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Sustaining Sustainable Development: Leveraging human rights structures to implement land-related SDGs

Beth Roberts

Landesa (Rural Development Institute), USA

bethr@landesa.org

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Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



Abstract

Links and overlaps between the Sustainable Development Goals and the human rights realms result in a catalytic space for land rights advocacy. Both realms share common goals: human dignity and well-being, achieved through substantive empowerment and poverty alleviation. And in both realms, bridging the gap between policy and ground-level realities presents a set of challenges with overlapping solutions and needs for cross-sector coordination.

This paper will explore the potential of National Human Rights Institutions (NHRIs) to serve as a bridging mechanism between the human rights realm and land-related SDGs implementation and institutionalization. It will explore the following questions and present a case study of Myanmar's NHRI.

- How does the role of an NHRI already relate to SDG implementation?
- What specific actions could an NHRI take to realize effective implementation of SDG indicators on land?
- What capacity-building would be needed to enable NHRIs to play a robust role in land-related SDG institutionalization?

Key Words: Capacity development, gender equality and social inclusion, institutional innovation, land and human rights, Sustainable Development Goals



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



1. Introduction

In 2015, the United Nations (UN) adopted the 2030 Agenda, or the Sustainable Development Goals (SDGs), via an unprecedented global collaborative process. The global land sector engaged in its own extensive collaboration, advocating successfully for the inclusion of three sex-disaggregated land-specific indicators in the SDGs: 1.4.2, which measures the number of women and men with legally documented tenure rights, and who perceive their tenure rights as secure; 5.a.1, which measures the proportion of agricultural land held by women, and the proportion of women among agricultural land holders; and 5.a.2, which measures the number of countries where law (both formal and customary) guarantees women's equal rights to hold land.¹

The inclusion of these indicators was an immense triumph for the land sector. And last year's recategorization of these indicators by the Inter-Agency Expert Group (IAEG) from Tier III to Tier II²—meaning they have an agreed-upon global methodology for data collection—was another ground-breaking achievement.³ Globally, UN agencies, government actors, and civil society actors (and others) are working fervently to implement the SDGs. Actors within the land sector are working just as fervently to hold governments to their commitments to the SDG Agenda as a whole; to facilitate uptake of the land-specific indicators by governments to achieve Tier I status by 2020 (meaning data is regularly produced in at least 50% of countries and represents at least 50% of the population, in all regions);⁴ and to facilitate people-centered and people-driven data collection.⁵

Beyond the three land-specific indicators, the centrality of land to the SDGs is well understood within the land sector.⁶ Land is seen as a cross-cutting issue for eradicating poverty and hunger, achieving gender equality, making cities sustainable, combatting climate change, and creating peace and stability through good governance.⁷ The land sector can leverage governments' commitments to the SDGs overall,

¹ Land Portal. Land and the Sustainable Development Goals (SDGs), available at: <https://landportal.org/book/sdgs>

² UNSTATS (May 2018), Tier Classification for Global SDG Indicators, available at: https://unstats.un.org/sdgs/files/Tier%20Classification%20of%20SDG%20Indicators_11%20May%202018_web.pdf

³ Everlyne Nairesiae, Robert Ndugwa. (2019). Status of SDGs Land Indicators: Overcoming the Barriers and Bridging the Yawning Data Gaps, Land Portal, available at: https://landportal.org/blog-post/2019/02/status-sdgs-land-indicators-overcoming-barriers-and-bridging-yawning-data-gaps?utm_source=Land+Portal+Newsletter&utm_campaign=4c5b1ff1dd-EMAIL_CAMPAIGN_2017_09_21_COPY_01&utm_medium=email&utm_term=0_8b8de3bf56-4c5b1ff1dd-348158797

⁴ Interagency Expert Group on the SDGs, Tier Classification for Global SDG Indicators, available at: <https://unstats.un.org/sdgs/iaeg-sdgs/tier-classification/>

⁵ L. Meggiolaro, et al., (2018). Land Governance and the Sustainable Development Goals (SDGs): Consolidating and Harmonizing Monitoring Initiatives, paper prepared for the 2018 World Bank Conference on Land and Poverty, hereinafter "Meggiolaro."

⁶ International Land Coalition, (2017), Land and the SDGs: Let's Start with the Evidence, available at: https://www.landcoalition.org/sites/default/files/documents/resources/2017_7_sdg_flyer_0.pdf

⁷ Land Portal (2017). Full implementation of the SDGs land rights indicators needed to ensure a successful Agenda 2030, available at: <https://landportal.org/news/2017/11/full-implementation-sdgs-land-rights-indicators-needed-ensure-successful->



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



situating land as an essential and inter-connected aspect of the 2030 Agenda. A focus on land within the SDGs serves the primary goal of ensuring that adequate resources are directed toward the most marginalized demographics (women and youth in particular); and secondarily, well-crafted advocacy situating land in the SDGs will raise the profile of the land-specific indicators.

But the centrality of land in the human rights realm—while a rapidly developing and increasingly strong area of human rights law—is less known among development-focused land actors. This is due to multiple, complex, and historical as well as contemporary factors: divergent ideologies (e.g., a prioritization of private property rights over collective rights and redistribution⁸), locale (e.g., community-level organizing versus global institutions; the regional cohesion of Africa around human rights norms for the Continent, as compared to the much less developed human rights apparatus in the ASEAN region), and relative access to resources. These differences can be seen concretely in different approaches and use of language—between land rights activists whose efforts are grounded in a rights-based framework,⁹ and actors (many in global north institutions) whose agendas have been grounded in economic development frameworks.¹⁰ Regardless of the source or sources of these ideological and methodological differences, the result is siloed approaches and inefficiencies in achieving the ultimate goals of securing rights to land. These are shared goals for the SDGs and human rights realms: peace and prosperity for people and planet.

In addition, there are strong links and overlaps—in terms of content, processes, and implementation needs—for the SDGs and human rights norms, creating a catalytic space for land rights advocacy.¹¹ An understanding of both realms is a powerful tool that should be leveraged by those in the land sector engaged in advocacy, programming, governance, private investment, or financial backing.

The SDGs are “grounded in the United Nations Charter, the Universal Declaration of Human Rights and international human rights treaties and instruments, and informed by other instruments such as the Declaration on the Right to Development.”¹² The 17 goals and their 169 targets explicitly reference and closely reflect human rights standards, and integrate cross-cutting human rights principles such as

agenda-2030; Land Portal, Land and the Sustainable Development Goals, available at: <https://landportal.org/book/sdgs>. See also, United Nations Convention to Combat Desertification, Land and Sustainable Development Goals, available at: <https://www.unccd.int/issues/land-and-sustainable-development-goals>

⁸ John Mchangama (2011). The Right to Property in Global Human Rights Law, CATO Institute, available at: <https://www.cato.org/policy-report/mayjune-2011/right-property-global-human-rights-law>

⁹ See, e.g., Front Line Defenders: <https://www.frontlinedefenders.org/en/right/land-rights>

¹⁰ See, e.g., World Bank, overview on Land, available at: <https://www.worldbank.org/en/topic/land>

¹¹ Beth Roberts (2018). Sustaining Sustainable Development: Leveraging Human Rights Norms to Implement Land-Related Goals, Impakter, available at: <https://impakter.com/sustaining-sustainable-development/>

¹² Merida Declaration, at para 6.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



participation, accountability and non-discrimination.¹³ A recent report from the Danish Human Rights Institute¹⁴ estimates 90% overlap between human rights standards and the SDGs. This convergence suggests that better leveraging human rights mechanisms in SDG implementation could significantly increase efficiency and effectiveness.¹⁵

National Human Rights Institutions (NHRIs) are uniquely placed to support land-related SDG implementation. NHRIs are independent State institutions, established by constitutional or legislative authority, mandated to ensure national compliance with international human rights commitments.¹⁶ The Paris Principles establish NHRIs' mandate;¹⁷ they include a wide range of functions implicating the 2030 Agenda for Sustainable Development:¹⁸ monitoring and reporting, advising the government on human rights issues, cooperating with national, regional and international bodies, handling complaints, and building knowledge on human rights.¹⁹

NHRIs are present in at least 122 countries,²⁰ and are accredited by the Global Alliance for National Human Rights Institutions (GANHRI) in accordance with their level of compliance with the Paris Principles.²¹ The idea of NHRIs supporting SDG implementation has already been extensively explored and is currently being pursued via numerous efforts, by global institutions and academics, and by NHRIs themselves.²² In October 2015, representatives from NHRIs signed the Merida Declaration, outlining their

¹³ Birgitte Feiring et al (2016). Human Rights in Follow-Up and Review of the 2030 Agenda for Sustainable Development, Danish Institute for Human Rights, at 6, hereinafter "Feiring," available at:

https://nhri.ohchr.org/EN/News/Documents/DIHR-FuR%20paper_2%205.pdf

¹⁴ <https://www.humanrights.dk/our-work/sustainable-development/human-rights-sdgs>

¹⁵ http://www.un.org/esa/socdev/unpfii/documents/2016/National-HR/DIHR-FuR-paper_final-draft_29_02_16-Danemark.pdf

¹⁶ UN Office of the High Commissioner for Human Rights (2016). National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms, HR/PUB/16/1, at 3, hereinafter "OHCHR," available at: https://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

¹⁷ UN Commission on Human Rights (1993). National institutions for the promotion and protection of human rights, E/CN.4/RES/1993/55, hereinafter "Paris Principles," available at:

<https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

¹⁸ Steven L. B. Jensen, et al. (2015), Realizing Rights Through the Sustainable Development Goals: The Role of National Human Rights Institutions, Danish Institute for Human Rights and Center For Economic and Social Rights, at 3, hereinafter "Jensen," available at:

https://www.humanrights.dk/files/media/dokumenter/udgivelser/research/nhri_briefingpaper_may2015.pdf

¹⁹ Filskov, Nadja. National Human Rights Institutions engaging with the Sustainable Development Goals (SDGs), GANHRI, 2017, at 5, hereinafter "GANHRI," available at:

https://nhri.ohchr.org/EN/News/Documents/GANHRI_NHRIs%20engaging%20with%20the%20SDGs.pdf

²⁰ See Global Alliance of National Human Rights Institutions (2019). Chart of the Status of National Institutions Accredited by the Global Alliance of National Human Rights Institutions, available at:

[https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20\(04%20March%202019\).pdf](https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20(04%20March%202019).pdf)

²¹ OHCHR. OHCHR and NHRIs, available at: <https://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx>

²² See e.g., UNDP, Role of National Human Rights Institutions in implementing the 2030 Sustainable Development Agenda and the Sustainable Development Goals, (2017), hereinafter "UNDP," available at:

http://www.eurasia.undp.org/content/rbec/en/home/library/democratic_governance/Role-of-National-Human-Rights-Institutions-in-implementing-the-2030-Sustainable-Development-Agenda-and-the-Sustainable-Development-Goals.html



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



role for SDG implementation,²³ including numerous practical functions and activities (e.g., undertaking workshops, developing regional action plans and providing advice to national and local governments²⁴). This is bolstered by international coordination among NHRIs and other international institutions focused on SDG implementation.²⁵

This paper seeks to illuminate the centrality of land in both the SDGs and human rights realms and the links that exist between these realms. It then presents an argument for NHRIs as a crucial element of the institutional architecture needed to realize SDG commitments on land, given NHRIs' role in and potential for: *fostering social inclusion* in the 2030 Agenda, *accelerating implementation* of the SDGs, and *facilitating sustainability* of the SDGs beyond 2030.

