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Sustainable Development and Global Health

Positioning Health in the Post-2015 Development Agenda

Stefania Negri

Abstract

Health is a precondition, an outcome and an indicator of all three dimensions of sustainable development. The centrality of health in the sustainability discourse is confirmed by its close interrelationship with several basic components of development, such as the environment, agriculture and food systems, water and energy security, urban development and transport, trade and investment, communications, and migration. The intrinsic relationship between health and sustainable development is well captured in *The Future We Want*, the Outcome document of the 2012 United Nations Conference on Sustainable Development, where health is given particular prominence and is by far the most visible cross-cutting issue after the environment. Against this background, this chapter aims to illustrate the essentials of the triangular relationship between health, environment and sustainable development as evolved from Rio 1992 to Rio+20, and to place it in context with regard to the ongoing debate on the framing of the post-2015 development agenda. Special focus is placed on the transition from the agreed health-related Millennium Development Goals to the health-related Sustainable Development Goals and on the relevant international legal framework that will support the implementation of the new global health agenda.

Résumé

La santé est à la fois une condition préalable, un résultat et un indicateur des trois dimensions du développement durable. La centralité de la santé dans le discours sur la durabilité est confirmée par sa relation étroite avec plusieurs composants de base du développement, tels que l'environnement, l'agriculture et les systèmes alimentaires, l'eau et la sécurité énergétique, le développement urbain et les transports, le commerce et les investissements, les communications et les migrations. La relation intrinsèque

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entre la santé et le développement durable est bien capturée dans L’avenir que nous voulons, le document final de la Conférence des Nations Unies sur le développement durable de 2012, où la santé a une importance toute particulière, étant de loin la question transversale la plus visible après l’environnement. Dans ce contexte, le présent chapitre vise à illustrer les éléments essentiels de la relation triangulaire entre santé, environnement et développement durable tel le qu’évoluée de Rio 1992 à Rio+20, et à la contextualiser par rapport au débat en cours sur l’élaboration de l’agenda de développement de l’après-2015. Une attention particulière est accordée à la transition des objectifs du millénaire pour le développement liés à la santé aux objectifs de développement durable ainsi qu’au cadre juridique international qui appuiera la mise en œuvre du nouvel agenda de la santé globale.

I Introduction

Exploring the interrelationship between health, environment and sustainable development calls for a holistic approach building upon the concept that health is important as an end in itself and as an integral part of human well-being, which includes material, psychological, social, cultural, educational, work, environmental, political, and security dimensions.

While the links between health and the environment have been the object of extensive legal literature and abundant case-law, specific studies on the health-environment-sustainable development paradigm have proliferated only in recent times.1 This literature, albeit scanty, converges on the idea that,

apart from being inherently important as a human right, health is central to sustainable development and might even be advocated as its fourth pillar.²

According to a widely-shared opinion, health is “a precondition for and an outcome and indicator of all three dimensions of sustainable development”³ or, in other words, “a beneficiary of development, a contributor to development, and a key indicator of what people-centred, rights-based, inclusive, and equitable development seeks to achieve.”⁴ It plays a cross-cutting role in human development and is equally critical to the economic growth of society. It contributes to national development through productive employment, reduced expenditure on illness care and greater social cohesion and is hence considered a good summative measure of the progress of nations in achieving sustainable development. Sustainable development and health are thus heavily and inevitably linked: by promoting good health at all ages, the benefits of development extend across generations. In inverse terms, poor health leads to a loss of individual and collective well-being; it prevents the socio-economic development and thus undermines sustainable development, which is based primarily on human development.

Studies on the reciprocal effects of environmental health⁵ and economic development also offer an interesting socio-economic perspective of the health and development paradigm. On the one hand, it is stressed that a healthy population is essential for economic development while disease and disability related to polluted environments slows and blocks it, adding to its

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² Annie J. Sasco, "Rio+20: Comment faire de la santé le quatrième pilier du développement durable?", Grotius International, 1 June 2012.
⁵ Environmental health is defined by the WHO as follows: “Environmental health addresses all the physical, chemical, and biological factors external to a person, and all the related factors impacting behaviours. It encompasses the assessment and control of those environmental factors that can potentially affect health. It is targeted towards preventing disease and creating health-supportive environments.”
toll on human suffering a significant financial burden in terms of healthcare expenditures and lost productivity. On the other hand, it is emphasised that while economic development has dramatically improved people’s well-being, it has in turn entailed negative side effects on both the environment and health itself: disease has increased as a result of exposures to air and water pollutants caused by industrialization, and dietary changes coupled with decreased levels of physical activity resulting from lifestyle changes have contributed to global epidemics of obesity, diabetes, and associated diseases.

The centrality of health in the sustainability discourse is further confirmed by its close interrelationship with several basic components of development, such as the environment, agriculture and food systems, water and energy security, urban development and transport, trade and investment, communications, and human migration.

