THE GLOBAL DEVELOPMENT AGENDA AND THE HUMAN RIGHTS OF WOMEN
IN AFRICA

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I hereby declare that I have read and understood the regulations governing the submission of the Masters dissertation, including those relating to the length and plagiarism as contained in the rules of this University, and that this dissertation conforms to these regulations.

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ABSTRACT

2015 signals the end of the Millennium Development Goals. Amidst the present reflection on, and analysis of, the progress of the implementation of the current development agenda, the draft post-2015 SDGs are in the final stages of their development. With the imminent adoption of the new goals by UN Member States in September 2015 the post-2015 sustainable development agenda aims to integrate the principle of sustainability in order to continue the global drive for economic and human development within environmental limits.

Through a comparative analysis of the Millennium Development Goals, the draft post-2015 Sustainable Development Goals as well as the documents that have contributed to their development, this paper critiques the manner in which the human rights of women have been, and will continue to be, addressed by the global development agenda. Additionally, using the African continent as a case study, this dissertation exposes the role played by regional political and human rights systems on the implementation of the global intention. Neglecting to adequately promote and protect the human rights of women in the continent reflects a lack of consideration for the interconnected nature of socioeconomic and environmental development and has wider consequences globally.

TABLE OF CONTENTS

CHAPTER ONE

INTRODUCTION

I BACKGROUND TO THE STUDY

In September 2000, Member States of the United Nations (hereinafter, the UN) gathered to approve and adopt the United Nations Millennium Declaration (hereinafter, the Millennium Declaration).[1] This document led the way to a 15-year commitment on behalf of these States in the form of eight Millennium Development Goals (hereinafter, the MDGs), developed to reduce global rates of poverty amongst other goals. As 2015 draws to a close, so too does this commitment. In September 2015, these goals are to be integrated into yet another global development agenda. The post-2015 sustainable development agenda is currently in its final stage of refinement before global leaders commit to a further 15 years of environmentally conscious development.

Both the Millennium Declaration and The Future We Want[2] – the document that reflects the recent commitment of States to continue the global development agenda – make reference to previous resolutions that have been adopted by Member States of the UN. This exposes the intention, and ability, to incorporate values encapsulated in international human rights conventions. By drawing upon the principles enshrined in the Charter of the United Nations (hereinafter, the UN Charter)[3] and the Universal Declaration of Human Rights (hereinafter, the UDHR),[4] Member States acknowledge the necessity of upholding these values and implementing policies that reflect this acknowledgement.

This dissertation is concerned with the manner in which the global development agenda's aim to achieve gender equality and women's empowerment intersects with established human rights norms and standards. This is done by critically assessing the impact that the MDGs have had upon the lived reality of women in particular, as poverty has been found to disproportionately affect women. It then turns to addressing the manner in which the draft post-2015 development agenda intends to further address the 'feminization of poverty.'[5]

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[1] United Nations General Assembly 'United Nations Millennium Declaration' (18 September 2000) A/RES/55/2 available at http://www.refworld.org/docid/3b00f4ea3.html accessed 03 April 2015.
[2] United Nations General Assembly 'The Future We Want' (27 July 2012) A/RES/66/288 available at http://www.un.org/disabilities/documents/rio20_outcome_document_complete.pdf accessed 02 June 2015.
[3] United Nations 'Charter of the United Nations' (24 October 1945) 1 UNTS XVI available at https://treaties.un.org/doc/publication/ctc/uncharter.pdf accessed 03 April 2015.
[4] United Nations General Assembly 'Universal Declaration of Human Rights' (10 December 1948) 217 A(III) available at http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf accessed 03 April 2015.
[5] United Nations General Assembly 'Beijing Declaration and Platform for Action' adopted at the Fourth World Conference on Women (27 October 1995) para 48 available at http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf accessed 15 April 2015.

After establishing how the global development agenda has integrated women's human rights into its plan, a critical reflection on the African context explores the manner in which the regional context may reflect or refract the global intention.

II RESEARCH QUESTION

Over the course of this dissertation, two crucial questions are addressed, the first of which is two-fold: are the draft post-2015 Sustainable Development Goals (hereinafter, the draft post-2015 SDGs) more embracing of a gender specific human rights approach than their predecessors, the MDGs? In order to answer this, it is necessary to first determine the stance of the MDGs on the topic of women's human rights and to gauge whether the upcoming goals are more clearly defined, and thus equipped, so as to engage with both the causes and the symptoms of gender inequality.

The second question concerns the ability of regional political and human rights systems, such as the African Union (hereinafter, the AU) and the African Commission on Human and Peoples' Rights (hereinafter the African Commission), to meet the goals set out in the post-2015 global development agenda. To engage with this question it is necessary to assess whether or not these systems undermine development targets because of already established, and protected, customary understandings of what it means to be female within the African social, economic and political spheres. Does the protection of traditional values and the role of the family pose a problem for the regional, thus overall, achievement of the post-2015 SDGs?

To establish whether or not the upcoming development agenda is equipped to address women's human rights issues in the African context, it is crucial to critically engage with the origin of these goals. This dissertation assesses the perceived successes and failures of the MDGs regarding the integration of the human rights agenda as a whole and the promotion and protection of women's human rights in particular before engaging with the question of whether or not the draft post-2015 SDGs have addressed any gaps that have been overlooked by their predecessors. It then turns towards the African continent to assess whether or not the African human rights regional system has the capacity to engage with these goals in a manner that will benefit its female population, or whether the well-buffered international value of sovereignty legitimates African leaders' neglect to transform their societies.

III SIGNIFICANCE OF THE STUDY

Assessing the impact on the implementation of women's human rights by the MDGs on the forthcoming post-2015 SDGs is crucial if improvements are to be made on any shortfalls. Failing to infuse the MDGs with the obligations of human rights instruments that have been ratified by means of international conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter, CEDAW),[6] has left the current development agenda's outcomes hollow regarding women's human rights. Critical analyses allow for the exposure of insights that may aid in addressing women's human rights within the global development agenda moving forward.

Research along the lines of this dissertation is significant as it contributes towards the on-going discourse of the intersections between development, poverty, women's human rights and the environment. The inclusion of the African regional system allows for insight into how international policies are filtered through contextual circumstances and impact the manner in which the regional level may affect the overall international agenda. This is a vital component to the study as it exposes the current practice regarding the implementation of women's human rights as it stands, as well as the potential that is held by the upcoming development agenda.

IV AIMS AND OBJECTIVES

Once establishing the interactions that both the MDGs and the draft post-2015 SDGs have with the 'feminization of poverty'[7] this study exposes the need for political will in regional systems to be able to effect change. Only through the alteration of deep-seated understandings of what it means to be a woman can the development agenda achieve the upcoming post-2015 SDGs and their soon-to-be-defined targets. Does the African regional system, as it currently stands, have the capacity to observe the global development agenda and women's best interests within the articles of its instruments?

V RESEARCH METHODOLOGY

The information gathered for this study has been done through desk research. Analyses of primary sources such as the Millennium Declaration, CEDAW, the African Charter on

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[6] United Nations General Assembly 'Convention on the Elimination of all forms of Discrimination Against Women' (18 December 1979) 1249 UNTS 13 available at
http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf accessed 03 April 2015.
[7] Op cit note 5.

Human and Peoples' Rights[8] (hereinafter, the African Charter) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereinafter, the Women's Protocol)[9] have been supplemented by secondary sources. These secondary sources include arguments and analyses of primary sources that both support and criticise the current development agenda, the forthcoming post-2015 sustainable development agenda and the African regional human rights system.

VI LITERATURE REVIEW

The use of primary sources offers insight into stated international and regional intention. In relation to the international development agenda, this dissertation analyses the Millennium Declaration and its follow up report submitted to the UN by the Secretary General in 2001, the Road Map towards the Implementation of the UN Millennium Declaration.[10] In terms of the post-2015 development agenda, this document critiques The Future We Want and its subsequent synthesis report released in December 2014, which paves the way to the adoption of the post-2015 SDGs: The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet (hereinafter, The Road to Dignity).[11] Additional primary sources regarding the topic of sustainable development include the declaration of the United Nations Conference on the Human Environment[12] (hereinafter, the Stockholm Declaration), the Report of the World Commission on Environment and Development: Our Common Future[13] (hereinafter, the Brundtland Report), the Rio Declaration on Environment and

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[8] Organization for African Unity 'African (Banjul) Charter on Human and Peoples' Rights on the Rights' (27 June 1981) CAB/LEG/67/3 rev5 21 ILM58 available at
http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf accessed 15 July 2015.
[9] African Union 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (11 July 2003) available at http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf accessed 15 July 2015.
[10] United Nations General Assembly 'Road Map Towards the Implementation of the UN Millennium Declaration' (6 September 2001) A/56/326 available at
http://www.un.org/millenniumgoals/sgreport2001.pdf?OpenElement accessed 04 April 2015.
[11] United Nations General Assembly 'The Road to Dignity by 2030: ending poverty, transforming all lives and protecting the planet' Synthesis report of the Secretary-General on the post-2015 sustainable development agenda (4 December 2014) available at
http://www.un.org/disabilities/documents/reports/SG_Synthesis_Report_Road_to_Dignity_by_2030.pdf accessed 2 June 2015.
[12] United Nations General Assembly 'Declaration of the United Nations Conference on the Human Environment' (15 December 1972) A/CONF.48/14 available at
http://www.unep.org/Documents.Multilingual/Default.Print.asp?documentid=97&articleid=1503 accessed 3 June 2015.
[13] United Nations General Assembly 'Report of the World Commission on Environment and Development: Our Common Future' (1987) A/42/427 available at http://www.un-documents.net/our-common-future.pdf accessed 3 June 2015.

Development [14] of 1992 (hereinafter, Agenda 21) and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development[15] adopted in 2001.

As the above documents make reference to previous resolutions adopted by UN Member States, it is a vital component of this study to include them. They offer insight into the connection that development has with the international human rights agenda. Amongst these documents are the UN Charter and the UDHR. As this dissertation intends to explore the relationship that the development agenda has with women's rights in particular, additional focus will be on the inclusion of treaties such as CEDAW and resolutions such as the Beijing Platform for Action.

Additional primary resources that relate to the progress on the MDGs are The Millennium Development Goals Report 2015 (hereinafter, the 2015 Report)[16] and the MDG 2014 Report: Assessing Progress in Africa toward the Millennium Development Goals (hereinafter, the 2014 Report)[17] relating to progress in Africa specifically. This assessment contributes towards the overall analysis of both the perceived successes and failures of the MDGs whilst simultaneously addressing gender concerns that are specific to Africa. In terms of the regional focus on the African continent, critiques of the African Charter as well as the Women's Protocol are included.

Secondary sources have been used to supplement arguments on the topic of women's human rights – both globally and in the African context, as well as in the field of sustainable development. In terms of the historical development of the MDGs, Sen and Mukherejee[18] provide an analysis that offers one point of view on the origin of the development agenda and the manner in which it has failed the global female population. Additional reference to

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[14] United Nations General Assembly 'Rio Declaration on Environment and Development' (14 June 1992) A/CONF.151/26 vol. II available at http://www.unesco.org/education/nfsunesco/pdf/RIO_E.PDF accessed 3 June 2015.

[15] United Nations General Assembly, 'Plan of Implementation of the World Summit on Sustainable Development' (4 September 2002) A/CONF.199/20 available at http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf accessed 3 June 2015.

[16] United Nations 'The Millennium Development Goals Report 2015' 1 July 2015 available at http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf accessed 10 August 2015.

[17] United Nations Economic Commission for Africa, African Union, African Development Bank and United Nations Development Programme 'MDG 2014 Report: Assessing Progress in Africa Toward the Millennium Development Goals' (2014) available at http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/MDG_Report_2014_11_2014.pdf accessed 01 July 2015.

[18] G Sen & A Mukherjee 'No Empowerment without Rights, No Rights without Politics: Gender-Equality, MDGs and the Post-2015 Development Agenda' (2014) 15 (2-3) *Journal of Human Development and Capabilities* 188.

authors such as Barton,[19] Bradley,[20] Kabeer[21] and Unterhalter[22] expose the perceived failure of the MDGs to fully empower women. Amongst others, Painter[23] informs the argument on how the MDGs might benefit by formally partnering with international conventions such as CEDAW, and vice versa.

Reference to authors such as Griggs[24] and Steffen, Crutzen and McNeill[25] is used in order to introduce and explain the necessity of introducing a new stance for the global development agenda, being an environmentally conscious one. Whilst this describes the direction in which development needs to follow, authors like Sachs[26] highlight how the MDGs have aided as a foundation to the post-2015 agenda. Additionally, the analysis of the impact of the post-2015 SDGs upon women's human rights is done by means of comparison to the MDGs.

In terms of the regional application of the international development agenda, critical analyses of the African regional system are informed by an array of authors. Welch,[27] Chirwa,[28] Ngwena[29] and Banda[30] are amongst the writers that are referenced in order to answer the question of whether or not the regional system is capable of fully addressing the post-2015 development agenda regarding the issue of women's human rights.

VII STRUCTURE OF DISSERTATION

This section presents the discourse of this study by outlining the subject matter of each chapter.

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[19] C Barton 'Women's Movements and Gender Perspectives on the Millennium Development Goals' (2005) *Civil Society Perspectives on the Millennium Development Goals* 1.

[20] C Bradley 'Ending Violence against Women and Achieving MDG 3' (2011) *AUSAID*.

[21] N Kabeer 'Gender Equality and Women's Empowerment: A Critical Analysis of the Third Millennium Development Goal' (2005) 13 (1) Gender and Development 13.

[22] E Unterhalter 'Global Inequality, Capabilities, Social Justice: The Millennium Development Goal for Gender Equality in Education' (2005) 25 *International Journal of Educational Development* 111.

[23] GR Painter 'Linking Women's Human Rights and the MDGs: An Agenda for 2005 from the UK Gender and Development Network 1' (2005) 13 *Gender and Development*. 79.

[24] G Griggs, M Stafford-Smith, O Gaffney, J Rockström, MC Öhman, P Shyamsundar, W Steffen, G Glaser, N Kanie & I Noble 'Policy: Sustainable development for people and planet' (21 March 2015) (495) Nature 305.

[25] W Steffen, PJ Crutzen, JR McNeill 'The Anthropocene: Are Humans Now Overwhelming the Great Forces of Nature' (2007) 36 *AMBIO: A Journal of the Human Environment* 614.

[26] JD Sachs 'From Millennium Development Goals to Sustainable Development Goals' (2012) 379 *Lancet* 2206.

[27] C E Welch 'Human Right and African Women: A Comparison of Protection Under Two Major Treaties' (1993) *Human Rights Quarterly* 549.

[28] D Chirwa 'Reclaiming (Wo)manity: The Merits and Demerits of the African Protocol on Women's Rights' (2006) *Netherlands International Law Review* 63.

[29] C G Ngwena 'Inscribing Abortion as a Human Right: Significance of the Protocol on the Rights of Women in Africa' (2010) 32 *Human Rights Quarterly* 783.

[30] F Banda 'Family Law, Gender Equality and Human Rights' in F Banda *'Women, Law and Human Rights: An African Perspective'* (2005) 85.

(a) Chapter Two

This chapter outlines the historical developments of the global development agenda, offering an explanation as to how it has come to take the shape of the MDGs. In analysing the foundational documents, namely, the Millennium Declaration and the Road Map, the stated intention of the agenda is established. This section also introduces and elaborates on what is meant by the term, 'women's human rights,' which is vital for the comprehension of this dissertation. It explains what the eight goals are, discerns which goals are explicitly linked to women's human rights and how they are interrelated. Through an assessment of the 2015 Report, as well as an analysis supplemented by feminist literature, this chapter establishes the perceived global successes and failures of the MDGs regarding women's human rights, and how a partnership with the human rights system may benefit the development agenda, the human rights agenda and women across the globe.

(b) Chapter Three

This section explains the environmental context in which the post-2015 SDGs are being formulated and explores the history of sustainable development by means of assessing a series of treaties adopted by Member States of the UN. Furthermore, through the analysis, and cross-referencing, of resolutions adopted by UN Member States it determines whether or not the upcoming development agenda has more to offer than the current MDGs regarding the promotion and protection of women's rights.

(c) Chapter Four

This chapter bridges the gap between global intention and local implementation. Through an analysis of the African regional political and human rights systems, this chapter explores whether or not the regional system is capable of implementing change regarding the current affairs of women on the continent. This section exposes a lack of political will as well as patriarchal tendencies within the region's documents as hurdles to the fulfilment of the global agenda overall.

