

Rio+20 and beyond: no future without justice

Over the last 20 years, little has been done to change patterns of production and consumption that pollute, erode biodiversity and lead to climate change, while commitments to human rights and gender justice have not been fulfilled. We are facing societal and ecological disaster. The State can respond quickly to this, if based on democratic legitimacy and accountability. In times of growing global interrelationship between societies, economies and people, universally agreed principles are the precondition for living together in justice, peace and in harmony with nature. Here we propose eight principles as the foundation for a new sustainability rights framework.

Civil Society Reflection Group on Global Development¹

The world is in need of fundamental change. We live in a world in turmoil; too many people are tossed around in a global boom and bust, a global casino gambling with our livelihoods, our security, our futures and our planet.

We live in a world where the top 20 percent of the population enjoy more than 70 percent of total income and those in the bottom quintile get only two percent of global income. Gains from economic growth and globalization have been unevenly shared. In most countries, the rich have become richer at the expense of the middle class and low-income groups. Unfettered economic growth has further increased social inequalities even though it has generated the resources to do the opposite and finance more equitable access to public and essential services. Persistent poverty, unemployment, social exclusion and higher levels of inequality are threatening care systems, social cohesion and political stability.

We live in a world where 50 percent of carbon emissions are generated by 13 percent of the population. Fast spreading unsustainable production and consumption patterns have been linked to the rapid depletion of natural resources, including clean water, as well as to unequal sharing of the promised “benefits” of economic growth and expanding trade.

They have led to global warming that produces rising sea levels, higher frequency of extreme weather conditions, desertification and deforestation. For bio-diversity, the loss of environmental heritage is permanent. We have exceeded the ecological limits and ignore the planetary boundaries. With the climate change threat we are already living on borrowed time. However, we refuse to cut back on emissions and allocate the scarce resources to those who have not yet benefitted from their exploitation.

All too often national and international policies have not aimed to reduce inequalities. Their dedication to stimulating economic growth has provided the incentives to exploit nature, rely on the use of fossil fuels and deplete biodiversity, undermining the provision of essential services as countries compete in a race to the bottom offering lower taxes and cheaper labor as incentives.

Persistent discrimination locks women in precarious reproductive work and violence. Women, especially the poor, remain socially discriminated and in many places are deprived of their bodily, reproductive and sexual rights. This makes them more vulnerable to exploitation and violence inside and outside their homes. Care work which is often undertaken by women within households, is given no value or recognition. Women’s livelihoods and productive activities that include all forms of health care work are often left unprotected and unsupported. All these are made more distressed during times of economic crises and by policies that favor profit over social provisioning.

Biodiversity and the bounty of nature, while cherished, are not respected, protected or valued. Communities and populations that seek to live in harmony with nature find their rights ignored and their livelihoods and cultures jeopardized.

Why has this happened? Certainly it is not because of a lack of awareness or attention of policy makers at the highest levels. The climate change danger, cited in the mid-1980s at a conference of the WMO, was brought center stage in 1987 by the Brundtland Report, as was the urgency of biodiversity loss. The momentum carried to the Rio conference in 1992, which launched framework conventions on climate change and biodiversity as well as on desertification. It also adopted the Rio Declaration principles, the Forest Principles and a plan of action, Agenda 21. The global conferences of the 1990s focused on issues of human rights and social equity and adopted blueprints to tackle injustices

from social exclusion and gender discrimination. In the Millennium Declaration of 2000, member states committed themselves “to uphold the principles of human dignity, equality and equity at the global level” as “a duty to all the world’s people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs”.

Over the last 20 years, however, the ideals and principles of Rio have been overshadowed, as implementation has mostly not occurred. Similarly, a host of international commitments to human rights and gender justice have not been fulfilled. World product per capita has more than doubled in the last two decades, yet with widening disparities. Globalization has yielded millions of poor quality jobs. Financial and commodity speculation has undercut food security and turned millions of hectares of land away from growing food and into unsustainable uses. Little has been done to change patterns of production and consumption that pollute, erode biodiversity and lead inexorably to climate change. 45 countries with a total population of 1.2 billion people have managed to achieve social indicators that are better than the world average with per capita emissions of CO₂ from fossil fuels below the world average. And none of them are labeled as “high income”. Yet, similar to other middle-income countries and those considered as “least developed”, they often find their space for making domestic policy choices to achieve sustainable development squeezed by external demands, conditionalities and impositions that press them to take steps such as to slash tax rates and spending on social services.

Economic policies have on many occasions contradicted the commitments made to rights and sustainability as they and their related national and international institutions occupy the apex of governance domains. They have relied too much on markets to allocate societies’ resources and distribute their wealth, singling out GDP growth as the ultimate measure of well-being. The result has been increased concentration and bigger market share ratios of a few transnational corporations, including in the food and medicine sectors.