These interlinkages clearly emerge in *The Future We Want*, the Outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro on 20–22 June 2012 to celebrate the twentieth anniversary of the first Earth Summit (also known as “Rio+20”), which gives a detailed account of the multiple overlappings and convergences between the human, socio-economic and environmental determinants common to health and development.

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6 Industrialization puts pressures on the environment at all stages of the life cycle of industrial products, from initial resource extraction and transportation of raw materials, to processing and distribution, to final consumption and disposal. Not to mention other pressures that can lead to changes in the state of the environment in such forms as waste from human settlements and depletion of natural resources or emission of pollutants from activities such as energy production, manufacturing, transport, mineral extraction, agriculture, forestry, fish harvesting, and tourism, as seen for example, when land use is changed (deforestation or drainage problems) or when discharges of toxic chemicals or other forms of waste increase concentrations of chemicals in air, soil, water, or plants.

7 *Global Environmental Health and Sustainable Development*, U.S. National Institute of Environmental Health Sciences, October 2011.

8 These elements coincide to a large extent with the underlying determinants of health as outlined by the UN Committee on Economic, Social and Cultural Rights in *General Comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/2000/4, 11 August 2000. The General Comment states that the right to health extends not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions.

Against this background, this chapter aims to illustrate the essentials of the triangular relationship between health, environment and sustainable development as evolved from Rio 1992 to Rio 2012 (II), and to place it in context with regard to the ongoing debate on the framing of the new Sustainable Development Goals (SDGs). The focus is thus on the transition from the agreed health-related Millennium Development Goals (MDGs) to the future health SDGs and on the positioning of global health in the post-2015 development agenda (III). Special attention is also paid to the role of international health law and the relevant international legal framework that will support the implementation of the new global health agenda (IV).

II The Evolving Interrelationship between Health, Environment and Sustainable Development from Rio to Rio+20

The interdependence between health, environment and development was recognised on a large scale only during the 90s. Since then, it has increasingly become the object of debate within the major United Nations conferences on environment and development.

The World Summit on Environment and Development, held in Rio de Janeiro in 1992, put for the first time the issue of environment into the perspective of the “sustainability of development” with health playing a central role. The Earth Summit adopted the 27 Principles of the Rio Declaration\(^{10}\) and Agenda 21\(^{11}\) as the route to sustainable development in the 21st century, recognising at the highest decision-making levels the importance of investing in improvements to people’s health and their environment as a prerequisite for sustainable development. The relationship between health and sustainable development was in fact well captured in the Rio Declaration, where Principle 1 stated that “Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.” Within this framework the right to development enshrined in Principle 3 was tempered by the integration of environmental protection into the development process (Principle 4), while Principle 14 set the stage for international cooperation in the prevention of severe environmental degradation harmful to human health.


The links between development, environment and health were even better described in Agenda 21, the voluntary agreement adopted by 178 government officials, that served as a roadmap for institutions and governments to design and implement sustainable development plans at the national level. Agenda 21 devoted its Chapter 6 to the “Protection and promotion of health.” It emphasised the need to meet primary health care needs (particularly in rural areas), to control communicable diseases, to protect vulnerable groups, to address urban health challenges, and to reduce health risks from environmental pollution and hazards. Several health-related issues were also addressed in Chapters 7 “Promoting sustainable human settlement development”, 9 “Protection of the Atmosphere”, and 28 “Local authorities’ initiatives in support of Agenda 21.” Overall, no less than 200 references to health were made throughout the text, including housing and health, environmental and urban infrastructure, transportation and health, and the impact on health of air pollution and water.

Health and sustainable development were also discussed during nearly every session of the Commission on Sustainable Development – established by the UN General Assembly in December 1992 to ensure effective follow-up of the Earth Summit – as a cross-cutting issue within the context of the main sectoral issues taken up by the Commission.12

In June 1997, the UN General Assembly met in Special Session to review and appraise the implementation of Agenda 21 (Rio+5). At the end of this five-year retrospective of achievements and failures, the Assembly adopted the “Program for the further implementation of Agenda 21,” developed by the Commission on Sustainable Development.13 The specific section of the Program dedicated to health stressed the close relationship between the achievement of the goals of sustainable development and the state of health of the population, especially of the most vulnerable groups, like the poor and the children. It highlighted as top priority the need to support the efforts of countries, particularly developing countries, and international organisations to eradicate the major infectious diseases, to improve and expand basic health and sanitation services, and to provide safe drinking water. It also stressed the importance of the promotion of widespread immunization programmes, accelerated research and vaccine development, and strategies for reducing the potential risk due to ambient and indoor air pollution. Mostly relevant, the Program advocated that the clear linkage between health and the environment be emphasised and the lack of information on the impact of environmental pollution on health adequately

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addressed, thus calling for full integration of this aspect into national and sub-national sustainable development plans as well as for its incorporation into projects and development programs as a component of environmental impact assessments. The Program also indicated the energy sector and the sound management of chemicals and radioactive wastes as additional major areas of intervention crucial to health protection.

