

CLIMATE CHANGE AND THE RIGHT TO DEVELOPMENT

The reality of climate change is today beyond doubt. Our planet will become more dangerous and less hospitable in the coming decades. For millions of people this means loss of livelihoods, forced displacement, conflict, loss of state-hood, hunger and poverty. In short, climate change constitutes a systematic denial of fundamental human rights.

As we look at 25 years of progress since the Declaration on the Right to Development, can we also look into the future and identify a role for the right to development (RTD) in addressing the climate change crisis? In thinking about this question, we can appreciate that the RTD is central to enabling and guiding a non-carbon development path in a climate-constrained world.

The planet's atmosphere is already saturated with greenhouse gases (GHGs) that will cause dangerous interference with the global climate. In other words, there is no more space in the atmosphere to increase emissions of GHGs without further damaging the climate system. This is a simple statement with profound implications. If emissions cannot continue to increase without causing severe global environmental and social harm, then by necessity development must follow a non-carbon path. In this regard, only a significant technological leap will enable our global society to address the moral imperatives of development in a way that avoids further environmental destruction of our only planet. Without a doubt, given historical responsibility and current capabilities, it is industrialized countries that bear the responsibility to provide the financial and technological support to make this leap possible.

At the same time, the actions required to address climate change represent an unparalleled opportunity to generate new levels of development. In this regard, RTD highlights the need for development models that are integrated with the underlying ecology. RTD also provides an ethical vision that can direct and sustain the economic transformation demanded by climate change. Today I will explore these themes further. First, however, I will explore some basic linkages between climate change and human rights, including the right to development.

Climate Change & Human Rights

The impacts of climate change on human rights underscore the human face of climate change. The Office of the High Commissioner for Human Rights has prepared a comprehensive report on climate change and human rights. It notes that, "looking at climate change vulnerability and adaptive capacity in human rights terms highlights the importance of analyzing power relationships, addressing underlying causes of inequality and discrimination, and gives particular attention to marginalized and vulnerable members of society."

The World Bank estimates that even at a 2°C increase from pre-industrial levels, existing GHG concentrations will cause irreversible climate change that will drive between 100 and 400 million people into hunger, and between one and two billion more people may no longer have enough clean water.

Leveling at 2°C looks more and more unlikely, however. In the words of UN Secretary-General Ban Ki Moon, "our foot is stuck on the accelerator and we are heading towards an abyss." This has led the Chair of the Inter-Governmental Panel on Climate Change, for example, to recall the moral and legal obligations "to ensure that we prevent by every means these abrupt and irreversible changes." In this regard, as stated by the Deputy High Commissioner for Human Rights in her address to the Bali COP of the UNFCCC, human rights obligations introduce an accountability framework that is an essential element of the promotion and protection of human rights.

A framework of accountability is indispensable for development given that climate change aggravates the vulnerability of groups already marginalized, facing discrimination or living in poverty. As noted by the Independent Expert on Human Rights and Extreme Poverty, "climate change disproportionately affects those living in extreme poverty, further undermining their ability to live their lives in dignity".

In light of the linkages between climate change and human rights, certain core elements of the right to development acquire special importance, namely: respect for all human rights, equity, and international cooperation. First, the Declaration on the Right to Development provides that the development process must respect all human rights and fundamental freedoms, and contribute to the realization of rights for all. In the climate change context this means that emission reductions and adaptation measures cannot justify human rights violations.

Second, the right to development calls for particular attention to considerations of equity and justice in the development process. Climate change poses an acute equity challenge, since, as noted by the IPCC, developing countries will be more vulnerable to climate change than industrialized countries. Stated differently, those who have contributed the least to the historic carbon dioxide emissions that have caused the climate crisis are those who will face the most severe effects of climate change.

Third, the right to development underscores the need for international cooperation. The UNFCCC acknowledges that the global nature of climate change calls for the widest possible cooperation by all countries. The preamble of the Convention affirms that, "responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter." The ultimate objective of the UNFCCC is to achieve "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system." And of great significance, this ultimate objective should be achieved within a time-frame sufficient, *inter alia*, "to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."

Development considerations thus play a central role in the design and implementation of the UNFCCC. And yet negotiations are proceeding at a glacial pace, raising concerns that the window of opportunity to avert catastrophic climate change may be closing. I will elaborate on three points that show the RTD's potential contribution to addressing this rather bleak reality: first, development models that connect with biological cycles; second, the necessary technology leap; and finally the need for a moral compass in the transformation of the economy.