(d) Chapter Five

The final chapter concludes the dissertation and offers some remarks that will hypothesise what impact regional realities might have on the international development agenda.

CHAPTER TWO

THE MILLENNIUM DEVELOPMENT GOALS

I INTRODUCTION

The chapter begins by briefly establishing the historical context of the declared commitment to the MDGs by Member States of the UN. Once the origins of, and factors leading to the global development agenda are established an analysis of the documents directly related to the adoption of the goals is provided as a foundation for further assessment. These documents – the Millennium Declaration and the Road Map – provide useful insights into the intention of the international development agenda. After an introduction of the eight MDGs, the 2015 Report exposes the progress of the development agenda globally and is used in conjunction with feminist literature to elaborate on the perceived successes and failures of the goals that are explicitly related to the progress of the female population.

In short, this chapter critically assesses the impact of the current global development agenda upon the human rights of women. The term women's human rights is used as a distinction between the rights that are declared as inherent to all humans by nature of being human, and the rights that are explicitly related to the particularities which accompany the reality of being sexed as female.

II HISTORICAL DEVELOPMENTS

There are numerous accounts as to the origins of the current global development agenda. According to Sen and Mukherjee, the MDGs are rooted in the International Development Goals, formulated by the Organisation for Economic Co-operation and Development in 1996.[31] In their recount of the history, these initial goals received considerable criticism for a variety of reasons. First and foremost, critics believed these goals to be designed not by the international community at large, but by a handful of leaders from wealthier, first world countries.[32] Secondly, these goals were seen to be narrow in nature, having neglected to embed a human rights-based approach in the development agenda.

The above is supported by the works of a Norwegian website, www.rorg.no, dedicated to issues of global development. It states the MDGs were based upon the Organisation for Economic Co-operation and Development's (hereinafter, the OECD) document, shaping the 21st Century, later to be re-presented as, A Better World for All. According to the website,

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[31] Op cit note 18 at 189.
[32] Ibid.

the OECD's strategy 'was fierc[e]ly rejected by civil society,'[33] reflecting Sen and Mukherjee's account of the development agenda's history, as well.[34]

According to Peeters, having undergone a series of conferences in the 1990s dedicated to the role of development in the 21st century governments began to experience a form of '"conference fatigue".'[35] As a result of this fatigue, the Millennium Report was published on behalf of the UN just months before the Millennium Summit where 189 UN Member States adopted the Millennium Declaration. Peeters questions how much of the current development agenda was in actuality drafted by Member States, 'express[ing] the views of sovereign governments and the will of the people these governments represent,'[36] and how much was skilfully drawn from the initial Millennium Report, drafted on the knowledge of a few 'experts consulted by the UN Secretariat.'[37] The Millennium Report, We the Peoples, undeniably expresses intent to carve a place for the UN in the 21st century and to 'ensure that globalization becomes a positive force for all the world's people, instead of leaving billions of them behind in squalor.'[38]

Regardless of the origins of the Millennium Declaration, the document was adopted in September 2000, with the eight MDGs officially released in 2001. However, in line with what the research of Sen and Mukherjee suggest,[39] the goals themselves were not devised by the UN Member States, but by an assigned committee consisting of members of the World Bank, the Organization for Economic Cooperation and Development and the International Monetary Fund, amongst others.[40] As evidence of the formation of the MDGs being an extension of the initial 1996 goals, a cross reference is made on the Norwegian website, showing how similar the initial goals are with those of the current development agenda. Both

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[33] 'International Development Goals: from OECD's strategy "Shaping the 21st Century" (1996) to the UN Millennium Development Goals (2000/2)' (24 September 2004) available at
http://www.rorg.no/Artikler/729.html accessed 03 July 2015.
[34] Op cit note 18 at 189.
[35] M A Peeters 'The Millennium Development Goals: Introduction and historical process' (2010) Dialogue Dynamics available at http://www.dialoguedynamics.com/content/learning-forum/seminars/the-millennium-development-goals/the-millenium-development-goals/the-millenium-development-goals-69/article/the-millennium-development-goals accessed 03 July 2015. *Permission needed for publication.
[36] Ibid.
[37] Ibid.
[38] United Nations 'We the People: The role of the United Nations in the 21st Century' April 2000 at 10 available at http://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf accessed 3 July 2015.
[39] Op cit note 18 at 189.
[40] Op cit note 35.

aim for poverty reduction, progress in access to education, improvements in gender equality, a reduction in infant mortality rates and a need to increase environmental sustainability.[41]

In short, the historical context of the development agenda is both contested and extensive. The sources that have been drawn on to form the MDGs are suggestive of an international agenda that does not necessarily represent the majority's opinion, but those of a smaller group with vested interests. However, having adopted the Millennium Declaration, Member States have expressed their support for the global agenda regardless of its source. The following sections will elaborate upon the progress of the agenda in terms of the human rights of women.

III THE MILLENNIUM DECLARATION AND THE ROAD MAP

In order to assess the impact of the MDGs upon women's human rights, it is necessary to analyse the documents that have led to their establishment. This section establishes what the intention of the development agenda is, determines the relationship that the global agenda has with internationally established human rights norms and standards, as well as introduces the eight MDGs.

Section 1 of the Millennium Declaration addresses the 'values and principles'[42] that Member States have adopted and are requested to uphold. It assumes 'collective responsibility to uphold the principles of human dignity, equality and equity at the global level… to all the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs.'[43] To further this sentiment of cooperation on the international level, section 1 affirms continued support for the UN Charter.[44] Additionally, it affirms the 'respect for human rights and fundamental freedoms…without distinction.'[45]

On establishing the principles on which this document was founded, paragraph 6 lends itself to expressing the concerns that require global action: the negative aspects of globalisation. Although acknowledging that globalisation has its positive attributes, the Millennium Declaration explains that these positives are not spread evenly amongst

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[41] Organization for Economic Co-operation and Development's Development Assistance Committee 'Shaping the 21st Century: The Contribution of Development Co-operation' May 1996 at 8 available at http://www.oecd.org/dac/2508761.pdf accessed 03 July 2015.
[42] Op cit note 1 s1.
[43] Ibid para 2.
[44] Ibid para 3.
[45] Ibid para 4.

developed countries and their developing counterparts.[46] Thus, the 'central challenge'[47] is to redress this imbalance and support countries facing economic struggle by means of 'policies and measures, at the global level,'[48] whilst upholding values such as freedom, equality and solidarity.[49]

The right to development is addressed in section 3 of the document, linking it with the aim of the reduction of the 'dehumanizing conditions of extreme poverty.'[50] The realisation of this right to development is thought to be the tool to aid in the eradication of the effects of globalisation that have negatively impacted most of the developing world. In order for this to be achieved, UN Member States 'resolve[d] therefore to create an environment'[51] that is capable of achieving the above at the global and State level of governance. Good governance and transparency at both these levels are expressed as vital components for the aims of the Millennium Declaration to be realised.[52]

Paragraphs 11 through 30 of the Millennium Declaration provide the platforms for the development of the eight MDGs. Amongst these aims it reaffirms the necessity for the promotion of 'respect for all internationally recognized human rights and fundamental freedoms, including the right to development.'[53] There is the explicit acknowledgement of the need for Member States to uphold the commitment to the implementation of CEDAW,[54] and other commitments already made by UN Member States, such as the UDHR.[55] This shows the level of compatibility that the global development agenda has with already established agreements regarding human rights that have been made by UN Member States. The eradication of poverty and the realisation of human rights are interrelated.

The adoption of the Millennium Declaration led to the publishing of the Road Map in September 2001 as a means to strategize implementation of the aims set out by the Millennium Declaration. Having adopted the Millennium Declaration, Member States by extension extend their acceptance to the goals, targets and deadlines presented by the Road Map. This secondary document refines the intention established in the Millennium Declaration and prescribes potential action for the furthering of the global development

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[46] Ibid para 5.
[47] Ibid.
[48] Ibid.
[49] Ibid para 7.
[50] Ibid para 11.
[51] Ibid.
[52] Ibid para 13.
[53] Ibid para 24.
[54] Ibid para 25.
[55] Ibid.

agenda based upon the research done 'on the work of Governments, the entire United Nations system…and the World Trade Organization, intergovernmental organizations, regional organizations and civil society.'[56]

The Road Map allows for insight into the interrelated nature of human rights, poverty eradication and development that is not fully elaborated on in the Millennium Declaration. For example, education and economic growth is inhibited by factors such as 'endemic disease' that tend to disproportionately affect poorer areas where inhabitants are, more often than not, already less educated.[57] As such, a plan of action that is coordinated and aimed at many facets of development is more likely to benefit the human population than would attempts to alleviate one aspect. For instance, medicating the diseased population does not address the lack of education that factors in the ability of societies to uplift themselves from circumstances that promote endemic diseases.

Another example that presents an understanding of the close connection between development and the realisation of human rights is found in the statement that 'better nourishment improves labour productivity.'[58] Article 25 of the UDHR explicitly states that all humans have the right to an adequate life, inclusive of the provision of nutrition through food.[59] This supports the contention that the idea of the global agenda is for development to uplift the population in order to benefit the economy. In turn, this points to the need for reflection upon adequate education of girls in order to avoid patterns of 'bad economics and bad social policy,'[60] which directly relates to Article 10 of CEDAW.[61]

The Road Map determines that this coordination of action must be on a global level and involve as many actors as possible, including civil society.[62] 'Solidarity'[63] is required if the 'lofty'[64] commitments made by the Millennium Declaration are to be achieved. In order for this good governance and solidarity to function adequately, there is need for 'political *will*.'[65] Political will, in part, entails the reformation of policy and the allocation of resources towards benefiting the majority of society that is in need of upliftment[66] and is the main factor that has

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[56] Op cit note 10 at 2.
[57] Ibid at 7 para 3.
[58] Ibid para 88.
[59] Op cit note 4 art 25.
[60] Op cit note 10 para 95.
[61] Op cit note 6 art 10.
[62] Op cit note 10 para 5.
[63] Ibid para 5.
[64] Ibid.
[65] Ibid para 7.
[66] Ibid.

the ability to 'reduce the gap between what needs to be done and what is actually being done.'[67]

The Road Map states clearly that the strategies it suggests by means of the goals and their targets are not a novelty and are

[D]erived from the global conferences of the 1990s and from the body of international norms and laws that have been codified over the past half-century… [And] the plans of action needed for reaching these targets have, for the most part, already been developed and formally adopted by Member States... within international organizations and at conferences.[68]

The global development agenda can be said to be repackaging these international aims into one plan of action under the umbrella of development for the purposes of a more economically equitable world.

In mentioning previous human rights conventions, it is evident that global development agenda has the theoretical capacity for an integrative system that can support the global human rights agenda. Does the respect for the right to development measured in economic terms sustained by a more coherent global partnership[69] carry more weight than the aim to promote and protect other rights, such as women's human rights?

IV ANALYSIS OF THE MILLENNIUM DEVELOPMENT GOALS

Having established the historical context, the aims of the global development agenda and their coherence with a human rights-based approach, this section introduces the eight MDGs and analyses the level of integration of human rights norms and standards into the goals and their strategies. Finally, for the purposes of this dissertation this section discerns which goals are directly related to the human rights of women.

The eight MDGs are as follows: Goal 1 intends to '[e]radicate extreme poverty and hunger'[70] by means of halving the percentage of people that earn below US$1 on a daily basis and reduce, by half, the amount of people that are considered to be starving. Goal 2 addresses primary education and the aim to achieve access to – and completion of – primary schooling for both boys and girls universally.[71] Goal 3 is concerned with the promotion of the empowerment of women and overall gender equality by means of reducing the gap between

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[67] Ibid para 81.
[68] Ibid.
[69] Op cit note 1 para 30.
[70] Op cit note 10 at 56.
[71] Ibid.

female and male enrolment in secondary levels of education, as well as the gap found in the employment and public sectors.[72] Goal 4 addresses the aim to reduce the global rate of child mortality by one third, whilst goal 5 intends for Member States to lower rates of maternal mortality by 75 per cent.[73] Goal 6 continues to deal with the issue of health by addressing the spread of the Human Immunodeficiency Virus (HIV), malaria and other diseases such as tuberculosis.[74] The seventh goal is aimed at ensuring sustainability through the integration of the concept of sustainable development into policies, plans and programmes, with the intention to ensure that access to potable water is increased whilst also reducing the number of people living in slums worldwide.[75] The final goal concerns the need for solidarity and partnership on the global level entitled, '[d]evelop a global partnership for development'[76] and is the only goal that has not been time-bound to the deadline, which is the end of 2015. The intention to 'address the needs of least developed countries'[77] by means such as debt relief and leniency regarding export tariffs can be found within this eighth goal, as a means with which to amend the economic disruption that has been caused by globalisation can be found within the eighth goal.

The goals whose aims, targets and indicators are explicitly related to women's human rights are the second, third and fifth MDGs. The global progress for the second goal is measured by accessing data related to enrolment in primary schools overall, the number of students that reach the fifth grade having started in the first grade and the rate of literacy of the population that falls between the ages of 15 and 24.[78] Its inclusion of both girls and boys within the goals necessitates the removal of discrimination based on gender, found in multiple conventions such as the International Covenant on Economic, Social and Cultural Rights (hereinafter, ICESCR).[79] Article 13.2*(a)* of the ICESCR deems the need for primary education to be compulsory[80] whilst article 2.2 of the convention states that all articles of the treaty are to be implemented without discrimination.[81]

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[72] Ibid.
[73] Ibid.
[74] Ibid at 57.
[75] Ibid.
[76] Ibid at 58.
[77] Ibid.
[78] Ibid at 56.
[79] United Nations General Assembly 'International Covenant on Economic, Social and Cultural Rights' (16 December 1966) RES 2200A (XXI) available at http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf accessed 04 April 2015.
[80] Ibid art 13.2(a).
[81] Ibid art 2.2.

Goal 3 sets that States are to concern themselves with the progress of the aim to empower women by adequately responding to the data collected that relates to the number of females in all schooling levels (primary, secondary and tertiary) in relation to their male counterparts, the literacy rate of females in relation to males between the ages of 15 and 24, the percentage of women that are employed in non-agricultural work as well as the female presence in the public sphere by means such as their statistical representation within parliament.[82] This is the goal which is most related to CEDAW. For example, CEDAW requires Member States of the UN that have signed and ratified the convention to 'take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education,'[83] employment[84] and to call for the eradication of 'discrimination against women in the political and public life of the country.'[85]

Goal 5 is concerned with the health of mothers. Progress regarding maternal health is measured using data such as a country's 'maternal mortality ratio,'[86] informed by the number of births that have been 'attended by skilled health personnel.'[87] In addition to eliminating discrimination with regard to health care as well as promoting access to it in general,[88] Article 12 of CEDAW obliges States to provide, or 'ensure,' 'free access where necessary,' 'adequate nutrition during pregnancy' and 'appropriate services in connection with pregnancy.'[89] Improving access should correlate directly with an increase in skilled attendance, which in turn would result in a decrease in the maternal mortality ratio. This link is further affirmed by the Committee on the Elimination of Discrimination Against Women's (hereinafter, the Committee) 1999 General Recommendation in which it explicitly requests of States their future inclusion within their CEDAW periodic reports to explain the manner in which the implementation of article 12 of CEDAW has affected the rate of maternal mortality.[90]

There is an additional reference to the women in an indicator to measure progress in the sixth goal, concerning HIV/AIDS. One of the measurement tools that is used to evaluate the

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[82] Op cit note 10 at 56.
[83] Op cit note 6.
[84] Ibid art 11.
[85] Ibid art 7.
[86] Op cit note 10 at 56.
[87] Ibid.
[88] Op cit note 6 art 12.1.
[89] Ibid art 12.2.
[90] Committee on the Elimination of All Forms of Discrimination Against Women 'General Recommendation No 24' (20th session 1999) at para 26 available at http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/General_Recommendations_1-25-English.pdf accessed 30 July 2015.

aim to 'have halted…and begun to reverse the spread of HIV/AIDS' is its 'prevalence among 15-to-24-year-old pregnant women.' [91] Although not explicitly stated in CEDAW, the Committee has requested States to inform the Committee on 'what they have done to address the magnitude of women's ill-health' [92] of which the 'preventable conditions' of which HIV/AIDS is included. Regardless of previous works that have exposed the relationship between gender and HIV[93] both the Millennium Declaration and the Road Map is left predominantly silent, with the exception of the acknowledgement by the Road Map of the 'pressure'[94] placed on women when they are to care for those diagnosed with the disease.