In 2000, on the occasion of the United Nations Millennium Summit, the relevance of health as a key feature of human development was clearly recognised in the Millennium Declaration,\textsuperscript{14} with three MDGs explicitly linked to health indicators (MDG 4: reduce child mortality, MDG 5: improve maternal health, and MDG 6: combat HIV/AIDS, malaria, and other diseases)\textsuperscript{15} and the others partially related to health or structured around its major determinants.

The role of health was later reaffirmed at the World Summit on Sustainable Development held in Johannesburg, in 2002, where the issue “Health and Sustainable Development” was the object of a lengthy section included in the Plan of Implementation.\textsuperscript{16} In this respect, the Plan reiterated the basic concept that

the goals of sustainable development can only be achieved in the absence of a high prevalence of debilitating diseases, while obtaining health gains for the whole population requires poverty eradication. There is an urgent need to address the causes of ill health, including environmental causes, and their impact on development, with particular emphasis on women and children, as well as vulnerable groups of society, such as people with disabilities, elderly persons and indigenous people.\textsuperscript{17}

It added a detailed list of possible actions at all levels to strengthen the capacity of health-care systems to deliver basic health services to all in an efficient, accessible and affordable manner aimed at preventing, controlling and treating diseases, and

\textsuperscript{14} UN General Assembly Resolution 55/2 of 8 September 2000, United Nations Millennium Declaration, UN Doc. A/RES/55/2, 18 September 2000.

\textsuperscript{15} The target of MDG 4 is to reduce by two-thirds, between 1990 and 2015, the mortality rate in children younger than 5 years; MDG 5 has a double target: to reduce by three quarters, between 1990 and 2015, the maternal mortality ratio and to achieve, by 2015, universal access to reproductive health; MDG 6 has a three-fold target: to have halted by 2015 and begun to reverse the spread of HIV/AIDS; to achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it; to have halted by 2015 and begun to reverse the incidence of malaria and other major diseases.


\textsuperscript{17} Ibid., para. 53.
to reduce environmental health threats, in conformity with human rights and fundamental freedoms and consistent with national laws and cultural and religious values; to combat AIDS/HIV, malaria, tuberculosis and other diseases; to reduce the health impacts resulting from air pollution; to prevent lead poisoning.\footnote{Ibid., paras. 54–57.} Most important, the Plan took into due consideration the problems deriving from environmental health threats, the linkages between poverty, health and environment, the need for clean drinking water and adequate sanitation and also the need for a change in unsustainable patterns of production and consumption.

In 2010, the UN General Assembly summoned a High-level Plenary Meeting on the progress towards the Millennium Development Goals. The outcome document requested the Secretary-General to make recommendations to advance the United Nations development agenda beyond 2015. Initial recommendations in this regard were presented in the Report of the Secretary-General on accelerating progress towards the MDGs of August 2011, with special reference to the need for an open and inclusive process of consultations. In September 2011 the Secretary-General established the UN System Task Team on the Post-2015 UN Development Agenda to coordinate system-wide preparations for a new development framework in consultation with all stakeholders.\footnote{The UN System Task Team on the Post-2015 UN Development Agenda assembles more than 60 UN agencies and international organizations. Co-chaired by the Department of Economic and Social Affairs and the United Nations Development Programme, the Team supports the process by providing analytical thinking and substantial inputs. It published its first report titled \textit{Realizing the Future We Want for All} in June 2012 and has also produced eighteen thematic “think pieces.” See Alan J. Thomson, “Preparing for cross-sectoral action for health in the Post-2015 Development Agenda,” December 2012, available at http://www.worldwewant2015.org/es/node/291897.}

Under the umbrella of the System Task Team, the WHO, UNICEF, UNFPA, and UNAIDS prepared a “think piece” on health which was issued in May 2012 and used as an input for the impending Rio+20 Conference.\footnote{UNAIDS, UNICEF, UNFPA, WHO, \textit{Health in the Post-2015 UN Development Agenda}. Thematic Think Piece, May 2012, available at http://www.un.org/millenniumgoals/pdf/Think%20Pieces/8_health.pdf.} In preparing this paper, the health community tried to provide answers to basic questions concerning, for example, how to position health in the context of sustainable development, how to frame health goals from a global perspective and, most important, how to address health issues more effectively in the new global health agenda. The “think piece” suggested that the relationship between health and sustainable development should be read in a three-fold perspective, considering, in turn:
• health as a contributor to the achievement of sustainability goals: health policy, through universal health coverage, can contribute to poverty reduction; healthy people are more likely to be efficient at assimilating knowledge, have stronger cognitive and physical capabilities and, in consequence, obtain higher productivity levels;