This deliberate policy choice of hands-off came to a head when, ignited in the USA, it exploded into the global financial crisis in 2008, intensifying inequalities further as the resulting job losses and income cuts hit low-income groups disproportionately. Yet, relentlessly, the policy responses squeezed societies and communities further, relying on the

¹ Statement produced by the Civil Society Reflection Group on Global Development Perspectives. It is a preliminary statement and has not been fully discussed by all members of the Group yet. It is “work in progress”. Therefore, not every recommendation in this statement was explicitly endorsed by each member of the Group. But the statement captures the ideas and the fundamental consensus, which were formulated in the previous meetings of the Reflection Group. The more comprehensive final report of the Group will be published in spring 2012. Members of the Reflection Group are: **Alejandro Chanona**, National Autonomous University of México; **Barbara Adams**, Global Policy Forum; **Beryl d’Almeida**, Abandoned Babies Committee Zimbabwe; **Chee Yoke Ling**, Third World Network; **Ernst Ulrich von Weizsäcker**, International Resource Panel; **Danuta Sacher**, terre des hommes Germany; **Filomeno Sta. Ana III**, Action for Economic Reform, Philippines; **George Chira**, terre des hommes India; **Gigi Francisco**, Development Alternatives with Women for a New Era; **Henning Melber**, Dag Hammarskjöld Foundation, Sweden; **Hubert Schillingner**, Friedrich-Ebert-Stiftung, Germany; **Jens Martens**, Global Policy Forum Europe; **Jorge Ishizawa**, Proyecto Andino de Tecnologías Campesinas, Peru; **Karma Ura**, Centre for Bhutan Studies; **Roberto Bissio**, Social Watch; **Vicky Tauli-Corpuz**, Tebtebba Foundation; **Yao Graham**, Third World Network Africa.

same market actors that had been wrong before, paying little or no heed to the already fragile human and ecological systems, and pushing societies and communities to the breaking point.

Despite evidence that counter-cyclical policies acted as effective shock absorbers and enhanced resilience, many governments have sacrificed social expenditures to neo-liberal orthodoxy and a stronger dependence on financial markets. The costs of inaction and the mal-action of business as usual are amassing a mountain of social and ecological liabilities. High unemployment especially of young people, increasing food prices and widespread unfairness have created a climate of social and political tension and unrest in many countries. In countries around the globe, from Cairo to Manhattan to New Delhi, people take to the streets to express their anger with the status quo and their unwillingness to accept it any longer. Their motives and goals may differ according to the unique circumstances they live in – but their demands are all similar: greater justice and more freedom from the pressure of the “markets” and their faithful agents.

Why is governance failing us so badly? States have reneged on their democratic values and governments have become less accountable to the people. Universal norms and standards are being ignored or side-stepped by new rules that favor markets. Risks are being borne by those who had no role in taking them while a new classification of “too-big-to-fail” has re-ordered the distribution of public resources. We are confronted with a hierarchy of rights with those protecting human and eco systems relegated to the lowest rungs. This situation finds its parallels in governance at the national and international levels. Further, the fragmented global governance has led to missing the big picture and setting low demands that treat symptoms not causes.

Decades of wrong-headed policies and the impact of multiple policy failures have inevitably highlighted the role of the state and how important it is. Responses to the failure of the financial system show that the state can act and will act quickly in the face of perceived disaster with money and policies. But, the required stronger role of the state must be based on democratic legitimacy and accountability and be balanced by effective participation of civil society.

We are living in a period of turmoil, facing societal and ecological disaster. We demand of states that they act now promptly and effectively in the face of this disaster.

Reconfirming the foundation of sustainability: The framework of universal principles and rights

The need for universal principles. Every concept of development, well-being and progress in societies is based on a set of fundamental principles and values. These values are rooted deeply in our culture, our

ideologies and our belief systems. We are convinced, that there is a set of universal principles and values that is shared by most of us. Common principles and values build the foundation of societies. We acknowledge the diversity of cultural expressions as a value in itself that has to be protected and promoted. In times of globalization and growing global interrelationship between societies, economies and people, universally agreed principles are the precondition for living together in justice, peace and in harmony with nature.

A set of existing principles as common ground. There is no need to invent principles and values of this kind. In national constitutions as well as in various international treaties, declarations and policy statements of the United Nations, governments have agreed upon certain fundamental principles, which are essential to societies and international relations. We propose the following set of eight principles as the foundation for a new sustainability rights framework:

- *Solidarity principle.* Solidarity has been a widely accepted principle in many national constitutions to govern the relationship of citizens within a country. Central to this concept is the equality of citizens and their shared responsibility for a common good. In the notion of solidarity, assistance is not an act of charity, but a right of every woman, man and child. Solidarity differs radically from charity and philanthropy. In times of globalization, this concept has been transferred to the international level. In the Millennium Declaration, governments listed solidarity as one of the core values: “Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most.” Today, the notion of solidarity is accepted as a key principle in various international agreements such as the United Nations Convention to Combat Desertification from 1994.
- *Do no harm principle.* Originally a key principle of medical ethics reflected in the promise of the Hippocratic Oath “to abstain from doing harm”, this principle has become relevant to other areas. For instance it has been included in humanitarian principles of UNICEF since 2003 and has been adopted in a code of conduct of major humanitarian organizations. In essence, the commitment to implement policies in a way that they do no harm to people or nature should be regarded as a guiding principle in all policy areas and at all levels.
- *Principle of common but differentiated responsibilities.* This principle marks one of the milestones of the Rio Declaration from 1992. Its Principle 7 states: “In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.” For the first time in history, governments recognized their differential present and historical contribution to environmental degradation and, thus, their differential obligation to pay for the remediation and mitigation. By including the historical dimension it goes beyond the principle of “special and differential treatment” based on economic capabilities and needs, as contained in WTO Agreements. The principle is a key element of the Kyoto Protocol but its application must not be limited to the climate negotiations.
- *Polluter pays principle.* The simple message of this principle is that the costs of pollution have to be borne by those who cause it. This principle has been part of international environmental law since the 1970s, and was reaffirmed in the Rio Declaration, Principle 16: “National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution (...).” While this principle is widely acknowledged in international environmental law, it should be applied in other areas as well. In the context of the recent financial crisis, many asked for the “polluters”, i.e. the banks and the financial industry, to bear the costs of the crisis. As the European Commissioner Michel Barnier said: “I believe in the ‘polluter pays’ principle. We need to build a system which ensures that the financial sector will pay the cost of banking crises in the future.”
- *Precautionary Principle.* This principle states that in the absence of a scientific consensus if an action or policy has a suspected risk of causing harm to people or nature, the burden of proof that it is not harmful falls on the proponents of this action or policy. It is also laid down in the Rio Declaration, which says in Principle 15: “In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” After Rio this principle has been incorpo-

