REINVENTING DEVELOPMENT

Reforming the UN for People and Planet

By Barbara Adams and Karen Judd
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The New York Office serves two major tasks: to work around issues concerning the United Nations and to engage in dialogue with North American progressives in universities, unions, social movements, and politics.

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Beyond Tinkering

Since the United Nations’ founding 70 years ago, UN reform has been on the table—and, indeed, the institution has undergone several phases of reform. What is meant by reform, however, varies greatly depending on who is raising the issue. While there is no question that the UN is in need of renewal, proposed reforms are oftentimes diametrically opposed to one another.

Some reformers seek to streamline the institution, to make it more efficient so that it can better serve its purpose with fewer resources. Such proposals sidestep questions of power and interest and are presented as neutral and technocratic. But no reform is truly neutral, and in a context where corporate interests have been gaining greater control—through what could be called a stealth reform agenda—we must always ask whose purposes are served by proposed reforms.

On the other hand are proposals that address power balances within the UN, seeking for instance to change the composition of the Security Council or to reduce the dominance of the Permanent Five (P5) members. These proposals, however, stand little chance of being enacted any time soon due to the difficulty of amending the Charter and the intractable resistance of the veto-wielding P5. While advocates of such reforms may have justice, equity, and democracy on their side, their focus on these fundamental changes may stand in the way of pursuing the kinds of changes—short of amending the Charter—that can make the UN a more capable force for people and planet.

In this study, Barbara Adams and Karen Judd take a close look at the UN development policies. Trained as an economist, Adams has spent decades working in (and writing about) international politics both in and out of the UN. She is the author, with Kathryn Tobin, of the recent RLS–NYC study Confronting Development: A Critical Assessment of the UN’s Sustainable Development Goals. Judd, a former speechwriter and policy analyst at UN Women, is currently Associate Editor of New Labor Forum, published by the Murphy Institute—CUNY.

Transformational changes are needed to make the UN into a body that advances the public interest through democratic governance and commitment to its founding values. These changes will not be easy to bring about, but Adams and Judd give us the guideposts we need to set off on this path in the field of development. For one thing is clear: A piecemeal approach won’t get us the UN we need. A reform agenda that’s worth pursuing will recognize the entrenched interests that support the status quo and take on critical issues of financing, adopting a values-based framework, integrating the three UN pillars—human rights, sustainable development, peace and security—into that framework, and developing a culture of accountability.

Stefanie Ehmsen and Albert Scharenberg
Co-Directors of New York Office, June 2016
Reinventing Development
Reforming the UN for People and Planet
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On the occasion of the United Nations’ 70th anniversary, UN reform is very much on the agenda. Not only will member states select a new Secretary-General in 2016—through a new process that promises to be more open and transparent—they will also begin to implement or endorse several new global agendas, all demanding greater coherence within the three pillars of the UN system: peace and security, human rights, and sustainable development. Notable among these are Agenda 2030 for Sustainable Development, hammered out in a member-state driven process with unprecedented input from civil society; the Addis Ababa Action Agenda on Financing for Development; and the Paris Agreement on Climate Change. Together they provide a framework through which UN member states can transform the organization in order to ensure its relevance for the next 70 years.

What these global agendas recognize is that the challenges faced by the UN have changed. The world is a very different place than it was in 1945 when the UN was founded. For example:

⇒ Unlike in 1945, a global commitment to peace and security cannot be rooted in a winners and losers mindset, nor can it be dominated by a war or non-war approach to peace and security. Ongoing national and regional conflicts as well as the economic violence experienced in vastly unequal communities and daily lives make elusive the 2040 Agenda’s commitment to “foster peaceful, just and inclusive societies which are free from fear and violence,” recognizing that “there can be no sustainable development without peace and no peace without sustainable development.”

⇒ The traditional approach to development based on the (income-defined) categories of developed, developing, and least developed states is eroding, as no country’s development is currently sustainable and multidimensional poverty is a challenge in all countries. The UN development system (UNDS), which is based on these categories, has declining relevance to developed and developing countries alike.

⇒ So-called developed countries can no longer set goals and standards to which so-called developing countries must adhere. The 2030 Agenda for Sustainable Development has set universal goals and targets for all countries to meet.

⇒ Unlike in 1945, economic growth can no longer be seen as the sole or primary objective. Issues of inequalities within and between countries cannot be addressed by national or global strategies that rely on economic growth. Furthermore, global challenges must be met within the reality of finite natural resources.

By contrast, institutions and their capacity, governance, and financing have not changed, not substantively. Instead, recent UN reform discussions tend to be dominated by a process of assessing the effectiveness and relevance of existing UN institutions in terms of efficiency, calling for their rearrangement, amalgamation, strengthening, or elimination and urging the UN to do more with less. Successive waves of UN reform have generally been weighted to-
ward working methods, reporting schedules, aligning business plans, common financial and administrative systems, and so on. However no matter how efficient they may become, the institutions that carry out the work of the UN’s three pillars along with their funding streams and governance arrangements are out of sync with today’s realities. They continue to operate in their separate pillars, failing to coordinate with, and at times even competing with, different parts of the system, especially when it comes to financing.

The Economic and Social Council (ECOSOC), for example, although strengthened in 2013 to enable it to coordinate the UN development system, still lacks the authority, resources, and decision-making power vis-a-vis the Security Council on the one hand and the Bretton Woods Institutions (BWIs) and the Group of 20 Major Economies (G20) on the other. International economic, investment, and trade policy decisions continue to be dealt with outside of the UN and its agreed norms and standards. And while the Security Council has added members in response to the changed dynamics of global conflict it has kept veto power limited to the same five states. Moreover the ongoing power imbalances that have largely frustrated Security Council reform also affect the General Assembly, which experiences its own power disparities not only vis-a-vis the Security Council but also in establishing an action agenda that reflects in a timely fashion today’s challenges.

With regard to human rights, the Human Rights Council, created in 2006, now includes responsibility for the Universal Periodic Review. This is a promising step forward in that it calls on all member states to report on their efforts to improve human rights. However, a commitment to human rights is still not central across all parts of the UN system.

System-wide coherence remains elusive. This is particularly evident with the UN Development System (UNDS) as specialized agencies, funds, and programmes initiate overlapping programs and compete for resources to fund them. An effort to address the resulting duplication and fragmentation was the creation, in 2006, of the UN Entity for Gender Equality and Women’s Empowerment (UN Women), an experimental hybrid to link the normative and operational dimensions of UN development activity. Created on the recommendation of the 2005 High Level Panel on system-wide Coherence, its lack of resources and of bold leadership and its limited mandate leaves it in danger of becoming a member of an increasingly dysfunctional UNDS.

Piecemeal approaches to institutional strengthening and the failure of global governance to assert multilateralism reflect a more fundamental problem. Many players in all sectors, member states as well as UN agencies and the corporate sector, have a vested interest in the continuation of weak global governance. This, in turn, has rewarded or reflected the status quo and power asymmetries and has been passively abetted by the pressure from or inclination of those who favor “doing something,” albeit limited, to entering protracted and potentially fruitless negotiations over a more challenging agenda.

How Did Things Come to This?

With the increased intrusion of external factors in economic policy making, at both national and global levels, there has been a gradual shift from the legislative to the executive
branch. Legislators have failed to recognize or address the incursion of the global economic and financial system into some domestic policy decisions and are in danger of becoming marginal to economic planning and policy making. Structural adjustment prescriptions as a condition for IMF loans in the 1980s undermined national capacity and restricted the ability of governments to regulate investments and corporate operations, shifting the weight of economic decision-making away from national priorities.

This neglect has been matched at the global level as governments and UN agencies increasingly turn to private sector partnerships to fill funding gaps without putting in place reporting, monitoring, or governance requirements and without systematically assessing the impact of these arrangements in terms of the goals they are meant to achieve. The UN, like its member states, has shifted from providing governance to managing it.

Indeed, part of the reason for the focus on tinkering—rather than transformation—is the unwillingness of member states to agree to a funding formula for the UN in line with the increased mandates they have given the organization. A recent example is the adoption of a UN biennium budget for 2016-2017 at a level lower than for the previous biennium. This pattern of inadequate funding has become so entrenched that some have argued that this situation—less funding, more demands—is itself a part of the new global reality, one to which, implicitly, the UN must adjust.1 To do so however is to doom the organization to ever-increasing marginalization and ultimately irrelevance.

The damage done to the UN because of state power asymmetries now risks being replaced or amplified by another: the embrace of corporate—and unaccountable—influence. Moreover, the increasing influence of large foundations and large NGOs, manifest most clearly in multi-stakeholder approaches, threatens to weaken democratic governance. This issue goes to the essence of the UN needing to champion public space and accountability and to advocate for state responsibilities as duty bearers to rights holders. In failing to meet this challenge, the UN and its members implicitly accept a lack of political will and allow the UN to become a multi-stakeholder lapdog, which uses its convening power to facilitate special interests instead of people’s rights in a world of finite resources.

