frustrated and angry." SEYEDSAYAMDOST, *supra* note 13, at 162-163.

²⁶³ See *supra* Section II.A.

²⁶⁴ See SHAPING THE 21ST CENTURY, *supra* note 37, at 9.

²⁶⁵ See SEYEDSAYAMDOST, *supra* note 13, at 179f.

Nevertheless, just several months later, the OECD international development goals and the poverty threshold of \$1.00 PPP (since 2008 – \$1.25 PPP)²⁶⁶ were incorporated into the MDGs (along with a new MDG 8).²⁶⁷ A consensus on poverty definition documented by the MDGs was imposed by powerful actors and accepted by developing countries under the condition that the MDGs include a goal of global partnership, which, as shown above in Section II.A, appeared to be ineffective. The *2030 Agenda* inherited this controversy. In this context, a combination of measures is necessary to solve it: on the one hand, determining a universal social protection floor reflecting the principle of adequacy (see point 1 above) and, on the other hand, taking into account national and regional absolute and relative poverty lines.

The *2030 Agenda* expresses the intention to ensure essential social, economic, and cultural guarantees that also constitute objects of basic socio-economic rights.²⁶⁸ This relates, in particular, to the core and supplementary components of the composite human right to a decent standard of living – the right to adequate food, water, sanitation, housing, health, transportation, energy, and information and communications technology.²⁶⁹ However, as shown above, the sustainable development commitments do not have the status of human rights obligations, are territorial rather than global, are progressive rather than immediate, and are minimalist, that is, aimed at securing an access not to a decent, but rather to a “basic” standard of living. In addition, although the SDGs refer to general – availability, accessibility, acceptability, and quality (AAAQ)²⁷⁰ – and

²⁶⁶ In October 2015, the global poverty line was updated by the World Bank to \$1.90 a day. *FAQs: Global Poverty Line Update*, WORLD BANK, <http://www.worldbank.org/en/topic/poverty/brief/global-poverty-line-faq> [<https://perma.cc/XVH5-XTTK>].

²⁶⁷ See SEYEDSAYAMDOST, *supra* note 13, at 146-49, 207.

²⁶⁸ On the MDGs, see Alston, *supra* note 78, para. 48; see also Nankani et al., *Human Rights and Poverty Reduction Strategies: Moving Towards Convergence?*, in *HUMAN RIGHTS AND DEVELOPMENT: TOWARDS MUTUAL REINFORCEMENT* 475 (Philip Alston & Mary Robinson eds., 2005); CLAPHAM, *supra* note 78, at 86-87.

²⁶⁹ The *2030 Agenda* does not address guarantees of adequate clothing. That is a task required for the further evolution of the sustainable development agenda.

²⁷⁰ The *2030 Agenda* does not explicitly refer to the criterion of acceptability. It does, however, embody the principle of respect of the cultural diversity of individuals and societies (paras. 8, 36) that can serve as the basis for the requirement to ensure that guarantees of various components of the adequate standard of living are culturally acceptable to individuals.

specific—nutritiousness, habitability, safety, sufficiency, etc.—criteria of adequacy there is no consistency in their use throughout the *2030 Agenda*. To elaborate these points, I will briefly discuss some of the most important elements of a “basic standard of living” promoted by the SDGs.

SDG 2—to *end hunger, achieve food security and improved nutrition, and promote sustainable agriculture*—is designed to provide secure access to food that, obviously, is an object of the right to adequate food.²⁷¹ Its aim is, by 2030, to “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”;²⁷² and “end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age.”²⁷³ In addition to these territorial obligations, SDG 2 also comprises global distributive justice commitments: first, an interactional commitment to increase investment in rural infrastructure and technology in developing states to enhance their agricultural productivity;²⁷⁴ and second, an institutional commitment to “correct and prevent trade restrictions and distortions in world agricultural markets.”²⁷⁵

Concordant with international human rights instruments, the *2030 Agenda* states that ending hunger and achieving food security is a matter of priority.²⁷⁶ SDG 2, however, enshrines solely progressive obligations, which, as shown above, deviates from international human rights law. SDG 2 codifies only the criteria of safety, nutritiousness, and sufficiency,²⁷⁷ corresponding to characteristics of adequate food proposed by CESCR General

²⁷¹ See the definition of the right to food provided by Jean Ziegler, the U.N. Special Rapporteur on the right to food, at <http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx> [<https://perma.cc/P4K3-TL5W>]. For critique of the *2030 Agenda*'s avoidance to recognize the right to food, see Vivero Pol & Schuftan, *supra* note 11.

²⁷² *2030 Agenda*, *supra* note 4, SDG 2.1 (emphasis added).

²⁷³ *Id.* SDG 2.2.

²⁷⁴ *Id.* SDG 2.a.

²⁷⁵ *Id.* SDG 2.b.

²⁷⁶ The *2030 Agenda* “welcomes” the *Rome Declaration on Nutrition and the Framework for Action*. *Id.* para. 24.

²⁷⁷ The *2030 Agenda* expresses a commitment to ensure that “food is sufficient, safe, affordable and nutritious.” *Id.* para. 7.

Comment No. 12.²⁷⁸ Nevertheless, the interactional and institutional commitments of SDG 2 to end hunger and ensure universal access to food implicitly rely on some core components of adequacy—availability, economic and physical accessibility, and quality,²⁷⁹ while ignoring the criterion of cultural or consumer acceptability.²⁸⁰ In addition, the *2030 Agenda* demands that development commitments concerning food envisioned by SDG 2 satisfy the criterion of sustainability.²⁸¹

The *2030 Agenda* reaffirms “commitments regarding the human right to safe drinking water and sanitation” as well as guarantees of “improved hygiene.”²⁸² SDG 6—to *ensure availability and sustainable management of water and sanitation for all*—has common objects with the human rights to adequate water and sanitation. It demands by 2030 to “achieve *universal and equitable access to safe and affordable drinking water for all*”²⁸³ and to improve the quality of water globally.²⁸⁴ In addition, it requires by 2030 the achievement of “access to *adequate and equitable sanitation and hygiene for all* and [the end of] open defecation, paying special attention to the needs of women and girls and those in vulnerable situations.”²⁸⁵ Global commitments on water and sanitation, embodied in SDG 6, do not concern extraterritorial, but territorial reforms, requiring only that “the participation of local communities in improving water and sanitation management” is ensured.²⁸⁶ At the same time, they mandate obligations of development assistance—the promotion of “capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment,

²⁷⁸ See CESCR General Comment No. 12, *supra* note 232, paras. 1-9.

²⁷⁹ *Id.* paras. 7-9, 12-13.

²⁸⁰ *Id.* para. 11.

²⁸¹ *2030 Agenda*, *supra* note 4, SDG 2.4. According to the CESCR, food sustainability is “intrinsically linked” to food adequacy and means the long-term availability and accessibility of nutritious food for both present and future generations. See CESCR General Comment No. 12, *supra* note 232, para. 7.

²⁸² *2030 Agenda*, *supra* note 4, para. 7.

²⁸³ *Id.* SDG 6.1 (emphasis added).

²⁸⁴ *Id.* SDG 6.3. On SDG 6’s potential to regulate extraterritorial cooperation relating to water, see McIntyre, *supra* note 11.

²⁸⁵ *2030 Agenda*, *supra* note 4, SDG 6.2 (emphasis added).

²⁸⁶ *Id.* SDG 6.b.

recycling and reuse technologies.”²⁸⁷ The sustainable development commitments are exclusively progressive, which should be corrected with respect to the minimum core obligations corresponding to the rights to water and sanitation.²⁸⁸ According to the *2030 Agenda*, these commitments should correspond to general and specific criteria of adequacy, i.e., availability, accessibility, acceptability, quality, safety, equitability, non-discrimination,²⁸⁹ and sustainability.²⁹⁰

The *2030 Agenda* enshrines a commitment to “achieve universal health coverage and access to quality health care”²⁹¹ that overlaps with obligations corresponding to the human right to health. SDG 3—to *ensure healthy lives and promote well-being for all at all ages*—states an intention to “reduce the global maternal mortality ratio to less than 70 per 100,000 live births” by 2030;²⁹² and to “end preventable deaths of newborns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1,000 live births and under-5 mortality to at least as low as 25 per 1,000 live births.”²⁹³ SDG 3 is also notable because, in addition to territorial guarantees, it embodies global obligations to “support the research and development of vaccines and medicines for the communicable and non-communicable diseases that primarily affect developing countries,” and provide universal access to essential medicines and vaccines.²⁹⁴ It is remarkable, however, that this commitment does not specify a timeframe for its

²⁸⁷ *Id.* SDG 6.a.

²⁸⁸ See CESCR General Comment No. 15, *supra* note 232, para. 37. On the interrelation between human rights obligations and sustainable development commitments corresponding to the right to sanitation, see OBANI, *supra* note 11.

²⁸⁹ CESCR General Comment No. 15 on the right to water determines general—availability, accessibility (physical accessibility, economic accessibility, non-discrimination, and information accessibility), acceptability, and quality (paras. 2, 12)—as well as specific—safety, equality, and dignity (paras. 2, 11-14)—criteria of adequacy.

²⁹⁰ *2030 Agenda*, *supra* note 4, SDG 6.4. Cf. CESCR General Comment No. 15 emphasizes that “the manner of the realization of the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.” CESCR General Comment No. 15, *supra* note 232, para. 11.

²⁹¹ *2030 Agenda*, *supra* note 4, para. 26.

²⁹² *Id.* SDG 3.1.

²⁹³ *Id.* SDG 3.2.

²⁹⁴ *Id.* SDG 3.b.

achievement. Again, international human rights law requires treating these commitments concerning essential health care as immediate obligations.²⁹⁵ CESCR General Comment No. 14 on the right to the highest attainable standard of health determines the criteria of adequacy—availability, accessibility (including non-discrimination, physical accessibility, affordability, and information accessibility), acceptability, and quality²⁹⁶—which are implicitly and explicitly presupposed by SDG 3: to “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.*”²⁹⁷

SDG 11—to *make cities and human settlements inclusive, safe, resilient, and sustainable*—addresses the object of the right to adequate housing. It demands, in particular, ensuring by 2030 “access for all to *adequate, safe and affordable housing and basic services and upgrade slums.*”²⁹⁸ Bringing these sustainable development commitments into sync with obligations corresponding to the right to adequate housing requires recognizing immediate core commitments to secure access to basic shelter. The content and scope of this commitment should be determined on the basis of the criteria of adequacy—availability of services, materials, facilities, and infrastructure; accessibility; affordability; cultural adequacy; habitability; legal security of tenure; and location—formulated by CESCR General Comment No. 4 on the right to adequate housing.²⁹⁹ The CESCR also assimilates the principle of sustainability and claims that “disadvantaged groups must be accorded full and sustainable access to adequate housing

²⁹⁵ CESCR General Comment No. 14, *supra* note 245, para. 43. For a critique of SDG 3 from a human rights perspective, see Chapman, *supra* note 11; Williams & Hunt, *supra* note 11.

²⁹⁶ CESCR General Comment No. 14, *supra* note 245, para. 12.

²⁹⁷ 2030 Agenda, *supra* note 4, SDG 3.8 (emphasis added).

²⁹⁸ *Id.* SDG 11.1 (emphasis added).

²⁹⁹ CESCR General Comment No. 4, *supra* note 232, para. 8. The CESCR warns against narrow interpretations of the right to adequate housing as the right to “a roof over one’s head” and demands it to be treated as the “right to live somewhere in security, peace and dignity.” *Id.* para. 7. It follows the definition of adequate shelter suggested by the U.N.-Habitat and embodied in the *Global Strategy for Shelter to the Year 2000*: “adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities—all at a reasonable cost.” *Id.* para. 5.

resources.”³⁰⁰ As we can see, some of these criteria of adequacy—accessibility, affordability, sustainability, and safety—are explicitly expressed in SDG 11.

The SDGs also incorporate other important obligations indispensable for securing a decent standard of living, that is, commitments to promote transportation,³⁰¹ energy,³⁰² as well as information and communications technology.³⁰³ The *2030 Agenda* further reaffirms socio-economic commitments to ensure universal access to social protection³⁰⁴ and education.³⁰⁵

Based on this analysis, it is possible to suggest several significant improvements to the contemporary sustainable development agenda relating to distributive commitments to eradicate poverty and secure a decent and sustainable standard of living. First, the definition of poverty employed by the sustainable development agenda should be inclusive, human rights respective, capability-sensitive and substantively pro-poor. Second, according to a human rights-based approach, sustainable development commitments should not contradict—in content, scope and urgency of their implementation—obligations corresponding to the composite human right to a decent standard of living.³⁰⁶ In particular, third, consistent with the *2030 Agenda’s* fundamental purpose to ensure individuals’ access to “*decent, dignified and rewarding lives and to achieve their full human potential,*”³⁰⁷ the sustainable development agenda should recognize commitments to secure not only a “basic standard of living,” but also a decent standard of living. Fourth, the sustainable development agenda should contain not only

³⁰⁰ The CESCR also demands that “all beneficiaries of the right to adequate housing should have *sustainable* access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.” *CESCR General Comment No. 4, supra* note 232, para. 8 (emphasis added).