• health as a potential beneficiary of sustainable development: sound policies across the economic, environmental and social dimensions of development contribute directly and indirectly to improved health. Reductions in air, water and chemical pollution can prevent up to one quarter of the overall burden of disease while environmental change (through deforestation, air pollution, desertification, urbanization and changing land use) have been causally linked to many pressing global health problems, including malaria, water-borne diseases, malnutrition, AIDS, TB, maternal health and non-communicable diseases (NCDs);

• health as a way of measuring progress across all three pillars of sustainable development policy: measuring the impact of sustainable development on health can generate public and political interest in a way that builds popular support for policies that have more diffuse or deferred outcomes.

Despite these important inputs, the zero draft of the Rio+20 outcome document was absolutely disappointing with regard to health issues, with only two passing references to public health.\(^{21}\)

In contrast to this negligent approach, and also building on the contribution of the WHO’s position papers,\(^ {22}\) this shortcoming was amply remedied during the Rio+20 Conference and the importance of health for the three dimensions of sustainable development was aptly stressed in the outcome document. As a result, the intrinsic relationship between health and sustainable development was well reflected in the final version of *The Future We Want*, with a lengthy section specifically devoted to the topic “Health and population”\(^ {23}\) and several other references appearing in other thematic sections.


\(^{23}\) *The Future We Want*, supra note 9, paras. 138–146.
As it was noted, health is given exceptional prominence in the declaration and is by far the most visible thematic area or cross-cutting issue after the environment.24

Notably, *The Future We Want* recognises health as a precondition, outcome and indicator of the economic, social and environmental dimensions of sustainable development. It calls for the full realisation of the right to health, stating that action on the social and environmental determinants of health is crucial to create inclusive, equitable, economically productive and healthy societies. The document also underlines the crucial need for universal health coverage (including policies to prevent, protect and promote public health) and recognises the key role of (equitable) universal health coverage in enhancing health, social cohesion, and sustainable human and economic development. It advocates the involvement of all relevant actors at national and international level to coordinate multisectoral action in order to meet global health needs and acknowledges the leading role of the WHO.

In general, *The Future We Want* deals with classical public health issues, with special concern for communicable diseases, which according to the document “remain serious global concerns”; implementation of the MDGs on child and maternal mortality; access to safe, affordable, effective and quality medicines, vaccines and medical technologies for all; the need to strengthen health systems through increased health financing, recruitment, development, training and retention of the health workforce and through improved health infrastructures. In addition, it also addresses the new challenges, such as the global burden of NCDs – considered “one of the major sustainable development challenges of the twenty first century” – the impact of population trends, demographic change and migration, gender equality, sexual and reproductive health and modern methods of family planning.

In considering other health-related development issues, the outcome document also shows how health can benefit from the green economy.25 Such issues include:

- access to better energy services including sustainable cooking and heating solutions, which can significantly reduce childhood pneumonia and adult cardiopulmonary disease deaths from indoor air pollution;
- greater focus on urban planning measures including more sustainable, energy-efficient housing and transport – which can significantly reduce

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25 See for example the briefings and reports issued in the WHO series “Health in the green economy,” available at http://www.who.int/hia/green_economy/en/.
many NCD risks, e.g. cardiopulmonary diseases from air pollution, health risks from physical inactivity and traffic injury;
• better sanitation in cities and villages to protect against the spread of communicable diseases;
• sustainable food systems that combat hunger and contribute to better health and nutrition;
• more sustainable water usage, meeting basic needs for safe drinking-water, and stewardship of water supplies to grow food;
• assurance that all jobs and workplaces meet minimum safety and health standards to reduce cancer, chronic lung diseases, injuries and early deaths.

Although the outcome document expands on a wealth of health- and development-related issues that help to further clarify the close relationship between the two in a variety of settings ranging from the social, to the economical, the political and environmental scenarios, it does not add very much to the “state of the art” as already outlined by the health community in the in-depth studies carried out in view of Rio+20, nor does it set new targets, deadlines and indicators to move the health agenda forward. It thus basically mirrors the overall weakness and substantial lack of ambition of the Conference, already the object of major criticism, and limits itself to setting the stage for the follow-up debate on the post-2015 global health agenda. This notwithstanding, the prominence given to health in The Future We Want is considered very positive for positioning it centrally in the post-2015 development framework.