The starting point for addressing the institutional, financing, and governance challenges facing the UN is not through the lens of efficiency but against the backdrop of today’s pressing need for a vibrant and accountable global body—in a world where no country is sustainably developed and inequalities are rising dramatically. Can the international community approach UN reform from the outside in, not only from the inside out—particularly in terms of defining and measuring effectiveness? Instead of starting with the existing institutions and asking how they can be rearranged to better fit today’s realities, we should start with today’s realities and ask what kind of institutional and financing arrangements are needed to tackle them.

In asking how the UN can position itself to tackle today’s challenges given continued power imbalances and unsustainable development, it is useful to recall what makes the organization unique. The UN remains the only global body that can convene member states to set universal norms and standards that all member states are obliged to adhere to—including those on human rights, gender equality, and environmental sustainability. It is also the only global body that has a mandate for peace and justice, empowering it to address issues of in-

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1 See Barbara Crossette, “In 2016, the UN Will Be Transformed. Will That Be Enough to Bring It Back to Life?” The Nation, December 22, 2016.
creased inequalities and insecurities and to tackle urgent problems such as climate change.

The UN’s unique role includes setting internationally agreed norms and standards and its global convening power, not only of member states but of all those who recognize its authority, especially its moral authority. The process of decolonization that began after World War II and continued until the early 1980s was largely spurred by the recognition by leaders at the UN that colonialism was inconsistent with a peaceful world. And later, the development conferences of the 1990s quickly filled the space opened by fall of the Berlin Wall to redefine national and global security beyond military threats to include sustainable development, reproductive health, gender equality and women’s rights, and social development—including the right to development—in all countries.

In 2000, the Millennium Declaration continued this holistic vision, emphasizing the right to be free of want and free of fear. However, pressure to concentrate attention on a limited number of priority goals in order to make demonstrable progress resulted in the selection of eight Millennium Development Goals (MDGs), which significantly changed the UN development agenda. The MDGs not only largely ignored the issue of peace and security but reduced the concept of “development,” with its potential for structural transformation, to the provision of basic needs.2 In addition, the MDGs departed in significant ways from a much broader approach to development by focusing on and measuring results that developing countries were expected to achieve, thereby perpetuating existing global power imbalances and curtailed a more holistic approach to development, especially sustainable development, in all countries.

In 2015, the negotiation and adoption of the 2030 Agenda for Sustainable Development sought to correct these trends, identifying a total of 17 integrated goals that are to be measured and monitored in all countries, not just developing countries, based on human rights, and integrating the need to foster peaceful, just, and inclusive societies. And in the Paris Agreement on Climate Change, 195 Member States agreed to a series of commitments on measures to reduce emissions and on a concept of “common but differentiated responsibilities,” recognizing that disproportionate power has resulted in disproportionate use of the world’s resources and a corresponding responsibility to address the consequences, including natural disasters brought on by climate change.

An Obsolete Governance Model?

When the UN was founded most economic activity took place within national and territorial limits and cross-border dynamics were driven by efforts to prevent war and conflict. The war threat soon became defined and dominated by nuclear war even as “conventional” warfare was waged in proxy conflicts, often reinforced by the nuclear power veto-wielding members of the Security Council. The UN human rights conventions, at the insistence of the super-powers, divided political and civil rights from economic, social, and cultural rights, even though many countries, especially in western Europe, did not pursue such a separation “at home,” embracing the concepts of the right to education, health, housing, and social security.

As UN membership has expanded following decolonization, the breakup of the Soviet Union, and the success of national independence movements, the cross-border movement of people, trade, and finance has also increased, greatly accelerated by processes of globalization and market liberalization. The

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2 Sakiko Fukuda-Parr, “The 2030 agenda and the SDGs – a course correction?” SPERI:Comment, Sheffield Political Economy Research Institute, September 30, 2015.
national governance model has not kept pace, leaving huge gaps in areas such as climate, information and communication technologies (ICTs), and global capital flows.

The conventional approach in international relations of the balance of power among states does not extend to the threat from climate change and is strained by massive movements of people, driven by violence and a desire for a peaceful society and by aspirations for sustainable livelihoods.

Norms and standards are not applied consistently even across the UN system. Many other institutions of global governance (WTO, IMF, G20) do not adhere to them and are not challenged to do so. The more the actions and initiatives—including the Secretary-General’s “multi-stakeholder global partnerships”—take place outside the UN system, the greater the risk of UN values being pushed aside and deliberately or otherwise undermined. The reality is that despite repeated commitments by member states, including rich countries, to promote greater coherence, there is no agreement upon a normative framework through which to ground and implement such a framework.3

This can be seen particularly clearly in the case of regional trade and investment agreements, whereby states bypass the UN, and even the WTO, in order to secure market access and the promise of foreign direct investment (FDI). The UN Conference on Trade and Development (UNCTAD) reports there are currently 2,778 bilateral investment treaties in force, 27 percent of them in Africa.4 While there is no clear evidence that bilateral investment treaties attract foreign direct investment (FDI), the extent to which FDI itself can benefit developing countries greatly depends on the extent to which the recipient countries are able to use it within the framework of national policy designed to advance certain sectors, particularly industrial sectors. Yet the past two decades have seen rapid liberalization of FDI regimes and erosion of policy space in developing countries vis-à-vis transnational corporations. Some of this approach results from commitments undertaken in the WTO as part of the Agreement on Trade-Related Investment Measures. Much, however results from bilateral and regional investment treaties that in practice privilege foreign investors.5

Countries that sign on to such agreements, often not fully realizing how they limit their ability to adopt laws or policies to protect their populations and advance sustainable development goals, find themselves constrained by the existence of arbitration clauses embedded in so-called investor-state dispute settlement (ISDS) systems. UNCTAD reports that there are 608 known international arbitration cases initiated by investors, of which 243 are pending.6

“Corporate Courts”

An ISDS is a special legal right which foreign investors can use to challenge a law, regulation, judicial or administrative ruling, or any other government decision that they claim reduces the value of their investment or represents potential lost profits. It allows foreign investors to bypass host country courts, public hearings, and regulatory bodies and sue

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5 Bilateral investment treaties totaled 3,262 at the end of 2014. See Yılmaz Akyüz, Foreign Direct Investment, Inter Press Service (IPS), December 29, 2015.
6 UNCTAD, “International Investment Agreements,” Investment Policy Hub, investmentpolicyhub.unctad.org/IIA. Since most such agreements allow for fully confidential arbitration, the actual number is likely to be higher. Mohamadieh and Uribe, “The Rise of Investor-State Dispute Settlement in the Extractive Sector.”
the host-country government before a panel of private “arbitrators,” who are neither democratically elected nor subject to rigorous conflict of interest rules. Of the total number of cases, sub-Saharan Africa accounts for 16 percent.7 ISDS provisions are routinely included in bilateral and regional trade agreements, including the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Trade and Investment Partnership (TTIP), currently being negotiated. The TPP’s ISDS provisions will enable foreign investors to sue a government in an offshore tribunal if they claim that new regulations reduce their expected future profits, even when such regulations are in the public interest.8

Unlike WTO agreements, under which a government can be sued only by another government, these trade agreements typically allow individual foreign investors to sue a host government through the ISDS system. Moreover, they contain no similar provisions under which host governments can initiate claims against the foreign investor. Often, the threat of a lawsuit is enough to get the proposed law or regulation withdrawn, as contesting it can cost millions of dollars.

Critics of these arrangements cover the spectrum, from governments that wake up to the consequences of what they have signed, to rule of law experts, to civil society organizations, including labor organizations. The AFL-CIO points out that investors can “use this system of ‘corporate courts’ to challenge anything from packaging rules for cigarettes to denials of permits for toxic waste dumps to increases in the minimum wage.”9

In March 2010, tobacco giant Philip Morris launched a multi-billion dollar lawsuit against the Government of Uruguay over a decision to include health warnings on cigarette packs. The company brought its claim under the Switzerland-Uruguay Bilateral Investment Treaty (BIT) to the World Bank’s International Center for Settlement of Investment Disputes (ICSID), claiming that the warnings violated the investment protection agreement signed between Uruguay and Switzerland, where Philip Morris is headquartered.

A former UN official argues that the TPP goes far beyond what is needed to facilitate trade, greatly constraining “the policy space needed for countries to accelerate economic development and to protect the public interest.” He concludes that it is “really the thin edge of a wedge package which will fundamentally undermine the public interest.”10

These disputes typically tie up millions of dollars in taxpayer money, in rich and poor countries alike. In Europe, for example, a Swedish energy corporation, having successfully sued the government for 1.4 billion euros to force the government to withdraw its regulations on a proposed coal-fired power plant, is now using ISDS to sue Germany over its decision to phase out nuclear power (see Box 1).11

In addition to undermining public interest laws and regulations, foreign investors are increasingly using the investor-state system to challenge court judgments, thereby also “undermining the principles of legal certainty, state sovereignty, and rule of law more generally.”12 While domestic courts often employ safeguards, such as the principle of judicial review, judicial independence, and transparency in their decision-making, these safeguards are notably absent in investor-state arbitrations.