³⁰¹ *2030 Agenda, supra* note 4, SDG 11.

³⁰² *Id.* SDG 7.

³⁰³ *Id.* SDG 4-5, 9, 17.

³⁰⁴ *Id.* SDG 1.

³⁰⁵ *Id.* SDG 4.

³⁰⁶ The Human Development Report 2000 explicates that socio-economic commitments concerning a decent standard of living represent not only development goals, but also human rights obligations for development. See UNITED NATIONS DEVELOPMENT PROGRAMME, *supra* note 165, at 8.

³⁰⁷ *2030 Agenda, supra* note 4, para. 50 (emphasis added).

progressive duties, but also immediate obligations, including the minimum core obligations corresponding to the composite right to a decent standard of living. Fifth, the general and specific criteria of adequacy used by the *2030 Agenda* should be synchronized with those suggested by the CESCR and other U.N. human rights treaty-based bodies. This will harmonize and enrich both the sustainable development agenda and the human rights agenda. Sixth, global obligations for sustainable development should be directed not only to the territorial realization of the SDGs, but also to universally ensuring a certain minimum standard of a decent life. Seventh, the sustainable development agenda should comprise not just interactional, but also institutional obligations of creating and maintaining a global institutional scheme indispensable for the realization of the right to a decent standard of living worldwide.³⁰⁸

D. Summary

This part addressed global obligations for sustainable development embedded in the *2030 Agenda*. Section III.A provided an overview of various types of global obligations for sustainable development, including global obligations of conduct (obligations of development cooperation and assistance) as well as global obligations of result (obligations to create and maintain a just and sustainable global order and obligations to ensure a decent and sustainable standard of living universally). The subsequent Sections concentrated on global obligations of result. Section III.B argued that institutional obligations for sustainable development should not be aimed solely at undertaking structural territorial improvements, but also at reforming a global institutional scheme. Obligations to create and maintain a just and sustainable global

³⁰⁸ As the Human Development Report 2000 specifies, human rights obligations for sustainable development correspond to “claims to a set of social arrangements—norms, institutions, laws, an *enabling economic environment*—that can best secure the enjoyment of these rights. It is thus the obligation of governments and others to implement policies to put these arrangements in place. And in today’s more interdependent world, it is essential to recognize the *obligations of global actors*, who in the *pursuit of global justice* must put in place *global arrangements that promote the eradication of poverty*.” UNITED NATIONS DEVELOPMENT PROGRAMME, *supra* note 165, at 73 (emphasis added).

order contain both duties of relational and distributive justice. Section III.C examined the nature, content, and scope of global distributive obligations to ensure a decent and sustainable standard of living universally. It compared interpretations of these obligations provided by the CESCR and the *2030 Agenda* and suggested ways to bring them into sync and to improve the contemporary sustainable development agenda.

IV. GLOBAL PARTNERSHIP FOR SUSTAINABLE DEVELOPMENT

A. Cooperation as a Goal and a Means for Sustainable Development

Obligations of international cooperation are a key element of global obligations for sustainable development. They are justified for several reasons. First, the SDGs, especially the goals relating to global poverty eradication and guarantees of a decent standard of living,³⁰⁹ cannot be effectively addressed by dissociated actors. The *2030 Agenda* affirms that “we will not be able to achieve our ambitious Goals and targets without a revitalized and enhanced Global Partnership and comparably ambitious means of implementation.”³¹⁰

The goal of global partnership is part and parcel of the intention to reshape an unjust global institutional design and eliminate the negative consequences of globalization, the costs and benefits of which are distributed unfairly. The most powerful actors framing the existing global order benefit disproportionately from it and impose the global institutional scheme on the less powerful.³¹¹ That

³⁰⁹ See *supra* Sections III.B-III.C.

³¹⁰ *2030 Agenda*, *supra* note 4, para. 60; see also Sengupta, *supra* note 98, para. 42; SACHS ET AL., *supra* note 12.

³¹¹ See SALOMON, *supra* note 10, at 1, 45-46; POGGE, *supra* note 94, at 118-122; TAN, *supra* note 159, 29-35; EASTERLY, *supra* note 12. The World Commission on the Social Dimension of Globalization (ILO) emphasized that “the weaknesses in global governance have contributed to the uneven social and economic impact of globalization. There are two main channels through which this has happened. The first is the creation of a system of rules governing the global economy that has been prejudicial to the interests of most developing countries, especially the poor within them. The second is the failure to put in place a coherent set of international

institutional scheme unduly increases poverty, extreme inequality, and the marginalization of developing societies, violating basic human rights and preventing individuals' access to a decent standard of living. A global domain characterized by the domination of affluent actors is similar to the state of nature described by Thomas Hobbes, in which the rules of natural selection prevail and the strongest survive.³¹² Some experts emphasize a special responsibility of powerful actors to improve contemporary global order.³¹³ I would like to suggest that, since the current global institutional scheme is a product of interaction among various—dominant and dominated—global actors, all these actors share obligations to reform it.³¹⁴

States have recognized their obligations to cooperate through joining the United Nations³¹⁵ and ratifying the core international instruments. According to the UDHR, the ICESCR, and the CRC, the obligations to cooperate derive from and correspond to socio-economic rights.³¹⁶ The CESCR specifies global obligations to cooperate correlating to the core components of the right to an adequate standard of living (the rights to adequate food, water, sanitation, housing, and health).³¹⁷ In addition, some commentators consider international obligations to cooperate to be a part of customary international law.³¹⁸

The DRD recognizes states' "duty to co-operate with each other in ensuring development and eliminating obstacles to

economic and social policies to achieve a pattern of globalization that benefits all people." INTERNATIONAL LABOUR ORGANIZATION, *A FAIR GLOBALISATION: CREATING OPPORTUNITIES FOR ALL*, para. 353 (2004).

³¹² THOMAS HOBBS, *LEVIATHAN* (1651).

³¹³ See Pogge & Sengupta, *supra* note 1, at 93-94.

³¹⁴ For instance, according to Gosepath, collective liability gives rise to institutional duties to cooperate. See Gosepath, *supra* note 76, at 281.

³¹⁵ United Nations, Charter of the United Nations, 1 UNTS XVI, arts. 1, 55-56 (Jun. 26, 1945).

³¹⁶ See UDHR, *supra* note 171, art. 22; ICESCR, *supra* note 171, art. 2, para. 1, art. 11, para. 1; CRC, *supra* note 217, art. 4.

³¹⁷ See also CESCR General Comment No. 4, *supra* note 232, paras. 10, 13, 19; CESCR General Comment No. 12, *supra* note 232, paras. 36, 38, 40; CESCR General Comment No. 14, *supra* note 245, paras. 38, 40, 45, 63; CESCR General Comment No. 15, *supra* note 232, paras. 30-38.

³¹⁸ See Alston, *supra* note 78, para. 48; Alston, *supra* note 36, at 778; CLAPHAM, *supra* note 78, at 86-87.

development.”³¹⁹ The *Vienna Declaration and Programme of Action* extends the obligation to cooperate for the realization of the right to development to the whole “international community.”³²⁰

The *2030 Agenda* acknowledges obligations to cooperate as both a goal of and means for sustainable development.³²¹ SDG 17 has the aim of “revitalize[ing] the global partnership for sustainable development” in several spheres, which involves universal, multilateral, rules-based, equitable and non-discriminatory cooperation in finance,³²² trade,³²³ politics,³²⁴ technology,³²⁵ developing accountability and monitoring processes, and development assistance.³²⁶ The *2030 Agenda* also recognizes that global cooperation is an important instrument for a successful realization of the other sixteen SDGs. In particular, the *2030 Agenda* documents commitments to develop cooperation for the mobilization of resources and the increased investment that are important for reaching all SDGs.³²⁷

A global partnership for sustainable development should embody several important principles: first, human rights-based cooperation; second, non-discriminatory participation of all public and private actors; third, human-centered cooperation; and, fourth, pro-poor cooperation in the spirit of global solidarity. The rest of this Section examines these principles in more detail.

(1) As demonstrated above in Section II.C, a *human rights-based approach* should be applied to the sustainable development agenda. What does this mean in terms of global partnership? The latter should be guided by principles of individuals’ participation and empowerment, accountability, transparency, equality, and non-

³¹⁹ DRD, *supra* note 21, art. 3, para. 3.

³²⁰ *Vienna Declaration*, *supra* note 2, para. 10.

³²¹ *2030 Agenda*, *supra* note 4, para. 40.

³²² *Id.* SDG 17.1, 17.3.

³²³ *Id.* SDG 17.10-17.12.

³²⁴ *Id.* SDG 17.13-17.14.

³²⁵ *Id.* SDG 17.6-17.8.

³²⁶ *Id.* SDG 17.2, 17.4-17.5. For an analysis of obligations of development assistance, see *infra* Section IV.B.

³²⁷ See *infra* Section IV.B.

discrimination.³²⁸ The application of a human rights-based approach entails that: (a) development cooperation programs, policies and processes in all their phases must respect and promote the realization of internationally recognized human rights and by no means contradict human rights standards; (b) development cooperation must enhance capacities of right-holders to claim their right to development and basic socio-economic rights and duty-bearers to fulfill their obligations;³²⁹ (c) all stages of development cooperation must be monitored to ensure that human rights are not abused; (d) independent, objective, competent, and publicly accessible *ex ante* human rights impact assessments and human rights due diligence, with participation of all potential stakeholders, must be undertaken before introducing any development policies and programs;³³⁰ and (e) when human rights violations are found, corrective measures must be introduced, and responsible actors be held accountable.³³¹

(2) One of the main questions in respect of the global partnership for development is: *Who are the global partners?* Although human rights law proceeds from the assumption of the primacy of states' obligations in the area of socio-economic rights, it recognizes that obligations to cooperate also bind other actors, such as individuals, intergovernmental organizations and non-state entities. According to the UDHR, not only states, but also "every individual and every organ of society" should strive to promote respect for human rights

³²⁸ Sengupta, *supra* note 98, para. 22; see also Patrick van Weerelt, *A Human Rights-Based Approach to Development Programming in UNDP – Adding the Missing Link* (United Nations Development Programme, Nov. 11, 2015), https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human_rights/a-human-rights-based-approach-to-development-programming-in-undp.html [<https://perma.cc/37J3-NAWZ>].

³²⁹ United Nations Development Group, *The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies* (Sept. 2003), <https://unsdg.un.org/resources/human-rights-based-approach-development-cooperation-towards-common-understanding-among-un> [<https://perma.cc/E2B7-9QFN>] [hereinafter *The Human Rights Based Approach to Development Cooperation*].

³³⁰ See, e.g., Office of the United Nations High Commissioner for Human Rights, *supra* note 182, para. 105(b).

³³¹ Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (2006), <http://www.ohchr.org/Documents/Publications/FAQen.pdf> [<https://perma.cc/392G-HSC8>].

and to “secure their universal and effective recognition and observance” through progressive national and international measures.³³² Although the ICESCR acknowledges only states as bearers of obligations to cooperate, the CESCR extends these obligations to other entities, both intergovernmental organizations and non-state actors.³³³

It is true that the *2030 Agenda* and the DRD—like the human rights agenda—recognize states’ “primary responsibility” for implementing the SDGs. Yet, at the same time, the sustainable development agenda has significant potential for overcoming state-centrism. Thus, the DRD acknowledges individual and collective obligations of all people and entities. In particular, it stresses obligations of individuals for sustainable development:

All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfillment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.³³⁴

The *2030 Agenda* calls for developing effective multi-stakeholder public (especially North-South, South-South and triangular regional and international cooperation), public-private and civil society partnerships.³³⁵ The inclusive global partnership for sustainable development should be based on the rule of *leaving no one behind* and

³³² UDHR, *supra* note 171, pmbl.; *see also Vienna Declaration*, *supra* note 2, para. 13; Declaration on the Right and Responsibility, *supra* note 166, art. 18, para. 3; CRPD, *supra* note 217, art. 32, para. 1. For an analysis of global human rights obligations of multiple actors, see Pribytkova, *supra* note 144, at 412-424.

