

## Rio plus 20

### *OHCHR's Key Messages*

#### Main Message

Member States must commit to ensure full coherence between efforts to advance the green economy, on the one hand, and their solemn human rights obligations on the other. They must recognize that all policies and measures adopted to advance sustainable development must be firmly grounded in, and respectful of, all internationally agreed human rights and fundamental freedoms, including the right to development. To these ends, all actors, in both the public and private sectors, should exercise due diligence, including through the use of human rights impact assessments. Particular care must be taken to prevent and remedy any negative impacts on the human rights of vulnerable and marginalized groups, including indigenous peoples, minorities, persons living in poverty, migrants and displaced persons, older persons, persons with disabilities, and children. The empowerment of women, the protection of their rights, and their meaningful participation in decision making must be assured. States must resolve to work to advance a human rights-based approach to the green economy, based on the principles of participation, accountability, non-discrimination, empowerment and the rule of law in green economy efforts, and to pursue a model of economic growth that is socially and environmentally sustainable, just and equitable, and respectful of all human rights.

#### A. Background

The *United Nations Conference on Sustainable Development* (Rio+20), will be held in Brazil in June 2012 (A/RES/64/236). Rio+20 marks the 20th anniversary of the 1992 Conference on Environment and Development (UNCED), in Rio de Janeiro, and the 10th anniversary of the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa. The resolution envisages a “focused political document” as the outcome of the UNCSD that should ensure the balanced integration of the three interdependent and mutually reinforcing pillars of sustainable development: economic development, social development and environmental protection. It defines two thematic foci: (a) a *green economy* in the context of sustainable development and poverty eradication; and, (b) the *institutional framework* for sustainable development.

The objective of the Conference is to secure renewed political commitment for sustainable development, to assess progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development, and to address new and emerging challenges.

Concepts like “sustainable development” and “green economy” seek to bring together interrelated concerns of development, on the one hand, and environment on the other. Needless to say, both development and environmental policies have important implications for the enjoyment of human rights. Thus, as the international community seeks new ways to advance both sides of this equation in coherent and mutually-reinforcing way, *explicit attention of related human rights considerations* will be essential.

The *1992 Rio Declaration* on Environment and Development states at the outset in Principle 1 that: “*human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.*” The pursuit of inclusive, equitable and sustainable development can only take place when human beings become the central concern. Human rights must therefore be internalized in both principle and practice, in the transition to a green

economy. A rights-based approach provides a sound conceptual and normative framework for a green economy and for sustainable development. Several essential elements of a human rights-based approach were already included in Principles 10, 20 (women) and 22 (indigenous people) of the 1992 Rio Declaration, including the principles of participation, access to information, access to judicial and administrative proceedings and effective redress and remedy. Equally important are accountability, and attention to discrimination.

And, indeed, the *right to development* is itself explicitly enshrined in the Rio Declaration. Principle 3 of the Declaration states that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”. The 1986 Declaration on the Right to Development describes development as: a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. The Declaration defines this right as the right of everyone to participate in, contribute to, and enjoy economic, social, cultural and political development, in a manner in which all other human rights and fundamental freedoms can be fully realized (in other words, through a rights-based approach). The 1993 Vienna Declaration extended equitable access to the benefits of development to include intergenerational equity: “*the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.*”

Without explicit human rights safeguards, policies intended to advance environmental or development goals *can have serious negative impacts on those rights*. Thus, indigenous peoples have seen threats to their lands and livelihoods from some emission reduction schemes,<sup>1</sup> scarce food-growing lands have sometimes been diverted for the production of biofuels, and massive infrastructure projects have resulted in the forced eviction and relocation of entire communities.

#### **A. A Human Rights-Based Approach to the Green Economy and building the institutional framework for sustainable development**

Accordingly, policies and plans for the transition to a green economy must be *consistent with international human rights norms* and standards. This requires the adoption of a human rights based approach, and the introduction of *explicit human rights safeguards* to ensure that such policies advance, and do not undercut, fundamental human rights.

Thus, for OHCHR, a *human rights-based approach* to the two themes of a green economy in the context of sustainable development and poverty eradication, and building the institutional framework for sustainable development includes:

(1) **Participation.** International human rights standards require the free, active and meaningful participation of people in decisions that affect their lives. This includes granting people equal access to relevant information and including those who are most affected in the decision-making processes. For indigenous peoples, in decision making affecting their traditional lands, the standard is “free, prior and informed consent.” Participation by relevant stakeholders helps in developing more effective and sustainable programmes, reduces exclusion and enhances accountability. Member States are obliged to provide transparent processes and adequate information in accessible formats to enable people to participate fully in the review and refocusing of public policies, underwritten by legally binding and effective guarantees for a free press, freedom of expression and association, and the right to participate

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<sup>1</sup> For example, such concerns have been expressed with regard to Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation (known as the “REDD” initiative)

in public affairs. And Member States should increase participation of women at every level of decision-making, pursuant to Principle 20 of the Rio Declaration.

