



HUMAN RIGHTS & DEVELOPMENT

10|12 2021 INTERNATIONAL CONFERENCE

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Rémy RIOUX

Chief Executive Officer, AFD

PREAMBLE

The Human Rights and Development Conference, organised by AFD on 10 December 2021, provided an opportunity to reaffirm our deeply held commitment to humanist and democratic values, which have been part of AFD's DNA since its creation. Created by General Charles de Gaulle in 1941, the Caisse Centrale de la France Libre [Central Fund for Free France] was born out of a movement of resistance and struggle for freedom and human rights.

This reaffirmation comes at a crucial time when very many observers and rapporteurs have alerted us to the erosion of democracies and the retreat of human rights in many regions of the world, including Europe. The situation in Ukraine is one of the most shocking examples of this: just when we thought that peace and democracy had been achieved on our continent, this war has reminded us, in the bleakest possible way, that basic democratic principles are not eternal. It is a constant struggle to preserve them, one that requires collective awareness of their inherent fragility.

In addition to these direct threats are other, equally urgent threats. The consequences of climate change are impeding the enjoyment of human rights. In fact, global warming has introduced the concept of climate injustice and caused us to consider extending rights to all living beings.

As many of the panellists said at the conference on Human Rights Day, development and human rights issues have been dealt with in isolation for far too long. We have believed, perhaps, that democracy and respect for human rights have existed outside the economic, social and environmental conditions from which they have emerged. The focus now is on reconnecting them, from the bottom up, and to "create opportunities for a collective debate on humanity so as to find the balance", to quote Yacouba Kébé, who worked on developing the Forum on African Humanities.

In 2015, the Sustainable Development Goals laid the foundations for this new paradigm, one in which respect for human rights would no longer be a consequence or a precondition, but rather an integral part of sustainable development. Like human rights, the Sustainable Development Goals are universal and indivisible. They spur us on to work together to find the universal in what are often individual contexts. On 10 December 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, proclaiming it to be "a common standard of achievement for all peoples and all nations". This message of a *world in common* has become AFD's maxim. It is in this context that the human rights-based approach has become an explicit mandate of AFD Group: first, through the assumption of the interministerial Human Rights and Development Strategy at the end of 2018; and second, by the adoption of the Programming Act of 4 August 2021 on inclusive development and combatting global inequalities. Through this Act, the Sustainable Development Goals have become AFD's guiding compass, while the promotion of human rights and democracy has been defined as one of AFD's core objectives.

The French President's announcement of the creation of an innovation fund for democracy in Africa on 16 February 2022 – in the wake of the New Africa-France Summit held in Montpellier in October 2021 – is part of the new French momentum to promote the human rights-based approach. More than just another channel of financing, this fund will constitute a testing ground for democratic innovations in Africa, with a view to building solutions tailored to context-specific features and linked to development trajectories.

Building on this momentum and also on our own experience in this domain, the Human Rights and Development Conference signals our desire to make the realisation of human rights a strategic and structural focus for AFD Group. I would once again like to express my gratitude to the almost 30 panellists for the richness and quality of their contributions, which set the tone for the conference and which we present in this report. Associations, researchers, heads of national institutions, representatives of international organisations and human rights leagues and federations – all shared their experiences and insights with regard to human rights and development issues.

We must continue to strive for closer links between our communities and coalitions of development actors and human rights activists. We must continue our interactions, reflections and joint projects to meet our common ambitions for sustainable development and human rights and to achieve the Sustainable Development Goals that bind us all together.



1948, Adoption of the Universal Declaration of Human Rights (UDHR) by the UN.



Farid LAMARA

Human Development Expert, AFD

& Sarah HAYES

Human Rights Expert, AFD

The 2030 Agenda for Sustainable Development constituted a genuine breakthrough for development actors by making human rights the backbone of the Sustainable Development Goals. Ninety per cent of the targets of the Goals correspond to obligations enshrined in international human rights treaties. In a global context of major social and environmental upheaval, development actors, whose very raison d'être is the realisation of the Goals, thus have a very important role and responsibility to champion – loudly and clearly – this human rights-based approach to development.

The United Nations has been promoting this approach to international cooperation since 2003, and the approach has gradually been taken up by a growing number of development actors, including the European Union and a number of its Member States. The human rights-based approach to development is founded on the idea that development contributes to the realisation of human rights by creating the conditions for the effective enjoyment of such rights. At the same time, the respect for and realisation of these rights are key to achieving truly sustainable development. Thus, the respect for and realisation of human rights are at once the means and the end goal of sustainable development.

In operational terms, the human rights-based approach to development is guided by two principles. The first is a preventative principle aimed at ensuring that projects funded by development actors do not undermine human rights. The second is a proactive principle that involves embedding the advancement of human rights into the purpose of projects. To this end, it is necessary to support and monitor States, the main duty bearers of legal obligations on human rights, to ensure that they fulfil their duties, as well as to strengthen the capacities of rights holders to assert their rights. In this context, a project's target audience moves beyond the status of recipients or beneficiaries to become actors and rights holders.

Many observers note, moreover, that the realisation of human rights is intrinsically linked to reducing inequalities. A section, sometimes even a large majority, of the population in emerging and developing countries bears the brunt of all forms of inequality: vertical inequality, i.e. that concerning income and wealth; and horizontal inequality, or inequality of opportunity in terms of status, life expectancy or living space, for example. These inequalities confine people to vulnerable situations that not only violate their rights but also hinder their ability to assert these rights. This is the case with gender inequality in particular. The human rights-based approach therefore also raises the question of how to focus the actions of development actors to encourage the advancement of human rights and reduce multidimensional inequalities.

While a growing number of development actors are incorporating and promoting the human rights-based approach to development, there remain few forums where they can share their respective experiences and discuss the challenges faced and the solutions developed in the implementation of this approach. In this context, and as the universality of human rights is being increasingly challenged all around the world, AFD Group resolved to bring together development actors from all sides on the occasion of Human Rights Day to launch a collective debate on these issues. Representatives of sovereign counterparties, development banks, civil society organisations, universities, multilateral organisations, technical cooperation agencies and public institutions, the majority of them from the Global South (Botswana, Brazil, Chile, Colombia, Fiji, India, Mali, Morocco, South Africa and Tunisia), were able to share their insights and recommendations with a view to increasing the ambition of development actors on these issues.

As the first international conference to bring together a very diverse range of actors on the theme of human rights in connection with the international development agenda, the event enabled such issues to be seen in a new light. All participants pointed out the regression of human rights and the erosion of democracies around the world, and underlined the urgent need for action on human rights as the cornerstone of sustainable development. They also raised the alarm about the consequences of climate change, environmental destruction and the collapse of the living world for the enjoyment of human rights.

Nevertheless, the conference showed that solutions do exist and underscored the fact that development actors have multiple avenues of action open to them in this area, irrespective of the sector of intervention. Although not every subject could be addressed on the day, the speakers were still able to cover a broad range of issues. Following an overview of the changing human rights agenda with respect to development issues, both in emerging and developing countries, the speakers sought to deconstruct issues of relativism in order to highlight the added value of the human rights-based approach to development. Far from being a constraint, the international human rights framework provides innovative solutions to complex problems.

The various contributions emphasised civil society's key role and the importance of its participation in drafting public policies in order to make policy choices informed by the ultimate beneficiaries thereof. While underscoring the universality and indivisibility of human rights, the contributions stressed, in particular, the importance of the respect for and promotion of the rights of children, women and migrants, freedom of expression and freedom of the media, and access to quality basic services.



The effective implementation of multinational companies' duty of vigilance and their necessary contribution to reducing poverty and inequalities were also highlighted during the discussions. Several courses of action were put forward by speakers through which development actors could contribute.

The conference also emphasised the value of research to support, guide and facilitate action on human rights by the development community.

Lastly, a specific session was devoted to exploring the manner in which the international community could contribute to the just transition, including by breaking away from an anthropocentric vision of human rights in order to strengthen the link to the rights of nature. Going beyond conventional approaches to economic, social, cultural, civil and political rights, the conference developed a future agenda on the rights-based approach, one that incorporates environmental rights and ecological issues. Indeed, it has been shown that the erosion of human rights around the world is largely being driven by climate change, ecosystem degradation and the collapse of the natural world. This series of challenges must be taken into consideration in order to create a new continuum that bridges the gap between human rights and the rights of nature, laying the foundations for a new, truly sustainable development model for all living things.



OPENING



Philippe JAHSHAN

Director of Strategy, Foresight and Official Relations Department, AFD

Good morning, everyone.

This conference, which is devoted to human rights and development issues, is the first of its kind for Agence Française de Développement (AFD). Several factors prompted us to organise it. First and foremost is the fact that respect for fundamental rights has been declining globally for a number of years, fuelled in particular by endemic conflicts, chronic humanitarian crises, deepening inequalities, rising poverty owing to the current pandemic and the growing threats of climate change and the deterioration of biodiversity; this has put a strain not only on human rights but also on the rights of living beings more generally.

In this context, France has made strong commitments, adopting a human rights and development strategy and incorporating the promotion of human rights as a key priority of its development policy in the law adopted on 4 August 2021¹. The subject was also at the heart of the discussions at the New Africa-France Summit in Montpeller. In addition, **at a time when we at AFD Group are also starting to think about our next strategy for the 2023-2027 period, it seemed to us that it would be interesting to examine the relationship between human rights and sustainable development.**

To do this, we wanted to bring together the community of development actors from the Global North and South, Europe and the whole world, opening up a space for dialogue and exchanges of views, as well as stimulating a collective debate on the challenges of the human rights-based approach for the achievement of the Sustainable Development Goals. These actors – all of you here today, speakers and participants alike – represent public and parliamentary institutions, civil society organisations, development banks, technical cooperation agencies, the private sector and the world of research.

The programme for the day should enable us to discuss a broad range of topics linked to economic, social, cultural, civil and political rights, as well as to start a debate on the growing challenges to the right to a healthy environment and the rights of nature, given the enormous implications of the ecological crisis. The conference will also seek to delve into the evolving human rights agenda and examine the new approaches necessary to meet the challenges of the modern world. In particular, these concern the issues of the convergence of the human rights-based approach with approaches relating to the reduction of multidimensional inequality, as well as climate justice, the link between humans and non-humans, the collective rights of indigenous communities and the duty of vigilance. All of these key topics will be covered today, but they do not embrace all of the issues linked to the human rights agenda. It should, however, enable AFD to institute a new cycle, based on your insight, your analyses and your proposals of avenues for action.

¹ Law No. 2021-1031 of 4 August 2021 on programming solidarity-based development and combatting global inequalities.

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Delphine BORIONE

Ambassador for Human Rights, Ministry for Europe and Foreign Affairs, France

Dear friends, whether you are joining us in person or online,

I am deeply honoured to be opening this conference organised by our operator, AFD. Today, 10 December, is a highly symbolic day. Seventy-three years ago, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, signalling the universal recognition of fundamental rights and freedoms without any discrimination. The battle is far from over; now more than ever we must stay mobilised against the challenges facing these rights the world over and be humbly aware of the work still to be done. Indeed, the outlook is bleak. The situation of human rights globally is far from satisfactory; in fact, it is often quite grim. Increasing discrimination, inequalities and conflicts are contributing to undermining human rights, while the rise of conservative attitudes calls into question decades of progress on women's and girls' rights. Members of civil society and their organisations are increasingly encountering restrictions on their work; human rights defenders are facing growing repression in the form of threats, harassment and, more and more often, direct attacks. The response to the COVID-19 pandemic has also exacerbated the situation in many countries. Against this backdrop, we have a duty to not give in and to show our commitment and firmness wherever the universality of rights is under attack.

As France has emphasised on many occasions, respect for human rights and the achievement of the Sustainable Development Goals are inextricably linked. The 17 Goals, as set out in the 2030 Agenda for Sustainable Development, are fully consistent with the realisation of the fundamental rights of all individuals, as enshrined in the Universal Declaration of Human Rights and other related international instruments. Here, I would like to recall the words of the former Secretary-General of the United Nations: "We will not enjoy development without security, we will not enjoy security without development, and will not enjoy either without respect for human rights." This represents the heart of the nexus that inspires our vision and we should repeat it again and again in response to those who use the subject of development as a tool to call into question the individual, indivisible and universal nature of rights. Economic development can in no way be considered as a prerequisite for the realisation of those rights. Fundamental rights and freedoms are a condition for, not an obstacle to, sustainable development. It is these rights that contribute to the implementation of inclusive, sustainable development. France and its European partners are particularly sensitive to any attempt to undermine these principles, including at the United Nations.

On this day three years ago, France adopted its Human Rights and Development Strategy, coordinated by the Ministry for Europe and Foreign Affairs². The strategy has a twofold objective: on the one hand, to make France's development assistance and cooperation policy a lever for our diplomacy on the promotion of human rights; on the other hand, to refocus rights promotion at the heart of France's development action, in line with the New European Consensus on Development adopted by the European Union in June 2017. The strategy also sets out a methodological evolution in the operational procedures on development cooperation. It's a human rights-based approach that guides the drafting, implementation and evaluation of France's development policies and programmes. The strategy highlighted three watchwords: do no harm, involve beneficiaries in the design and monitoring of programmes, and have an optimal positive impact on human rights, with the aim of empowering every person to achieve sustainable development.

This approach is applied not only to the policies implemented by the Ministry for Europe and Foreign Affairs, but also to actions carried out by the operators under its supervision, such as AFD, whose action is fully in line with the framework defined by the Government. To achieve these objectives, an ambitious plan has been designed to facilitate the cross-cutting implementation of the human rights-based approach in all areas of French development cooperation. Four priorities have been defined:

First is human rights education, in particular for children, to ensure that all beneficiaries of development projects are able to exercise their rights. Second, support of and training for development actors, emphasising their role as a driving force in the realisation of human rights and sustainable development. Third, support for the effective implementation of the United Nations Universal Periodic Review and other similar regional mechanisms. And lastly, support for human rights defenders – key stakeholders in sustainable development – especially in the face of the shrinking space for civil society.

² French Ministry for Europe and Foreign Affairs [2019], Human Rights and Development: A Human Rights-Based Approach to Development Cooperation. https://www. diplomatie. gouv.fr/IMG/pdf/ droits_humains_fr_ cle04c451.pdf

Fundamental

freedoms are

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Source: ©PNUD https://www.facebook. com/PNUD/posts/ 5978823162158507? locale2=mk_MK&_rdr









On 4 August 2021, the law on programming solidarity-based development and combatting global inegualities, submitted by the French Minister for Europe and Foreign Affairs, was promulgated. Unanimously adopted by Parliament, this law sets out the objectives, framework. priorities and resources of French development policy. Among its objectives and thematic priorities, it reinforces the promotion and protection of human rights. In adopting this law, France reaffirmed the principle of the universality and indivisibility of rights and made an even greater commitment to: gender equality; access to sexual and reproductive rights; the universal decriminalisation of homosexuality; the fight against the death penalty; freedom of expression and information; freedom of religion or belief; and the realisation of economic, social and cultural rights. The law renews France's commitment in a world marked by the return and intensification of strategic competition between great powers, as well as the unrestrained use of violence, authoritarian regimes and, more generally, the undermining of fundamental rights and freedoms by far too many countries.

But we must not resign ourselves to pessimism nor discouragement. We will continue to tirelessly champion rights for development causes, with our diplomatic network mobilised on the ground every single day, in close cooperation with our operators, all our partners and civil society organisations. In this regard, I would like to pay tribute to the role of non-governmental organisations, the grassroots organisations who play a key role in local communities and who are essential partners to our embassies around the world.

It is only by working together and with all stakeholders, in cooperation and in synergy, that we can be effective. This is also evidenced by France's involvement in multilateral bodies and, in particular, in the Human Rights Council, as an elected Member State for the 2021-2023 period, signalling the responsibility borne by France when it comes to protecting and promoting human rights in the international sphere. In particular, we are championing three priority areas: first, **combatting inequalities**, in which the Generation Equality Forum has showcased our dedication to the rights of women and girls around the world; second, **the protection of fundamental freedoms**, and I would like to underline the prime importance of the information space and the freedom of the media in preserving democracy; and lastly, **the protection of human rights defenders** – and I am delighted that a new initiative of the French President will soon strengthen France's contribution to this struggle, in particular through a partnership between the French Ministry for Europe and Foreign Affairs, AFD and the Plateforme Droits de l'Homme.

To finish, I have no doubt that today's conference will be an opportunity for stimulating debate on the link between human rights and development, in particular to enable AFD to utilise even more efficiently the funds allocated by the French Ministry for Europe and Foreign Affairs, and to coordinate its action in the best possible way with all the policies and resources deployed by the State for this cause.





Yacouba KÉBÉ

Moderator, Journalist, Mali

Good morning, ladies and gentlemen.

Following that strong statement by the Ambassador for Human Rights, please allow me to tell you what an honour it is to have crossed the Sahel, the Sahara and the Mediterranean to take part in this conference, the first AFD meeting on a theme that, for me, is so crucial: human rights and development.