Having broadly introduced the eight MDGs well as exposed which of the goals are most relevant to the human rights of women, the next section of this chapter analyses the reported progress of these gender-specific goals. This is done by assessing the data that has been consolidated and presented by the 2015 Report on the current situation for women regarding these indicators.

V REPORTED PROGRESSES ON GENDER-RELATED GOALS

In order to analyse the impact of the MDGs from the feminist perspective, it is necessary to firstly engage with the reported results of the agenda thus far. This section assesses the 2015 Report released by the UN on the gender specific goals outlined above. Although averages are presented for each of the developing regions in addition to the global averages, the report does not offer specific statistics for developed regions. This reinforces the understanding that the MDGs are specifically developed for the developing world.

In terms of education, the 2015 Report positively states that the number of primary school-aged children that are out of school has dropped by almost 50 per cent, from 100 million out-of-school children to 57 million.[95] This increase in school attendance has raised the literacy rates to 91 per cent among the global population between the ages of 15 and 24.[96] However, the 2015 Report states that gender is a factor regarding whether these children that are currently out of school will ever go back. For instance, 48 per cent of girls that are out-of-

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[91] Op cit note 10 at 57.
[92] Op cit note 90.
[93] Committee on the Elimination of All Forms of Discrimination Against Women 'General Recommendation No 15' (Ninth session 1990) available at
http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/General_Recommendations_1-25-English.pdf accessed 30 July 2015.
[94] Op cit note 10 para 109.
[95] Op cit note 16 at 4.
[96] Ibid.

school will not return to their education, as compared to 37 per cent of their male counterparts.[97] Other factors include poverty, conflict, 'and other emergencies.'[98]

Other determining factors that appear to contribute towards disparities in school attendance include available financial resources within the home as well as where attending children are located. For example, the rates of enrolment are higher in urban areas as compared to those of rural areas. These inequalities contribute towards the rates of completion, with poorer children and children from rural settings less likely to complete their primary education.[99] These disparities appear to be exacerbated in developing regions where, for instance, '34.4 per cent of adolescents in the poorest quintile did not complete primary school, compared to 6.5 per cent in the richest quintile.'[100]

With regard to goal 3, which addresses women's empowerment and the promotion of gender equality, the 2015 Report boasts that '[m]any more girls are now in school compared to 15 years ago.'[101] Additionally, women now make up 41 per cent of the paid non-agricultural sector and their involvement in vulnerable employment has decreased in more percentage points than that of their male counterparts. Furthermore, in terms of presence within the public field, '[t]he average proportion of women in parliament has nearly doubled during the same period.'[102]

However, even with the progresses that have been made in terms of women's access to education, 'women face a more difficult transition to paid work and receive lower earnings than men.'[103] It is estimated that women, on average, receive 24 per cent less in wages than their male counterparts. Factors that are noted to hinder women's ability to work, as well as how much they are able to earn, include responsibilities in the home as well as 'cultural constraints.'[104] These factors contribute towards the reality of women having 'little or no financial security or social benefits.'[105]

The final indicator for the third MDG involves women's participation in the public field. Participation in the public sphere in terms of parliamentary seats is separated into positions. The global average of seats occupied by women in the 'single or lower houses of

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[97] Ibid at 25.
[98] Ibid.
[99] Ibid at 26.
[100] Ibid.
[101] Ibid at 5.
[102] Ibid.
[103] Ibid at 30.
[104] Ibid.
[105] Ibid.

parliament'[106] is estimated at 22 per cent of total seats. As successful as this may seem, women's presence within parliamentary leadership positions, whose occupants speak on behalf of parliament, remains low, at a mere 16 per cent average worldwide.[107] Furthermore, much of this progress has been the result of fulfilling electoral quotas that relate to increasing female presence and the 'significant slowdown in progress since 2014 could be an indicator that the 'fast-track' impact of gender quotas has reached its peak.'[108]

The goal to improve maternal health by means of reducing maternal deaths and increasing the presence of skilled personnel for every live birth has also received positive light by the 2015 Report as it boasts results such as a global decline in the maternal mortality ratio by 45 per cent.[109] The report also claims that the amount of births that were attended by personnel increased to 71 per cent worldwide.[110] However positive this may be, the implications are that a quarter of women giving birth are doing so without access to the medical care they need.

Although the maternal mortality ratio has decreased by almost half with a reported average of 210 deaths per every 100,000 live births as of 2013,[111] this is still short of the aim to reduce the maternal mortality ratio by 75 per cent. Women in the developing region constitute the majority of these deaths, with 86 per cent of the deaths in 2013 occurring in sub-Saharan African and Southern Asia.[112]

'Profound inequalities'[113] exist regarding access to reproductive health care, and the disparities between and within regions are striking. For instance, in Eastern Asia, access to reproductive health services is even throughout the area as '100 per cent of births are attended by skilled health personnel in both urban and rural settings'[114] as compared to Central Africa where there is a 52 percentage point difference in attendance by skilled personnel between the rural and urban environments.

The goal of improving maternal health is also measured by the percentage of pregnant women that receive the recommended four antenatal medical visits. The average for the

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[106] Ibid at 31.
[107] Ibid.
[108] Ibid at 31.
[109] Ibid at 6.
[110] Ibid at 6.
[111] Ibid at 38.
[112] Ibid at 39.
[113] Ibid at 40.
[114] Ibid.

developing world is just over half, with 52 per cent of pregnant women receiving adequate antenatal health care.[115] There is no data available for the developed world.

According to the 2015 Report, the rate of HIV infections has declined globally. Available date suggests that between 2000 and 2013 the infection rate fell 'from an estimated 3.5 million new infections to 2.1 million'[116] with sub-Saharan Africa accounting for over half of the new infections in 2013. Although there has been 'moderate progress in HIV prevention efforts,'[117] States have failed to stop the spread of HIV. The 2015 Report attributes this failure to the lack of knowledge on how to prevent its spread, with only 30 per cent of women in sub-Saharan Africa recorded as having an adequate understanding of HIV.[118] Regardless of the silence surrounding the gendered aspects of HIV, an earlier report on the progress of the MDGs highlights that there is 'growing evidence [that] links gender-based violence with the spread of HIV…[which] also points to the continuing need for social change.'[119]

The above statistics present some progress with regard to what has been achieved for the goals relating to women's human rights. However, this 'progress has been uneven across regions and countries, leaving significant gaps.'[120] As a result of the reality that women are still struggling with discriminatory practices in accessing work, economic resources and participating in decision-making both in public and the private sphere women are more prone to experience impoverished circumstances than men.[121]

This section has addressed some of the global averages that have been achieved since the time of the adoption of the Millennium Declaration and the start of the MDGs. The latter data is compared with statistics from 1990, presumably as a marker for the beginning of the global concern for development as stated earlier in this chapter. Although these global averages represent fair progress, the disparities between the urban and the rural, the rich and the poor and the developed and the developing world remain a feat to be dealt with. Chapter four will address some of the aspects that contribute towards this tendency by looking at Africa as a case study for regional applications of the international agenda. The next section addresses a gendered perspective on the MDGs, which aid in understanding why these goals have not been met and what can be done to achieve them.

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[115] Ibid at 41.
[116] Ibid at 45.
[117] Ibid.
[118] Ibid.
[119] United Nations, The Millennium Development Goals Report, (15 June 2010) at 44 available at http://www.un.org/millenniumgoals/pdf/MDG%20Report%202010%20En%20r15%20-low%20res%2020100615%20-.pdf accessed 30 July 2015.
[120] Op cit note 16 at 8.
[121] Ibid.

VI GENDER ANALYSIS OF THE MILLENNIUM DEVELOPMENT GOALS

This section is dedicated to the analysis of the progress explored above, of the fulfilment of the global development agenda from a variety of feminist perspectives. Additional focus on the concepts of gender and empowerment and the elaboration thereof aids the assessment as to why the goals have fallen short of their 2015 aims.

According to Unterhalter,[122] by neglecting to incorporate an understanding of gender as a socially constructed concept that has direct consequences for the socio-political and economic realities of women, the MDGs have failed to recognise the specific needs of women. Instead, the global development agenda uses the term gender, as a manner in which to measure female presence, in terms of data, within the targets of the MDGs.[123]

Additionally, the goals do not address women's empowerment to its full capacity. In neglecting to broaden the understanding of the components of empowerment, the goals further fail to recognise the specific needs of women. According to Kabeer, empowerment entitles those that have previously been denied the privilege of choice with the ability to make informed decisions; decisions that are informed by the awareness of any available alternative choices.[124] An element of realising this aspect of empowerment involves the unravelling of certain, often institutionalised, societal understandings that shape women's perceptions of what freedoms are available to them by virtue of being human, as 'institutional bias can constrain peoples' ability to make strategic life choices.'[125]

In exploring the relationship between agency, access to resources and relative achievements – the key ingredients to making informed decisions – Kabeer states that choices should encourage resistance towards existing norms and to challenge such social norms i.e. to practice 'active,' not 'passive' agency.[126] In order to adequately empower women, it is necessary to acknowledge that the current political, social and economic bias is one that favours men and the boy child.

The resources required to be able to make informed decisions such as 'land, credit, access to technology and markets, supportive political institutions and cultural norms'[127] are distributed in a manner which represents the power-relations that are based on this gendered bias. Therefore, in order to alter this bias, governments must actively engage in policy-

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[122] Op cit note 22 at 111.
[123] Ibid at 112.
[124] Op cit note 21 at 13-14.
[125] Ibid 14.
[126] Ibid 15.
[127] Op cit note 18 at 190.

making that challenges these norms so that society may reflect upon these alterations and continue to make decisions that reflect this challenge. In order to fully empower women, this access to resources needs to be equalised. Resources should be accessible to the individual and not simply through the family, as the family is yet another point at which inequality may be perpetuated.[128]

For example, although achievement of, or improvement towards, the aim for gender parity in education is commendable, it does not address gender biases that perpetuate gender discrimination. Access to education has been noted to have positive effects such as offering women the ability to think critically,[129] yet the quality of education offered needs to reflect a paradigm that respects gender equality. In order to ensure women's empowerment, the curriculum used in schools needs to be changed to reflect the values enshrined in the UDHR, CEDAW and other international conventions regarding human rights. Additionally, learning facilitators should be adequately trained so as to address the potential reproduction of 'hidden curriculum[s]'[130] that may view girls as in lesser need of being educated for careers and in more of a need for learning how to be a good housewife. This would simultaneously impact the target to achieve less gender disparity within the non-agricultural working world.

Failure on behalf of the MDGs to integrate a gendered approach prevents the collection of information that might prove beneficial for policy makers, such as the methods necessary to appropriately empower women. For example, Barton states that the benefit of a feminist analysis in the field of education would expose what is preventing girls from accessing education, regardless of whether it is free or not, and aid in developing policies to amend these gaps in implementation.[131] Factors range from the social such as fearing violence from their male counterparts, to infrastructural barriers such as a lack of facilities that cater for gender specific needs – one example being adequate sanitation for menstruation.[132] These factors compounded with economic barriers such as an inability to pay for uniforms or transportation and the tendency to favour giving resources towards boys' education in the home massively impact female attendance rates.[133]

Empowerment by means of employment has potential to give women leverage within their private lives. However, both the feeling and reality of independence are undermined by the exploitative working conditions many women face. These include long working hours,

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[128] Op cit note 21 at 15.
[129] Ibid 16.
[130] Ibid 17.
[131] Op cit note 19 at 7.
[132] Ibid.
[133] Ibid.

the refusal for many women to create and join unions, as well as inadequate job security.[134] Additionally, Kabeer's research shows that some women feel no sense of liberation at all and continue to bear a full load within their domestic lives. 'By and large, gender inequalities in work burdens appear to be intensified'[135] because of deep-seated beliefs that women are the primary caretakers in the home.

In terms of the success of increasing women's presence in the public field, there is potential to increase the importance of addressing women's human rights by way of representation. However, the reality of this being achieved requires the acknowledgement that full representation may not be a possibility considering the fact that most female candidates appear to be members of a higher economic bracket.[136] In addition to this, the nature of women's presence by means of occupying parliamentary seats in order to fill quotas must be questioned.

The fifth MDG relating to maternal health perpetuates traditional understandings of women as existing solely to occupy the role of mother. Women are consistently held in a light that reduces them to their biological functions. This is not to say that the rate of maternal mortality is not an important issue, especially in the developing world. However, it does beg the question as to why women's sexual and reproductive health overall is not a factor that needs improving.

In the same manner that the MDGs neglect to assess the social aspects of what is keeping girls out of school, Goal 5 does not offer insight into the social patterns that are preventing women from accessing adequate health care in the first place. Barton suggests that some of the social hurdles are 'gender discrimination' in the form of '[s]ocietal norms that limit women's mobility' as well as rates of illiteracy.[137] In linking with Goal 3, empowerment requires access to resources, education, employment and public participation to ensure that women have power over their bodies.[138]

An additional hurdle to the empowerment of women is that there is no goal, target or indicator that measures the issue of violence against women.[139] Violence and the fear of violence against women can be said to be one of the biggest hurdles for the empowerment of women as 'it is the most obvious manifestation of women's lack of empowerment'[140] and

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[134] Op cit note 21 at 20.
[135] Ibid.
[136] Ibid at 21.
[137] Op cit note 19 at 9.
[138] Op cit note 18 at 190.
[139] Op cit note 20 at 2.
[140] Ibid.

perpetuates the status of men as the dominant sex. According to Bradley, this silence in the goals relates to the difficulty of the data collection around this issue. Additionally, the sensitivity surrounding the topic makes the collection of data a difficult feat.[141]

Although CEDAW did not state in 1979 any articles on the elimination of gender-based violence, the Committee amended this omission in its 1989 General Recommendation 12 and in its 1992 General Recommendation 19. General Recommendation No. 12 recommends that states party to CEDAW submit within their reports what measures have been adopted to address the problem of violence against women 'occurring within the family, at the workplace or in any other area of social life.'[142] These measures include the implementation of services that are available to women that have been victim to any acts of violence, inclusive of sexual harassment. Additionally, reports require 'statistical data on the incidence of violence.'[143] General Recommendation No. 19 furthers the initial recommendation by requiring comments on the manner in which the articles of the original convention (CEDAW) are affected by violence. Recommendations by the Committee include taking measures to eliminate violence in the form of negative stereotypes, such as the introduction of 'education and public information programmes to help eliminate prejudices which hinder women's equality.'[144]

The above invalidates the argument that there is no means with which to measure violence against women. States have been advised to commit themselves to the submission of data surrounding incidences of violence against women. Therefore, there is no reason as to why the MDGs have omitted this issue that is impacting the ability to achieve the goal of women's empowerment. Additionally, the 2015 Report acknowledges the need for gender-based violence to be addressed in order to empower women and fulfil the ambitions of the third MDG.[145]

Although there are already clear obligations on UN Member States to observe and improve women's lived realities globally, as most have signed and ratified conventions such as CEDAW or are party to the development agenda that suggests ratification and fulfilling

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[141] Ibid at 2-3.
[142] The Committee on the Elimination of All Forms of Discrimination against Women 'General Recommendation No. 12 – Violence against women' (8th session 1989) available at http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/General_Recommendations_1-25-English.pdf accessed 30 July 2015.
[143] Ibid.
[144] The Committee on the Elimination of All Forms of Discrimination against Women 'General Recommendation No. 19' (11th session 1992) at para 24(*f*) available at http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/General_Recommendations_1-25-English.pdf accessed 30 July 2015.
[145] Op cit note 16 at 31.

obligations of said conventions, there is lack of an overt integration of the international human rights norms and standards within the goals themselves.

Criticism along these lines is presented by Barton who claims that the development agenda mainly has economic development as its interests and, as such, neglects to integrate gains that have been made for women in recent history such as the outcome of the 1995 Fourth World Conference for Women, held in Beijing.[146] The outcome document, the Beijing Declaration and Platform for Action acknowledges that inequality between the sexes is still a reality and women are disproportionately affected by poverty as a result.[147] Additionally, it states that in order to further global development, the involvement of the entire population is needed, which can only occur once an adequate gender analysis has been integrated into the development agenda.[148] Integrating conventions and international agreements related to gender, such as the Beijing Declaration and Platform for Action and CEDAW would necessitate the inclusion of gender within all goals, offering a critical viewpoint which could further the progresses of the global development agenda.