Finally, this paper proposes a specific route for land sector actors to better achieve the ultimate goals of the SDGs and the urgently needed implementation of the land-specific indicators:

Land actors (governments, civil society, and development partners) should work with National Human Rights Institutions (NHRIs) to enable them to play a key role in implementing, monitoring, and eventually “housing” land-related SDGs, to facilitate national-level efforts to meet 2030 Agenda commitments.

1. Land Rights: Central in the SDGs and Human Rights

The need for strong land governance in support of sustainability and economic development is increasingly recognized, both within and beyond the land sector.²⁶ This can in part be attributed to pressing global trends including climate change, urbanization, and migration,²⁷ which all implicate land governance. In addition, the well-known benefits of land tenure rights for those living in poverty has been amplified by human rights developments. Actors in the land sector can capitalize on this momentum, by highlighting overlap between the 2030 Agenda and existing human rights norms and structures, and

²³ International Coordinating Committee for National Human Rights Institutions (2015). The Merida Declaration: The Role of National Human Rights Institutions in Implementing the 2030 Agenda for Sustainable Development, available at: [https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background Information/Merida Declaration FINAL.pdf](https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background%20Information/Merida%20Declaration%20FINAL.pdf)

²⁴ Merida Declaration, para 17.

²⁵ Merida Declaration, para 16. E.g., the GANHRI Working Group on the 2030 Agenda, and the UNDP/OHCHR/GANHRI Tripartite Strategic Partnership.

²⁶ <https://landportal.org/blog-post/2018/06/land-and-sdgs> “Directly or indirectly, therefore, land use is at the heart of poverty eradication, food security, gender equality, water management, decent work, sustainable cities, ending climate change, and protecting biodiversity.”

²⁷ See *infra* at pg. 15 for a fuller examination of these trends and their relationship to land, the SDGs, and NHRIs.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



linking this overlap to the centrality of land rights for fulfilling both development and human rights goals. Collaboration with NHRIs is a ready mechanism to leverage this unique moment.

a. Land is a central component of the SDGs.

The land sector should emphasize governments' commitments to the SDGs as a whole. Advocacy should center around land as a nexus of an already intentionally interconnected framework.²⁸ Land literally underlies the ecological, economic, and social systems that are the subjects of the SDGs. The importance of land governance and land tenure to achieve sustainability and equality is paramount, and both governments and land sector actors must understand the numerous touchpoints between land and SDG goals that inadequately acknowledge land (or do not acknowledge it at all), but depend on it or relate to it. This can be conceptualized using key cross-cutting issues defined in the Addis Ababa Agenda on Financing for Development²⁹ (the financial implementing agreement for the SDGs³⁰), combined with analysis of how land relates to these issues:

- *Gender Equality and the empowerment of women and girls:* Goal 5: Gender Equality contains two of the three land-specific indicators (5.a.1 and 5.a.2), and is a crucial cross-cutting issue within the SDGs³¹ and the land sector.³² Links between women's land rights, women's political participation, and the disproportionate impacts of land tenure insecurity, food insecurity, climate

²⁸ UNDP at 6.

²⁹ This document defines 10 cross-cutting issues; while this paper highlights only 5, a case could be made for connections between each of them and land tenure security; for example, tenure security—especially for women—has been shown to contribute to better outcomes for social protection and provision of public services, and benefits for children and youth, including healthcare access and provision (Goal 3) and education (Goal 4). Inter-Agency Task Force on Financing for Development, Cross-cutting issues, available at: <https://developmentfinance.un.org/cross-cutting-issues> “The Addis Ababa Action Agenda contains several key cross-cutting initiatives that build on the synergies of the sustainable development goals (SDGs) and address critical gaps in their delivery. Cross-cutting issues and commitments in the Addis Agenda, as contained in chapter I, include: (i) the delivery of social protection and essential public services for all; (ii) scaling up efforts to end hunger and malnutrition; (iii) establishing a forum to bridge the infrastructure gap; (iv) promoting inclusive and sustainable industrialization; (v) generating full and productive employment and decent work for all; (vi) protecting ecosystems; (vii) promoting peaceful and inclusive societies; (viii) gender equality and the empowerment of women and girls; (ix) children and youth; (x) countries in special situations; and (xi) the global partnership for sustainable development. Each of these initiatives can contribute to progress across a large number of SDGs.”

³⁰ UN Department of Economic and Social Affairs, Addis Ababa Action Agenda of the Third International Conference on Financing for Development, available at: <https://www.un.org/esa/ffd/publications/aaaa-outcome.html>

³¹ UNDP (2017). Institutional and Coordination Mechanisms: Guidance Note on Facilitating Integration and Coherence for SDG Implementation, at 17, hereinafter “UNDP Guidance Note,” available at: https://sustainabledevelopment.un.org/content/documents/2478Institutional_Coordination_Mechanisms_GuidanceNote.pdf

³² See generally UNDP (2019). Gender Equality as an Accelerator for Achieving the SDGs, available at: <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/gender-equality-as-an-accelerator-for-achieving-the-sdgs.html>; Mor, *infra* note 40; Roy Prosterman (2013). Enhancing Poor Rural Women's Land Rights in the Developing World, *Journal of International Affairs*, Vol. 67 No. 1, available at: <https://www.landesa.org/wp-content/uploads/Enhancing-Poor-Rural-Womens-Land-Rights-in-the-Developing-World-Roy-Prosterman.pdf>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



change, and numerous other issues on women in both rural and urban areas are well-documented.³³ Land rights for women specifically have been seen as an essential component of SDG implementation from their inception,³⁴ and this momentum must be maintained to achieve substantive gender equality.

- *Scaling up efforts to end hunger and malnutrition:* Goal 1: No Poverty, houses land-specific indicator 1.4.2; and Goal 2: Zero Hunger, includes Target 2.3 – calling for access and control of land.³⁵ These goals relate land tenure security and intended outcomes of increased agricultural production, increased food security and improved nutrition, and improved livelihoods for those living in rural areas.³⁶ Again, effectiveness and equity in achieving these goals call for particular attention to women’s land rights.³⁷
- *Promoting inclusive and sustainable industrialization:* Goal 11: Sustainable Cities;³⁸ here, urban (and national) food security, sustainable urbanization and economic growth, and adequate rural/urban coordination requires keen attention to land governance and land tenure security.³⁹

³³ CEDAW Committee, General Recommendation No. 34 on the rights of rural women (2016), UN Doc. CEDAW/C/GC/34, at para. 5. “Globally, and with few exceptions, on every gender and development indicator for which data are available, rural women fare worse than rural men and urban women and rural women disproportionately experience poverty and exclusion. They face systemic discrimination in accessing land and natural resources. They carry most of the unpaid work burden due to stereotyped gender roles, intra-household inequality, and lack of infrastructure and services, including with respect to food production and care work.” See also, UN Women Watch, Gender Equality and Sustainable Urbanisation, available at: <http://www.un.org/womenwatch/feature/urban/factsheet.html>

³⁴ Elizabeth Stuart et al. (2016). Leaving no one behind: A critical path for the first 1,000 days of the Sustainable Development Goals, ODI, at 8, 43, available at: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10692.pdf> “There is clear alignment between the leave no one behind agenda and what marginalised people say they want from their governments: better services such as universal health coverage and rural electrification; greater public awareness, such as creating environments where all girls are expected to go to school; and institutional and legal reform, including the extension of a minimum wage to informal workers, or the introduction of women’s land rights.”

³⁵ Target 2:3: By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment, and Target 2.4: By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality, and Indicator 2.4.1: Proportion of agricultural area under productive and sustainable agriculture.

³⁶ USAID (2016). Fact Sheet: Land Tenure and Food Security, available at: <https://www.land-links.org/issue-brief/fact-sheet-land-tenure-food-security/>

³⁷ Landesa (2019). Why Women’s Land Rights Matter for the Future of People and Planet, available at: <https://www.landesa.org/resources/why-womens-land-rights-matter>

³⁸ Target 11.1 addresses urban tenure: “By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums;” and Indicators 11.1.1 and 11.3.1 respectively address the “Proportion of urban population living in slums, informal settlements or inadequate housing” and the “Ratio of land consumption rate to population growth rate.”

³⁹ Beth Roberts (2016). Securing Rural Land Rights to Achieve Sustainable Cities, Thomson Reuters Foundation – Place, available at: <http://www.thisisplace.org/i/?id=98066783-44e8-4790-b1fd-8fa45c3508c7>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



- *Protecting ecosystems*: Goal 13: Climate Change;⁴⁰ and Goal 15: Life on Land⁴¹ and intimately linked with land tenure—climate change impacts and land degradation are exacerbated by weak land tenure and poor land governance and land use policy.⁴² Gender plays a key role here, as well; women are disproportionately affected by climate change, and are key agents for climate change mitigation and adaptation.⁴³
- *Promoting peaceful and inclusive societies*: Goal 16: Strong Institutions) links broadly with the goals of securing land tenure via strengthening institutions (both formal and customary) related to land administration;⁴⁴ (Goal 10: Reduced Inequalities) focuses on income inequality, exclusion (social, economic and political) and discrimination,⁴⁵ inequality, land tenure insecurity, and poverty (rural and urban) are intimately related.⁴⁶

b. Land is increasingly recognized as a human right under existing standards.

Access to land is now widely recognized as foundational for the realization of other human rights, supported by a groundswell of effort by activists, academics, and international actors over several decades.⁴⁷ International human rights standards on land rights are increasingly gaining definition and traction, and now constitute a significant body of international legal precedent.⁴⁸

⁴⁰ Tzili Mor (2018). Towards a Gender-Responsive Implementation of the United Nations Convention to Combat Desertification, UN Women, at 5, hereinafter “Mor,” available at: http://catalogue.unccd.int/997_towards-a-gender-responsive-implementation-of-un-convention-to-combat-desertification-en.pdf. See also, United Nations Convention to Combat Desertification (UNCCD). Land and Climate Change, available at: <https://www.unccd.int/issues/land-and-climate-change>

⁴¹ Target 15.1: By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements, and Indicator 15.1.1: Forest area as a proportion of total land area; and Target 15.3: By 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world, and Indicator 15.3.1: Proportion of land that is degraded over total land area.

⁴² Mor at 5, supra note 40.