I must confess my anxiety, when asked by AFD to moderate part of this conference in Paris. This was despite the fact I was in Ségou, a city steeped in the history of Mali, where we understand the evolution of a concept that these days is very dear to the African continent. This is a concept that we call *maaya* in the Bambara language and *ubuntu* in Swahili. Adama Samassékou, a former government minister in Mali, attempted to translate *ubuntu* and, in doing so, coined a new term: "humanitude". The only definition I can offer, taking my cue from Mr. Samassékou, of course, is that it means our unconditional relationship with the Other. I am because you are. From this perspective, concepts such as global solidarity and human dignity are obvious. That said, what is obvious in Ségou may not be so in Santiago, Paris, New Delhi or even in Tunisia. So how can we reconcile these viewpoints? How can we jointly create the pathways towards a shared human rights-based approach to development? How can we create the best possible synergies in order to achieve the Sustainable Development Goals, while first ensuring peoples' natural right to the pursuit of happiness?

Mandé Charter / Kouroukan Fouga. The world's first

constitution. Source: https://michaelhudson.com/2016/07/ financially-approvedfinanced-history/

Mali

Source: © MINUSMA/ Sophie Ravier https://news.un.org/fr/ story/2019/09/1051132





As you can imagine, it is not for me, a man in his thirties, to enlighten the experts. Even AFD, which has just celebrated its eightieth anniversary, understands that it is only through sharing experiences that we will be able to take the first steps towards an answer. That is why, on the occasion of Human Rights Day, AFD and its partners have set us the challenge of tackling and questioning the concepts – general, specific, old and new – that provide a framework for our understanding of these universal, indivisible and inalienable rights. From the Cyrus Cylinder to the Universal Declaration of Human Rights, via the Charter of Kouroukan Fouga and even the United States Declaration of Independence, we have come to understand that human rights are not fixed, neither in time nor in space. It is up to us to continuously create opportunities for a collective debate on humanity so as to find a balance. That is what this conference on human rights and development is all about.



Cylinder of Cyrus – British Museum, London. Source: https://commons.wikimedia.org/w/index.

php?search=cylindre+cyrus&title=Special:MediaSearch&go=Go&type=image

Excerpt from the cylinder of Cyrus. Source: https://commons.wikimedia.org/ w/index.php?curid=18462115





Michelle BACHELET

United Nations High Commissioner for Human Rights

Greetings to all of you, and my thanks to the Agence Française de Développement for putting together this important meeting.

This is a time of escalating inequalities, with dramatic setbacks to achievement of environmental commitments and the Sustainable Development Goals, accompanied by rising conflicts and severe social tensions. We badly need to forge strong new bonds between the full range of stakeholders, in every region, for action that is effective because it is based on shared and tested principles.

Inequalities have fuelled the pandemic – and in turn, the pandemic is driving greater increases in inequalities. Over 100 million people have been pushed into extreme poverty. More than 2.3 billion people are living in conditions of food insecurity. And within this context of increasing suffering, women; low-income and informal workers; young people; and members of ethnic and religious minorities and indigenous peoples have been the hardest hit. In other words, the pandemic is creating even greater age, gender and racial inequalities.

I am also particularly concerned about the pandemic's devastating impacts on children's rights. After school closures and economic recession, many of the poorest children may never return to education – which could perpetuate generational inequalities for years to come.

Debt is also sharply reducing many countries' ability to act. Globally, over half of least developed and low-income countries are in, or approaching, intense debt distress³. Factors include unprecedented capital flight; plunging commodity prices; and decreased revenues from taxes, tourism and remittances. We are already seeing that high debt service payments are crowding out investment in rights – such as health, social protection, a clean, healthy and sustainable environment, and education – that are essential to sustainable recovery. A recent study⁴ indicates that social spending reductions are likely in 83 out of 189 countries by 2023 – potentially affecting the human rights of 2.3 billion people.

We need to change the economic approaches that have produced these unbearable social costs, tearing apart the fabric of our societies and amplifying mistrust towards institutions. We have seen that investing in rights – for example, health, education and social protection – produces strong benefits for the economy and society. It is time to act on that knowledge. To recover from the biggest development setback in our lifetime, we need an economy that is people- and planet-centred and which works for everyone.

³ International Monetary Fund [2021], Fiscal Monitor Database of Country Fiscal Measures in Response to the COVID-19 Pandemic, Washington DC. https://www.imf.org/ en/Topics/imf-and covid19/Fiscal-Policies-Databasein-Response-to-COVID-19

⁴ https://doi.org/ 10.1111/1758-5899.13028



Human rights law – including gender equality, the rights to health, education and social protection, and the right to a clean, healthy and sustainable environment – They guide us to expand fiscal space by taking action to stem corruption and by emphasising more redistributive and socially fair taxation. They lead us to abandon chronic underfunding of essential services and prioritise universal health care, social protection, quality education and other human rights. They lead us to new policies of transparency, accountability, justice and dialogue that broaden the civic space, leading to more free and meaningful participation and unlocking public trust.

This is not just a job for States. The private sector, international finance institutions and all other development actors are essential to advancing this more resilient and For businesses, in line with the UN Guiding Principles on Business and Human Rights, human rights due diligence – all along the supply chain – should be used to address risks generated by global challenges and shape relevant responses. I take this opportunity to acknowledge France's Duty of Vigilance law of 24 March 2017 – to date, the most far-reaching legislation to address the need for effective measures to prevent human rights risks throughout supply chains.

I also want to emphasise the need for development banks to direct their financing to support for human rights – including the right to a clean, healthy and sustainable environment – with robust human rights impact assessments. In this context, I commend the Finance in Common initiative – headquartered at the Agence Française de Développement – which groups more than 500 development banks and other stakeholders in an effort to drive principled development projects.



UN Secretary-General Antonio Guterres has committed all UN bodies to advance Our Common Agenda, a broad-based framework, anchored in human rights, that will advance human development, and a renewed social contract, in equality and inclusion. This is the way ahead – to a world that is more resilient, more fair, more respectful of rights and more equal.

Source: ©UN Photo/Cia Pak https://morocco.un.org/fr/143864-notre-programme-communrapport-du-secretaire-general





Chiara ADAMO

Acting Head for Human Development, Migration, Governance and Peace Directorate, European Commission

Human rights are at the heart of the 2030 Agenda for Sustainable Development.

I would like to thank AFD for this invitation.

I would like to thank AFD for this invitation. It is an honour for me to be with you in France for Human Rights Day. As noted in Ms. Bachelet's speech, **human rights are** fundamental and must be strengthened. Indeed, "*all human beings are born free and equal in dignity and rights*" is the first article of the Universal Declaration of Human Rights. If you think about it, it is also **at the heart of the 2030 Agenda for Sustainable Development**, and this shows that we need a human rights-based economic recovery from the pandemic. It also demonstrates that achieving human rights is an imperative for human dignity and a cornerstone of sustainable development.

In this context, international partnerships are essential. The European Union wishes to project at a global level what it and its Member States stand for. From the outset of the pandemic, we recognised its socioeconomic consequences and highlighted the threats to human rights and democracy. I think it is important to underline that the pandemic is heightening pre-existing inequalities and is putting severe pressure on all democracies.

Ms. Bachelet outlined the enormous challenges that we must address with regard to the right to education, the right to health, and economic inequalities. These challenges are a severe test to our democracies. Last year, for the first time in a decade, according to international standards and indices, there were more autocracies than democracies. We are seeing similar trends in terms of the growing number of countries in which the fundamental freedoms, including freedom of expression is heightening, association and assembly, are in retreat.

So what should we do? I would like to highlight three avenues of action. First, we need to respond with greater impact. We must change the scale of the aid we provide to partner countries and civil society organisations in order to cushion the impact of the COVID-19 pandemic. We have the means at our disposal. Our external budget of 60 billion euros, available through the Global Europe instrument, is aimed at leveraging funding from public and private sources to strengthen the health and economic recovery. Yesterday, the President of the European Commission, Ms. von der Leyen, announced the adoption of a new, bold thematic programme for democracy amounting to 1.5 billion euros. The programme aims to promote the universality of human rights, inclusive democracies and freedom of the press and to protect human rights defenders. This is similar to the priorities outlined by the Ambassador, Delphine Borione, and reflects the European Union's action plan on human rights and democracy.



Programme DIZA (Inclusive development programme in host areas in southern and eastern Chad) launched by AFD and the European Union. Source : ©HANAÏ Vidéo & Média (AFD)

We launched a new operational approach called "Team Europe". We will fail if we do not work together.



Of course, programmes and policies need to be aligned. Moreover, discussions have been held with a number of partner countries around the world, two thirds of which have helped us select democratic governance in the broad sense as the priority for intervention for geographic programmes in the years to come; these priorities include access to justice, the rule of law and combatting corruption.

We can do more – we have the resources – but we will fail if we do not work together. We must work in cooperation. At the start of the pandemic, **we launched a new operational approach called Team Europe, because these challenges are global and on such a scale that we cannot act alone**; we need to increase our impact, coordination and cooperation. I am very grateful to France for being part of our Team Europe initiative on democracy, and to all the development finance institutions and agencies that have come together to address these challenges.

Second, we must ensure an inclusive and participatory approach. A successful forum was held this week, jointly organised with the Human Rights and Democracy Network, and attended by more than 700 participants, some of whose organisations are here today. The take-home message for me was "don't do anything for us without us": we must all work together. It might seem banal, but it is absolutely essential. That is what we need to commit to doing together, in a systematic way. We have started in this respect and put the approach into operation with our delegations on the ground. We are making sure that every action we take involves civil society partners, women's organisations and youth structures. Involving young people is particularly important as the youth inspire us to implement change. In this regard, we are developing a bold youth plan for external action for 2022.

The third and final point is that it is essential to ensure a recovery for all. It is about making sure that we have a human rights-based approach to what we do. We must take into account the indigenous people of the Amazon who are the guardians of our climate and environment. We must combat the upsurge in intimidation, harassment



and killings of indigenous people, in particular women. It is also important to mention the limitations on sexual and reproductive rights. In particular, lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) persons face serious difficulties when it comes to accessing healthcare in the context of the pandemic.

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We need to reduce these structural inequalities. In 2017, the European Council for Development made a political commitment for us – the European Union and its Member States – to adopt a human rightsbased approach to development. I salute the work of France in this regard. This year, the European Union has updated its human rights-based approach toolbox. It is now a legal obligation for us to apply it, as it features in the Global Europe instrument, which constitutes the framework of our financial programmes.

This toolbox is designed to provide practical tools and examples from the field for those who work in different regions around the world, with the aim of helping them apply the human rights-based approach throughout the project cycle, from project design to evaluation. The method is based on five principles, namely respecting rights, promoting inclusion and participation, ensuring non-discrimination and equality, as well as transparency and accountability. That may seem quite abstract, but these principles are broken down in a very practical way. I invite you to visit our website and continue the exchange of good practices, as we have done here today, and as we do regularly in Brussels.

In addition, **intersectionality is a key element of the new European human rights-based approach to development**. It is also part and parcel of the new European Union action plan on gender equality (GAP III), which we adopted a year ago. This involves taking into account individuals in all their diversity and addressing all forms of discrimination, obstacles and barriers that people face in different situations. We must understand the structural causes of these types of discrimination and how they manifest. I wanted to underline the importance of that issue – which is now integrated into our quality review process for projects and programmes.

Lastly, we need to be able to measure the results, not just pay lip service to them. It is important to develop robust indicators. I am delighted that we are working with AFD on an innovative inequality marker, with a view to better understanding and evaluating our work to address rising inequalities. This will enable us to define, identify and assess to what extent our actions will be of benefit to the poorest individuals and households. This last example illustrates the need for us to continue working together, as Team Europe, to address these challenges.

Intersectionality is / a key element of the new European human rights-based approach to development.





Florence LAUFER

Director of Prison Insider, Vice-President of Plateforme Droits de l'Homme

Good morning, ladies and gentlemen, colleagues, participants joining us online.

I am delighted to be here; it is a great honour to participate in the opening of this unique conference. I am speaking today largely in my role as the Vice-President of Plateforme Droits de l'Homme (PDH), but I am also the Director of Prison Insider, an information platform on prisons around the world. The objective of this latter organisation is to provide and compare information and share testimonials on prisoners' conditions of detention. This is an often-forgotten facet of inequality, but the subject is close to our hearts. Prison Insider runs a website⁵, available in English, French and Spanish, through which it documents prisons in great detail. I would encourage you to visit it.

PDH is a collective of French non-governmental organisations (NGOs) working internationally to promote and defend human rights. It was created in 2017 by 12 NGOs, and its main objective is to increase the collective momentum and effectiveness of civil society organisations working in the field of human rights. Our activity is thus at the heart of the call to work together, as we have already discussed this morning. PDH currently has 26 members and is growing rapidly. AFD supported the initiative right from the start, and this support has been recently confirmed with a second phase of the project. The objectives of this second phase are to ensure the long-term governance and internal operations of the platform, continue strengthening the work of civil society members and support advocacy and visibility work in all its diversity. PDH's 26 members are involved in a wide variety of initiatives. They work in the areas of civil and political rights, combatting the death penalty, slavery and torture, promoting gender equality and the rights of LGBTQI persons, freedom of expression, freedom of the media, the rights of detained persons, migration, asylum and sport, to name but a few. The partnership between AFD and PDH has demonstrated mutual interests at various levels. including through specific joint initiatives such as the training programme put in place by Human Dignity to create training modules on development and human rights. Also of note in this sense is the ongoing development of a project to support human rights defenders.

There is, of course, strength in numbers, but above all it is complementarity between parties that can produce a real change. It is a matter of unity in diversity, and that is a subject that PDH sees on a daily basis. Among our members, some engage primarily in advocacy, while others do not use it at all; some combine human rights and development, while others focus solely on human rights. Some work discreetly in the field;

⁵ www.prisoninsider.com/en.



others, by contrast, devote their work to public information. In this way, PDH's commitment to human rights is truly multifaceted. We see it every day: the universality of our agenda applies equally to the Global North and South, without division or unilaterality of labour. Moreover, many of PDH's civil society members have governance systems that go beyond French borders. This is the case, for example, with the International Federation of Action by Christians for the Abolition of Torture (FIACAT), the Tournons La Page movement and the International Federation for Human Rights (FIDH), among others. This contributes to the exchanges and mutual learning that have taken place at PDH and enables a form of continuous questioning and self-evaluation and a kind of progress that is built on the interplay between the various modes of action.

This diversity is complex and evolving. That is why PDH's work must be inclusive, first and foremost. Inclusiveness is clearly reflected in the attention we pay to internal democracy and to our ability to reflect on our working languages. When I say "languages", I mean language as a tool that enables us to know if we are talking about the same thing and in which direction we are going, and technical language, namely the language of development, the language of advocacy, the language of litigation and the language of awareness-raising and public information. There is sometimes the risk that incomprehension may divide us or give us the impression that we are not exactly working for the same thing. Our endeavour at PDH is to ensure that we have a common goal, a common agenda. This is certainly a very complex task; the challenges we face are enormous and we have few resources. It is therefore crucial to bring together all our multiple areas of action in order to move forward.





Ahmed GALAI

Nobel Peace Prize laureate, President of Solidarité Laïque Méditerranée

Good morning, dear friends.

Thank you, Yacouba, for dispelling the gloom this morning – 10 December, our Human Rights Day – with the concept of *ubuntu*, or humanitude. Introducing humanitude into this AFD conference is a good starting point.

As a defender of both Tunisian and universal human rights, it is a great honour and a pleasure for me to be here at the heart of the issue of development and human rights. I particularly welcome the presence of a plethora of stakeholders from all sectors – government actors, international agencies, human rights activists – as the challenge of development can only be fully achieved in a concerted and participatory manner. I also welcome the relevance of the choice of theme, given the global context you have mentioned, a context disrupted by social and economic crises, by wars and the pandemic. It reminds me of the Uighur legend, according to which a bull, borne over the water by a turtle, holds up the Earth and the Heavens by one of its horns. When the bull tires, he changes the horn holding up the Earth, resulting in earthquakes. I think that the bull must now be very tired and that, together, we must calm him, while the turtle that carries him aloft has found itself in polluted, murky waters. This is the image that springs to mind to illustrate what is at stake this morning.

We are indeed witnessing an alarming regression of all human rights, be they civil, political, social, economic or cultural. All these rights are enshrined in the International Bill of Human Rights, which all Governments have signed; unfortunately, it is the case that these rights are not applied. There is a very worrying regression in human rights. The impact of underdevelopment on the human rights of populations is obvious and disastrous, and these populations have already been made vulnerable by crises. Malnutrition, water shortages and impaired access to the law, health and education make it difficult, if not impossible, to exercise other rights, including the right to development. Every international report, including those by the United Nations Development Programme (UNDP), AFD and many other stakeholders, have sounded the alarm. The inequalities between developed countries and poor countries, and even within those countries, continue to grow.

Here is a poignant example that has affected me personally. Let us imagine two children who were born in 2000, one in a developed country, the other in an underdeveloped country. After turning 20, the first has a 50 per cent chance of being engaged in studies; the second risks dying before even reaching that age, given that 17 per cent of children in this category die before the age of 20. This example crystallises the





Demonstration in Tunisia (2021). Source: © Hasan Mrad (Groupe Eyepix).

> humanitarian crisis – a crisis against humanity, against *ubuntu*. Development is also a paradox. The 500 richest people in the world have a combined income that is higher than that of the poorest 416 million people. And here's another worrying statistic: 600 million people live in extreme poverty, and some 262 million children are not in school. Just imagine what the future would look like if we continue down this path. These are the figures, but there is also a will. The North-South divide is a clear obstacle to development.

