

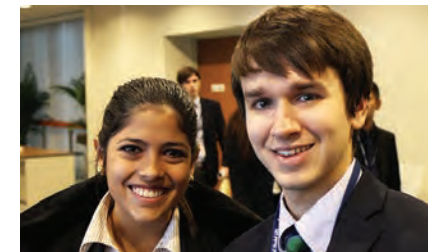


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# ECONOMIC AND SOCIAL COUNCIL BACKGROUND GUIDE 2017

Written by: Christopher McKenna, Director;  
Emma Bott, Assistant Director



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Dear Delegates,

Welcome to the 2017 National Model United Nations Canada Conference (NMUN•Canada) in beautiful Banff National Park! We are pleased to serve as the committee staff on the United Nations Economic and Social Council (ECOSOC): Director Christopher McKenna and Assistant Director Emma Bott.

Christopher is currently a Doctor of Medicine (MD) candidate at the University of Queensland. He has an Master of Public Health in International Health at Boston University and has worked as a critical care paramedic in the New York City metro area. He has also worked with the Emergency Humanitarian Assistance team at the World Health Organization office in Manila, the Philippines. Emma is currently completing a Bachelor of Management with an emphasis on Human Resources and a minor in History at Concordia University of Edmonton. Emma was a human resources intern at Steel Craft Doors and the Programs Initiative intern at Ayuda in Washington, DC.

The topics under discussion for the United Nations Economic and Social Council are:

1. Sustainable Development Goals and Indigenous Peoples
2. Promoting Rule of Law to Facilitate Economic and Social Development

The Economic and Social Council is one of the six primary bodies of the United Nations. It plays a vital role in the organization and coordination of United Nations specialized agencies and other bodies on economic and social issues. The Council acts in partnership with General Assembly to address issues holistically.

This Background Guide serves as an introduction to the topics for this committee. However, it is not intended to replace individual research. We encourage you to explore your Member State's policies in depth and use the Annotated Bibliography and Bibliography to further your knowledge on these topics. In preparation for the Conference, each delegation will submit a [Position Paper](#) by 1 November in accordance with the guidelines in the [NMUN Position Paper Guide](#).

Two resources, to download from the [NMUN website](#), that serve as essential instruments in preparing for the Conference and as a reference during committee sessions are the:

1. [NMUN Delegate Preparation Guide](#) - explains each step in the delegate process, from pre-Conference research to the committee debate and resolution drafting processes. Please take note of the information on plagiarism, and the prohibition on pre-written working papers and resolutions. Delegates should not start discussion on the topics with other members of their committee until the first committee session.
2. [NMUN Rules of Procedure](#) - include the long and short form of the rules, as well as an explanatory narrative and example script of the flow of procedure.

In addition, please review the mandatory [NMUN Conduct Expectations](#) on the NMUN website. They include the Conference dress code and other expectations of all attendees. We want to emphasize that any instances of sexual harassment or discrimination based on race, gender, sexual orientation, national origin, religion, age, or disability will not be tolerated.

If you have any questions concerning your preparation for the committee or the Conference itself, please contact the Deputy Secretary-General Roger H. Tseng, at [roger@nmun.org](mailto:roger@nmun.org).

We wish you all the best in your preparations and look forward to seeing you at the Conference!

Christopher McKenna, Director

Emma Bott, Assistant Director



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## Committee Overview

### Introduction

Chapter X of the *Charter of the United Nations* (1945) established the Economic and Social Council (ECOSOC) as a founding body and one of the six principal organs of the United Nations (UN).<sup>1</sup> ECOSOC indirectly oversees the allocation of 70% of UN resources through its oversight of 14 specialized agencies and 13 functional and regional commissions.<sup>2</sup> The Council has the mandate to serve as a main body for policy dialogue on economic, social, cultural, educational, and health-related topics; to review and advise Member States and other UN entities on matters within this mandate; and to lead discussion on the implementation of the international development framework.<sup>3</sup>

The **United Nations Economic and Social Council (ECOSOC)** is one of the six primary organs of the UN. Under the authority of the *Charter of the United Nations*, ECOSOC is mandated to address economic and social matters. It submits an annual report to the General Assembly.

ECOSOC has undergone several reforms since its inception. In the 1960s and 1970s, developing Member States broadened the agenda of the UN and sought a stronger focus on urgent issues such as the promotion of development and the elimination of poverty.<sup>4</sup> The Council is currently comprised of 54 Member States as a result of General Assembly (GA) resolution 2847 (XXVI) (1971).<sup>5</sup> This was implemented in order to make the Council membership representative of UN membership as a whole, to bring a more economically diverse membership to the Council, and to better geographically represent each region.<sup>6</sup> The GA then adopted resolution 32/197 in 1977.<sup>7</sup> This resolution addresses the “Restructuring of economic and social sectors of the United Nations System” and attempted to make ECOSOC more effective by increasing coordination with its subsidiary bodies.<sup>8</sup> To avoid any duplication of work due to broad mandates, GA resolution 50/227 of 1995 clarified that the role of the GA is to provide policy guidance while ECOSOC’s focus is on coordination of work.<sup>9</sup> This interpretation was reinforced by GA resolution 57/270 in 2002.<sup>10</sup>

The GA implemented further reforms over the past several years to strengthen the working methods of ECOSOC through resolution 68/1 of 2013.<sup>11</sup> The 2013 reforms included an expansion of its functions and powers to enable ECOSOC to take the lead on identifying and discussing emerging challenges; to act as a policy forum for global leaders, especially concerning the integration of sustainable development efforts; and to provide a platform of accountability for all levels of monitoring and reporting on universal commitments.<sup>12</sup> These reforms reinforce ECOSOC’s critical role in preparing, monitoring, implementing, and facilitating global discussions around the Sustainable Development Goals (SDGs).<sup>13</sup>

### Governance, Structure, and Membership

ECOSOC is comprised of 54 Member States, each of which is elected by the GA for overlapping three-year terms.<sup>14</sup> The Member States are elected according to UN geographical groupings to achieve equal representation from all regions and levels of development: 14 seats are allocated to African Member States; 11 to Asian Member States; six to Eastern European Member States; 10 to Latin American and Caribbean Member States; and 13 to Western

<sup>1</sup> UN ECOSOC, *About ECOSOC*.

<sup>2</sup> Educational Broadcasting Corporation, *Kofi Annan – Center of the Storm: Who Does What?*, 2016.

<sup>3</sup> UN ECOSOC, *About ECOSOC*.

<sup>4</sup> Rosenthal, *The Economic and Social Council of the United Nations*, 2005, p. 20.

<sup>5</sup> New Zealand, *United Nations Handbook 2016-17*, 2016.

<sup>6</sup> *Ibid.*

<sup>7</sup> Rosenthal, *The Economic and Social Council of the United Nations*, 2005, p. 19.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, p. 20.

<sup>11</sup> UN ECOSOC, *About ECOSOC*.

<sup>12</sup> UN ECOSOC, *The New ECOSOC – Overview of Functions and Working Methods*, 2014.

<sup>13</sup> UN ECOSOC, *Millennium Development Goals and post-2015 Development Agenda*.

<sup>14</sup> *Charter of the United Nations*, 1945, Ch. X; UN ECOSOC, *ECOSOC Members*.