III Moving from Health MDGs to Health SDGs: Global Health in the Post-2015 Development Agenda

As said before, the Millennium Declaration gave health a central role to play in development and in improving human development outcomes. It provided

26 See the Introduction to this book by Stefania Negri and Sandrine Maljean-Dubois.
27 According to the analysis by Kickbusch and Brindley: “Combined, the nine paragraphs specifically dedicated to health provide a substantial and comprehensive framework for a healthy and sustainable future that is consistent with the health thematic consultations final report and other key documents such as the report of the Commission on the Social Determinants of Health and Rio Political Declaration on the Social Determinants of Health.” (Health in the Post-2015 Development Agenda, supra note 24, p. 55).
28 On the health-related MDGs see also the Report of the Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest
strong evidence that health is a key cross-sectoral issue contributing to the interdependence of all MDGs: better health (MDGs 4–6) enables children to learn (MDGs 2–3); gender equality (MDG 3) is essential to the achievement of better health (MDGs 4–6); reducing poverty and hunger (MDG 1) and environmental degradation (MDG 7) positively influences, but also depends on, better health (MDG 4–6); HIV/AIDS, malaria, TB, and neglected tropical diseases (MDG 6) impact on MDGs 1–7, and vice versa; MDGs 3–6 are directly dependent, and MDGs 1, 2, 7, and 8 indirectly dependent, on the sexual and reproductive health and rights of women and girls; and primary education (MDG 2) and even more so secondary education have a strong impact on young people (especially girls) in terms of development (economically, due to later marriage, fewer children, earning potential, etc.) and in lowering under-5 mortality (MDGs 4 and 5).  

Nonetheless, health MDGs present pros and cons. Several reports, academic journals, and other fora have devoted considerable attention to analysing their strengths and shortcomings for health and development more broadly. One the one hand, there is widespread agreement that thanks to their simplicity, transparency and multi-dimensionality, health MDGs have raised the profile of global health to the highest political level, mobilised civil society, increased development assistance for health, and contributed to considerable improvements in health outcomes in low- and middle-income countries. On the other hand, criticism is directed against their alleged contribution to fragmented approaches to development: between the different health MDGs; between the health MDGs and other MDGs, such as gender equality; and between the MDGs and health priorities omitted from the MDG agenda (e.g. access to health care services, increase in NCDs and reproductive health).

As it is well known, strengths and weaknesses are detectable in all MDGs notwithstanding their recognised and undeniable relevance as drivers of political support for development towards 2015. While considerable health gains have been achieved through the MDGs, there needs to be a continued commitment for accelerating progress related to those goals, many of which will not be achieved by 2015. Hence, as the MDGs approach their deadline, the international

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29 See Health in the Post-2015 Agenda, supra note 4, p. 29.
30 See in general the first report prepared by the UN System Task Team on the Post-2015 Development Agenda, Realizing the Future We All Want, Report to the Secretary-General (June 2012).
community is already looking forward. It has in fact engaged in an important paradigm shift from development to sustainability, building on the foundations laid by the MDGs but aiming at completing the unfinished work and at responding to new challenges.

This process began in 2010 at the United Nations Summit on the Millennium Development Goals, when UN Member States, while committing themselves to accelerating progress in order to achieve the MDGs, requested the Secretary-General to make steps to advance the development agenda beyond 2015.31 Rio+20 accelerated the pace by initiating an inclusive process to develop a set of SDGs to promote sustainable and equitable development worldwide post-2015. In this respect, The Future We Want stresses the importance and utility of a set of sustainable development goals (SDGs), which are based on Agenda 21 and Johannesburg Plan of Implementation, fully respect all Rio Principles, taking into account different national circumstances, capacities and priorities, are consistent with international law, build upon commitments already made, and contribute to the full implementation of the outcomes of all major Summits in the economic, social and environmental fields…These goals should address and incorporate in a balanced way all three dimensions of sustainable development and their inter-linkages.32

From the institutional and organisational point of view the summit resolved “to establish an inclusive and transparent intergovernmental process on SDGs…open to all stakeholders with a view to developing global sustainable development goals to be agreed by the United Nations General Assembly.”33 The Open Working Group (OWG) mentioned by the Outcome document was instituted by General Assembly decision 67/555 of 22 January 2013.34 The UN Secretary-General established the System Technical Support Team to ensure all necessary input and support to the Group.35

31 UN Summit on MDGs, Outcome document, UN General Assembly Resolution 65.1 of 22 September 2010, Keeping the promise: united to achieve the Millennium Development Goals, UN Doc. A/RES/65/1, 10 October 2010.
32 The Future We Want, supra note 9, para. 246.
33 Ibid., para. 248.
35 The System Technical Support Team (TST) – co-chaired by the UN Department of Economic and Social Affairs and the United Nations Development Programme and consisting of over 40 UN entities – works under the umbrella of the UN System Task Team.
From March 2013 through July 2014, the OWG held a total of thirteen sessions deliberating on 19 different focus areas related to the major themes identified in *The Future We Want*, including those identified in the document’s Framework for Action. In September 2014 the OWG is expected to submit to the General Assembly its final proposal for SDGs as approved on 19 July 2014.36