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10 Sundaram, “The Trans-Pacific Partnership Fraud.”
12 “Corporations Now Using Foreign Tribunals to Attack Domestic Court Rulings,” Eyes on TRADE, Public Citizen, October 16, 2013.
where lawyers who represent the investors take turns as ostensibly “impartial” arbitra-
tors, interpretations of international law are regularly inconsistent and erroneous, and de-
cisions often cannot be appealed.

In 2012, a tribunal ordered Ecuador’s govern-
ment to interfere in the operations of its inde-
pendent court system on behalf of Chevron by
suspending enforcement of a $18 billion judg-
ment against the oil corporation for mass con-
tamination of the Amazonian rain forest. Ecua-
dor had argued that compliance with an order
to suspend enforcement of the ruling would vi-
olate the separation of powers in the country’s
constitution, which mandates an independent
judiciary.13

Not surprisingly, a number of countries, both
developing and developed, are reviewing
their approach to these treaties, particu-
larly in view of the increasing number of inves-
tor-state dispute cases. According to UNCTAD,
some 40 countries and four regional organiza-
tions either have recently revised or are cur-
cently revising their international investment
agreement models, and at least 60 countries
have developed, or are developing, new mod-
els.15

Financing the Three Pillars

Another critical area for UN reform concerns
the issue of financing—always a weak link in
enabling the organization to live up to its man-
dates. While UN Secretariat functions were to

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**Box 1: What ISDS Costs**

In Ioannis Kardassopoulos and Ron Fuchs v. The Republic of Georgia, the tribunal ordered the
respondent to pay the claimants’ arbitration costs, a total sum of US$7.9 million, which included
legal fees, expert fees, administrative fees, and the tribunal’s fees. The respondent state also
had to bear its own legal fees (approximately US$4.8 million) and other costs (approximately
US$1.5 million).

In Plama Consortium v. Bulgaria, the claimant’s legal costs amounted to US$4.6 million, while
the respondent’s legal costs were US$13.2 million. The tribunal ordered the claimant to pay all
arbitration costs and half of the respondent’s legal fees.

In Pey Casado v. Chile, the claimant’s legal fees totaled approximately US$11 million while the
respondent’s legal fees amounted to US$4.3 million. The respondent was ordered to pay 75 per-
cent of the arbitration costs and US$2 million of the claimant’s legal fees.

In ADC v. Hungary, the tribunal ordered the respondent State, which had been found to have
breached its BIT obligations, to pay the full costs of the arbitration totaling US$7.6 million. This
included the investor’s legal fees.

In Siag and Vecchi v. Egypt, the tribunal found that the claimants were entitled to receive from
Egypt the amount of US$6 million to cover their legal fees, expert costs, and other expenses.

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13 Ibid.
be paid for through assessed contributions from all member states, these contributions have become increasingly inadequate with major contributor imposed caps on assessments yet steadily growing mandates in all areas—from peacekeeping to humanitarian assistance to sustainable development—and the accompanying rise in expectations.

Peacekeeping financing, introduced in 1992, involves a separate procedure from that used to meet expenditures under the regular UN budget, but both assess developed countries at relatively higher amounts than less developed countries. In addition, the five permanent members of the Security Council, who can dominate peacekeeping decisions and operations, are assessed at higher levels. Today this too is inadequate, prompting calls for greater and more predictable financing.16

Development resources, by contrast, although originally part of assessed contributions, shifted to a voluntary basis as the number of countries seeking programmatic and development assistance grew throughout the 1950s.17 The concept of “programme countries” has embedded the north-south divide between programme providers and recipients. This divide was further emphasized by combining development and humanitarian aid in the same voluntary category. This “programme country” approach has reinforced a double standard of reporting and governance, in which recipients are accountable for national policies and programmes and donors are accountable only for voluntary contributions. In this domain, the UN has become a forum where some countries give up some national policy space in exchange for external resources.

While the concept of mutual accountability, advanced more recently through the development effectiveness agenda, has recognized the two-way relationship between funder and recipient, it is still finance driven and risks promoting an approach whereby recipient governments are more accountable to external funders than to their citizens and residents.

This system, increasingly distorted, is no longer working. Traditional donors promise increasingly less official development assistance (ODA) or emphasize its use to respond to domestic market or security concerns. In fact, in February 2016, the Organisation for Economic Cooperation and Development (OECD) agreed to redefine ODA to include support to military and security forces in fragile countries, as long as this still “promotes development goals.”18 In 2014, an estimated €7.1 billion of European aid was spent domestically—on refugee services among other things, including hosting overseas students.19

Public-Private Partnerships Don’t Work

Today not all developing countries are seeking ODA, which tends to come with a range of donor priorities and conditionalities, ranging from governance to donor country procurement obligations. Some prefer the development contracts offered by emerging economies, on terms that recognize partners as contractual equals and essentially negotiate quid pro quo arrangements. Others actively seek private and corporate sector financing, but often at the cost of the ability to determine or promote national development policy.


19 “Aid in 2016: Call on world leaders to help refugees - without jeopardising the world’s poorest people,” Eurodad, February 8, 2016.
A report by Public Services International (PSI), “Why Public-Private Partnerships Don’t Work,” explores the importance of public investment in controlling national development. Based on 30 years' assessment of privatization, the report concludes that public-private partnerships (PPPs) are not only an expensive and inefficient way of financing infrastructure and services but also are “fundamentally incompatible with protecting the environment and ensuring universal access to quality public services.”

The PSI Report also notes that the UN, similarly strapped for resources, has jumped onto the same quick-win solution:

.Local and national governments and the UN are heavily influenced by the powerful lobby of the biggest services and financial corporations, global consulting and law firms, all intent on reaping profits from basic public services such as health, water, energy. It is our job, in alliance with social movements, to raise the alarm bells, to demand transparency and accountability of our public officials and elected politicians and to create mechanisms for systematic participation in decision making.

These privatization policies are also linked to the new wave of trade negotiations, such as the TPP, TTIP, and the Trade in Services Agreement (TISA), which are also conducted in secret, without public consultation, and heavily influenced by business interests. These trade deals not only facilitate PPPs but will also lock them in, making it next to impossible to reverse them, regardless of outcomes.

A further danger is the recent effort by the World Bank, the G20, OECD, and others to “financialize” PPPs in order to access the trillions of dollars held by pension funds, insurance companies, and other institutional investors.

The flow of finances has come to exercise undue influence not only on development programming but also on the shape of the UN development system with some mandates favored more than others.

For too long the UNDS as a whole has resigned itself to declining state power in the wake of globalization while continuing to hold states accountable for upholding human rights and rule of law standards and meeting their obligations under successive global development agreements. Over the last two decades the UNDS has fragmented into a myriad of activities, some managed through UN proxies or partnership arrangements, which are in danger of becoming competitors rather than supporters of the United Nations.

As the UN system has become more opportunist and less articulate in its support of UN standards, it has lost or alienated many in the natural constituency for UN values among public advocates and social movements.

The Secretary-General and UN senior staff feel the pressure to look for “innovative” approaches to development financing in the face of declining or earmarked donor contributions. Agencies turn increasingly to entities outside the UN system, such as the UN Foundation, the Global Compact, and a proliferating number of “multi-stakeholder partnerships,” which also come with less member state scrutiny and possible micro-management. A 2014 review by the International Civil

22 Ibid.
Society Centre (ICSC) found that of 330 partnerships in the database of the Commission on Sustainable Development (CSD) 38 percent “are simply not active or do not have measurable output,” while of the 26 percent of partnerships that do show activities these are “not directly related to their publicly stated goals and ambitions.” The study pointed out that not only do such partnerships have vague and diffuse goals but also “lack appropriate monitoring and reporting mechanisms,” raising doubts not only about the ineffectiveness of such partnerships but also their undermining of democratic governance.24

This is clearly the wrong response. UN agencies are not leading with human rights and environmental standards and have relinquished any leadership in macroeconomic policies.25 They typically turn too much to powerful states—and by consequence away from those dependent on or invested in multilateralism and global democratic governance. So long as member states remain locked in a belief that progress depends on growth in Gross Domestic Product (GDP) and rich countries not only privilege national security and markets, but also define the terms of tax and investment policy, change will remain elusive.

Is the 2030 Agenda a Game Changer?

Despite these failings, the role of the UN as a global governance body is needed more than ever, even as nation states abdicate their responsibilities in the face of globalized financial and corporate power. The negotiations on the 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda on Financing for Development, and the Paris Agreement on Climate Change have all shown there is a worldwide constituency for the engagement of sovereign member states to forge international cooperation under the auspices of the United Nations.

