**The Right to Development and Climate Change**

(Presentation at the regional consultation on the practical implementation of the right to development, Bangkok, 13 December 2018)

**Right to development and climate finance**

Developing countries with low per capita greenhouse gas emissions are not responsible for causing climate change; yet they are the most affected by its impacts. Poorer people and countries lack the resources needed to adapt to the devastating impacts of climate change. Rapid development is essential for enabling future generations in these countries to build up a meaningful capacity to adapt to climate change. Thus, there is an urgent need for financial support to these countries to enable them to implement emission mitigation actions and build up resilience to climate change impacts, without detriment to their development goals.

The UN Framework Convention on Climate Change (UNFCCC) recognizes this imperative. It requires developed countries to “provide new and additional financial resources” to developing countries to support their climate response measures (art. 3.3) an[[1]](#endnote-1)d recognizes that “economic and social development and poverty eradication are the first and overriding priories of the developing country Parties” (art. 3.7). Even though the Framework Convention on Climate Change is not couched in the precise language of human rights entitlements, it is clear that these provisions and the right to development mutually support and reinforce each other.

Developed countries agreed in 2009 to provide $100 billion annually by 2020 to support mitigation and adaptation measures in developing countries. The OECD and some donor countries have publicized figures purporting to show major progress in this direction. However, objective analysts have pointed out that these claims have been inflated through inclusion of commercial investment flows and over-accounting the value of loans[[2]](#endnote-2). Thus the Oxfam Climate Finance Shadow Report (2018) estimates that net climate-specific assistance may have amounted to only $16-21 billion in 2015-16, as against the aggregate $48 billion reported by donors. Of this amount, grant assistance was in the region of $11-13 billion. The Report concluded that the “need for financial support for people and countries that have done the least to cause climate change, yet are suffering its worst effects, is urgent and rising”.

***Recommendation 1***

Human Rights defenders should call on all affluent countries to fulfill their obligations regarding financial support to developing countries under the climate change agreements as well as the Declaration on the Right to Development. Donors should be asked to clearly distinguish between financial support and commercial investment flows.

**Paris Agreement on climate change and human rights**

The Paris Agreement (2015) is the first climate change treaty that contains a specific reference to human rights, including the right to development. (As we saw earlier. the Framework Convention incorporated several elements that have a direct bearing on human rights and, more specifically, the right to development, but it did not explicitly refer to these rights.) As a result of demands advanced by human rights defenders, climate negotiators agreed to a general reference to human rights in the Cancun Agreement (2010). This called on all parties to “fully respect human rights” in all climate related actions (para 8). The Cancun Agreement was not legally binding in a formal sense but it served to pave the way to the inclusion of a paragraph on human rights in the preamble of the Paris Agreement[[3]](#endnote-3).

This paragraph reads as follows: “Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”

It is important to note, however, that the Paris Agreement only calls on parties to “respect, promote and consider” human rights (including the right to development). Because of the reservations of certain states, it falls much short of requiring parties to “respect, protect, promote and fulfill” these rights. The Paris Agreement excludes the obligation of “protecting” rights and it only requires parties to “consider” – rather than “fulfill”- rights.

***Recommendation* 2**

Persistent demands from human rights promoters led to the reference to the right to development and other human rights in the Paris Agreement, albeit in a truncated form. Further advocacy is required to amend the climate change agreement to bring it into full conformity with the obligation to “respect, protect, promote and fulfill” these rights, including the right to development.

*---- Chandrashekhar Dasgupta*

1. OECD (2014), *Climate Finance in 2013-14 and the USD 100 billion Goal.* 2014. Also, OECD (2016), *2020 projections of Climate Finance towards the USD 100 billion goal.*  [↑](#endnote-ref-1)
2. Oxfam Climate Finance Shadow Report, 2018. See also, Rajasree Ray & J M Mauskar, *Climate Finance: Myth vs. Reality.* TWN Briefing Paper, Third World Network, Geneva. 2018.. [↑](#endnote-ref-2)
3. For an excellent legal analysis, see Lavanya Rajamani, ‘Human Rights in the Climate Change Regime: From Rio to Paris and Beyond’, in John H Knox & Ramin Pijan (eds), *The Human Right to a Healthy Environment.* Cambridge University Press, 2018. [↑](#endnote-ref-3)