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## **Does Sustainability Require Transparency? The UN Divide Over Freedom of Information & Media in the Post-2015 Development Agenda**

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**Abstract:** In 2015 the United Nations General Assembly will adopt a new set of global development objectives to succeed the Millennium Development Goals, which expire at the end of the year. A General Assembly working group has proposed 17 “Sustainable Development Goals” with 169 associated “targets,” including one committing all UN member states to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.” The UN Secretary-General and his many prominent “post-2015” advisors also advocate guarantees for freedom of information in the new global goals. The inclusion of a clear commitment to access to information in the SDGs – including factual “indicators” to monitor compliance – could have a profound impact on freedom of expression and media globally, advocates contend. Yet it remains uncertain whether any provision on access to information will survive the remaining months of negotiations before the final set of SDGs is agreed at the UN’s Sustainable Development Summit in September 2015. Some developing countries oppose an access to information target, along with other proposed commitments to human rights and democratic governance in the SDGs. But others are strongly supportive, and UN debates on the new goals are likely to continue until the September deadline.

**Keywords :** United Nations; Sustainable Development Goals; Access to Information; Post-2015

### **Introduction**

Should access-to-information guarantees be included in the next set of global development goals? International media development and human rights groups say they should, as do many UN member-states.

Perhaps more surprisingly, so do UN statisticians. The statisticians made their views clear in the UN’s most recent progress report on the current Millennium Development Goals, the last of the annual reports before the Goals’ 2015 deadline.

World leaders and development experts advising the UN Secretary-General on the post-2015 development agenda are also on record with strong support. They further recommended explicit recognition of the role of independent media in helping to ensure transparency and accountability in the quest to achieve the new goals. And Secretary-General Ban Ki-moon, in his own December 2014 report to the General Assembly on the post-2015 development agenda, said that “press freedom, access to information and freedom of expression” are essential “enablers of sustainable development” (UN 2014a).

Yet it is still by no means certain that any references to the public’s right to vital information – from governments or elsewhere – will survive in the final text of the 2015-2030 “Sustainable Development Goals” that the UN General Assembly will adopt in September 2015.

### **Negotiating the UN’s Post-2015 Development Goals**

Throughout the 18 months of UN negotiations over the draft version of these new “SDGs” many governments objected to any post-2015 goals or targets on freedom of information and media. Early draft references to the importance of “independent media” and “freedom of expression” were removed from the final proposal for 17 goals and 169 targets that is now being debated by the General Assembly, for final ratification in September 2015 (UN 2014b).

Remaining in that draft text under Goal 16, however, is proposed Target 10, which would require all countries to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements” (UN 2014b). Backed up by meaningful indicators on legal guarantees of press and other civic freedoms, affordable public internet access, and the free digital availability of what should be public information, Target 10 could prove highly significant, even historic, as a milestone in the global battle for government transparency, free expression and independent news media.

If it survives, that is. Some countries with considerable weight in the UN system – including the so-called BRICS bloc of Brazil, Russia, India, China and South Africa – had indicated at the close of those 2014 negotiations that they may still push to have any ‘access to information’ obligations excised from the final post-2015 goals, targets and indicators.

Quite separately, with public advocacy and communications challenges in mind, many member-states and UN advisors favored trimming the proposed package of 17 goals to perhaps ten, or at most a dozen, with the number of related targets within those goals to be limited in turn to about a hundred, more in line with the eight succinctly phrased MDGs, and their 18 targets and 48 ‘technical indicators’.

The Secretary-General tried to square this circle with a hexagon, recommending in his post-2015 “synthesis” report that all 17 goals be retained, but grouped into six more easily communicated topic areas. Many countries, however, continue to

advocate a reduction in the number of proposed SDGs and, even more, the 169 draft targets (UN 2014a).

The case for fewer and more concisely articulated goals is in itself completely defensible. The eight MDGs could be printed on the backside of a business card. But experienced UN observers warn that this editing process could become a pretext for eliminating the target on access to information and “fundamental freedoms” along with other Goal 16 governance commitments.