The 2030 Agenda represents an important break with past agendas and reflects a political effort to come to terms with the new economic, political, and planetary realities—at all levels. It is perhaps the first truly post-colonial agreement in that it is universal, going beyond notions of development cooperation and requiring all countries to measure and report on progress, not just developing or “programme” countries and not only in aggregate or income terms.

In addition, the engagement of civil society bringing both expertise and local experiences into the drafting and negotiations process was illustrative of how to engage constituencies and communities without undermining state responsibilities. Is the 2030 Agenda a game changer for UN? Its implementation is driving the UN system and its member states to re-examine their mandates, functions, and programmes.

However, it is not sufficient to simply plead for stronger role for the UN. Instead, the UN role in global governance must be revitalized so that the new realities are driving its re-positioning and reform. This requires the UN system and its member states to recognize a number of imperatives, including:


1. Adopting an overarching values-based framework for intergovernmental processes;
2. Integrating the three UN pillars—human rights, sustainable development, and peace and security—into that framework;
3. Implementing a new funding formula; and
4. Developing a robust accountability culture to champion the public interest, including changing the way progress is conceptualized and measured.

It is important to note that these imperatives are for a reform agenda that responds to the new realities of our global world, not just another reassembling of the existing institutions with their governance and funding arrangements. Hence for example, they make clear that respecting and promoting human rights must include extraterritorial responsibilities; UN pillars must be not only integrated but rebalanced; and financing must address the constraints on all countries, particularly developing countries to mobilizing national resources to fulfill the 2030 Agenda and the Paris Agreement through such things as trade and investment treaties, tax policy rules, illicit financial flows, and other drains on the public purse.

A Universal Normative Framework

The first imperative is to adopt a universal normative framework that lays out the duties that states have to cooperate and coordinate with each other in advancing more equitable, peaceful, and sustainable societies. The UN Charter and the human rights treaties and instruments provide the starting point, as do a full range of environmental treaties and instruments. These lay out a value-based framework that distinguishes the UN as an accountability mechanism from other global or multilateral entities and processes.

Under international law, states are the primary duty bearers for upholding human rights within their territories and these obligations include addressing inequalities that inhibit the enjoyment of human rights.

In today’s globalized world, one country’s actions often have significant cross-border impacts, seriously impacting and possibly constraining the ability of other countries to meet their human rights and sustainable development commitments. The duty of states to respect and support the achievement of human rights outside their territories is also anchored in international law—notably the UN Charter, the Universal Declaration of Human Rights, and various other international human rights treaties, including the International Covenant on Economic, Social, and Cultural rights.

In addition, the Declaration of the Right to Development addresses international systemic issues and the creation of an international enabling environment which includes trade, debt, technology, and the reform of the financial architecture and global economic governance.

The extraterritorial human rights obligations embraced in these documents are definitively articulated in the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social, and Cultural Rights, which recognize the obligation of states to respect, protect, and fulfill economic, social, and cultural rights not only internally but also externally. Issued in September 2011 by 40 international law experts, these principles constitute an international expert opinion, clarifying the extraterritorial obligations of states on the basis of existing human rights law. They include responsibility for the conduct of non-state actors, such as corporations and other business enterprises, where they are empowered by

26 CESR and TWN, "Universal Rights, Differentiated Re-
the state to exercise elements of governmental authority.27

The Maastricht Principles apply directly, for example, to the resolution of investor-state investment disputes. The UN Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas, has called for the abolishment of the investor-state dispute settlement system, stating in his report to the Human Rights Council, “Over the past 25 years bilateral international treaties and free trade agreements with investor-state dispute settlement have adversely impacted the international order and undermined fundamental principles of the UN, State sovereignty, democracy and the rule of law.”

Among the alternatives proposed in the de Zayas report is the creation of an international investment court which would give priority to the UN Charter and the core UN human rights treaties, replacing the existing ad hoc tribunals and giving the proposed investment court some institutional relationship with the UN.

Another alternative the report puts forward is that trade and investment contracts be obliged to rely exclusively on domestic dispute resolution, “abolishing the right of investors to bring claims against States in international tribunals and directing them to the jurisdiction of the States where they are operating and making a profit.”

In an interconnected and interdependent world with vast disparities in power, capacity and means, states exert significant influence on sustainable development beyond their borders in a plethora of ways—be they through the cross-border spillover effects of national policy decisions, via their bilateral and multilateral policies on tax, trade, investment and finance, through their capacity to regulate multinational corporations over whom they have jurisdiction, or as voting Member States in international financial institutions. The experience of the last fifteen years has shown how profoundly these factors limit the capacity of other national governments to realize their human rights and development commitments.25

His report concludes that maintaining investor-state dispute settlement is not an option and that it should be abolished as a fundamentally flawed system having adverse human rights impacts and [...] has upset the international order by debilitating States, encroaching on their regulatory space and aggravating inequality and inequity in the world.”28

In addition to addressing the incompatibility of many bilateral, regional, and global agreements with international human rights standards, member states must also come to grips with the reality of the permanent loss of natural resources, atmosphere, and biodiversity and the consequences for realizing human rights, including to food, water, and livelihoods, particularly for future generations. Thus in operationalizing the Maastricht principles, states must deepen their obligations to ensure intergenerational rights.

In the words of the 2030 Agenda, in an era of economic, social, and environmental intercon-

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nectedness, universally agreed principles are “the precondition for living together in justice and peace and in harmony with nature.”

**Principles Guide the Way Forward**

A basic non-negotiable principle of inter-state relations is that of “do no harm.” This principle, derived from medical ethics, is applicable in any situation and is increasingly relevant to humanitarian and sustainable development as well as peace and security. It has been included in the humanitarian principles of UNICEF since 2003 and has been adopted in a code of conduct by major humanitarian organizations. In essence, the commitment to implement policies in a way that they do no harm to people or nature should be regarded as a guiding principle in all policy areas and at all levels.

In today’s interconnected world two principles, both adopted in the Rio Declaration, are essential. One is the “polluter pays principle,” which holds that the costs of pollution must be borne by those who cause it. A second is the “precautionary principle,” which states that in the absence of consensus, if an action or policy has a suspected risk of causing harm to people or nature, the burden of proof that it is not harmful falls on the initiators of this action or policy. Both principles should be extended beyond international environmental law to such areas as global economic and financial crises. The precautionary principle could oblige states to take regulatory or protective measures to shield all states from such crises, while the principle of polluter pays could be shaped, for example, to hold the banks and the financial industry to bear the costs of a crisis they provoked.

A vital principle laid out in the Rio Declaration and adopted in climate change and biodiversity regimes, is the principle of “common but differentiated responsibilities” (CBDR). It recognizes the particular responsibilities developed countries bear in view of their disproportionate impact on the global environment and the superior technological and financial resources they command. Reiterated in the 2012 Rio + 20 outcome document (The Future We Want), the concept, while highly contested, has been included in the 2030 Agenda for Sustainable Development. It underlines both the universality of the 2030 Agenda as well as the differentiation of responsibilities and capacities for its realization. This principle needs to be developed to address the responsibilities of countries across the different stages of development—from least developed countries (LDCs) to middle income countries (MICs) to emerging economies Brazil, Russia, India, China, and South Africa (BRICS) to high-income countries—according to their capacity to respond, based on varying and diverse degrees of resources, levels of development, and effective influence.

The principle of CBDR requires the UN to champion universality and a unified framework with the necessary differentiation of capacities and responsibilities, reflecting power asymmetries. The 2030 Agenda states, “All of us will work to implement the Agenda within our own countries and at the regional and global levels, taking into account different national realities, capacities and levels of development and respecting national policies and priorities.”

However, the principle of CBDR goes further. It implies that rich countries have special responsibilities, going beyond an international enabling environment. A 2014 paper by the Civil Society Reflection Group on Global Development Perspectives identified three broad types of goals and targets: those that are of particular relevance to the internal affairs of all countries, including rich countries, requiring changes in their domestic policies (domestic sustainability targets); those that address the need to change domestic policies in order to reduce negative external effects beyond a country’s borders
(do-no-harm targets); and those that zero in on their international duties and responsibilities (international responsibility targets).29

In the implementation of the 17 Sustainable Development Goals, the 2030 Agenda emphasizes their universality, interlinkages, and complementarity. And Sustainable Development Goal 10 includes not only the promotion of the social, economic, and political inclusion, but also the adoption of fiscal and social policies to progressively achieve greater equality and better regulation of global financial markets and institutions.