⁴³ See generally Mor. See also CEDAW Committee, General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in the context of climate change (2018), UN Doc. CEDAW/C/GC/37; and International Women’s Development Agency (2017). 5 Ways Climate Change is a Women’s Rights Issue, available at: <https://iwda.org.au/5-ways-women-are-affected-by-climate-change/>

⁴⁴ See e.g., Catherine Benson Wahlen (2019). UNFF Note Highlights Linkages Among Forests, SDGs 4, 8, 10, 13, 16, available at: <http://sdg.iisd.org/news/unff-note-highlights-linkages-among-forests-sdgs-4-8-10-13-16/>

⁴⁵ <http://www.ipsnews.net/2019/01/ending-poverty-possible-means-facing-inequality-within-countries/>

⁴⁶ Tiernan Mennen (2015). Know Your SDGs: Land Matters for Sustainable Development, available at: <https://www.chemonics.com/blog/know-your-sdgs-land-matters-for-sustainable-development/>

⁴⁷ Jeremie Gilbert (2013). Land Rights as Human Rights: The Case for a Specific Right to Land, International Journal on Human Rights, Issue 18, available at: <https://sur.conectas.org/en/land-rights-human-rights/> See also, e.g., Olivier de Schutter (2010). The Emerging Human Right to Land, International Community Law Review, Vol. 12 Issue 3.

⁴⁸ The Committee on Economic, Social and Cultural Rights (CESCR) has produced an overview of international bodies’ statements establishing the links between land rights and human rights in the ICCPR, ICESCR, and CEDAW and other instruments: see HR/Pub/13/04 at 5-8 and HR/PUB/15/5/Add.1 at 11-14, and E/2014/86 at http://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf. See also, CESCR Committee, General Comment No. 4 on the right to adequate housing (art.11(1)), at para.8(e) recognizes “access to land as an entitlement.” General Comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



The United Nations Committee for Economic, Social and Cultural Rights (CESCR),⁴⁹ which oversees compliance by 165 states parties to the International Covenant on Economic, Social and Cultural Rights, has issued a host of Concluding Observations tying economic, social, and cultural rights to land rights.⁵⁰ CESCR's 2017 General Comment on State Obligations in the Context of Business Activities recognizes the centrality of land and natural resources to rural people, with special references to women and to indigenous and customary land holders.⁵¹

CESCR's work dovetails with the recent standard set by the Committee for the Elimination of Discrimination Against Women (CEDAW)⁵² in their General Recommendation on the rights of rural women, explicitly declaring "rural women's rights to land and natural resources to be fundamental human rights."⁵³ The work of these treaty monitoring bodies is complemented by other significant additions in the international human rights realm: The United Nations Working Group on the issue of discrimination against women in law and practice recently recognized the centrality of women's land rights for sustainable development in a first-of-its kind position paper.⁵⁴ Human rights bodies have also issued survey reports on the right to land,⁵⁵ including the Office of the High Commissioner for Human Rights, and UN Women, on women's rights to land and natural resources.⁵⁶ These standards join longer-standing human rights law implicating land: the United Nations Declaration on the Rights of Indigenous Peoples,⁵⁷

covenant), at II(C)(28) "requires that women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so." For an overview of the CESCR Committee's recognition of land as a human right, see Minority Rights Group International, *Moving towards a right to Land: The Committee on Economic, Social and Cultural Rights' Treatment of Land Rights as Human Rights*. (2015), at 3-4, available at: http://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_LandRights_Oct15.pdf See also CEDAW Committee, General Recommendation No. 21 (13th sess., 1994) Equality in marriage and family relations, para. 26 – calling for the equal ownership of property as crucial for women's equality and livelihoods, and para. 27 – calling on states to ensure that land allocation and reform programs redistribute land to women on an equal basis with men, regardless of marital status.

⁴⁹ <http://ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>

⁵⁰ Minority Rights Group (2015). *Moving towards a Right to Land: The Committee on Economic, Social and Cultural Rights' Treatment of Land Rights as Human Rights*, hereinafter "Minority Rights," available at: https://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_LandRights_Oct15.pdf

⁵¹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/24&Lang=en

⁵² <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

⁵³ [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared Documents/1_Global/INT_CEDAW_GEC_7933_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_7933_E.pdf)

⁵⁴ <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx>

⁵⁵ http://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf

⁵⁶ <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/11/ohchr-unwomen-land-rights-handbook-web.pdf?la=en&vs=1455>

⁵⁷ Resolution 61/295, annex.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



the International Labor Organization's Convention No. 169,⁵⁸ and the Convention on the Elimination of all forms of Discrimination Against Women.⁵⁹

These hard law developments in international law are complemented and bolstered by a host of soft-law guidance on land at international and regional levels, including the Voluntary Guidelines on the Governance of Tenure (VGGT);⁶⁰ the United Nations Guiding Principles on Business and Human Rights,⁶¹ the New Urban Agenda,⁶² and the African Union's Framework and Guidelines on Land Policy in Africa.⁶³

c. Land increasingly constitutes a stand-alone human right.

Adding to existing standards, the right to land is rapidly emerging as a stand-alone human right.⁶⁴ Two significant recent developments highlight the pace, depth, and scope of developments on land in the human rights sphere, and provide a forward-looking portrait of what might be accomplished for socially inclusive land rights under these new standards and initiatives. In December 2018,⁶⁵ the UN General Assembly adopted the United Nations Declaration on the Rights of Peasants and other people working in rural areas.⁶⁶ This Declaration includes numerous specific references to land tenure, gender equality in access to land and resources, and the rights of indigenous peoples and customary communities.⁶⁷ Second, the United Nations Decade of Family Farming⁶⁸ will be formally launched in mid-2019.⁶⁹ This effort is a

⁵⁸ International Labor Organization (1991). Indigenous and Tribal Peoples' Convention No. 169, available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

⁵⁹ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html>

⁶⁰ FAO, CFS (2012). Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, available at: <http://www.fao.org/3/a-i2801e.pdf>

⁶¹ United Nations Guiding Principles on Business and Human Rights (2011). UN Doc HR/PUB/11/04, available at: https://www.ohchr.org/documents/publications/GuidingprinciplesBusinessshr_eN.pdf

⁶² United Nations General Assembly (2017). New Urban Agenda, UN Doc A/RES/71/256, available at: <http://habitat3.org/wp-content/uploads/NUA-English.pdf>

⁶³ African Union (2010). Framework and Guidelines on Land Policy in Africa, available at: https://www.uneca.org/sites/default/files/PublicationFiles/fg_on_land_policy_eng.pdf

⁶⁴ Minority Rights Group, *supra* note 50.

⁶⁵ OHCHR (2018). UN Human Rights Chief welcomes adoption of the United Nations Declaration on the Rights of Peasants, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24026&LangID=E>

⁶⁶ United Nations General Assembly (2018). United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, UN Doc A/C.3/73/L.30, available at: <https://undocs.org/A/C.3/73/L.30>

⁶⁷ See Art. 7(3), Art. 17(3), Art. 4(1-2), Art. 2(3).

⁶⁸ United Nations General Assembly (2017). United Nations Decade of Family Farming (2019 – 2028), UN Doc A/RES/72/239, available at: https://digitallibrary.un.org/record/1479766/files/A_RES_72_239-EN.pdf

⁶⁹ Committee on World Food Security, UN Decade of Family Farming: from global challenges to regional and national action, available at: <http://www.fao.org/cfs/home/plenary/cfs45/side-events/108/en/>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



uniting platform for linking human rights norms applicable to farming and agriculture to the SDGs, in particular those linked to food security and poverty.

The CESCR is currently drafting a General Comment on the right to access land.⁷⁰ This unprecedented step builds on the Concluding Observations and other Committee work already highlighted. If adopted, this General Comment would be the most authoritative statement on land from a human rights perspective to date, and would serve as a standard by which to regularly measure governments' progress with regard to land rights in law and practice.

These global landmarks are complemented by regional-level decisions. Just last year, the African Commission on Human and Peoples' Rights released a resolution on women's equitable rights to land,⁷¹ and then—for the first time—found a violation of the Maputo protocol in Malian family law related to women's inheritance to land.⁷²

Actors in the land sector have not adequately integrated the human rights agenda, despite the strong overlaps, common goals, and growing body of law described above; effectively securing land tenure and sustainable land governance calls for strategic use of these established and developing human rights standards, and identifying and strengthening partnerships within the human rights realm. This disconnect between human rights actors and economic development actors may be especially crucial for securing women's land rights and protecting women's rights more generally; a rights-based approach can help to anticipate and proactively address unintended gendered consequences of land interventions.⁷³

2. SDGs and Human Rights: Strong Overlaps and Links

The SDGs serve as a “results-oriented roadmap” for the realization of human rights.⁷⁴ In addition to shared principles and content, the two realms share the need for strategic and massive efforts for

⁷⁰ Beth Roberts (2018). Informal interview with member of the Committee for Economic, Social and Cultural Rights.

⁷¹ African Commission on Human and Peoples' Rights (2018). 401: Resolution on the Development of General Comments on Article 7(d) of the Protocol to the African Charter on the Rights of Women in Africa, ACHPR/Res.401(EXT.OS/XXIV)2018, available at: <http://www.achpr.org/sessions/24th-eos/resolutions/401/>

⁷² Caitlin Behles (2018). African Court on Human and Peoples' Rights Rules Mali Violated the Maputo Protocol, American Society of International Law, available at: <https://www.asil.org/ILIB/african-court-human-and-peoples'-rights-rules-mali-violated-maputo-protocol-may-11-2018>

⁷³ Sonia Bhalotra et al. (2018). Women's inheritance rights reform and the preference for sons in India, available at: <https://www.sciencedirect.com/science/article/pii/S0304387818300294>

⁷⁴ GANHRI at 6.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



implementation.⁷⁵ And the recent and accelerating global recognition of land rights, in both the SDGs⁷⁶ and human rights realms—especially land rights for women, indigenous peoples, and broad recognition of the rights of those living in rural areas⁷⁷—creates growing opportunity to leverage both movements to accelerate poverty alleviation through stronger land rights.

This powerful alignment creates a reinforcing cycle of *incentives, implementation, and enforcement*. Both realms operate via and rely on international level accountability, national level planning, and local level implementation and evaluation; this complex landscape requires streamlined—not duplicated—efforts.

Incentives: Treaty obligations are binding, incentivizing governments to prove they are achieving progress toward human rights norms; the SDGs provide available and globally recognized benchmarks for progress.⁷⁸ The land community has a significant interest efforts that support harmonization of data collection and reporting; existing human rights reporting mechanisms are a strategic place to focus these efforts, and human rights actors are broadly and globally focused on integrating SDGs and human rights implementation.⁷⁹ A second incentive results from required donor involvement in both realms; donors are likely to be attracted to efforts that combine and catalyze these two realms, rather than bifurcate them.⁸⁰

Implementation: Both realms rely on grassroots efforts and aim for grassroots effects. And the success of both human rights treaty compliance and the SDGs is borne out at the local level for individuals and communities, where the deprivation and discrimination these global efforts seek to address is felt. These needs and impacts mean that data collection on rural land rights will require coordination with local level

⁷⁵ Beth Roberts (2018). Sustaining Sustainable Development: Leveraging Human Rights Norms to Implement Land-Related Goals, Impakter, available at: <https://impakter.com/sustaining-sustainable-development/>

⁷⁶ See generally, Nadja Filskov, Birgitte Fiering, et al. (2018). Human Rights and the 2030 Agenda for Sustainable Development: Lessons Learned and Next Steps, The Danish Institute for Human Rights, hereinafter “HR/SDGs Next Steps,” available at: https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/sdg/hr_and_2030_agenda-web_2018.pdf

⁷⁷ See e.g., the recently issued UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.