At the *Rio+20* conference in Brazil in 2012, the UN assigned the drafting of a set of potential post-2015 Sustainable Development Goals to an “Open Working Group” (OWG) comprising 70 of the 193 UN member states. Over the course of 13 week-long negotiations from January 2013 to July 2014, the OWG agreed upon 17 proposed Sustainable Development Goals, starting with poverty eradication and concluding with aid pledges and other “means of implementation”.

At each stage in these protracted negotiations, the 17 SDGs and their scores of respective targets were winnowed down further – some in a quest for greater clarity, others in attempts to reduce diplomatic friction. None of the draft SDGs was more contentious than the proposed governance goal, SDG 16, to which the OWG assigned this cumbersome title: “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (UN 2014b). The similarly tortured language of Goal 16’s tenth target – as noted, to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements” (UN 2014b) – was equally the product of compromise and last-minute additions and subtractions.

### **On freedom of information, is the SDGs’ cup half empty or half full?**

Media and civil society activists engaged in the debates from the UN sidelines expressed disappointment in this outcome. The elimination of any references to freedom of expression or freedom of the press, and the addition of the phrase stipulating that access-to-information guarantees were to be defined as those consistent with ‘national legislation’, was widely interpreted as in effect endorsing the current status quo for UN member-states, all of whom could contend that they are already providing ‘public access to information’ – as they themselves choose to legally define ‘access’ and ‘information.’

Previous Goal 16 drafts in the OWG included specific targets obligating governments to provide “public access to information and government data, including on public finance management, public procurement and on the implementation of national development plans” and “promote freedom of media, association and speech.” In its penultimate revision, however, following the 12<sup>th</sup> OWG discussions in June, the draft Goal 16 text said only that countries should “promote free and easy access to information, freedom of expression, association and peaceful assembly.”

Still, the final access-to-information language adopted in the 13<sup>th</sup> and final OWG was in some ways stronger, with “ensure” replacing “promote” and the inclusion of “fundamental freedoms” and “international agreements” indirectly but unmistakably linking the text to the UN’s founding human rights documents, both the Universal Declaration of Human Rights and the legally binding International Covenant on Civil and Political Rights. But there is still no specific mention of media, or of governments’ affirmative responsibility to provide information to the public about their activities, expenditures, legislation, or policy decisions – or progress in health, education, environmental protection or anything else (UN 2014b).

The Open Working Group’s many previous drafts reflected the broad consensus on new goals to fully eradicate extreme poverty and chronic life-threatening hunger, which are seen as completing the unfinished core business of the MDGs. Yet the SDGs are intended to go beyond the MDGs, incorporating many specific targets on environmental threats, women’s rights, sustainable industrialization, and crucial governance issues.

The monitoring and, ultimately, achievement of the SDGs requires guarantees of open public access to reliable data and other critical information in all the development areas addressed by the new goals. Indeed, a separate draft target for Goal 16 (16.6) calls on all UN member-states to “develop effective, accountable and transparent institutions at all levels” (UN 2014b). Without explicit guarantees of freedom of media and expression and public access to governmental information, it is difficult for any public institution to contend that it is either transparent or accountable.

On a technical level, however, there is broad consensus among international development specialists that in order to ensure and track progress on any of the proposed goals over the next 15 years, there must be more and better information and analysis, as the basis for informed public debate and effective national and global political action.

The UN’s latest annual MDGs report, published in July, acknowledged with uncharacteristic frankness the continuing gaps in the availability and accuracy of the national statistics used to track the Millennium Goals. The report’s authors argued that “promoting open access to and effective use of data is essential” to the success of any future development goals. “The monitoring experience of the MDGs has shown that data will play a central role in advancing the new development agenda”, the MDGs report states. “We need sustainable data to support sustainable development” (UN 2014d).