> These social and economic inequalities are being dangerously compounded by the constraints of climate change, which are also forcing people into displacement and impoverishment. The tragic consequences of the pandemic on marginalised communities, the forced displacement of millions of people fleeing war and poverty, the authoritarian excesses of despotic regimes, as well as populist and demagogic discourse all constitute a serious threat to democracy and the rule of law, the social link, and human rights defenders. The escalation of these inequalities and violations is an outrage to our human dignity, to our conscience as free men and women. It is a flagrant denial of the universality, indivisibility and inalienability of human rights.

If the Sustainable Development Goals are not achieved, it will be because they are disconnected from human rights. The lack of a link between development strategy and the human rights-based approach has even masked inequalities and hindered development. The unbridled neoliberalism blithely promoted by the international financial sphere imposes structural adjustment plans that sometimes involve binding clauses in agreements without due regard to their social cost. We experienced that in Tunisia with the bread riots of January 1984. Riots and social upheaval are sometimes the product of a poorly managed drive for development that has had an adverse impact on the rights of communities and that, ultimately, has exacerbated poverty, led to insecure employment and increased the public debt. In Tunisia, the public debt amounts

The unbridled neoliberalism imposes structural adjustment plans without due regard to their social cost.



to 81.5 per cent of GDP. That is a heavy burden for a country to bear. Nevertheless, all developing countries are suffering from this public debt issue because of these structural plans, which has sometimes triggered riots all over the world. Such popular uprisings destabilise regimes and exacerbate human rights violations.

The solution is right there. If this approach has led to disaster, **we need to break away from the purely economic and technical concept of development**. We need to refocus on development with a more humanist approach. That is why I am glad of this conference, because AFD and the European bodies are replacing, reinforcing and refocusing the target for a human rights-based approach. Such a connection between development and human rights would promote balanced and integrated growth and would contribute to maintaining the strong link between peace and security. This would allow the enjoyment of all rights by all people, as enshrined in the International Bill of Human Rights, that is, the Universal Declaration of Human Rights, the seventy-third anniversary of which we are marking today, together with the two international covenants on civil, political, economic, social and cultural rights, as well as other conventions relating to women's and children's rights, and combatting torture. Unfortunately, we see no traces in real life of this common foundation of humanity that has been agreed, signed and adopted by almost every country in the world.



The Multi-Stakeholder Concerted Program "Let's Be Active" is a capacity building program for Tunisian and French civil society organizations which aims at reducing inequalities in access to rights. Source: https://activesactifs.org/fr/



Yes, the right to development is a human right.

I am delighted by AFD's move to strengthen the rights-based approach and to consider development as a human right. In fact, the right to development was recognised as a human right by the Declaration on the Right to Development of 1986, which, sadly, is non-binding. This is a weakness, because it is a beautiful declaration on the link between development and human rights; it was adopted by the United Nations, but has served to highlight the problem of the effectiveness of a law or, in this instance, a signed declaration. I would like to see this declaration elevated to the status of a binding convention on States, so that they must follow their triple responsibility to recognise, protect and implement this right. Yes, the right to development is a human right. Its aim is to ensure a decent life for all and it includes the legitimate right of everyone to a fair share of the world's economic well-being. This third-generation right is not just the sum of the rights in the International Bill of Human Rights, it is the very essence of those rights, because it strengthens them and increases their value. "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development [...]"6.

This approach calls for the root causes of poverty, inequality and conflicts to be addressed. It contributes to promoting progress that excludes no one, so that all persons and peoples can live in freedom, equality and dignity. The right to development as a human right is profoundly linked to the right of peoples to reject domination and the right of indigenous peoples to exercise full sovereignty over their natural riches. Of course, such an approach calls for the free and full participation of the communities and populations concerned in all development projects and activities as well as for the effective and strong involvement of the civil society that supports these populations. This is in order to ensure economic recovery while respecting international human rights standards and to achieve economic, social and environmental justice.

All stakeholders – and this is also the strength of this conference – must unite their efforts in a spirit of mutual respect, cooperation, participation and social accountability, with humans at the centre. This brings us back to *humanitas*, or humanitude. We are moving from *homo faber to homo sapiens* and now to *homo humanitas*. The human being is at the centre of development actions and is both actor and principal beneficiary. Everyone has the individual or collective right to participate in their community's development choices. This right must include women as a key factor for all development actions. The powers that be – political and public alike – must discharge their duties and responsibilities to promote social justice and ensure access to economic and social rights for all and enable everyone to take part in the development of society. This should be done while guaranteeing equal opportunities in terms of access to resources, education, health, food, housing, decent employment and the equitable distribution of income.

We are certainly all in favour of non-discriminatory, inclusive, participatory and responsible governance. There is a saying about peace that I will apply to human rights: "There is no path to human rights. Human rights are the path." To finish, I will also quote the well-known line uttered by Cassius in Julius Caesar. "The fault [...] is not in our stars, but in ourselves". It is therefore the responsibility of all – the actors here today and those elsewhere, be they civil or governmental, international bodies, communities or civil society – all of us, to make this world a better place. Another world is possible.

⁶ Declaration on the Right to Development, General Assembly resolution 41/128 of 4 December 1986, art. 1 (1).





Yacouba KÉBÉ

To summarise this opening session, I would use just one word: "commitment". Commitment as the common denominator to reclaim the human rights agenda and meet challenges; commitment as the driving force behind an irreversible momentum, despite changing contexts; and, lastly, commitment as an individual promise to play the role that we all have in order to support a society that respects human rights.





SESSION 1

HUMAN RIGHTS AND DEVELOPMENT: ISSUES AND PERSPECTIVES



HUMAN RIGHTS AND DEVELOPMENT: ISSUES AND PERSPECTIVES

In this first session, the general challenges and framework of human rights and development were set out from three specific, complementary angles. First, Achille Mbembé, a professor at the University of the Witwatersrand, highlighted the challenges of a human rights-based approach to development for emerging and developing countries. He spoke about the link between the realisation of human rights and the achievement of the Sustainable Development Goals (SDGs). This reflection also led him to deconstruct relativist tendencies vis-à-vis the universality of human rights and address the cross-cutting issues linked to the ecological crisis and the rights of nature.

Next, Alexandra Meierhans, project manager for the Rule of Law and Human Rights Global Programme of UNDP, shared her analysis of the issues affecting development actors. The development community is a veritable mosaic of stakeholders from the Global North and South, including civil society organisations, development banks, technical cooperation agencies, companies, academia, non-sovereign institutions and international organisations, who are all working towards the achievement of the Sustainable Development Goals. Given the link between human rights and the 2030 Agenda for Sustainable Development, these actors should, in theory, work towards aligning practices to integrate a human rights-based approach into their activities. However, the sheer diversity of the actors and the type and purpose of their activities make such alignment extremely difficult. Ms. Meierhans nevertheless highlighted the considerable capacity of each of these actors to contribute to the advancement of human rights.

Lastly, Olivier De Schutter, a professor at the University of Louvain and the United Nations Special Rapporteur on extreme poverty and human rights, spoke about the convergence of the human rights-based approach and the reducing inequalities approach to maximise the chances of achieving the Sustainable Development Goals. In this respect, he focused his analysis on how the human rights-based approach could provide added value in tackling inequalities, and vice versa, and made a number of recommendations for development actors.

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Achille MBEMBE

Professor at the University of the Witwatersrand, member of the Wits Institute for Social and Economic Research

We must continue to emphasise the fact that human rights are indeed something universal that we must continue to build together. Most speakers have justifiably stressed the universality of human rights. I think they have a point, and we must continue to refuse to consider human rights in relative terms. In other words, we must continue to emphasise the fact that human rights are indeed something universal that we must continue to build together. Why? Because, fundamentally, I think something can only become universal if we construct it together; it is the fact that we have built it in cooperation that makes it universal, valid in absolute terms, that is to say, beyond all conditions of time and space. It is important to insist on the universality of human rights for at least two reasons. The first is because it has not always been the case. In fact, I would say that there have always been exclusions inherent in the establishment of human rights. Exclusions originating from the great divisions that characterised the creation of nation States in the nineteenth and twentieth centuries, and even still today. It was not so long ago that slaves had no human rights, women had no human rights and neither did workers, and I am not even talking about colonised people. However, these major exclusions remain. One only has to look, for example, at the way modern States behave with regard to those persons who are in their territory but are not their nationals, and by that I mean migrants. Today, migrant status represents the most typical example of this fact, as echoed in the statement by Pope Francis during his visit to the Lesbos camp in Greece a few weeks ago. Thus, there is something that continues to give us pause for thought and still requires us to insist on the universality of human rights, because many are still excluded.

I am speaking from the African continent, where it seems to me that there is an urgent need to connect the recognition of fundamental rights with the constitution of a political order in which these rights provide access to citizenship – an open citizenship. This type of system is democracy, of course. It is very difficult to talk about human rights in any meaningful way if, at the same time, one disregards the need to support innovation for democracy, in particular in those regions of the world in which oppressive political systems are almost systematically destroying people's very livelihoods.

Second, I would like to suggest that, while the issue of human rights is obviously fundamental, perhaps now is the time to go beyond human rights and turn our attention to the rights of all living beings. The perfectly understandable term "human rights" is very much tied to a period in our common history, the history of humanity, when humanity itself was thought to be separate from other species. Now, our planet is growing ever smaller and revealing itself to be a finite system on the verge of reaching its limits. Certain people have experienced these limits – and the litany of extreme situations that they cause – before others. In many regions of the Global South and around the world, creating something living from the uninhabitable has been our condition

We must now extend these rights to all living beings. for centuries. What is new is that, today, we share with many others the ordeal of extreme conditions from which, in the future, we will not be able to protect ourselves with a wall, border, bubble or enclave. The reality of the contraction and swing towards the limits can not only be seen in the dizzying depletion of natural resources, fossil fuels and metals that serve to support the material infrastructure of our lives, but also in toxic form, in the water we drink and the air we breathe. It is also at work in the transformations affecting the biosphere. As a result, the indivisible relationship that unites the human species with other species can be seen as never before in the history of humanity, so much so that the issue of rights can no longer be solely confined to human rights. **We must now extend these rights to all living beings.** During our discussions today, we must lay the foundation for this demand to broaden the concept of rights to cover all living things.

Third, if indeed we agree that we must extend the concept of rights beyond human beings alone to include all living things, then this would have consequences for our understanding of what we call development. New forms of development should be conceived based on the concepts of care, the restoration of living environments, lands, habitats, knowledge and capacities. That means that development should be nothing more than the effort needed to achieve health, to protect those individuals and communities exposed to risk, in particular the risks of spreading a pathogenic environment that is characteristic of our time. It seems to me that this could help us renew our understanding of rights and place a greater emphasis than we currently do on the relationships with our living environments and with our inter-human connections, with all this considered within the fabric of the living world.



"New forms of development should be conceived based on the concepts of care, the restoration of living environments, lands, habitats, knowledge and capacities." Source: © sarayut (iStock)



Yacouba KÉBÉ

How do you perceive the triptych of democracy, development and human rights from the point of view of the historical connections with the countries of the Global South? Do you feel that this has been imposed on the Global South by Europe?

Achille MBEMBE

I emphasised the universality of human rights and the demand for democracy precisely because of that history. In my view, the European Union is still not convinced that support for democracy and human rights should be part of its strategic vision for Africa. No such statements are found in the budgets or financial instruments. There is currently no international consensus calling for human rights and democracy to be considered as common public goods. Development is wrongly perceived to be a purely technical and apolitical matter, but that is not the case. I have seen a demand for democracy and for the safeguarding of human rights in Africa; it is of endogenous origin, it is not something that has been imposed by exterior forces. It is a demand that emanates from societies themselves and that is increasingly being expressed in the defence of livelihoods because it is the very means of subsistence that are at risk. Thus, there is indeed a very strong link between democracy, development and human rights.



A woman votes in the Ugandan presidential election in Kampala. Source: © Jake Lyell (alamyimages)





Alexandra MEIERHANS

Project Manager for the Rule of Law and Human Rights Global Programme of UNDP

Global human development is set to decline for the first time since 1990. Innovative research carried out by UNDP and the Pardee Center for International Futures revealed that, by 2030, more than 1 billion people could be living in extreme poverty, with a quarter as a direct result of the pandemic. Like never before in recent history, the unprecedented threat posed by the pandemic has led many countries to limit human rights, exacerbating pre-existing inequalities. In 2020, more than 60 per cent of countries experienced a regression in terms of human rights as a result of measures taken to tackle the health crisis. Reprisals against human rights defenders continue to increase, with 331 defenders killed last year. Women faced more job losses than men, while lockdowns also contributed to an increase in domestic violence against women and girls – by as much as 30 per cent in some countries.

And yet, 82 countries now report having an independent national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) - a 17 per cent increase since 2015. In 2021, for the first time, the Human Rights Council recognised that having a clean, healthy and sustainable environment was a global human right. We are now starting to see citizens from all around the world invoking their constitutional rights to hold their Governments accountable in key areas like climate change. The United Nations promotes peace and security, sustainable development and human rights in an integrated manner. General Assembly resolutions, such as on the guadrennial comprehensive policy review (QCPR) from December 2021, have outlined the expectations of Member States, including that one of the operational activities for development of the United Nations development system is to support Member States to uphold their human rights obligations. The Secretary-General launched a call to action for human rights, convening the United Nations system to work on areas where it can make a difference and to reinforce the importance of placing human rights at the centre of its work. His report entitled "Our Common Agenda" underlines the need for a new multilateralism and an inclusive social contract, and recognises the many stakeholders involved.

While States have the primary responsibility to respect, protect and fulfil human rights, other actors play a growing role in the national and international human rights system, such as civil society, faith-based groups and the private sector. In recent years, several European States, such as Germany, Norway, the Netherlands and France, have adopted binding laws on the duty of vigilance with regard to human rights. The French Law on duty of vigilance, which was the first of its kind to have been adopted in 2017, and the Dutch Law on child labour due diligence show that there is a momentum to compel business to fulfil their obligations to carry out human rights due diligence in line with the United Nations Guiding Principles on Business and Human Rights. The

In 2021, for the first time, the Human Rights Council recognised that having a clean, healthy and sustainable environment was a global human right.





UN Human Rights Council in Geneva Source: © Elma Okic (ONU)

> implications of these laws for businesses will be significant, given the economic reach of the European Union and its market. Indeed, the European Union is itself developing legislation on the subject; however, the European Commission has postponed issuing its proposals until 2022, having already postponed it a first time in the spring of 2021. These delays indicate that, despite this momentum, there is divergence between stakeholders when it comes to understanding human rights due diligence and how to implement it in practice.

> We need to work specifically on supporting and strengthening national human rights systems to develop national capacities on the human rights-based approach. In a pragmatic manner, we need to focus on building these systems and the capacities of rights holders, including those who are left behind, in order to achieve the Sustainable Development Goals. At the beginning of the week, UNDP launched a regional tool in Latin America to analyse almost 1,500 human rights recommendations, including those arising from the universal periodic review process, in order to link them to the Sustainable Development Goals that Governments are working towards achieving. Increasingly, human rights mechanisms are providing advice to Governments on contemporary issues, such as the COVID-19 pandemic and climate change.

UNDP supports over 40 national human rights institutions, which are unique, independent public bodies that serve as a bridge between populations and the State to provide rights-based advice to Governments and policymakers. UNDP has been working with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Global Alliance of National Human Rights Institutions (GANHRI) to support national human rights institutions since 2011. It is also supporting the implementation of the United Nations Guiding Principles on Business and Human Rights in over 14 countries, helping States and companies to prevent, address and remedy human rights violations committed in the context of commercial operations.

UNDP has had a policy of integrating human rights into its programming since 1998 and signed up to the Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming in 2003. We took measures




to integrate this way of working into all UNDP procedures in the late 2000s, with specific capacity-building efforts which were synchronised with the wider efforts of the United Nations at that time to integrate human rights-based approaches into United Nations strategic, planning and programming documents at the country level. At the time, these documents were known as United Nations Development Assistance Frameworks and are now called United Nations Sustainable Development Cooperation Frameworks.

UNDP also took another important step towards integrating the human rights-based approach into its policies and its programming approaches by adopting social and environmental standards, which underpin our commitment to mainstream social and environmental sustainability and to place certain key principles at the centre of our work, including human rights. These standards strengthen the quality of our programming by ensuring the prevention of negative impacts on human rights and assuring the full and effective involvement of stakeholders, including through a complaints mechanism for persons affected by a project. UNDP was the first United Nations entity to put in place mandatory social and environmental standards and a corresponding compliance unit to deal with grievances. We are very proud of this innovative system. The social and environmental standards now form part of a model approach, which is currently being extended across the United Nations system.

In reflecting on what we have learned from integrating the human rights-based approach into our policy and programming design, I would like to mention three points. First, we need to measure what we cherish and put in place the internal structure to move us from rhetoric to reality. Social and environmental standards have enabled us to ensure that the human rights-based approach is an integral part of the United Nations' quality assurance and risk management approach to programming. By standardising the human rights-based approach in our programme design and methodologies, we are able to evaluate the extent to which our initiatives integrate a human rights-based approach, with an emphasis on how we incorporate human rights principles.