European and Other Member States.<sup>15</sup> Each Member State has one representative and one vote in ECOSOC and all decisions are made by a simple majority of those Member States present and voting.<sup>16</sup> ECOSOC is governed by a President, Vice-President, and Rapporteur, in tandem with a Bureau consisting of five representatives: the President and four Vice-Presidents.<sup>17</sup> All of these representatives are elected to one-year terms at the outset of each session.<sup>18</sup> The Bureau is responsible for setting ECOSOC's agenda, devises action plans, and collaborates with the Secretariat on administrative duties.<sup>19</sup> Its presidency rotates equally among regional blocs.<sup>20</sup>

ECOSOC convenes twice annually for one organizational session and one substantive session.<sup>21</sup> During organizational sessions, items such as agenda setting and elections to the Bureau take place.<sup>22</sup> During substantive sessions, meetings are divided into five segments focusing on separate thematic aspects of the Council's work.<sup>23</sup> The working methods of the Council were further reformed through GA resolution 68/1 in 2013, and its substantive work is now organized as follows:

- High-level Segment (HLS): The HLS includes a thematic Annual Ministerial Review, a biannual Development Cooperation Forum (DCF), and ministerial-level meetings of the High-level Political Forum on Sustainable Development (HLPF).<sup>24</sup>
- Integration Segment: This segment consolidates important messages on primary themes and action-oriented recommendations from the Council system to harmonize the work of ECOSOC members, subsidiary bodies, and stakeholders.<sup>25</sup>
- Operational Activities for Development Segment: Monitoring the follow-up to the Quadrennial Comprehensive Policy Review recommendations and alignment with the work of the specialized agencies, this segment helps ECOSOC provide efficient coordination for UN programs and funds.<sup>26</sup>
- Coordination and Management Meetings: At these meetings, the Council reviews the work of its subsidiary bodies and considers the coordination of work across thematic issues within its mandate, such as gender mainstreaming.<sup>27</sup> The Council works closely with the Secretariat of the Chief Executives Board for Coordination during these meetings.<sup>28</sup>
- Humanitarian Affairs: This segment serves as a thematic forum for discussing operational challenges and normative progress on humanitarian policy.<sup>29</sup>

ECOSOC oversees 14 subsidiary bodies that hold their own sessions and provide recommendations, draft resolutions, and annual reports to the Council.<sup>30</sup> The two most common types of subsidiary bodies are functional and regional commissions, but other subsidiary bodies include standing, ad hoc, and other related bodies and committees.<sup>31</sup> Specific working methods have been adopted within each subsidiary organ to align with the mandate of each entity and are updated regularly.<sup>32</sup> Types of subsidiary bodies include:

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<sup>15</sup> UN ECOSOC, *ECOSOC Members*; *Charter of the United Nations*, 1945, Ch. X, Art. 61.1-2.

<sup>16</sup> UN ECOSOC, *Rules of Procedure of the Economic and Social Council (E/5715/Rev.2)*, 1992, p. 22; *Charter of the United Nations*, 1945, Ch. X.

<sup>17</sup> UN ECOSOC, *Rules of Procedure of the Economic and Social Council (E/5715/Rev.2)*, 1992.

<sup>18</sup> *Ibid.*

<sup>19</sup> UN ECOSOC, *ECOSOC Bureau*.

<sup>20</sup> *Ibid.*

<sup>21</sup> UN ECOSOC, *Rules of Procedure of the Economic and Social Council (E/5715/Rev.2)*, 1992, p. 8.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> UN ECOSOC, *The New ECOSOC – Overview of Functions and Working Methods*, 2014.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> UN ECOSOC, *2014 Humanitarian Affairs Segment*, 2014.

<sup>30</sup> UN Dag Hammarskjöld Library, *Functional Commissions*, 2014.

<sup>31</sup> UN ECOSOC, *Subsidiary Bodies of ECOSOC*.

<sup>32</sup> UN General Assembly, *Format and organizational aspects of the high-level political forum on sustainable development (A/RES/67/290)*, 2013, p. 7.

- **Functional Commissions:** The nine functional commissions are “deliberative bodies whose role is to consider and make recommendations on issues in their areas of responsibility and expertise.”<sup>33</sup> Functional commissions, in particular, have a responsibility to follow-up on the thematic considerations of major UN conferences and take measureable action in accordance with the role of ECOSOC.<sup>34</sup>
- **Regional Commissions:** The five regional commissions aim to foster economic integration, oversee the implementation of regional sustainable development initiatives, and help address economic and social issues in sub-regions by promoting multilateral dialogue, cooperation, and collaboration within and between regions.<sup>35</sup> As regional commissions target problems and challenges within their geographical scope, members in most cases are Member States from this region.<sup>36</sup>
- **Expert Bodies Composed of Governmental Experts:** The seven bodies that fall into this category are focused on specific topics that ECOSOC has identified as important and deserving of additional attention or particular expertise.<sup>37</sup> These bodies consider issues falling within the more narrow scope of the Council’s work with explicit mandates to improve the information, guidance, policy or regulations on the issue, with the particular aim of providing coherence and consistency at the international level.<sup>38</sup>

### ***Mandate, Functions, and Powers***

The *Charter of the United Nations* gives ECOSOC the mandate to “make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters” including human rights and freedoms, to the General Assembly and its specialized agencies.<sup>39</sup> ECOSOC may also provide information and may assist the Security Council when necessary.<sup>40</sup> As emphasized by recent reforms accentuating this role, ECOSOC also provides coordination, monitoring, and advice to UN programs, agencies, and funds on international development policies and their implementation.<sup>41</sup> Examples of this coordination role include facilitating cooperation between economic institutions like the World Bank and International Monetary Fund in 1998 and establishing what has become ECOSOC’s High-level Segment in 2007.<sup>42</sup>

ECOSOC fulfills its mandate under the overall authority of the GA and with the consultation of a broad range of civil society actors (CSAs).<sup>43</sup> There are more than 3,900 non-governmental organizations (NGOs) with consultative status that may attend and participate in various UN meetings, conferences, and special sessions to voice their concerns to the international community.<sup>44</sup> Consultative status is given by ECOSOC’s Committee on NGOs, which was established in 1946 and is comprised of 19 Member States.<sup>45</sup> The Committee on NGOs directly reports to ECOSOC on the procedural and substantive matters raised by CSAs.<sup>46</sup> ECOSOC resolution 1996/31 of 24 July 1996 defines the principles, eligibility requirements, rules, procedures, obligations, and responsibilities for NGOs and the

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<sup>33</sup> UN Dag Hammarskjöld Library, *Functional Commissions*, 2014.

<sup>34</sup> UN ECOSOC, *Further measures for the restructuring and revitalization of the United Nations in the economic, social and related field (E/RES/1998/46)*, 1998, p. 76.

<sup>35</sup> UN Regional Commissions New York Office, *About*, 2016.

<sup>36</sup> New Zealand, *United Nations Handbook 2016-17*, 2016.

<sup>37</sup> UN Group of Experts on Geographical Names, *Overview*, 2016.

<sup>38</sup> UN ECOSOC, *Subsidiary Bodies of ECOSOC*.

<sup>39</sup> *Charter of the United Nations*, 1945, Art. 62.

<sup>40</sup> *Ibid.*, Arts. 62-63, 65.

<sup>41</sup> UN ECOSOC, *Progress in the implementation of General Assembly resolution 67/226 on the quadrennial comprehensive policy review of operational activities for development of the United Nations system (E/RES/2013/5)*, 2013, p. 1.

<sup>41</sup> UN ECOSOC, *About ECOSOC*; UN ECOSOC, *The New ECOSOC – Overview of Functions and Working Methods*, 2014.

<sup>42</sup> UN General Assembly, *Strengthening of the Economic and Social Council (A/RES/61/16)*, 2006, p. 2.

<sup>43</sup> UN DESA NGO Branch, *Introduction to ECOSOC Consultative Status*.