³³³ *See CESCR General Comment No. 12*, *supra* note 232, paras. 36, 38, 40; *CESCR General Comment No. 14*, *supra* note 245, paras. 45, 63; *CESCR General Comment No. 15*, *supra* note 232, para. 38; *CESCR General Comment No. 17*, *supra* note 245, paras. 61, 82; *CESCR General Comment No. 18*, *supra* note 245, para. 53; *CESCR General Comment No. 19*, *supra* note 245, para. 61.

³³⁴ DRD, *supra* note 21, art. 2, para. 2.

³³⁵ *2030 Agenda*, *supra* note 4, SDG 17, 17.16-17.17.

require equal, non-discriminatory, and adequate representation and cooperation of “all countries, all stakeholders and all people.”³³⁶

According to Arjun Sengupta’s apt insight, the universality of the sustainable development agenda means not only that it is applicable world-wide but also that it binds all members of the international community. He also defends an idea that development goals are “absolute,” i.e., all duty-holders should strive to reach them to the best of their capacity regardless of other actors’ degree of success in implementing their obligations.³³⁷

Relevant actors should be guaranteed not just “formal” or “nominal” but full-fledged participation in the process of sustainable development. This calls for correcting innumerable asymmetries in global governance, democratizing global institutions, and strengthening the role of Global South countries in core international organizations, especially international financial organizations such as the IMF, the World Bank, and the WTO.³³⁸ Developing states should not only enjoy an opportunity to participate fully, but also to play a key role in agenda-setting and problem-solving processes concerning their own and global development. In other words, they should be recognized as agents of development capable of taking part in and contributing to the realization of shared global obligations for sustainable development. In this sense, it is necessary to rethink the role of each developing society not only in lifting itself out of poverty, but also in the process of global poverty eradication.³³⁹

The *2030 Agenda* is rightly criticized for not specifying the global obligations of various actors.³⁴⁰ For instance, Pogge and Mitu Sengupta assert that the *2030 Agenda*, and especially SDG 17, has inherited a “key defect” of MDG 8 to the extent it does not attribute

³³⁶ *Id.* pmb. *Cf. id.* para. 41.

³³⁷ Sengupta, *supra* note 98, paras. 18, 24.

³³⁸ The *2030 Agenda* stresses the important mission of the U.N. system and the international financial institutions in facilitating an intensive global engagement of academia, philanthropic organizations, and volunteer groups. *See also* SALOMON, *supra* note 10, at 46.

³³⁹ In this context, developing societies possess a right to perform their duties for sustainable development. *See* Study on the Current State of Progress in the Implementation of the Right to Development, *supra* note 147, para. 53.

³⁴⁰ For example, Alston points out that commitments to cooperate are “generic” and attached to the “undifferentiated international community.” *See* Alston, *supra* note 36, at 777.

interactional and institutional obligations to concrete duty-bearers and, in particular, “shields” powerful global actors from concrete duties.³⁴¹ In this sense, an important step in advancing the contemporary sustainable development agenda is to specify and allocate global obligations to concrete actors, including powerful public and private actors and developing states. At the same time, the distribution of global obligations should be fair and the tasks for developing countries and societies should be feasible.³⁴²

(3) Cooperation for sustainable development should be *human-centered*, that is, individuals should be acknowledged as the ultimate goals and “key actors in their own development, rather than passive recipients of commodities and services.”³⁴³ Embodying the principle of human-centricity, which sees an individual as the ultimate unit of both moral and legal concern,³⁴⁴ an absolute value and supreme goal of social, legal, political, economic, and cultural development at both local and global levels is a common objective of the human rights agenda and the sustainable development agenda.

Article 1 of the UDHR acknowledges individuals as major right-holders and proclaims that “[a]ll human beings are born free and equal in dignity and rights.”³⁴⁵ All members of the U.N. agree that “we must put people at the centre of everything we do.”³⁴⁶ In line with the principle of human-centricity, people are treated as “the measure of all ‘development.’”³⁴⁷

³⁴¹ Pogge & Sengupta, *supra* note 1, at 93-94.

³⁴² Pogge and Sengupta assert that the equal distribution of territorial obligations for sustainable development is unfair, since it burdens the poorest societies with the largest duties. *Id.* at 88.

³⁴³ The Human Rights Based Approach to Development Cooperation, *supra* note 329.

³⁴⁴ See Thomas Pogge, *Cosmopolitanism and Sovereignty*, 103 *ETHICS* 48, 48-49 (1992); TAN, *supra* note 159, at 1. In addition to individual’s moral status conceptualized by Pogge and Tan, this Article concentrates on the legal status of a person. It is important to stress that the principle of human-centricity does not contradict the recognition of value of the other species.

³⁴⁵ UDHR, *supra* note 171, art. 1.

³⁴⁶ *We the Peoples*, *supra* note 204.

³⁴⁷ U.N. Secretary-General, *Promotion of South-South Cooperation for Development: a thirty-year perspective*, U.N. Doc. A/64/504, para. 79 (Oct. 27, 2009) [hereinafter *Promotion of South-South Cooperation for Development*]. Human development itself is determined as “the expansion of capabilities and freedoms of individuals”. See Sengupta, *supra* note 98, para. 6.

An obvious strength of the sustainable development agenda is its approach to individuals as members of humanity and not just as citizens of a particular state. The DRD interprets the right to development as “an inalienable human right” and stresses that “equality of opportunity for development is a prerogative both of nations and of individuals who make up nations.”³⁴⁸ It recognizes that “the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development.”³⁴⁹ The right to development entitles individuals to full, meaningful, and effective participation in all stages of decision-making processes concerning their development; to an equal opportunity in their access to basic resources; and to a fair distribution of benefits of development.³⁵⁰

The *2030 Agenda* also explicitly expresses its commitment to human-centered development and demands to “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” by 2030.³⁵¹ It does not, however, specify measures to guarantee individuals’ participation in core local and global political processes. Arjun Sengupta suggests creating special mechanisms, including monitoring and accountability mechanisms, to uncover deficiencies in meaningful participation and adequate representation of all individuals, especially the most vulnerable, and to hold responsible actors accountable. He argues that democratic states can perform this role. In the case of non-democratic societies, ad-hoc mechanisms and measures guaranteeing the participation and adequate representation of poor individuals should be elaborated for particular projects.³⁵²

³⁴⁸ DRD, *supra* note 21.

³⁴⁹ *Id.* pmb., art. 2, para. 1.

³⁵⁰ DRD, *supra* note 21, arts. 1, 2, 8. The *Vienna Declaration* reaffirms that “the human person is the central subject of development.” *Vienna Declaration*, *supra* note 2, para. 10. As shown in Section III.B, the High-Level Task Force on the Implementation of the Right to Development (HLTF) interprets a human-centered development policy as one of the main attributes of the right to development. Right to Development, *supra* note 170, annex at 8-12.

³⁵¹ *2030 Agenda*, *supra* note 4, SDG 10.2.

³⁵² Sengupta, *supra* note 98, at para. 30.

Human rights advocates repeatedly point to the close interrelation between individuals' political empowerment and their ability to enjoy a decent standard of living.³⁵³ In this sense, individuals' capacities to be active drivers of and full-fledged partners for sustainable development,³⁵⁴ directly or through their agency in state-based and network-based institutions at various levels, depend on the realization of the other SDGs.³⁵⁵

In Joachim Monkelbaan's apt words, "the SDGs have triggered a renaissance of civil society."³⁵⁶ Global civil society is increasingly gaining recognition as a "third force" of the international community along with states and international organizations, though its role in global deliberation processes still remains limited. Both local, regional, and global civil society and its organizations should be empowered to play an important role in promoting sustainable development, in particular by mobilizing resources, by implementing efficient development programs and projects beyond state bureaucratic channels, and by monitoring these programs and projects.³⁵⁷ NGOs, as essential actors in civil society, are of crucial importance for providing international human rights advocacy and international sustainable development services, and for promoting full-fledged participation of beneficiaries in decision-making processes concerning sustainable development. According to a 2018 survey of global sustainability leaders, NGOs and social entrepreneurs have the most impact on advancing the SDGs, while national governments have the least.³⁵⁸

³⁵³ See, e.g., Philip Alston, *Report of the Special Rapporteur on Extreme Poverty and Human Rights on the Enjoyment of Civil and Political Rights by Persons Living in Poverty*, U.N. Doc. A/72/502 (2017); Maria Magdalena Sepúlveda Carmona, *Report of the Special Rapporteur on Extreme Poverty and Human Rights on Access to Justice for People Living in Poverty*, U.N. Doc. A/67/278 (2012).

³⁵⁴ 2030 Agenda, *supra* note 4, SDG 17.

³⁵⁵ See *supra* Section III.C.

³⁵⁶ MONKELBAAN, *supra* note 13, at 71.

³⁵⁷ See Sengupta, *supra* note 98, at para. 33; see also Sachin Chaturvedi, *The Development Compact: A Theoretical Construct for South-South Cooperation*, RIS Discussion Papers, Discussion Paper #203, 7-8 (June 2016), at <https://ris.org.in/newasiaforum/sites/default/files/Publication%20File/DP203%20Dr%20Sachin%20Chaturvedi.pdf> [<https://perma.cc/5LVW-UUMX>].

³⁵⁸ See The 2018 GlobeScan-SustainAbility Leaders Survey, at <https://globescan.com/wp-content/uploads/2018/06/GlobeScan-SustainAbility-Leaders-Survey-2018-Report.pdf> [<https://perma.cc/Z3YZ-SEMD>].

The recognition of a person as a major subject of development is the crucial idea in supplanting state-centrism in both the sustainable development and human rights agendas. Guaranteeing human-centered development should therefore be one of the major steps in the further evolution of the sustainable development agenda. My article, *What Global Human Rights Obligations Do We Have?*, addressed the conflict within international law between human-centered human rights law and state-centered public international law.³⁵⁹ Contemporary international law must make the “quantum leap”³⁶⁰—through recognizing extraterritorial obligations of global actors corresponding to human rights of individuals—to a human-centered normative and institutional order. In this sense, the sustainable development agenda may play a crucial role in promoting both the shift from a state-centered to a human-centered global order and, due to its close interrelation with the human rights agenda, the anchorage of this idea in contemporary international law.

(4) According to the *2030 Agenda*, a global partnership for sustainable development should “work in a spirit of global solidarity, in particular solidarity with the poorest and with people in vulnerable situations.”³⁶¹ In that light, development cooperation agreements and programs should focus predominantly on the needs and be formulated in the interests of the most vulnerable, disempowered, marginalized, and socially excluded individuals, especially those suffering from extreme poverty.³⁶² The *2030 Agenda* expresses a commitment to “endeavour to reach the furthest behind first.”³⁶³

The recognition of the urgent necessity to eradicate poverty and provide secure access to a decent standard of living universally forms an important element of a solidary vision upon which a global partnership should be built. As demonstrated, the intention to leave no one behind presumes adequate representation and meaningful

³⁵⁹ See Pribytkova, *supra* note 144, at 397.

³⁶⁰ See Thomas Gammeltoft-Hansen, *Growing Barriers: International Refugee Law*, in UNIVERSAL HUMAN RIGHTS AND EXTRATERRITORIAL OBLIGATIONS 80-81 (Mark Gibney & Sigrun Skogly eds., 2010).

³⁶¹ *2030 Agenda*, *supra* note 4, para. 39, pmb.

³⁶² The Human Rights Based Approach to Development Cooperation, *supra* note 329.

³⁶³ *2030 Agenda*, *supra* note 4, para. 4.

participation of poor individuals and societies in designing and implementing pro-poor development cooperation programs and policies. Additionally, the idea of global solidarity calls for the realization of global obligations to provide assistance for sustainable development. That call is the subject of the next Section.

B. Global Development Assistance

Obligations of development assistance are closely interrelated with obligations of cooperation: the effective realization of obligations to assist presupposes a global partnership of multiple actors, while the very opportunity of developing societies and poor individuals to actively and meaningfully participate in decision-making processes relating to sustainable development may depend on the implementation of global obligations to assist.

International human rights instruments prefer the language of cooperation to the language of assistance.³⁶⁴ This can be seen in the example of the DRD, which stresses, “as a complement to the efforts of developing countries, *effective international co-operation* is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.”³⁶⁵ As the *travaux préparatoires* testify, the original version of this article referred to “effective international assistance” as a means for the realization of the right to development, which was later replaced by a broader concept of “effective international co-operation.”³⁶⁶

The *2030 Agenda* contains several important commitments in regard to development assistance being an integral part of global partnership commitments.³⁶⁷ Since development assistance and cooperation are two interconnected forms of global partnership for

³⁶⁴ For instance, neither the *U.N. Charter* (art. 1 para. 3, art. 55-56) nor the UDHR (art. 22), the CRC (art. 4) nor the DRD (art. 3 para. 3, art. 4 para. 2, art. 6 para. 1), mention obligations to assist but do acknowledge obligations to cooperate. It should be noted, however, that although it is not explicitly stated in the ICESCR and the CRC, the CESCR and the U.N. CRC interpret obligations to assist as part of obligations to cooperate.