Yet, in his most recent report, the UN Independent Expert on the effects of foreign debt and other related international financial obligations of states on human rights, Juan Pablo Bohoslavsky, points out that the linkages among economic inequality, financial crises and human rights have been inadequately explored:

there are strong indications that inequality may substantially contribute to and exacerbate the emergence and the course of financial crises, even if other factors, in particular financial deregulation, obviously also play a crucial role. Inequality erodes States’ tax base, thereby impacting sovereign revenues. Inequality also appears to prompt increased levels of private credit, which in turn may adversely affect sovereign debt and stability of the financial markets.30

Beyond Tinkering to Transformation: Action Steps

To operationalize a universal normative framework based on human rights, the UN system should:

⇒ Adopt as an organizing principle the reduction of inequalities, income and non-income, and include it as part of the UN mission—alongside poverty eradication.

⇒ Expand the normative framework to include extra-territorial obligations and inter-generational rights and affirm that state responsibilities as duty bearers are domestic and external and collective.

⇒ Develop a universal review mechanism of state obligations, addressing their domestic, international, and do-no-harm responsibilities.31 In the assessment and measurement of progress towards the SDGs, require explicit reporting on obstacles to progress as well as implementation steps and support this with a new approach to measurement and indicators.

⇒ Explore ways to review and recall trade and investment agreements that counter the obligations of states on human rights and that undermine the ability of states to achieve their commitments under the 2030 Agenda and meet the SDGs.

⇒ Task the 6th committee of the General Assembly with developing criteria for dispute settlement consistent with the obligation of states to fulfill their obligations for the protection of human rights and sustainable development, including the right to a livable planet.

Integrate and Rebalance the Three Pillars

The second imperative is to integrate and rebalance the three UN pillars. Integrating the pillars of human rights, sustainable development, and peace and security is essential in order to counter the tendency of UN institutions and their governance processes to continue to operate in silos.


31 Civil Society Reflection Group, “Goals for the Rich.”
Both the 2030 Agenda on Sustainable Development and the Paris Agreement on Climate Change require progress on integrating the three pillars in order to enable the UN and member states to address such challenges as structural inequalities and power asymmetries. Together the agreements provide a “framework on sustainable development” that pulls together what a 2008 study of successive UN reform efforts called “the various interpretations and applications of sustainable development, and that adds coherence to international environmental and development law and policy.”

At the same time it is necessary to rebalance the three pillars, currently dominated by short term conflict, disaster and crisis interventions, and quick-win approaches to sustainable development. To implement the 2030 Agenda in particular requires both a strategy of resistance to quick-win approaches and “short-term-ism.” This would represent a dramatic change of direction for the global body.

Norms and Standards

Human rights obligations must be taken up more broadly by the entire UN system, linking the three pillars of human rights, peace and security, and development and engaging a range of different actors at global and national levels.

The work of independent UN human rights experts, or groups of such experts, provides analyses and recommendations that should be used system-wide. Covering as they do the entire range of rights, both civil and political, as well as economic, social, and cultural, these experts are the key to integration across the UN system, from peace and security to sustainable development. Variously called special rapporteurs, special representatives, or independent experts, they are mandated to respond to requests, from either heads of government or members of parliament, and to carry out country visits, meeting with national and local authorities, including members of parliament and of the judiciary, human rights organizations, civil society organizations, and victims of human rights violations, as well as UN and other inter-governmental agencies.

The Special Rapporteur on the Right to Food, Olivier de Schutter, for example, who served from 2008, at the outset of the world food crisis, to 2014, prepared reports covering food price volatility, trade and investment in agriculture, regulating agribusiness, agrofuels, food aid and development cooperation, nutrition, social protection, women’s rights, human rights impact assessments, national strategies, agricultural workers, contract farming, small-holder farmers, agroecology, and reinvestment in agriculture. In so doing he examined the constraints to realizing the right to food embodied in proliferating bilateral and regional trade agreements. In his final report on the right to food he criticized the WTO's inability to finalize the Doha Round on Agriculture, for example, saying that no area, not even trade, should be left aside from discussions concerning this paramount objective.

In a briefing note following a visit to the WTO in 2011, he acknowledged that the mixed record of the WTO in securing the right to food “reflects the dominance of net food exporters in the negotiations for whom food security is a low priority compared to opening markets for their exports.” He added that the structure of WTO negotiations themselves, which involve tradeoffs between agriculture and other goods, prevents food security from being ad-

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dressed on its own merits instead of as a “bargaining chip.”

Among his report’s recommendations is that WTO members should “Take steps to limit countries’ excessive reliance on international trade in the pursuit of food security” and in building their capacity to produce needed food, prioritize poor small-scale farmers and the production of staple foods. And “in the case of a failed Doha Round,” they should propose medium and long-term changes to the WTO framework to ensure pro-food security programmes are not categorized as “trade-distorting support.”

In order to increase compatibility between the global trade regime and international efforts to secure global food security, the report pointed to the need to establish a protocol to evaluate and monitor the impact of trade liberalization on world food prices, adding that “this should also include exploring potential ways to sequence the implementation of future trade commitments in order to minimize negative consequences on the food security of the most vulnerable populations.”

The Committee on World Food Security (CFS) was set up in 1974 as an intergovernmental body to coordinate review and follow up of food security policies across the UN system. Headquartered in the Food and Agricultural Organization (FAO), it was revitalized in 2009 following the world food crisis to incorporate a wider range of stakeholders, including civil society and the private sector, to among other things, establish such a protocol.

The FAO has taken the first step in this regard, integrating the right to food into all FAO policies and programmes. And the restructured CFS provides valuable lessons on engaging stakeholders together with governments in governance processes.

The International Labour Organization (ILO) is unique as a UN entity with a tripartite governance structure (governments, employers, and workers) that aims to promote rights at work, encourage decent employment opportunities, enhance social protection, and strengthen dialogue on work-related issues. Standing apart as well as under-used by the system, not only for leadership on full employment and decent work, but also for shaping the rules for the system’s engagement with the business sector. Such partnerships are increasingly explored by the UN system, yet leadership roles have been left to non-UN initiatives more committed to promoting partnerships with the business sector than to monitoring them.

However, a target of full and productive and decent work—including as an afterthought five years into the MDGs—is now included as central goal of Agenda 2030.

The 2030 Agenda also reiterates the need to implement a global social protection floor (SPF), a basic set of social rights, services, and facilities that every person should enjoy, including geographical and financial access to essential services such as water and sanitation, health, and education. The concept was adopted by the UN Chief Executives Board for Coordination (CEB) in April 2009 in response to the global economic crisis and was endorsed by the G20 later that year and by the UN MDG Summit in 2010. It identifies the social transfers, in cash or in kind, required to

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provide minimum income security and access to these essential services. All these aspects are measurable, but they require each society to define its standards of what is “essential.” Through its Social Protection Initiative the ILO has conducted a number of studies on the affordability of social protection in developing countries.\(^37\)

The universal social protection floor is an important part of the implementation of the human rights obligations of governments to their people and of the international community to support them. The obligations of states in ensuring the enjoyment of economic, social, and cultural rights go beyond providing just a bare minimum of resources to ensure survival and require them to utilize “the maximum of their available resources to achieve progressively the full realization of economic, social and cultural rights.” This recognizes that the realization of these rights can be hampered by a lack of resources and can be achieved only over a period of time.

Job creation and decent work are central objectives for an integrated approach. They are rooted in human rights and in economic justice and represent the number one strategy for eradicating poverty and reducing inequality. They should be a top priority for the UN system as a whole.

**Build Sustainable Peace**

Integrating the three pillars is also showing up at the top of the peace and security agenda, prompted by the recognition in the 2030 Agenda that “there can be no sustainable development without peace and no peace without sustainable development.” The current peace and security architecture, created by the Security Council and the General Assembly in 2005, was an effort to fill a “gaping hole” in the UN’s institutional and structural capacity to support countries in transition from violent conflict to sustainable peace. However, in 2010 a first five-year review emphasized that “the hopes that accompanied the founding resolutions have yet to be realized,” intending to serve “as a wake-up call, helping to strengthen the collective resolve to deal with peacebuilding in a more comprehensive and determined way.”

The most recent review, in 2015, entitled “The Challenge of Sustaining Peace” again concluded that to date these hopes have largely not been realized. Rather, it stated: “it is an overarching finding of this report that the key Charter task of sustaining peace remains critically under-recognized, under-prioritized and under-resourced globally and within the United Nations system.”\(^38\)

What is lacking in efforts to build sustainable peace is that they have been limited to disaster and conflict crises. Peace is more than just the absence of conflict, as the report essentially recognizes. It is also the absence of economic violence and destruction of livelihoods due to climate change and economic and financial policies and processes that pit countries against each other in tax competition and undermine decent work.

Recognizing that member states contribute most resources to the UN Development System, it is particularly important to close the gap between the human rights framework, the peace and security agenda, and the UN Development system. Indeed, the 2030 Agenda states clearly that the General Assembly should use the UN policy coordination mechanism, the Quadrennial Comprehensive Policy Reviews (QCPR), to include a “specific focus on sustaining peace, examining the UN system’s


success in bringing together development, humanitarian and peace and security actions.”