<sup>44</sup> *Ibid.*

<sup>45</sup> UN DESA, *Committee on NGOs convenes for first session of 2014*, 2014; UN DESA NGO Branch, *The Committee On NGOs*.

<sup>46</sup> *Ibid.*

UN in establishing the consultative relationship.<sup>47</sup> In the latest report from the June 2015 session, the Committee granted consultative status to 160 NGOs, deferred an additional 200 NGOs for consideration, and reviewed quadrennial reports.<sup>48</sup>

### ***Recent Sessions and Current Priorities***

Sustainable development remains the Council's most urgent priority.<sup>49</sup> The 2017 session of ECOSOC reinforces this commitment to sustainable development by carrying the theme "Eradicating poverty in all its forms and dimensions through promoting sustainable development, expanding opportunities and addressing related challenges."<sup>50</sup> In preparation for this session of the HLS, which is organized as the HLPF in 2017, the Secretary-General published his report on the thematic issue and how ECOSOC and the SDGs are aligned to fulfill Goal 1 of the SDGs.<sup>51</sup>

The HLPF, which replaced the UN Commission on Sustainable Development through ECOSOC resolution 2013/19, has been critical to the coordination, implementation, and development of accountability measures for the SDGs.<sup>52</sup> A more balanced and holistic approach is being utilized to address poverty, inequality, climate change, financing for development, and promoting peaceful and inclusive societies through improved coordination and policy integration in the pursuit of sustainable development.<sup>53</sup> HLPF's responsibilities as a subsidiary body to ECOSOC include tracking the progress of the SDGs; providing political leadership and guidance on the SDGs; creating coherent policies informed by science, evidence, and countries' individual experiences; and addressing new and emerging issues under the sustainable development umbrella.<sup>54</sup> The HLPF met from 10 to 19 July 2017 and in support of this session's thematic priority, the HLPF reviewed the progress of Goals 1, 2, 3, 5, 9, 14, and 17 of the SDGs.<sup>55</sup> The President of ECOSOC noted that the asymmetry between high global wealth and widening inequality, the latter of which affects the youth, indigenous peoples, rural workers, and people with disabilities visibly.<sup>56</sup> The review of the SDGs were presented in two documents; the Goals in support of this year's theme were highlighted in the summary of the President of ECOSOC, while the full spectrum of Goals were also reviewed by the Secretary-General and the progress thereof delivered in a report at HLPF.<sup>57</sup> The ministerial declaration of the HLPF reaffirmed the Member States' commitment to implement the SDGs effectively and recognized that despite progress, stronger partnerships must be established across all levels of government and civil society.<sup>58</sup>

### ***Conclusion***

The Economic and Social Council plays a key role in coordinating activities and programs through the expansive UN system for humanitarian aid, development, and other various issues. The Council has demonstrated a commitment to mobilizing resources, leading action, and tackling key priority issues, including promoting development and the forming and maintaining of international partnerships. It has also initiated collaboration across

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<sup>47</sup> Ibid.; UN ECOSOC, *Consultative relationship between the United Nations and non-governmental organizations (E/RES/1996/31)*, 1996, pp. 53-61.

<sup>48</sup> UN ECOSOC, *Report of the Committee on Non-Governmental Organizations on its 2015 resumed session (E/2015/32 (Part II))*, 2015, pp. 1, 46.

<sup>49</sup> UN ECOSOC, *Promoting sustainable development*, 2017.

<sup>50</sup> UN ECOSOC, *ECOSOC High-level segment: "Eradicating poverty in all its forms and dimensions through promoting sustainable development, expanding opportunities and addressing related challenges"*, 2017.

<sup>51</sup> UN ECOSOC, *Eradicating poverty in all its forms and dimensions through promoting sustainable development, expanding opportunities and addressing related challenges (E/2017/64)*, 2017.

<sup>52</sup> UN ECOSOC, *President's Summaries of the High-level segment of the 2015 session of the Economic and Social Council and High-level political forum on sustainable development*, 2015.

<sup>53</sup> UN ECOSOC, *ECOSOC-70: Taking Action to Improve Lives*, 2016.

<sup>54</sup> UN DESA, *Sustainable Development Knowledge Platform: High-level Political Forum on Sustainable Development 2016 – Ensuring that no one is left behind*.

<sup>55</sup> UN DESA, *High-level Political Forum 2017*, 2017.

<sup>56</sup> UN HLPF, *ECOSOC President's Summary of the 2017 High-level Political Forum on Sustainable Development*, 2017.

<sup>57</sup> UN HLPF, *ECOSOC President's Summary of the 2017 High-level Political Forum on Sustainable Development*, 2017; UN ECOSOC, *Progress towards the Sustainable Development Goals (E/2017/66)*, 2017.

<sup>58</sup> UN ECOSOC & UN HLPF, *Ministerial declaration of the high-level segment of the 2017 session of the Economic and Social Council on the annual theme "Eradicating poverty in all its forms and dimensions through promoting sustainable development, expanding opportunities and addressing related challenges" (E/2017/L.29–E/HLPF/2017/L.2)*, 2017.

UN entities to ensure political commitment towards a new development framework and the SDGs. The contributions of the Council both as a forum for discussion and in providing policy guidance are significant and its role will continue to grow in the post-2015 era, requiring clear organizational leadership and strong monitoring mechanisms to assess the progress of achieving the SDGs.

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<http://www.un.org/en/documents/charter/index.shtml>

*The Charter of the United Nations is the foundational document of the UN. It lays out the mandate and structure of not only ECOSOC, but also the remaining five principal organs. Member States are obliged to uphold the Charter's articles above all other treaties. It is an essential starting point in researching the UN. Chapter X, Articles 61-72, of the Charter describes ECOSOC's composition, functions and powers, voting, and rules of procedure.*

New Zealand, Ministry of Foreign Affairs and Trade. (2016). *United Nations Handbook 2016-17*. Retrieved 30 July 2017 from: [https://mfat.govt.nz/assets/\\_securedfiles/Handbooks/United\\_Nations\\_Handbook-2016-2017.pdf](https://mfat.govt.nz/assets/_securedfiles/Handbooks/United_Nations_Handbook-2016-2017.pdf)

*This is an excellent source for delegates to gain background information on the complex UN system and its main organs. This comprehensive handbook presents detailed information on UN entities and explains their functions, structures, and roles. It also gives an overview on various subsidiary organs established under the Charter of the United Nations, UN programs and funds, and other organizations related to the UN system. Delegates are encouraged to read the section on ECOSOC in detail to understand its structure, membership, working methods, and its relationships with various subsidiary bodies.*

United Nations, Economic and Social Council. (n.d.). *Development Cooperation Forum* [Website]. Retrieved 30 July 2017 from: <https://www.un.org/ecosoc/en/development-cooperation-forum>

*The Council's website dedicated to DCF contains pertinent information on the research process for the topics under consideration by ECOSOC. Delegates will find information about explaining the most recent DCF outcomes under the purview of the expert body. There are also publications that detail findings and participation outcomes from partners in the global community. DCF policy briefs will be invaluable to delegates for preparing their research about partnership across and within the UN system.*

United Nations, Economic and Social Council (2017, May 11). *Progress towards the Sustainable Goals (E/2017/66)* [Report]. Retrieved 30 July 2017 from: <http://undocs.org/E/2017/66>

*This report from the Secretary-General was submitted to ECOSOC in the context of the 2017 HLPF and discusses the progress made towards the SDGs. It is vital for delegates to be familiar with the successes and gaps of each Goal and their respective targets as much of ECOSOC's body of work is a reflection of this global commitment to sustainable development. In addition to this report, delegates should consult the summary of the President of ECOSOC on HLPF as well as resources from the Member State on progress.*