1. My first point: Development in a climate-constrained world means that models that purport to replace fundamental biological tenets by those of industry are bound to fail.

For much of the XXth century and still today, pervasive economic policies are premised on the oversimplified idea that more is good and we need more of everything. In other words, the expansion of the economy is equivalent to development and it has no limits. In market economies, this idea is mediated by financial markets, rates of return on investments, and the needs of industry. Against this thinking, however, the reality of climate change imposes tangible limits to the unconstrained expansion of a carbon-based economy. Further, the need for integration between development and environment has already been affirmed by the UN Conference on Environment and Development in Rio in 1992, and re-affirmed at the World Summit on Sustainable Development in Johannesburg in 2002.

Let us consider the implications for the right to food of this ideology of development understood as unending expansion decoupled from biology. Government policies that promote conversion of farms into monocultures, driven by the single logic of increasing yields, compromise the accessibility, availability and sustainability of food and food production in a climate-constrained world.

The American Corn Belt offers a stark example. Totally dependent on chemical fertilizers derived from fossil fuels, and increasingly on genetically modified corn, agro-industry has deliberately delinked biology from agriculture. As if biological processes could be dictated by the demands of Wall Street. These practices would not subsist if it were not for the billions of dollars in subsidies, and of course the lobbying power of the few corporations that derive the benefit of the model. This model not only aggravates climate change, but has resulted in a public health crisis. It has also upset the nitrogen cycle in the soils, resulting in the apoxia of the Gulf of Mexico, a huge dead zone devoid of oxygen that serves as a dark metaphor of the planet that future generations are to inherit. Unfortunately, this destructive model is aggressively being exported to the rest of the world.

But there is an alternative agricultural development path that is not dependent on fossil fuels and other external inputs. The UN Special Rapporteur on the Right to Food has shown that agroecology, with its emphasis on the recycling of nutrients and energy, and on diversifying species, enhances the sustainability of food systems and their resilience to climate change. Whether it is droughts or pests or weeds, all of which are expected to increase with climate change, agroecology contributes to adapting to climatic changes. Stated differently, agroecology is an example of a development path that is integrated into the local environment, respectful of biological tenets and cycles. It will take significant effort, however, to establish successful food systems based on agroecology. This takes me to my second point.

2. The RTD could help to unlock UNFCCC negotiations by underscoring technology transfer in the necessary economic transformation.

Climate discussions at the UNFCCC have often equated the right to development with the right to pollute. In order to meet pressing development imperatives, developing countries

have largely resisted any quantifiable limitations on emissions. To some extent this position assumes that development calls for a fossil-fuel based energy policy. And since energy is the lifeblood of modern economies, this myth is aggravating the paralysis at the UNFCCC.

The right to development is not a right to pollute. Instead, RTD highlights the need for a technological leap that can bypass the destructive environmental impacts of industrialization. Such leapfrog can only be achieved through the deployment of climate-friendly technologies that can enhance local resilience to climatic changes and reduce GHG emissions in economic activity.

The RTD could thus help to unlock UNFCCC negotiations by stressing technology transfer in the necessary economic transformation. A first step lies in the RTDs discursive strength, which could help overcome its simplistic conceptualization as a right to pollute. A second step lies in reinvigorating the technology transfer dimensions of the Bali Action Plan. Third, industrialized countries must face their responsibility of causing the climate crisis and provide financial, technological and other support to enable the technology leap in the developing world. In this regard, the principle of Common But Differentiated Responsibilities can synergize with the RTD in highlighting the need for effective technology transfer mechanisms that can open development paths that reduce emissions and enhance resilience.

Technology transfer does not mean, however, replacing biological tenets by those of the market, as discussed earlier. For example, in WTO negotiations on environmental goods and services pursuant to the Doha Agenda, it has often been argued that certain products embody climate-friendly technology. Great care needs to be had here, since there are opportunities as well as risks. For example, maize that has been genetically modified to resist droughts and pests could be touted as an environmental good capable of resisting weather-related events and reducing pesticide use. This example portrays the threats to one of the fundamental challenges of development, namely: building resilience to climate from the bottom-up by empowering local communities with knowledge that can reduce their dependence from external inputs.