⁷⁸ Maria Smirnova (2018). Towards a Stronger Connection between Human Rights and the 2030 Agenda: The Role of the Human Rights Council, IISD, available at: <http://sdg.iisd.org/commentary/guest-articles/towards-a-stronger-connection-between-human-rights-and-the-2030-agenda-for-sustainable-development-the-role-of-the-human-rights-council/>

⁷⁹ Human Rights Council (2018). Promotion and protection of human rights and the implementation of the 2030 Agenda for Sustainable Development, UN Doc A/HRC/37/L.37, available at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G18/068/09/PDF/G1806809.pdf?OpenElement>

⁸⁰ Marianne Beisheim, Anne Ellersiek (2017). Partnership for the 2030 Agenda for Sustainable Development: Transparent, Inclusive, and Accountable? German Institute for International and Security Affairs, at 15, available at: https://sustainabledevelopment.un.org/content/documents/24722017RP14_bsh_elk_01.pdf



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



actors in every country if it is to be done in an equitable, inclusive, and gender-responsive way, and if it is to be effective.⁸¹

Enforcement: The SDGs' focus on data then points back to the role of the human rights realm: human rights bodies and mechanisms rely on ground-level data to enable better enforcement of government obligations.⁸² Both treaty obligations and SDG implementation seat accountability with national level governments. This creates a strategic opportunity to identify efforts that can satisfy both, or that will help one effort complement the other. Given their unique mandate and role, National Human Rights Institutions (NHRIs) have a key role in enforcement, at the core of the SDG “web of accountability.”⁸³

3. NHRIs: Current Efforts and Ready Opportunities to Realize SDGs and Human Rights

The land sector should advocate for and pilot work with NHRIs to implement land-related SDGs, as the premier “test case” for institutionalizing the SDGs in existing human rights mechanisms.

Because issues of land tenure, land governance, or impacts on land span most of the SDGs, working with NHRIs to mainstream the SDGs on land into their current work would yield lessons learned for the implementation of all SDGs. Governments and global actors will be working to identify where, how, and if SDG indicators should be sustained, how governments can prioritize SDG implementation, and how that implementation can achieve the greatest and most lasting development outcomes.⁸⁴ Testing a national-level approach involving NHRIs to integrate land-related SDGs could significantly raise the profile of the land indicators globally and provide a model for broader use, both with other NHRIs and with the full range of SDGs.

Now we turn to this paper's three-category framework for examining the potential for NHRIs to support land-related SDG implementation and institutionalization: 1) ***fostering social inclusion*** in the 2030 Agenda; 2) ***accelerating implementation*** of the SDGs, including coordination and monitoring; and 3) ***facilitating sustainability*** of the SDGs beyond 2030.

⁸¹ Ducicleide Maria da Silva et al. (2019). Demystifying Data: Data that Empowers, Land Portal, available at: https://landportal.org/blog-post/2019/03/demystifying-data-data-empowers-data-story-women-semiarid-region-brazil?utm_source=Land+Portal+Newsletter&utm_campaign=9b8d948424-EMAIL_CAMPAIGN_2018_01_10_COPY_01&utm_medium=email&utm_term=0_8b8de3bf56-9b8d948424-348158797

⁸² OHCHR (2012). Human Rights Indicators: A Guide to Measurement and Implementation, at iii, available at: https://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf

⁸³ Alison Hoise, Scottish Human Rights Commission, Contributing to the Accountability Web: The Role of NHRIs and the SDGs, 23 March 2016 <http://bit.ly/2tLVITB> and Kate Donald, Promising the World: Accountability and the SDGs, 2016: <http://bit.ly/2sGdQis>, Breaking the Accountability Taboo in Sustainable Development Negotiations, CESR, June 2nd, 2015: <http://cesr.org/article.php?id=1732>

⁸⁴ See e.g., United Nations Sustainable Development Group. Tailoring SDG to National, Sub-national, and Local Contexts, available at: <https://undg.org/2030-agenda/mainstreaming-2030-agenda/tailoring-sdg-to-national-context/>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



4. NHRIs and Social Inclusion: The SDGs “paradigm shift” to a human-rights approach

Beyond a technical undertaking in the development realm, the SDG framework represents a paradigm shift⁸⁵—toward a human rights framework, with sustainable development as its goal. The goal of the SDGs is to “leave no one behind,” and to “reach first those who are furthest behind,” and to accomplish these goals in fulfillment of international human rights norms.⁸⁶ This is a significant leap from the more limited vision of the Millennium Development Goals. While the MDGs recognized some economic and social rights, they did not apply a universal human rights approach,⁸⁷ and suffered critique for achieving aggregate results while leaving hard to reach groups behind.⁸⁸ This shift in the basis for a global sustainable development framework calls for greater involvement of actors and institutions with expertise in the human right realm. NHRIs provide this institutional presence for human rights at the national level and are already extensively engaged in SDG implementation globally.⁸⁹

a. NHRIs’ mandate to foster social inclusion serves 2030 Agenda goals related to land.

Why should actors in the land sector engage NHRIs in the pursuit of stronger land governance or in the implementation of the SDGs? The rallying cry of the 2030 Agenda is to “*Leave no one behind.*”⁹⁰ The United Nations Development Programme (UNDP) has categorized those who are vulnerable to being “left behind” according to the following framework of overlapping factors: 1) discrimination, 2) geography, 3) governance, 4) socio-economic status, and 5) shocks and fragility.⁹¹ Overwhelmingly, the bulk of those people who fall into one or more (or all) of these categories live in rural areas and depend either predominantly or partially on land for their livelihoods.⁹² Without focused attention and significant

⁸⁵ Office of the High Commissioner for Human Rights, Human Rights and the 2030 Agenda for Sustainable Development, available at: <https://www.ohchr.org/en/issues/SDGS/pages/the2030agenda.aspx>

⁸⁶ UN Stats. The Sustainable Development Goals Report, 2016, available at: <https://unstats.un.org/sdgs/report/2016/leaving-no-one-behind>

⁸⁷ Human Rights and the 2030 Agenda for Development, *supra* note 1.

⁸⁸ UNDP and the World Bank Group (2015). Transitioning from the MDGs to the SDGs, at 11, available at: <https://www.undp.org/content/dam/undp/library/SDGs/English/Transitioning%20from%20the%20MDGs%20to%20the%20SDGs.pdf>

⁸⁹ See generally, UNDP, *supra* note 17.

⁹⁰ United Nations Committee for Development Policy (2018). Leaving no one behind, at 1, available at: https://sustainabledevelopment.un.org/content/documents/2754713_July_PM_2_Leaving_no_one_behind_Summary_from_UN_Committee_for_Development_Policy.pdf

⁹¹ UNDP, What does it mean to leave no one behind: A UNDP discussion paper and framework for implementation, 2018, hereinafter “UNDP,” at 11-17. Available at: <https://www.undp.org/content/undp/en/home/librarypage/poverty-reduction/what-does-it-mean-to-leave-no-one-behind-.html>

⁹² CEDAW Committee, General Recommendation No. 34 on the rights of rural women (2016), UN Doc. CEDAW/C/GC/34. “Globally, and with few exceptions, on every gender and development indicator for which data are available, rural women fare worse than rural men and urban women and rural women disproportionately experience poverty and exclusion. They face systemic discrimination in accessing land and natural resources. They carry most of the unpaid work burden due to



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



advocacy and resources directed to land in the context of the SDGs, the relationship of marginalized people to land may in too many cases remain “invisible,” and this will result in continued or even deepened marginalization for women, youth, and other vulnerable groups.⁹³

The SDGs adoption of a human rights framework calls for a corresponding shift in efforts to implement land-related SDG commitments and the land indicators. While not all land sector actors take a human-rights based approach, effective and efficient implementation of land-related SDGs requires understanding how human rights principles of accountability, inclusivity, transparency, participation, equality, and non-discrimination are integrated throughout the SDGs,⁹⁴ and an eagerness to collaborate with human rights actors.

b. NHRIs have a key role in ensuring inclusivity under the SDGs, a central goal for the land sector.

Tackling inequalities and discrimination is both a stand-alone and mainstreamed objective in the 2030 Agenda. This opens another important avenue of engagement for NHRIs, who bring a distinctive human rights perspective on inclusivity⁹⁵— particularly NHRIs with an explicit anti-discrimination mandate.⁹⁶ NHRIs promote and monitor progress on the crosscutting human rights principles of non-discrimination, accountability and participation; the 2030 Agenda integrates these principles.⁹⁷ NHRIs can play a key role in helping governments understand who is left behind, supporting the production and improvement of disaggregated and people-driven data,⁹⁸ for example by working with government and civil society to institutionalize community feedback mechanisms.⁹⁹ Taking a human-rights based approach to data¹⁰⁰ will

stereotyped gender roles, intra-household inequality, and lack of infrastructure and services, including with respect to food production and care work.” Id. at para. 5. See also, FAO (2017). Achieving the Sustainable Development Goals requires investing in rural areas, available at: <http://www.fao.org/3/a-i7898e.pdf>

⁹³ Everlyne Nairesiae, Robert Ndugwa. (2019). Status of SDGs Land Indicators: Overcoming the Barriers and Bridging the Yawning Data Gaps, Land Portal, available at: https://landportal.org/blog-post/2019/02/status-sdgs-land-indicators-overcoming-barriers-and-bridging-yawning-data-gaps?utm_source=Land+Portal+Newsletter&utm_campaign=4c5b1ff1dd-EMAIL_CAMPAIGN_2017_09_21_COPY_01&utm_medium=email&utm_term=0_8b8de3bf56-4c5b1ff1dd-348158797

⁹⁴ Danish Institute for Human Rights. (2018) Human Rights and the 2030 Agenda for Sustainable Development: Lessons Learned and Next Steps, at 4, hereinafter “DIHR Next Steps,” available at: https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/sdg/hr_and_2030_agenda-web_2018.pdf

⁹⁵ The definition of “inclusivity” within human rights is generally an applied one; see e.g., gender-inclusive language: <http://www.un.org/en/gender-inclusive-language/> For a perspective on the role of local voices in human rights spaces, see generally, Fayyaz Baqir (2018). Universal Human Rights and the Challenges of Inclusion, Centre for Human Rights and Legal Pluralism, available at: <https://www.mcgill.ca/humanrights/article/universal-human-rights-and-challenges-inclusion>

⁹⁶ Jensen at 2.

⁹⁷ GANHRI at 12.

⁹⁸ UNDP at 4.

⁹⁹ Id (UNDP) at 4.