United Nations, General Assembly, Sixty-eighth session. (2013). Review of the implementation of General Assembly resolution 61/16 on the strengthening of the Economic and Social Council (A/RES/68/1) [Resolution] Adopted without reference to a Main Committee (A/68/L.2). Retrieved 30 July 2017 from:

<http://undocs.org/A/RES/68/1>

*This resolution presents the most recent ECOSOC reforms undertaken to strengthen its program of work and its leading role in tackling challenges to sustainable development. It provides detailed recommendations of how ECOSOC will reshape its operating procedures and working methods to support sustainable development, and it outlines the main priorities for the Council's operational activities. Delegates are encouraged to familiarize themselves with the suggested changes in the resolutions and should also consider how ECOSOC can maintain its leadership capacity to monitor the implementation of the post-2015 development agenda.*

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## I. Sustainable Development Goals and Indigenous Peoples

### *Introduction*

In September 2015, the United Nations (UN) adopted the *2030 Agenda for Sustainable Development*, also known as the Sustainable Development Goals (SDGs).<sup>59</sup> This document outlined goals, with indicators, for the international community to achieve by 2030 and was created through an iterative process with the input of various stakeholders. The adoption of the SDGs provides an opportunity to address the global inequality that exists within marginalized communities and promote equity.<sup>60</sup> There are over 370 million indigenous persons worldwide and they are a major part of these marginalized communities.<sup>61</sup> Due to this varying level of development, there are significant disparities amongst indigenous population's health and economic indicators.<sup>62</sup> Population distribution of indigenous populations is heavily centered in Asia, where there are further challenges due to the rapidly developing economies.<sup>63</sup> There are significant gaps in education, healthcare, nutrition, as well as a disproportion number of indigenous populations that are in poverty.<sup>64</sup>

The SDGs explicitly calls for the empowerment of indigenous populations, equitable education, and engagement of indigenous peoples in the implementation of the SDGs.<sup>66</sup> Goal 2 on achieving zero hunger and Goal 4 on quality education both have specific targets for indigenous populations.<sup>67</sup> There are also numerous documents that have codified the rights of indigenous peoples, including the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966), *African Charter on Human and Peoples' Rights* (Banjul Charter) (1981) and *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) (2007). These documents have built upon previous frameworks to combat discrimination and further codify protections for indigenous peoples.

### *International and Regional Framework*

The preamble of the ICESCR builds upon the ideas codified in the *Charter of the United Nations* in stating:

“Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, *Recognizing* that these rights derive from the inherent dignity of the human person, *Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.”<sup>68</sup>

The ICESCR has multiple articles that indirectly support the rights of indigenous peoples, but did not explicitly codify this.<sup>69</sup> These include Articles 1, 10, and 15 which stress self-determination, the protection and assistance to the family unit, and the protecting cultural life.<sup>70</sup> These were complemented by the *International Covenant on Civil and Political Rights* (ICCPR) (1966), which further outlined protections against unlawful and unjust punishment as well as emphasized the inherent right to life.<sup>71</sup> While these documents provided the groundwork for the protection of indigenous rights, neither explicitly outlined or specified marginalized populations or indigenous population. The Banjul Charter replicated many of the actions taken by the ICESCR and the ICCPR and gained broad support from

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<sup>59</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development* (A/RES/70/1), 2015.

<sup>60</sup> Ibid.

<sup>61</sup> International Labour Organization, *Sustainable Development Goals: Indigenous Peoples in Focus*, 2016.

<sup>62</sup> Australian Human Rights Commission, *Close the Gap: Indigenous Health Campaign*.

<sup>63</sup> Asia Indigenous Peoples Pact, *Indigenous Peoples and ASEAN Integration*, 2015.

<sup>64</sup> Ibid.

<sup>66</sup> UNPFII, *Indigenous Peoples & the 2030 Agenda*, 2016.

<sup>67</sup> International Labor Organization, *Sustainable Development Goals: Indigenous Peoples in Focus*, 2016.

<sup>68</sup> OHCHR, *International Covenant on Economic, Social and Cultural Rights*, 1966.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> OHCHR, *International Covenant on Civil and Political Rights*, 1966



Member States that made up the Organization of African Unity (OAU), the precursor to the African Union (AU).<sup>72</sup> The Banjul Charter focused on Member States in Africa, but many of the articles, particularly those outlined in Part I, are applicable globally.<sup>73</sup>

The International Labour Organisation (ILO) provided a definition to outline the protection of indigenous populations under international law through Article 2 of ILO Convention 169, *Indigenous and Tribal Peoples Convention*.<sup>74</sup> This document builds upon the ILO Convention 107, *Indigenous and Tribal Populations Convention*, and highlights the following in the preamble, “Noting that in many parts of the world these peoples are unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live, and that their laws, values, customs and perspectives have often been eroded”.<sup>75</sup>

The aforementioned documents provided the basic framework for further development of international norms which later resulted in the adoption of UNDRIP in 2008.<sup>76</sup> UNDRIP reaffirms the right to self-determination and further outlines other rights that have not been codified in previous documents.<sup>77</sup> Articles 6 and 9 relate to the idea of identity and the maintenance of traditional belonging to an indigenous community as well as having the right to a nationality.<sup>78</sup> UNDRIP further highlights the rights of indigenous peoples’ to identify and drive the priorities for economic and social development in their communities.<sup>79</sup> This is particularly relevant in relation to the SDGs 1 and 2 and the role of self-determination and economic growth.<sup>80</sup>

Building off of the above documents, indigenous populations were also involved in the consultative process for the creation of the SDGs.<sup>81</sup> The process of developing the SDGs is hailed as one of the most inclusive consultative process to date and utilized a variety of engagement methods to ensure that often marginalized groups had appropriate input in the development of the goals.<sup>82</sup> This process was primarily facilitated around an e-discussion on indigenous peoples and the *2030 Agenda* which occurred in the last months of 2012.<sup>83</sup> Seven main priority areas were identified:

- Recognition of indigenous peoples at national and international levels;
- Recognition of indigenous peoples’ collective rights, in particular the right to land, territories and natural resources;
- Enactment of intercultural and cultural-sensitive policies at the national level, especially in the areas of education and health;
- Prioritization of the special conditions and needs of indigenous women, children, youth and indigenous persons with disabilities;
- Recognition of culture as the fourth pillar of sustainable development, and the inclusion of the indigenous view of development with culture and identity;
- Enactment of the right to free, prior and informed consent in all matters affecting indigenous peoples; and
- Establishment of partnerships for development issues relating to indigenous peoples.<sup>84</sup>

Of the feedback received, it was echoed that the ideal that the primary challenge faced by indigenous peoples is the right to exist, and while no single goal or target directly addresses this, the documents outlined above provide a

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<sup>72</sup> African Commission on Human and Peoples’ Rights, *African (Banjul) Charter on Human and Peoples’ Rights*. 1981.

<sup>73</sup> Ibid.

<sup>74</sup> International Labour Organization., *Indigenous and Tribal Peoples Convention (C169)*, 1989.

<sup>75</sup> Ibid.

<sup>76</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)*, 2007.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> ILO, *Sustainable Development Goals: Indigenous Peoples in Focus*, 2016.