³⁶⁵ DRD, *supra* note 21, art. 4, para. 2 (emphasis added).

³⁶⁶ Report of the working group of governmental experts on the right to development. See SALOMON, *supra* note 10, at 77.

³⁶⁷ *2030 Agenda*, *supra* note 4, SDG 17.

sustainable development, their targets intersect.³⁶⁸ If the former implies relations between donors (developed states) and recipients of assistance (developing countries), the latter presupposes interaction between equally empowered actors. For the purposes of this part—to clarify the nature, status, content, and scope of obligations of development cooperation and assistance—they are analyzed separately. This Section seeks to shed light on global obligations of development assistance.

Like cooperation, assistance for sustainable development is considered to be both a means for and a separate goal of sustainable development. SDG 17 specifies targets for international assistance within global partnership guarantees: first, to assist developing countries in mobilizing resources from multiple sources on local³⁶⁹ and international levels;³⁷⁰ second, to provide official development assistance (hereinafter ODA), while reaching the donor's target of 0.7% of GNI, including 0.15 to 0.20% of GNI for the least developed states;³⁷¹ third, to assist developing states in achieving long-term debt sustainability through promoting debt financing, relief and restructuring and reducing debt distress of highly indebted poor countries;³⁷² fourth, to secure investment promotion regimes³⁷³ and duty-free and quota-free market access³⁷⁴ for the least developed states; fifth, to enhance knowledge sharing with and technology transfer to developing societies as well as their access to science, technology and innovation, including through a "global technology facilitation mechanism";³⁷⁵ and, finally, to intensify international assistance to ensure effective and targeted capacity-building and skills upgrading in developing countries in order to enable them to

³⁶⁸ See *supra* Section IV.A.

³⁶⁹ *2030 Agenda*, *supra* note 4, SDG 17.1.

³⁷⁰ *Id.* SDG 17.3.

³⁷¹ *Id.* SDG 17.2.

³⁷² *Id.* SDG 17.4.

³⁷³ *Id.* SDG 17.5.

³⁷⁴ *Id.* SDG 17.12.

³⁷⁵ *Id.* SDG 17.6. The *2030 Agenda* stresses a shared obligation of multiple actors—governments, international organizations, the business sector, as well as other non-state actors and individuals—to contribute to "financial and technical assistance." *Id.* para. 28.

implement their own national sustainable development plans and achieve the SDGs.³⁷⁶

In addition, the *2030 Agenda* emphasizes that development assistance is an indispensable measure for implementing the other SDGs, such as promoting inclusive and sustainable economic growth; full and productive employment and decent work for all;³⁷⁷ reducing inequality within and among countries;³⁷⁸ and making cities and human settlements inclusive, safe, resilient and sustainable.³⁷⁹

Development assistance commitments expressed in the *2030 Agenda* have the following features. First, they do not represent claimable and enforceable human rights obligations, but rather constitute humanitarian obligations of self-identified donors.³⁸⁰ Second, the *2030 Agenda* acknowledges only interactional global obligations of development assistance and does not demand their institutionalization. Third, the general state-centrism of the *2030 Agenda* is reflected in its approach to development assistance. Fourth, the *2030 Agenda* sees obligations to provide ODA as binding only on developed states; any rights and obligations of developing countries to contribute to the realization of shared global commitments of development assistance are non-existent. Fifth, according to the *2030 Agenda*, obligations of development assistance are subsidiary and conditional on developing states' inability to realize their sustainable development commitments independently. Let us take a closer look at these features of the *2030 Agenda's* regulation of global commitments of development assistance as well as the possibilities for its improvement.

(1) As demonstrated above in Section II.B, the *2030 Agenda* implicates sustainable development commitments that are non-claimable and non-enforceable humanitarian self-obligations of states. This also applies to commitments of development assistance. As shown, the application of a human rights-based approach requires harmonizing the human rights agenda and the sustainable development agenda. This will not, however, solve the problem,

³⁷⁶ *Id.* SDG 17.9.

³⁷⁷ *Id.* SDG 8.a.

³⁷⁸ *Id.* SDG 10.b.

³⁷⁹ *Id.* SDG 11.c.

³⁸⁰ *See supra* Section II.B.

since the status of global obligations to assist is disputed in human rights theory and practice itself. In my dissertation, I argued that global obligations to assist should be recognized as human rights obligations.³⁸¹ The recognition and realization of these obligations, however, are important tasks for the further evolution of the human rights agenda rather than a fact of modern legal reality. Perhaps a closer interrelation of the human rights agenda and the sustainable development agenda will promote the recognition, institutionalization, and implementation of global obligations to assist.

Under which conditions and to what extent can obligations of development assistance be claimable and enforceable? According to the DRD, the right to development gives rise to corresponding obligations of the international community to assist developing countries – as a “complement” to their own efforts. It is possible to conclude that the right to development implies the right of developing countries (unable to realize the right to development to the full extent) to seek development assistance and the correlative obligations of members of the international community to cooperate effectively and to provide the former “with appropriate means and facilities to foster their comprehensive development.”³⁸² It is important to note that the right to development, as formulated in the DRD, presupposes the right of states to *seek* assistance, but not the right to receive it. In this respect, according to the contemporary sustainable development agenda, obligations to *provide* development assistance represent beneficence commitments.³⁸³

In addition, the right to seek development assistance does not mean that developing states are entitled to demand assistance from any particular global actor.³⁸⁴ It is a right directed against the international community as a whole. The realization of this right manifestly requires the institutionalization of obligations of development assistance, i.e., the creation of a global system of institutions through which requests for development assistance may be elicited, collected and considered, obligations to assist may be assigned to particular actors, necessary resources may be mobilized

³⁸¹ See Pribytkova, *supra* note 3, at 222-333.

³⁸² DRD, *supra* note 21, art. 4, para. 2.

³⁸³ See *supra* Section II.B.

³⁸⁴ See Alston, *supra* note 36, at 777.

and distributed, and assistance practices may be monitored (see below). Thus, the sustainable development agenda must find a way to specify, allocate and institutionalize obligations of development assistance. The implementation of these obligations must be claimable on the basis of the internationally recognized sustainable development instruments and/or mutual development commitments between various global actors.³⁸⁵

(2) The *2030 Agenda* acknowledges only interactional obligations of development assistance and does not demand their institutionalization. As shown above, the SDGs place emphasis on territorial institutional commitments relating to sustainable development and leaves open the question of global institutional improvements concerning development assistance. The *2030 Agenda* relies on the OECD “donor club” for providing ODA³⁸⁶ and bypasses the issue of creating a well-coordinated and efficient system of global institutions for the realization of obligations of development assistance.³⁸⁷ Global institutional reforms indispensable for the realization of obligations of development assistance should incorporate three interrelated mechanisms:³⁸⁸ (a) institutions necessary to accumulate means for development assistance; (b) mechanisms for distributing these means among poor individuals and societies; and (c) monitoring and accountability

³⁸⁵ See *infra* Section IV.C.

³⁸⁶ *2030 Agenda*, *supra* note 4, SDG 17.2.

³⁸⁷ The OECD itself recognizes that financing the “ambitious” SDGs calls for the reflection of “the vast and ongoing transformation of the international development finance landscape.” ORG. FOR ECON. COOPERATION & DEV., MEASURING TOTAL OFFICIAL SUPPORT FOR SUSTAINABLE DEVELOPMENT, at <http://www.oecd.org/dac/financing-sustainable-development/TOSSD%20flyer.pdf> [https://perma.cc/6MM9-TS6E]. On the inadequacy of the existing OECD mechanism for the realization of global obligations of development assistance, see SACHS ET AL., *supra* note 12, at 22-24.

³⁸⁸ Among the most promising global projects that propose solutions for designing these mechanisms one can mention, e.g., the *World Development Fund* (Brandt Commission), the *World Solidarity Fund* (U.N.), the *Global Fund for Social Protection* (Olivier De Schutter & Magdalena Sepúlveda), the *Global Resources Dividend* (Thomas Pogge), the *Health Impact Fund* (Aidan Hollis & Thomas Pogge), the *Unconditional Basic Income* (various authors); and a global initiative *Move Humanity* (Jeffrey Sachs et al.). For an analysis of some of these proposals, see Pribytkova, *supra* note 3, at 323-29.

mechanisms for holding multiple actors responsible for breaches of their obligations of development assistance.³⁸⁹

(3) The state-centrism of the *2030 Agenda* relating to development assistance commitments manifests itself in two ways. First, it designates governments of developing states, rather than poor individuals or social groups, as the recipients of development assistance.³⁹⁰ Second, despite its emphasis on the necessity to develop a multilateral and multilevel partnership inclusive of all global actors,³⁹¹ it sees developed states as the principal providers of development assistance.³⁹²

The *2030 Agenda* presupposes state-centered *international assistance*, which is aimed at enabling states to fulfill their territorial human rights obligations and sustainable development commitments. It does not guarantee, however, human-centered *global assistance* that flows expressly to individuals or social groups in need (even if it is provided through their states or other entities domiciled in their states' territory).

Thus, contemporary development assistance does not aim to directly help the most vulnerable individuals and social groups, but rather to support their state in implementing its obligations. A state-centered character of development assistance does not, therefore, allow poor individuals and their non-state representatives to submit a legitimate request for assistance. Since recipients of ODA are developing countries, the majority of which are undemocratic, people in these countries cannot effectively control their governments' activities related to seeking, receiving, and distributing assistance. The lack of mechanisms for effective control over development assistance administration and for direct global

³⁸⁹ See also Dann (2006), *supra* note 9.

³⁹⁰ The SDGs recommit to "providing focused and scaled-up assistance to least developed countries and other countries in special situations, in line with relevant support programmes." *2030 Agenda*, *supra* note 4, para. 16.

³⁹¹ *2030 Agenda*, *supra* note 4, SDG 17; see also United Nations, Sustainable Development Goals, Goal 17: Revitalize the global partnership for sustainable development, at <https://www.un.org/sustainabledevelopment/globalpartnerships/> [https://perma.cc/5UAC-Z22Y].

³⁹² According to the OECD, "while private sector investment will be fundamental, official development assistance (ODA) will continue to play a crucial role, particularly for countries most in need." ORG. FOR ECON. COOPERATION & DEV., *supra* note 387.

assistance enables states to abuse their representational functions. Instead of using assistance to promote sustainable development and support the poor, corrupt recipient governments only drive their population into debt.³⁹³

I argue for the necessity to shift from state-centered development assistance to a human-centered one.³⁹⁴ Two measures are required to overcome state-centrism of contemporary development assistance.

First, creating mechanisms for individuals' participation in and control over the process of the implementation of international assistance, including the administration of international assistance by their government. States should be recognized as bearers of obligations to facilitate the implementation of their people's right to seek international assistance rather than as the holders of the right.³⁹⁵ The inability of a certain state to provide social support to their residents promptly and in full should give rise to the obligation of the state to seek international assistance.³⁹⁶ In the role of a facilitator of the right to international assistance, the state would *per se* "redirect" a request of its residents for social support to the international level.³⁹⁷ The recognition of this obligation would

³⁹³ The CESCR has indicated many cases of "mismanagement of international cooperation aid," "unbalanced budgetary allocations" (especially "low budgetary allocations to the social sectors"), and "the limited effectiveness of the use of foreign funds" that constitute "serious breaches" of states' human rights obligations. See U.N. CESCR, *Concluding observations on the Second Periodic Report of Georgia*, U.N. Doc. E/C.12/1/Add.83, para. 11 (Dec. 19, 2002); U.N. CESCR, *Concluding observations on the Combined Second to Fourth Periodic Reports of the Democratic Republic of the Congo*, U.N. Doc. E/C.12/COD/CO/4, para. 16 (Dec. 16, 2009); see also ORG. FOR ECON. COOPERATION & DEV., PARIS DECLARATION ON AID EFFECTIVENESS art. 4, para. 5 (Mar. 2, 2005) [hereinafter PARIS DECLARATION]; ORG. FOR ECON. COOPERATION & DEV., BUSAN PARTNERSHIP FOR EFFECTIVE DEVELOPMENT COOPERATION art. 33 (Dec. 1, 2011) [hereinafter BUSAN PARTNERSHIP]; POGGE, *supra* note 14, at 49f; MOYO, *supra* note 12, at ch. 4.