An additional criticism of the current development agenda is its lack of enforcement mechanism. Although the agenda pertains to the already established commitments of Member States to the fulfilment of duties regarding the promotion and protection of human rights, this is merely a suggestion.[149] The lack of a human rights-based approach that would integrate the already established 'minimum standard' for legal reform and policy developed by the international human rights system[150] is reminiscent of the criticism highlighted earlier in this chapter regarding the International Development Goals. By linking with treaties such as CEDAW and the ICESCR, countries would be responsible for the compulsory submission of in-depth reports to all monitoring bodies, and as such, would require insight into human rights issues.

Although one of the aspects of the MDGs that has been found to be appealing to Member States is the very fact that they are non-binding and comprehensive,[151] the comprehensive nature of the goals can benefit the fulfilment of the international human rights commitments (the steps towards the achievement of which are often unclear) that the goals themselves intend on addressing.[152] In turn, the global development agenda would

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[146] Op cit note 19 at 1.
[147] Op cit note 5 para 47.
[148] Ibid.
[149] Op cit note 23 at 79.
[150] Ibid at 83.
[151] Op cit note 26 at 2210.
[152] Op cit note 23 at 85.

automatically necessitate a gendered analysis, as the commitment to international conventions is inclusive of CEDAW that requires States to 'condemn discrimination against women…[and to develop] a policy of eliminating discrimination.'[153]

Mainstreaming gender throughout the goals would expose the interconnected nature of the goals and thus expose further the roots of disempowerment. For example, Goal 6, which aims to combat the Human Immunodeficiency Virus (HIV), disproportionally affects women, especially women in poorer regions of the world.[154] This increase is 'due to realities of violence and lack of control over sexual and reproductive rights',[155] which is a direct result of a lack of empowerment addressed by Goal 3. Goal 5, which aims to reduce maternal mortality, is also affected by the spread of HIV,[156] whilst a lack of education has been seen to increase the percentage of adolescents falling pregnant, explicitly linking maternal health with the aim to achieve universal education.[157] Other issues relating to the spread of HIV include children trading sexual intercourse in order to pay school fees[158] which directly links to Goals 2 and 3. A feminist perspective when establishing worldwide goals can help to combat issues that are both the cause and the result of poverty by bringing their connectivity to light.

This section has addressed the manner in which the MDGs have neglected to fully engage with the socio-political concept of gender. In so doing, the aim to achieve women's empowerment by means of education, employment and public participation has been left unfulfilled, and the situation will continue until an analysis of the social barriers that women are facing is taken into account. In addition to this, the goals continue to perpetuate traditional understandings of women as mothers, contributing to the impediment of the promotion and protection of women's human rights.

VII CONCLUSION

This chapter has addressed the historical context in which the current global development agenda was formed. It has analysed the overall intention that the agenda has in relation to the fulfilment of international human rights norms and standards and has shown that the development agenda and the international human rights agenda – by means of international conventions – are indeed compatible. However, through an analysis of the MDGs, this

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[153] Op cit note 6 art 2.
[154] Op cit note 19 at 9.
[155] Ibid at 10.
[156] Op cit note 119 at 31.
[157] Ibid at 35.
[158] Op cit note 19 at 10.

chapter has shown that although there is the stated intention in the foundational documents of the goals, the goals themselves lack clear obligation to the promotion and protection of human rights, specifically those related to the rights of women. In order for women's human rights to be explicitly dealt with, the integration of an appropriate gender analysis by the development agenda is necessary, as well as the establishment of appropriate goals and targets to accompany this analysis.

CHAPTER THREE

THE DRAFT POST-2015 SUSTAINABLE DEVELOPMENT GOALS

I INTRODUCTION

The achievement of the MDGs was set down for the end of 2015, but the international community have now committed to continuing the global drive towards poverty alleviation through development in the form of the draft post-2015 SDGs. In conjunction with the growing awareness of the daunting news brought by environmental sciences[159] of the manner in which human development is causing destruction to the planet that sustains it, the development agenda is addressing itself to accommodate this within its plan for the future. UN Member States 'have called for holistic and integrated approaches to sustainable development that will guide humanity to live in harmony with the planet's fragile ecosystems.'[160]

The global sustainable development agenda in the form of the final post-2015 SDGs is planned for adoption by nation states between the 25th and 27th September 2015.[161] This chapter thus reflects the current stage of the formulation of the goals (as of August 2015), and is therefore somewhat theoretical. As of yet there are no concrete goals available for analysis, so the draft goals have been used as the basis of this discussion. This is done through an analysis of foundation documents the goals intend to implement, namely, The Future We Want and The Road to Dignity.

Additionally, this chapter assesses the potential impact that the post-2015 SDGs may have on the gendered realities of the human population. In addressing core documents, this chapter exposes whether there is the intention for the development agenda to actively engage with and incorporate the criticisms highlighted in the previous chapter whilst simultaneously adapting a newer discourse, that of sustainable development.

II SUSTAINABLE DEVELOPMENT

Scientists have labelled the planet's current age as the Anthropocene epoch.[162] It is an age defined by human activity that continues to negatively impact the Earth's ecosystems so drastically that it has begun to alter the planet's natural ecological patterns; it is the 'epoch in

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[159] Op cit note 25 at 614.
[160] Op cit note 11 para 35.
[161] Sustainabledevelopment2015.org/index.php/intergovernmental-processes accessed 3 July 2015.
[162] Op cit note 25.

which humans and [their] societies have become a global geophysical force.'[163] Human interference with the Earth's natural cycles has resulted in a loss of biodiversity and an increase in dangerous living circumstances for human civilisation.[164] Terms such as 'climate change' are being used to express this danger that has been brought about by human behaviour both historically and at present. Steffen et al. offer an in-depth look into which human activities have been carried out to the detriment of the planet, of which industrialisation and the exploitation of non-renewable energy sources, as well as their by-products, comprise a huge proportion.[165]

The Earth's systems need to function sustainably in order for human society to continue 'thriving.'[166] In order to continue the utilisation of natural resources to support the human population in terms of development, it is necessary for the development agenda to adapt itself to the present context and begin to work within the boundaries of environmental limits as opposed to developing in a manner which neglects to see the earth's resources as finite.[167] In acknowledging that the survival and evolution of humanity is intricately interrelated to the existence of the entire planet, faulty policies that have damaging consequences for surrounding ecosystems that simultaneously result in devastation for human populations must be addressed.[168]

Over the past forty years there has been a series of conferences devoted to the topic of sustainable development and the environment, recognising the interconnected relationship between human activity and life upon the environment, the culmination of which is The Future We Want. Although the term 'sustainable development' was coined by the Brundtland Report[169] in 1987, the paradigm shift regarding the relationship that humans have with their environment was highlighted at least fifteen years prior.

In 1972 the Stockholm Declaration presented the world with basic principles and brought the world's attention to the manner in which humans have affected their environment.[170] This declaration can be said to be the foundation of what is known in the present day as sustainable development. The document acknowledged this connection by

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[163] Ibid at 614.
[164] Ibid.
[165] Ibid.
[166] Op cit note 24 at 305.
[167] Ibid.
[168] Ibid at 306.
[169] Op cit note 13.
[170] G Handl 'Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992' (2012) United Nations Audiovisual Library of International Law available at http://legal.un.org/avl/pdf/ha/dunche/dunche_e.pdf accessed 20 July 2015.

proclaiming that 'man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth.'[171] After stating how humankind benefits from its surroundings, the Stockholm Declaration states that '[t]he protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world.'[172] Living out of balance with the environment, using the surrounding resources as though they are finite has daunting implications for humanity in many ways.

Both over-development and underdevelopment have ailed societies the world over, and requests for the developed world to aid the developing world by means of technology and finance abound.[173] The 10th principle of the Stockholm Declaration states that 'economic factors as well as ecological processes must be taken into account.'[174] Although the term sustainable development was yet to be coined, this relates to the three-tiered approach to sustainable development, being the integration of social and economic development within the limits of ecological processes, and can be said to be the foundation for the new sustainable development model. The call for the inclusion of social development as a means to necessitate both a human and an environmental 'quality of life'[175] attests to this foundation.

An additional principle of the Stockholm Declaration is the principle of intergenerational responsibility, to both current and future generations.[176] Conscious development is seen as a means of ensuring sustainable change, and through the incorporation of the principle of intergenerational responsibility,[177] the Stockholm Declaration asks governments to ensure that their policies do not impede on the possibility for future generations to develop themselves further.

The Brundtland Report brings sustainable development into the political arena, and correlates environmental concerns with poverty eradication. For instance, it states that '[s]ustainable development requires meeting the basic needs of all and extending to all the opportunity to satisfy their aspirations for a better life.'[178] This statement highlights the third aspect of the three-tiered approach, by integrating concerns for social development in a much

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[171] Op cit note 12 para 1.
[172] Ibid para 2.
[173] Ibid principle 9.
[174] Ibid principle 10.
[175] Ibid principle 8.
[176] Ibid principle 1.
[177] Ibid principle 1.
[178] Op cit note 13 Chap 2 para 4.

more direct manner than the Stockholm Declaration did. According to the Brundtland Report, this social (read human) development can only be nurtured through economic growth[179] whose impact on the environment is curbed by the alteration of consumption patterns in order to reach 'standards that are within the bounds of the ecological[ly] possible and to which all can reasonably aspire.'[180]

The Rio Declaration on Environment and Development (hereinafter, Agenda 21) of 1992 reaffirms the commitment of Member States to the promotion of sustainability through development. Whilst calling for international cooperation, Agenda 21 acknowledges the rights of states to 'exploit their own resources' by the means with which they choose, so long as the consequences do not impact neighbouring states or 'areas beyond the limits of national jurisdiction.'[181] Having said that, the document also states that protection of the environment, if Member States act on the agreement they have committed to, is 'an integral part of the development process and cannot be considered in isolation from it.'[182] Additionally, the human population and their interests are to be at the centre of any policies concerning sustainable development, as part of the entitlement of humans to a 'life in harmony with nature.'[183]

The Johannesburg Plan of Implementation of the World Summit on Sustainable Development builds on the principles that have been established before it. It commits itself both to these documents that precede it as well as the MDGs as presented by the Millennium Declaration.[184] Its main aim is to strengthen the international cooperation regarding the principles that have been mentioned, such as intergenerational equity and poverty eradication through sustainable development, as well as the promotion of 'the integration of the three components of sustainable development – economic development, social development and environmental protection – as interdependent and mutually reinforcing pillars.'[185] This document, as opposed to its predecessors that concern themselves with the establishment and promotion of principles, provides aims for States to commit themselves to. Many of these are incorporated into the post-2015 sustainable development agenda, such as the aim for children to receive universal primary education.[186]

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[179] Ibid para 6.
[180] Ibid para 5.
[181] Op cit note 14 Principle 2.
[182] Ibid Principle 4.
[183] Ibid Principle 1.
[184] Op cit note 15.
[185] Ibid para 2.
[186] Ibid para 7*(g)*.

This chapter now turns to the manner in which these documents have filtered into the formulation of the post-2015 global sustainable development agenda.

III THE FUTURE WE WANT AND THE ROAD TO DIGNITY

Having established the present situation regarding the development agenda of the MDGs, as well as the historical developments of the drive for sustainability, this dissertation now turns to an analysis of the foundational documents that set the tone for development for the next fifteen years. The Future We Want is the outcome document of the Rio+20 United Nations Conference on Sustainable Development held in Rio de Janeiro, Brazil. The Road to Dignity is the synthesised report submitted to the UN by the Secretary General on the post-2015 development agenda, spearheaded by The Future We Want. These are the documents equivalent to the Millennium Declaration and the Road Map.

UN Member States commit themselves to the 'accelerated' effort for the fulfilment of the MDGs by the end of 2015.[187] Regardless of whether the goals are to be achieved by the deadline, according to Griggs,[188] MDGs have brought global policy setting into the international arena in terms of both public interest and support. Extending the development agenda because of the 'insufficient and uneven'[189] progress during the MDGs whilst simultaneously addressing growing environmental concerns can thus further the potential for human development and continue to grow support.

Amongst the conversations on the reduction of unsustainable activities and the promotion of 'sustainable patterns of consumption and production'[190] to encompass the global promise to incorporate sustainable development – including topics ranging from sustainable tourism,[191] cities[192] and transportation systems[193] to the protection of the oceans and seas,[194] expressions of concern regarding climate change,[195] and the importance of biodiversity[196] - are the themes that have been carried forward from the current MDGs. Poverty eradication, for example, remains a high priority in the agenda,[197] with the document highlighting that the people most affected by poverty continue to be women and children,

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[187] Op cit note 2 para 5.
[188] Op cit note 24 at 306.
[189] Op cit note 11 para 28.
[190] Op cit note 2 para 4.
[191] Ibid para 130-1.
[192] Ibid para 134-7.
[193] Ibid para 132-3.
[194] Ibid para 158-77.
[195] Ibid para 190-2.
[196] Ibid para 197-204.
[197] Ibid para105-7.

'particularly in Africa.'[198] The aim of the post-2015 global sustainable development agenda is to continue the previous efforts of the UN Member States and achieve this within the three dimensions of sustainable development: the environmental, the social and the economic spheres.[199]

Poverty reduction is 'an indispensable requirement for sustainable development.'[200] Additionally, 'democracy, good governance and the rule of law, at the national and international levels… sustained and inclusive economic growth, social development, [and] environmental protection'[201] are considered to be vital for the international development agenda to succeed in its aim to secure a safe, equitable and sustainable future for current generations and generations to come.

The Future We Want refers to the need for policy to be implemented at all levels, global and regional, as a means of fully engaging with the global agenda and creating 'concrete action'[202] in order to 'develop and utilize sustainable development strategies as key instruments for guiding decision-making and implementation of sustainable development.'[203] This can be equated to the scientifically based ideology of bioregionalism, which sees community-based action at a local level within defined geophysical boundaries integrated within the global spectrum to effect environmentally-focused change.[204] Local and regional activity that is contextually filtered from international policy has the capacity to affect change at the grassroots level.

Both The Future We Want[205] and The Road to Dignity[206] express the need for forward action to be inclusive of the human population at all levels, from grassroots organisations, to businesses and to the upper levels, being government and international organisations such as the UN. In order to reshape the economic field to be able to incorporate more viable ways of including positive human development, it is necessary for governments to take their local context into account and put their people at the centre of policy-making.[207]

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[198] Ibid para 105.
[199] Ibid para 1.
[200] Ibid para 2.
[201] Ibid para 10.
[202] Ibid para 97.
[203] Ibid para 98.
[204] R D Lipschutz 'Bioregionalism, Civil Society and Global Environmental Governance' in M V McGinnis (ed) *Bioregionalism* (1999) 101.
[205] Op cit note 2 para 13.
[206] Op cit note 11 para 34.
[207] Ibid para 6.

However, reflecting on the MDGs, Darrow states that 'for a great many governments and constituencies, the need to tailor the MDGs to national conditions is not self-evident.'[208] Although not explicit, for the purposes of the continuation of the development agenda, applying the global agenda to local realities may be inferred by the affirmation of 'respect [for] each country's national sovereignty over their natural resources taking into account its national circumstances, objectives, responsibilities, priorities and policy space with regard to the three dimensions of sustainable development.'[209] The Road to Dignity confirms the need for local interpretation of the universal understanding of what changes need to be made. As ecological problems are global and not bounded by borders, an awareness of the global common good is necessary in all regional and local applications of the universal goals.[210]

The Road to Dignity states an additional aim for the global development agenda. Similar to its predecessor, the post-2015 sustainable development agenda aims to 'forge a new global partnership.'[211] However, this partnership aims to include civil society, academia and global leaders in order to create a science-based and humane approach to development,[212] unlike its predecessor whose main aim was to forge a relationship between the developed and the developing world. Additionally, in its call for the opinions of different interests groups, the synthesised report acknowledges public opinion that 'has underscored the call for the urgent need to recognize and address the trust deficit between Governments, institutions and the people.'[213]

Relevant interest groups unanimously called for the integration of the three-tiered sustainable approach to development,[214] as well as requesting a framework to be embedded within the agenda to monitor and review the action of States, organisations and businesses in order for these parties to be held accountable to both the people and the planet.[215] An open working group was tasked with the responsibility of developing an action plan in the form of the post-2015 SDGs to integrate the views of all voices involved in the process of establishing a new global development agenda.

Currently, there are 17 post-2015 SDGs, to be refined and adopted by the Member States of the UN in September 2015. These goals, as found in the Report of the Open

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[208] Mac Darrow 'The Millennium Development Goals: Milestones or Millstones? Human Rights Priorities for the Post-2015 Development Agenda' (2015) 15 *Yale Human Rights and Development Law Journal* 55 at 72.
[209] Op cit note 2 at para 58*(b)*.
[210] Op cit note 11 para 48.
[211] Ibid para 37*(c)*.
[212] Ibid para 37*(a)-(c)*.
[213] Ibid para 52.
[214] Ibid para 55.
[215] Ibid para 56.