¹⁰⁰ OHCHR (2018). A Human Rights-based Approach to Data: Leaving No One Behind in the Agenda for Sustainable Development, available at: <https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



require more time and resources; but the urgency and technical complexity of SDG implementation must not overshadow the need to serve the SDGs' goal of inclusion. NHRIs can provide resources and accountability to ensure an inclusive approach, and already engage in this work at international and national levels; this includes specific commitments to promote gender equality and fulfill the human rights of women and girls¹⁰¹ and to implement the SDGs.¹⁰²

c. NHRIs can disseminate knowledge about and build buy-in for the centrality of land within the SDGs and national human rights agendas.

Human Rights Education (HRE) is a concept and methodology for providing information about human rights that “promotes values, beliefs, and attitudes that encourage all individuals to uphold their own rights and those of others.”¹⁰³ HRE is a core NHRI mandate and is seen as an investment in a strong human rights culture.¹⁰⁴ SDG Target 4.7 calls for HRE to promote attitudes, beliefs, behavior, and skills for inclusive development and human rights fulfillment.¹⁰⁵

This foundation is important for securing inclusive rights to land. In addition to build capacity for government officials and civil society on human rights norms, NHRIs often conduct HRE in remote and marginalized communities, where addressing issues of inequality related to land (especially gendered inequalities) requires significant shifts in social norms.¹⁰⁶ When NHRIs are equipped with integrated information about land in the SDGs and human rights, they can influence and support needed social and behavior change to secure rights to land.

Clarity about the role of land in development is too often limited to the land sector. Equipping NHRIs with clear information and impetus on the connections between land, the SDGs, and human rights can leverage NHRIs' broad focus to better address land issues in national contexts, and to provide conceptual

¹⁰¹ OHCHR (2012). Amman Declaration and Programme of Action, 11th International Conference of the International Coordinating Committee of National Institutions, available at: <https://nhri.ohchr.org/EN/ICC/InternationalConference/11IC/Background%20Information/Amman%20PoA%20FINAL%20-%20EN.pdf>

¹⁰² See generally, GANHRI, supra note 14.

¹⁰³ GANHRI at 14.

¹⁰⁴ GANHRI at 14.

¹⁰⁵ “Target 4.7 - By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture’s contribution to sustainable development.”

¹⁰⁶ Jensen at 3.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



and practical links to other sectors where land is intimately interrelated with SDG implementation and development objectives (infrastructure, agricultural development, rural/urban linkages).

5. Accelerating Implementation of the SDGs: NHRIs as a National-Level Conduit

The SDGs are a massive global effort, with a massive country-by-country need for implementation. Grassroots level data gathering is equally as crucial as the incredible feats of coordination needed to achieve the goals.¹⁰⁷ Without inclusive ground-level knowledge, global and national solutions will fail to match realities. The breadth and variety of technical and political challenges related to the SDGs is stunning, but cannot be paralyzing. Strategic solutions that address multiple challenges must be identified, tested, and adequately resourced. Equipping and financing NHRIs is one such solution.¹⁰⁸ NHRIs' ambit gives them specific roles in two central aspects of SDG implementation—coordination and monitoring: NHRIs are in fact already playing these roles under the Merida Declaration and subsequent efforts:¹⁰⁹

a. Coordination: NHRIs can support SDG implementation by bridging institutions and sectors.

Strong implementation of the SDGs, including those related to land, requires a continuation of the unprecedented level of global coordination that resulted in their adoption. It must include actors at all levels—from global to grassroots, within a wide variety of institutions and across sectors, and in all countries. It will require collaboration between Central Statistical Agencies, numerous government agencies, national civil society, local communities, and international reporting structures;¹¹⁰ NHRIs, as independent national-level entities, are well-placed to facilitate this collaboration, given their mandate to advise governments to promote and protect human rights, and to evaluate policies, legislation, and administration to facilitate effective implementation of human rights treaties and standards.¹¹¹

NHRIs are uniquely placed to foster coordination across sectors and institutions to implement the SDGs,¹¹² both *laterally* at the national level—given their access to and mandate to coordinate with

¹⁰⁷ <http://www.undp.org/content/undp/en/home/librarypage/sustainable-development-goals/institutional-and-coordination-mechanisms---guidance-note.html>

¹⁰⁸ Merida Declaration, para 15.

¹⁰⁹ GANHRI at 4.

¹¹⁰ United Nations Development Programme (2017). Institutional and Coordinatino Mechanisms: Guidance Note on Facilitating Integration and Coherence for SDG Implementation, available at: https://sustainabledevelopment.un.org/content/documents/2478Institutional_Coordination_Mechanisms_GuidanceNote.pdf; see also, United Nations Sustainable Development Goals Partnership Platform. National Coordination on the Implementation of the SDGs (NACOS Initiative), available at: <https://sustainabledevelopment.un.org/partnership/?p=9054>

¹¹¹ Paris Principles, §§2-3.

¹¹² This uniqueness can be illustrated through comparison to another national-level mechanism for human rights



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



National Statistical Offices, government legislative bodies and ministries, and civil society; and *vertically* from national and sub-national to global levels—with regional and global gatherings of NHRI representatives, and both Agenda 2030 and human rights follow-up and review (FUR) mechanisms.¹¹³ NHRIs also bridge efforts to realize the SDGs and realize human rights content. Their mandate covers the full spectrum of human rights, and now (under the Merida Declaration) includes the full spectrum of the SDGs.¹¹⁴ No other entity shares these multiple vectors for collaboration.¹¹⁵

NHRIs and global actors: The Global Alliance of National Human Rights Institutions (GANHRI) facilitates information sharing between NHRIs and builds the capacity of individual NHRIs, including their compliance with the Paris Principles; the development of the Merida Declaration, outlining NHRIs role in supporting and implementing the 2030 Agenda, was an outcome of a 2015 GANHRI convening.¹¹⁶

NHRIs have a formal role in a number of other international human rights and SDG processes. This makes them a key point of entry for inclusion of references to and knowledge about the SDGs in directives delivered to governments, including:

- the Universal Periodic Review (UPR, the human rights mechanism that reviews human rights progress for all UN member states on a rolling basis¹¹⁷) – Argentina’s NHRI has mapped the SDGs to UPR recommendations,¹¹⁸
- the Voluntary National Review Process, via reporting and recommendations;¹¹⁹ and

¹¹³ Jensen at 3.

¹¹⁴ Merida Declaration, para 15.

¹¹⁵ See, e.g., national mechanisms for reporting and follow-up, which are present in fewer countries relative to NHRIs, have much more varied structures and less well-established mandates, and lack the independence of NHRIs. OHCHR (2016). National Mechanisms for Reporting and Follow-up: A practical guide to effective state engagement with international human rights mechanisms, at 3, hereinafter “OHCHR National Mechanisms,” available at:

https://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf “A national mechanism for reporting and follow-up is a national public mechanism or structure that is mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms (including treaty bodies, the universal periodic review and special procedures), and to coordinate and track national follow-up and implementation of the treaty obligations and the recommendations emanating from these mechanisms. It may be ministerial, interministerial or institutionally separate. ...A national mechanism is a government structure and thereby differs from a national human rights institution (NHRI), which is independent and has a mandate to promote and protect human rights at the national level and to submit recommendations to the Government.”

¹¹⁶ GANHRI at 4.

¹¹⁷ OHCHR, Universal Periodic Review, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

¹¹⁸ GANHRI at 18.

¹¹⁹ “The figure below illustrates the potential for using human rights monitoring mechanisms to contribute to the monitoring of SDGs, by indicating existing data sources for target 16.b: Promote and enforce non-discriminatory laws and policies for sustainable development. Specifically, the chart shows how many of the 44 countries participating in the VNRs at the 2017 HLPF: Have independent National Human Rights Institutions (NHRIs) in compliance with the Paris Principles, which regularly monitor and report on discriminatory legislation.” DIHR at 26.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



- treaty-monitoring body and UN Special Mechanism reviews, through shadow reporting and coordinating and capacity building for civil society actors to include the SDGs in human rights reporting.¹²⁰

NHRIs and national-level government actors: NHRIs can play an essential role in “tailoring” implementation of SDGs at the national level; many NHRIs are already engaged in the design of data collection to ensure good practices in monitoring progress on human rights, as well as needed coordination and outreach efforts with government and civil society at national and sub-national levels.¹²¹

- National Statistical Offices (NSOs): A few countries have already begun to implement the Office of the High Commissioner of Human Rights’ initiative¹²² for cooperation between NHRIs and NSOs, including Kenya, Indonesia, and Australia. Kenya was the first country to do so, via a national level workshop and a resulting mapping of which groups are likely to be left behind in Kenya and how to gather data on these groups.¹²³
- National Mechanisms for Reporting and Follow-up (NMRF): In some cases, NHRIs may be better established than an NMRF (or already serving as an NMRF, as in the case of New Zealand¹²⁴), and could contribute to the development of the coordination, and engagement functions needed for human rights reporting and follow-up, including coordination with National Statistical Offices, with the goal of building a cohesive and integrated inter-ministerial and nationally inclusive model for reporting on both the SDGs and human rights.¹²⁵
- Legislative and Ministerial Bodies: With their mandate to ensure inclusivity, including through addressing discriminatory legislation, NHRIs are well-placed to identify the path forward for progress in implementing rule of law on land that reflects and complies with the SDGs and human rights norms.¹²⁶ Land line ministries and ministries of gender and social protection, as

¹²⁰ GANHRI at 22.

¹²¹ “Educating rights-holders, civil society groups, relevant ministries, parliamentarians, national statistical offices and other stakeholders about the human rights dimensions of the SDGs is an important first step for this. It is a function that falls squarely within the mandate of NHRIs, many of whom undertake outreachwork to enable marginalized communities to understand and claim their rights.” Jensen at 3.

¹²² GANHRI at 29 et seq.

¹²³ Id.

¹²⁴ GANHRI at 24.

¹²⁵ OHCHR (2018). International Cooperation & National Human Rights Follow-up Systems and Processes, available at: <https://www.ohchr.org/Documents/HRBodies/HRCouncil/Panel/LeafletAccessibleFormat.pdf>

¹²⁶ GANHRI at 27. “In December 2016, the Arab Network of NHRIs (ANNHRI) convened a workshop on NHRIs role in monitoring and implementing the 2030 Agenda on Sustainable Development. A survey among the 14 participating NHRIs revealed that: All 14 NHRIs undertake law reviews to detect discriminatory legislation; have detected national laws that should be eliminated or amended; and have formulated recommendations for such legal reforms.”



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



well as national ministerial bodies coordinating agricultural development, investment, labor, planning and finance should be included.