With regard to health-related goals, the debate developed within the Group on the basic premise that “health is a right and a goal in its own right, as well as a means of measuring success across the whole sustainable development agenda.” The Group worked on a “zero draft” which contained a proposed Goal 3 (Attain healthy life for all at all ages) calling for the following specific goals to be attained by 2030:

- substantially reduce the maternal mortality ratio per 100,000 live births;
- end preventable newborn, infant and under-five deaths;
- end HIV/AIDS, tuberculosis, malaria, and neglected tropical diseases;
- substantially reduce premature deaths from NCDs, reduce deaths from injuries, including halving road traffic deaths, promote mental health and well-being, and strengthen prevention and treatment of narcotic drug and substance abuse; increase healthy life expectancy for all;
- achieve universal health coverage, including financial risk protection, with particular attention to the most marginalized and people in vulnerable situations;
- ensure universal availability and access to safe, effective and quality affordable essential medicines, vaccines, and medical technologies for all;
- ensure universal access to sexual and reproductive health for all (which overlapped with the proposed Goal 5: Attain gender equality, empower women and girls everywhere).
- substantially reduce the number of deaths and illnesses from indoor and outdoor air pollution.

Moreover, in the framework of proposed Goal 17 (Strengthen and enhance the means of implementation and global partnership for sustainable development), sub-Goal 3 (Attain healthy life for all at all ages) included some broader public health objectives - which were later incorporated into the final text of Goal 3 - such as:

- strengthen implementation of the Framework Convention on Tobacco Control in all countries who have ratified the Convention and urge countries that have not ratified it to ratify and implement it;

• support research and development of vaccines and medicines for the communicable diseases that primarily affect developing countries;
• in cooperation with pharmaceutical companies, provide access to affordable essential medicines in developing countries, and support developing countries’ use of TRIPS flexibilities;
• increase by 2030 the recruitment, development and training and retention of the health workforce and teachers in developing countries, especially in LDCs;
• increase the capacity for early warning, risk reduction, and management of national and global health risks.

During the session meetings the zero draft underwent several major amendments. The OWG’s first Progress Report, which relates to the work accomplished in its first four sessions, gives account of the fact that there was a broadly shared opinion that health priorities captured in the health MDGs continue to need focus but could be integrated along with other health targets under a single, overarching health goal. Proposals for such goal included “maximise health at all stages of life,” “maximise healthy life expectancy” or “universal health coverage.”37 The twelfth session (June 2014) registered proposals for some further amendments, mainly directed at integrating the stated basic goals by including: a) a clear entitlement for all to equitable, universal and affordable access to prevention, treatment, care of infectious diseases; b) the strengthening of health systems and access to essential health services, a well-trained health workforce, and financial risk protection including zero impoverishment due to health expenses and zero catastrophic out of pocket expenses; c) the need to ensure high quality, comprehensive, equitable and integrated sexual and reproductive health services, information and education, and respect, protect and fulfil all human rights in this regard, with a particular focus on adolescents and young people.38

In parallel with the intergovernmental UN-led process, two additional discussion fora were established: the High-level Panel on the Post-2015 Development Agenda, appointed by the UN Secretary-General in July 2012 as part of the initiatives mandated by the 2010 MDG Summit,39 and the Global Thematic

Consultation on Health, a global online consultation co-convened by WHO and UNICEF, in collaboration with the Government of Sweden and the Government of Botswana, that took place between September 2012 and March 2013.\textsuperscript{40}

The UN High-level Panel released its report \textit{A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development} on 30 May 2013. It proposed a single health goal, “Ensure healthy lives,” centred around five basic targets: a) end preventable infant and under-5 deaths; b) increase by x\% the proportion of children, adolescents, at-risk adults and older people that are fully vaccinated; c) decrease the maternal mortality ratio to no more than x per 100,000; d) ensure universal sexual and reproductive health and rights, and e) reduce the burden of disease from HIV/AIDS, tuberculosis, malaria, neglected tropical diseases and priority NCDs.\textsuperscript{41} Although the report underlines the importance of equity in health and universal health coverage, the HLP’s approach was considered too narrow, and its implicit strategy to address health problems heavily biomedical, thus not in keeping with key health declarations, such as the \textit{Rio Political Declaration on the Social Determinants of Health}, the UN High-Level Meeting on the Prevention and Control of NCDs, and the UN resolution on Global Health and Foreign Policy.\textsuperscript{42}

As to the Global Thematic Consultation on Health, the aim of this inclusive and widely-participative process was to stimulate wide-ranging discussion at global, regional, and country levels on progress made and lessons learnt from the MDGs relating to health; to discuss and develop a shared understanding among Member States, UN agencies, civil society, and other stakeholders on the positioning of health in the post-2015 development framework; to collect new proposals aimed to devise, implement, measure and monitor a new set of health goals and related targets and indicators for the post-2015 development agenda. Five guiding questions drove the consultation: what lessons have been

\textsuperscript{40} The Task Team for the Global Thematic Consultation on Health was co-led by the World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF), in collaboration with the Governments of Botswana and Sweden, supported by a small secretariat and a UN interagency group that included the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Department of Economic and Social Affairs (UNDESA), the United Nations Development Programme (UNDP), and the United Nations Population Fund (UNFPA).


learned from the health-related MDGs?; what is the priority health agenda for the 15 years after 2015?; how does health fit into the post-2015 development agenda?; what are the best indicators and targets for health?; how can it be ensured that the process and outcome are relevant to the key stakeholders?