The second point is that we can strengthen the capacities of our partners. The social and environmental standards not only strengthen the capacities of UNDP to manage social and environmental risks, including on human rights, they also strengthen the capacities of our partners – Governments, stakeholders, civil society – who work with us to develop our projects. They are therefore required to implement these social and environmental standards, which contributes to strengthening their capacities in those areas.

The third point is that we must respond to evolving contexts and situations. The social and environmental standards were updated this year to integrate new, important elements, including on the rights of persons with disabilities, and to reflect the trends we are seeing, such as the situation of human rights defenders who may be facing reprisals. We will continue to answer the Secretary-General's call to action for human rights and to work with countries and communities to integrate those rights into every facet of our support. As we continue this work, we look forward to cooperating with development actors in order to deepen our approaches aimed at making a difference in people's lives.







How does UNDP manage to juggle the different development visions of its partners?

Alexandra MEIERHANS

At UNDP, we have developed a multidimensional approach to development. This is reflected in the human development index, which measures people's capabilities and not solely economic growth. Our concept of development never stops changing, and this has enabled us to adopt this multidimensional approach to development.

We are working with Governments and we need to work more closely with them to demonstrate the value of our approach. We need to explain why the human rights-based approach is essential for development in order to advocate sustainable solutions. The Sustainable Development Goals are based on the right to development; 90 per cent of the Goals correspond to our human rights obligations. I think we need to change our thinking on the human rights-based approach. It is not a compliance tool; it is a method for resolving complex problems. If we take the example of the pandemic, the international human rights law principles of non-discrimination and equality form part of the solution. Ensuring non-discriminatory access to vaccines is a global priority. We know that in highincome countries, 50 per cent of people have had at least the first dose of a vaccine, but that is not the case in poorer countries. The human rightsbased approach provides sustainable and viable solutions.



Source: ©cdc (pexels)



Olivier DE SCHUTTER

University of Louvain and the United Nations Special Rapporteur on extreme poverty and human rights

We are here today because we are all of the belief that development can no longer be thought of in the way it was 40 years ago. Economic growth can no longer be the be-all and end-all of the public policies we put in place to promote development, for three main reasons. The first is that the way development has so far been carried out is no longer environmentally sustainable. The second is that we have made public policy choices in the name of economic growth that have led us to an extractive, exclusive growth, destroying not only nature but also populations, for example by promoting trade and investment in an unsustainable manner, deregulating the world of work and facilitating the development of companies by creating a climate conducive to investment but to the detriment of their own accountability. Lastly, because the way in which we have driven growth has not involved people: it has been imposed on them, while trying to overcome the resistance it encountered.

The longer we live in unequal societies, the less likely we are to escape poverty and the conditions or circumstances of our birth. For 30 years now – I think that the first UNDP report in 1990 on human development was a watershed moment – we have been looking for a new way of thinking about development. The works of Amartya Sen have already been mentioned; the extension of capacities, the expansion of real freedoms, these set the course today, which is guided by the Sustainable Development Goals. How can human rights contribute to defining the way ahead? My first observation is that human rights have a direct link with the reduction of inequalities, which is absolutely key for all the Goals, not just Goal 10 which is explicitly about reducing inequalities. The first reason is that we will be unable to tackle poverty, and thus achieve Goal 1, if we do not reduce inequalities. Inequalities have taken on such proportions that they have become a genuine obstacle to social mobility in many countries. This has recently been demonstrated in The World Inequality Report by Lucas Chancel and Thomas Piketty. It is what economists call the Great Gatsby Curve. The curve shows the strong correlation between the growth in inequalities and the loss of social mobility. **The longer we live in unequal societies, the less likely we are to escape poverty and the conditions or circumstances of our birth.**

The second observation is that human rights are directly linked to the reduction of inequalities, which itself contributes to the reduction of environmental damage. In fact, inequalities contribute to environmental damage. In highly unequal societies, growth is not inclusive. It is therefore necessary to create more wealth to reduce poverty, and that requires placing a higher levy on resources. In highly unequal societies, the use of resources is prioritised to meet the expectations of individuals with high purchasing power, to the detriment of the basic needs of the poorest. The inequalities in this type of society can also give certain large economic stakeholders a right of veto within the political system, thereby reducing the opportunities for society to transform itself and make a success of the ecological transition. By reducing inequalities, human rights can contribute to development that is more sustainable and in line with the SDGs.

For several years now, however, certain authors have questioned whether human rights can effectively fulfil this role. One example is the success of the works of Samuel Moyn, a professor at Yale University, in particular his critique of human rights entitled *Not Enough*⁷. In it, he says that human rights facilitate neoliberalism and act as a prop for economic growth. According to Moyn, human rights are incapable of stopping the process of destruction of ecosystems and communities that has been encouraged by the quest for growth at all costs. I would like to challenge this theory and focus instead on the contributions made by human rights to the search for a much more sustainable form of development.

First of all, human rights oblige all States to guarantee a minimum of goods and services to all individuals – men, women and children – so that they can lead a decent life, including with regard to health, food, education and social security. Human rights require States to guarantee a basic minimum for all, irrespective of their level of development. In the doctrine of international human rights protection mechanisms, development is not a precondition for the guarantee of human rights. On the contrary, human rights are the ingredients for development and must therefore be taken into account by all States.

Second, human rights impose an obligation on States to achieve the progressive realisation of economic, social and cultural rights to the maximum of their available resources, as enshrined in the International Covenant on Economic, Social and Cultural Rights. This means that States must, in their resource mobilisation policies, including taxes, as well as in their budgetary policies for social investment in health, education and social security, progressively guarantee human rights for all. However, this can only be done by reducing inequalities through progressive taxation and a strengthening of social investment.

Third, human rights are increasingly being considered as prohibiting any discrimination based on social disadvantage. Indeed, the term appears in the French law of 24 June 2016 on combatting discrimination⁸. The international human rights treaties mention social conditions and property, which, in Spanish, is translated by the expression "posición económica". That is precisely what it is all about. Differences in treatment based on caste, class and wealth are sources of discrimination. The non-profit association ATD Quart Monde, with which I work, gives a voice to people living in poverty, who describe their experience of poverty not only in terms of a lack of income or financial security, but also by referring to the humiliations, institutional violence and discrimination that they face in all areas of life. In this context, human rights serve as a guarantee, even though only timid progress is being made towards recognition of the prohibition of all forms of discrimination based on social disadvantage or socioeconomic situation. This is an extremely promising development, in particular because it will oblige human rights protection mechanisms to evaluate whether the policies, projects and laws developed and implemented do not exacerbate inequalities but rather contribute to reducing them.



- ⁷ Moyn, Samuel [2018], Not Enough: Human Rights in an Unequal World. Cambridge, Massachusetts: The Belknap Press of Harvard University Press.
- ⁸ Law No. 2016-832 of 24 June 2016 on combatting discrimination based on social disadvantage.



Lastly, the fourth contribution of human rights is the right to participation, that is the right to participate in public affairs, as enshrined in the International Covenant on Civil and Political Rights. The right to participation is often neglected and is sometimes wrongly equated to the right to be consulted. It is, however, so much more than that. The right to participate in decision-making comes back to the right to decide jointly. In virtue of this right, governance should not be concentrated as though it were a solid power, passed from hand to hand, as if it were a sceptre; power should be fluid, distributed throughout society, shared and exercised collectively. The idea of partnership and of shared governance is central to human rights; it is not merely symbolic, because by giving people the power to choose, one can prevent power being seized by the economic elites. This would enable us to end the rentier State, in the words of the United Nations Conference on Trade and Development (UNCTAD), to ensure that the State is genuinely attentive to the expectations of its population. Joint decisions will enable informed choices from the perspective of people living in poverty. It should be underlined that, in this context, human rights are a constraint but that they can be productive in obliging us to be imaginative in order to respect them. Integrating human rights into development forces us to think beyond the dependencies and reflexes inherited from the 1980s.

"By reducing inequalities, human rights can contribute to development that is more sustainable and in line with the SDGs." Source: ©Adrian Catalin Lazar (iStock)

Power should be fluid, distributed throughout society, shared and exercised collectively.





A decade after the adoption of the United Nations Guiding Principles on **Business and** Human Rights, it is time to reimagine those principles so that companies not only respect human rights but also contribute to reducing inequalities and poverty.

Yacouba KÉBÉ

Is there any optimism about our capacity as an international community to reverse the current trend?

Olivier DE SCHUTTER

The trajectory is promising from a conceptual perspective. There is consensus with regard to the necessity to redefine development, a consensus largely shared in the development world. Two main challenges must, however, be overcome to translate that consensus into action. Global governance must be much less fragmented. As the United Nations Special Rapporteur on extreme poverty and human rights, I travel around the world to try to figure out what recommendations to make to States in order to ensure that they uphold the rights of people living in poverty. However, it is not unusual for the authorities that I am dealing with to tell me that the International Monetary Fund (IMF) has made recommendations that contradict the legislative changes I am recommending. The problem is that certain stakeholders do not feel obliged to invoke human rights and yet they work on matters such as social protection. This has been the case of the IMF since the financial crisis of 2008–2009. The concept of social protection used by the IMF is far removed from that promoted by the International Labour Organization (ILO).

Transnational companies represent the second challenge. Progress has been achieved thanks to the United Nations Guiding Principles on Business and Human Rights and the development of legislation on due diligence. Nevertheless, it is regrettable that the European Commission has, once again, stepped back in the face of an obstacle. The fact remains that globalisation remains a playing field for major companies that choose to put people to work in places where unions are less powerful or wages are lower, to pollute in places where environmental standards are less strict, to pay their taxes in tax havens where corporate taxation is at its lowest, even choosing when and where to declare their profits. With the instruments we currently have, we are not in a position to tame globalisation that is so dominated by these actors. A decade after the adoption of the United Nations Guiding Principles on Business and Human Rights, it is time to reimagine those principles so that companies not only respect human rights but also contribute to reducing inequalities and poverty. At the moment, companies do not feel at all obliged to contribute in that way. For now, this type of globalisation is still an obstacle to States, rather than an asset, owing to the fact that States compete against one another to attract investment and come up against actors whose main objective is not the realisation of human rights.

I am still relatively optimistic because I think the battle is being won, but ecosystem degradation has triggered a real sprint race. We are heading in the right direction, but we could lose the race if we do not go fast enough. Members of the public asked the panellists about the challenges posed by the absence of any binding instruments enshrining the link between human rights and development. Participants also raised the argument of sovereignty, which States have used to put criticism of the human rights situation into perspective. The importance of mobilising resources allocated specifically to cooperation on human rights was also highlighted.



Olivier DE SCHUTTER

These are legitimate questions because, essentially, unlike with international trade rules, violations of which can lead to economic sanctions, there are no such sanctions for States if they do not respect their human rights obligations. I think that Governments should be mindful that taking greater account of human rights, even without sanctions, can help to meet three imperatives: information, imagination and reputation. Regarding information, States that function as closed democracies or autocracies are States that make bad decisions because the dissatisfaction among the public does not reach the elites, closeted in their palaces, in their capital cities.

During my visit to Syria in September 2010, I observed that the northeastern region had suffered from a drought for the previous five or six years, forcing the inhabitants to leave for Damascus, Homs and Aleppo. The flow of refugees from Iraq was also driving an increase in rental costs and the collapse of public services. I shared this information with the Syrian Government at the end of my mission and they replied: "Don't worry, the situation is under control". They did not seem to be aware of the situation on the ground. I heard the same thing a month ago in Lebanon: "Ne vous en faites pas, la situation est sous contrôle". States that are not democratically organised so that the people can report their difficulties are States that are out of touch, that are unaware of reality or deny it, and that are less well equipped to govern.

As to the second imperative: imagination. Human rights are an obligation, but they force us to think beyond comfortable reflexes in order to develop mechanisms and policies to put us on the right path. The obligation to involve people can contribute to social innovations that could enable States to achieve the 17 Sustainable Development Goals. The Goals cannot be achieved through purely technocratic means and a top-down approach. **Involving the people enables Governments to be better informed about local contexts.**

Lastly comes the issue of reputation. In international relations, you cannot reproach others for failing to respect human rights if you are not credible in respecting them yourself. If a State wants to have any influence in international relations, then it must itself be beyond reproach. This explains the influence that the human rights protection mechanisms can have on States, as reputation is an extremely important asset for a State. Through these three channels, we can progressively convince States to take human rights as seriously as they ought to be taken.

Alexandra MEIERHANS

I think it is also crucial to evaluate and document the projects we implement using a human rights-based approach. It is about showing why this approach should be implemented and that it can produce results. These results should absolutely be measured and shared to demonstrate that this is a solution that works. At UNDP, we need to improve our measurement tools. Monitoring and evaluation are often difficult to do, but they give us a better awareness of our strategic plan. This recommendation applies to the international community so we can ensure that, when we are working with communities, we take into account the specific context and evaluate the impact of the project.







SESSION 2

HUMAN RIGHTS, PUBLIC POLICY, AND CIVIL SOCIETY



HUMAN RIGHTS, PUBLIC POLICY AND CIVIL SOCIETY

In this session, various actors took the floor to share their experiences and the challenges encountered with regard to ensuring the participation of all persons in the drafting and monitoring of public policies. This approach allows everyone to play a part in their own development.

Alice Mogwe, President of the International Federation for Human Rights, shared her perspective on civil society's critical role in ensuring the accountability of States in the implementation of their human rights obligations. She also discussed the importance of civic participation in contributing to sustainable development. Ms Mogwe took the opportunity to address the role of civil society in the context of the human rights-based approach, according to which people are no longer considered solely as beneficiaries but rather as rights holders, and are thus entitled to participate in and have an influence on public policies. She also touched on the fact that civil society is a key stakeholder in terms of observing the actions of States and remaining vigilant for potential abuses and risks of deviation. Ms Mogwe concluded her analysis by describing the challenges and threats currently faced by civil society in order to fulfil this role in the context of an ever-shrinking space for civil society and escalating number of crises around the world.

Next, Amina Bouayach, President of the National Human Rights Council (CNDH) of the Kingdom of Morocco, explained why national human rights institutions (NHRIs) are so vital to the achievement of the Sustainable Development Goals. NHRIs play an essential role as the interface between civil society and the State and constitute an important instrument of accountability with regard to States, their actions and the public policies that they undertake.

André-Franck Ahoyo, Executive Director of UIAfrica, shared his experience of children's right to civil registration, in accordance with the Convention on the Rights of the Child and target 16.9 of the Sustainable Development Goals, pursuant to which States are urged to provide legal identity for all, including birth registration by 2030. He drew attention to the indispensable nature of birth certificates for the enjoyment of other rights of the child, including the right to education. Mr Ahoyo also underscored the impact on sustainable development of hundreds of millions of children around the world having no civil status.

Cheikh Fall Mbaye, Organisation Adviser, General Secretariat of the Presidency of the Republic of Senegal, spoke about the lessons gleaned from his experience of facilitating civic participation in the drafting and monitoring of public policies in Senegal in a spirit of mutual cooperation. He provided an account of the collaborative process that had led to the co-design of Senegal's national action plan on open government. During his speech, he explained how civic participation can contribute to sustainable development and addressed the matter of citizens' entitlement to participate in public policies.

Lastly, Rituparna Chatterjee, a journalist and representative of Reporters Without Borders, stressed the fundamental importance of freedom of information and the media's role in achieving the Sustainable Development Goals. She also drew attention to the issue of the protection of journalists and described the dangers they face in carrying out their activities. Against this backdrop, Ms Chatterjee shared recommendations for development actors in order to solve these issues.





Alice MOGWE

President, International Federation for Human Rights

Human rights and development are interdependent and mutually reinforcing.

⁹ French Ministry for Europe and Foreign Affairs [2019], Human Rights and Development: A Human Rights-Based Approach to Development Cooperation. This presentation will, firstly, highlight the leading role played by civil society in ensuring States' accountability for the implementation of their human rights obligations and achievement of the Sustainable Development Goals by 2030. It will, secondly, highlight the challenges and threats civil society faces today in fulfilling this role in the context of the growing restriction of the space in which it operates. The perspective I will provide is based on the experiences and observations which FIDH (as a global movement, through its network of 192 local civil society member organisations defending and promoting human rights in 117 countries) has drawn.

Human rights and development are interdependent and mutually reinforcing. There cannot be any sustainable development without the voice of civil society. There cannot be human rights without the fight against injustice, poverty and inequalities. Yet, as I speak, recent 'foreign agent' laws in Russia, Nicaragua, Israel, Hungary and Poland, have been adopted, aimed at curbing the activities of associations, independent media outlets and civil society organisations, by depriving them of means, and through discrediting them. As I speak, across all regions of the world, popular uprisings and peaceful demonstrations of social movements (often feminist and youth social movements) have multiplied and repression against defenders has increased, particularly in cases where human rights defenders have demanded social, economic or environmental justice.

However, before explaining these challenges any further, a bit of history. Human rights and development go way back to 1945 after World War II, with the UN Charter setting an agenda based on human rights, with a view to promoting peace. In 1993, the Vienna World Conference recognised the interdependence and indivisibility of all human rights: civil and political rights (such as the right to information; to freedom of thought, conscience and religion; to expression; and to peaceful assembly and association) and economic, social and cultural rights (such as the right to education; to decent working conditions; the right to health; to social security; and to an adequate standard of living). A year before, in 1992, the Rio de Janeiro World Summit had emphasised that sustainable development is based on three interrelated pillars: economic, social and environmental. These two conferences were major milestones for they would soon lead to a movement to increasingly include the concept of "all human rights for all" as part of the development agenda. Since the late 1990s and early 2000s, the EU, international development agencies and bilateral donors have adopted policies entrenched in a human rights-based approach to development, with different rationales for working on human rights and sometimes integrating human rights through the controversial 'conditionality' tool. In 2018, France adopted a new aid policy specifically devoted to human rights and development⁹.