Working Group of the General Assembly on Sustainable Development Goals,[216] (hereinafter, the Open Working Group) are: Goal 1, to '[e]nd poverty in all its forms everywhere;'[217] Goal 2, to bring an end to hunger, ensure global food security, improve levels of nutrition and advocate sustainable methods of agriculture. The third goal addresses the health and well-being of the population regardless of age whilst Goal 4 aims to '[e]nsure inclusive and equitable quality education and promote lifelong learning opportunities for all.'[218] The fifth goal addresses the achievement of gender equality and the empowerment of females, from the girl child to adulthood. Goal 6 concerns the 'availability and sustainable management of water and sanitation for all' whilst Goal 7 addresses the same regarding 'modern energy.'[219] Regarding the economy, Goal 8 aims to ensure the promotion of 'sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.'[220] Goal 9 refers to the sustainability of industrial infrastructure. Goal 10 aims to '[r]educe inequality within and among countries.'[221] Goal 11 concerns the alteration of human civilisations to reflect inclusivity, resilience, sustainability and safety. Goal 12 is to '[e]nsure sustainable consumption and production patterns.'[222] The thirteenth goal relates to climate change, and the Open Working Group refers all action on the topic to an alternative intergovernmental form, the United Nations Framework Convention on Climate Change. Goal 14 is directed at the conservation of marine, ocean and sea resources to ensure they are used sustainably. Goal 15 concerns the protection, restoration and promotion of 'sustainable use of terrestrial ecosystems,' the management of forests, the aim to 'combat desertification, and halt and reverse land degradation and halt biodiversity loss.'[223] Goal 16 aims to ensure that societies are inclusive in terms of sustainable development and that there is access of all to justice, and to 'build effective, accountable and inclusive institutions at all levels.'[224] Goal 17 intends for implementation, and the means thereof, to be strengthened and to 'revitalize the global partnership for sustainable development.'[225]

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[216] United Nations General Assembly 'Report of the Open Working Group of the General Assembly on Sustainable Development Goals' (12 August 2014) A/RES/68/970 available at https://srsg.violenceagainstchildren.org/sites/default/files/documents/docs/report_of_the_open_working_group_of_the_general_assembly_EN.pdf accessed 29 June 2015.
[217] Ibid at 10.
[218] Ibid.
[219] Ibid.
[220] Ibid.
[221] Ibid.
[222] Ibid.
[223] Ibid.
[224] Ibid.
[225] Ibid.

Having determined that the intention of the post-2015 sustainable development agenda is to continue the aims of the MDGs in the framework for sustainable development that incorporates the social and the economic within the environmental spheres, the next section addresses how human rights are addressed by The Future We Want, The Road to Dignity and the draft post-2015 SDGs.

IV HUMAN RIGHTS AND THE DRAFT POST-2015 SUSTAINABLE DEVELOPMENT GOALS

The global development agenda is charged with the responsibility of furthering the human rights agenda. This section assesses the relationship that the post-2015 sustainable development agenda by means of an analysis of The Future We Want and The Road to Dignity with a focus on the international human rights agenda. As with the Millennium Declaration, The Future We Want acknowledges the necessity of the global drive for development with the need to recognise international law,[226] inclusive of conventions such as CEDAW.[227]

Paragraph 6 of The Future We Want establishes the need for inclusivity and equity in order to achieve the demands of the agenda.[228] These principles reflect already established international norms found within the UN Charter, which confirms its commitment to 'the purposes and principles of the Charter… with full respect for international law and its principles.[229] Although the UN Charter's main focus is upon international relations and strengthening the global community, its mention of 'encouraging respect for human rights'[230] has led the way to the adoption of numerous treaties and conventions with the intention of 'harmonizing the actions of nations'[231] for the purpose of alleviating injustice.

In mentioning the UDHR, The Future We Want strengthens the intention for the upcoming development agenda to incorporate the promotion and protection of 'human rights and fundamental freedoms for all, without distinction….'[232] The freedoms that are found within the UDHR include 'the right to education'[233] and 'a standard of living adequate for the health and well-being of himself and of his family.'[234] However, as the UN has aged, so too

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[226] Op cit note 2 para 58*(a).*
[227] Ibid.
[228] Ibid para 6.
[229] Op cit note 2 para 7.
[230] Op cit note 3 art 1.3.
[231] Ibid art 1.4.
[232] Op cit note 2 para 9.
[233] Op cit note 4 art 26.
[234] Ibid.

has the understanding that there are many intricacies involved in the attempts to achieve the realisation of basic human rights. This acknowledgement has allowed for the evolution of international law by means of the adoption of more treaties and conventions on the promotion and protection of human rights by UN Member States. This is reflected in the inclusion in The Future We Want of the intention to abide by 'other international instruments relating to human rights and international law'[235] in addition to the UN Charter and the UDHR.

The manner in which international human rights norms and standards are compatible with the post-2015 sustainable development agenda is elaborated on more explicitly in The Road to Dignity. This document states that there are six essential factors that are necessary to incorporate in order to guide the process of achieving sustainable development globally and the aims that were agreed on at the Rio +20 Conference. These six elements are: dignity, economic prosperity, justice, partnership, the planet and people.[236] These themes encapsulate the content found in a variety of internationally recognised, agreed upon and adopted conventions concerning human rights. For instance, the eradication of poverty falls under the element 'dignity'[237] and is a component of the right of the 'freedom from…want' to be upheld by UN Member States that have adopted the UDHR.[238]

Additionally, the International Covenant on Economic, Social and Cultural Rights (hereinafter the ICESCR)[239] deals with the rights of human to basics such as housing and food, which are aspects of a life without poverty. Hunger, lack of housing, discrimination and issues such as a 'lack of access to education and other basic services'[240] are considered to be aspects of an impoverished life.

The element of 'economic prosperity'[241] involves aims such as economic growth that benefits everyone, thus, 'the strength of an economy must be measured by the degree to which it meets the needs of people, and on how sustainably and equitably it does so.'[242] These needs, such as adequate employment, must be the basis of 'inclusive growth'. Further, 'economic success' is to be measured not only by the Gross Domestic Product of a country, but by how well their entire population – regardless of age, sex, race or other defining factors

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[235] Op cit note 2 para 9.
[236] Op cit note 11 para 66-71.
[237] Ibid para 67-68.
[238] Op cit note 4 Preamble.
[239] Op cit note 79.
[240] United Nations General Assembly 'Report of the World Summit for Social Development' (6-12 March 1995) A/CONF.166/9 para 19 of Annex II Chapter II available at http://www.un.org/documents/ga/conf166/aconf166-9.htm accessed 30 June 2015.
[241] Op cit note 11 para 72-74.
[242] Ibid para 72.

– is doing regarding issues such as 'employment, social protection, and access to financial services.'[243] These aspects of 'prosperity' can again be linked to the ICESCR.[244]

The element of 'justice'[245] entails that '[l]aws and institutions must protect human rights and fundamental freedoms.'[246] 'Justice' includes the right for civil society to advocate on behalf of vulnerable groups including women and youth, the right to the freedom of speech[247] and the aim for '[t]he practice of child, early and forced marriage [to] be ended everywhere.'[248] Although the UDHR does not refer to child marriage, it does refer to the right to engage freely in marriage at a 'full age'[249] with 'full consent.'[250]

'Partnership'[251] requires good governance, 'mutual accountability'[252] and action from the local to the global. The creation of 'responsible public-private-people partnerships'[253] involves all sectors: public, private, business and civil society. Although there is no specific right to good governance, it is a necessary precondition for the achievement of both sustainable development and international human rights norms and standards.

The element involving the protection of the planet,[254] relates back to the section of this chapter that explains the need for sustainability. In order to adequately fulfil the human right to life, health and a healthy environment, the protection of the planet and the achievement of victories such as 'climate justice'[255] is a vital component. Additionally, the ICESCR states that all humans are entitled to '[t]he improvement of all aspects of environmental…hygiene.'[256]

The sixth guiding element necessary for the full potential of the post-2015 sustainable development agenda to be fulfilled is that of 'people.'[257] This element addresses the fact that '[m]illions of people, especially women and children, have been left behind in the unfinished work of the [MDGs].'[258] In order to address this gap in the achievements of the development agenda, it is necessary to engage with human rights such as the right to an education within

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[243] Ibid.
[244] Op cit note 79 art 6,11.
[245] Op cit note 11 para 77-79.
[246] Ibid para 77.
[247] Op cit note 4 art 19, 20.
[248] Op cit note 11 para 78.
[249] Op cit note 4 art 16.
[250] Ibid art 16(2).
[251] Op cit note 11 para 80-81.
[252] Ibid para 81.
[253] Ibid.
[254] Ibid para 75-76.
[255] Ibid para 75.
[256] Op cit note 79 art 12.
[257] Op cit note 11 69-71.
[258] Ibid para 69.

an environment that promotes the safety of the learner. Women's human rights such as the right to be free from violence, as well as the right to own assets, must be promoted. Additionally, health and the access thereto, is addressed for all women, including mothers, girl-children, and those that are diagnosed with diseases such as AIDS, amongst other ailments.[259] Many of the rights relating to women can be found within CEDAW and will be further elaborated on in the next section. As with first principle, 'dignity,' many of the human rights that relate to the 'people' element of the post-2015 sustainable development agenda can be found within, or derived from, the ICESCR, such as the right to adequate health.[260]

Through an analysis of both The Future We Want and The Road to Dignity, this section has shown that the post-2015 sustainable development agenda is compatible with the established norms and standards of an array of ratified and adopted international human rights conventions that already oblige states to uphold these norms and starts. This dissertation now turns to an analysis of gender issues in the draft post-2015 SDGs. It highlights which of the draft goals, presented in the above section, explicitly deal with women's human rights.

V GENDER AND THE DRAFT POST-2015 SUSTAINABLE DEVELOPMENT GOALS

Having established that part of the intention of the post-2015 global sustainable development agenda is to uphold human rights norms and standards, as with the Millennium Declaration and the Road Map, this section investigates whether the intention as stated in the foundational documents has filtered its way into the draft post-2015 SDGs as presented by the Open Working Group. As this dissertation is concerned with the impact of the global drive for development on the human rights of women, the overall attention of this section is on the draft post-2015 SDGs that are explicitly concerned with women. In order to fully assess the potential impact of the draft post-2015 SDGs on the lives of women, an analysis of the inclusion of gender in The Future We Want as well as The Road to Dignity is necessary.

This analysis on the current proposed goals and targets is in relation to the previous chapter's analysis of gender issues in the MDGs. Having established that the path towards women's empowerment was deficient in the implementation of the MDGs, a comparison on the same factors is made in this section. Therefore, this section assesses what both the documents and the suggested goals lend to the discussion regarding the empowerment of

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[259] Ibid para 69-71.
[260] Op cit note 79 art 12.

women, the concept of gender as a social construct and in relation to education, employment, public participation, women's sexual and reproductive rights as well as violence.

The Future We Want refers to the role of women in the achievement of sustainable development as 'vital.'[261] In terms of economic growth and human development both documents recognise the need to include the female population, as The Road to Dignity states, '[t]his is the century of women: we will not realize our full potential if half of humanity continues to be held back.'[262] In order to do so adequately, it is necessary to empower women to be able to contribute towards economic, environmental and social development in a manner that is not hindered by the construct of gender that has prevented the realisation of women's human rights thus far. In order to achieve the aims of the post-2015 sustainable development agenda by 2030, gender equality is crucial.

Regarding gender, The Future We Want resolves to ensure 'the reform of institutions to ensure competence and capacity for gender mainstreaming and the development and adoption of innovative and special approaches, to address informal, harmful practices that act as barriers to gender equality.'[263] Although an elaboration of what these barriers actually are is omitted in both The Future We Want as well as The Road to Dignity, The Road to Dignity does include the need to 'accommodate the voices of women'[264] and other vulnerable groups. The concern is the manner in which the voices that represent the female population are chosen. For instance, if it is women that have political power by means of seats within parliament, which represent the female voice, then the needs and interests of the majority may not be adequately represented, as the previous chapter has stated.

Both The Future We Want and The Road to Dignity aim for the post-2015 sustainable development agenda to mainstream considerations of gender in all its goals by means such as requiring disaggregated data collection for the purposes of measuring implementation progress and the impacts of policies and programmes on the female population.[265] This addresses the lack of specification regarding the disaggregation of data throughout the MDGs that has left the current agenda open to criticism by authors such as Painter.[266] Furthermore, The Future We Want calls to international organisations as well as UN Member States, to

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[261] Op cit note 2 para 45.
[262] Op cit note 11 para 51.
[263] Op cit note 2 para 238.
[264] Op cit note 11 para 68.
[265] Op cit note 2 para 239 and op cit note 14 para 46.
[266] Op cit note 23 at 85.

consciously incorporate considerations of gender into the design and implementation of their policies.[267] Change can only occur if all of society is willing to partake.

Access to education is perceived to be 'an essential condition'[268] for the overall achievement of the aims of the post-2015 sustainable development agenda. It is vital for the human development aspect of the agenda, such as the achievement of women's empowerment, as a means to alter current behavioural and institutional patterns because 'the younger generations are the custodians of the future.'[269]Although the necessity of education, as well as the suggestion to integrate awareness of sustainability into curricula and extracurricular activities for the achievement of women's empowerment is acknowledged, The Future We Want lacks a gendered perspective on the topic. In light of the criticisms highlighted in the previous chapter, there is no recognition of the conditions that are preventing girls from accessing or finishing their education in the first place. The Road to Dignity, acknowledges the need for 'a safe environment in which to learn'[270] for all learners, regardless of their sex, yet does not contextualise this need.

As with education, The Future We Want neglects to consider the social constrictions that impede women's employment opportunities. The document requests States to provide 'equal access to opportunities to acquire job skills as to worker protections'[271] but is silent on the social aspects that favour the employment of men as well as why men tend to receive higher wages or salaries and better working conditions. Other than linking the potential success of the post-2015 sustainable development agenda with the desire to ensure employment for all groups,[272] the synthesis report is also silent on the impact of a gender bias on patterns of employment. A similar silence surrounds the topic of increasing female presence in the field of public participation. However, as with the above, it simultaneously supports 'women's equal rights and opportunities in political…decision-making.'[273]

In terms of the issue of women's sexual and reproductive rights, The Future We Want stands in a similar position as it does with the topic of education and employment; it promotes women's access to this human right as well as 'access to safe, effective, affordable and acceptable modern methods of family planning.'[274] However, whilst the societal biases that prevent women's access to sexual and reproductive health are not highlighted, by stating

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[267] Op cit note 2 para 243.
[268] Ibid para 229.
[269] Ibid para 230.
[270] Op cit note 14 para 69.
[271] Op cit note 2 para 152.
[272] Op cit note 14 para 72.
[273] Op cit note 2 para 240.
[274] Ibid para 241.

that access to family planning is 'essential for women's health and advancing gender equality,'[275] the document further perpetuates traditional understandings of women as suited to the domestic field by means of 'motherhood'. The Road to Dignity fails to promote and protect the sexual rights of women and makes mention of the need to promote women's reproductive rights only once.[276]

There is one reference in The Future We Want on the topic of violence, which states that all humans are to have full control over their decisions regarding sexual matters, 'free from discrimination and violence.'[277] The Road to Dignity furthers this by stating the agenda should 'ensure zero tolerance of violence against or exploitation of girls'[278] as part of the strategy to further the element of dignity required for human development.

The Future We Want and The Road to Dignity provide the foundation for the Open Working Group on the formulation of the draft post-2015 SDGs. Having established the 17 draft goals already, it is necessary to distinguish which of these goals explicitly deal with women and in what manner the topics of this section are approached.