A study on the Clean Development Mechanism (or CDM), established under the Kyoto Protocol, was prepared for the Task Force on the Implementation of the Right to Development. It highlights the role of RTD in providing guiding principles in the design of emission-reduction and tech transfer mechanisms. In short, the CDM creates a carbon market in emissions reductions resulting from investments applying climate-friendly technologies that contribute to the sustainable development of developing countries. The study evaluated the CDM under RTD criteria. It found, *inter alia*:

- That CDM benefits are unevenly distributed among developing countries;
- That questions have been raised as to the environmental integrity of the projects, meaning that reductions in emissions may not always be real reductions;

- That human rights considerations are not factored in the determination of the contribution of the project to sustainable development in the host State.

In light of these findings the 5th Meeting of the Parties of the Kyoto Protocol that met in Copenhagen in 2009 introduced various reforms to enhance the contribution of the CDM to the RTD. This example shows how the RTD can guide the design or reform of mitigation and tech transfer climate change mechanisms. This guidance takes me to my third and final point.

3. In our age of globalization, where time is compressed in electronic transactions to create a culture of the instant, we need a moral compass that can provide direction to the necessary transformation of the economy.

The right to development, and its emphasis on the indivisibility of human rights in the process of development, establishes the ethical vision necessary for our age to effectively address climate change. Confronting climate change requires nothing less than the fundamental transformation of the economic patterns and structures that have been set up since the dawn of industrialization. Can the Nation-State structure of governance successfully address the fundamental challenge confronting humanity in our time? Or will climate change negotiations and implementation remain locked in a zero-sum game that is running out the clock? This is where the RTD acquires crucial significance.

The RTD provides the indispensable moral compass that can guide the needed economic transformation. In this sense, the RTD expresses a common ethos, an articulating principle and transcendent goal, that is essential for our global society to survive and foster in a climate-constrained planet.

Economic transformation, and particularly the transition to a green economy, is one of the two themes of the Rio+20 process. This process highlights the need to re-conceptualize the relations between the economy and the environment. It posits that the environment is the infrastructure of society, and not a mere input into economic systems. The transition toward a green economy has direct implications for unsustainable development models that ignore biological tenets. It also has clear and direct implications for human rights, including resource rights, livelihoods and of course development.

In this regard, the right to development, and its emphasis on a participatory and accountable development process that is guided by respect for and promotion of rights, provides essential guiding principles. It is thus central to the success of the green economy and governance discussions involved in the Rio+20 process.

Concluding Remarks on The Road Forward

The outcomes of the 16th session of the COP to the UNFCCC that met in Cancun last December 2010 provide an enhanced role for the human rights and the RTD in contributing to the organic development of the CC regime. In Cancun, Parties recognized that climate change has a range of direct and indirect implications for the full and effective enjoyment of human rights, echoing the resolutions adopted by the UN Human Rights Council on climate change and human rights. The Cancun outcome also "emphasizes that Parties should, in all

climate change-related actions, fully respect human rights." This is a significant first step towards establishing explicit human rights protections in the evolving climate regime. These protections are particularly necessary in the design of safeguards in mitigation and adaptation mechanism, such as arrangements relating to REDD (Reducing Emissions from Deforestation and Forest Degradation), which pose a risk to indigenous peoples lands and natural resources. Finally, the Cancun outcome also opens the climate regime's door to the consideration of the rich meaning and discursive strength of the RTD.

In a parallel path, one of the outcomes of the UN Human Rights Council's Social Forum in 2010, which focused on climate change and human rights, is an NGO declaration calling for the establishment of a Special Procedure on Climate Change and Human Rights. Such a special procedure could, for example, clarify the responsibilities of States in the area of climate change; provide input to the UNFCCC and other relevant fora; and monitor the impacts of climate change and climate change measures on human rights. Such special procedure could thus contribute to advance our understanding of the linkages between RTD and climate change.

To conclude, the RTD is central to effectively addressing the climate change crisis. First, RTD is central to development models that connect with and do not seek to replace the fundamental tenets of biology. Second, RTD can help unlock UNFCCC negotiations by underscoring the need for a technology leap in the global and local economies, particularly in the developing world. And third, RTD can provide the vital moral compass to guide the economic transformation required to effectively address climate change.

This may be perhaps the most formidable test humanity has ever had to confront. Are we up to the challenge? We do not have another 25 years to figure it out. Thank you.