States (and, beyond them, their aid agencies) have the responsibility to create the enabling environment in which all people may enjoy all human rights What is the "rights-based approach" all about? As UNDP pointed out in 2000, "a human rights-based approach provides both a vision of what development should strive to achieve (to secure the freedom, well-being and dignity of all people everywhere), and a set of tools and essential references (human rights standards and principles) to achieve the vision. It is essentially based on the values, standards and principles captured in the UN Charter, the Universal Declaration of Human Rights and subsequent legally binding human rights conventions and treaties. A human rights-based approach to development is based on four key principles: universality and indivisibility of human rights; equality and non-discrimination; participation and inclusion ("leave no one behind"); and accountability based on the responsibilities of the State under international human rights law and the treaties ratified by the States. It translates people's needs into rights, recognising the human person as an actor of change and rights holder, and the State as the primary duty bearer. In this approach, all people have basic rights to which they are entitled, without discrimination. States (and, beyond them, their aid agencies) have the responsibility to create the enabling environment in which all people may enjoy all human rights. In this approach, State-citizen linkages are central, not only in the sector of governance or justice but also across all development sectors such as agriculture, water and sanitation, health, education, etc.

As you see, civil society plays an essential and multi-faceted role here. An active, vibrant and independent civil society is an essential driver for peaceful and inclusive societies, as recognised by Sustainable Development Goal 16. Civil society actors are legitimate actors of and for change. They participate in the shaping of public policies and law reform, to enhance human rights. Civil society is a key actor to monitor and document practices and progress regarding the implementation of the obligations of States, to respect, protect (against human rights abuses) and fulfil human rights, including in taking steps to achieve the full realisation of economic, social and cultural rights. Civil society participation in policy dialogue is essential. Civil society can play a meaningful role in calling decision-makers to act in favour of protecting human rights (by pushing for positive commitments, bills and laws which protect human rights) or towards the withdrawal, suspension and non-adoption of freedom-destroying, arbitrary and anti-democratic initiatives. As you recall, in October 2019, Chile was taken by surprise by the massive popular demonstrations on the streets against social inequalities and abuse of power. As a response, the country has embarked on a reform of its 1980 Constitution.

I would also like to highlight the power of feminist organisations and movements such as in Argentina and San Marino, pushing the agenda for the adoption of legal reforms in favour of sexual and reproductive rights.

Have there been any challenges? Yes, indeed, there have been. Across the world, particularly over the last decade, there has been backsliding of democratic gains as well as increased attacks on civil society in general and the human rights movement in particular. Checks and balances have been progressively undermined, human rights standards have been eroded; **the space for civil society has been dramatically shrinking, and, in some cases, has completely shrunk.** Repression specifically targets the media, students, activists and members of the political opposition. An extremely polarised political discourse has also contributed to building a narrative which supports violent extremism. The backsliding of democratic standards has recently accelerated in the wake of weakened multilateralism; the consolidation of new global powers;





The space for civil society has been dramatically shrinking, and, in some cases, has completely shrunk.

Source: © Michelle Guimarãe (pexels)

and organised corruption, in some cases at the highest levels of Government. In addition, the fight against the COVID-19 pandemic has been used by authoritarian States to increasingly adopt measures restricting freedoms and stifling voices which are critical of authoritarianism. Around the world, human rights defenders continue to be stigmatised, intimidated, threatened and subjected to multi-faceted repression - from judicial harassment to arbitrary arrest and detention. As civil society space has shrunk and laws restricting freedoms of expression, association and peaceful assembly multiplied, including under the guise of national security and counter-terrorism, state authorities legitimise the targeting of human rights defenders, by portraying them as "foreign agents", "threats to national security", "terrorists", "traitors", "enemies of the State" or "enemies of development". As a result, human rights defenders suffer the consequences of abuses of power. Some also pay the ultimate price - torture, disappearance or assassination - for pursuing their activities. The restrictions on freedom of assembly and association should be read against the backdrop of a weakening of both the rule of law and judicial independence, as well as a general lowering of human rights standards.

As I begin to conclude, I would like to share a few lessons learned in addressing these challenges and reaffirming the universality of human rights and human dignity. More than ever, civil society needs to demonstrate resilience and to fight back against repression. This can be done through various strategies and actions. These include: civil society influencing public policies; speaking out against violations of rights; increased engagement of the human rights movement with other civil society actors; enforcing rights through the judiciary; deploying innovative advocacy; countering negative narratives; and using the web and social networks to access new audiences and generate engagement. These should also include the protection of human rights defenders and organisations at risk in repressive environments.



There is a need to harness the power, strengthen the abilities and increase the influence of local civil society actors to call for the accountability of the States (and also aid agencies) and to transform societies. Free, informed and meaningful participation of civil society is key to the upholding of human rights.

It is essential to build alliances among civil society actors, organisations, as well as differently structured social movements; and to build a diverse and multi-stakeholder advocacy coalition consisting of human rights defenders, development activists, judges, lawyers, paralegals, parliamentarians, trade unionists, youth, women, social movements, to name a few.

The ability of civil society to claim and defend their rights requires an expansion of civil society space, for effective action to be possible. This requires that Governments provide an environment in which meaningful civil society engagement and multi-actor dialogue are possible and encouraged. For aid agencies and public development banks, this also means not restricting civil society space through rigid procedures aiming more at the prevention of money laundering and terrorism, than support of civil society.

In situations where dialogue between civil society and authorities is hampered or blocked, or where conflicts have been sparked and negative attitudes entrenched, the experience of FIDH demonstrates that change can be achieved by combining action inside the country with pressure and activation of relevant monitoring mechanisms from outside the country.

I now conclude by stressing the following: My personal commitment to human rights is rooted in the Botswana value of *botho*: the conviction that one's humanity is bound up with the humanity of each and every person in the world, that every person has the right to be treated with dignity. Solidarity among civil societies at national, regional and international levels is essential as civil society is at the forefront of the fight for the promotion of human rights, not only civil and political rights but also economic, social and cultural rights. Human rights defenders are the observers, the whistle-blowers and the watchdog of human rights. As we say at FIDH: keep your eyes open!

This requires that Governments provide an environment in which meaningful civil society engagement and multi-actor dialogue are possible and encouraged.





Amina BOUAYACH

President, National Human Rights Council (CNDH) of the Kingdom of Morocco

Hello everyone, and happy Human Rights Day.

I would like to share several thoughts with you, including on the approach to development taken by the National Human Rights Council (CNDH) of the Kingdom of Morocco.

An awareness of the interdependence and conditionality of human rights and development has come about as a result of a long process of maturation. This has included a political process that has been characterised by three key elements. The first is the predominance of ideological considerations in development-related discussions, in particular in the context of Cold War-era confrontations. The second is that the notion of development has often been reduced to its economic aspects and the concept of human rights to its normative aspects. The third is that the consideration of human rights in development strategies is something that has emerged gradually. We, as human rights defenders, focused on the purely legal aspects of human rights. That was until the third World Conference on Human Rights, held in Vienna in 1993, after which we took a more pragmatic view of development issues, going beyond technical assistance to promote a holistic approach to the rights of all persons. In this way, the emergence of the human rights-based approach has only been possible thanks to a twofold transition in the concepts of development and human rights.

The citizen is both the actor and the beneficiary of development.

Today, we are dealing with new development paradigms that are no longer narrowly defined in terms of growth or advances in economic indicators. There is an awareness that development is a comprehensive process – a process that is at once economic, political, social, cultural and environmental – that aims in particular at preserving the dignity of citizens, improving their well-being and quality of life and facilitating the development of the individual based on the fair and equitable sharing of wealth and benefits, which leads to economic growth. In this context, **the citizen is both the actor and the beneficiary of development**. Development should be evaluated from the perspective of non-economic factors. Comprehensive development necessarily involves an awakening of the individual and collective conscience. These processes cannot be decreed but are the result of public action, led by the citizen and aimed at human beings in general.

In this sense, the concept of sustainable development in which the emphasis is on the responsibility of human societies to live, and meet their needs, without compromising the capacity of future generations, does not just mark a paradigm shift in the way development is conceived, it also allows us to focus on the behaviour of men and women in terms of civic responsibility. That is to say, they are responsible for development and for developing: two different concepts.



Syrian refugee women during a training session organized by the NGOs Movement Social and Fair Trade Lebanon Source: © Benjamin Petit (AFD)

> In this context, I opt for public action that includes individuals and structured groups in the formulation of projects as beneficiaries, rather than the idea of the development of public policies. Public action must facilitate the necessary coordination between the various sectors responsible for development policy, while being careful not to limit itself merely to the legal or economic aspects. In this way, all aspects beyond the legal domain, such as social, cultural and environmental considerations can be contemplated. This is therefore a cross-cutting approach in which the rights of citizens are identified and taken into account in development plans.

> With this in mind, I would like to highlight the threat posed by the widespread use of artificial intelligence, including profiling, by States and businesses in decision making. Machine-learning technologies have a profound impact on human rights, including the right to a private life and the rights of expression, opinion, association and demonstration. Artificial intelligence may also lead to job losses. A number of studies have estimated that 47 per cent of jobs at high risk of automation could be taken over by machines by 2030. While this technology presents risks to human rights and development, it could also be a tool for development.

In summary, for me, development and human rights constitute an ongoing process of creativity and inclusiveness and specifically rely on the participation of citizens.



Yacouba KÉBÉ

You have long stressed the need for the public authorities to include civil society in development processes, and the role of NHRIs to that end. What conditions are required to ensure that the NHRIs can effectively fulfil this role?

Amina BOUAYACH

You have long stressed the need for the public authorities to include civil society in development processes, and the role of NHRIs to that end. What conditions are required to ensure that the NHRIs can effectively fulfil this role?

These national institutions are entitled to advise, or hold to account, the authorities, the executive and the parliament. The CNDH of Morocco is a mechanism for holding the executive and Parliament to account with regard to the respect for and guarantee of human rights. It also holds the Government to account with regard to the protection of victims of violations of rights. This mechanism of continuously and regularly holding the public authorities to account takes the form of recommendations, proposals and direct and indirect advocacy. This is reflected in our reports, in particular our annual report – an important assessment document – which is submitted to the Head of State and published in the Official Gazette of Morocco.

In terms of financing, the National Human Rights Council is allocated a budget by the State. Under the Paris Principles, States are required to provide these institutions with the necessary resources so that they can carry out their work in an independent manner. Our budget is listed in the Finance Act of Morocco under a clear heading, specifically attributed to the National Human Rights Council, and debated in Parliament. The President of the Council does not report to Parliament to be questioned about the Council's positions; these are independent of the political vision of the Parliament and the government majority.



André-Franck AHOYO

Executive Director of UIAfrica (Urgence Identité Afrique)

In Africa, and in particular sub-Saharan Africa, there is a lack of civil registration. We estimate that the births of at least 95 million children have not been declared. First, I would like to do a poll: among those of you here today, how many of you do not have a birth certificate? Everyone here has one. However, according to the United Nations Children's Fund (UNICEF), this is not the case for some 230 million children aged 0 to 5 around the world; right now, these children have no identity. In my view, given the pandemic we are going through, this estimate is on the low side. Job losses and lockdowns have prevented some parents from attending civil registry offices to register the birth of their children. Today, this lack of registration is highest in sub-Saharan Africa and South Asia. However, there has been a phenomenal leap in the birth registration rate in South Asia, rising from 23 per cent in 2000 to 70 per cent in 2013.

Civil status is the result of a written process to administratively identify the situation of a person within a family and within society. It is enshrined in international law: every child shall be registered immediately after birth. Thereafter, the civil registration of other statuses, such as marriage, divorce and death, mark the life of an individual and must be systematically registered.

However, we have observed that in Africa, and in particular sub-Saharan Africa, there is a lack of civil registration. We estimate that the births of at least 95 million children have not been declared. And yet, all international instruments since the Universal Declaration of Human Rights acknowledge that everyone has the right to recognition everywhere as a person before the law. Seventy-three years later, how is it that this basic human right, the right to exist and have an identity, is still subject to failures to the extent that millions of children are left without an identity? It is, nevertheless, a basic human right that determines the enjoyment of all other rights. Under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights, States are enjoined to put in place a universal, ongoing and compulsory birth registration procedure.

The problem lies in the consequences of the lack of registration in terms of access to rights and essential services, including education. Every year, children are prevented from pursuing their secondary education because they are unable to sit the national sixth-grade entrance examinations owing to their lack of legal status. At best, they are able to repeat the year; at worst, they are driven out of the school system. The educational wastage rates are phenomenal.



Against this backdrop, I would like to return to three points. First, it is important to remember that the realisation of the rights of the child is subordinate to the behaviour of parents and public and private professionals. They have a responsibility to protect and supervise the child. Failure to register a birth may be due to ignorance or can be the result of deliberate conduct. However, this can contribute to the early marriage of girls and affect the illiteracy rate. It has also been noted that the rate at which children are registered is at its highest when the mother has completed at least the secondary level of education. The conduct of all those who supervise children matters, whether they are traditional leaders, religious leaders or school teachers.

The second point is that national legislation in Africa frequently does not comply with the international conventions that countries have signed. In many African countries, the mother is not able to make a declaration for, or transmit her nationality to, her child, which can lead to statelessness. On another note, I concur with Ms Bouayach's analysis of artificial intelligence, a source of both inclusion and exclusion. In 2014, the African Union submitted the Convention on Cyber Security and Personal Data Protection to African States for signing. To date, only 14 African countries have signed it and eight have ratified it. Yet we can only make judicious use of this technology if we have the legal instruments in place to administer it. Data is, however, a crucial issue for facilitating public action.

The third and final point is the omnipresent and deep-rooted nature of violence against children. Children may be subjected to a vicious cycle of violence. They are the hardest hit by conflicts, intercommunal violence and extrajudicial executions; they are victims of both the security forces and terrorist groups. In addition, Africa has the highest child labour rate in the world, at 23 per cent.



"Every year, children are prevented from pursuing their secondary education [...] due to the lack of legal status" Source: @Didier Gentilhomme (AFD)



Yacouba KÉBÉ

To address these situations, should we be raising awareness among parents so that they register their children or should we be strengthening support for States to facilitate the decentralisation of digital tools for the registration of births?

André Franck AHOYO

A three-pronged approach must be taken. The first element is the State, because civil status is a prerogative of the State. A strong political will is needed to address the scourge that is the lack of civil registration. Approaching decentralisation in a more structured way is one method of ensuring that the authorities can reach out to the people. The second element that I want to mention is education. We need to teach children from primary school age that birth registration is compulsory: it is a universal right. The third element, in my view, is technology, which can be a powerful driving force. In India, the Aadhaar programme has enabled the issue of unique identification numbers to more than a billion people living in the country. We can learn from that. However, technology should not be considered as a totem.



Young Indian woman smiling with her Aadhaar card. Source: © Soumen Hazra (Dreamstime)





Cheikh FALL MBAYE

Organisation Adviser, General Secretariat of the Presidency of the Republic of Senegal

It is essential for civil society to participate in the formulation and implementation of public policies as well as in the follow-up of their evaluations. In Senegal, we have been working with civil society, including in the framework of the Open Government Partnership and the national committee of the Extractive Industries Transparency Initiative (EITI). This has proved to be quite easy because we have been working on rather fertile soil. We have a tradition of dialogue in Senegal: the "discussion tree" is African, of course, but more than that it is something typically Senegalese. A culture of dialogue and tole-rance is particularly evident in Senegal, a 95 per cent Muslim country that has been led by a Christian president for 20 years.

Strengthened by this heritage, we have a highly organised and engaged civil society that is very active around the country. As part of the formulation of the "Emerging Senegal" plan, our framework for the implementation of the country's economic and social policies, one of the central themes – on governance, peace, security and institutions – has been entrusted to civil society. The other two themes are: structuring the economic model, in other words the structural transformation; and the development of human capital. As the coordinator of the first theme, civil society produces an annual assessment report, which is shared with the public authorities.

With the support of AFD, we have also formulated Senegal's first plan of action for open government, following our endorsement of the Open Government Partnership. This process was conducted by a joint national committee in which the collective dynamic brought together civil society and the authorities on an equal footing, as has also been the case with the national committee of the Extractive Industries Transparency Initiative. Our latest Validation gave us a very high score of 93 out of 100 for implementing the EITI Standard, thanks to the effective, very dynamic participation of civil society.

In reality, there are different levels of participation. For it to be effective from the start, information has to be shared. It is absolutely necessary that people have access to information on public policies so as to ensure quality participation. Information is, for us, the foundation for participation. The people also need to be involved; we are working on that, but we are not successful everywhere, all of the time. We are holding an increasing number of national dialogues that go beyond mere consultation and guarantee that points of view are taken into account.

Information is, for us, the foundation for participation.