This multi-stakeholder consultation saw inputs from individuals, civil society, academia, the private sector, WHO member states, and UN partners, and was synthesised into a detailed and exhaustive report issued in April 2013. The consultation process revealed the need to abide by some basic principles, such as building on the conceptual simplicity of the MDGs, taking a people-centred, not disease-centred, approach that captures the determinants of health, and returning to the notion of health as a human right, with equity at its heart.

According to the final report, the health priorities in the post-2015 era should include accelerating progress on the present health MDGs, advancing sexual and reproductive health and rights, reducing NCDs and their risk factors, improving mental health. Of key importance are also those addressing the social, cultural, environmental, economic and political determinants of health; improving the health of disadvantaged and marginalised groups; and meeting the specific needs of people at different stages of life. As far as goals are concerned, “sustainable well-being for all” could be an overarching development goal for the wider post-2015 agenda, while “maximising healthy lives” could be the specific health goal, in which the health sector would play a larger but far from exclusive role. “Universal health coverage” is proposed as a further goal by which healthier life expectancy could be achieved, with increased coverage of essential services (e.g., immunisation, reproductive health services, essential medicines), reduced out-of-pocket expenditure, and strengthened health systems (including the health workforce) as proposed indicators for this goal.

The report also emphasises that health is relevant to most, if not all, aspects of the post-2015 development agenda. It thus provides solid arguments to show how health is linked to the other 10 post-2015 thematic consultations, namely: population, education, food and nutrition security, environmental sustainability, water, energy, disasters and conflict, economic growth and employment, inequalities, governance. It thus concludes that intersectoral action on health should be prioritised.

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43 Health in the Post-2015 Agenda, supra note 4.
44 For an in-depth analysis of the interrelationships between the ten thematic areas and how they contribute to shape health, see Health in the Post-2015 Development Agenda, supra note 24, pp. 23–40.
Overall, these consultation processes converge on the idea that the health sector has a vital part to play in the setting of the SDGs and that it needs to embrace a new and emerging health agenda bringing to the fore evidence for new threats and emerging global threats. In this sense, the new global health agenda should broaden its scope so as to encompass issues such as NCDs, antimicrobial resistance, new pandemics, emerging infections, promotion of health and wellbeing at all stages of life, aging, population dynamics and climate change. In contrast to the current set of health-related MDGs, there is now a greater recognition of the need to focus on means as well as ends: health as a human right; health equity; equality of opportunity; global agreements (International Health Regulations, Pandemic Influenza Preparedness framework) that enhance health security; stronger and more resilient health systems; innovation and efficiency as a response to financial constraints; and multi-sectoral responses that see health as an outcome of all policies. The linkages between health and development should be made much clearer and more visible in the post-2015 development agenda than they are in the MDGs and indicators integrating health and environmental sustainability deserve more attention. Moreover, since the determinants of health extend across multiple sectors (environment, agriculture and food systems, water and energy security, urban development and transport, trade and investment, communications, and human migration), the new global health agenda should promote synergies and partnerships that align actions for better health, which will in turn help in achieving other development goals such as poverty reduction, gender empowerment, and universal education.45

IV Concluding Remarks: What Legal Framework for Sustainable Global Health?

The international health community strongly advocates that global health be prioritised as a key goal in the post-2015 development agenda on grounds that it is a core sine qua non component of sustainable development. However, as it

was aptly emphasised in the above-mentioned multi-institutional “think piece,” realising sustainable global health and governance for global health is not an easy task. Two major challenges have to be faced at the substantive and the institutional levels. The first one is “how to frame an overarching health goal and target in a way that drives change that is relevant for all countries; that acknowledges health as a global concern (and thus as something for which countries have collective as well as individual responsibilities); that appeals to politicians and the public; and is actually measurable.” The second is to define “how the roles and responsibilities of the UN General Assembly, any new sustainability body, and sector-specific forums such as the World Health Assembly will intersect.”

Actually, a third challenge should be considered: to define the international legal framework that will best support such an endeavour at the universal level, considering that international health law – with the exception of the 2005 International Health Regulations and the 2003 Framework Convention for Tobacco Control – is predominantly soft law, and that it is impossible to foresee if and when a negotiation will be opened for the adoption of the heralded and strongly hoped-for Framework Convention on Global Health.