³⁹⁴ See Pribytkova, *supra* note 3, at 276-82.

³⁹⁵ See SALOMON, *supra* note 10, at 114f.

³⁹⁶ See ICESCR, *supra* note 171, art. 2, para. 1, art. 11. The *Maastricht Principles* claim the recognition of the obligations of states to seek international assistance. ETO CONSORTIUM, *supra* note 145, at princ. 34.

³⁹⁷ Though international human rights law has not yet acknowledged this obligation, the CESCR often encourages states to seek international assistance. See, e.g., U.N. CESCR, *Concluding observations on the second periodic report of Yemen*, E/C.12/YEM/2, para. 4 (2011); U.N. CESCR, *Concluding observations on the second*

require the creation of mechanisms which allow individuals to claim the implementation of the obligation to seek international development assistance by their state, and to call the latter to account for its failure to fulfill this obligation.

Second, elaborating non-state, non-bureaucratic and inclusive mechanisms for direct global assistance (or improving and expanding already existing private and public channels of direct support, for instance, conditional and unconditional cash transfer programs), which would enable poor individuals and their democratically representative communities to submit a request for global assistance. This implies the recognition of individuals as independent full-fledged subjects of diagonal extraterritorial legal relations and their right to formulate a legitimate request for assistance, to control the behavior of global actors providing assistance and to hold them accountable for their failure to fulfill global obligations to assist. This measure does not demand abolishing international assistance, but rather supplementing it through global assistance.

Recent research draws attention to the fact that the state is incapable of solving all sustainable development problems.³⁹⁸ In now-widely accepted views of governance, states should transform from power “monopolists” and major “problem-solvers” to “managers of political authority” articulating pressing social problems and promoting multilevel and multi-stakeholder partnerships for finding appropriate solutions.³⁹⁹ This also applies to obligations of development assistance. Overcoming the state-centrism of development assistance also presupposes the acknowledgement that not only states, but all members of the international community, as elaborated in Section IV.A, are bearers of shared global obligations of development assistance.

periodic report of China, including Hong Kong, China and Macao, China, E/C.12/CHN/CO/2, para. 12 (2014).

³⁹⁸ SACHS, *supra* note 12, at 496f; SACHS ET AL., *supra* note 12, at 1-2; MONKELBAAN, *supra* note 13, at 58.

³⁹⁹ See MONKELBAAN, *supra* note 13, at 58, 79; Philipp Genschel & Bernhard Zangl, *Transformations of the State. From Monopolist to Manager of Political Authority*, 76 *TRANSTATE WORKING PAPERS* 1 (2008); Jorge Soto, *The Weakening of Representative Democracy, Outlook on the Global Agenda 2015*, *WORLD ECON. F.* (2016), <https://widgets.weforum.org/outlook15/05.html> [https://perma.cc/7PQF-PYAV].

(4) According to the *2030 Agenda*, obligations to provide ODA bind only the OECD developed states,⁴⁰⁰ while the right and obligations of developing countries to contribute to the realization of shared global commitments of development assistance are not specified. As shown above in Section IV.A, the dominant pattern of development assistance cooperation must be changed from the traditional bilateral donor-recipient relations⁴⁰¹ to a multi-stakeholder partnership.

According to the principle of the “ownership of development priorities by developing countries,”⁴⁰² the latter should be empowered to become equal and full-fledged co-authors of the global development assistance agenda as well as co-equal actors in its implementation. All development assistance programs should be designed and realized in partnership with poor communities and authorized representatives acting in their interests in order to ensure that the voices of the poor are heard. Global actors, especially NGOs, should collaborate with poor communities in building arenas in which the latter can formulate their authentic demands for development assistance, to understand and claim the realization of their human right to development and other basic socio-economic rights, as well as use current local, regional, and international mechanisms for holding global actors accountable.⁴⁰³

⁴⁰⁰ In 2019, ODA amounted only to \$152.8 billion, which is extremely insufficient for achieving the SDGs, and only a small portion of it was directed to least developed countries (\$33 billion). See ORG. FOR ECON. COOPERATION & DEV., AID BY DAC MEMBERS INCREASES IN 2019 WITH MORE AID TO THE POOREST COUNTRIES, at <https://www.oecd.org/dac/financing-sustainable-development/development-finance-data/ODA-2019-detailed-summary.pdf> [<https://perma.cc/KY7X-44HL>].

⁴⁰¹ This feature is inherited from the MDGs that interpreted “global partnership” as relations of development assistance, that is, bilateral donor-recipient relations between developed and developing countries. See *supra* Section II.A.

⁴⁰² See BUSAN PARTNERSHIP, *supra* note 393, art. 11(a). Contemporary (soft) law instruments requiring the recognition of developing countries as partners and leaders in assistance cooperation are still based on the traditional distinction between donors and recipients. See, e.g., PARIS DECLARATION, *supra* note 393, art. 14; ORG. FOR ECON. COOPERATION & DEV., THE ACCRA AGENDA FOR ACTION paras. 8, 12-14 (Sept. 4, 2008) [hereinafter AAA].

⁴⁰³ Cf., e.g., Gay J. McDougall, *A Decade of NGO Struggle*, 11 HUM. RTS. BRIEF 12 (2004); Heena Shah Phillips, *A Rights-Based Approach to Lawyering: Legal Empowerment as an Alternative to Legal Aid in Post-Disaster Haiti*, 10 NW. UNIV. J. INT'L HUM. RTS. 7 (2011).

To ensure that the contemporary development assistance agenda is truly global, cross-culturally legitimate and pro-poor oriented, several important steps are required: the democratization of international institutions⁴⁰⁴ as well as guarantees of non-discrimination, non-domination, and the active and meaningful participation of developing states and poor communities in the core international agenda-setting relating to global assistance. This will also allow developing societies to realize their right to contribute to global poverty eradication.⁴⁰⁵

Assistance is not limited to financial support but includes also other forms, such as legal, social, technical, informational, scientific, and educational assistance as well as the protection of interests in the international arena. Every developing community has, therefore, the capacity to promote, to varying degrees, the implementation of shared obligations of development assistance. This is empirically proven by the fact that in recent times, many middle-income and even low-income countries are involved in various assistance programs through South-South and triangular cooperation.⁴⁰⁶ Even developing states that require support for themselves often take on obligations to assist other poor communities. On top of that, they share their valuable experience concerning efficient strategies of poverty alleviation.⁴⁰⁷

(5) The U.N. stresses that the primary responsibility for states' sustainable development lies on them.⁴⁰⁸ In line with contemporary

⁴⁰⁴ SALOMON, *supra* note 10, at 46; Ralph Wilde, *Dilemmas in Promoting Global Economic Justice through Human Rights Law*, in *THE FRONTIERS OF HUMAN RIGHTS* 127 (Nehal Bhuta ed., 2016).

⁴⁰⁵ See *supra* Section IV.A.

⁴⁰⁶ See *infra* Section IV.C.

⁴⁰⁷ See AAA, *supra* note 402, art. 5, art. 19(b); BUSAN PARTNERSHIP, *supra* note 393, art. 14.

⁴⁰⁸ Promoting self-help and self-reliance of developing states is considered to be one of the major methods of fighting poverty. At the same time, the U.N. General Assembly acknowledges that "however great their own efforts, these will not be sufficient to enable them to achieve the desired development goals as expeditiously as they must unless they are assisted through increased financial resources and more favourable economic and commercial policies on the part of developed countries." G.A. Res. 2626, International Development Strategy for the Second United Nations Development Decade, para. 11 (Oct. 24, 1970).

human rights law,⁴⁰⁹ sustainable development agenda introduces a two-level model of sustainable development commitments. As mentioned above in Section III.A, the DRD and the *2030 Agenda* embody the principle that international obligations for sustainable development are secondary obligations, which are complementary to the home state's primary obligations for sustainable development.⁴¹⁰ The *2030 Agenda* reaffirms the obligation to "respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development,"⁴¹¹ while "remaining consistent with relevant international rules and commitments."⁴¹² In this context, obligations of development assistance are portrayed as conditional and subsidiary commitments. In other words, the provision of development assistance is conditioned on a developing state's inability to fulfill its territorial obligations for sustainable development.⁴¹³

Taking into account the variety of obligations of development assistance analyzed above—international and global obligations as well as interactional and institutional obligations to assist—this rule must be reshaped. While *international assistance* directed to states is indeed conditional on these states' inability to guarantee the

⁴⁰⁹ The ICESCR interprets socio-economic rights as claim-rights primarily addressed to the state and secondarily to the global community. ICESCR, *supra* note 171, art. 2, para. 1, art. 11. On subsidiarity of international obligations to assist in the realization of socio-economic rights, see, e.g., Ashfaq Khalfan, *Division of Responsibility between States*, in GLOBAL JUSTICE, STATE DUTIES: THE EXTRATERRITORIAL SCOPE OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS IN INTERNATIONAL LAW 299, 331 (Malcolm Langford et al. eds. 2013); Wouter Vandenhole & Wolfgang Benedek, *Extraterritorial Human Rights Obligations and the North-South Divide*, in GLOBAL JUSTICE, STATE DUTIES: THE EXTRATERRITORIAL SCOPE OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS IN INTERNATIONAL LAW 332, 338 (Malcolm Langford et al. eds. 2013).

⁴¹⁰ See DRD, *supra* note 21, art. 4, para. 2; the *2030 Agenda* also states that "each country has primary responsibility for its own economic and social development." *2030 Agenda*, *supra* note 4, paras. 41, 63.

⁴¹¹ *2030 Agenda*, *supra* note 4, SDG 17.15.

⁴¹² *Id.* paras. 21, 63. The *2030 Agenda* also stresses the importance of "regional and sub-regional frameworks" which "can facilitate the effective translation of sustainable development policies into concrete action at the national level." *Id.* para. 21.

⁴¹³ Conditionality of global obligations of development assistance should not to be confused with conditionality of assistance. For a discussion of conditionalities of assistance, see Pribytkova, *supra* note 3, at 310-12, 320-21.

realization of the right to development to the full extent, this principle cannot be automatically applied to both interactional and institutional *global obligations of development assistance*. As demonstrated, all individuals have the right to a just and sustainable global order in which their right to development and corresponding obligations of development assistance may be realized.⁴¹⁴ *Global institutional obligations* to create and maintain a fair and sustainable global institutional scheme indispensable for providing global development assistance are *primary* and *not conditioned* on states' inability or unwillingness to fulfil their territorial sustainable development obligations. *Global interactional obligations* of development assistance may be conditional on individuals' initial requests for support from their state and, thereby, subsidiary in relation to states' territorial obligations. In emergency situations, however, parallel requests for national and global development assistance must be permitted.⁴¹⁵

In my dissertation, I defended the idea that the scope of global obligations to assist should be determined by the principles of sufficiency and a decent minimum sacrifice. The principle of sufficiency establishes an external border for global actors' freedom to dispose of their funds. The right to development implies that global actors align their priorities with the obligations to contribute to the creation of a fair and sustainable global order and provide development assistance. At the same time, the role of an internal criterion of the scope of global development assistance should be played by the principle of decent minimum sacrifice. This means that the burdens of development assistance should be generally consistent with public and private actors' fundamental interests, goals, human rights and obligations. Requests for development assistance that overreach this decent minimum level of sacrifice do not correspond to the criteria of human rights-based obligations or strong beneficence commitments and their satisfaction should be left to the discretion of global actors. The convergence between the principle of sufficiency and the principle of a decent minimum sacrifice may be achieved through the fair distribution of the

⁴¹⁴ See *supra* Section III.B.

⁴¹⁵ See Pribytkova, *supra* note 3, at 272-74.

burdens of development assistance among all members of the international community.⁴¹⁶

The U.N. target for ODA, which currently amounts to 0.7% of GNI and is designed to be gradually increased to 1% of GNI, may serve as an example of this convergence, since it is considered to be both sufficient for progressive eradication of poverty (combined with other public and private actors' contributions)⁴¹⁷ and not too burdensome for states.⁴¹⁸

Contemporary mechanisms and practices of development assistance are targets of strong and justified criticism for being insufficient, inefficient and violating human rights of recipients of assistance.⁴¹⁹ Since development assistance and cooperation are essential for reducing extreme poverty and inequality, empowering the most vulnerable individuals and societies, and realizing both human rights and sustainable development agendas, the recognition, institutionalization, and implementation of obligations of development assistance and cooperation are tasks of extraordinary importance.