The intended goal for women's empowerment is draft Goal 5 which concerns itself with the empowerment of both women and the girl child. The Report of the Open Working Group offers a more decisive synthesis of the proposed aims for the next 15 years of sustainable development and presents more extensive targets than the previous targets of the MDGs. Amongst these is the elimination of discrimination,[279] violence, in both the public and private fields, [280] and 'harmful practices, such as child, early and forced marriage and female genital mutilation.'[281] The Report broadens the aims of the previous agenda regarding women's participation in the public sphere, by including the facilitation of women's participation and leadership in the economic field as well.[282] Recognition of women's reproductive and sexual rights, as well as the aim to achieve access to these rights universally also features under the fifth draft post-2015 SDG, as well as through its reference to the Beijing Platform for Action.[283] Additionally, if applied appropriately goal 11 has the capacity to provide the safety necessary to combat some of the hurdles that are preventing the girl-

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[275] Ibid para 146.
[276] Op cit note 14 para 70.
[277] Op cit note 2 para 146.
[278] Op cit note 14 para 69.
[279] Op cit note 216 at 14 Goal 5.1.
[280] Ibid at 14 Goal 5.2.
[281] Ibid at 14 Goal 5.3.
[282] Ibid at 14 Goal 5.5.
[283] Ibid at 14 Goal 5.6.

child from accessing education, whilst goal 16 further ensures the 'protect[ion] of fundamental freedoms.'[284]

In order for the above to be achieved, the Open Working Group highlights the need for reforms to be made by Member States to accord women their rights regarding issues such as the ownership of and access to land and inheritance, amongst other 'economic resources.'[285] Additionally, the development and strengthening of legislation and policy should be undertaken in order to facilitate 'the promotion of gender equality and the empowerment of women.'[286]

As described in chapter two, women and the girl child carry the brunt of domestic duties within the private sphere. The draft post-2015 SDGs hope to change this by placing value on 'unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.'[287] However, the manner in which this target ends, by stating that it is to be contextually applied to each nation, reiterates the need for countries to translate both the current and future global development agendas into contextually appropriate measures. This echoes The Future We Want's respect for national sovereignty and promotes the principle of non-interference.[288] This principle may hinder the effort put into the achievement of Goal 5 and, as a result, could pose a problem for the global achievement of the post-2015 sustainable development agenda altogether.

Additional references to gender and women feature in other draft goals, as well. For instance, the Open Working Group calls for 'gender-sensitive development strategies[289] in regard to the first goal, being the eradication of poverty. In relation to education, the document aims for gender inequality to be reduced whilst reforming education to incorporate the 'skills needed to promote sustainable development…human rights [and] gender equality.'[290] Furthermore, the Open Working Group suggests that States aid in the alteration of facilities to become gender sensitive as well as 'provide safe, non-violent, inclusive and effective learning environments for all.'[291]

In terms of addressing the criticism regarding State accountability, the forthcoming post-2015 sustainable development agenda continues to omit obligatory language external to

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[284] Ibid at 14 Goal 16.10.
[285] Ibid at 14 Goal 5.a.
[286] Ibid at 14 Goal 5.c.
[287] Ibid at 14 Goal 5.4.
[288] Op cit note 2 para 58*(b)*.
[289] Op cit note 216 at 11 Goal 1.b.
[290] Ibid at 13 Goal 4.7.
[291] Ibid at 13 Goal 4.a.

relating the draft post-2015 SDGs to the already established commitments made by Member States. However, this may change with the finalising of the Goals.

This section has explored the manner in which the post-2015 sustainable development agenda as well as the draft post-2015 SDGs address women's human rights. The foundation documents – The Future We Want and The Road to Dignity – utilise the term gender as a means for measurement, neglecting to expand on the concept of gender as a marker for the social reality of women. The documents present umbrella aims, such as women's empowerment, without offering insight into the aspects of society that are preventing this from occurring, much like the MDGs. As stated in the previous chapter's analysis of the MDGs, without these insights, strategies aimed at empowering women neglect to adequately target aspects such as failures within curricula or safety in the workplace and can perpetuate problematic issues for women. The Open Working Group provides deeper insight into the means with which to achieve empowerment for women and proposes the necessity of gender sensitivity and mainstreaming, yet its lack of gender analysis remains problematic, especially regarding the reasons as to why women are disproportionately affected by poverty, inequality and violence and, as such, remain a vulnerable group.

VI CONCLUSION

This chapter has introduced the post-2015 sustainable development agenda. In exploring the history of the terms sustainable development, it has provided insight into the requirements of the post-2015 agenda, regarding the three dimensions of sustainability: the environment, the economy and social factors. Furthermore, this chapter has analysed the compatibility of the future agenda with the norms and standards of the international human rights agenda as well as explored the manner in which women's human rights are perceived and intend to be addressed by the draft post-2015 SDGs.

The fifth draft post-2015 SDG presents aims that are not new regarding the promotion and protection of women's human rights. Most correlate with the obligations established for UN Member States upon adoption and ratification of CEDAW as well as other international conventions such as the ICESCR.

Although the infrastructure is present in the foundational documents, the analysis required to fully develop appropriate policies and programmes that can facilitate the betterment of women's realities is not present. An adequate gender analysis can aid with the achievement of the post-2015 sustainable development agenda by giving insight into the reality of institutionalised patriarchal behaviours and attitudes that hinder the goal of

women's empowerment. The Open Working Group's draft post-2015 SDGs require a gender analysis in order to adequately mainstream gender and fulfil the targets that call for gender-sensitivity.

Although the foundational documents were vague as to the manner in which women's human rights are to be addressed and integrated into the post-2015 sustainable development agenda, the draft goals of the Open Working Group have established a more in-depth list of aims and targets by which to measure and implement the intention to strengthen the agenda to build women's empowerment and bring about gender equality. However, these are still the draft goals and with the final agenda to be agreed on by UN Member States later this year, '[p]olitics will ultimately determine the final result.'[292] Will the final goals for the new agenda reflect a watered down and hollow version of the draft goals? And will the apathy found in the failure to meet the already established commitments that Member States have made through the adoption of international conventions recur in the non-obligatory post-2015 sustainable development agenda, as they appear to have done with the MDGs?

The next chapter addresses the African regional context in which the goals will be met and determines how the manner in which women are viewed might hinder the implementation of the goals.

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[292] M Langford 'The Art of the Impossible: Measurement Choices and the Post-2015 Development Agenda' (2013) 24 *University of Oslo Faculty of Law Legal Studies Research Paper Series* 1 at 5.

CHAPTER FOUR

WOMEN IN AFRICA

I INTRODUCTION

Having determined the conditions necessary to further the empowervment of women, as well as the manner in which both the MDGs as well as the draft post-2015 SDGs address women's human rights, this chapter focuses on the regional aspects of the global development agenda.

To summarise, gender equality by way of women's empowerment requires a gendered analysis of the factors that impede women's full enjoyment of education, employment and socio-political participation. Additionally, the empowerment of women necessitates freedom from violence in all forms, inclusive of both physical manifestations of violence as well as systemic violence by means such as institutionalised discrimination. Although the MDGs have been shallow in their attempts to bring about gender equality, as is shown in chapter 2, the draft post-2015 SDGs intend to rectify this approach by including in the goal for women's empowerment and gender equality, targets such as the eradication of violence. However, the post-2015 goals are yet to be finalised.

In addition to the still-fluid nature of the post-2015 agenda, it states the need for nations to apply the goals contextually. Although this allows for nations to apply the international aim that has been agreed on by UN Member States in a manner that is more appropriate for their own circumstances, it also allows for nations to fall short on their commitments, both binding – by means of ratified treaties and conventions – and non-binding, regarding the development agenda. In analysing the African regional system regarding the human rights of women, this chapter explores the potential impact that regional systems have had, and may have, on the implementation of the global post-2015 sustainable development agenda. This is done by exposing the mechanisms that are allowing states to circumvent their international and regional obligations to the promotion and protection of women's human rights.

Through an analysis of these regional agreements, in conjunction with the contributions of alternative literature, this chapter highlights problem areas that are preventing the full realisation of women's human rights. As the previous chapters have established, by neglecting to adequately promote and protect women's human rights, the fulfilment of the development agenda overall is impeded, since gender equality and the empowerment of women are vital components of achieving a society characterised by the values and principles of the UN Charter, the UDHR and other international agreements.

II WOMEN IN AFRICA

Chapter 2 highlighted the global status regarding the progress towards the current standing achievements of the international development agenda. This section explores the reality of women's lives in Africa in part by assessing the same document released by the United Nations, the 2015 Report. To date, a specific regional document on the African progress on the MDGs in 2015 has yet to be published. Therefore, the 2014 Report will be used to supplement the findings of the global document as it presents a more thorough contextual study. The results that are analysed are limited to the fields that are directly related to women in the global development agenda. Secondary sources are used to further engage with the data supplied by the report, assisting to establish the African context regarding the human rights of women.

According to the 2015 report, in increasing net enrolment by 20 percentage points, sub-Saharan Africa experienced the most dramatic improvement in primary school enrolment.[293] This equates to around 80 per cent of children that are enrolled in primary education in sub-Saharan Africa, with a 99 per cent enrolment rate in North Africa.[294] Although this progress towards the achievement of universal primary education is comparably higher than any other region, it is necessary to view this progress in light of the fact that it was the region with the lowest rate in the 1990s. Additionally, Africa as a whole remains behind regarding rates of completion of primary education.[295]

In terms of levelling the gender gap in primary schools, sub-Saharan Africa has remained behind the world, contributing to more than half of the countries where reaching gender parity has proved problematic.[296] For instance, although 18 out of the 49 countries with available data have achieved gender parity in primary schools, the majority of African countries fall between a gender parity index of 0.8 and 0.97 (i.e. enrolment of between 80 and 97 girls for every 100 boys enrolling in schools).[297]

Girls are still behind their male counterparts regarding the statistics related to primary school completion, especially within rural regions where 'only 23 percent of poor girls in rural areas completed primary education in 2010/2011.'[298] The 2014 Report suggests that the girl-child's role in domestic chores is one of the factors that contribute towards 'poor learning

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[293] Op cit note 16 at 4.
[294] Ibid at 24.
[295] Op cit note 17 at 33.
[296] Op cit note 16 at 28.
[297] Op cit note 17 at 40.
[298] Ibid at 32.

outcomes'[299] as well as their leaving the education system before completing their primary education. Action by means of policy reform is suggested by the 2014 report as a necessity if the aim to achieve gender parity is to be fulfilled. However, according to data supplied in the 2014 Report by the United Nations Education, Scientific and Cultural Organisation, this is undermined by the fact that 'only eight out of the 53 African countries plan to monitor inequality in learning.'[300]

Thus far, this dissertation has shown that the incorporation of women into the formal and non-agricultural sector by means of employment is understood to aid in the growth of the economy, something that is vital for 'structural economic transformation in the continent.'[301] Africa continues to fall behind its global counterparts in terms of reaching the target to include women in paid employment, with a projected statistic of a 34 per cent female presence in the sub-Saharan non-agricultural sector in 2015.[302] This is a ten-percentage point increase since 1990.[303] According to the 2015 Report, there has been no improvement in Northern Africa, and women continue to hold 19 per cent of wage employment.[304] Furthermore, women that are employed continue to face discrimination in terms of their wages; for example, sub-Saharan African women earn, on average, 30 per cent less than men.[305]

The 2014 report acknowledges that societal understandings limit the capacity in which women are allowed to work, and this reality has economic consequences at the national level.[306] Ways in which to combat this include the generation of 'decent jobs,'[307] access to these jobs, access to the educational skills to be able to adequately perform these jobs, as well as 'addressing cultural practices that discriminate against girls' education and women's equal access to inheritance and factors of production, such as land and finance.'[308]

According to the 2014 report, North Africa was amongst the highest in terms of improvement in the developing world regarding women's involvement in the public sphere, measured by the number of seats occupied in parliament. [309] Success extends to the rest of the African continent as well, for example, Rwanda is considered 'to be one of the global trail

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[299] Ibid at 36.
[300] Ibid at 36, 37.
[301] Ibid at 66.
[302] Op cit note 16 at 30.
[303] Ibid.
[304] Ibid.
[305] Ibid.
[306] Op cit note 17 at 47-48.
[307] Ibid at 48.
[308] Ibid at 48-49.
[309] Ibid at 49.

blazers on this target'[310] as it is the country to have the most women in parliament across all regions with 60 per cent of lower parliamentary seats being occupied by women.[311] This success is not absolute, as there are some countries such as Egypt that have experienced a drop in female presence in parliament.[312] Of importance are the positions in parliament that women are occupying. Although there has been an increase of the proportion of seats held by women in lower parliament, from 13 to 23 per cent in sub-Saharan Africa between 2000 and 2015, women remain underrepresented in parliamentary leadership positions.[313]

Much of the progress regarding the rise in female participation in the public sphere has been linked to legal structures that have demanded that either voluntary or mandatory quotas should be met. Although most nations that have these quotas in place have implemented these laws, some countries have neglected to act on the policy.[314] Additionally, as stated in chapter 2, the implementation of the quotas that are being fulfilled is beginning to experience inertia, which 'calls for additional measures to advance women's political empowerment.'[315] Furthermore, The 2014 report on the progress of the MDGs in Africa expresses the need to 'build the capacities of elected women, increase the quality of their participation, and strengthen their voice to influence development policies and actions in favour of women, children and youth.'[316]

The 2014 Report highlights negative understandings of women in society as an obstacle that has impeded the fulfilment of the third MDG.[317] In addition to this, obstacles such as the failure to observe global or regional strategies as more than suggestions, limit the scope of governments' ability to counter injustices such as the weak implementation of women's rights to adequate reproductive and sexual health or the alleviation of gendered violence.[318]

Regarding the limited scope of women's sexual and reproductive rights as represented by the indicators for maternal health (the fifth MDG), a 49 per cent decrease in maternal deaths has been reported in sub-Saharan Africa since 1990.[319] Therefore, the aim for a 75 per cent reduction of the maternal mortality ratio has not been achieved.[320] As maternal health care can also be used as an indicator for a country's health care system overall as well as a

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[310] Ibid at 50.
[311] Op cit note 16 at 31.
[312] Op cit note 17 at 50.
[313] Op cit note 16 at 31.
[314] Op cit note 17 at 51.
[315] Op cit note 16 at 31.
[316] Op cit note 17 at 53-4.
[317] Ibid at 55.
[318] Ibid at 54.
[319] Op cit note 16 at 38.
[320] Op cit note 17 at 61.

representation of women's access to health,[321] the fact that 16 of the 18 countries with the highest maternal mortality rate in 2013 are in Africa presents a challenge for African governments.[322]

The second indicator for measuring the improvement of the maternal mortality ratio for Goal 5 is the proportion of live births that are attended by 'skilled health personnel, meaning a medical doctor, nurse or midwife.'[323] Progress in this field has been described as 'modest'[324] and sub-Saharan Africa's nine percentage-point increase from 43 per cent in 1990 to 52 per cent in 2014 attests to this. This is not the case for all of Africa, as Northern Africa has almost doubled their '[p]roportion of deliveries attended by skilled health personnel'[325] with 90 per cent of births being attended in 2014.

In terms of Goal 6 and its aim to combat HIV/AIDS, the 2014 Report does not present insight into why it is that 'prevalence remains higher for women than men.'[326] Additionally, the 2015 Report states that knowledge on the topic of HIV/AIDS continues to pose a problem in many countries.[327]

There are additional challenges that are faced by African women that have impeded the achievement of the MDGs, and will continue to do so if Member States of the UN agree on and adopt a thinner final version of the draft post-2015 SDGs that have been presented in chapter 3 of this dissertation. Amongst these challenges is the issue of the practice of child marriage. According to the United Nations Trust Fund to End Violence Against Women, 14.1 million girls in Sub-Saharan Africa are married before the age of 18 and over 50 per cent of these countries lack the legislation to combat domestic violence.[328]

Violence against women manifests itself in many ways, not solely through sexual or physical means. According to the Government of the Republic of South Africa, violence against women can additionally be experienced through the denial of their economic, social and political rights as well through psychological means such as by the use of intimidation. Acts that hinder women's access to the enjoyment of these rights 'represent a violation of

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[321] Ibid at 61.
[322] Ibid at 62.
[323] Op cit note 16 at 39.
[324] Ibid.
[325] Ibid.
[326] Op cit note 17 at 69.
[327] Op cit note 16 at 45.
[328]http://www.unwomen.org/~/media/headquarters/attachments/sections/library/publications/2013/7/all_factsheets_web%20pdf.pdf accessed 05 August 2015.

human dignity and human rights and have lasting consequences both for women themselves and for their communities.'[329]

One such right is the right of the child to education. As noted in chapter 2, education is a powerful tool in the process of empowering women. Not only does it have the capacity to give the girl-child knowledge that equips them for the world of employment, but is also plays a part in re-educating society. As stated by Ssenyonjo, '[e]ducation is vital for the establishment of a culture where human rights are understood'[330] yet girls, more specifically those in rural environments, are struggling to access and complete their primary education. Therefore, the strategies suggested by the MDGs to reduce gender disparities in school, which include 'community mobilization, conditional cash transfer, curricula reforms, gender-sensitive teaching methods, measures against school gender-based violence, and affirmative action,'[331] are not making rapid enough progress on the second MDG across the continent. This can be accounted for by social dynamics that are biased against the female population.