Civil society is likewise represented in decision-making bodies. Until 2016, Senegal scored very badly on budgetary transparency according to international standards. To address this, we have put in place a multi-stakeholder framework to monitor the budget in which civil society is represented alongside the Office of the President, the Parliament, the Court of Auditors and local authorities. Within this framework, we hold budgetary analysis sessions, as well as capacity-building meetings. These meetings have enabled us to put an end to the dialogue of the deaf between civil society and the authorities concerning budgetary processes and the definition of priorities with regard to public policies.

Challenges remain, particularly with regard to budget transparency. I am of the opinion that the participation of civil society should be institutionalised in certain domains. We have launched a process of institutionalising budget transparency, but we need to go even further. For example, civil society actors are able to participate in the budgetary debate when it concerns local authorities, but not when it comes to the national budget. That is why we scored so low on public participation in the most recent Open Budget Survey; simply put, there are stages of the national budgetary process in which civil society is not permitted to participate.

Lastly, the need for mutual trust between civil society actors and the authorities must be emphasised. Over the past five years, I have witnessed this trust in Senegal in my capacity as the Director of the Promotion of Good Governance. This has led me to facilitate a number of multi-stakeholder dialogue frameworks. I think the trust is there because we made it clear that the parties' views would be taken into account in decision making.

Brainstorming in the framework of the Open Government Support Program in Francophone Africa. Source: © CFI (AFD)



Yacouba KÉBÉ

People do not always feel represented by civil society in the countries of Africa. How can we ensure the legitimacy of the civil society that you call on to be a stakeholder in defining public policies?

Cheikh FALL MBAYE

The issue of the legitimacy and representativeness of these organisations is relevant indeed. In the case of Senegal, we have endeavoured to use information from the Ministry of the Interior, which is developing a national database, combined with data from the field. Thus, when it came to choosing civil society representatives for the national committee on the Open Government Partnership, we took account of both this administrative information and field data. The third step was to engage with civil society organisations. In terms of legitimacy, the member organisations of the committee are primarily umbrella organisations.





Rituparna CHATTERJEE

Journalist, Reporters Without Borders

Hello everyone.

I am happy to be participating in this meeting with colleagues from different backgrounds. Today, I am representing Reporters Without Borders, a network active all around the world. I am from India, a highly diverse, multicultural country, which, over the past seven years, has witnessed the rise of a right-wing, even extreme right-wing, Government. This has had consequences for journalists working on the ground.

The regulations that have been promulgated over the past few years have had an impact on online media, demonstrating that private ownership of these media in India is vital. **The close links that exist between the media and the State have a major impact on journalists.** India is ranked 142nd on the World Press Freedom Index. This is the result of Governments adopting draconian laws that jeopardise journalists' freedom.

The freedom of the press is of vital importance for the enjoyment and strengthening of human rights. A free press is absolutely necessary to guarantee a functioning and efficient democracy. What is more, it underpins the exercise of other human rights set out in the Sustainable Development Goals and contributes to achieving these Goals by helping to increase State accountability through media reporting, for example in cases of corruption. I am from a region of the world where journalists have been brutalised and killed by the "sand mafia" for exposing their acts of corruption. Freedom of the press enables journalists to provide free information and, in particular, to document and denounce human rights violations.

Nevertheless, journalists are under constant surveillance. In India, the profiling of journalists may be based on several factors, such as race, religion or caste. I would like to draw attention to the situation in Kashmir and Afghanistan to illustrate other obstacles that my colleagues face, and point out that the right to an equitable Internet is essential for safeguarding the freedom of the press. Access to the Internet was blocked in Kashmir in 2019 and 2020, preventing my colleagues from telling the world what was happening there. Afghan journalists are also subject to intense pressure and are directly threatened by the Taliban to prevent them from fulfilling their duties, particularly when it comes to denouncing human rights violations.

The close links that exist between the media and the State have a major impact on journalists. "The freedom of the press is of vital importance for the enjoyment and strengthening of human rights". Source: © Brett Sayles (pexels)



COLLEAGUES UNDER FIRE

- Siddique Kappan
- Mandeep Punia
- Patricia Mukhim
- Swarna Jha
- Vinod Jose
- Aasif Sultan
- Shujaat Bukhari
- Masrat Zahra
- Danish Siddiqui
- · Zhang Zhan
- Danny Fenster
- Malalai Maiwand
- Miroslava Breach
- Nawras al-Nuaimi

Rajdeo Ranjan

- Akhilesh Pratap
- Buddhinath Jha
- Rana Ayyub
- Neha Dixit
- Kishorechandra Wangkhem
- Nouf Abdulaziz al-Jerawi
- Nassima al-Sada
- Eman al-Nafjan
- Gauri Lankesh
- Mohamed Monir
- Saleh al-Shehi
- Ruhollah Zam
- Samriddi Sakunia

Every name you see on the list is that of a journalist who has been targeted because of their atheism or religion, or because they have covered a war or anti-government protests.

To take my country as an example, journalists who covered the communal riots and who exposed acts committed by the Government have been directly attacked on the Internet, and some have been imprisoned. Governments are increasingly using weaponised legal devices to threaten journalists in this type of situation, including by arguing that security issues are at stake.



Lastly, a word about freedom of information, as affirmed by target 16.10 of the Sustainable Development Goals. This, of course, is a fundamental freedom, and it is the duty of journalists to ensure that the public can access information. It is also a prerequisite for the freedom of the press. One of the means of limiting the freedom of journalists is restricting access to data, be it by the law, cutting off the Internet or setting up online surveillance as an instrument of intimidation. And yet, access to data allows for the implementation of optimised public policies. For example, if we do not know how many people are infected with COVID-19, how do we tackle the pandemic?

Yacouba KÉBÉ

Do you consider that being a journalist is a dangerous profession nowadays?

Rituparna CHATTERJEE

It is indeed dangerous: the figures speak for themselves. Let me remind you that **50 journalists were killed around the world in 2020, and more than a thousand over the past decade. Women journalists, journalists of colour and from vulnerable castes are particularly affected owing to these intersectional threats. But we have several recommendations to address these problems. Reporters Without Borders is also campaigning for the creation of a Special Representative of the United Nations Secretary General for the Safety of Journalists, with a view to resolving the issue of impunity and ensuring greater transparency on the situation of detained journalists so that they can be freed.**



Source: (pexels-fox)









DUTY OF VIGILANCE: ACHIEVEMENTS, ROOM FOR IMPROVEMENT AND AMBITIONS

This session, moderated by Elin Wrzoncki, of the Danish Institute for Human Rights, focused on examining the main lessons learned and the good practices identified with regard to the duty of vigilance and its inclusion in development projects and programmes, in accordance with the human rights-based approach. The session provided an opportunity to discuss issues linked to the implementation of the United Nations Guiding Principles on Business and Human Rights, taking into account current debates surrounding a proposed European directive on corporate social responsibility, as well as the negotiations under way regarding an international treaty on business and human rights. The discussion did not focus solely on the private sector. It also covered the implementation of the due diligence principle by public financial institutions and public development banks, both in terms of their operational policies and the projects they finance.

The opening statement by Axel Marx, Deputy Director at the Leuven Centre for Global Governance Studies at KU Leuven University, served to present the state of progress on these issues and the challenges they pose for development actors. Dominique Potier, a French parliamentarian, shared his point of view on the objectives and challenges of the French Law on duty of vigilance. He also addressed the issue of cooperation between parliamentarians of the Global North and South, in line with the implementation of the United Nations Guiding Principles. As part of this round table, the floor was then given to Kristin Sjöblom, representative of SwedFund, who recounted her organisation's experience of implementing the duty of vigilance within its operations. She also outlined certain actions launched as part of the Association of European Development Finance Institutions (EDFI). Clifton Cortez, Global Adviser on Sexual Orientation and Gender Identity at the World Bank, gave an overview of the method and tools developed by the World Bank for integrating the "do no harm" principle into its operations, with a view to preventing all forms of discrimination based on sexual orientation and gender identity. Lastly, Anaïs Schill, responsible for business and human rights at the National Consultative Commission on Human Rights and member of the Plateforme Droits de l'Homme, brought to the debate a perspective on the role of civil society and national human rights institution (NHRIs) vis-à-vis the implementation of the corporate duty of vigilance. She also shared her recommendations for operationalising these principles within the activities of development actors.



Elin WRZONCKI

Director of the Human Rights and Business Department, Danish Institute for Human Rights

France's cooperation approach to human rights-based development incorporates the "do no harm" principle in development policies, in particular when private actors are involved in their implementation. This principle thus reflects the duty of vigilance or due diligence enshrined in the United Nations Guiding Principles on Business and Human Rights. It requires that companies identify, avoid and remedy any negative human rights impacts with which they are involved.

The United Nations Guiding Principles also provide that States should encourage, even demand, human rights due diligence on the part of development bodies and companies receiving support for their projects. This is especially important with regard to the Sustainable Development Goals, as private actors are at the heart of efforts to achieve them. Axel, this year we are celebrating the tenth anniversary of the adoption of the United Nations Guiding Principles on Business and Human Rights. Could you describe for us the evolution of the concepts relating to the duty of vigilance and the challenges still to be overcome in this regard?



THE DANISH INSTITUTE FOR HUMAN RIGHTS



Axel MARX

Deputy Director at the Leuven Centre for Global Governance Studies, University of KU Leuven

Thank you for inviting me to speak about recent developments concerning corporate due diligence at this very interesting and highly topical conference.

I will try to set the scene and introduce some of the key developments. I will structure my talk around three components. First, I will say a few words on the importance of the private sector and human rights concerns related to the private sector, then I'll focus on the developments related to due diligence. I will end with some reflections related to due diligence which can feed into the discussion on room for improvement and ambitions.

The importance of the private sector in development cooperation has long been recognised. Probably the most prominent recognition of the relevance of the private sector for international development was put forward in the 2030 Agenda and the Sustainable Development Goals. The SDG framework makes clear that the goals and targets cannot be achieved alone by Governments but that they need to be achieved in partnership with, among others, the private sector.

The importance of the private sector in development cooperation and in discussions on a human-rights based approach to development cooperation was also made clear in a European Commission document published in June this year on "Applying the Human Rights-Based Approach to international partnerships". It notes and I quote: "While the private sector is not a duty-bearer nor a rights-holder, they can play an instrumental role in respecting, protecting and remedying rights".

So the private sector and companies are important players in the context of development cooperation and human rights protection.

However, we also know that the private sector is linked to human rights concerns. The Rana Plaza disaster is one often cited example. There was also the fire in a clothing factory in Karachi, Pakistan, owned by a subcontractor of KiK, a German textile discount retailer, which killed 250 workers. According to sources, the high number of victims in this case was due to the inadequate health and safety conditions in the factory; there was a failure to comply with basic health and safety regulations. Other much reported cases include the oil spill incidents by Royal Dutch Shell in the Niger Delta. Or the case of the Swedish company Boliden for knowingly dumping toxic waste in Arica which led to serious health issues.

While the private sector is not a dutybearer nor a rights-holder, they can play an instrumental role in respecting, protecting and remedying rights.



"We know that the private sector is linked to human rights concerns. The Rana Plaza disaster is one often cited example." Source: © ZUMA Press Inc. (alamyimages)

These are just some of the more well-known examples of human rights violations by companies. More generally, there are many reports which highlight systematic human and labour rights violations related to forced labour, child labour, health and safety issues, etc.

Many initiatives have been developed to address these concerns. They aim, on a voluntary basis, to change business conduct and behaviour to address possible human rights concerns. Early approaches included the idea of some kind of due diligence and developed guidelines on which companies could focus in their own internal procedures to address environmental, human rights and labour rights concerns. Among the leading examples are the OECD Guidelines for Multinational Enterprises, first adopted in 1976 and updated in 2011. Another prominent example are the United Nations Guiding Principles on Business and Human Rights adopted in 2011. These approaches aim to provide guidelines to private, and also public, companies to address human rights concerns in their own operations and value chain.

However, in the last decade these voluntary approaches have been criticised for not delivering fully; significant concerns remain over the human rights impacts of business activities. One of the reasons for these concerns is the uneven and limited uptake of these voluntary guidelines. As a result, a majority of companies do not implement the guidelines. A recent study, in preparation for a possible EU regulation on mandatory human rights due diligence, prepared for the European Commission, showed that only 37.14 per cent of companies surveyed declared that they had due diligence procedures in place to limit the negative impacts of their activities on human rights, and only 16 per cent of them on the entire value chain¹⁰.

As a result, an increasing number of initiatives have been developed to make due diligence more mandatory for companies.

¹⁰ European Commission [2020], Study on due diligence requirements through the supply chain, Luxembourg: Publication office of the European Union, p.48.



What is human rights due diligence? Due diligence is a process that companies should undertake to identify, prevent and possibly remedy their actual and potential adverse impact on human rights. When an adverse impact cannot be avoided, due diligence processes also aim to mitigate and remediate possible negative impacts. Due diligence focuses on the internal operations of a company as well as on its value/supply chain.

According to the OECD Guidelines, the concept of due diligence is characterised by an ongoing, responsive process. This process is defined by different steps. Initially, a company should embed responsible business conduct (RBC) policies, which take human rights risks into account. Secondly, it should preventively identify the areas of its operations and relationships where adverse human rights impacts are most likely to occur. Potential human rights impacts should be identified through interaction with impacted and potentially impacted rights holders, such as workers and groups that may have a heightened risk of vulnerability. Next, a company should assess the actual and potential adverse human rights impacts and should stop activities contributing to these impacts. It should also develop and implement plans to prevent future adverse impacts. Finally, a company should monitor and track the implementation and effectiveness of its activities on due diligence and publicly report on their due diligence policies, processes and activities.



Child working on a shipyard in Keraniganj, in Bangladesh Source: © Farid Ahmed (iStock) This due diligence approach is now being used in an increasing amount of so-called due diligence legislation and regulation. We observe an evolution of human rights due diligence legislation starting with early reporting requirements such as the California Transparency in Supply Chains Act in 2010, to the 2015 Modern Slavery Act (Transparency in Supply Chains) initiative in the UK and the recent German initiative this year.

Some of the most prominent and discussed regulations are the initiatives taken in The Netherlands, France and Germany.

The Dutch Child Labour Due Diligence Act of 2019 was developed in order to prevent goods and services brought into the Dutch market being produced using child labour. The law establishes a legal duty to exercise human rights due diligence. Hence, companies are required to investigate whether there is a reasonable suspicion that child labour was used in the production of the goods or services to be supplied. If a suspicion is confirmed, the company has to put an action plan in place to address the issue. The Act applies to all companies selling goods and supplying services to Dutch consumers, regardless of where they are incorporated or registered. Furthermore, the Act applies to all types of companies, large and small.

In 2017, France adopted the French Law on duty of vigilance. The law imposes a legal obligation on companies to undertake vigilance measures to identify risks and prevent serious violations of human rights and fundamental freedoms as well as to identify, prevent and address environmental issues in their own activities and supply chains. Compared to the Dutch law, the scope of application of the French due diligence legislation is more limited in terms of the number of firms covered. The law applies to companies with a specific legal form under French company law, known as "sociétés anonymes", which are incorporated or registered in France for two consecutive fiscal years and employ at least 5,000 people in France (either directly or through their French subsidiaries), or at least 10,000 worldwide (through their subsidiaries located in France and abroad).

Finally, the Act on Corporate Due Diligence Obligations in Supply Chains is the German due diligence legislation that will enter into force in 2023. The Act generally applies to German-registered enterprises with at least 3,000 employees in Germany and abroad, regardless of their legal form. The law creates an obligation for these enterprises to prevent or minimise risks and end any violations of current obligations relating to human rights and the environment. Non-compliance with this law can lead to fines.

In addition to these instances of legislation, human rights due diligence also features in current debates in the European Commission. The Commission plans to launch a regulatory initiative on mandatory human rights due diligence in the future. Although this initiative has been announced, it is currently on hold. Due diligence also features in the debates on a possible binding Treaty on Business and Human Rights; the current draft includes due diligence in its Article 6 on preventing human rights abuses.

Some of the most prominent and discussed regulations are the initiatives taken in The Netherlands, France and Germany.


These developments clearly show the "institutionalisation" and "legalisation" of mandatory human rights due diligence. This might result in more companies taking action and this action being more effective, in this way contributing to better human rights protection. As most initiatives are recent in nature, we know little about the effects of such regulations and how they can be improved. This will be a topic of research in the near future.

To end, let me raise some of the possible concerns which are sometimes voiced. First, from a private sector perspective, there are clearly many new initiatives which differ in terms of which companies are addressed, which human rights are concerned and the stringency of application. This leads to fragmentation and sometimes confusion especially for companies operating in many countries. This might limit effectiveness. It might also boost a more coordinated approach at international level. Here, however, care has to be taken that the approach at international level is not a lowest common denominator approach.

Second, and I think this is an important issue, is what I would call distributional effects or who carries the burden. Implementing human rights due diligence brings costs for large companies in Europe and the US, but also for actors down the supply chain, all the way to the farmers providing cocoa, coffee, etc. Who will bear these costs and what will the effects be? Will we exclude the poorest and most marginalised from our value chains because they cannot comply with human rights due diligence requirements? What role can development cooperation play here? Can support, training, etc. be offered to allow compliance with new due diligence requirements?



Potential human rights impacts should be identified through interaction with impacted and potentially impacted rights holders. Some developing countries consider that these laws are made without taking their points of view into account. Finally, how are these developments received in other countries? We see reactions where these initiatives are considered as an infringement on sovereignty, even as an imposition. The reactions of China on concerns about forced labour clearly show that not all Governments are open to their companies complying with these due diligence initiatives. More generally, some developing countries consider that these laws are made without taking their points of view into account. There are concerns about the costs and effects of mandatory human rights due diligence in developing countries.