Despite this relative normative paucity, it must be stressed that soft international health law has seen an unprecedented growth in the last decade, with the flourishing of important declarations issued from the major conferences held under the UN umbrella: the mentioned *The Future We Want*, outcome document of the 2012 United Nations Conference on Sustainable Development, the *Rio Political Declaration on Social Determinants of Health* adopted at the 2011 World Conference on Social Determinants of Health, the *Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS* adopted at the 2011 high-level meeting of the General Assembly, the 2011

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Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of Non-Communicable Diseases, the Helsinki Statement on Health in All Policies, adopted at the Eighth Global Conference on Health Promotion in June 2013. These documents set priorities for global health, cement key principles and call on governments to take action to fulfil their obligations to their peoples’ health and well-being. Some important resolutions approved by the UN General Assembly, the World Health Assembly and the Human Rights Council should also be added, which testify of the opinio iuris of the international community on key health law principles while urging Member States to honour their commitments towards agreed health targets and goals. Suffice it to mention, in this respect, the recent World Health Assembly resolution 66.11 of 27 May 2013 on Health in the post-2015 development agenda, and the UN General Assembly resolutions on Global health and foreign policy, the latest being resolution 68/98 of 11 December 2013.

However, given the declaratory and recommendatory nature of these documents, the successful realisation of sustainable global health and health-related development targets must rely on a more solid legal framework. In this respect, alongside the application in the health domain of those fundamental and classical general principles of law like dignity, equity, equality, non-discrimination, protection, or of the basic principles of prevention and precaution, borrowed from international environmental law, human rights

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53 Also noteworthy are: the resolution of the Commission on Human Rights 2002/31 of 22 April 2002, appointing the UN Special rapporteur on the right to health, and the Economic and Social Council resolution 2013/12 of 22 July 2013 on the UN Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases.


56 For example, it is noteworthy that the WHO strongly supports Health Impact Assessments (HIA) to help decision-makers and stakeholders to minimise negative health effects of proposed projects and interventions and dynamically improve health and well-being across sectors.
continue to stand as the most developed and universally accepted normative framework for global health. This means that advancing global health in the post-2015 development agenda requires a human rights approach to sustainable development and reliance on the full realisation of the right to health at the global level. This ambitious goal can be better achieved if the following principles are applied in the health domain:

- universal entitlement: to implement global health goals every individual must be recognised as a right-holder and each and every State as a duty-bearer, independently of its participation to the human rights treaties protecting the right to health. The right to health must be considered as a customary law right imposing obligations on both States and non-State actors;
- shared global responsibility: realising the universal right to health implies collective responsibility and obligations of a global character, which means that States must take action individually (within their jurisdiction as well as extraterritorially) and jointly (through international assistance and in compliance with a general duty of cooperation), to respect, protect and fulfil the universal right to health, building on the interpretation of these obligations provided by the UN Committee on Economic, Social and Cultural Rights;
- empowerment and accountability: a global accountability regime must be implemented, with States and non-State actors responding for health violations before domestic courts and international judicial or monitoring organs and with every right-holder being empowered to seek and obtain redress.

This approach is in line with the outcomes and recommendations of the multi-stakeholders consultations led by the United Nations, which set a number of legal priorities including the need to clearly and firmly state that health is a

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57 By way of example, suffice it to mention that the International Covenant on Economic, Social and Cultural Rights, the major treaty source of the right to health (art. 12), has been ratified “only” by 162 states of the present 193 members of the United Nations.


human right that comes with both entitlements and duty-bearers; to include human rights, equity, accountability, and sustainability among the guiding principles, in harmony with the Millennium Declaration; to integrate the concept of shared and differentiated responsibility for issues of global health; and to make accountability an integral part of the implementation process.\textsuperscript{61} It is also consistent with the UN High-Level Panel’s report, which argues that “new goals and targets need to be grounded in a respect for universal human rights,”\textsuperscript{62} with the UN Task Team’s report,\textsuperscript{63} as well as the Rio+20 outcome document.\textsuperscript{64}

Although charting the way forward for the new post-2015 global health agenda will indeed depend on the successful interplay between health law and other branches of international law – including environmental law, investment law, intellectual property law, consumer law, etc. – it clearly emerges from this brief analysis that human rights will still serve as the cornerstone of the health and sustainable development paradigm.

\textsuperscript{61} Health in the Post-2015 Agenda, supra note 4, especially pp. 51–53.
\textsuperscript{62} A New Global Partnership, supra note 41, Executive summary.
\textsuperscript{63} Health in the Post-2015 UN Development Agenda, supra note 20, pp. 6 and 8.
\textsuperscript{64} The Future We Want, supra note 9, para. 138.