However, it is important that the financing of sustainable development is not narrowed or redefined to conflict and crisis management. Although the report recommends that in its next (2016) and subsequent UN QCPRs, the General Assembly should include a specific focus on sustaining peace, there is a need to overcome the implicit competition between the financing of humanitarian and emergency programmes and development financing, the latter with a long-term focus frequently losing out to perceived immediate needs as long as all contributions are “voluntary.” An integrated approach respecting sustainable development may need a firewall between humanitarian and development financing.

Also with many sustainable development needs arising from pressures and actions external to domestic governance and policies, the responsibility to meet and finance these needs can benefit from the concept of “no-fault” liability and cannot be dependent on external (pro-cyclical) voluntary contributions.

In this regard the concept of loss and damage is useful to build upon. This concept has been applied to biodiversity and climate change to address the impacts of climate-related events that occur despite efforts to reduce greenhouse gas emissions. However, loss and damage can occur in human systems, affecting sustainable livelihoods, as well as in natural systems and raises important and difficult issues regarding liability and compensation. It is also connected to cross border issues and raises similar issues about responsibility.

**Build Sustainable and Peaceful Societies**

The importance of linking the economic, health, and social impacts of environmental degradation to the concept of sustainable development has been repeatedly emphasized. The problem was highlighted a decade ago: “sustainable development continues to be viewed as a niche area of development” synonymous with environmentalism, rather than overarching: “although environment and development issues have been mainstreamed into global policy debates, they have not yet been integrated with one another. Indeed, they continue to be addressed on virtually separate tracks.”

It continues: “Sustainable development remains a separate development objective rather than an element of the overarching development framework in many key UN development-related initiatives, such as the 2005 World Summit and the 2006 High Level Panel on System Wide Coherence. The 2005 World Summit […] could have allowed leaders to recognize the full value of ecosystem services in development planning, provided a forum to reaffirm environment-related concepts such as the polluter pays principle and precautionary principle, and facilitated the identification of their links to human well-being.”

The UN report for the 2016 World Humanitarian Summit, “One Humanity: Shared Responsibility” highlights similar concerns, urging humanitarian, development, peace and security and other institutions to “transcend humanitarian-development divides” and move from individual short term projects to collective long term outcomes. The latter is particularly relevant with regard to assisting refugee and displaced persons. UNWRA estimates that there are 20 million refugees and 40 million internally displaced persons (IDPs) globally. One in every 122 people is now either a refugee, internally displaced, or seeking asylum.

40 Jonathan Clayton, ed., “Worldwide displacement hits all-time high as war and persecution increase,” UNHCR,
Above all the Secretary-General’s report calls for increased investment in preventing human suffering: “Supporting local and national actors to respond better themselves during crises must be a core activity and outcome of humanitarian and development effort. Without strengthened local capacity, any investment into response will remain without return.”

For many, sustainable development is another name for prevention as well as building sustainable and peaceful societies.

**Beyond Tinkering to Transformation: Action Steps**

Realizing the potential of the 2030 Agenda requires a joint UN report on its system-wide implementation.

Operationalizing unity across the three UN pillars requires the UN become an integrated system. This means:

⇒ All UN reporting be done against the base line of a unified normative framework and standards.
⇒ System-wide commitment and action to implement a universal social protection floor.
⇒ Reforming the Chief Executives Board (CEB) to accept responsibility for the UN system as a whole, with collective accountability requirements including developing, presenting, and reporting on a system-wide UN budget to member states.
⇒ Abolishing the individual executive boards and realizing ECOSOC’s charter responsibilities for coordination of the UN Development System.
⇒ Adopting new rules and tools for engaging with non-state actors, including how to differentiate for-profit and non-profit communities.

⇒ Developing public information disclosure and conflict of interest standards to identify special interests and recognize that not all non-profit groups are “public interest.”

**Financing**

The third imperative concerns financing. The 2030 Agenda for Sustainable Development, Financing for Development, and the Paris Agreement on Climate Change are currently at the core of the UN reform agenda. Implementing them will require an enormous mobilization of resources, at both national and global levels. Official estimates include:

⇒ Peacebuilding estimates: US$100 million (1% of the total UN budget).
⇒ 2030 Development agenda: estimates from US$3.5 to US$5 trillion per year.
⇒ Social safety net to eradicate extreme poverty alone: US$66 billion per year.
⇒ Climate change financing needs: US$100 billion per year. Climate change flows reached an estimated US$60+ billion by 2014. Most countries include export credits designed to help local industries, along with ODA contributions labeled “climate friendly.”
⇒ Humanitarian aid budget: US$40 billion per year. The humanitarian aid budget for 2014 was the largest on record but it covered only 62 percent of what was required to care for victims of natural disasters and

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42 For details see Barbara Adams and Jens Martens, *Fit for Whose Purpose?* Global Policy Forum, 2015.


47 “Too Important to Fail—Addressing the humanitarian financing gap,” High-Level Panel on Humanitarian Financing Report to the Secretary-General, December 2015.
conflicts such as the civil war in Syria. Two thirds of the funding came from the five largest donors.

Data from Credit Suisse shows that in 2014, the richest one percent of people in the world owned 48 percent of global wealth, with the remaining 52 percent shared (unequally) among the other 99 percent of adults on the planet. Almost all of that 52 percent is owned by those in the richest 20 percent, leaving a mere 5.5 percent for the remaining 80 percent of the world’s population. If this trend continues, the top one percent will have more wealth than the remaining 99 percent in just two years, with the wealth owned by the top one percent more than 50 percent by 2016.48

In April 2015, during the run-up to the Addis Ababa Financing for Development Conference, the multilateral development banks and the IMF issued a joint report: “From Billions to Trillions—Transforming Development Finance” The report affirmed that international financial institutions (IFIs) “are well-positioned to assist member countries in creating the needed enabling environment to ‘attract more private investment and financing’”. It also declared a commitment to help raise an important part of the needed funding, “either through direct financing, leveraging our capital or catalyzing other resources.”49

Among the report’s most welcome commitments are those to “building a global safety net by providing counter-cyclical support to economies affected by adverse shocks,” and “promoting the highest social, environmental and governance standards.” More problematic is their preference for such financial instruments as global loans to financial intermediaries like private banks that have few contractual obligations where they spend their money and the proposed use of ODA to subsidize or support public or private sector projects. These approaches risk aggravating inequalities and poverty and tend to bypass effective government oversight or accountability.

Climate financing is one of the most pressing issues in both the 2030 Agenda and the Paris Agreement. A report by the UN Environmental Programme (UNEP), *The Financial System We Need*, examines how to reshape and “align crisis-prone global financial markets with the new SDGs.”50 Pointing out that the financial system underpins growth and development, it argues that achieving sustainable development will require a realignment of the financial system with the needs of real world economies. It asserts that “a transformation in public and policy awareness of sustainable development has placed environmental and social issues increasingly at the heart of economic policymaking.” This means, for example, that capital flows must be redirected toward critical priorities and away from polluting and unsustainable natural resource and extraction activities.

The UNEP report also recognizes that upgrading the global financial architecture to enable sustainable development is critical—a fact urged in vain by the UN Stiglitz Commission in 2009 at the UN high-level conference on the impact of financial crisis. The report states at the outset that developing a sustainable financial system “will only be achieved by going beyond both business as usual approaches to financial market development and the adoption of ad hoc innovations.” Such work has already begun, the UNEP notes, “led by those govern-

49 African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the International Monetary Fund, and the World Bank Group, “From Billions to Trillions: Transforming Development Financing,” World Bank and International Monetary Fund Development Committee, April 2, 2015.
ing the financial system, often in collaboration with market actors."

The main argument for the turn to market actors, particularly with regard to climate financing, has been that while public money is more long term and accountable, it is severely limited, particularly in developing countries. Of course, resource allocation is ultimately determined by national political priorities, which are subject to a variety of different interests. However, a major source of limited resources, in rich and poor countries, has to do with the diversion of resources from the public purse through practices such as tax avoidance and evasion. In 2008 Christian Aid estimated an annual loss to developing countries to tax evasion from multinationals and corporations engaged in international trade operations of US$160 billion.51

More recently, a 2013 report from Global Financial Integrity, *Illicit Financial Flows from Developing Countries: 2002-2011*, found that the developing world lost US$5.9 trillion in illicit financial flows from 2002-2011, with illicit outflows alarmingly increasing at an average rate of more than ten percent per year.52

The enormity of the problem has been confirmed by the OECD. It estimates revenue losses of US$120-140 billion each year and is pursuing initiatives to address these problems. One, the Automatic Exchange of Financial Account Information in Tax Matters, "provides for annual automatic exchange between governments of financial account information, including balances, interest, dividends, and sales proceeds from financial assets, reported to governments by financial institutions and covering accounts held by individuals and entities, including trusts and foundations."53 Another initiative is that of Tax Inspectors Without Borders. Launched jointly with UNDP in July 2015, it will facilitate targeted tax audit assistance in developing countries to address the problem by which double taxation treaties turned into double no-taxation treaties for corporations.54

These rich-country led initiatives in essence compete with the more inclusive work of the UN Committee of Experts on International Cooperation in Tax Matters (UNTC), which regularly reviews and updates the UN Model Double Taxation Convention between Developed and Developing countries and the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries.