In recent years, we have witnessed significant developments concerning mandatory human rights due diligence for companies and the private sector. The ambitions of some of these initiatives are high. Whether they will deliver remains to be seen. However, it is clear that we should consider the effects of such initiatives in developing countries. We need to reflect on what we could do about possible adverse effects.



Harvesting coffee cherries in Africa. © Bartosz Hadyniak Source: (iStock)



Dominique POTIER

Member of the National Assembly, France

Dominique Potier, you were involved in drafting the French Law on duty of vigilance. This law has inspired other countries to adopt legislation that, if not similar, at least has the same objective. How does this type of legislation in a multinational corporation's country of domicile have an influence on the enjoyment of human rights in developing countries?

Following on from the previous speaker, I would like to reiterate the innovative and, in particular, holistic nature of the French Law on duty of vigilance. The legislation is not focused solely on one theme, and that is because we are in the midst of a cultural revolution in which everything is connected, be it environmental matters, social issues, child labour, forced labour or the lack of security. The links between social and environmental issues, in particular, are well documented and widely known.

Initiatives in the United Kingdom and the Netherlands on child labour have been very positive, but what is innovative about the French law is that it has sought to cover all disorderly situations around the world and serve as an ethical compass. It should be pointed out that this law does not cover combatting corruption because that is dealt with under the "Sapin II" Law of 2016¹¹. I would categorise the French Law on duty of vigilance as a transboundary law: it crosses borders owing to its extraterritorial obligations. However, this is not a violation of sovereignty, but rather the fulfilment of multilateralism at its best, namely the United Nations Guiding Principles. After much discussion, deliberation and discernment, the wisdom of humanity has affirmed human rights as intangible founding principles, the implementation of which is a moral and legal obligation. The argument about violating sovereignty must therefore be refuted, otherwise the universality of human rights would be fundamentally undermined.

¹¹ Law No. 2016-1691 of 9 December 2016 on transparency, combatting corruption and modernising economic life. What is original about this law is that it lifts the corporate veil covering the enterprise, which has economic power, perhaps even political power if the company is considered to be a political actor. This political power is unlimited because the corporate veil obscures the assumption of responsibility. In this context, the French Law and the other national laws that share the same rationale have created a preventive system by making it compulsory for companies to formulate a vigilance plan. A system of legal penalties for damage caused by companies already existed. Under **the French Law on duty of**



National Assembly, Palais Bourbon (Paris). Source: © KovalenkovPetr (iStock)

The French Law on duty of vigilance allows for better linkages between prevention and compensation. **vigilance**, the lack of a preventive system constitutes an aggravating factor when determining a penalty, **allowing for better linkages between prevention and compensation**. I fully subscribe to this political philosophy in which the emphasis is on prevention, rather than on hunting for the guilty party in a globalised world.

This legislation is by no means a magic wand; many other measures will be needed in order to change globalisation. Nevertheless, it has the ability to generate law. Take, for example, the current boom in the use of child labour, in particular in the agrifood sector. If a multinational company wishes to continue operating without damaging its reputation, without fear of financial reparations, without causing accidents that affect its profitability, then it is in its interests to implement a vigilance plan that prevents child labour. It is not in its interests to do so in isolation, but to work with other actors in the same sector. This may also encourage host States to formulate legal provisions to guarantee children the right to attend school rather than work in the fields or in a factory. It is a virtuous process with truly transformative potential.

So, how can we evaluate it today? There has been a cultural change that preceded the law but has been accelerated by it. There are, of course, "bad pupils", those who simply tick the boxes, those who still have not formulated a plan. The law was only introduced in 2019, so I would caution against leaping to any conclusions as to its impact. Nevertheless, there is growing consensus on the need to include supervision by an administrative authority with the power of sanction. The State cannot be indifferent to the oversight of companies. There is some debate in Europe about whether this should be a national or a European authority.



Moreover, it is not only States that must monitor companies in a globalised world. All international development stakeholders must support actors on the ground to effectively implement the processes linked to the duty of vigilance. All public authorities and private actors must cooperate on this new law. For me, the duty of vigilance is the legacy of the link between employer and employee in the case of accidents that was established in 1898 by Martin Nadaud, a Member of the French Parliament. That was truly ground-breaking. As soon as it was established at the end of the nineteenth century that employers were responsible for accidents in mines and ironworks, they set up a system of insurance against workplace incidents, which, in turn, contributed to the creation of solidarity funds. Furthermore, accident prevention systems were put in place. Drawing on this experience, we now expect that the system of prevention established by the duty of vigilance will guarantee qualitative growth for human rights and the environment.

Together with Coralie Dubost, a Member of the French National Assembly, we will carry out an investigation in the coming months that will include an assessment of the analysis reports on the vigilance plans developed by companies under French law. In particular, we are looking at France's commitment to take a lead on target 8.7 of the Sustainable Development Goals on child labour.



All international development stakeholders must support actors on the ground to effectively implement the processes linked to the duty of vigilance.



Kristin SJÖBLOM

ESG Senior Manager, SwedFund



Kristen, you work for a development finance institution that supports the private sector through investments. How does SwedFund incorporate human rights into its activities?

SwedFund is the Swedish development finance institution; it is one of the 15 members of the Association of European Development Finance Institutions (EDFI).

In recent years, our work in the field of human rights has been developed through dialogue and the sharing of best practices with other members of EDFI, as well as with other partners, such as public and private companies, civil society organisations and trade associations. In line with SwedFund's mandate to combat poverty, we have introduced environmental and social safeguards within our operations. For us, social safeguards comprise human rights, although it may not always have been specifically expressed in that way. For example, we translated the right to just and favourable working conditions as a company's duty to ensure decent working conditions. Companies must likewise ensure that occupational health and safety in the workplace is in line with regulations and standards. The terms we use may differ from human rights vocabulary, but we are expressing the same things in reality.

Integrating the United Nations Guiding Principles on Business and Human Rights, adopted ten years ago, has changed our policies and operational processes in many ways. In particular, the way in which we consult with stakeholders and the people affected by our investments has evolved. Working with a human rights-based approach has also led to a major change in our investment analysis methods. In the past, our investment process was based primarily on a due diligence approach that was applied in the pre-investment phase only, prior to implementing an investment. Now, we take the entire process into account. We apply the principles of the duty of vigilance not only in the pre-investment phase, but also during the management, operations and exit phases. This is one of the main contributions of the United Nations Guiding Principles, which have led us to put greater emphasis on the risks to, and impact on, stakeholders.



Duty of vigilance also involves analysing the sector of activity and, lastly, the project – or the investment – itself. In addition, over the past year, we have been working with other development finance institutions to develop new methodologies. For this purpose, we look at the contextual risks at different stages; when we make an investment, we consider the impact of risks linked to the country of operation. Next, we take into account the regional aspects. **Duty of vigilance also involves analysing the sector of activity and, lastly, the project** – or the investment – itself. This type of analysis is done at all stages, and the process is repeated if there are any changes during the active ownership and exit phases. Once we have identified the potential risks and impacts, we formulate corrective actions to mitigate these impacts and draw up a legally binding contract for the project. Our process is neither perfect nor complete, but it is continuously being improved. The key is to work together with our peers and organisations, with a view to developing a constructive dialogue with our stakeholders.



"We translated the right to just and favourable working conditions as a company's duty to ensure decemt working conditions." Centrale à Bagasse de Médine © Fabien Dubessay (AFD)



Clifton CORTEZ

Global Adviser on Sexual Orientation and Gender Identity, World Bank



Clifton Cortez, as Global Adviser on Sexual Orientation and Gender Identity at the World Bank, could you explain the World Bank's approach to tackling £these forms of discrimination as well as the challenges that you have encountered in implementing this policy?

In 2018, the World Bank adopted the principle and obligation of nondiscrimination on any grounds, on any personal characteristic. First of all, it is important to keep in mind that the clients of the World Bank, and indeed of other multilateral development banks, are the Governments of developing countries, that is to say middle- and low-income countries. We also have links with the private sector through the International Finance Corporation (IFC), which is part of the World Bank Group. Among other multilateral development banks, the European Bank for Reconstruction and Development (EBRD) also works specifically with the private sector. However, at the World Bank and other similar organisations, our clients are primarily Governments. Multilateral development banks are not defined as human rights actors, but rather as development actors.

Against this backdrop, one might ask how due diligence and human rights are relevant. The pertinence of these principles is seen through the adoption of safeguards by the executive boards of these organisations. These safeguards are rules applied to investment project financing – i.e. loans – for Governments, and become part of legal agreements that must be respected as part of these development finance projects. It is worth noting that, in 2018, the World Bank adopted the principle and obligation of non-discrimination on any grounds, on any personal characteristic, including in terms of my own work within the Bank on discrimination based on sexual orientation or gender identity. Regarding due diligence, the Bank has integrated these safeguards into what we call our Environmental and Social Framework. Environmental and social issues are interlinked, and that is why the Bank must ensure that its resources are not allocated to projects that hurt people or destroy the environment.

In addition to ensuring non-discrimination, we also help our clients to engage in dialogue with stakeholders on the ground who are relevant within the framework of these projects. This is so that the potential or actual recipients, including LGBTQI persons, have a say in the design and implementation of projects. It is not always easy, but it is the task that



"LGBTQI persons should have a say in the design and implementation of projects." Source: © Vittorio Gravino (iStock)

> we have set ourselves. In this context, civil society engagement is an important element that enables us to ensure that we, the Bank and its clients, have the information needed to implement projects that minimise discrimination both in the project's design and implementation. Regarding our approach to move forward with this agenda, it is twofold: in addition to the environmental and social framework, we are also trying to provide leadership on generating data on people's vulnerabilities, including with regard to LGB-TQI people, which is still a very new area in development. Data collection also concerns other vulnerability criteria such as those on gender equality, race, indigenous origin and disability. It is about generating new data and analyses that can be used to inform dialogue and even legal reform. Multilateral banks are engaged in these absolutely critical issues, and at the World Bank our primary target is Governments.

> There are numerous challenges to overcome around the world. When it comes to sexual orientation and gender identity, there are enormous challenges in the contexts in which the World Bank and its clients operate. Sometimes, it may be the case that a Government says that there is no discrimination on any grounds that would affect the services it offers. The difficulty about discrimination based on sexual orientation or gender identity is that these are grounds that the clients do not want to discuss. We therefore focus on encouraging and supporting our clients to discuss the implementation of projects with stakeholders, including LGBTQI groups. Doing so shows Governments that the reality on the ground is sometimes very different, and that these groups face a great deal of discrimination. This enables us all to understand the context of projects and how to design and implement them more effectively. Some of our successes would certainly be tied to the data that the Bank has already generated. We know that data on LGBTQI persons in the western Balkans and South Asia has been used by Governments to establish dialogues, which, in turn, have led to programme and policy change. These are positive outcomes that have to be driven by the Bank's clients; the

Bank provides the necessary critical data. But coming back to the due diligence, what often gives us a foot in the door to even discuss these things with our clients are the requirements under the environmental and social framework: the obligation for non-discrimination in project design and implementation and the obligation to effectively engage with potential beneficiaries and other stakeholders of these projects.



In light of the power and influence of the World Bank, there is an overall expectation that it should lead by example in terms of due diligence. To what extent do you think that the World Bank has been a source of inspiration in this regard?

The World Bank decided to tackle, head on, this agenda on the inclusion of LGBTQI+ people, non-discrimination and the involvement of stakeholders and was one of the first multilateral development banks to do so. Of course, many companies, Governments and certain United Nations agencies were much further ahead on these questions. The Bank made commitments regarding the inclusion of LGBTQI people in 2015. This had a significant impact because of our relationships with Governments – our clients – and because of the size and scope of our programmes. Since then, the Inter-American Development Bank (IDB) has adopted requirements on sexual orientation and gender identity, incorporating these terms even more explicitly in its updated safeguards than the World Bank has done. The Asian Development Bank (ADB) is currently considering updating its own safeguards, in particular with regard to non-discrimination. We have established guarterly meetings with other multinational development banks to discuss issues of sexual orientation and gender identity, including related safeguards and due diligence. At the World Bank Group, the International Finance Corporation has likewise recently adopted new policies that go beyond gender equality to incorporate inclusion based on sexual orientation and gender identity.





Anaïs SCHILL

Business and Human Rights Adviser at the National Consultative Commission on Human Rights, member of the Francophone Association of National Human Rights Commissions – a member organisation of the Plateforme Droits de l'Homme



Anaïs Schill, as representative of the Plateforme Droits de l'Homme and of the French national human rights institution, the National Consultative Commission on Human Rights, what is your assessment of how development actors implement this duty of vigilance in their activities?

The general view, both of civil society organisations and institutions for the promotion and protection of human rights, is that we have come a long way. We had a long journey with regard to the link between development and human rights, as well as with regard to the concept of duty of vigilance. There is, however, still further to go.

There is growing awareness and integration by public and private development actors of a human rights-based approach that includes duty of vigilance. The concept of due diligence has been developed through the many international standards that you have mentioned, and has been translated into binding legal provisions at the national level. This has undoubtedly contributed greatly to development actors taking up human rights issues. At the same time, the concept of sustainable development has helped to highlight the human rights-based approach as an anchor point for attaining the Sustainable Development Goals in all their dimensions. The development field also clearly illustrates the diversity of the actors involved in the realisation of human rights and, thus, the difficulties associated with working together to strengthen accountability for greater vigilance with respect to human rights, including in development projects and policies. Moreover, development policy also illustrates the porous relationship between the public and private sectors. This requires that all organs of society, as indicated in the Universal Declaration of Human Rights, participate in the promotion and protection of these rights, even if the responsibility falls primarily on States in the current legal order.

Civil society organisations and NHRIs also contribute to the assimilation of the principles of the duty of vigilance by development actors. Moreover, NHRIs also provide advice on the subject to the public authorities. This may include advocating a human rightsbased approach in development policies or the monitoring of national action plans relating to business and human rights, aimed at implementing the United Nations

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In the context of specific projects, NHRIs also play an important role as watchdogs by means of complaints mechanisms Guiding Principles. Similarly, NGOs carry out impressive advocacy work to ensure that public or private actors integrate this concept of due diligence into their operations and those of their potential clients. One example of this is the International Federation for Human Rights' advocacy work to raise awareness among public development banks of these issues, including at the recent global summit of public development banks (Finance in Common Summit: FICS 2021). NHRIs also perform their advisory role through the formulation of recommendations and the development of practical tools. This is true of the Danish Institute for Human Rights, for example, which works directly with international finance institutions.

In the context of specific projects, NHRIs also play an important role as watchdogs by means of complaints mechanisms that enable them to receive individual complaints of human rights violations. Civil society organisations, in particular those with local contacts on the ground, can also contribute to this watchdog role. Both of these types of actors also perform an evaluation or oversight function with regard to development policies overall and the observance, in practice, of human rights in development actors' activities. A number of standards for the integration of human rights have been developed by various development actors. However, civil society organisations are the first to witness the extent of negative human rights impacts, which persist in many development projects today, including in the operations of public development banks. These negative impacts may contribute to widening inequalities or to direct or indirect reprisals against affected populations without there necessarily being a means of recourse.

What can be done when development actors are directly or indirectly associated with negative human rights or environmental impacts as a result of their projects? This question relates to accountability, which is intrinsically linked to transparency and access to information and requires development actors to be accountable for their



decision making and impacts on human rights. With this in mind, development actors must carry out impact assessments of their own operations or those of their clients or suppliers, according to the type of actors involved. These assessments must be published and updated throughout the life cycle of the project in question. **Conducting human rights impact assessments and publishing the results thereof is one of the key recommendations made by civil society and NHRIs.**

Greater transparency of the financing allocated by international finance institutions is also required, in particular when the presence of intermediaries makes it difficult to establish responsibility in this regard. Accountability also relates back to the issue of redress in the event that prevention does not work. Under the human rights-based approach, complaints mechanisms must be put in place to address allegations of human rights violations by persons affected by development projects. This is the case, for instance, within international finance institutions themselves. For example, on the recommendation of the National Consultative Commission on Human Rights in 2013 and at the request of civil society organisations, AFD created, in 2017, a grievance mechanism for complaints linked to the environmental and social consequences of the projects it finances.

Moreover, since 2020, AFD's annual report has referred to the inclusion of clauses concerning this grievance mechanism in its financing agreements. Nevertheless, **ten** years after the adoption of the United Nations Guiding Principles, the third pillar of those principles, on the means of redress, is the pillar with the largest implementation gaps.



Conducting human rights impact assessments and publishing the results thereof is one of the key recommendations made by civil society and NHRIS.





Elin WRZONCKI

Kristin, the Danish Institute for Human Rights has today published an analysis of the observance of human rights by finance institutions and how they manage both the risks and the actual impact of projects on development. In which domains do you think efforts to implement the United Nations Guiding Principles on Business and Human Rights need to be strengthened?