NRRIs and national-level civil society: Both the Paris Principles¹²⁷ and the Merida Declaration¹²⁸ envision strong collaboration between NHRIs and civil society, and reports on NHRI implementation of SDGs since 2015 have emphasized that links with local actors are essential.¹²⁹ Currently, civil society's involvement in global and national FUR processes for the SDGs has been insufficient.¹³⁰ But there are promising models of civil society involvement in the SDGs—those being driven from the local level should be given particular attention and support:

- In Brazil, Espaço Feminista¹³¹ is leading a women-led local process that brings together communities, local government, and civil society to design, implement, and monitor land-related processes and policies, with a particular focus on gender.¹³² This model has been validated by Espaço Feminista, Landesa and Land Alliance.¹³³ With support from the international community—and the land sector in particular—this model could be expanded in Brazil and replicated in other countries. Connecting this model to human rights mechanisms via NHRIs would allow for strengthening institutions and rule of law related to land, using an inclusive approach to align with the 2030 Agenda.¹³⁴
- GROOTS Kenya facilitates a network of over 3,500 women-led community organizations and self-help groups in Kenya. GROOTS empowers women to collect data at a grassroots-level on

¹²⁷ Paris Principles, §3(g): “In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.”

¹²⁸ Merida Declaration, para 10. “Participants strongly reaffirmed that civil society has a major role to play in contributing to the realisation of the Agenda. This opens opportunities for collaboration, partnership and synergies, and highlights the need to ensure full civil society participation in monitoring and implementation.”

¹²⁹ GANHRI at 4. “Promoting transparent and inclusive processes for participation and consultation in the development of national strategies to achieve the SDGs, including by reaching out to those who are furthest behind and collaborating with civil society and other actors;

¹³⁰ GANHRI (2016). Protecting and enlarging the space for public debates and participation of all civil society actors for the implementation of the SDGs and human rights: Ensuring that National Human Rights Institutions and broader civil society effectively play their part in the implementation of the Sustainable Development Goals (SDGs), at 19, available at: https://nhri.ohchr.org/EN/News/Documents/GANHRI-BackgroundPaper%20-HLPF16-ShrinkingSpace_publ.com.pdf

¹³¹ <http://espacofeminista.org/>

¹³² Ducicleide Maria da Silva et al. (2019). Demystifying Data: Data that Empowers, Land Portal, available at: https://landportal.org/blog-post/2019/03/demystifying-data-data-empowers-data-story-women-semiarid-region-brazil?utm_source=Land+Portal+Newsletter&utm_campaign=9b8d948424-EMAIL_CAMPAIGN_2018_01_10_COPY_01&utm_medium=email&utm_term=0_8b8de3bf56-9b8d948424-348158797

¹³³ Landesa (2018). Leveraging the SDGs to improve women's land rights: Model Validation, available at: <https://www.landesa.org/resources/leveraging-the-sdgs-to-improve-womens-land-rights/>

¹³⁴ “NHRIs’ experience in monitoring human rights is directly applicable to tracking sustainable development successes and setbacks, and they can therefore make a unique contribution as part of the multi-layered accountability architecture currently being conceptualized for the SDGs.” Jensen at 4.



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



issues that affect them most: land, agriculture, education, water, and health. For GROOTS, the Sustainable Development Goals (SDGs) of the 2030 Agenda created new political will and provided a framework to reconstruct their tools in line with SDG indicators, including the indicators related to land. GROOTS is advocating for better management of public land through a participatory community mapping effort¹³⁵ that emphasizes women's leadership. They are now digitizing their data, and collecting individual-level data to expressly include women. They have trained 45 grassroots activists¹³⁶ to gather data to support gender-equality related SDGs.

b. Monitoring the SDGs: NHRIs have existing capacity and expertise.

The SDG indicators on land provide an opportunity to develop what has, to this point, been nonexistent or severely lacking: data on tenure rights to land, disaggregated by sex and bolstered by measures of perceptions of rights holders. This is especially true for data on women's rights to land, which has often been subsumed within household measures of land rights.¹³⁷ But gathering this data goes far beyond the capacity of most governments, and the land indicators risk being allowed to languish.¹³⁸ The urgency of identifying and leveraging national-level actors for data collection on land can be illustrated by the most recent Multidimensional Poverty Index (MPI) report:¹³⁹ "it was decided reluctantly that the inclusion of land and livestock must await improvements in data."¹⁴⁰

Governments are already reporting to human rights bodies (e.g., treaty monitoring bodies, the Universal Periodic Review, and special mechanisms) on SDG-related topics.¹⁴¹ In turn, human rights mechanisms also call on states to provide data disaggregated by sex, gender, race, ethnicity, and other SDG-mandated

¹³⁵ <http://grootskenya.org/wp-content/uploads/2017/03/Final-Land-mapping-guide-light.pdf>

¹³⁶ <http://womendeliver.org/2018/our-data-our-strength/>

¹³⁷ Meinzen-Dick et al, (2017) Women's Land Rights as a Pathway to Poverty Reduction, International Food Policy Research Institute (IFPRI), at v, hereinafter "IFPRI," available at: <http://www.ifpri.org/publication/womens-land-rights-pathway-poverty-reduction-framework-and-review-available-evidence>

¹³⁸ <https://www.land-links.org/2017/11/iaeg-sdgs-upgrade-indicator-1-4-2-tier-ii-status/>

¹³⁹ UNDP (2018). Multidimensional Poverty Index, available at: <http://hdr.undp.org/en/2018-MPI>.

¹⁴⁰ "Another example is the exclusion of land and livestock variables. Their inclusion would clearly make the MPI more compelling, as it would better reflect the productive assets of many rural dwellers. However due to data limitations across countries and strong conceptual concerns it has proven impossible to establish a common deprivation standard other than counting a person as non-deprived if they owned 'any' land or 'any' livestock. For example, data on farm productions and inputs under various farming systems, such as the value of food production per hectare or the ratio of irrigated land, are missing in most DHS, MICS and national surveys, as are sale prices of farm animals (or the quantity of farm animals sold and/or consumed). Additionally, land fertility varies quite dramatically at the regional and global level (FAO 2018), which makes it impossible to set a globally comparative minimum land size cutoff. "it was decided reluctantly that the inclusion of land and livestock must await improvements in data." Sabina Alkire and Selim Jahan. (2018), The New Global MPI: Aligning with the Sustainable Development Goals, UNDP, at 5, available at: http://hdr.undp.org/sites/default/files/2018_mpi_jahan_alkire.pdf

¹⁴¹ <https://sustainabledevelopment.un.org/index.php?menu=3170&nr=201&page=view&type=30022>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



measures of inclusivity.¹⁴² Because of their role in the human rights system, NHRIs already have extensive experience in best practices for participatory data gathering, monitoring and evaluation, reporting, and education and outreach.¹⁴³ And NHRIs as monitoring bodies is enshrined in the SDGs; Indicator 16.a.1 calls for the existence of an NHRI in each country that complies with the Paris Principles.¹⁴⁴

With national connections to local civil society and government institutions, a mandate on human rights education, and a mandate to monitor progress on human rights, NHRIs are already serving¹⁴⁵ as an efficient conduit for participatory data collection employing a human-rights based approach,¹⁴⁶ tailored to a national context.¹⁴⁷ NHRIs contribution to facilitating a collaborative approach with civil society and community based groups empowers people at local levels to report on their rights and perceptions,¹⁴⁸ and funnel urgently needed data on land¹⁴⁹ to national level policy-makers and SDG and human rights reporters (as well as for the global human rights and development land arena).¹⁵⁰ Monitoring that ensures inclusivity is sorely needed to hold governments accountable to land-related SDG commitments.¹⁵¹

¹⁴² OHCHR (2018). A Human Rights-based Approach to Data: Leaving No One Behind in the 2030 Agenda for Sustainable Development, hereinafter “OHCHR Data,” available at:

<https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

¹⁴³ GANHRI at 17.

¹⁴⁴ “16.a.1 Existence of independent national human rights institutions in compliance with the Paris Principles.” UNSTAT (2018). Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development, UN Doc A/RES/71/313 E/CN.3/2018/2, available at:

https://unstats.un.org/sdgs/indicators/Global%20Indicator%20Framework%20after%20refinement_Eng.pdf

¹⁴⁵ Jensen at 5, 6 includes case studies on NHRIs’ work in implementing and monitoring human rights treaties, monitoring government budgeting and spending, housing and health post-natural disasters, investigation to realize the right to water.

¹⁴⁶ GANHRI at 4. Defining and discussing a human rights-based approach to data is beyond the scope of this paper. For an overview, including links to the SDGs, See generally OHCHR (2018). A Human-rights Based Approach to Data: Leaving no one behind in the 2030 Agenda for Sustainable Development, supra note 133, available at:

<https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>; Danish Institute for Human Rights (2017). Human Rights and Data: Tools and Resources for Sustainable Development, available at: https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/sdg/data_report_final_2017.pdf

¹⁴⁷ Jensen at 3.

¹⁴⁸ “NHRIs provide an independent source of information and a distinctive lens to analyse that information, which can be used to evaluate whether efforts to achieve the SDGs are respecting, protecting and fulfilling human rights - and in tracking the implementation of previous recommendations of any monitoring mechanism. Third, as discussed above, their convening role supports affected communities to share their experiences and express their views, vital perspectives in monitoring the extent to which SDG progress is equitable and rights-compliant.” Jensen at 4.

¹⁴⁹ UNDP at 14.

¹⁵⁰ “Target 17.18 aims at significantly increasing the availability of disaggregated data by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other relevant characteristics. Participants recalled that it is widely recognised that the collection and dissemination of data disaggregated by prohibited grounds of discrimination play an important role in realising human rights and highlighted the experience and potential of NHRIs in this area.” Merida Declaration, para 14.

¹⁵¹ “The implementation gap in the framework is easily exposed. Although the Indonesian government has signed on to the SDGs, including the targets related to land rights, it has repeatedly refused to provide support to Indigenous peoples in their struggles against large international investors who grab land from local Dayak communities to establish palm oil plantations.” Zuzana Majcova (2018). Land Rights and the SDGs: Is Progress on the Ground all it seems to be in the Political Arena? Available at: <https://www.globalpolicyjournal.com/blog/27/09/2018/land-rights-and-sdgs-progress-ground-all-it-seems-be-political-arena>



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



6. Sustainability: A key role for NHRIs in securing land rights beyond 2030

Here, sustainability has a dual meaning. More narrowly, NHRI participation in land-related SDG implementation can contribute to the sustainability of the SDG effort itself. The timeframe for the 2030 Agenda ends in just over a decade. The need for high-quality data on land (and all other data gathered under the SDGs) to support policy development and implementation will not end in 2030. While capacity varies widely from country to country,¹⁵² NHRIs are an increasingly well-developed national-level entity capable of playing the roles described above.¹⁵³

Second, and more broadly, there is significant urgency for data collection on rights to land in order to protect those who are most at risk of being left behind.¹⁵⁴ This is especially urgent given the pace and convergence of global trends¹⁵⁵ and shifts most affecting people who depend on land for a living,¹⁵⁶ in particular women, youth,¹⁵⁷ and other marginalized groups¹⁵⁸—but with significant and potentially dire implications for all of human society: climate change, land degradation, shrinking biodiversity, intensified commercialization of land for extraction of resources, urban expansion, emerging economy investments in agriculture in least-developed countries, mechanization of agriculture, off-farm employment and livelihood diversification, trade dynamics affecting the price of agricultural goods, economic and conflict-driven migration, the rate of automation of jobs that provide a “pull” factor for migration of people from rural areas (e.g., factory production), and finally—the amalgamated effect of all these dynamics on food security and social and political stability at national and global levels.¹⁵⁹ Leaving no one behind requires

¹⁵² Jensen at 6. “Many NHRIs face obstacles when it comes to promoting human rights accountability in development contexts, including narrowly drawn mandates, constraints on their independence, and limited technical capacity. In order to unleash their potential, these barriers will have to be lifted. States and other sources of support to NHRIs should assist them in strengthening their capacity, mandate and independence, as a worthwhile investment in a very distinctive and constructive part of the SDG implementation and accountability architecture.”