(2) **Accountability and redress.** Governments have positive obligations to respect, protect and fulfil human rights, including vis-à-vis third-party actors in the private sector. Indeed, accountability is at the core of the enjoyment of all human rights. These obligations include addressing past grievances and correcting systematic failures to prevent future harm. It requires the identification of specific duty bearers (beginning with the State) and the rights-holders to whom they are accountable. And States should commit to put in place, or strengthen, administrative, political and judicial accountability mechanisms at the national level in line with international human rights standards, including accessible and effective redress mechanisms. Corporations, too, must be subject to greater human rights (and environmental) accountability, and their activities directed to the cause of human rights-based sustainable development. Accountability mechanisms at both the national and international levels should help to ensure that meaningful benchmarks are set, progress is measured, any negative impacts are revealed and remedied, and green economy policies deliver on their promises—in a manner respectful of human rights. Independent national commissions can play a vital role in this regard at the national level, and reformed intergovernmental mechanisms are strengthened international agencies must play their part, as well.

(3) **Equality, non-discrimination, and attention to vulnerability.** Across the globe, inequalities in wealth, power, and the capacity to realize the full range of human rights, are growing. Lines drawn between majorities and minorities, men and women, indigenous and non-indigenous, “the 99%” and “the 1%, north and south, are raising fundamental human rights questions, undermining environmental outcomes, undercutting the sustainability of growth, contributing to unrest and conflict, and stifling development. The equitable and transparent administration of land, based on the rule of law, is key to economic, social and political stability. Serious deficits in this area have been the cause of many violent conflicts. Particular vulnerable groups, including indigenous peoples, minorities, women, children, small farmers, persons living in poverty, and others, continue to suffer disproportionate impacts from underdevelopment, economic shocks, environmental degradation, and climate change. A human rights-based approach demands that these inequalities and vulnerabilities be identified, and remedied. Member States should resolve to consider the equal rights of all persons, as integral to their initiatives to a green economy and to creating an effective institutional framework for sustainable development;

(4) **Empowerment, (both political and economic).** A human rights-based approach is not satisfied by charity, or by humanitarian aid. Rather, attention to the economic and political empowerment of affected groups and communities must accompany efforts to create a green economy. Access to information and education are crucial for persons to be able to take advantage of existing ‘greening’ schemes and to develop new strategies. Responsive governmental and judicial institutions must be in place to ensure the political empowerment of affected groups-- and their access to meaningful redress. Economic opportunities for traditionally excluded minorities must be created, the right of indigenous peoples to exercise “free, prior and informed consent” over their lands must be recognized, and safeguards must be in place to ensure that the situation of persons living in poverty is improved, rather than exacerbated, by any green economy policies.

(5) **Rule of Law.** All measures, policies, programmes, laws and responses should be explicitly linked to, and entirely consistent with the international human rights obligations of States. Institutional reforms and policy measures should be put in place at the global and national levels to reduce fragmentation and promote coherence between environmental, trade, investment, intellectual property and human rights treaty regimes. Due diligence, and explicit human rights safeguards, including human rights impact assessments, must be a regular part of policy development and implementation in this field. Such assessments, should, as well, be undertaken in advance of the conclusion of trade and investment agreements. In this way, sustainable development strategies both

conform to, and benefit from, the rule of law. The “rule of law” is a concept at the very heart of the United Nation’s mission. It refers to 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 norms and standards—including human rights law. Sustainable human development is facilitated by a strong rule of law. The provision and implementation of stable and predictable legal frameworks helps to ensure public participation, to protect the rights and interests of less powerful parties, to provide for peaceful settlement of disputes, to foster investor and donor confidence, and to provide fair regulation and “rules of the game. Member States should place a renewed focus on the rule of law to foster enabling environments for equitable and socially and environmentally sustainable economic growth.

(6) *The role and rights of women in sustainable development.* Women are key actors for development in their communities, and must be empowered to contribute and to use the law to uphold their interests, including by fully participating in rule of law institutions. Policies that support gender equality in access, use and control over science and technology, formal and informal education and training will enhance a nation’s capability in development, disaster reduction, mitigation and adaptation to climate change. All sustainable development policies and decisions need to actively promote women’s rights and gender equality. Sex-disaggregated data, women’s participation, gender-sensitive policies and program guidelines are essential. Member States should resolve to repeal discriminatory legislation, and to adopt appropriate legal frameworks to prevent discrimination against women in this field. States should resolve to put in place and fully implement land and property governance systems that effectively protect the economic, social and cultural rights of women, and their equal rights to land and property, including through succession and inheritance. Governments should actively work to remove all obstacles to services that women face, and to put in place positive measures to enhance access to these services.

## **B. Conclusion**

The struggle to advance sustainable development and, to that end, to develop a green economy, is of direct relevance to the *full range of internationally guaranteed human rights*, not least, the human right to *food*, to *water and sanitation*, to *education*, to *health*, to adequate *housing*, and to *participation in public affairs*. For the United Nations, such matters are neither aspirational nor optional, neither mere subjects of charity nor matters to be deferred to nature or markets. Rather, they are human rights, carrying with them legal obligations that bind governments, and, indeed, define the central objectives of legitimate governance: securing freedom from fear and want for all, without discrimination. Only a green economy directed to those goals, will meet the expectations of “*the peoples of the United Nations*” for the 21<sup>st</sup> century, and beyond.

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