<sup>81</sup> UN Division for Social Policy Development, *Indigenous Peoples and the Post-2015 Development Agenda*.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> UNPFII, *Final Discussion Summary – Indigenous Peoples and Inequality*, 2013.

framework to ensure this right is protected.<sup>85</sup> The identification of the seven priorities address above are reflected in the SDGs, with the following targets specifically addressing some of the identified priorities: 2.3 and 4.5.<sup>86</sup> These targets highlight the following; 2.3, double the agricultural productivity and incomes of small scale producers, in particular indigenous peoples and 4.5, ensuring equal access to all levels of education and vocational training for indigenous peoples.<sup>87</sup> The inclusion of these two specific targets is the result of the consultative process and ensures that there is a basis for inclusion in programs as implemented by Member States.

### ***Role of the International System***

The High-level Political Forum on Sustainable Development (HLPF) is the primary body responsible for the monitoring of the implementing of the SDGs.<sup>88</sup> This forum provides an opportunity for various stakeholders and Member States to convene to discuss a predefined set of goals with a common theme every year.<sup>89</sup> Member States will also have the opportunity to undergo a voluntary review of actions undertaken in relation to obtaining the outlined goals.<sup>90</sup> The most recent session occurred in July 2017 under the theme “Eradicating poverty and promoting prosperity in a changing world.”<sup>91</sup> This session covered Goals 1, 2, 3, 5, 9, and 14, with Goals 1 and 2 being particularly relevant to indigenous peoples.<sup>92</sup> Further input is received from the annual meeting of the United Nations Permanent Forum on Indigenous Issues (UNPFII) and outlines the issues relating to indigenous peoples, particularly in relation to the goals identified for discussion at that respective year’s session of HLPF.<sup>93</sup>

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was established with the mandate to provide advice and expertise to the Human Rights Council (HRC) on the rights of indigenous peoples as outlined in UNDRIP and facilitate the promotion and fulfilment of the rights of indigenous peoples with Member States.<sup>94</sup> This mechanism consists of seven independent experts and are appointed by the HRC.<sup>95</sup> Annual sessions are held with experts from EMRIP as well as representatives from Member States, indigenous peoples, indigenous peoples’ organizations, civil society, and inter-governmental organizations.<sup>96</sup> Recent inter-session meetings occurred in both Russia and Canada in preparation for the 10<sup>th</sup> Session of EMRIP that was held in Geneva in July 2017.<sup>97</sup> Both of these inter-session meetings involved interaction with local indigenous peoples but were not meant to serve as a formal evaluation.<sup>98</sup>

### ***Role of Member States***

Member States have a unique role in the ability to provide mechanisms and support for indigenous communities. Regardless of the actions taken on the international level, it often comes down to the Member State to implement programs and ensure the protection of all persons within their borders. UNDRIP outlines that there should be appropriate protection against removal and forced assimilation, as well as mechanisms in place to address any violations that occur.<sup>99</sup> Actions taken by Member States take various forms, with examples including the appointment of the Aboriginal and Torres Strait Islander Social Justice Commissioner in Australia and the

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<sup>85</sup> Ibid.

<sup>86</sup> UNPFII, *Indigenous Peoples & the 2030 Agenda*, 2016.

<sup>87</sup> Ibid.

<sup>88</sup> UN Division for Social Policy Development, *High Level Forum on Sustainable Development*.

<sup>89</sup> Ibid.

<sup>90</sup> UN Division for Social Policy Development, *Indigenous Peoples, High Level Forum on Sustainable Development*

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

<sup>93</sup> UNPFII, *Update on indigenous peoples and the 2030 Agenda*, 2017.

<sup>94</sup> OHCHR, *Expert Mechanism on the Rights of Indigenous Peoples*.

<sup>95</sup> OHCHR, *Independent Experts on the Expert Mechanism on the Rights of Indigenous Peoples*.

<sup>96</sup> OHCHR, *Expert Mechanism on the Rights of Indigenous Peoples*.

<sup>97</sup> OHCHR, *Expert Mechanism on the Rights of Indigenous People- Statement on inter-session meeting, Khanty-Mansiysk, Russian Federation, 2017*; OHCHR, *Expert Mechanism on the Rights of Indigenous People- Statement on inter-session meeting, Ottawa, Canada 2017*.

<sup>98</sup> Ibid.

<sup>99</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)*, 2007.

department of Indigenous and Northern Affairs Canada (INAC).<sup>100</sup> While these two organizations take very different approaches, the roles are similar in providing for indigenous groups.

The relationship between indigenous groups and the governments of Member States varies greatly and can have a significant impact on what is codified in national constitutions and policies. The relationship between indigenous peoples in Commonwealth Realm countries is quite unique as in most cases there is a direct “nation-to-nation” relationship between the indigenous groups and the Crown in Right; this relationship exists both in Canada and New Zealand, but there is not a similar historical arrangement in Australia.<sup>101</sup> As a result of this, indigenous populations in Canada and New Zealand have a more consistent method of conducting formal relationships as opposed to having to a political relationship with the elected governments; furthermore, there is a fiduciary duty on behalf of the Member States to ensure inclusion of the indigenous groups in the decision making processes.<sup>102</sup> It should be further noted that Canada and New Zealand have both codified this historical convention into their respective constitutional arrangements through the theory of “Honouring the Crown.”<sup>103</sup>

### ***Advocacy Programs***

Some of the most important actions to be undertaken include advocacy on the national and international level. This includes government departments and ministries that have the mandate to protect and advocate on behalf of indigenous populations. In Australia, the Aboriginal and Torres Strait Islander (ATSI) Social Justice Commissioner advocates on behalf of the Australian indigenous populations and falls under the auspices of the Australian Human Rights Commission (AHRC).<sup>104</sup> The AHRC and the ATSI Social Justice Commissioner have had some recent successes with the expansion of the “Close the Gap” campaign, which highlights the poorer health outcomes of ATSI communities and works with various stakeholders to improve health outcomes.<sup>105</sup> This advocacy indirectly supports SDG target 4.5 through the promotion of further training of indigenous health workers from indigenous communities to gain skills to promote health while also providing a vocational training scheme.<sup>106</sup> While these programs do target ATSI communities directly, the implementation can provide some difficulty due to the large geographic areas affected in Australia. Advocacy is also being taken on the federal level to prioritize indigenous health in the annual federal budgets, releasing a budget position paper annually prior to the budget allocation.<sup>107</sup>

Another example of national responsibility for indigenous peoples is the department of Indigenous and Northern Affairs Canada (INAC). INAC is the federal department that works to improve social wellbeing and economic prosperity of indigenous peoples, promote sustainable communities, and increase the participation of indigenous populations in political, social, and economic life in Canada.<sup>108</sup> INAC’s mandate is drawn from a variety of constitutional and legislative sources and highlights the broad mission of the department, with activities ranging from directly administered programs in health, housing, and community infrastructure to managing land in accordance with the *Indian Act*.<sup>109</sup> The situation of indigenous populations in Canada is also unique with the establishment of the Truth and Reconciliation Commission and the subsequent reports. The primary report, *Honouring the Truth, Reconciling for the Future*, is a comprehensive report on the abuses in the Indian residential school system, but many of the findings and calls for action can be applied to further indigenous rights at large as well as to further indigenous socioeconomic development.<sup>110</sup> A specific call to action in the report requests the following “eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians,” which

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<sup>100</sup> Indigenous and Northern Affairs Canada, *About Indigenous and Northern Affairs Canada*.

<sup>101</sup> Gover, Kirsty, *The Honour of the Crowns: State-Indigenous Fiduciary Relationships and Australian Exceptionalism*, 2016.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*

<sup>104</sup> Australian Human Rights Commission, *Aboriginal and Torres Strait Islander Social Justice*.