rated into many other international agreements, such as the Cartagena Protocol on Biosafety from the year 2000 with regard to the transboundary movement of living modified organisms and their products.

- **Subsidiarity Principle.** According to this principle political decisions must always be taken at the lowest possible administrative and political level, and as close to the citizens as possible, in order to ensure that women and men fully participate in decision-making. This idea is a core element of concepts of federalism and one of the central principles in the treaties of the European Union. Indigenous peoples regard this principle as an essential tool to preserve their identity, diversity and cultures. The principle recognizes the inherent democratic right to self-determination for people, communities, and nations, but only as long as its exercise does not infringe on similar rights of others. Therefore, it must not be misused as an argument against central governmental action at national or international levels, but must always be applied in combination with the other principles, in particular the solidarity principle.
- **Principle of Free, Prior and Informed Consent.** According to this principle communities have the right to give or withhold their consent to proposed projects and actions by governments or corporations, that may affect their livelihood and the lands they customarily own, occupy or otherwise use. This principle is a key element of the United Nations Declaration on the Rights of Indigenous Peoples from 2007 and recognized in the ILO Convention on Indigenous and Tribal Peoples in Independent Countries (169/1989). However, this principle is not limited to the rights of indigenous peoples. It is also laid down in the Rotterdam Convention on the Prior Informed Consent procedure for certain hazardous chemicals and pesticides in international trade from 1998. This convention provides, inter alia, for importing countries to receive information on a chemical being exported from a country that has banned or severely restricted it for health or environmental reasons.
- **Principle of peaceful dispute settlement.** This principle is a core element of the UN Charter, which says in Article 2: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered." In the Manila Declaration of 1982 governments reconfirmed that the peaceful settlement of disputes should represent one of the central concerns for states and for the UN (A/RES/37/10, 15 November 1982).

These eight principles shall build the cornerstones of a universal sustainability rights framework. They are interconnected and must not be applied in isolation.

The essential values of freedom, equality, diversity and the respect for nature. In addition to the core set of universal principles, there are fundamental values, which are also essential to international relations. Governments referred to some of them in the Millennium Declaration. They include, inter alia:

- **Freedom.** Men, women and children have the right to live their lives in dignity, free from hunger and from the fear of violence, oppression or injustice. Democratic and participatory governance based on the will of the people best assures these rights. But there are limits to freedom – namely where the freedom of our peers is touched. "Freedom is always the freedom of dissenters" (Rosa Luxemburg). And freedom has its limits in the principle of "do no harm".
- **Equality.** No individual and no nation or group must be denied the opportunity to participate in and to benefit from development. Equal rights and opportunities of women and men must be assured. Equality includes the concept of inter-generational justice, i.e. the recognition that the present generation shall only meet its needs in a way that does not compromise the ability of future generations to meet their own needs.
- **Diversity.** Human beings must respect one other, in all their diversity of belief, culture, language, looks, sexual orientation, and gender. Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity. A culture of peace and dialogue should be actively promoted.
- **Respect for nature.** Prudence must be shown in the conduct towards all living species and the use of natural resources. Only in this way can the immeasurable riches provided to us by nature be preserved and passed on to our descendants. The current unsustainable patterns of production and consumption must be changed in the interest of our future welfare and that of our descendants. Respect for nature means much more than sound management of the human environment: it means that all living species have intrinsic rights. They should not be regarded as objects of human interaction but as subjects with value that goes beyond use and exchange. This understanding of nature as a living system is reflected in the thinking and believe systems of indigenous peoples, for instance in the concept of Buen Vivir.

Failure to translate the principles into practice. While all governments agreed to these principles

in general, they have mostly failed to translate them into enforceable obligations and specific policies. If governments had taken the solidarity principle seriously, poverty and hunger could have been reduced dramatically; if they really accepted the principle of common but differentiated responsibilities, the Copenhagen climate summit would not have ended in such a disaster; and had they complied with the precautionary principle, nuclear catastrophes such as those of Chernobyl and Fukushima could have been avoided.

Turning principles into rights. In order to ensure the functioning of a society and create safeguards against tyranny, values have to be translated into law, rights and legally binding obligations. At international level, the human rights system plays a key role in turning moral values into legal rights. Of particular importance is the International Bill of Human Rights that includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Equally significant are the Convention on the Elimination of all Forms of Discrimination against Women and the UN Convention on the Rights of the Child. More recently, these key documents have been complemented by the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) and the UN Declaration on the Rights of Indigenous Peoples (2007). Together with the Declaration on the Right to Development (1986) and complemented by the core set of principles we mentioned above, these documents can form the normative framework of a holistic concept of sustainability, well-being and societal progress.