Institutional obligations of development cooperation and assistance aimed at creating and maintaining a just and sustainable global structure call for the substantial transformations of contemporary global order. Some of them will be discussed in the next Section.

⁴¹⁶ *Id.* at 293-96.

⁴¹⁷ According to *Move Humanity's* initiative, in addition to ODA, which should be increased through the engagement of all high income and upper middle-income countries, financing for SDGs calls for new forms of taxation of multiple actors and enhanced philanthropy by world's richest individuals. See SACHS ET AL., *supra* note 12, at 24-26.

⁴¹⁸ See Shah, *supra* note 15. In 2019, however, only 0.30% of the "donor club" countries' combined GNI was reached. See ORG. FOR ECON. COOPERATION & DEV., *supra* note 400. Apparently, the same reasoning of a decent minimum sacrifice underlies the *Move Humanity's* proposal of 1% SDG wealth tax of the world's billionaires and "ultra-high-net worth individuals," which would bring additional \$420 billion per year (ca. 2.7 times more than the current ODA rate—\$152.8 billion). SACHS ET AL., *supra* note 12, at 26.

⁴¹⁹ See Pribytkova, *supra* note 3, at 305-315.

C. Institutionalizing Global Partnership

Globalization brings about various institutionalization processes in the extraterritorial domain.⁴²⁰ The need for institutionalizing sustainable development commitments for global partnership has been widely stressed by researchers and practitioners.⁴²¹ A human right-based approach to development advocates for the shared obligations of all members of the international community to contribute to creating and maintaining a just and sustainable global institutional scheme, which includes mechanisms for accumulating and distributing means for sustainable development programs, allocating duties to multiple actors, governing and monitoring the performance of those duties, and holding actors responsible for violations of their sustainable development obligations.⁴²² However, as shown, the *2030 Agenda* places emphasis on territorial institutional reforms, while the task remains to significantly extend global institutional changes in order to fully realize a more robust normative program of sustainable development.

There is no single way to institutionalize the sustainable development commitments contained by the *2030 Agenda*. On the contrary, there are numerous traditional state-centered and alternative, more informal and non-bureaucratic institutional solutions for global partnership that are intensively discussed by scholars and practitioners.⁴²³ This Section briefly reviews some (the most promising) of these solutions, brings into sharp focus their strengths and weaknesses, analyzes to what extent they correspond to the principles of global partnership, and examines what further improvements are desirable.

State-centered avenues to institutionalize global partnership for sustainable development are represented by two models of development compacts, comprising two sets of mutual commitments between North-South and South-South countries.

⁴²⁰ See, e.g., Andreas Rasche & Dirk Ulrich Gilbert, *Institutionalizing Global Governance: the Role of the United Nations Global Compact*, 21 BUS. ETHICS: EURO. REV. 100, 104-105 (2012); TAN, *supra* note 159, 29.

⁴²¹ See MONKELBAAN, *supra* note 13; SACHS ET AL., *supra* note 12; Pogge & Sengupta, *supra* note 1.

⁴²² See *supra* Section III.B.

⁴²³ See Rasche & Gilbert, *supra* note 420, at 104-105.

Arjun Sengupta proposes “development compacts” as an instrument to apply a human rights-based approach to development and the implementation of the right to development.⁴²⁴ At the heart of this idea lies the concept of “development contracts” suggested in 1989 by Thorvald Stoltenberg, who, at that time, served as the Minister of Foreign Affairs of Norway. Stoltenberg proposed that short-term and ineffective adjustment programs “be replaced with more comprehensive ‘Development Contracts,’ which could be defined as a comprehensive instrument for the financing of a medium- and long-term development plan prepared by a developing country itself (with outside technical support where appropriate).”⁴²⁵ Sengupta maintains that North-South development compacts should be concluded between developed and developing countries and provide a normative basis for their collaborative development programs, as well as for their mutual and “callable” obligations. He suggests that obligations imposed on developing states on a unilateral basis should be counterbalanced by reciprocal obligations of the international community.⁴²⁶ Developing states would be required to realize their territorial human rights obligations relating to sustainable development to the maximum of their capacities, while developed countries and international organizations would be responsible for providing the former with resources necessary for the fulfillment of their obligations.

Sengupta suggested creating “a focal organization where members of the international community can meet and work with those developing countries willing to enter into development compacts.” In his scheme, this focal organization coordinating collaboration between donors and developing countries would be

⁴²⁴ Arjun Sengupta, *Aid and Development Policy in the 1990s*, 37 *ECON. POL. WKLY* 453 (1993); see also Study on the Current State of Progress in the Implementation of the Right to Development, *supra* note 147, paras. 65-66; Sengupta, *supra* note 98, at paras. 56-74.

⁴²⁵ Thorvald Stoltenberg, *Towards a World Development Strategy*, in *ONE WORLD OR SEVERAL?: PROCEEDINGS OF THE 25TH ANNIVERSARY SYMPOSIUM OF THE O.E.C.D.* 241-242 (Louis Emmerij ed., 1989); see Chaturvedi, *supra* note 357, at 5.

⁴²⁶ In Sengupta’s plausible opinion, “one lesson that has been learnt from the experience of international cooperation is that one-sided conditionality imposed on a party, even if in principle it is beneficial for the party, seldom works and is honoured more often in the breach than in the observance.” Sengupta, *supra* note 98, at paras. 53-54.

based on the OECD Development Assistance Committee (DAC). Each developing country willing to gain international support in the realization of the right to development would submit a request for a development compact to the DAC. It would also elaborate and put forward a country-specific sustainable development plan designating particular measures to be undertaken for implementing the SDGs, identifying its own commitments as well as its needs for international assistance. Members of the international community, especially U.N. agencies and international financial institutions (including the World Bank and the IMF) and independent external experts, would provide developing countries with technical assistance in designing their sustainable development plans. Developing states' obligations would consist of ensuring the full-fledged and meaningful participation of all individuals and social groups, especially the most vulnerable, in the process of formulating the sustainable development program.

In Sengupta's proposal, the DAC would establish a special "support group" composed of self-identified donor countries, regional development agencies and banks, as well as representatives of international organizations (including: the Office of the High Commissioner for Human Rights, FAO, UNICEF, WHO, IMF, and World Bank) and NGOs. The support group's mandate would be to review and approve the development plan suggested by a developing state, allocate concrete obligations to the group's members, specify methods of providing sufficient ODA, and "monitor and adjudicate on the fulfilment of the obligations and conditionalities accepted by the developing countries." The burden of financing the realization of development compacts would fall on OECD donors. The support group would create a "new financing facility called the Fund for Financing Development Compacts" replenished through the deduction of 0.7% of GNI for ODA.⁴²⁷

This general type of North-South development compact represents a toolkit to enshrine mutual obligations of developed and developing states, giving rise to the entitlement of the latter to the assistance of the former. On the basis of development compacts, developing countries that have fulfilled their obligations to the best of their abilities would submit a legitimate request for developed countries' assistance in the realization of their territorial obligations.

⁴²⁷ Sengupta, *supra* note 98, paras. 58-67.

In this sense, North-South development compacts are designed to guarantee the developing states' full realization of their sustainable development programs and projects and, therefore, the enjoyment of the right to development by their residents and citizens will not be jeopardized by the lack of sufficient resources.⁴²⁸

Sengupta stresses that development compacts should embrace not only resource transfer, but also other types of international support, such as securing fair trade conditions and market access for developing states, ensuring debt rescheduling and financial restructuring, and promoting investment, technology transfer and knowledge exchange.⁴²⁹ These important measures were specified in the *2030 Agenda*.⁴³⁰

It is important to emphasize that for Sengupta, the implementation of development programs is inextricably linked with the realization of human rights. The Commission on Human Rights Working Group on the Right to Development reaffirms that:

[T]he logic of a development compact rests on the acceptance by and a legal commitment of the international community to pursue, individually and collectively, the universal realization of all human rights and, on their part, for the developing countries to follow explicitly a development strategy geared towards the universal realization of human rights.⁴³¹

The idea of the North-South development compact was taken up in the *Human Development Report 2003*. The report set out a Millennium Development Compact as a partnership between developing and developed states aimed at implementing the MDGs and assigning obligations for sustainable development "squarely on

⁴²⁸ As Sengupta notes, the major intention of North-South development compacts is "to assure the developing countries that if they fulfil their part of the bargain and carried out their obligations, the programme will not be derailed because of the lack of international cooperation." *Id.* paras. 64-65.

⁴²⁹ Sengupta also proposes that in cases where these measures are efficient, the provision of ODA may not be needed. See Sengupta, *supra* note 98, paras. 64-65; see also POGGE, *supra* note 14, at 20.

⁴³⁰ See *supra* Section IV.B.

⁴³¹ U.N. Commission on Human Rights, *Review of progress and obstacles in the promotion, implementation, operationalization, and enjoyment of the right to development*, U.N. Doc. E/CN.4/2004/WG.18/2, para. 36 (Feb. 17, 2004).

both sides: requiring bold reforms from poor countries and obliging donor countries to step forward and support those efforts.”⁴³² Through this global compact the “world community can work together to help poor countries achieve” the MDGs, since it demands all stakeholders—rich and poor countries, public and private international actors and civil society organizations—to combine their efforts to implement their shared mutual obligations for sustainable development and, in return, entitles them to claim their realization from other parties. Being parties to development compacts, developing states may insist that developed countries provide them with increased international financial and technological assistance, debt relief, and better market access; poor individuals can demand that their governments accumulate and manage resources more effectively and hold them accountable for reaching poverty reduction targets within a certain timeframe; and developed countries can claim that developing states implement effective, equitable, and accountable use of international assistance.⁴³³

Many of the North-South development compact’s institutional arrangements comply with the principles of partnership set out in the *2030 Agenda*. However, this development compact model has a number of evident shortcomings. First, although the obligations of developing and developed states are mutual and reciprocal, relations between them are still unequal (vertical) relations of dependency between donors and recipients that contradict the principle of partnership sealed in the SDGs.⁴³⁴ Second, though they are presumed to be concluded in the interests of developing states, North-South development compacts are often constructed disproportionately in the interests of donors states.⁴³⁵ Third, they

⁴³² UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 2003, MILLENNIUM DEVELOPMENT GOALS: A COMPACT AMONG NATIONS TO END HUMAN POVERTY, at v (2003).

⁴³³ *Id.* at 15, 20, 145.

⁴³⁴ Besides exacerbating already poor practices of inequality, relations of dependency proved to be inefficient. See, e.g., ACTIONAID, REAL AID: ENDING AID DEPENDENCY 17-18 (2011); MOYO, *supra* note 12, at ch. 4-5.

⁴³⁵ See Clair Apodaca, *Foreign Aid as a Foreign Policy Tool*, in OXFORD RESEARCH ENCYCLOPEDIA OF FOREIGN POLICY ANALYSIS (2017); Chaturvedi, *supra* note 357, at 4; Richard Manning, *Aid as a Second-Best Solution: Seven Problems of Effectiveness and How to Tackle Them*, 21f (World Inst. for Dev. Econ. Research, Working Paper No. 24, 2012).

authorize or permit excessive interference by developed states in the internal affairs of developing states, on the ever-available pretext that effective use of international assistance demands “good governance.”⁴³⁶ Fourth, conditionalities imposed by developed states and international financial institutions on developing countries in many cases violate human rights and may “have more adverse consequences than the initial problem itself.”⁴³⁷ Fifth, despite the declared commitments to promote the participation of all stakeholders, the North-South development compacts remain primarily state-centered.

Another development compact model emerged, partly as a response to the inadequacy of the North-South cooperation pattern, through relations among actors from the South. Through South-South partnerships, developing countries have demonstrated their unwillingness to be dependent exclusively upon developed states’ assistance as well as their strong intention to support each other in getting out of poverty.⁴³⁸ Global South countries’ common experience and views on efficient development strategies, their mutual sympathies and sense of solidarity, and their strategic goal of countering the power of Global North states, catalyze South-South cooperation.⁴³⁹ Contributions of South-South cooperation to sustainable development and, in particular to poverty eradication, have substantially increased in recent years.⁴⁴⁰ Some emerging economies (for instance, Brazil, China, India, Qatar, South Africa) have become major donors of development assistance to developing countries.⁴⁴¹ South-South partnership embraces not only direct

⁴³⁶ See ERIC POSNER, *THE TWILIGHT OF HUMAN RIGHTS LAW* 61 (2014); ISSA G. SHIVJI, *SILENCES IN NGO DISCOURSE: THE ROLE AND FUTURE OF NGOS IN AFRICA* 14-16, 41 (2007); Wilde, *supra* note 404, at 143-45.