¹⁵³ Center for Economic and Social Rights. National Human Rights Institutions, available at: <http://www.cesr.org/national-human-rights-institutions> See also GANHRI (2016). Global Principles for the Capacity Assessment of National Human Rights Institutions, available at: <https://nhri.ohchr.org/EN/Documents/NHRIs-WEB.pdf>

¹⁵⁴ Cheryl Doss (2016). We don’t know how many women own land. Why? Available at: <http://news.trust.org/item/20160516120134-jqvsx/>

¹⁵⁵ Development 4.0: Opportunities and Challenges for Accelerating Progress towards the Sustainable Development Goals in Asia and the Pacific, (2018), UNDP at 50, available at: <http://www.asia-pacific.undp.org/content/rbap/en/home/library/sustainable-development/Asia-Pacific-Development-40.html>

¹⁵⁶ World Bank (2018). Nearly Half the World Lives on Less than \$5.50 a Day, available at: <https://www.worldbank.org/en/news/press-release/2018/10/17/nearly-half-the-world-lives-on-less-than-550-a-day> “...data needed to assess shared prosperity is weakest in the very countries that most need it to improve. Only one in four low-income countries and four of the 35 recognized fragile and conflict-affected states have data on shared prosperity data over time.”

¹⁵⁷ Tharanga Yakupitiyage (2019). World’s Youth are being left behind, Inter Press Service, available at: <http://www.ipsnews.net/2019/02/the-future-is-youth/>

¹⁵⁸ Landesa (2019). Why Women’s Land Rights Matter for the Future of People and Planet, available at: <https://www.landesa.org/resources/why-womens-land-rights-matter>

¹⁵⁹ Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, (2019), Information Alert: IPBES to Launch First Global Assessment Report on Biodiversity and Ecosystem Services Since 2005: A Primer, available at:



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



acting swiftly, but also strategically and based on a holistic view. Gaining this view requires consistent and comprehensive data to inform policy and action.

a. NHRIs are well-placed to build on the results of the 2030 Agenda.

Ultimately, NHRIs could serve as national-level action points for an enduring global framework that harmonizes and bridges the human rights and sustainable development realms.¹⁶⁰ Contributing resources now to testing this proposition with NHRIs and the land-related SDGs would situate land centrally within SDG implementation effort within national contexts, supporting Tier 1 status of the land indicators and allowing for continuity for the land indicators post-2030.¹⁶¹ And the efforts needed to test this approach using land-related SDGs could drive institutional coordination and momentum needed for broader SDG implementation. In turn, this serves the more ultimate ends of the SDGs: changes in law, policy, implementation, and practice that transform the lives of those the Agenda seeks to benefit, especially those in least-developed countries, and those experiencing multiple and intersecting forms of discrimination (e.g., gender, ethnicity, age).¹⁶²

7. NHRIs and the SDGs: A case study of Myanmar’s National Human Rights Commission

During fieldwork conducted in February 2019 for Landesa’s Myanmar Program and the Landesa Center for Women’s Land Rights, the author was able to hold a discussion with three Commissioners from the Myanmar National Human Rights Commission (MNHRC) in Yangon, Myanmar. This case study is

https://www.ipbes.net/sites/default/files/downloads/ipbes_global_assessment_primer_english.pdf

¹⁶⁰ Merida Declaration, para 12. “Human rights instruments and mechanisms will provide an important framework for the implementation of the SDGs, and the implementation of the SDGs will contribute to the realization of human rights. This points to the potential of using international and regional human rights mechanisms, including the Human Rights Council, Special Procedures, the Universal Periodic Review, and treaty bodies, as well as the International Labour Organization’s supervisory bodies, to assess and guide SDG implementation. Participants further stressed the need for the SDG monitoring and review mechanisms to consider human rights and to take into account the recommendations of international, regional and national human rights mechanisms.”

¹⁶¹ “There is no doubt that the approved methodology for measuring these two indicators is a major achievement in the history of monitoring land governance and this is expected to transcend the timelines for the SDGs in addressing the struggle for women, men and vulnerable populations to have their land tenure rights documented, monitored and policy issues informed by reliable data and evidence.”

Everlyne Nairesiae, Robert Ndugwa. (2019). Status of SDGs Land Indicators: Overcoming the Barriers and Bridging the Yawning Data Gaps, Land Portal, available at: https://landportal.org/blog-post/2019/02/status-sdgs-land-indicators-overcoming-barriers-and-bridging-yawning-data-gaps?utm_source=Land+Portal+Newsletter&utm_campaign=4c5b1ff1dd-EMAIL_CAMPAGN_2017_09_21_COPY_01&utm_medium=email&utm_term=0_8b8de3bf56-4c5b1ff1dd-348158797

¹⁶² United Nations Committee for Development Policy (2018). Leaving No One Behind, at 1, available at: https://sustainabledevelopment.un.org/content/documents/2754713_July_PM_2_Leaving_no_one_behind_Summary_from_UN_Committee_for_Development_Policy.pdf



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



developed primarily from notes taken during that discussion, and resources provided by the Commissioners.¹⁶³ Footnotes to additional sources are also included.

a. Overview of the Myanmar National Human Rights Commission

The MNHRC is a relatively new entity, initially formed in 2011 by a Presidential decree, in response to the Universal Periodic Review report. Because the Paris Principles require either constitutional or legislative establishment of an NHRI as a best practice, the MNHRC drafted a National Human Rights Commission Law, which was adopted by the Hluttaw (the Myanmar national-level parliament) in 2014. Following this, the MNHRC was reconstituted in September 2014. The MNHRC is a member of the Southeast Asian National Human Rights Institutions Forum (SEANF), an associate member of the Asia-Pacific Forum of the National Human Rights Institutions (APF), and has a “B” rating from the GANHRI (partial compliance with the Paris Principles).¹⁶⁴ The MNHRC has eleven commissioners (three are women), and its institutional mandates include:

- a. effective protection and promotion of human rights for Myanmar citizens as enshrined in Myanmar’s Constitution and international instruments accepted by Myanmar;
- b. creation of a society where human rights are respected and protected in accordance with the Universal Declaration of Human Rights;
- c. coordination and cooperation with government institutions, and human rights and civil society actors and institutions at international, regional, national, and local levels.

b. MNHRC Activities: Human Rights Education and Addressing Human Rights Complaints

This paper focuses on the activities of two of the MNHRC’s five divisions: Promotion and Education, and Protection (the remaining three are International Relations, Legal, and Planning and Administration).

¹⁶³ Unless otherwise noted, information about the MNHRC is drawn from one of the following sources: 1) Beth Roberts (2019). Interview with Commissioners of the MNHRC, on file with Landesa; 2) Khin Maung Lay (2018). Myanmar National Human Rights Commission, Focus Asia-Pacific: Newsletter of the Asia-Pacific Human Rights Information Center, available at: <https://www.hurights.or.jp/archives/focus/section1/Focus%2092.pdf>

¹⁶⁴ The GANHRI (the international convening and accrediting body for NHRIs) ranks each NHRI individually according to their compliance with the Paris Principles, which contain NHRIs official mandate. An “A” ranking means fully compliant; a “B” ranking means partially compliant; and a “C” ranking means non-compliance. The full list of rankings (as of March 4, 2019) can be found here: [https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20\(04%20March%202019\).pdf](https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20(04%20March%202019).pdf)



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



The Protection Division receives complaints of human rights violations, and conducts field visits if a complaint is received systematically or rises to the level of a serious human rights violation. All complaints are put on record, but the MNHRC only takes action on those complaints that meet its requirements; in 2017, the MNHRC took action on 454 out of 1,125 complaints filed. A significant portion of the activity of the Protection Division is devoted to inspecting prisons and responding to complaints within prisons.¹⁶⁵

The Promotion and Education Division conducts human rights education (HRE) at numerous levels and across sectors throughout Myanmar, working in partnership with local civil society and sometimes in cooperation with international actors (e.g., Save the Children and UNDP):

Government and Civil Society trainings: The Promotion and Education Division conducts human-rights training workshops for the government (ministries and parliament at national and sub-national levels), in collaboration with international organizations and Myanmar-based civil society organizations (CSOs); these trainings focus on the Universal Declaration of Human Rights (UDHR). They also engage with the Central Institute of Civil Services, which conducts training for civil society organizations.¹⁶⁶ They also conduct workshops with government officials and civil society at the State and Divisional level (covering all 14 states and regions in Myanmar), covering a fuller range of human rights instruments including the UDHR, CEDAW, CESC, and the Convention on the Elimination of Racial Discrimination (CERD). These workshops feature roleplays, case studies, and discussions, and feature a pre-training and post-training assessment to solicit feedback and measure impact in terms of knowledge building.

Township-level trainings: At more local levels, they also conduct HRE trainings and activities throughout the country, including awareness raising with child rights committees and hosting human rights discussions at the township level (a mid-level administration division in Myanmar,¹⁶⁷ totaling 330 townships nationwide). They have conducted these discussions in 120 townships to date, with the cooperation of local CSOs. These discussions generally draw 200-400 participants, including township level authorities. They focus on basic human rights principles from the UDHR and the basic functions of the MNHRC as an entity, recognizing that for fifty years human rights were taboo in Myanmar before the

¹⁶⁵ “The Commissioner in charge of protection is very active. There are 44 prisons throughout Myanmar; he has visited them all at least once, and some of them 2 or 3 times. His department is also issuing statements with regard to the findings; they send complaints to the ministry concerned, with the primary ministry involved being the Ministry of Home Affairs. The law requires the ministry to report back to the Commission within 30 days.” Beth Roberts (2019). Field notes, MNHRC. On file with Landesa.

¹⁶⁶ Union Civil Service Board, available at: http://www.ucs.gov.mm/en/?page_id=396

¹⁶⁷ Townships of Myanmar, available at: https://en.wikipedia.org/wiki/Townships_of_Myanmar



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



democratic transition in 2011. An estimated 90% of population had little awareness of human rights, so the need for HRE is significant. They find people are very engaged and ask lots of questions; public demand exceeds their budget and capacity regularly.¹⁶⁸

c. MNHRC: Efforts, opportunities, and capacity needs for mainstreaming land-related SDGs.