Rebalancing rights. While the norms of the international human rights system are generally accepted and ratified by most countries of the world, there is still a huge implementation gap. Even worse: while states and their organs at national and international levels too often failed to respect, protect and fulfill human rights, over the last two decades they have strengthened corporate rights and the rights of capital. They promoted the free movement of capital, but restricted the free movement of people; they strengthened the rights of transnational investors, but weakened the rights of people affected by these investments. Transnational corporations may nowadays sue governments at international fora for any change in the rules, including health regulations, that affect their actual or planned profits, but people are hindered from suing companies for the pollution and other harmful practices inflicted upon them. There is an urgent need to rebalance rights, i.e. to reclaim human rights as the normative foundation of policy, and to roll-back the rights of capital in relation to the rights of people.

Filling the gaps in the rights system. There are not only gaps in the implementation of rights but also

gaps in the international rights system itself. Certain principles and values, such as the principle of inter-generational justice and the respect for nature are not explicitly translated into (codified) rights yet. There is a need of intensified debate and research on how to include the concepts of the rights of nature and intergenerational justice in the international normative system and turn them into practice.

From theory to practice: Translating principles and rights into strategies, goals and policies. To translate fundamental principles into internationally agreed rights and obligations is only the first step. The next is to formulate political goals and strategies to implement these rights. Here, public policies play a crucial role. Democratically legitimized public authorities, particularly governments and parliaments, have the main obligation to implement a rights-based approach of sustainability, well-being and societal progress. They must not transfer this obligation to the private sector or to civil society.

Redirecting policies towards present and future justice

Consequences from the failure to translate principles and rights into policies. In the past decades governments agreed formally on an almost comprehensive set of sustainability principles and human rights, but they failed to bring their policies effectively into line with them. Instead, policies are still too often sectorally fragmented and misguided with an overreliance on economic growth and self-regulation of the “markets”. New concepts like “green growth” are at best attempts to treat the symptoms of the problems without tackling their root causes. What is therefore needed are fundamental changes at three levels: in the mindset, the guiding concepts and indicators of development and progress; in fiscal and regulatory policies (at national and international levels) in order to overcome effectively social inequalities and the degradation of nature and to strengthen sustainable economies; and in institutions and governance mechanisms (at national and international levels).

Changing the dominant mindset. The mindset of many opinion leaders and political decision-makers worldwide is still focused on economic growth and market-driven solutions as the panacea for all economic, social and environmental problems in the world. Governments are not (and should not be) in a position to change the dominant mindset by command and control. But they are obliged to draw lessons from the failures of the past and reformulate the overall objectives of their policies and related concepts and metrics that guide them. Instead of subordinating their policies to the overarching goal of maximizing GDP growth, the leitmotif of their policies should be to maximize the well-being of the people without compromising the well-being of future generations by respecting the planetary boundaries.

New metrics for sustainability and societal progress. Consequently, governments should recognize the need for new metrics for sustainability and societal progress beyond GDP to guide their policies. They should actively promote the research and discourse on alternative metrics at national and international levels, within a specified timeframe, and with broad participation of civil society. The discourse should build upon existing initiatives, for instance the report of the Stiglitz-Sen-Fitoussi Commission, Measuring Australia’s Progress (MAP), and the Gross National Happiness Index of Bhutan. It should also take into account the current revision of the System of Environmental-Economic Accounts (SEEA) coordinated by the Statistics Division of the UN Secretariat.

Sustainable development goals. The 1992 Rio Summit demanded further work on the definition of indicators of sustainable development which would be the basis both for defining the concept and establishing common international goals. Two decades later, more progress has to be achieved. Links have to be established to the human rights framework which sets clear goals, for instance on the rights to food, to health, and to education. Therefore, the debate should not be about these goals, as they have already been agreed upon, but about the “when” and the “maximum available resources” (including those of international cooperation) to ensure their progressive realization. Any formulation of Sustainable Development Goals that does not adequately address the human rights aspects and the sustainability aspects simultaneously and in a balanced way risks derailing the comprehensive sustainable development agenda without any compensatory gains.

Commitment to policy coherence for sustainability. In order to translate the universal sustainability rights framework outlined above into practical policy at national level, governments and parliaments should adopt binding commitments to policy coherence for sustainability as well as strategies for implementation and monitoring. Based upon the core set of universal principles, such as the precautionary principle, the “do no harm” principle, and the solidarity principle, all public policies should be redirected towards human rights and sustainability and subject to sustainability and human rights impact assessments.

A new Charter on the Right to Sustainable Development. In order to bundle the core set of fundamental principles and human rights to a normative framework of sustainability, well-being and societal progress, we propose to adopt a new Charter on the Right to Sustainable Development. This Charter should also refer, *inter alia*, to the World Charter for Nature (1982) and the UN Declaration on the Rights of Indigenous Peoples (2007), and update and upgrade the Declaration on the Right to Development from 1986. The new Charter should emphasize the

commitment of governments to policy coherence for human rights and sustainability. It should reconfirm the obligation to progressive realization of human rights using the maximum available resources and expand it to the right to sustainable development and the rights of future generations. It should acknowledge the concept of planetary boundaries. And finally, it should confirm the principle of fair burden sharing and equitable per capita rights towards the global commons and to the emission of greenhouse gases, taking fully into account the historical responsibilities of societies.