The MDGs report echoed the call for a post-2015 “transparency revolution” by Secretary-General Ban Ki-Moon’s High-Level Panel on the global development agenda (UN 2013). The panel – co-chaired by President Ellen-Johnson Sirleaf of Liberia, President Susilo Bambang Yudhoyono of Indonesia, and Prime Minister David Cameron of the United Kingdom – said the next set of UN goals should “ensure that people enjoy freedom of speech, association, peaceful protest and

access to independent media and information” and “guarantee the public’s right to information and access to government data.” “Every person can actively participate in realizing the vision for 2030 to bring about transformational change,” the High-Level Panel said in its report:

“Civil society should play a central, meaningful role, but this requires space for people to participate in policy and decision-making. This means ensuring people’s right to freedom of speech, association, peaceful protest and access to independent media and information” (UN 2013).

Input from civil society groups and individuals has reinforced this message. The UN’s “The World We Want” on-line consultation on post-2015 development goals attracted more than five million individual responses from all countries and regions of the globe (UN 2014e). Asked to rank 16 global development priorities – a topic list roughly paralleling the General Assembly’s Working Group’s recommended 17 SDGs - the respondents strongly favored inclusion of a goal on good governance and official accountability. The need for “honest and responsive government” ranked fourth among the 16 development priorities in the UN survey, surpassed only by (in order) education, health, and jobs. In the 16-30 age group it ranked even higher, as the third highest priority, above employment. Even more striking, participants from countries in the bottom quartile in the UN Human Development Index selected “honest and responsive” governance as the second highest post-2015 development priority, surpassed only by education (UN 2014e).

In November 2014, the Secretary-General’s Independent Expert Advisor Group on the promised “Data Revolution for Sustainable Development” called for new post-2015 principles on public information which “will facilitate openness and information exchange and promote and protect human rights”. In its report, “A World That Counts”, this statistical advisory group stated:

“All data on public matters and/ or funded by public funds, including those data produced by the private sector, should be made public and ‘open by default’, with narrow exemptions for genuine security or privacy concerns” (UN 2014c).

The report stressed the importance of the media’s ability to report freely “on the statistical and scientific evidence available on relevant dimensions of sustainable development” and civil society’s crucial role in providing, analyzing, and disseminating public information. The Advisory Group emphasized that in order for this “data revolution” to succeed, the rights to freedom of expression for media, academia, civil society, official statisticians and members of the public in seeking, disseminating, and discussing this data “should be recognized and protected”. All individuals and institutions engaged in this global effort to “provide, collect, curate and analyze data need freedom to operate and protection from recrimination,” their report stated.

“Any legal or regulatory mechanisms, or networks or partnerships, set up to mobilise the data revolution for sustainable development should have the protection of human rights as

a core part of their activities, specify who is responsible for upholding those rights, and should support the protection, respect and fulfillment of human rights,”

the Data Revolution report said (UN 2014c).

### **Press freedom and access to information crucial for sustainable development, Secretary General declares**

On December 4<sup>th</sup>, 2014, UN Secretary-General Ban Ki-moon released his long-anticipated ‘synthesis’ report on the post-2015 process and agenda, summarizing the recommendations of the several key UN reports and deliberations on the planned new Sustainable Development Goals and recommending a six-point thematic framework for the proposed 17 goals (UN 2014a). One of those six topic points – “Justice” – includes by inference the proposed Goal 16 on governance, and its Target 10 on access to information and “fundamental freedoms”.

The Secretary-General’s report echoed civil society calls for post-2015 commitments to freedom of information and media both as crucial rights-based ends in themselves and as practical necessities for monitoring progress towards all the proposed new goals. His report noted further that the UN’s “data revolution” advisors had

“underscored the importance of increasing access to quality data, remedying inequalities in the areas of access to information, data literacy, promoting civic space and enhancing the sharing of data and information” (UN 2014a).

A free flow of public information and independent debate and analysis in media and civil society would also be required for the Secretary-General’s proposed annual “participatory, multi-stakeholder, and, importantly, universal review” of progress towards the new goals, under the auspices of a new “high-level political forum (HLPF)” at the United Nations. “Press freedom and access to information, freedom of expression, assembly and association are enablers of sustainable development”, the Secretary-General’s report says (UN 2014a).

The Secretary General’s synthesis report may have marked a turning point in this great debate, with its combination of technocratic arguments for freedom of information in the post-2015 agenda with an overarching insistence on a “rights-based” framework for the new SDGs.