The SDGs are quite new for the MNHRC. When the Merida Declaration was issued, the reconstituted MNHRC was only a few months old. However, as they are developing work based on their mandates, they see SDGs as integral to their work. One of their Commissioners (the Director of Human Rights Promotion) attended a two-week intensive training in South Korea on the SDGs, held in 2015 by the Korean Human Rights Commission. She has since been very interested in integrating the SDGs into the work of the MNHRC. She has written several articles, in both Myanmar and English about the SDGs. She is also currently studying how the SDGs are being implemented in Myanmar. She is seen as the focal point for the Commission and is helping other Commissioners build their knowledge on the content of the Agenda and connections to the MNHRC's work.

The Commissioners have a clear understanding of their role to conduct human rights education (HRE) activities, and are already aware of the connections with SDG 4.7 (which addresses joint SDG and human rights knowledge).¹⁶⁹ The MNHRC is also very familiar with land issues in Myanmar; about 30% of the total number of complaints received by the Protection Division refer to land confiscation issues; this sets them up to play a key role in bridging HRE with implementation and enforcement of human rights, with SDG integration, to strengthen inclusive and gender-equal land rights in Myanmar.¹⁷⁰ They also have some clarity on the relationship between human rights complaints and SDG 16, and their role as an NHRI in building institutions. The Chair of the Commission, and the Commissioners present during the interview are knowledgeable about the SDGs. However, capacity building is needed for the rest of the Commission, who may only know what SDGs stand for, but have little knowledge of the content of the

¹⁶⁸ For example, a free workshop open to the public and slated for the end of February 2019 in Yangon drew over 300 registrants, but the MNHRC facility and the workshop leadership can only reasonably manage 50 participants.

¹⁶⁹ SDG Target 4.7: by 2030 ensure all learners acquire knowledge and skills needed to promote sustainable development, including among others through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship, and appreciation of cultural diversity and of culture's contribution to sustainable development

¹⁷⁰ "[NHRIs can] ... facilitate access to justice, redress and remedy for those who experience abuse and violation of their rights in the process of development, including by receiving and processing complaints, where NHRIs have such functions." UNDP (2017). Role of National Human Rights Institutions in implementing the 2030 Sustainable Development Agenda and the Sustainable Development Goals, at 3, available at: http://www.eurasia.undp.org/content/rbec/en/home/library/democratic_governance/Role-of-National-Human-Rights-Institutions-in-implementing-the-2030-Sustainable-Development-Agenda-and-the-Sustainable-Development-Goals.html



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



SDGs related to land or the relationship between SDGs and NHRIs. Since 2016, they've included discussion of the SDGs in their monthly meetings. They don't conduct specific lectures about the SDGs, but the Commissioners present do present information about them when possible. They are also already reviewing what the Government of Myanmar is doing to implement the SDGs; in September 2018, they released a statement calling for Myanmar's participation in the VNR process.

The MNHRC is also reviewing other NHRIs who have "A" status with GANHRI (full compliance with the Paris Principles), who are tracking SDGs more strongly. They would like to improve their rating with GANHRI, and see SDG integration as a part of this effort. They are also interested in international support to raise government officials' awareness on the SDGs. They referenced a national-level multi-stakeholder workshop conducted in Indonesia, organized by UNESCO and UNDP;¹⁷¹ they would welcome a similar opportunity.

d. Current Status of Land-Related SDGs Implementation in Myanmar

"In Myanmar, we have a dearth of data." The Commissioners emphasized the importance of grassroots level data, that vulnerable groups (e.g., women, persons with disabilities, the elderly) are the main concern of the MNHRC, and that reliance on government data will be insufficient to achieve Myanmar's commitment to the SDGs. Their perception is that government officials have low levels of awareness of the SDGs, and that government agencies responsible for gathering data lack capacity. They are aware that Myanmar's Central Statistical Organization (CSO) has said that only 61% of the indicators are available for Myanmar.¹⁷² The CSO released an SDG indicators baseline report on indicators in 2017.¹⁷³ In addition, the Ministry of Finance and Planning recently adopted the Myanmar Sustainable Development Plan 2018 – 2030 (MSDP).¹⁷⁴ Both documents reflect some awareness of the importance of land tenure security (and gender equality and social inclusion) for robust development and the realization of the

¹⁷¹ UNDP (2016). The Sustainable Development Goals are Coming to Life: Stories of Country Implementation and UN Support, at 24, available at:

https://www.undp.org/content/dam/undp/library/SDGs/English/SDGs_Coming_to_Life_rev_Oct2018.pdf

¹⁷² The MNHRC Commissioners also demonstrated knowledge about classifications for SDG readiness: that countries are classified, indicators are classified into readily available, available with lots of effort, some effort.

¹⁷³ Central Statistical Organization and UNDP (2017). Measuring Myanmar's Starting Point for the Sustainable Development Goals: SDG Indicator Baseline Report, available at:

<https://www.csostat.gov.mm/Pdf%20report/SDG%20Indicator%20Baseline%20Report%20v9.pdf>

¹⁷⁴ Ministry of Finance and Planning (2018). Myanmar Sustainable Development Plan 2018 – 2030, available at:

http://themimu.info/sites/themimu.info/files/documents/Core_Doc_Myanmar_Sustainable_Development_Plan_2018_-_2030_Aug2018.pdf



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



SDGs.¹⁷⁵ However, the confluence of lack of data on land, especially for 1.4.2, collides with fast-moving trends toward off-farm work in Myanmar.¹⁷⁶ Widespread and complex land disputes, migration and urbanization trends, and mechanization and commercialization of agriculture (along with foreign direct investment) all compound the policy landscape¹⁷⁷—a holistic approach to SDG-integrated land management and governance, and stronger and more equitable land tenure security, requires significant analysis and collaboration. This presents a ready opportunity for international land sector actors to support government efforts and the MNHRC’s efforts to map and implement the SDGs.

e. Opportunities for Coordination – A vision for implementing the land-related SDGs in Myanmar

“[A national-level multi-stakeholder] ...workshop...will ring an alarm bell to the government. They have very little knowledge, and are not aware of their obligations under the SDGs. For us, it’s work now, and we hope to celebrate in 2030.” The MNHRC is quite eager for international support with land-related SDG implementation, awareness raising, and capacity building. They requested an initial workshop similar to the format conducted in Indonesia, and have requested that Landesa and other international actors provide technical assistance and funding. They acknowledge the government as the primary duty-bearer for implementing both the SDGs and human rights, and want to play their role to assist and monitor; but they need increased capacity to do so.

¹⁷⁵ E.g., The Indicator Baseline Report highlights the importance of 1.4.2, though at the time of the report the indicator had yet to move from Tier III to Tier II; Indicator 2.3.2 (average income of small-scale food producers by sex and indigenous status) was marked for inclusion in the Living Conditions Survey (see *infra* note 174), but is not mentioned in the key findings report. However, the same report reflects significant shifts in income gained from agriculture for both urban and rural households (this part of the analysis assumes household level cooperation for income generation, and does not address gendered intrahousehold dynamics): “Over half of households (54 percent) are still conducting some work in agriculture, but the share of households working in agriculture is declining and the share of households relying entirely on non-agricultural income is increasing in both urban and rural areas.” Indicator 5.a.1 is available through the 2015-2016 Living Conditions Survey, but records may not reflect realities on the ground or be inclusive of ethnic minority populations; Indicator 5.a.2 is linked to FAO’s Legislative Assessment Tool, which the baseline report notes is not available for Myanmar.

¹⁷⁶ UNDP (2018). Myanmar Living Conditions Survey 2017: Key Indicators Report, at 12, available at: <http://www.mm.undp.org/content/dam/myanmar/docs/Publications/PovRedu/MLCS-2017.pdf> “A structural transformation can be seen through a labour lens: a greater share of the labour force is working in industry and service activities, and there has also been an increase in the share of households earning income from non-agricultural work. Farming, fishing, livestock rearing and forestry are the most commonly reported labour activity. There has been a decline over time in the share of the workforce engaged in these sectors, and an increase in the share working in manufacturing and construction. In the cool season, we see that the share of the labour force participating in agriculture has declined from 57 percent to 50 percent between 2005 and 2017. Similarly, in the dry season it has declined from 53 to 47 percent over the same time horizon.”

¹⁷⁷ Kristian Stokke et al. (2018). Myanmar: A Political Economy Analysis, at 37, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/Myanmar_-_A_Political_Economy_Analysis_-_Norwegian_Institute_of_International_Affairs_2018.pdf “Since 2011, the government has accorded priority to the agricultural sector, along with education and health. Although significant in economic and employment terms, agriculture is severely affected by the problems of resource grabbing and lack of secure land rights. For the next few decades at least, agriculture is set to remain the main economic sector in terms of employment and human livelihoods.”



Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 25-29, 2019



8. Recommendations for Supporting NHRIs in SDG Implementation

The land sector should harness the potential in the SDG and human rights realms, building capacity for and integrating NHRIs in their efforts on the SDGs. The idea for NHRIs to “house” a subset of the SDGs has already been envisioned.¹⁷⁸ Land sector actors have an opportunity to test this idea through:

1. National level multi-stakeholder workshops on the SDGs and human rights,¹⁷⁹ accompanied by dialogues at subnational levels.¹⁸⁰
2. Context-specific capacity building for NHRIs where workshops and dialogues have been conducted to identify strategic efforts to support government implementation of SDGs and civil society advocacy for concurrent SDG implementation and human rights fulfillment.
3. Pilot projects to implement the SDGs that employ NHRIs, national level actors responsible for land governance, civil society, and women, men, and youth in communities.¹⁸¹

9. Conclusion

Both the 2030 Agenda and the human rights realm represent a stunning and relatively recent historical development—broad global cooperation and consensus on normative standards, established to improve the lives of all members of the human race, protect the planet, and plan for a future where peace and shared prosperity are the norm. There is still a long way to go. The best efforts of all of us now to harness different perspectives and bridge common efforts are needed to alleviate suffering as quickly as possible. The hope of this paper is to contribute to speed and effectiveness for these goals, so that we can truly “leave no one behind.”

¹⁷⁸ “The exact model of NHRI engagement will vary, but could include, for example: taking responsibility for monitoring a sub-set of the goals/targets; taking part in multi-stakeholder monitoring mechanisms; or submitting independent assessments to parliamentary reviews. Several options for monitoring SDG implementation at the regional and global level are being explored which could also benefit from NHRI involvement, including reviews at the UN regional commissions, peer-review mechanisms, and thematic bodies focusing on particular goals.” Jensen at 4.

¹⁷⁹ Jensen at 3: “While the agenda is universal, certain targets, benchmarks and indicators will need to be ‘tailored’ or further developed at the national level to reflect different national contexts. NHRIs’ bridging role, as described above, uniquely positions them to ensure the tailoring process upholds the principles of inclusion, participation and non- discrimination. Educating rights-holders, civil society groups, relevant ministries, parliamentarians, national statistical offices and other stakeholders about the human rights dimensions of the SDGs is an important first step for this.”

¹⁸⁰ GANHRI at 20.

¹⁸¹ See e.g., Espaço Feminista and Landesa’s collaboration: <https://www.landesa.org/resources/leveraging-the-sdgs-to-improve-womens-land-rights/>