Redirecting fiscal policies towards sustainability. Fiscal policy is a key instrument of governments to turn the rights-based approach of sustainability, well-being and societal progress into practice. The actual priorities of governments are reflected more clearly in public budgets than in government declarations and action programs. Moreover, the composition of state budgets allows inferences to be drawn about the political influence of different interest groups: Is the military dominant? Are business interests pushed through? Or is public spending focused on the needs of the majority in a society and correcting gender imbalances? In recent decades, we witnessed the erosion of public finance in many countries, which resulted in a growing inability of governments to provide the necessary public goods and services in support of people’s welfare and care systems, thus failing to respond effectively to the aggravated social and environmental problems. Therefore, there is an urgent need to strengthen and redirect public finance.

- *Taking the four “R’s” of fiscal policy seriously.* Fiscal policy can basically have four purposes: The **raising** of revenues in order to provide the necessary public goods and services; the **redistribution** of income and wealth from the richer to poorer sections of society; the **repricing** of goods and services in order to internalize ecological and social costs and discourage undesirable behavior (such as currency speculation); and the justification for citizens to demand democratic **representation** (“no taxation without representation”) and accountability. Unfortunately, governments have rarely taken advantage of these aspects of a pro-active fiscal policy. On the contrary, they have often participated in a global tax race to the bottom (particularly with regard to corporate taxation). They have given preference to indirect taxes, like an undifferentiated value-added tax, which have regressive effects and have increased inequalities, and they hesitated to introduce effective taxes on environmentally harmful resource consumption. We need steps towards country-specific eco-social fiscal reforms, taking into account, *inter alia*, the following aspects:

- *Emphasizing progressive taxation:* A basic requirement for strengthening public revenues is a broad based system of progressive taxation. In line with the principle of common but differentiated responsibilities taxation should be based on the ability to pay; rich individuals, transnational corporations and large landowners should be taxed accordingly. A flat and undifferentiated value-added tax is regressive, burdens the poor, and therefore should not constitute the centerpiece of the tax system. Any form of indirect taxation should be designed in a way that it is sensitive to the poor's welfare by introducing progressivity (e.g. by taxing luxurious consumption) and mitigating the regressive features.
- *Greening the tax system:* A key element of any eco-social fiscal reform should be the shift from the taxation of labor to the taxation of resource consumption. Following the polluter pays principle, a system of eco-taxes should particularly increase the "price of pollution", the use of fossil fuels and other non-renewable energies, and the emission of greenhouse gases.
- *Effective taxation of corporations:* An essential element of an efficient tax system includes the effective taxation of corporations. Tax exemptions or fiscal incentives for transnational corporations, particularly in export processing zones, are counterproductive and an inefficient instrument to attract foreign direct investment. They should be eliminated, if possible in an internationally coordinated way.
- *Initiatives against tax evasion and illicit financial flows:* In many countries illicit financial flows, tax avoidance and corruption continue to prevent the establishment of a sustainable system of public finance. A bundle of national and international measures is needed to strengthen fiscal authorities, close tax loopholes and prevent capital flight. These include: Supporting governments in creating more efficient and fair tax structures and fiscal authorities; effective measures against the manipulation of transfer pricing; mandatory country-by-country reporting standards for transnational corporations, with the US American Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) from July 2010 as an initial step for the extractive industries; binding rules for the automatic exchange of tax information between state agencies; effective support for stolen assets recovery as described in the United Nations Convention against Corruption; banning financial transactions in tax havens and secrecy jurisdictions.
- *Applying the polluter pays principle to the financial sector – introducing a Financial Transaction Tax:* Demands raised for many years for the intro-

URGENT APPEAL TO CHANGE THE MINDSET

The United Nations Conference on Sustainable Development - Rio 2012 - must change the dominant mindset by:

Restoring public rights over corporate privileges;

after 30 years of strengthening the power of investors and big corporations through deregulation, trade and financial liberalization, tax cuts and exemptions, and weakening the role of the State in mediating this power; and after the market-driven financial meltdown.

The principles and values of the Rio Declaration and the UN Millennium Declaration, adopted by heads of State and government, are threatened and urgently need to be re-established. These principles and values include Human Rights, Freedom, Equality, Solidarity, Diversity, Respect for Nature, and Common but Differentiated Responsibilities. Corporate interests do not uphold these principles and values.

Taking equity seriously;

after 30 years of policies that have further widened the gap between rich and poor and have exacerbated inequities and inequalities, not least regarding access to resources.

Unbridled market forces have favoured those already in a position of power, thereby widening the economic divide. This requires the state to redress the imbalance, eliminate discrimination, and ensure sustainable liveli-

hoods, decent work and social inclusion. Intergenerational justice requires restraint and responsibility by the present generation. It is urgent to establish more equitable per capita rights towards the global commons and to the emission of greenhouse gases, taking fully into account historical responsibility.

Rescuing nature;

after more than 60 years of global warming, loss of biodiversity, desertification, depletion of marine life and of forests, a spiraling water crisis and many other ecological catastrophes.

The environmental crisis is hitting the poor much harder than the affluent. Knowledge-intensive solutions including technologies are available to restore natural systems, and dramatically reduce pressures on climate and the global environment while improving human well-being. A "green economy" is attainable but must be embedded in a holistic concept of sustainability. What we need is a change of lifestyles.