<sup>105</sup> Australian Human Rights Commission, *Close the Gap: Indigenous Health Campaign*.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

<sup>108</sup> Indigenous and Northern Affairs Canada, *About Indigenous and Northern Affairs Canada*.

<sup>109</sup> *Ibid.*

<sup>110</sup> Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future*, 2015.

strongly echoes target 4.5 of the SDGs, but does give pause in the actual attainment of this target given the early identification of systemic issues in the existing educational institutions.<sup>111</sup>

There are also many non-governmental organizations and community organizations that advocate for indigenous peoples, such as the organization Cultural Survival, based in Cambridge, Massachusetts. Cultural Survival advocates for the rights of indigenous peoples<sup>112</sup> and promotes self-determination.<sup>112</sup> Cultural Survival holds consultative status with ECOSOC and their advocacy team reports to the Human Rights Council's Universal Periodic Review addition to other mechanisms such as EMRIP.<sup>113</sup>

### **Conclusion**

While there have been many broad actions taken to protect the rights of indigenous persons, it is important to remember that there are still make actions that can be undertaken. Strong civil society organizations as well as government departments can promote indigenous rights on a national level but it is vital to have the input of the affected communities at all levels as outlined in the various framing documents. The SDGs may only have been in effect since 1 January 2016, but further success depends on the engagement of all stakeholders and the continued involvement of indigenous communities in political and social policy decisions by Member States.

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*This document provides an overview of how each goal and their associated targets impact and apply to indigenous peoples. This document also provides a comprehensive overview on the role of indigenous peoples and the consultative process utilized for developing the SDGs. Delegates should pay particular attention to the analysis of how the indicators for targets are going to be applied to indigenous populations as well as the overview of the follow-up mechanisms in relation to indigenous peoples.*

United Nations, General Assembly, Seventieth session. (2015). *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*. Retrieved 29 July 2017 from: <http://undocs.org/A/RES/70/1>

*This resolution, adopted in September 2015, provides an agenda on sustainable development for all Member States to adhere to through 2030. This resolution was prepared through a consultative process that included many of the relevant stakeholders. This resolution is further strengthened by the ILO report outlining the practical implications of the SDGs on indigenous peoples. Delegates should pay particular attention to Goals 2, 4, and 10, and their associated targets that apply directly to indigenous populations.*

International Labor Organization. (2016). *Sustainable Development Goals: Indigenous Peoples in Focus*. Retrieved 18 May 2017 from: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_503715.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_503715.pdf)

*This document provides a concise summary of the SDGs and how they apply to indigenous persons. Due to the economic implications of many of the SDGs, the International Labour Organization is uniquely situated to evaluate and recommend actions to meet the SDGs. This document should be utilized by delegates to further expand upon the ideas outlined in resolution 70/1 and further explore the impact of the SDGs on indigenous populations. Delegates can further expand on the ideas in this publication by utilizing ILO convention 169.*

Reconciliation Australia. (2016). *2016 Australia Reconciliation Barometer* [Report]. Retrieved 19 May 2017 from: [https://www.reconciliation.org.au/wp-content/uploads/2017/02/RA\\_ARB-2016\\_-Full-report\\_FINAL-1.pdf](https://www.reconciliation.org.au/wp-content/uploads/2017/02/RA_ARB-2016_-Full-report_FINAL-1.pdf)

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<sup>111</sup> Ibid., p. 320.

<sup>112</sup> Cultural Survival, *About Cultural Survival*.

<sup>113</sup> Cultural Survival, *Advocacy*.



*This annual report from Reconciliation Australia provides a comprehensive overview of domestic policies and their impact on indigenous peoples in Australia. This document provides information on the methodology used to measure the impact of social programs, particularly in the areas of health, education, employment, housing, and education. Delegates should utilize this resource to provide context for development programs as well as the strategies being utilized to achieve the SDG in relation to indigenous peoples on a national level.*

United Nations, General Assembly, Sixty-first session. (2007). *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)*. Retrieved 29 July 2017 from: <http://undocs.org/A/RES/61/295>

*This resolution codifies the rights of indigenous peoples and provides guidance for Member States on the rights afforded to indigenous peoples. Delegates should pay particular attention to articles 21 and 23 and how they apply to the implementation of programs to achieve the SDGs. It is important to note that this document was the result of a consultative process and provides the framework for future documents. This document should be utilized to provide context for later actions taken by the UN on a broad level.*

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## II. Promoting Rule of Law to Facilitate Economic and Social Development

### *Introduction*

The definition of rule of law used by the United Nations (UN) is “a principle of governance in which all persons, institutions, and entities, public, and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated and which are consistent with international human rights norms and standards.”<sup>114</sup> Rule of law requires strong institutions “to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”<sup>115</sup>

Rule of law is instrumental to economic and social development, with the *2030 Agenda for Sustainable Development* (SDGs) laying out the development goals of Member States with associated targets. This also signals a renewed push to bring Member States to an acceptable level of social security, economic security and governance. The United Nations Economic and Social Council (ECOSOC) works towards sustainable development of economic and social goals.<sup>116</sup>

There are increased investments in Member States’ economies by both domestic and foreign parties. The increased investment helps the economy to develop; there is an increased likelihood of investors investing where there is the protection of rule of law. Rule of law allows justice to be more accessible to people of all backgrounds. Equality is increased in Member States with the implementation of rule of law.<sup>117</sup> The first major issue will be how corruption impacts economic development with the lack of rule of law there is increased corruption. Corruption damages the economic development of Member States. The second major issue is eradicating poverty through rule of law.<sup>118</sup> Rule of law works to end poverty by creating social developments.<sup>119</sup> Social developments create equality that helps end poverty with rule of law, everyone is equal before the law; this background guide will introduce the international and regional frameworks and systems relating to rule of law and economic and social development.<sup>120</sup>

### *International and Regional Framework*

The rule of law in the United Nations is a concept that goes back as far as the *Charter of the United Nations* (1946).<sup>121</sup> The intention is “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.”<sup>122</sup> Rule of law is also mentioned in the *Universal Declaration of Human Rights* (1948).<sup>123</sup> It is noted that “it is essential, if man is not compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by rule of law.”<sup>124</sup> It is important that rule of law is promoted in countries experiencing conflict and post conflict as was discussed in a 2004 Secretary General report to the Security Council (SC).<sup>125</sup> On 24 September 2012, during the 67<sup>th</sup> session of the General Assembly (GA), a high-level meeting on the rule of law was convened.<sup>126</sup> The meeting concluded with the *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels* (2012), emphasizing the importance of independent judiciary systems, equal access to justice and the

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<sup>114</sup> UN Rule of Law Unit, *What is the rule of law?*, 2016.

<sup>115</sup> *Ibid.*

<sup>116</sup> UN ECOSOC, *About us*, 2016.

<sup>117</sup> UN Rule of Law Unit, *What is the rule of law?*, 2016.

<sup>118</sup> UN DPI, *Where corruption flourishes, Development & the rule of law fail*, 2012.

<sup>119</sup> UN Rule of Law Unit, *Rule of law and development*, 2016.

<sup>120</sup> UN DPI, *Where corruption flourishes, Development & the rule of law fail*, 2012.

<sup>121</sup> UN Rule of Law Unit, *What is the rule of law?*, 2016.

<sup>122</sup> *Ibid.*

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> UN Secretary-General, *The rule of law and transitional justice in conflict and post conflict societies*, 2004, p.3.