⁴³⁷ See Chaturvedi, *supra* note 357, at 4; see also Edmar L. Bacha, *IMF Conditionality: Conceptual Problems and Policy Alternatives*, 15 *WORLD DEV.* 1457 (1987); Milindo Chakrabarti, *Development Compact – The Cornerstone of India’s Development Cooperation: An ‘Externalities’ Perspective*, 53 *INT’L STUD.* 6 (2017).

⁴³⁸ See e.g., Chaturvedi, *supra* note 357, at 1.

⁴³⁹ See, e.g., G.A. Res. A/64/L.37, *Nairobi Outcome Document of the High-Level United Nations Conference on South-South Cooperation*, paras. 17-18 (Dec. 21, 2009) [hereinafter *Nairobi Outcome Document*].

⁴⁴⁰ See G.A. Res. 71/244, *South-South Cooperation*, para. 7 (Dec. 21, 2016) [hereinafter *South-South Cooperation*].

⁴⁴¹ See Chaturvedi, *supra* note 357; Chakrabarti, *supra* note 437; Shailly Nigam, *The Challenges Faced Across South-South Cooperation*, 4 *J. WORLD ECON. RES.* 27 (2015).

development assistance, debt forgiveness or cost-sharing projects, but also capacity-building training programs and scholarships, duty-free trade regimes and investment programs, technology and knowledge exchange, as well as joint scientific projects.⁴⁴²

The South-South development compact model is characterized by several important strengths over the North-South development compact pattern: first, it initiates horizontal relations, in which participants are equal and full-fledged partners and agents of sustainable development, promoting developing states' self-reliance; second, it presupposes a win-win collaboration that embodies a principle of reciprocity not only in the sense of reciprocal obligations, but also of mutual gain and growth opportunities; third, it respects the principles of national sovereignty and non-interference in domestic affairs; and fourth, it does not impose conditionalities on recipients of assistance.⁴⁴³ South-South development compacts strive to embody principles and good practices of global partnership for sustainable development, including the primacy of national responsibility and ownership, independence, self-reliance, respect for sovereignty, non-conditionality, equality, solidarity, mutual accountability, transparency, and effective cooperation.⁴⁴⁴ It is true, however, that an objective assessment of the South-South development compacts' effectiveness and positive contribution to the achievement of the SDGs requires deep empirical study that is beyond the scope of this Article.⁴⁴⁵

Broadening and deepening South-South cooperation catalyzes positive changes within the framework of the global partnership for sustainable development, in particular influencing practices of

⁴⁴² Sachin Chaturvedi distinguishes between five areas of arrangements within South-South development compacts, which correspond to the main aspects of development assistance specified in the *2030 Agenda* (see Section IV.B): capacity building, trade and investment, development finance, grants, and technology exchange. Chaturvedi, *supra* note 357, at 10, 13; see also Chakrabarti, *supra* note 437, at 11; Nairobi Outcome Document, *supra* note 439, para. 15.

⁴⁴³ See Chaturvedi, *supra* note 357, at 1.

⁴⁴⁴ Nairobi Outcome Document, *supra* note 439; South-South Cooperation, *supra* note 440, para. 5; see also Chakrabarti, *supra* note 437, at 6.

⁴⁴⁵ On problems of domination and other bad practices within South-South cooperation, see, e.g., KRISTOFFER NILAUS TARP & SIGNE MARIE COLD-RAVNKILDE, ADDRESSING THE DILEMMAS IN SOUTH-SOUTH COOPERATION (2015); Apodaca, *supra* note 435.

North-South cooperation. The U.N. General Assembly stresses, however, that “South-South cooperation is not a substitute for, but rather a complement to, North-South cooperation.”⁴⁴⁶ Participants in South-South cooperation patently continue to require international support to overcome poverty within their territory and enhance their capacities.

A partial solution may be found in triangular cooperation that combines a (vertical) international assistance model with (horizontal) collaboration projects. Paying attention to the asymmetries in Global South states’ development, the U.N. calls for two different types of development assistance, the first aimed “to meet the basic survival needs of those at the bottom rungs of development,” and the second, to answer “the needs of those who are advanced in the development scale.”⁴⁴⁷ At the same time, the role of the U.N. as a whole and its particular agencies is to facilitate South-South and triangular cooperation, “while collecting, analysing and disseminating best practices and lessons derived from its ongoing development programmes.”⁴⁴⁸

A substantial deficiency of prevailing partnership patterns, represented by North-South and South-South development compacts, is their state-centrism and hierarchical top-down approach, which ignore full-fledged agency, obligations, and accountability of non-state actors, and above all the leading role of civil society for achieving the SDGs. There is a wide consensus that the “command-and-control” model of state-based governance is ineffective in the contemporary context of multi-level, multi-agent extraterritorial relations.⁴⁴⁹

In accordance with the principles of global partnership formulated in Sections IV.A and IV.B, several important measures should be undertaken. First, multi-stakeholder and multi-level cooperation should be promoted, which involves not only North

⁴⁴⁶ On “the complementary nature of South-South to North-South cooperation”, see, e.g., South-South Cooperation, *supra* note 440, paras. 5, 9.

⁴⁴⁷ *Promotion of South-South Cooperation for Development*, *supra* note 347, at para. 89.

⁴⁴⁸ South-South Cooperation, *supra* note 440, paras. 14, 17.

⁴⁴⁹ Rasche & Gilbert, *supra* note 420, at 102; MONKELBAAN, *supra* note 13, at 40; see also Guido Palazzo & Andreas Georg Scherer, *Globalization and Corporate Social Responsibility*, in *THE OXFORD HANDBOOK OF CORPORATE SOCIAL RESPONSIBILITY* 415 (Andrew Crane et al. eds., 2008).

and South states, but also non-state actors, including NGOs, private entities, civil society, and academia, as full-fledged partners for sustainable development.⁴⁵⁰ In order to be efficient and avoid becoming “closed-clubs,” global partnerships should embrace all actors and provide mechanisms for symmetrizing power in prevailing relations of domination and subordination among states, non-state organizations, and individuals.⁴⁵¹ Second, individuals should be recognized as both major right-holders, beneficiaries and duty-bearers of sustainable development, that is, both their claim-rights to which global obligations of multiple actors correspond and their own global obligations for sustainable development should be acknowledged. Third, the accountability of multiple actors for breaches of their global obligations for sustainable development should be enhanced; this is an essential precondition for the effective realization of the sustainable development agenda.

Diverse alternative approaches to global governance underscore a fundamental defect of the hierarchical, top-down and state-centered approach of the *2030 Agenda*. Achieving the SDGs as well as harmonizing and coordinating universal goals and local needs, extraterritorial and territorial structural changes, top-down and bottom-up initiatives, centralized and decentralized programs, and binding obligations and voluntary commitments, requires both traditional and innovative approaches to governance and accountability.

Among innovative approaches, polycentric governance, network-based governance, experimentalist governance, and metagovernance deserve special mention. *Polycentric* conceptions stress that “effective global governance institutions are necessarily polycentric in nature,”⁴⁵² i.e., decision-making and institution-designing relating to the SDGs should be spread among various independent centers at different levels. A *network-based* approach functions through multiple autonomous agents acting in various national and transnational arenas and linked by shared goals rather than legal obligations.⁴⁵³ *Experimentalist* forms of governance shift

⁴⁵⁰ Nairobi Outcome Document, *supra* note 439, para. 19; South-South Cooperation, *supra* note 440, para. 24; Rasche & Gilbert, *supra* note 420, at 102-04.

⁴⁵¹ Rasche & Gilbert, *supra* note 420, at 107.

⁴⁵² MONKELBAAN, *supra* note 13, at 32.

⁴⁵³ Rasche & Gilbert, *supra* note 420, at 104.

the burden of responsibility for the elaboration, implementation, and monitoring of general norms (resulting from a universal political overlapping consensus)⁴⁵⁴ to local levels, while activating the inclusive, participatory and non-hierarchical collaboration among various national and global actors pursuing the SDGs in their own way and sharing their valuable experiences and lessons learned.⁴⁵⁵ Addressing multilevel interactions of public and private sectors as well as civil society, a *metagovernance* approach intends to integrate and coordinate hierarchical, network and market governance modes and employ their advantages to increase the full-fledged participation of multiple actors and make highly fragmented and complex global governance more coherent.⁴⁵⁶

These governance approaches partly overlap and complement each other in such important aspects as polycentricity, diversity, decentralization, multi-levelness, deliberation, power-sharing, inclusiveness, participation, bottom-up orientation, voluntariness of commitments, as well as informal and non-bureaucratic agenda-setting and institution-building. All of them should be engaged, integrated, and balanced to both create new and modify the existing multi-level and multi-actor institutional architectures indispensable for reaching the SDGs.⁴⁵⁷ Though these alternative governance

⁴⁵⁴ According to John Rawls, a universal overlapping consensus may be reached only politically, i.e., “each of the comprehensive philosophical, religious, and moral doctrines accepts justice as fairness in its own way.” John Rawls, *Justice as Fairness: Political not Metaphysical*, 14 PHIL. & PUB. AFF. 223, 247 (1985).

⁴⁵⁵ Charles F. Sabel and Jonathan Zeitlin define experimentalist governance as “a machine for learning from diversity.” Charles F. Sabel & Jonathan Zeitlin, *Experimentalist Governance*, in THE OXFORD HANDBOOK OF GOVERNANCE 169, 175 (David Levi-Faur ed., 2012); see also Gráinne de Búrca, Robert O. Keohane, & Charles Sabel, *New Modes of Pluralist Global Governance*, 45 N.Y.U. J. INT’L L. & POL. 723 (2013); Gráinne de Búrca, Robert O. Keohane, & Charles Sabel, *Global Experimentalist Governance*, 44 BRIT. J. POL. SCI. 477 (2014); Gráinne de Búrca, *Human Rights Experimentalism*, 111 AM. J. INT’L L. 277 (2017).

⁴⁵⁶ See LOUIS MEULEMAN, PUBLIC MANAGEMENT AND THE METAGOVERNANCE OF HIERARCHIES, NETWORKS AND MARKETS: THE FEASIBILITY OF DESIGNING AND MANAGING GOVERNANCE STYLE COMBINATIONS 11 (2008); MONKELBAAN, *supra* note 13, at 27-32.

⁴⁵⁷ For an excellent overview of alternative approaches to institutionalizing the SDGs and suggestions of ways on how to integrate them, see MONKELBAAN, *supra* note 13. Examples of institutions aimed at facilitating global partnership for sustainable development are numerous and include but are not limited to the U.N. Sustainable Development Solutions Network, the U.N. Global Compact, the World

models rely on common goals and commitments rather than on human rights-based obligations,⁴⁵⁸ this does not exclude the possibility that they become a platform for concluding specific multilateral cooperation agreements, following, even while modifying, the general schema of North-South and South-South development compacts.

In conclusion, a few lines should be devoted to issues surrounding accountability for the SDGs. As mentioned, periodic monitoring is the only form of accountability required by the *2030 Agenda*. This must be greatly strengthened.

The U.N. High-Level Political Forum on Sustainable Development should play a key role in reviewing the realization of sustainable development commitments at the global level.⁴⁵⁹ SDG 17 requires developing measurements of progress on sustainable development.⁴⁶⁰ The global indicator framework, which currently embraces 247 (231 unique) indicators for the SDGs, was elaborated by the Inter-Agency and Expert Group on SDG Indicators (IAEG-SDGs), and, after agreement with the U.N. Statistical Commission, adopted by the U.N. General Assembly (2017).⁴⁶¹

On the one hand, SDGs' indicators represent definite strengths of the *2030 Agenda*, because they determine firm benchmarks for monitoring the progressive realization of global obligations for sustainable development.⁴⁶² On the other hand, the SDG monitoring processes are targets of extensive criticism for several reasons. First, the redundancy of global, regional and local indicators significantly complicates the monitoring process. This issue may be resolved by formulating a set of key global indicators. Second, there is no

Business Council for Sustainable Development, the B20, the Global Sustainability Network, and the Global Business Alliance for 2030.

⁴⁵⁸ For an analysis of alternative governance modes for human rights, see de Búrca, *supra* note 455.

⁴⁵⁹ See *High-Level Political Forum on Sustainable Development*, UNITED NATIONS, at <https://sustainabledevelopment.un.org/hlpf> [<https://perma.cc/48TQ-WSS9>].

⁴⁶⁰ *2030 Agenda*, *supra* note 4, SDG 17.19.

⁴⁶¹ *Work of the Statistical Commission pertaining to the 2030 Agenda for Sustainable Development*, General Assembly Resolution, U.N. Doc. A/RES/71/313, annex (Jul. 6, 2017); UNSTATS, *SDG Indicators, Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development*, at <https://unstats.un.org/sdgs/indicators/indicators-list> [<https://perma.cc/Z9H8-98XS>].