The Rio 1992 Summit adopted legally-binding instruments and embraced civil society. The Johannesburg Summit 2002 celebrated partnerships relying on a self-regulated Private Sector. The Rio 2012 Summit must re-affirm the State as the indispensable actor setting the legal frame, enforcing standards of equity and human rights, and fostering long-term ecological thinking, based on democratic legitimacy.

duction of a financial transaction tax have gained additional relevance through the current global financial crisis. Such a tax can contribute to a fairer distribution of burdens by involving the financial sector, which caused the crisis, in covering the costs of coping with it. The tax should be levied on trading shares, bonds, derivatives and foreign currency on the stock exchange, at trade centers and over the counter (OTC) transactions. Imposition of the tax ought to be internationally coordinated and performed by the responsible national fiscal authorities, but individual countries or groups of countries should be encouraged to start applying it even before it becomes global. In order to ensure that tax revenue is not exclusively used to cure budget deficits but also spent for environmental, development and rights purposes, a substantial part of the revenues should be earmarked and distributed through a fund under the auspices of the United Nations.

Reallocation of government spending. Parallel to the necessary changes on the revenue side of the budget, any effective eco-fiscal reform requires fundamental changes on the expenditure side as well. Too often public money has been spent for harmful or at least questionable purposes. By redefining priorities public spending policy can become a powerful tool to reduce social inequalities and remove discrimination and to support the transition towards sustainable production and consumption patterns. This includes the following steps:

- *Abolition of harmful subsidies:* While subsidies can be a useful temporary mechanism to compensate vulnerable sectors for unexpected distortions or to promote desirable activities, every year governments spend hundreds of billions of dollars on harmful subsidies particularly in the agricultural, water, energy, forestry and fishery sectors. Public money is used at

home and abroad (through multilateral development banks) to lower the price of fossil fuels, to support agricultural exports, or to subsidize transnational investments. These kinds of subsidies not only have detrimental social and environmental effects; by artificially lowering the prices, they often reduce the profitability of local industries and the production of renewable energy. In essence, the negative effects of subsidies are three-fold. They absorb a substantial portion of state budgets that could otherwise be used for better purposes; they contribute to environmental damage by creating misleading consumer and production incentives; and they have negative distribution effects. Therefore, governments should commit to time-bound targets to phase out all subsidies that support unsustainable production and consumption patterns or otherwise violate the do no harm principle as soon as possible.

- *Strengthening public spending to stimulate sustainable production and consumption:* Not all subsidies are harmful. On the contrary, subsidies can play an important role in supporting emerging local industries and introducing environmentally friendly technologies. Well-targeted subsidies can have positive redistributive and environmental effects. Governments should substantially strengthen public subsidies in areas such as renewable energy, sustainable and affordable public transport systems, eco-efficient housing, social infrastructure and consumption subsidies to poor households.
- *Cutting military spending:* Military expenditures absorb a significant share of state revenues in most countries. In 2010 they reached a total historic high of USD 1,630 trillion. By reducing military budgets, large sums of money could be freed up for funding environmental and social programs. A precondition for this, however, is strengthened support for conflict prevention, peaceful conflict resolution, and if needed, peacekeeping and peacebuilding. At the same time, the largest arms-producing countries (in particular the five permanent members of the Security Council) have a responsibility to improve the control and regulation of their arms exports and to support a Global Arms Trade Treaty.
- *A universal social protection floor for all:* Access to social security is a human right (Art. 22 of the Universal Declaration of Human Rights). But it is also an economic and political necessity, for a working social security system reduces poverty, strengthens the purchasing power of the people and hence domestic demand, and prevents social tension and societal conflicts.

A publicly financed minimal set of basic social security ought to exist in every country. It would be a necessary condition to prevent people from falling into poverty as a result of economic crises. Therefore, governments should implement the concept of a universal social protection floor, as promoted by the ILO. It should be based on the following four pillars: Universal access to public healthcare for all; guaranteed state allowances for every child; a universal basic pension provided by the state for persons in old age or with disabilities; guaranteed state support for unemployed and underemployed people living in poverty.

- *Public provision of essential services:* After years of a global trend towards privatization and deregulation, public authorities have to reclaim the responsibility to provide essential services for all citizens, including freshwater supply, sanitation, education, healthcare, shelter, public transport, communication, and access to energy. Governments should substantially increase the spending level in these areas. With sustainable stimulus packages governments should invest in targeted infrastructure programs in order to increase energy and resource efficiency. Following the subsidiarity principle, priority should be given to promote decentralized models of water and renewable energy supply, with strong public oversight, and to reduce the market power of oligopolistic public or private suppliers. In order to pay attention to the rights and interests of indigenous peoples and local communities, public authorities and private companies must respect the principle of free, prior and informed consent in all infrastructure projects.
- *Strengthening participatory, gender and human rights budgeting initiatives:* Free access to budgetary information as well as effective control are essential to increase the accountability of governments to their citizens in their use of public funds. Governments should therefore ensure the effective participation of civil society in budgetary planning. Whether and to what extent governments are actively promoting gender equity in their budgets should be determined with the help of gender-budgeting approaches. Similarly, governments should assess if budgets are complying with their obligation to promote, protect and fulfill the economic, social and cultural human rights.
- *Using public procurement policies to promote sustainability:* Public authorities from the local to the global level have an enormous purchasing power. So far they were guided mostly by criteria of cost-effectiveness. However, more

and more public procurement operators try to influence the production methods and products of their suppliers by introducing environmental, social and human rights standards. In addition, procurement policies could be used to specifically strengthen the local economy by supporting domestic suppliers.