<sup>126</sup> UN Rule of Law Unit, *What is the rule of law?*, 2016.



adherence to international humanitarian law.<sup>127</sup> The independence of the judiciary system contributes to the equal distribution of law by working to eliminate bias and discrimination.<sup>128</sup> The Declaration also states the intolerance of impunity and the importance of civilian capacity development along post-conflict institution building.<sup>129</sup> For economic growth to be sustainable and inclusive, rule of law must be present as rule of law and sustainable economic development are interdependent.<sup>130</sup> The meeting was the collaborative effort of Member States along with input from civil society and non-governmental organizations.<sup>131</sup> In 2014, the Secretary General prepared a report for the GA emphasizing the connection between rule of law, peace and security, human rights and developments.<sup>132</sup> One of the primary takeaways from this report was the right to develop and the advancement of social, economic and cultural rights.<sup>133</sup> The role of rule of law in the development process is to empower the poor, protect land and property, uphold labor rights, create policy and regulatory systems and encourage the creation of business.<sup>134</sup>

In 2005, the UN hosted a World Summit discussing the topics of development, security, human rights and reform.<sup>135</sup> The outcomes of the World Summit were outlined in GA resolution 60/1 where it is noted that the development of a country is the responsibility of that own country.<sup>136</sup> The World Summit worked to find solutions to problems in areas concerning development, peace and collective security, human rights and the rule of law and strengthening the UN.<sup>137</sup>

Economic and social development became goals at the forefront of international attention with the Millennium Development Goals. The *2030 Agenda for Sustainable Development* is the successor of the Millennium Development Goals. Goal 4 and Goal 16 of the SDGs are of special emphasis to the rule of law.<sup>138</sup> Goal 4 is to “ensure inclusive and equitable quality education and promote life long-learning opportunities to all.”<sup>139</sup> Goal 16 is to “promote peace and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”<sup>140</sup> Target 3 of Goal 16 calls for the “promote the rule of law at the national and international levels and ensure equal access to justice for all.”<sup>141</sup>

### ***Role of the International System***

ECOSOC recognizes the important of rule of law and how rule of law reinforces social and economic development. In its resolution 2004/25, ECOSOC encouraged the UN Office on Drugs and Crime (UNODC) to coordinate with the Department of Peacekeeping Operations and the Secretariat to promote rule of law in post-conflict situations and to take an integrated approach to crime prevention and criminal justice reform in order to protect vulnerable groups.<sup>142</sup> ECOSOC resolution 2013/33 acknowledges the role of the UNODC in assisting Members States to promote rule of law.<sup>147</sup> Member States providing developmental assistance to

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<sup>127</sup> UN General Assembly, *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, 2012, p.3.

<sup>128</sup> *Ibid.*

<sup>129</sup> *Ibid.*

<sup>130</sup> *Ibid.*, p.2.

<sup>131</sup> UN Rule of Law Unit, *What is the rule of law?*, 2016.

<sup>132</sup> UN General Assembly, *Strengthening and coordinating United Nations rule of law activities (A/68/231/Add.1)*, 2014, pp .2, 19.

<sup>133</sup> *Ibid.*, pp. 6, 19.

<sup>134</sup> *Ibid.*, pp. 11, 12, 19.

<sup>135</sup> UN General Assembly, *2005 World Summit Outcome (A/RES/60/1)*, 2005.

<sup>136</sup> *Ibid.*, p.4.

<sup>137</sup> *Ibid.*, p.3.

<sup>138</sup> UN DPI, *Sustainable Development Knowledge Platform*.

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

<sup>141</sup> UN DESA, *Rule of Law*.

<sup>142</sup> UN ECOSOC, *The Rule of law and development: strengthening the rule of law and the reform of criminal justice institutions, with emphasis on technical assistance, including in post-conflict reconstruction (E/RES/2004/25)*, 2004.

<sup>147</sup> UN ECOSOC, *The rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015 (E/RES/2013/33)*, 2013, p. 4.

other Member States are also urged to increase their assistance in the promotion of rule of law.<sup>148</sup> Programs working to promote rule of law must form collaborative efforts focusing on compilation of training materials and solutions to the current issues.<sup>149</sup>

The Human Rights Council (HRC) and its predecessor, the Commission on Human Rights, has appointed several special rapporteurs on rule of law., with the Special Rapporteur on the independence of judges and lawyers having the mandate with the closest relationship to socioeconomic development.<sup>150</sup> The role of the Special Rapporteur on the independence of judges and lawyers was created by the Commission in resolution 1994/41 due to concerns violence towards the judiciary and lawyers and was tasked with reporting attacks on legal personnel to the Commission and making recommendations on protecting the independence of the legal profession when requested by a Member State.<sup>151</sup> In the most recent report submitted to the GA during its 69<sup>th</sup> session, the Special Rapporteur stated unequivocally that the failure to consider and uphold rule of law would have adverse effects on the achievements of the MDGs.<sup>152</sup>

UN-Women work to promote rule of law as a protection of women’s rights and security.<sup>154</sup> The UN Department of Economic and Social Affairs (DESA) works on the coordination of various stakeholders in the private and public level to promote rule of law.<sup>155</sup> As well, UN DESA offers government guidance on implementing policies promoting rule of law in respect to the social and economic development of the role of women in society.<sup>156</sup>

There are also bilateral or multilateral frameworks set up outside of the UN system to promote the rule of law. The German Federal Ministry for Economic Cooperation and Development set up a project that advises on the promotion of rule of law.<sup>157</sup> The countries being advised are Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.<sup>158</sup> The project uniquely advises each state in the issue at hand.<sup>159</sup> The British Commonwealth views rule of law as essential to democratic leadership.<sup>160</sup> The Legal and Constitutional Affairs Division runs a program to ensure rule of law through reform, legally, constitutionally, and judicially.<sup>161</sup> Rule of law is common principle throughout European Union members and the EU has a framework in place to strengthen and promote rule of law.<sup>162</sup>

### **Corruption**

Rule of law prevents corruption, but at the same time corruption prevents the promotion of rule of law.<sup>163</sup> The large scale corruption and lack of rule of law prevents long-term social and economic development with the funding of critical social infrastructure such as hospitals and schools often being redirected to illicit activities.<sup>165</sup> There is a higher rate of success for businesses and entrepreneurs when the laws applying to them are clearly defined.<sup>166</sup> Corruption can lead to a lack of competition for government contracts causing an increase in unemployment.<sup>167</sup> Open Contracting Initiatives is an action undertaken by the World Bank that works to increase transparency in

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<sup>148</sup> Ibid., p. 5.

<sup>149</sup> UN ECOSOC, *The rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015*, 2013, p. 5.

<sup>150</sup> UN Rule of Law Unit, *The Rule of Law in the UN’s intergovernmental framework*, 2016.

<sup>151</sup> OHCHR, *Special Rapporteur on the Independence of Judges and Lawyers*.

<sup>152</sup> UN General Assembly, *Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/69/294)*, 2014, para. 32.

<sup>154</sup> UN Women, *Rule of Law and Justice*.

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<sup>156</sup> UN DESA, *Rule of Law*.

<sup>157</sup> Giz, *Promotion of Rule of Law in Central Asia*.

<sup>158</sup> Ibid.

<sup>159</sup> Ibid.

<sup>160</sup> Commonwealth in Action, *Rule of Law*.

<sup>161</sup> Ibid.

<sup>162</sup> European Commission, *Rule of Law*.