The general tendency of African society towards the traditional understanding of women as caretakers and limited to the unpaid domestic sphere contributes to a lower value being placed on the girl-child's education. Limited funds are available to families, due to impoverished circumstances of a majority of the African population, thus male education is prioritised as 'males are viewed as the future breadwinners.'[332]

Although educating girls 'has proven to be one of the most cost-effective strategies to promote development and economic growth,'[333] the United Nations International Children's Emergency Fund has acknowledged that 'social norms such as child marriage and female genital mutilation/cutting'[334] are impeding the fulfilment of the rights of the girl child to receive and complete an adequate primary education. One of the reasons for the early marriage for women, in addition to the cultural pressure to get married, is to relieve the families of the 'economic burden'[335] of their presence within the family.

These social norms are manifestations of a worldview in which women are the property of their fathers, to become the property by means of dowry of their husbands. Husbands are to take care of their wives and their children financially. Women are to take care of domestic matters, under the guidance of their male counterparts. These traditional understandings of

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[329] http://www.gov.za/issues/violence-against-women-and-children-0 accessed 05 August 2015.

[330] M Ssenyonjo 'Culture and the Human Rights of Women in Africa: Between Light and Shadow' (2007) *Journal of African Law* 51(1) 39 at 65.

[331] Op cit note 17 at 36.

[332] http://www.our-africa.org/women accessed 01 August 2015.

[333] http://www.unicef.org/esaro/5481_girls_education.html accessed 01 August 2015.

[334] Ibid.

[335] Op cit note 332.

the roles that men and women are to play in society perpetuate the neglect to educate the girl-child, or alter curricula in order to reflect international human rights norms and standards. Further, they disrupt women's ability to find financial freedom by means such as employment, or by denying women of their rights to inheritance, as shown in Banda's work on the implications of customary law on the lives of women in Africa.[336]

Although women contribute towards the production of around '90 per cent of all food,'[337] according to the Organization for Economic Cooperation and Development (hereinafter, OECD), they remain 'predominantly employed in the informal sector or they occupy low-skill jobs.'[338] A lack of education and access to health care are said to be factors that contribute towards this reality. Additional economic hindrances to women's empowerment are highlighted by OECD and include '[t]he prevailing family code in many African countries [that], for example, discriminated against women in preventing daughters from having an equal share of inheritance or parental authority over their children after a marriage is broken.'[339] Women's economic empowerment by means of access to financial resources such as inheritance, although not specified in the MDGs, is a component that has been included within the draft post-2015 SDGs.[340] In addition to the family code, it has been found that 'physical integrity,' 'ownership rights and civil liberties' that are affected by discriminatory practices and 'institutions is associated with lower rates of economic participation.'[341]

The realisation of women's human rights in Africa is interconnected; for example, women's empowerment by means of employment in the non-agriculture industry is impacted by factors such as child marriage, which is 'a sign of patriarchal control over the decisions that affect young women['s] lives.'[342] Areas with higher averages in the age of marriage tend show a higher proportion of women in employment.[343] Child marriage, as previously stated, affects the rates of primary school attendance and completion by female children. A lack of education, in turn, affects the participation of women in the field of employment. This, in conjunction with the traditional roles attributed to womanhood, such as 'gathering firewood

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[336] Op cit note 30.
[337] http://www.oecd.org/dev/poverty/womeninafrica.htm accessed 01 August 2015.
[338] Ibid.
[339] Ibid.
[340] Op cit note 216 at 14 Goal 5.a.
[341] J P Jütting, C Morrisson, J Dayton-Johnson & D Drechsler 'Measuring Gender (In)Equality: Introducing the Gender, Institutions and Development Data Base (GID)' (March 2006) OECD Development Centre Working Paper No. 247 DEV/DOC(2006)01 at 22.
[342] Ibid at 24.
[343] Ibid.

or tending family fields… can be a huge burden, limiting a woman's ability to take on paid employment.'[344] This is compounded by that fact that if African women are able to find work, they are paid comparably lower wages than their male counterparts; 'this gap can only be attributed to gender discrimination.'[345]

Having addressed some of the issues faced by women in Africa, this chapter turns to the regional human rights system in order to assess how women's human rights are perceived, promoted and protected.

III THE AFRICAN REGIONAL HUMAN RIGHTS SYSTEM

In order to understand how the MDGs have been addressed in Africa as reflected by the results above, it is necessary to explore the normative framework of the African regional human rights system and the mechanisms that are in place to promote and protect the human rights of women on the continent. This is done by means of an analysis of the African Charter, the African Commission established by the African Charter, and the Women's Protocol.

In 1963 a number of African States adopted the Charter of the Organization of African Unity,[346] creating the regional political system; the Organization of African Unity. This regional political system was founded after the decolonisation of much of the continent as a means 'to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of [their] states, and to fight against neo-colonialism in all its forms.'[347] In addition to the promotion of solidarity[348] by means such as the coordination of 'general policies'[349] and the development of States' rights to principles such as State sovereignty and non-interference, its aim is to establish an African system in relation to the world. However, it does so whilst simultaneously affirming the need for 'adherence' to the integration of norms that have been established in the international sphere, such as the principles and values enshrined in the UN Charter and the Declaration of Human Rights.[350]

The African Charter became operative in 1986, five years after its adoption, following the deliberation by African states on the preliminary draft document released in July 1979. This Charter both reiterates and furthers the aims of the Charter of the OAU. Accompanying

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[344] Op cit note 332.
[345] Ibid.
[346] Organization of African Unity 'Charter of the Organization of African Unity' 479 UNTS.39 (13 September 1963) available at http://www.au.int/en/sites/default/files/OAU_Charter_1963_0.pdf accessed 20 July 2015.
[347] Ibid at Preamble.
[348] Ibid art II.1*(a)*.
[349] Ibid art II.2.
[350] Ibid.

the intention to continue to free the continent of its colonialist past,[351] the African Charter concerns the establishment of rights for the African peoples that reflect 'the virtues of their historical tradition and the values of African civilization.'[352]

Having achieved continental independence and increased its Member States to 53 with South Africa joining in 1994, the OAU decided over the course of four years, from 1999 to 2002, to dismantle and form the AU.[353] Whilst solidarity by means of developing and protecting an 'African' identity in the face of its past and the respect for sovereignty were still to be large components of the organisation's mandate, the AU could work towards integrating the African continent into the wider global economy whilst promoting values such as democracy, good governance and sustainable development. An additional aim for Member States of the AU is to abide by the principles and intentions set out in the African Charter, such as the aim to promote and protect the human rights of the African people.[354] The name of the regional system may have changed, but it is still to abide by the same Charter.

Having established in previous chapters some of the components that are considered obligatory on the part of UN Member States in relation to the global development agenda as well as having determined the background of the African regional system, this section turns to the commitments of Member States of the AU. This is done by means of an analysis of the documents that have been adopted by its Member States and the manner in which they address human rights overall as well as the human rights of women.

In addressing the necessity for development, the African Charter emphasises the interconnected nature that lies between the realisation of civil and political rights with that of the socioeconomic rights of humans.[355] It connects this with the aim to foster an environment for African values that reflect as well as impact these human rights.[356] Additionally, it states that these rights are fulfilled through the obligation for duty, the sentiment here being that everyone has a part to play in the future of the continent.[357] This echoes the sentiment that has been presented by the post-2015 sustainable development agenda, which aims to be human-centred and inclusive.

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[351] Op cit note 8 at Preamble.
[352] Ibid.
[353] http://www.au.int/en/about/nutshell accessed 30 July 2015.
[354] Ibid.
[355] Op cit note 8 at Preamble.
[356] Ibid.
[357] Ibid.

As with the Charter of the OAU, the African Charter integrates concepts that have been established in the international arena such as the principles of non-discrimination,[358] equality[359] and dignity.[360] Non-discrimination implies that all Africans are entitled to experience these values and that all rights 'in the present Charter without distinction of any kind such as race, ethnic group, colo[u]r, sex, language, religion, political or any other opinion…or other status.'[361] These rights include, amongst others, 'the respect of the dignity inherent in a human being,'[362] 'equal protection of the law,'[363] 'the security of his person,'[364] 'the best attainable state of physical and mental health,'[365] access to education,[366] a 'satisfactory environment'[367] and 'the right to work under equitable and satisfactory conditions and […] receive equal pay for equal work.'[368] These are similar rights to those that the international development agenda integrates within its goals and targets.

The African Charter also imposes duties on the African individual such as the duty to respect these rights and 'his fellow beings without discrimination,'[369] duties towards the family[370] and duties towards the State.[371] Regarding Member States, their duties are to uphold, 'promote and protect'[372] the rights proclaimed in the African Charter, inclusive of the duty to promote and protect the 'morals and traditional values recognized by the community.'[373]

In addition to establishing the rights entitled to the African community, the African Charter has also established the African Commission.[374] The African Commission's mandate is to 'promote Human and Peoples' Rights'[375] by means such as the conducting of and engaging in research on issues within Africa and to 'disseminate information' through

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[358] Ibid art 2.
[359] Ibid art 3.
[360] Ibid art 4.
[361] Ibid art 2.
[362] Ibid art 5.
[363] Ibid art 3.2.
[364] Ibid art 6.
[365] Ibid art 16.1.
[366] Ibid art 17.1.
[367] Ibid art 24.
[368] Ibid art 15.
[369] Ibid art 28.
[370] Ibid art 29.1
[371] Ibid art 29.2.
[372] Ibid at Preamble.
[373] Ibid art 17.3.
[374] Ibid art 30.
[375] Ibid art 45.1.

'seminars, symposia and conferences … and should the case arise, give its views or make recommendations to Governments.'[376]

With the existence of the African Commission, it can be said that the African Charter intends to further the incorporation of international law by means of interpretation, cooperation and integration.[377] This reaffirms the adherence to treaties such as the UN Charter and the UDHR previously mentioned, as well as newer treaties such as CEDAW. The African Commission acts as a filtration system to adapt and implement international human rights values and standards at the regional level.[378]

Additionally, the African Commission is to review Member States' periodic reports, submitted 'every two years… on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized by the present Charter.'[379] In issuing General Comments, the African Commission 'interpret[s] the provisions of relevant international legal instruments, with a view to assisting Member States to fulfil their obligations under such instruments.'[380] This, in addition to the actual ratification of international treaties by Member States to both the UN and the AU, reinforces the proclamation of Member States to their commitment to the eradication of discrimination along the lines of gender.

Another provision of the African Charter for the African Commission is to consider protocols for adoption by Member States that are suggested to the AU in order to 'supplement'[381] the African Charter. This allows for the updating and evolution of the regional human rights system. One such protocol is the Women's Protocol. The Women's Protocol has been ratified by 36 AU Member States to date, after its promulgation on 25 November 2005.[382] It was submitted to the AU following the criticism that the African Charter has neglected to adequately address women's human rights.

Although the principles of equality and non-discrimination in terms of socio-economic, civil and political rights accompanied with the intention to eradicate discrimination based on sex, women are only included directly in the African Charter in relation to the family[383] –

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[376] Ibid art 45.1*(a)*.
[377] Ibid art 45.
[378] Ibid.
[379] Ibid art 62.
[380] African Commission on Human and Peoples' Rights 'General Comments on Article 14(1)(d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (adopted 06 November 2012) at Preface available at http://www.achpr.org/files/instruments/general-comments-rights-women/achpr_instr_general_comments_art_14_rights_women_2012_eng.pdf accessed 10 August 2015.
[381] Op cit note 8 art 66.
[382] http://www.achpr.org/instruments/ accessed 05 August 2015.
[383] Op cit note 8 art 18.3.

which the African Charter considers to be 'the natural unit and basis of society.'[384] Furthermore, this 'natural unit' is recognised by the African Charter to be the crucible of the 'morals and traditional values recognized by the community.'[385] Otherwise, the specific human rights of women have not been engaged with; for instance, there is no mention of their sexual and reproductive rights or their rights to be free from violence.

In the Preamble of the Women's Protocol, AU Member States acknowledge 'the rights of women as being inalienable, interdependent and indivisible'[386] recognised on the international level by numerous treaties. The Women's Protocol represents the supposed determination of those African States that have ratified the treaty 'to ensure that the rights of women are promoted, realised and protected in order to enable them to enjoy fully all their human rights.'[387] Additionally, Member States commit to positioning themselves within the wider global network whilst upholding all initiatives that are aimed at the eradication of discrimination of all forms against women within this network.[388]

The Women's Protocol deals with an array of issues that are gender specific. By means of legislative reform, inclusive of altering constitutions to reflect the principle of equality,[389] and implementation of these reforms, Sates are to '[prohibit] and [curb] all forms of discrimination'[390] and 'take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist.'[391] Furthermore, States are obliged to 'integrate a gender perspective' within the legislative, developmental planning and policymaking arena, as well as 'in all other spheres of life,'[392] which will aid the implementation of measures that are aimed at protecting women and enabling their empowerment.

This investigative aspect is repeated, such as in article 4 of the Women's Protocol that requires the identification of the factors that lead to, and result from, violence against women, thus aiding in the prevention of said violence.[393] According to the treaty, violence in relation to women, refers to 'all acts' that may have 'physical, sexual, psychological, and economic' consequences, or threats thereof, inclusive of 'the imposition of arbitrary restrictions on or

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[384] Ibid art 18.1.
[385] Ibid art 18.2.
[386] Op cit note 9 at Preamble.
[387] Ibid.
[388] Ibid art 2.2.
[389] Ibid art 2(a).
[390] Ibid art 2(b).
[391] Ibid art 2(d).
[392] Ibid art 2(c).
[393] Ibid art 4.2.

deprivation of fundamental freedoms in private or public life.'[394] Many of these acts are perpetuated by sociocultural perceptions of women, as this dissertation has already established, and comprises much of the hurdle that hinders the realisation of women's human rights by means of promoting gender equality and the empowerment of women as intended by the international development agenda. As a result, in order to aid the realisation of women's human rights 'to life, integrity and security of person,'[395] the Women's Protocol intends for Member States to engage with the alteration of educational curricula and other social means 'in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women.'[396]

An extension of the elimination of violence is the Women's Protocol's duty towards the eradication of praxis considered to be harmful,[397] such as the practice of female genital mutilation. This is to be achieved by means such as legislative prohibition[398] and the public dissemination of information.[399] Additional cultural norms that impact the aim of women's empowerment are addressed, such as enforcing 18 years of age as the minimum age of marriage,[400] and for women within marriages to 'have the right to acquire her own property and to administer and manage it freely.'[401] Additionally men and women are to enjoy equal rights, both within the marriage[402] and post-marriage[403] (in the case of divorce or separation), inclusive of the responsibilities towards any children they may have had during their marriage.[404]

Regarding the aim of the international development agenda to increase women's presence in the public sphere, the Women's Protocol calls for states to ensure 'positive action' to increase female participation in governance as well as 'the equal participation of women in the political life of their countries through affirmative action.'[405] This equality in

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[394] Ibid art 1*(j)*.
[395] Ibid art 4.
[396] Ibid art 4.2*(d)*.
[397] Ibid art 5.
[398] Ibid at 5*(b)*.
[399] Ibid art 5*(a)*.
[400] Ibid art 6*(a)*.
[401] Ibid art 6*(j)*.
[402] Ibid art 6.
[403] Ibid art 7.
[404] Ibid art 7*(c)*
[405] Ibid art 9.1.

the public sphere is to be realised within the processes of policy creation as well as the implementation of policies and programmes such as those related to development.[406]

In addition to its acknowledgement of gender-based violence and the negative impact of sociocultural beliefs and practices, the treaty goes above and beyond the aims of the international development agenda. It calls for Member States to ensure the sexual and reproductive human rights of women through such as providing women with health care that is 'adequate, affordable and accessible'[407] in order for women to be able to 'control their fertility' [408] and 'to be protected against sexually transmitted infections, including HIV/AIDS.'[409] An additional component of their sexual and reproductive rights is the provision which states women are to enjoy the right to decide on the question of whether to bear children and how many.[410]

The Women's Protocol requires Member States to ensure that they promote women's economic rights. In addition to 'access to employment,'[411] governments are to promote 'equal remuneration of jobs of equal value for women and men'[412] and to 'guarantee' and 'protect' their rights to 'choose their occupation'[413] as well as 'create' safe conditions in which they can work, especially regarding the informal sector where women comprise the majority of the working force. An additional reference to economic independence is the right of women to inheritance, as provided in article 21 of the treaty, combatting the common practice of African societies that prevents women from accessing 'an equitable share in the inheritance of the property of her husband'[414] as well as the property of their parents.[415] The realisation of these rights can enhance the achievement of the aims of the international development agenda in terms of the goal to eradicate gender inequality by means of women's empowerment through economic independence.