- *Using sovereign wealth funds to finance sustainable investment:* Assets under management of sovereign wealth funds increased to USD 4.7 trillion in July 2011. There was an additional USD 6.8 trillion held in other sovereign investment vehicles, such as pension reserve funds, development funds and state-owned corporations' funds. There is an enormous potential to invest these assets in accordance with specific sustainability objectives. Governments should authorize the decision-making bodies of these funds to introduce binding sustainability criteria to guide their investment policies.

A new global system of financial burden sharing beyond ODA. Even with a fundamentally strengthened system of public finance with increased tax revenues and reallocated public expenditures, in many countries the maximum available resources will not suffice to fulfill the social, economic, cultural and ecological rights of the people. External funding will therefore still be required. The current system of financial transfers is based on the concept of aid (Official Development Assistance - ODA). It is characterized by paternalistic relationships between rich donors and poor "partners". Despite all attempts to increase "ownership" and "aid effectiveness", these financial flows are often unpredictable, volatile, tied to products and services from donors and subject to conditionalities. This concept of aid is misleading, as its justification is charity instead of rights. Governments have to overcome this concept of aid and establish a new normative framework of burden sharing between rich and poor countries based on the solidarity principle, e.g. in form of a universal fiscal equalization scheme. Models for this type of compensation or equalization already exist on the national and regional level. In Germany, for example, regional inequalities are to be compensated by a concept of financial adjustment between the federal states. In the European Union cohesion and economic equalization are financially supported by a compensatory structural policy. Such a model would be consistent with the International Covenant on Economic, Social and Cultural Rights (ESCR). The realization of those rights is a responsibility of governments "individually and through international assistance and co-operation, especially economic and technical, to the maximum of available resources." The prioritization of resources for ESCR also applies to international assistance.

A compensation scheme to pay off climate debt. The second pillar of a new normative system of financial transfers should build on the polluter pays principle and the principle of common but differentiated responsibilities. This is particularly relevant in order to allocate the costs of climate change. In accordance with these principles, those countries, that are responsible for the damage that the excessive emission of greenhouse gases is causing – and will be causing in the future – have to compensate for the costs. They have accumulated climate debt that they will have to pay off over the coming years and decades. The compensation schemes should be guided by the principles of fair burden sharing and equitable per capita rights, taking fully into account the historical responsibilities of societies.

Beyond the 0.7 percent target. Changes in the normative framework of financial transfers will also affect the so-called 0.7 percent target. In 2010 the 0.7 percent target experienced its 40th anniversary of non-fulfillment, since the governments in the UN General Assembly set the target in 1970. The decision was based on the then dominant concept of modernization. It was felt that a “big push” in foreign capital was needed to allow so-called developing countries to “take off” towards enduring economic growth. At that time, experts from the World Bank estimated the capital gap at around ten billion dollars, equivalent to around one percent of the GDP of the so-called industrialized countries. In 1969 the Pearson Commission recommended giving so-called developing countries 0.3 percent of the GDP in form of private capital and 0.7 percent in the form of ODA. This marked the birth of the 0.7 percent target.

Today, this 0.7 percent figure has only symbolic political importance as an “indicator of solidarity”. The 0.7 percent target cannot explain what the fulfillment of the sustainability rights framework will actually cost, how much the respective countries could contribute themselves and how much external capital would be needed to fill the gap. All estimates of the external financial needs along with the new and additional resources required for climate mitigation measures and climate change adaptation show, however, that the financial transfers needed go well beyond the 0.7 percent of the GDP mark. The justified criticism of the original context on which the 0.7 percent target was based in no way legitimizes turning away from international obligations.

We need to change perspectives, to move away from an aid-based approach to a rights-based approach of external public finance. Further development of the UN General Assembly resolution from 1970 to adjust the normative framework of financial transfers to the realities of the present is long overdue. This could take place in the context of the proposed Charter on the Right to Sustainable Development.

Proposals for new and more predictable forms of financial transfers are not new. The *North-South: A Programme for Survival* report, issued in 1980 by the international Brandt Commission proposed to raise revenues for development by ‘automatic’ mechanisms, which can work without repeated interventions by governments. “*We believe that over time the world must move to a financial system in which a progressively larger share of such revenues is raised by these means. The fact that revenues are raised automatically does not, of course, imply that their transfer should be automatic; on the contrary, they should be channelled through an appropriate international agency or agencies (...).*” More than 30 years after this visionary report, it is time to turn these ideas into reality.

Strengthening the rule of law to promote sustainability. Setting rules and standards is a central task of responsible governments and a key instrument of active policy-making. Over the past 30 years however, governments have too often weakened themselves by policies of deregulation and financial liberalization. Instead, they trusted in corporate voluntarism and self-regulation of “the markets”. Public standard-setting and regulation have often been denounced as *command and control policies*. But only unfettered financial markets made the current financial meltdown possible, weak antitrust laws allowed transnational banks to become *too big to fail*, and the inadequate translation of the precautionary principle into mandatory technology assessments led to the catastrophes of Fukushima and elsewhere. In response to the recent financial and food crises governments started to introduce new rules and standards, as in October 2011 the U.S. Commodity Futures Trading Commission, which has set modest rules to limit excessive speculation in commodities. But much more remains to be done to restore public rights over corporate privileges and to strengthen the rule of law in the interest of present and future generations.