<sup>163</sup> UN DPI, *Where corruption flourishes, Development & the rule of law fail*, 2012.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

public contracts.<sup>168</sup> The natural resources industry that is plagued with corruption requires transparency of financial documents.<sup>169</sup> There is a call to establish authorized trading chains.<sup>170</sup> Victims of corruption lack access to education, healthcare and opportunity.<sup>171</sup>

The *United Nations Convention against Corruption* (UNCAC) (2004) works towards free and fair markets leading to long-term economic development.<sup>172</sup> It has been signed by 140 Member States.<sup>173</sup> UNCAC provides mechanisms for the measurement of success of the implementation.<sup>174</sup> A purpose of this convention is “to promote integrity, accountability and proper management of public affairs and public property.”<sup>175</sup> The convention calls for Member States to bring domestic law up to standard to prevent corruption.<sup>176</sup> Education of the public is addressed by including accessible information to the public.<sup>177</sup> Information sharing on patterns of corruption and tools to prevent such corruption is a mechanism facilitated through the convention.<sup>178</sup> Parties to the convention will share their legislation, plans, practices and programs for dealing with corruption.<sup>179</sup>

Corruption damages economic growth and governance of a country.<sup>180</sup> When tax systems are corrupt or ineffective, there is a lack of funds available for the government to use for service infrastructure.<sup>181</sup> The structure that is plagued by corruption could be the private or public sector.<sup>182</sup> Education is used by countries such as Cambodia to handle the issue of corruption.<sup>183</sup> The group Pour un Sourire d’enfant (PSE) provides education to 3,000 children in public schools, 1,500 children in remedial schools, 1,500 in vocation training programs and 500 in specific education programs.<sup>184</sup> Students learn topics such as ethics and corruption to ensure that fair systems prevail in countries.<sup>185</sup> Education is essential to ending corruption and promoting rule of law because people do not understand the negative impact that corruption has on prosperity.<sup>186</sup>

### ***Eradicating Poverty***

Poverty, sustainable development, inequality, and conflict are interrelated issues.<sup>187</sup> For poverty to no longer be an issue, rule of law must be present in governance.<sup>188</sup> Direct benefits of rule of law is provision of legal remedies and security of jobs through tenure and contracts and would reduce the occurrences of disempowerment, exclusion, and discrimination since the consolidation of rule of law would also consolidate equality before the law.<sup>190</sup> The right to development should thus guide decision-making regarding poverty eradication as called upon for in the *Declaration on the Right to Develop* (1986).<sup>194</sup> Rule of law provides people with legal power which provides opportunities for

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<sup>168</sup> UN DPI, *Natural resources wealth fails to translate into “equivalent” benefits for people, fuelling conflict instability Deputy Security General tells Security Council*, 2013.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> UN DPI, *Where corruption flourishes, Development & the rule of Law fail*, 2012.

<sup>172</sup> Ibid.

<sup>173</sup> UNODC, *UN Convention against Corruption*, 2017.

<sup>174</sup> UN DPI, *Where corruption flourishes, Development & the rule of Law fail*, 2012.

<sup>175</sup> UNODC, *United Nations Convention against Corruption*, 2004, p. 7.

<sup>176</sup> Ibid., p. 14.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid., p. 51.

<sup>179</sup> Ibid., p. 53.

<sup>180</sup> Groschl, *Fighting Corruption with Education*, 2015.

<sup>181</sup> Ibid.

<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> UN DPI, *Where corruption flourishes, Development & the rule of law fail*, 2012.

<sup>187</sup> UN DPI, *Natural resources wealth fails to translate into “equivalent” benefits for people, fuelling conflict instability Deputy Security General tells Security Council*, 2013.

<sup>188</sup> UN Rule of Law Unit, *Rule of law and development*, 2016.

<sup>190</sup> Ibid.

<sup>194</sup> Wang, *Eradicating poverty and the role of the right to develop*, 2017, p.1.

legal solutions and opportunities, which subsequently underpins the right to economic and social development.<sup>196</sup> The *Declaration of the High-level Meeting on the Rule of Law* (2012) reinforces the strong relationship between rule of law and economic development.<sup>197</sup> It was reported by the Special Rapporteur on the promotion of truth and justice reparation and guarantees of non-recurrence that efforts to develop without proper legal protections in places have ultimately failed.<sup>198</sup>

Rule of law also ensures the equitable and sustainable management of natural resources, but wealth from natural resources is often not directed to citizens, leaving them in poverty.<sup>200</sup> The inequality of the distribution of wealth from natural resources is also greatly impacted by gender.<sup>205</sup> Within the resource industry there is a lack of gender equality in resources distribution leading to poverty.<sup>206</sup> World Bank data shows that countries with low-incomes but a dependency on natural resource are more likely to succumb to civil war.<sup>207</sup> Timor-Leste has scored consistently poorly on the World Bank Worldwide Governance Indicators, and 55% of the Timorese population viewed corruption as a growing concern in their country.<sup>208</sup> Wealth from oil extraction in Timor-Leste is typically funneled into the state-run Petroleum Fund, which was established in 2005 to preserve resource revenues in order to address state-building challenges.<sup>209</sup> However, despite best intentions, the weaknesses of the government institutions allow for the mismanagement of resources.<sup>210</sup> Almost half the population lives in poverty and 70% of the workforce lack job security, and declining oil prices threaten the existence of this fund that would be used to promote socioeconomic development.<sup>211</sup> When managed appropriately, natural resources can foster economic growth and the eradication of poverty.<sup>212</sup>

### **Conclusion**

ECOSOC strives for economic and social development. Long-term, sustainable economic and social development need rule of law. Rule of law is a necessity for economic and social development. The issue of corruption is combated with having a fair and equitable legal system with rule of law in place. Rule of law is also a tool that can be used to eradicate poverty. In order for the maximum social and economic development to occur rule of law must be promoted. It is important that there be national and international mechanisms in place. Rule of law is essential for the continued economic and social development of society. The topic of rule of law is covered by various UN committee and agencies with ECOSOC focusing on how to use rule of law to contribute to sustainable economic and social developments. ECOSOC and other committees and agencies have provided a background from which to work from.

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*This is an example of a regional framework to support rule of law and transparency in government. It is a program that is established by the German government for a region. It explains context, objective and approach of the program. The program is tailored to the country that is severing. This is an example of the role of the international system and provides guidance to what future programs could entail.*

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<sup>196</sup> UN Rule of Law Unit, *Rule of law and development*, 2016.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>200</sup> UN DPI, *Natural resources wealth fails to translate into “equivalent” benefits for people, fuelling conflict instability Deputy Security General tells Security Council*, 2013.

<sup>205</sup> UN Women, *Rule of Law and Justice*.

<sup>206</sup> UN DPI, *Natural resources wealth fails to translate into “equivalent” benefits for people, fuelling conflict instability Deputy Security General tells Security Council*, 2013.

<sup>207</sup> Ibid.

<sup>208</sup> Bosso, *Timor-Leste: Overview of Corruption and Anti-Corruption*, 2015, p. 2.

<sup>209</sup> Ibid., p. 4

<sup>210</sup> Ibid., p. 3.

<sup>211</sup> Ibid., p. 4.

<sup>212</sup> UN Rule of Law Unit, *Rule of law and development*, 2016.

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*A major issue with rule of law and economic and social development is corruption. In places of rampant corruption there is a lack of development both economically and socially as well as a lack of rule of law. This press release calls upon government to take direct action to end corruption. It discusses UN Convention against Corruption (UNCAC). This articles points out that for business and ultimately the economy to sustainably grow there must be clear rules supported by the rule of law.*

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*This source discusses what will be the long-term effects of corruption and poverty. The lack of development and rule of law will create situations of conflict throughout the world. This is contributing to the idea that rule of law needs to be in place to keep situations peaceful. When individuals do not have equal opportunities there will be increased conflict. When corruption prevents the equivalent benefits from resources the issue of poverty becomes worse. This article provides acknowledge of the issue and starting points for research.*

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