Although many of the rights that are to be promoted and protected in the Women's Protocol fall under the principles of equality and non-discrimination that are enshrined in the African Charter, women continue to face injustice in Africa for being female. The Women's Protocol aims to amend the general practice of inequality by means of the provisions named

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[406] Ibid art 9*(c)*.
[407] Ibid art 14.2*(a)*.
[408] Ibid art 14.1*(a)*.
[409] Ibid art 14.1*(d)*.
[410] Ibid art 14.1*(b)*.
[411] Ibid art 13*(a)*.
[412] Ibid art 13*(b)*.
[413] Ibid art 13*(d)*.
[414] Ibid art 21.1.
[415] Ibid art 21.2.

above as well as through the promotion of women's human rights in a 'positive cultural context' and the determination of and participation in what constitutes this context.[416]

The infrastructure to effect change on the continent regarding the human rights of women is present. The African Charter upholds the value of non-discrimination and the Women's Protocol was adopted to address the continuing discrimination experienced by African women. However, if the Women's Protocol is as progressive as it is said to be, considering its establishment and inclusion of the human right of women to abortion, for example, this begs the question of why the implementation of support structures that promote and protect women's human rights is lacking and Member States are failing in their obligations to both this regional treaty, international treaties as well as the non-binding commitments that have been made to the international global development agenda. The next section offers a gendered analysis on the two documents that have been presented in this section in order to assess the potential impact that the African regional human rights system may have on the fulfilment of the post-2015 sustainable development agenda.

IV GENDERED ANALYSIS OF THE AFRICAN REGIONAL HUMAN RIGHTS SYSTEM

Having ratified the African Charter and the Women's Protocol, Member States of the AU have committed themselves to the elimination of discrimination against women, both in terms of what the global development agenda has already requested and what is to be finalised with the post-2015 sustainable development agenda. However, as the statistics from both the 2014 and 2015 Reports have shown, African women are still struggling to enjoy the freedoms and rights that have been established for them. This section addresses a small portion of the factors that are hindering the full realisation of women's human rights in the continent.

Although the African Charter does not mention women's human rights specifically, its adherence to the principles of equality and non-discrimination in its provisions, in terms of socio-political and economic rights, is in and of itself a foundation for the protection of women's human rights. However, its lack of a gendered perspective has left women vulnerable. The adoption of the Women's Protocol has identified and rectified the shortcomings of the African Charter with regard to rights that relate specifically to women, such as women's rights to reproductive health.

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[416] Ibid art 17.

The Women's Protocol is hailed for being progressive regarding women's human rights. For example, it addresses topics such as the right to medically terminate pregnancies 'in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.'[417] Abortion is a topic even CEDAW has not included. Thus, in conjunction with rights such as the right to be free from violence, it can be said that the Women's Protocol aims for women to have complete control over their bodies. Although this may have been the intention, the treaty continues to feed the stereotype of women as mothers based on their biology by neglecting to include the choice to not be a mother as a precondition for their right to abort pregnancy.[418]

Although the Women's Protocol presents itself in the face of harmful gender-based praxis by establishing the right to a 'positive cultural context,' those member states that have not signed or ratified the treaty are not obliged to ensure that women enjoy this right. Chirwa links the low ratification rate of the treaty with the fact that, in attempting to create a positive culture in which women are able to enjoy rights related to their financial, physical and social independence, the Women's Protocol is seen to be in opposition to the 'African' identity that the African Charter was established, in part, to promote and protect.[419]

For instance, the Women's Protocol neglects to locate women as encased within the family and intends for women to hold rights within the family where gender-based violence in its many forms is most prevalent. The Women's Protocol aims to dissolve this traditional dichotomy of non-interference within the domestic field that is protected in Article 18 of the African Charter, which states that the family is the 'natural unit and basis of society,'[420] the point at which societal values are to be reproduced, and that it is to be protected as this unit by the State.[421] As stated in the previous section of this chapter, this is the only mention of women in the African Charter. These traditional values, such as women as the primary home caretaker, have been shown in the second section of this chapter to impede women's ability to empower themselves.

In addition to the low ratification rate, another manner in which to gauge the seriousness with which African leaders take gender issues is through the African Charter's silence on women's human rights, regardless of that fact that CEDAW was adopted before

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[417] Ibid art 14.2*(c)*.
[418] Op cit note 29.
[419] Op cit note 28 at 77.
[420] Op cit note 10 art 18.1.
[421] Ibid.

the African Charter.[422] Although the African Charter states the importance of integrating the norms and standards set by international treaties, it neglects to incorporate the provisions pertaining to woman. Welch attributes this silence to the African Charter's protection of 'deep-seated African values.'[423] This lack of initiative on the part of African leaders is reflective of the 2014 Report's statement that '[m]ost countries see gender policies and strategies as mere principles that do not require national action plans or coercive and corrective measures to implement them.'[424]

To further this point, in order for women to enjoy their right to reproductive health, the African Commission requests states to adjust any legislation, praxis, policies or societal understandings which retain or perpetuate discriminatory discourse.[425] However,

the African Commission notes that many countries are yet to undertake the necessary legislative reforms towards domesticating the relevant provisions. As such, in many State Parties, there is still limited access by women and girls to family planning, criminalization of abortion, and difficulties faced by women in accessing safe and available abortions, including in cases where abortion is legalized.[426]

An additional component that has affected the implementation of women's human rights is related to the enforcement mechanisms of the Women's Protocol. In referencing Article 62 of the African Charter, the Women's Protocol requires states to submit periodic reports to the African Commission on the manner in which they have amended legislation and policies to reflect the provisions of the Women's Protocol.[427] As stated by Chirwa,[428] this has been interpreted to imply that only one report is to be submitted on the 'legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter,'[429] in which the role of the Protocol is to be included. Additionally, the power for intervention by means of recommendations to the AU on the part

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[422] Op cit note 27 at 554.
[423] Ibid.
[424] Op cit note 17 at 54.
[425] African Commission on Human and Peoples Rights 'General Comment No. 2 on Article 14.1(a), (b), (c) and (f) and Article 14.2(a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' adopted (28 November 2014) at para 21 and 22 available at http://www.achpr.org/files/instruments/general-comments-rights-women/achpr_instr_general_comment2_rights_of_women_in_africa_eng.pdf accessed 20 July 2015.
[426] Ibid at Preface.
[427] Op cit note 9 art 26.
[428] Op cit note 28 at 89.
[429] Op cit note 8 art 62.

of the African Commission[430] is reliant on the reports submitted and may only be presented after it has been established that 'local remedies' have been 'exhausted.'[431]

This substantially limits the role of the African Commission on the issues of gender, as it is to rely on information that has been submitted to it by means of states' periodic reports regarding the measures they have taken on all provisions and protocols of and to the African Charter. However, this has not prevented the African Commission from acknowledging 'that the societal context based on gender equalities, power imbalances and male dominance has to be addressed and transformed in order for women to meaningfully claim and enjoy freedom from violence, abuse, coercion and discrimination.'[432]

Although the Women's Protocol was drafted and adopted as a means by which to rectify the gap on the human rights of women left by the African Charter, it has yet to achieve full ratification by AU Member States. This reflects the neglect on behalf of States to take the issue of women's human rights seriously. The protection and defence of the '[t]raditional values in Africa [that] accept[s] differential roles for women and for men'[433] contributes towards the slow ratification of treaty. Lack of enforcement further reflects the lack of seriousness of some States in the realisation of women's human rights and allows for the legitimate, as well as illegitimate, perpetuation of inequality and discrimination based on gender. Without the political will to alter patriarchal attitudes that influence both the legislative and administrative spheres as well as the socio-political fields, the international norms and standards that have been set through conventions and treaties and regional proclamations, women will continue to struggle to enjoy their rights.

VI CONCLUSION

The affirmation of national sovereignty by the post-2015 sustainable development agenda compounded with the defence of traditional understandings of the role of women in society by the African Charter almost invalidates the Women's Protocol altogether, voiding its progressive nature and potential for positive impact upon the lives on women on the continent. Only through political will can change be made and the motions and steps towards the alteration of institutionalised and societally entrenched traditional, or patriarchal, mind-sets, behaviours and patterns be taken by means such as the reformation of education.

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[430] Ibid art 53.
[431] Ibid art 56.5.
[432] Op cit note 425 para 3.
[433] Op cit note 27 at 555.

As this dissertation has determined, it is vital to integrate women fully into the post-2015 sustainable development agenda by ensuring gender equality by means such as the reform of legislation and policy to allow for the full empowerment of women. In the absence of political will, the post-2015 Sustainable Development Agenda will not achieve the aims that it has set out in the African continent. The filtration of the non-obligatory global agenda to grassroots level is dependent on regional systems that are both able and willing to foster the changes necessary.

CHAPTER FIVE

CONCLUSION

This dissertation has addressed the two-part question presented in chapter one: are the draft post-2015 SDGs more embracing of a gender specific human rights approach than their predecessors, the MDGs? And, using the African continent for context, how does the regional level impact the implementation and fulfilment of the global development agenda? This chapter presents a compacted response to these questions, utilising the research explored in the previous chapters.

To address these questions, this dissertation has explored the foundations of the current development agenda as well as presented and analysed both the MDGs and their progress in relation to women's human rights. The post-2015 sustainable development agenda has been assessed in relation to the criticisms that were highlighted in chapter two relating to the perceived successes and failures of the current development agenda. Finally, this dissertation has analysed the African regional system and its infrastructural capacity to aid in the realisation of the human rights of women in the continent, which in turn, affects the implementation of the post-2015 agenda and the degree of its success.

In order to address the first question regarding the capacity of the global development agenda to promote and protect women's human rights, this dissertation first contextualised the historical foundation of the current MDGs. According to Sen and Mukherjee, the MDGs are the continuation of the International Development Goals formulated by a handful of parties, including the Organisation for Economic Co-operation and Development. This agenda, as presented by the International Development Goals, received criticism for a variety of reasons: firstly, the goals were seen to be unrepresentative of the global intention, and secondly, the goals were criticised for neglecting to integrate a human rights-based approach in their plan.

A similar sentiment may be found in the formulation of the MDGs, as they are potentially the result of the Millennium Report presented by the Secretary General as a means to gather momentum within the UN after a decade of inactivity. However, by adopting the Millennium Declaration, Member States collectively set the tone and global intention for development. Being the synthesis report to the Millennium Declaration, the Road Map was responsible for the development of the MDGs themselves.

Embedded within the intention to neutralise the negative effects of globalisation on the developing world as well as the aim to create a global economic partnership is the

understanding of the intricate relationship that rests between economic and human development and the need to combat the 'dehumanizing conditions of extreme poverty.'[434] As a result, both the Millennium Declaration and the Road Map consistently pertain to international human rights norms and standards by means such as referencing the UN Charter and the UDHR. With regard to women's human rights specifically, both documents attest to the importance of ratifying and committing to the implementation of CEDAW. The inclusion of women is vital for the economic growth of individual States, which in turn benefits the global community.

However, the MDGs have been critiqued for neglecting to include within its goals an overall gendered perspective. By limiting the scope of rights pertaining to women, the MDGs have confined women's empowerment to the fields of non-agricultural employment, public participation and gender parity within schools without consideration of the factors that are impeding the full realisation of women's human right within these fields. The progress reported by the 2015 Report has shown that progress in the fields explicitly related to women has been slow, and targets remain to be met.

Furthermore, although the documents aim for States to adhere to the international women's convention, it fails to include aspects that are necessary for the full empowerment of women, such as the control over their bodies in the form of promoting and protecting their sexual and reproductive rights. In dealing with the symptoms of gender-based discrimination, the agenda perpetuates social understandings of women, as the only link to their reproductive rights is the aim to reduce the maternal mortality ratio, again without reflection as to why the rights of mothers have been neglected in the first place.

Additionally, by omitting the mechanisms of enforcement that accompany the international human rights system, the development agenda remains non-obligatory and does not necessitate the gender analysis that would benefit the improvement of women's lives through development. Furthermore, this gender analysis would prove beneficial in exposing the interrelated nature of the aims that the global development agenda intends to achieve. For example, addressing women's rights to sexual and reproductive health and violence against women within the third MDG for empowerment would benefit the sixth MDG and its aim to halt the spread of HIV/AIDS.

The current development agenda's narrow analysis of the factors that are affecting women the world over has been addressed within the foundational documents for the post-

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[434] Op cit note 1 para 7.

2015 sustainable development agenda. As with the Millennium Declaration and the Road Map, both The Future We Want and its synthesis report, The Road to Dignity, reaffirm commitment to the principles and values established by the international human rights systems. However, The Road to Dignity integrates a deeper understanding of the discrimination that women are afflicted with.

The Future We Want is the culmination of a series of environmentally focussed international conferences concerned with the manner in which human activity has negatively impacted the environment, which in turn affects human growth. Both The Road to Dignity and the Open Working Group responsible for drafting the post-2015 SDGs has integrated the principles of sustainable development and intergenerational responsibility by means of highlighting the necessity of addressing both human and economic development within the bounds of environmental capacity. The post-2015 agenda means to carry forward the unfinished work of the current global agenda, whilst integrating global concerns for environmental degradation.

The Road to Dignity presents a more astute understanding of the reality faced by women. By extension, the Open Working Group calls for more women's human rights to be covered by the goal relating to women's empowerment in the post-2015 agenda. For example, the need to address women's sexual and reproductive rights, access to economic resources such as land and inheritance, as well as their rights to be free from violence has been included. It is vital to address these rights if women are to be fully engaged within the economic growth of their countries and the world. Enabling the circumstances in which their socioeconomic and political independence can be guaranteed must happen in order for this to occur. However, this report presents the draft post-2015 SDGs as they currently stand, and their non-obligatory status by means of lack of any enforcement mechanism remains problematic. The final goals are to be agreed on and adopted by UN Member States between 25 and 27 September 2015. More evidence-based predictions can be made once the modifications on the goal for gender equality and women's empowerment have been established.

As chapter four has shown, the state of women's human rights in Africa remains a dire situation. It is the region with the slowest progress overall regarding the implementation of the MDGs. Although the Women's Protocol is considered progressive in terms the depth and variety of women's human rights that are to be promoted and protected, the desire for an African 'identity' as promoted by the African Charter has aided in the prevention of any drastic alterations within society and harmful praxis and beliefs are hindering rapid progress.

As suggested by the progress reported by 2014 Report as well as the 2015 Report, the commitment to the principles of equality and non-discrimination appear to have fallen short thus far.

The affirmation of national sovereignty by the post-2015 sustainable development agenda has left the question of commitment to the implementation of articles in conventions, both international and regional, relating to women's human rights in the hands of nations States. Whilst this allows for contextual application, it also allows for the neglect of women's full empowerment in Africa, which has implications for the implementation of the global development agenda. Addressing poverty and economic growth without addressing their gendered components and the factors that impede the aspects of empowerment established in chapter two might potentially result in mediocre results, much like the progress reported on the MDGs.

If the suggestions of Sen and Mukherjee, amongst others, are correct, the agenda was presented by a minority and accepted by the majority and are as a result of an exhaustive decade of conferences on the topic of development that amounted to nothing. The implications of this are that Member States of the UN were not necessarily motivated by the will to improve the lives of their citizens, but under international pressure to present a unified front. Regardless of their beginnings, the global development agenda will continue for the next fifteen years.

This dissertation has explored the stated intention of the current development agenda, the post-2015 agenda as well as the African regional human rights system. In conjunction with their stated intentions, all documents that have been mentioned refer to the need for political will and good governance to implement policies or other mechanisms to enable the protection and promotion of human rights and, or, fulfil the goals of the global development agenda. Political will is necessary for the implementation of the commitments that Member States of the AU have made regionally towards the protection and promotion of women's human rights as well as internationally through the ratification of CEDAW, the UN Charter and the UDHR.

Without the political will to enforce the treaties that African States have signed, or guide the implementation of policies that aid in the alteration of the manner in which women are understood and treated on the continent, this dissertation posits that the same result will occur for the post-2015 sustainable development agenda as it did with the MDGs. If nothing systemically changes, it is likely that real progress for women in Africa will remain slower than the progress of other regions.

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