Towards inclusive, accountable governance

The need to overcome fragmentation. To date the approach to sustainable development governance has been one of governing the three pillars of sustainable development in their own zone, complemented by coordination across them. This is attempted at all levels – global, regional, national and sub-national – and in cooperation with non-state actors, primarily civil society, indigenous peoples and the private sector.

Sustainable development has been viewed as a linking concept designed to facilitate a dialogue between those whose primary concerns relate to the environment and those who see their role as promoting growth and development. This approach has emphasized coordination and dialogue, but does

not have a strong institutional basis for decision-making and policy change across the three pillars. Nor has it addressed human rights, inequalities and social exclusion. In practice, the environmental pillar dominates the dialogue, the economic pillar dominates impact and the social one is largely neglected apart from the limited way it is addressed through the MDGs.

Decision-making and policy development are severely handicapped by this hierarchy among the three pillars as global economic governance does not adhere to the mandates of the human rights regime or the requirements of sustainable development. The hierarchy among the three pillars is also reflected in the measures used for policy prescriptions and budget allocation. These have low-level social goals; the progress metrics count only dollars and externalize social and environmental costs. These metrics favor the private sector and penalize the public purse. We are not measuring sustainable development, but mainly economic growth.

To overcome the fragmentation of governance for sustainable development and ensure policy coherence, it is essential to re-arrange and re-configure the institutional arrangements that cover all aspects of the policy cycle: agenda setting, policy analysis and formulation, decision-making, implementation, and evaluation.

Towards a Sustainable Development Council. Adopting sustainable development as an overarching concept requires an apex institution that subsumes all other notions of development and can infuse the essence of rights and sustainability into the agenda of all developmental and environmental bodies.

This institutional configuration of sustainable development must guide the work of global institutions in integrated decision-making, policy action, implementation and review. It cannot be left to ECOSOC. Many recommend a Sustainable Development Council directly reporting to the General Assembly on the lines of the Human Rights Council. This Council would have a remit that extends to all three pillars of sustainable development - the environmental, the economic and the social.

The council’s jurisdiction would extend to all multilateral bodies, including the international financial institutions. The new council would be charged with overseeing the reporting process supported by an enhanced Universal Periodic Review (UPR).

A Universal Periodic Review on Sustainability. The new Sustainable Development Council should be equipped with a Universal Periodic Review mechanism so that all countries report on measures to achieve sustainable development, covering all relevant issues linked to human rights, trade, macroeconomic policy, the environment, financing and political participation. The UPR concept should be enhanced to consider information provided not only

by governments, but also by other stakeholders, such as civil society and the private sector. Information on reports and Universal Periodic Review findings would be made widely available through information channels that actively target all relevant stakeholders.

Upgrading the Committee on Development Policy. As presently constituted, the Committee on Development Policy (CDP) is a subsidiary body of the Economic and Social Council of the UN (ECOSOC). It provides inputs and independent advice to the Council on emerging cross-sectoral development issues and on international cooperation for development, focusing on medium- and long-term aspects. The 24 members of the Committee are nominated by the United Nations Secretary-General in their personal capacity, and are appointed by the Council for a period of three years. Membership is geared to reflect a wide range of development experiences as well as geographical and gender balance. The CDP should be upgraded to undertake research and provide independent advice on policies of sustainable development that fully integrate the three pillars and on emerging issues that require inter-governmental attention and action. It should establish ad hoc working groups or task forces to deepen and supplement its work and include members from organizations with a proven commitment and track record in the relevant issues including from civil society and indigenous peoples.

International Ombudsperson and Special Rapporteurs. There are some key areas of sustainable development and intergenerational justice where the international governance system lacks the appropriate normative standards and oversight. We support the recommendation to establish the institution of an Ombudsperson for intergenerational justice/future generations. In addition, the function of Special Rapporteurs should be used to examine, monitor, advice and publicly report on problems, such as land rights, technology access and use, and fisheries, and develop recommendations not only on specific cases but also for new or upgraded norms. This could be a special procedure of the newly constituted Council for Sustainable Development.

Overcoming the governance gaps at national level. A major challenge for more effective governance at the global level is the lack of coherence at the national level. Effective international arrangements cannot be determined or strengthened without commitments and coherence at the national level, and in all countries. Restructuring ECOSOC or creating a new Council will be a futile exercise if it is not “owned” by effective national counterparts and placed in an influential governance position vis-à-vis other ministries and interests. The new governance mechanism at national level could include, for example:

- A new “Sherpa for Sustainability”. Responsibility should be taken by the head of state or government to increase policy coherence for sustain-

ability. He or she should establish a “Sherpa” function for sustainability. This function/position should have cabinet rank to ensure coordination among government ministries and authorities.

- A Parliamentary Committee on Policy Coherence on Sustainability. To secure oversight and public accountability, a Parliamentary Committee on Policy Coherence on Sustainability should complement the “Sherpa” function. These high-level institutions in the executive and legislative branches of the state will provide the necessary national presence and representation at the relevant fora of global governance for sustainable development. Their positions and perspectives should be prepared by a permanent and meaningful consultation process with broad constituency participation that reflects the cross-sectoral dimensions of sustainable development.
- An Ombudsperson for Future Generations. The appointment of Ombudspersons for Future Generations could bring the sustainability agenda straight to the heart of governments and policy-making. The Ombudsperson could engage directly in the policy-making process and assesses the long-term effects of policies from an integrated perspective. Only an independent body without the requirement to be re-elected by current voters can fully focus on the long-term analysis and represent it without any hesitation. ■