Thus while private money will play a role, it must be in the context of a new globally agreed financial architecture that “does no harm” and respects—and hopefully promotes—human rights and sustainable development.

Another source of drain on the public purse is the issue of sovereign debt, long on the UN agenda, and of particular concern now, as falling commodity prices have the potential to drive many developing countries back to bankruptcy, especially when interest rates begin to rise. SDG target 17.4 states clearly the commitment to “Assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and address the external debt of highly indebted poor countries to reduce debt distress.”55

Debt restructuring has been addressed regularly on the UN agenda for over a decade, fol-

53 Horizons, “OECD releases full version of global stan-
ollowing the agreement by the Monterrey Consensus on Financing for Development to create an “international debt workout mechanism [...] to restructure unsustainable debts.”

On the initiative of developing countries, the UN General Assembly has set up a Committee for the creation of a new sovereign debt restructuring framework. This builds on the mandate provided by Resolution 68/304 in 2014, which recognized “the sovereign right of any State to restructure its sovereign debt, which should not be frustrated or impeded by any measure emanating from another State,” and noted “with concern that the international financial system does not have a sound legal framework for the orderly and predictable restructuring of sovereign debt.”

The committee’s work is intended to fill the gap in the international financial architecture while at the same time embedding public debt management in the UN development and human rights agendas. In the current “non-system,” the process can take more than ten years of negotiations, and still it is not certain that there will be no holdouts. 56 Among the proposals under consideration is that future debt restructuring processes be managed by an “oversight committee” consisting of representatives of the debtor state and two other states and should come with a clear deadline.

A fair debt workout mechanism is essential to redirect public resources from debt servicing to meeting domestic public needs and protecting human rights and environmental sustainability. States can also do much to improve the mobilization of domestic resources with tax reform. This was most recently articulated by a broad network of women’s rights advocates, labor rights organizations, legal scholars, and others in June 2015. Stating that “tax revenue is the most important, the most reliable and the most sustainable instrument to resource human rights in sufficient, equitable and accountable ways,” the Lima Declaration on Tax Justice and Human Rights points out that a just system of taxation can enhance accountability between the state and its people, encouraging governments to be more responsive to the rights and claims of their citizens. “Tax policies can likewise counteract glaring market failures and protect global common goods—not least a healthy environment within planetary boundaries.” The statement concludes that “tax laws, policies and practices must work to end structural discrimination rather than entrench growing inequalities, including gender, ethnic and economic disparities.”57

Tax reform must also address the imbalance in revenue lost through global tax policies, which according to a senior adviser on finance and development at the South Centre are three times more expensive for non-OECD countries. Further, developing countries face huge revenue losses as they are forced to provide tax breaks and incentives in order to attract investments from multinational corporations, many of which are based in the OECD countries. The scale of loss is enormous, with annual global estimates ranging from US$100 billion to US$1 trillion.

Implementing more equitable and efficient tax policies requires states to play a stronger role in monitoring and taxing foreign investment.

UNCTAD’s Offshore Investment Matrix shows how much investment comes from, goes to, and is routed through tax havens and so-called Special Purpose Entities (SPEs) in other countries. Together, these can be considered “offshore investment hubs” in a hub-and-spoke system of international investment. Some 30 percent of


cross-border corporate investment stocks have been routed through offshore hubs before reaching their destination as productive assets, largely due to tax planning, although other factors can play a supporting role.

UNCTAD estimates that such practices are responsible for US$100 billion of annual tax revenue losses for developing countries related to inward investment stocks. Developing countries with limited tax collection capabilities, greater reliance on tax revenues from corporate investors, and growing exposure to offshore investments are particularly vulnerable.58

When added to costs and claims through investor-state disputes from bilateral and regional trade agreements, as noted above, the amount of monies flowing from poor countries to rich ones is considerable.

Illicit Financial Flows

Added to this are the burdens of illicit financial flows, most of which are trade-based. Although estimates vary, developing countries are reportedly losing upwards of $1 trillion a year in illicit financial flows. 59 The 2015 Report of the High Level Panel on Illicit Financial Flows from Africa (Mbeki report) estimates that illicit financial outflows from Africa could be as much as US$50 billion a year (probably more since data is lacking for many countries and transactions), approximately double the official development assistance (ODA) that Africa receives.

The last decade has witnessed an exponential acceleration of illicit financial outflows from Africa. From a relatively modest figure of about 12.5 billion US dollars in 2002, illicit outflows rose to 68.1 billion US dollars in 2009 and have averaged over 50 billion US dollars over the period.60

These figures result from both legal and illegal practices, “sometimes employing the same commercial mechanism used to evade taxes and customs duties.”61 Such practices include undocumented commercial transactions, criminal activities such as overpricing, transfer pricing, tax evasion, money laundering, arms trafficking, and the shifting of profits by multinational corporations to subsidiaries in low tax jurisdictions.

The report also acknowledges the problems of corruption, largely stemming from non-transparent procurement and supply chains which serve to siphon off considerable wealth to domestic political and economic elites. However, civil society organizations (CSOs) point out that focusing on criminal and corrupt practices must not divert attention from the need to focus on the structural and systemic dimensions of illicit financial flows that make it too easy for resources to be drained from the continent.62

The Mbeki Report urges that regional integration arrangements be used to introduce accepted standards for tax incentives to prevent harmful competition in efforts to attract foreign direct investment. Without such standards, countries will continue to give generous concessions to foreign companies on the assumption that foreign direct investment will help create wealth and lift people out of poverty. Instead these rules provide an avenue for accumulation and repatriation of profits. “The fact that almost no country has ever developed through FDI alone seems to be lost on most African countries.”63

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61 Ibid.
In addition, the report notes that while the sources of illicit financial flows are within Africa, the mechanisms for moving them often involve non-African private and public actors and are sometimes the result of laws and politics adopted by intergovernmental bodies and states outside Africa. It adds that African countries must become involved with the work of the OECD on profit shifting to make sure that its discussions on new tax rules do not result in increasing illicit financial flows from Africa.

The European Union (EU) too has taken action on tax evasion. The European Commission is tabling legislation in 2016 aimed at making the world’s largest multinational corporations open their tax arrangements with EU governments to full public scrutiny. According to three senior EU officials familiar with the proposals, initial conclusions from an ongoing impact assessment have found in favor of obliging large corporations to reveal their profits and the tax they pay in every country in which they operate within the EU.

The EU has recognized the need for policies to address tax evasion and the debt issue but resists taking initiatives in the UN. It has boycotted the UN debt initiative and is dragging its feet on a global tax authority.

**Regional or Global Action?**

While the OECD and the EU have taken action, many countries and civil society organizations (CSOs) advocate that the UN’s work on tax matters should be upgraded so that non-OECD countries do not find themselves as petitioners to a body of limited membership. Progress here is very slow. The proposal that the UN Committee of Experts on International Co-operation in Tax Matters be upgraded into an inter-governmental committee with developing country representation was rejected in the Addis outcome document, which settled for some changes to upgrade the expert committee.

The growing acceptance of the need for non-OECD countries to have access to OECD deliberations is an inadequate response to the concept of universality, which is central to the 2030 Agenda.

As the Mbeki report points out, illicit financial flows “are not only an African problem but are indeed a matter of global governance that calls for a wide range of actions, including at the level of the global financial architecture” Thus the report concludes that banks and financial institutions have a major role in preventing and eliminating IFFs and that robust oversight regimes should be put in place for the supervision of banks and other financial institutions.

**Beyond Tinkering to Transformation: Action Steps**

Responding to these resource and policy challenges requires global action to:

⇒ Establish global tax authority under UN auspices.
⇒ Adopt a debt workout mechanism under UN auspices.
⇒ Adopt safeguards for public finance: The UN should issue an annual report on the status of illicit financial flows.
⇒ Strengthen UN capacity, research, reporting, and policy advice on public financing, including trends, obstacles, and recommendations.
⇒ Replace the many trust funds with a few innovative pooled funds.
⇒ Create a firewall between development and humanitarian financing.

**An Accountability Culture**

The fourth imperative is to develop an accountability culture to champion the public interest.
Is the 2030 Agenda for Sustainable Development a driver for UN reform?

Its adoption is provoking much of the UN to adjust itself to the new universal and integrated UN agenda. Its breadth and scope, especially the 17 Sustainable Development Goals, have captured the attention of the world beyond the UN in civil society organizations, academia, corporations, and philanthropy.