Unquestionably, there is greater UN support for an access-to-information requirement in the SDGs when it is framed in a more narrowly aspirational “open data” context than when it is presented in human right terms, however. This may leave the door open for eventual inclusion of references to an enabling environment for independent media – and civil society – as technical “indicators” for achieving an access-to-information target.

Several logical factual indicators to chart progress towards a universal access-to-information goal are already regularly monitored by UN agencies with statistical mandates and capacity. Others could easily be added, based on annual surveys of

UN member states. These could include:

- Statutory or constitutional guarantees of public access to information; as of 2014, 100 of the 193 UN members had already enacted such legislation
- Data on national per capita internet access, use and costs, as collected yearly by the International Telecommunications Union, including but going beyond the ITC statistics already incorporated in the MDGs targets
- The regular analytical reports and corroborating data on media independence and the safety of journalists compiled by UNESCO, in collaboration with other UN agencies, including the Office of the UN High Commissioner for Human Rights

The final draft Goal 17 on “means of implementation” for the SDGs includes proposals to help developing countries to gather and disclose critical development data: Targets 17.18 and 17.19 call on the international community to provide “support to developing countries ... to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts” and to aid “statistical capacity-building” generally (UN 2014b).

The current draft preamble to the proposed 17 SDGs makes a similar point:

“In order to monitor the implementation of the SDGs, it will be important to improve the availability of and access to data and statistics disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts to support the monitoring of the implementation of the SDGs. There is a need to take urgent steps to improve the quality, coverage and availability of disaggregated data to ensure that no one is left behind” (UN 2014b).

Yet without wide public availability and constant independent scrutiny of national and international development data, will the statistics and the progress they are purportedly measuring be perceived as credible? Should they be? What if promised development information is not disclosed, or perhaps not even collected, despite these new SDGs obligations and promises of technical data gathering support?

Unless independent media and civil society groups can perform their watchdog functions freely on the public’s behalf, who else will hold the governments to account? Without freedom of information, how will we know on either a global or national level if we are in fact on track to achieving these post-2015 goals? These are the arguments made by proponents of such guarantees in the post-2015 debates to date.

## **Post-2015 geopolitics: General Assembly fault lines on freedom of information in the SDGs**

This is not another typical North vs. South UN policy confrontation, as some observers and participants have suggested. Many African, Asian and Latin American countries have firmly backed the inclusion of clear access-to-information and independent-media targets in the OWG debates. Neither does it reflect a consistent divide between democracies and authoritarian regimes. While opposition was vigorously voiced by Russia, China, Cuba and Venezuela, the dissenters also included India, Bangladesh, Colombia, and Brazil. Objections included concerns that such targets would become new donor-imposed conditions for development aid, and assertions that monitoring progress in these areas is inherently subjective and hence unmeasurable.

Yet in contrast to the MDGs, the new SDGs are intended to apply to all countries, to North and South alike. As a number of countries noted in the debates, there is no nation where the availability and independent evaluation of official information cannot be improved. Moreover, international data on access to information and independent media is already collected and published routinely by such specialized UN agencies such as UNESCO, the International Telecommunications Union, and the UN High Commissioner for Human Rights.

A coalition of more than 200 media development and freedom development groups from all regions of the world has proposed that UNESCO be assigned the task of determining and tracking the relevant available technical indicators for compliance with SDG targets on access to public information and independent media. UNESCO's annual reports on World Trends in Freedom of Expression and Media Development and its Framework for Media Development Indicators – both endorsed by the UN member states on UNESCO's governing board – provide an already accepted institutional basis for such assessments.

By definition, it will be impossible to achieve ambitious global development goals without open access to accurate information about health, education, the environment, human rights and other critical areas – and that in turn requires independent monitoring by media and civil society. As the High-Level Panel noted in its report to the UN Secretary-General, the rights to public information and free speech and media “are ends as well as means” in the quest to conclude the unfinished business of the MDGs:

“This is a universal agenda, for all countries. Responsive and legitimate institutions should encourage the rule of law, property rights, freedom of speech and the media, open political choice, access to justice, and accountable government and public institutions” (UN 2013).

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