⁴⁶² SEYEDSAYAMDOST, *supra* note 13, at 32-33.

common approach to identifying the content, scope and number of national indicators to monitor the realization of the SDGs, which range from 34 in Belgium to 244 in Canada. Eurostat has identified 100 indicators to monitor the E.U.'s implementation of its SDGs obligations.⁴⁶³ Bringing (where possible) national and regional indicators in line with key global indicators, while leaving enough space for country-specific metrics, would be a solution to this problem and establish a necessary balance between the principles of the "ownership of development priorities" and universality of sustainable development commitments. Third, the process of elaborating global indicators on the SDGs is still incomplete and many important indicators and targets are still missing, preventing timely and quality monitoring.⁴⁶⁴ The process of the creation of relevant global indicators should be intensified and made more inclusive for all stakeholders. Fourth, since much of the data necessary for a full and unbiased assessment of the SDGs' realization is currently lacking, there is a tendency to choose those indicators for which measurable data is available instead of those that give a correct picture of the progress of sustainable development.⁴⁶⁵ Strengthening accountability for sustainable development is impossible without promoting the collection of data, which is necessary for SDGs monitoring, by both public and private actors. Fifth, states and international organizations are often a biased source of SDG implementation reports, in light of obviously distorted incentives.⁴⁶⁶ In order to establish independent and credible monitoring mechanisms which assess the effectiveness of development programs and projects and their accordance with human rights, one should guarantee the inclusion of civil society, NGOs and independent experts as part of the monitoring

⁴⁶³ See BERTELSMANN STIFTUNG AND SUSTAINABLE DEVELOPMENT SOLUTIONS NETWORK, SUSTAINABLE DEVELOPMENT REPORT 2019 6-7 (2019).

⁴⁶⁴ Additions and refinements of indicators are annually made to the official indicator list. See UNSTATS, *supra* note 461.

⁴⁶⁵ For an analysis of problems surrounding the unavailability of data and measurability of sustainable development indicators, see, e.g., Sakiko Fukuda-Parr & Desmond McNeill, *Knowledge and Politics in Setting and Measuring the SDGs: Introduction to Special Issue*, 10 GLOBAL POL'Y 5 (2019); Fukuda-Parr et al., *supra* note 14, at 9-10; SEYEDSAYAMDOST, *supra* note 13, at 237.

⁴⁶⁶ Pogge & Sengupta, *supra* note 1, at 94.

processes.⁴⁶⁷ Sixth, the voluntary nature of the monitoring of the SDGs is heavily criticized. One should recognize that all global actors involved in partnership for sustainable development share obligations of SDGs' monitoring.⁴⁶⁸ Seventh, mechanisms for monitoring the realization of the SDGs, beyond the (weak) aspirations of the *2030 Agenda*, are lacking. Periodic monitoring should be complemented and coordinated with other traditional and innovative forms of accountability, including legal (both judicial and non-judicial), economic, and political.⁴⁶⁹

As shown, global obligations to create and maintain a just and sustainable global order, and to ensure a decent standard of living universally represent an area of intersection between the human rights agenda and the sustainable development agenda. In this sense, one possible solution to the problem of monitoring may be combining efforts of both the sustainable development and human rights agendas in terms of synchronizing the criteria and indicators of assessment as well as using common monitoring and accountability mechanisms for sustainable development.

As demonstrated above in Section III.C, this is already happening in relation to the common criteria of assessment. For instance, the *2030 Agenda* relies on the CESCR's general (AAAQ) and specific criteria of adequacy, though the application of the latter is quite inconsistent.⁴⁷⁰ The CESCR, in turn, uses the criterion of sustainability as a significant dimension for determining whether the realization of human rights is adequate.⁴⁷¹ At the same time, indicators developed for the SDGs may be useful for assessing the progressive realization of basic socio-economic rights, especially the

⁴⁶⁷ Alston, *supra* note 36, at 815.

⁴⁶⁸ Pogge & Sengupta, *supra* note 1, at 94.

⁴⁶⁹ See Langford, *supra* note 150, at 172.

⁴⁷⁰ The intention to synchronize indicators was already demonstrated during the preparation of the MDGs. Michael Doyle, who, as Assistant Secretary-General and Special Adviser to U.N. Secretary-General, was responsible for the elaboration of the MDGs, remembers the discussions of the possibility of including human rights indicators in the sustainable development agenda. This idea was, however, rejected by the U.N. High Commissioner for Human Rights, Mary Robinson, because no universal set of indicators for human rights existed. In Doyle's words, "[T]hat was discouraging. Having failed on human rights where I saw a lot of promise and aware of the enormous amount of work involved with the MDGs, I said let's just stick with what we have." SEYEDSAYAMDOST, *supra* note 13, at 204.

⁴⁷¹ See *supra* Section III.C.

right to a decent standard of living.⁴⁷² Such common indicators will help ensure the consistent implementation of minimum human rights obligations for sustainable development and help avoid contradictions between the sustainable development agenda and the human rights agenda.

In addition, we should intensively explore ways of using the international human rights machinery, including the CESCR and other relevant U.N. treaty-based monitoring and accountability bodies, to ensure the implementation of the SDGs.⁴⁷³ Some of these bodies already monitor the realization of sustainable development commitments by states, including their commitments of global partnership.⁴⁷⁴ Since these bodies are increasingly paying more attention to states' extraterritorial obligations in the area of socio-economic rights,⁴⁷⁵ their jurisdiction may embrace monitoring

⁴⁷² The CESCR already uses some SDG indicators in its periodic reporting procedure to assess the performance of obligations by states, including obligations related to development assistance. In particular, it uses the U.N. 0.7% target for ODA to determine the scope of states' obligations to assist. See, e.g., U.N. CESCR, *Concluding observations on the fifth periodic report of Spain*, E/C.12/ESP/5, para. 10 (2012); U.N. CESCR, *Concluding observations on the fourth periodic report of France*, E/C.12/FRA/CO/4, paras. 7-8 (2016); U.N. CESCR, *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*, E/C.12/GBR/CO/6, para. 14 (2016); see also U.N. CRC, *General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/5, para. 61 (Nov.27, 2003); U.N. CRC, *General Comment No. 15: On the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, U.N. Doc. CRC/C/GC/15, para. 89 (Apr. 17, 2013).

⁴⁷³ For debates on the theme, see Alston, *supra* note 78, pt. 7; Alston, *supra* note 36, at 814f; Judith Bueno de Mesquita et al., *Monitoring the Sustainable Development Goals through Human Rights Accountability Reviews*, 96(9) BULL. WORLD HEALTH ORG. 627 (2018).

⁴⁷⁴ See, e.g., U.N. CESCR, *Concluding observations on the fourth periodic report of Ecuador*, U.N. Doc. E/C.12/EQU/CO/4, para. 65 (2019); U.N. CRC, *Concluding observations on the sixth periodic report of Hungary*, U.N. Doc. CRC/C/HUN/CO/6, paras. 6, 16, 19, 24, 33 (2020); U.N. CEDAW, *Concluding observations on the fifth periodic report of Pakistan*, U.N. Doc. CEDAW/C/PAK/CO/5, paras. 7, 16, 22 (2020).

⁴⁷⁵ See, e.g., CESCR's, CRC's and CEDAW's concluding observations. U.N. CESCR, *Concluding observations on the fourth periodic report of Switzerland*, U.N. Doc. E/C.12/CHE/CO/4, paras. 11-19 (2019); U.N. CRC, *Concluding observations on the combined fifth and sixth periodic reports of Austria*, U.N. Doc. CRC/C/AUT/CO/5-6, paras. 13-14 (2020); U.N. CEDAW, *Concluding observations on the eighth periodic report of Australia*, U.N. Doc. CEDAW/C/AUS/CO/8, paras. 29-30 (2018). Relevant documents are collected by ETO Consortium, <https://www.etoconsortium.org/en/main-navigation/library/documents/> [<https://perma.cc/U4Z6-48HF>].

North-South, South-South and triangular development compacts as well as states' obligations to regulate the conduct of non-state actors regarding their sustainable development commitments.

Thus, the global partnership for sustainable development envisioned by the *2030 Agenda* requires creating an institutional framework in which various state-centered and alternative modes of cooperation and assistance are interconnected and which provides opportunity for the joint elaboration of solutions for pressing problems of global poverty eradication.

D. Summary

The final part of this Article addressed global obligations of conduct, i.e., obligations to cooperate for sustainable development (Section IV.A) and obligations of development assistance (Section IV.B). Section IV.A argued that all global actors—states, intergovernmental organizations, non-state actors, and individuals—possess shared global obligations to cooperate for sustainable development. Whereas global obligations of development assistance are often seen as duties of developed states towards residents of poor countries, Section IV.B suggested shifting discussions to the rights and duties of developing societies to take part in and to contribute to the realization of shared global obligations to assist. Further, obligations of development assistance should be seen not only as interactional obligations, but also as institutional obligations to create and maintain a global institutional structure indispensable for providing development assistance. Section IV.C discussed institutional guarantees of global partnership for sustainable development. In particular, it focused on traditional state-centered and alternative, more informal and polycentric, institutional solutions for global partnership and opportunities to promote their complementarity.

V. CONCLUSION

This Article sought to provide a general outline of the conception of global obligations for sustainable development. The main theses of the study can be capsulized as follows:

(1) Although the *2030 Agenda* has been significantly improved compared to the MDGs, it still contains many substantial gaps, such as: (a) insufficient attention to human rights and corresponding obligations; (b) non-recognition of remedial extraterritorial obligations for sustainable development; (c) concentration predominantly on territorial rather than global institutional guarantees of freedom from poverty; (d) employment of an inadequate definition of poverty; (e) state-centrism; (f) lack of attention to institutional obligations of development assistance; and (g) inadequate specification of institutions for the realization of the SDGs, including independent and efficient monitoring and accountability mechanisms (Section II.A).

(2) The human rights agenda and the sustainable development agenda should be brought into sync. This requires: (a) the recognition of the human rights framework as a normative basis for certain global obligations for sustainable development, the objects of which coincide with the objects of internationally recognized human rights; (b) the acknowledgement that global obligations corresponding to basic socio-economic rights indispensable for leading a decent life represent minimum core obligations for sustainable development; and (c) the development of monitoring and accountability mechanisms for evaluating the progress of the realization of global obligations for sustainable development and for holding global actors responsible (Sections II.B-II.C).

(3) Global obligations for sustainable development include obligations of conduct (obligations of development cooperation and assistance) as well as obligations of result (obligations to create and maintain a just and sustainable global order and obligations to ensure a decent and sustainable standard of living universally), all of which are embedded, to a greater or lesser degree, in the *2030 Agenda* (Section III.A). Global institutional obligations for sustainable development should be aimed not solely at undertaking structural territorial improvements, but also at reforming a global institutional scheme. Obligations to create and maintain a just and

sustainable global order embrace both duties of relational and distributive justice (Section III.B).

(4) Complementary to and specifying significant general steps mentioned in points (2)-(3), essential measures to guarantee the realization of distributive obligations to ensure a decent and sustainable standard of living universally presuppose: (a) embracing commitments to secure not just a "basic standard of living," but also a decent standard of living; (b) recognizing not only progressive, but also immediate human rights obligations for sustainable development; (c) applying a poor-centered, inclusive, human rights respective, and a capability-sensitive concept of poverty; (d) synchronizing general and specific criteria of adequacy suggested by the U.N. human rights treaty bodies, especially the CESCR, with those used in the *2030 Agenda*; (e) guaranteeing the enjoyment of a minimum standard of a decent life universally (Section III.C).

(5) Human rights-based, non-discriminatory, human-centered and a pro-poor global partnership for sustainable development presupposed by the *2030 Agenda* calls for the fair distribution of shared global obligations of development cooperation among all members of the international community – states, intergovernmental organizations, non-state actors, and individuals (Section IV.A).

(6) State-centered international development assistance should be supplemented through a human-centered global development assistance. Interactional and institutional obligations of development assistance should not be seen solely as duties of developed states towards residents of poor countries. Developing societies have both rights and duties to take part in and to contribute to the realization of shared obligations of development assistance (Section IV.B).

(7) A global partnership for sustainable development requires creating and maintaining an institutional framework in which various traditional (top-down and state-centered) and alternative (bottom-up and polycentric) governance and accountability modes are interconnected and coordinated. It should involve multi-stakeholder and multi-level North-South, South-South and triangular cooperation, while recognizing private and public non-state actors as full-fledged partners for sustainable development (Section IV.C).