In addition to specific goals for peace, sustainable development, and human rights, its framework for action articulates clearly how essential it is to address the “enormous disparities of opportunity, wealth and power.”

The 2030 Agenda recognizes the failure of unfettered growth as a viable economic model and calls for new measures of progress that do not rely solely on GDP.

In order to implement a universal agenda that can address inequalities and planetary boundaries, member states must agree on new measures of progress, moving away from the dominant market-based GDP to take account of resource depletion and economic insecurity and to measure human wellbeing in a context of sustainability. The 2014 Human Development Report, for example, shows that while the United States ranked fifth on the Human Development Index—which includes health and education in addition to income—it drops 23 places when the score is adjusted for inequality along all of its dimensions, below Greece and Slovakia.64

One suggestion, advanced by Stiglitz and others, is to use a “dashboard” suite of indicators: an array of different measures that collectively give a picture of progress towards sustainable development, like the various monitors on the dashboard of a vehicle (speed, fuel level, etc.) which cannot be merged in a single indicator but together show what is important. While GDP remains important, as it informs about trends of economic activity, it must be accompanied by several other indicators, including human well-being, equity, and distribution.

An example of this approach is the EU Sustainable Development Indicators (SDI), which include over 100 indicators from 1990-2010 across a variety of economic, social, environmental, and governance themes. Themes range from social inclusion and public health to climate change and energy to biodiversity and land use to sustainable production and consumption.

Data experts of all sorts, including financial corporations and cell phone service providers, academics and so called global partnerships, are clamoring for the opportunity to define and redefine measures of progress on different targets through big data, and may overwhelm the ability of governments to hold onto their own development policy process. It is vital that the UN and its member states recognize this danger in order to make sure that the tail does not end up wagging the dog.

The Accountability Trap

If you can’t count it, it doesn’t count. If only what can be measured matters and is implemented, it is only what can be measured that is subject to accountability.

Usually understood in application to measurement and results, the link between input and output applies equally to how member states finance the UN system. A new funding formula for the UN system is urgent, one which is both adequate and based on assessed contributions. The current inadequate and piecemeal approach fragments accountability. It

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promotes a pay to play mentality and blocks prompt action from an impartial UN.

The UN regular budget that is financed by assessed contributions has stalled for over a decade. Three months after the adoption by consensus and with much fanfare of the 2030 Agenda, difficult negotiations in the UN General Assembly resulted in a 2016-2017 UN budget of US$5.57 billion, down 1.6 percent or US$90.8 million from 2014-2015.65

Currently, the total funding of all UN system-wide activities is just over US$40 billion per year—less than the annual budget of New York City, less than a quarter of the budget of the European Union, and only 2.3 percent of the world’s military expenditures. As the World Bank calls on the global community to move from “Billions to Trillions” to meet the investment needs of the Sustainable Development Goals, can the UN hope to be a major player?

The increasing use of non-core and earmarked funding has resulted in UN agencies adopting a range of funding strategies, including corporate and philanthropic partnerships. Driven by a belief that engaging the more economically powerful is essential to maintaining the relevance of the UN, this practice has harmful consequences for democratic governance and general public support, as it aligns more with power centers and away from the less powerful.

The UN needs a new formula for financing its operations, one that is sufficient, reliable, and predictable. As such it has to have a strong component of assessed contributions, although one that is robust—not paltry—and realistic in light of the increasing demands placed on the global body. With a world population of over seven billion, a figure of US$100 per person per year verges on inadequate, yet the current figure is US$6 per person.

Not only is the UN chronically underfunded, but by 2014, 76 percent of funds for UN operational activities for development were earmarked for specific programmes, often by single donors, reducing multilateral institutions to programme contractors, chasing public and private funding.66

The Next Secretary-General

Implementing reform initiatives requires democratic governance and public accountability, starting with the selection of the next UN Secretary-General, who will be appointed in 2016.

A number of member states, as well as civil society activists, are supporting a process whereby the next Secretary-General will be elected by members of the General Assembly, following a recommendation by the Security Council. This process was followed with the election of the first Secretary-General but was pushed aside in the selection of subsequent Secretaries-General as the Security Council recommended only one candidate. A General Assembly election would restore some of that body's original role in the selection process, which has gradually been taken over by the Security Council, and enhance its transparency, which under the Security Council has been highly secretive. Public hearings with candidates are being planned.

Civil society activists are also advocating for a single, non-renewable term for the UN Secretary-General. A single term of office could make the Secretary-General more broadly accountable to all member states, not just the powerful members of the Security Council. By eliminating the need to campaign for reelection, it would allow him or her the necessary political space to develop a more independent, long-term agenda and push for its implementation in all countries.67

**Box 2: Sustainable Development Indicators: Alternative indices**

Several indices seek to capture the well-being of societies in a single number, usually averaging different indicators including subjective perceptions of well-being as well as objective measures of malnutrition, mortality, educational levels, or time use. Other indices measure deprivation.

The UNDP Human Development Index (HDI) is used to rank and compare countries in terms of three components of economic and social well-being: longevity, education, and access to a decent standard of living (measured using adjusted gross national income (GNI) per capita). Subsequently, UNDP introduced the “inequality-adjusted HDI,” which adjusts the ranking for human development according to the distribution of each of its three components across different sectors of the population.

The UNDP/Oxford Multidimensional Poverty Index includes measures of time poverty alongside income poverty as well as access to some form of social protection. This shows that almost 1.5 billion people live in poverty and almost 800 million are vulnerable to slipping back into poverty. Eighty percent of the world's elderly lack basic social protection, making them a particularly vulnerable group.

The Social and Economic Rights Fulfillment (SERF) Index, computed by the Economic and Social Rights Empowerment Initiative, can measure the distance between the actual situation of a country and what it might be expected to achieve using maximum available resources. Such an analysis can be used to hold a government accountable for not doing all it could possibly do, as well as to substantiate the claim of governments for a better deal in the global economy.

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67 See “1 for 7 Billion,” 1for7billion.org.
undermining democratic governance and the responsibilities of states to their people. This requires Member States to:

⇒ Adopt a formula for mandatory assessed automatic contributions to finance the UN.
⇒ Set a minimum annual budget for the UN system such as a global per capita amount of US$100.
⇒ Establish a common pool to be able to accept a variety of income streams—bilateral, individual, philanthropy, private sector—without undue influence on programming and governance.
⇒ Strengthen the Advisory Committee on Administrative and Budgetary Questions (ACABQ) as an independent advisory group, to keep pace with the volume of work, including extra-budgetary matters.
⇒ Clarify standards of transparency and reporting as well as conflict of interest policies.
⇒ Convene a high level panel as part of the revitalization of the General Assembly to address the issues of financing the UN system and the provision of global public goods. This should be undertaken through an open, transparent consultative process that includes a wide range of hearings with parliaments and civil society.
⇒ Protect and champion public policy, public administration, and public service. The UN needs to be required/empowered by its member states to challenge other global governance processes and institutions that undermine or block the UN system’s ability to fulfill its mandate.
⇒ Revise human relations and ethics policies and independent oversight accordingly.
⇒ Actively support meaningful participation of civil society and social movements, including through a High Level Political Forum resolution and mandatory public comment periods.
⇒ Adopt rules and tools for partnerships and engagement with civil society and the business sector.
⇒ Provide an integrated fund of a limited period, such as five years, with the specific objective to restructure the UN Development System into an integrated system with new integrated governance.

Moving Forward

The call for UN reform and for the rejection of business as usual is not unprecedented. Yet this one has a particular urgency, as there is already a shadow process of reform taking place, one driven by shifting funding patterns. The UN is chronically under-funded and the pick-and-choose way in which it is financed has reduced the UN system to a collection of special interests—and now the UN’s many constituent parts, especially of the development system, are behaving as a collection of special interests.

How do we get out of this vicious circle? How can the UN reclaim its values-based leadership?

How can the UN and its member states grapple with the vested interests and power imbalances that have flourished in the global governance gap?

To re-commit to a values-based United Nations, the UN needs to champion the public interest and democratic governance. Its mem-
bers need to embark on a truth and reconciliation process to reclaim its promise and potential.

It is important not to waste the momentum, energy, expertise, and commitment that has created the 2030 Agenda for Sustainable Development. It represents an integrated agenda for people and planet, not an agenda for people or planet, not an agenda for some people before others. It cannot succeed without addressing the inequalities that are manifest in so many areas; without addressing the structural obstacles to change; without addressing how the economy works, how wealth is defined, generated, distributed, and balanced against the needs of the planet.

For the UN and its institutions to engage with the far-reaching agreements highlighted by the 2030 Agenda they must challenge—and be seen to challenge—power imbalances, what the document calls the “enormous disparities of opportunity, wealth and power.” They must grapple with vested interests and power inequalities at all levels. The UN must practice the impartiality and values on which it is built and on which its legitimacy and credibility rest. It must be a robust space for implementation and accountability.

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