Kristin SJÖBLOM

SwedFund has indeed taken steps to establish a link between the environmental and social safeguards on the one hand, and the measurement of the positive development impacts of projects on the other. We are a small organisation employing some 50 people, and this facilitates dialogue between the various departments working on these issues. Nevertheless, in view of the many commonalities existing between environmental and social governance (ESG) and the evaluation of project impacts, we decided to establish a common department for both these disciplines. On a practical level, this has proved useful in allowing us to exchange information more easily. Our strategy and communications department no longer deals with due diligence or project impacts. We are also working to create an "ESG-impact" bridge connecting different thematic areas such as gender and climate. The aim is to deepen the connection between the evaluation method of environmental and social risks and the impact assessment methodology.







Elin WRZONCKI

Axel, what recommendations do you have for development actors as to how they can further advance human rights in the context of economic activities?

Axel MARX

I would like to focus on two priorities. First, development actors must implement due diligence systems in their own operations. A number of good practices and experiences have been shared today in that regard. Much still remains to be done, however, in terms of disseminating and implementing these due diligence principles.

Second, capacity-building is key for training actors on how to comply with human rights due diligence requirements in development projects. This is absolutely critical so as to ensure that due diligence is taken into account on the ground and applied at all levels of the supply chain. We must bear in mind, however, that if we push the implementation of due diligence throughout the entire value chain, there will be winners and losers. There are many examples of smallholder farmers who are no longer able to export through multinational companies because they are not in a position to comply with due diligence standards. This could undermine the positive impact that we are trying to have.



Source: © Sorapong-chaipanya (pexels)





Elin WRZONCKI

Dominique Potier, what do you think development actors can do to support greater corporate responsibility?

Dominique POTIER

First of all, French actors can refer to the Law of 4 August 2021 on programming solidarity-based development and combatting global inequalities which contains an entire chapter, adopted unanimously, explaining the procedure for development operators to follow and giving them three orientations. The first is to inform stakeholders and actors on the ground of their rights so that they can have access to law. It is now possible to seek redress from an economic power who, through a subcontractor or subsidiary, has committed human rights violations or damaged the environment. The second is that, as development operators, they must themselves apply this principle of the duty of vigilance in their operations with all their subcontractors and the public and private actors with whom they cooperate. This is a very broad field. The third is the duty of public actors engaged by the public authorities through official development assistance to report all rights violations that may be subject to action. It is therefore a triple imperative.

We could draw a parallel with the mechanism put in place under the climate law. Companies that have not formulated a vigilance plan, or have not implemented the corrections imposed by a judgement, could find themselves denied access to government contracts. To ensure consistency, we should apply this logic when the public authority is operating at international level, such as in the field of development assistance. How can a private actor based in a tax haven or without an appropriate vigilance plan be allowed to cooperate with the French authorities on an international project? If we apply the principle of excluding these companies from French local government contracts, we must also apply it in respect of official development assistance and refuse to offer these private actors the reputational advantages or additional profits possible through official development assistance. It is unacceptable. The important thing is less about increasing the volume of assistance and more about ensuring a consistent approach.



France, Germany and the Netherlands are laboratories at European Union level. I am pleased that the President of France has made reference to the duty of vigilance and that a draft European resolution is soon to be examined by the French National Assembly's Commission on European Affairs. Some 124 Members of the European Parliament, from all political groups, proposed this resolution in the Parliament. The European Commission was supposed to present its proposal for a European directive on duty of vigilance in May 2021, then in September, then in December. Thierry Breton, the European Commissioner responsible for dealing with these issues alongside the European Commissioner for Justice, has recently indicated that there will be a further three-month delay. Such a delay will have a significant impact because it will prevent the French initiative from being fully expressed in European diplomatic circles through the French Presidency of the Council of the European Union beginning in January 2022. The delay is due to debates on civil liability. In my view, it should be under the jurisdiction of a civil court, but there could also be an administrative authority for prevention and supervision. In addition, there is a debate on the depth of the value chain. I am of the view that it is necessary to combine the depth of the subcontracting field under French law with the lowering of the thresholds provided for in German law. If we combine the two, and maintain civil liability, we would have an extraordinary development and prevention tool for the future.



Source: European Parliament (Wikimedia Commons)



We have mentioned child labour. Among the other ills of the world, land grabbing is today ruining rural economies and causing unprecedented levels of extreme poverty and violence. This is the logic of concentration and despoliation. I hope that one day a European directive will enable us to cooperate with partner countries on food matters by inviting these countries to put in place legislation that protects the sovereignty of small-holder farmers and rural communities' access to land. This is what such a law could achieve. The battle is now a European one. All of our forces will be needed in the coming year; the trade unions, NGOs, France and its foreign policy, and AFD, among others, must all play their part to achieve this plan and lead by example in implementing these expectations of the United Nations. To repair our common home, we need to extend the rule of law across borders and offer a helping hand to the most vulnerable.

Members of the public asked the panellists about the impact, in terms of redistributive justice, of excluding certain actors from the value chain because of their inability to adapt to standards. Participants also wished to know how duty of vigilance requirements could be translated into the banking and finance sector. They raised concerns about the risk of corporate impunity if vigilance plans cleared them of responsibility for violations that may have occurred in the value chain. Lastly, one participant wondered about the possible role of development actors in blowing the whistle on human rights violations that they may have witnessed on the ground but that were not of their own doing.









Anaïs SCHILL

A mechanism of accountability, established by law, is necessary to guarantee the quality of vigilance plans and to ensure that the due diligence requirement does not become a box-ticking exercise. However, in order for the French law to be an opportunity to create legislation and contribute to changing corporate culture, NGOs and NHRIs must play a key role in monitoring the law's implementation, formulating plans and ensuring their quality, while activating dispute mechanisms that make it possible to clarify the nature of the obligations incumbent upon companies.

As regards the negotiations under way at the United Nations, the draft international treaty on business and human rights contains a clause indicating that respecting their obligations on prevention does not absolve companies of possible liability in cases of damage. This could be incorporated into the European directive.

Dominique POTIER

If we place too many demands on the duty of vigilance, we would ruin the hope that it inspires. It is a formidable lever which is clearly part of a much broader legal architecture. **There are several avenues for taking it further, such as excluding companies from government contracts when they do not comply with the duty of vigilance.** As suggested by one participant, consideration may be given to prosecuting banks that are not careful about providing finance to companies. What we call "soft law", such as non-binding rules on corporate social responsibility, also matters. In addition, multinationals are under pressure owing to the ethical requirements of partners they wish to recruit, as well as the demands of consumers and savers. The reform of European taxonomy will provide new instruments for clarifying this maelstrom of green finance. Taken together, these tools make it unacceptable to simply indulge in a box-ticking exercise.

It is also important to support local actors, such as farmers, tradespeople and labourers, so as to ensure that they are not excluded from the global production chain simply because they do not have access to the bare necessities to feed themselves, to live in security and to allow their children to go to school.









Axel MARX

fIndeed, due diligence systems will not always make it possible to prevent human rights violations from occurring. In reality, value chains are highly complex. We might think about safeguarding clauses or safe harbour rules, which set out minimum requirements for measuring the implementation of due diligence. I also share the observation made about the importance of not excluding producers in the Global South from value chains because the requirements are too onerous. Development actors could play a role in facilitating access to these chains by helping producers comply with the minimum requirements.

Kristin SJÖBLOM

Development finance institutions, including European Development Finance Institutions, work on the basis of the International Finance Corporation's standards, which include the requirement to establish grievance mechanisms. Implementation of these principles could be strengthened in line with the United Nations Guiding Principles. Consideration could also be given to creating a whistle-blower system to protect those individuals on the ground who have critical information.

Clifton CORTEZ

Indeed, institutions, and even companies, should establish grievance mechanisms, so that people affected by these projects can complain when things go wrong. I would call on all actors to work on rights and inclusion in development policies, and I would encourage them not to forget about LGBTQI.





SESSION 4

HUMAN RIGHTS AND THE JUST TRANSITION



HUMAN RIGHTS AND THE JUST TRANSITION

In this session, the debate focused on the prospects for implementing a human rightsbased approach in the light of the climate and environmental crisis affecting the planet. The results of the first quadrennial assessment of the implementation of the Sustainable Development Goals (2019)¹² are unequivocal: the current global development model is unsustainable. In particular, the report points out the consequences of worsening social inequalities and the potentially irreversible decline of the natural environment. It calls for transformational approaches that take account of the interdependent nature of the Sustainable Development Goals in order to address the challenges of sustainable development. It cautions against the concept of economic growth "at any cost", and warns of the risks of reaching the point of no return, both from an ecological and a human development standpoint.

More recently, UNDP, in its Human Development Report 2020 – The Next Frontier: Human Development and the Anthropocene¹³ – also says that the resilience of systems is reaching its limits and approaching breaking point. In response, it is calling for a just transformation, which, given that we are living in the Anthropocene era, would require a change in perspective. Thus, economic growth would serve as a means for development, rather than as a goal in itself, and the equitable distribution of resources, wealth and the protection of nature would take precedence at a global level. A return to the practices that preceded the current health crisis, which "is just the tip of the spear", would seemingly consign the future to endless crisis management, not to human development.

Thus, in the light of the unprecedented destabilisation of the planetary systems on which our survival depends, the just transition, which would require us to break free from simplistic distinctions between protecting people and preserving the planet, seems to be necessary. This means not only making the ecological transition a tool for social justice and the advancement of human rights, but also making the human rights-based approach and social justice drivers for the ecological transition. It also entails freeing ourselves of an anthropocentric vision of human rights and forging a stronger link with the rights of nature.



¹² Independent Group of Scientists appointed by the Secretary-General [2019], Global Sustainable Development Report 2019: The Future is Now - Science for Achieving Sustainable Development, United Nations, New York. The report was presented to AFD by Jean-Paul Moatti, Chair and Chief Executive Officer of the Institut de recherche pour le développement on 17 September 2019. See https://www.youtube.com/watch?v=Eej3frPxcTs (in French).

¹³ Human Development Report, 2020 - The Next Frontier: Human Development and the Anthropocene, UNDP. Available at https://hdr.undp.org/sites/default/files/hdr2020.pdf.

In this context, international lawyer and essayist Valérie Cabanes opened the session, presenting an overview of the theme and the key issues linked to it. After her presentation, Francisco von Hildebrand, director of the NGO Gaia Amazonas, discussed the rights of indigenous peoples and their role as guardians of the world's main biodiversity reserves. Felix Ries, adviser on GIZ's¹⁴ Global Programme on Human Mobility in the Context of Climate Change, and Sunia Ratulevu, head of Fiji's National Disaster Management Office, both shared their experiences of managing climate change-related displacement. They proposed courses of action to mitigate climate change and develop adaptation measures. Lastly, Laurène Seca, a PhD student at AFD, gave an overview of the implications of social protection and adaptive financing to guarantee the human rights of victims of anthropogenic climate and environmental catastrophes.

¹⁴ Deutsche Gesellschaft f
ür Internationale Zusammenarbeit (GIZ) GmbH – Germany's international development agency.





Valérie CABANES

International lawyer and essayist

Thank you for giving me the opportunity to share my concerns and offer some pointers to possible solutions.

The United Nations Environment Programme (UNEP), in its Emissions Gap Report 2021, published in October of that year, has shown that national climate pledges, combined with other mitigation measures, means that the world is facing a global temperature rise of 2.7°C by the end of the century. Unfortunately, the Glasgow Climate Pact of 13 November 2021 has not altered this course, which is increasingly dependent on States respecting the voluntary promises they have made. This figure is far higher than the goals set by the Paris Agreement on climate change, and would result in catastrophic changes to the Earth's climate. According to the Intergovernmental Panel on Climate Change¹⁵, even a 2°C increase would have a disastrous impact on food, security and human health. Some 400 million people around the world could experience water shortages in the coming decades if the average increase in global temperatures reaches 2°C. According to the United Kingdom's Met Office¹⁶, a billion people could be exposed to potentially fatal heat levels by mid-century. Right now, heat stress – a combination of extreme heat and humidity – is putting the lives of 68 million people at risk.

According to UNEP, 70 per cent of those countries most vulnerable to climate change are also among the most politically and economically fragile¹⁷. The consequences of climate change are being and will be felt more acutely in the poorest, most vulnerable regions, threatening to erase the progress made with regard to development. The World Inequality Report 2022¹⁸, published by the World Inequality Lab on 7 December 2021, reveals that inequality is higher than ever: the richest 10 per cent owns 76 per cent of the world's wealth, whereas the poorest 50 per cent owns just 2 per cent. Oxfam's most recent report, issued in 2021, highlights the fact that 70 per cent of the world's poorest people are women. Climate change is exacerbating these inequalities.

Extreme weather conditions and other harmful effects of climate change also cause the displacement of people. According to the Global Report on Internal Displacement 2021¹⁹, disasters and ongoing conflicts have caused 40.5 million new displacements – the highest figure in 10 years – despite the restrictions on global mobility as a result of COVID-19. In addition to being uprooted from their homes, people who have been displaced within their own countries tend to be among the poorest and to have lower food security. The enjoyment of their civil, political, economic, social and cultural rights is thus compromised. This situation is unlikely to improve.

- ¹⁵ https://www.ipcc.ch/
 ¹⁶ https://www.metoffice. gov.uk/about-us/ press-office/news/ weather-andclimate/2021/2c-riseto-put-one-in-eightof-global-populationat-heat-stress-risk
- 17 https://www.un.org/ sg/en/content/sg/ speeches/2020-12-02/ address-columbiauniversity-the-stateof-the-planet.
- ¹⁸ World Inequality Report 2022 by the Paris-based World Inequality Lab. Available at https:// wir2022.wid.world.
- ¹⁹ https://www.internaldisplacement.org/ global-report/ grid2021/.





Source: © Markus-spiske et Cup-of-couple (pexels)

According to the World Bank's latest Groundswell report in 2021²⁰, 216 million people may be internally displaced by 2050 owing to the effects of slow-onset climate change. Water scarcity, declining crop productivity and rises in sea level will play a major role in this migration. Sub-Saharan Africa is expected to have the largest number of internal climate migrants. Bangladesh, which is predicted to have up to 19.9 million internal climate migrants by 2050, will be home to almost half the projected number of internal climate migrants for the entire South Asia region.

Although climate change is not always a direct cause of conflict, existing risks to peace and development may be increased when combined with climate change. Access to water, food, health and housing may be restricted. People who already find themselves living in vulnerable situations, including those in poverty or in situations of conflict, may face even harsher consequences. This is because such individuals are less able to adapt and have fewer resources to strengthen their resilience. For example, according to a report by the Stockholm International Peace Research Institute (SIPRI)²¹ on climaterelated security risks and peacebuilding in Somalia, the increasing unpredictability of the seasons is having an impact on livestock breeders, farmers, markets, families and entire communities. Over the past four decades, Somalia has experienced an increasing number of dust storms and droughts, which have had a tendency to trigger clashes between animal breeders and farmers over access to resources.

At present, almost half of the 15 countries most susceptible to climate risks host a United Nations peacekeeping or special political mission and are home to a number of forcibly displaced persons, and this trend is on the rise. According to the mid-year report on global trends of the Office of the United Nations High Commissioner for Refugees (UNHCR)²², there are now more than 84 million forcibly displaced persons around the world, 21 million of whom have refugee status. The lethal mix of conflicts, COVID-19, poverty, food insecurity and the climate emergency has exacerbated the humanitarian situation of displaced persons, the majority of whom are living in developing regions.

- ²⁰ World Bank [2021], Groundswell Part 2: Acting on Internal Climate Migration. Available at https:// openknowledge. worldbank.org/handle/ 10986/36248.
- ²¹ https://www.sipri. org/publications/2019/ sipri-policy-papers/ climate-relatedsecurity-risks-andpeacebuilding-somalia
- ²² https://www.unhcr.org/ statistics/unhcrstats/ 618ae4694/mid-yeartrends-2021.html



Climate change is leading us to an irreversible process of species extinction and catastrophic consequences for humanity as the planet becomes inhospitable.

²³ https://livingplanet. panda.org/

²⁴ Hill, J., von Maltitz, G., Sommer, S., Reynolds, J., Hutchinson, C., Cherlet, M. (Eds.) [2018], World Atlas of Desertification, Publication Office of the European Union, Luxembourg. What is even more concerning is that climate change is only a part of the problem, one that cannot be disconnected from another reality: the loss of biosphere integrity. For example, a 2°C increase in global temperatures would hit biodiversity hard. Of the 105,000 species studied, 18 per cent of insects, 16 per cent of plants and 8 per cent of vertebrates would lose more than half of their habitat. Just as a rise in air temperatures will be deadly, the same will be true of ocean temperatures. Warming seas, caused by a 2°C temperature increase, would kill off 99 per cent of coral.

Climate change and biosphere integrity are linked; the crossing of their balance thresholds would take us to a "tipping point", ultimately leading to an irreversible process of species extinction and catastrophic consequences for humanity as the planet becomes inhospitable. To avoid this scenario, atmospheric CO₂ concentrations would have to remain below 350 parts per million (ppm) in order to keep the temperature rise below 1°C by 2100; this would ensure that the rate of species loss did not exceed 10 species per million per year. However, in May 2021, the amount of atmospheric CO₂ was 419 ppm, a figure not seen for millions of years, and the annual rate of extinction was 100 to 1,000 times higher than is sustainable, which constitutes biological annihilation.

In the words of Sir Robert Watson, the then Chair of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), in his statement at the seventh session of the IPBES Plenary: "The health of ecosystems on which we and all other species depend is deteriorating more rapidly than ever. We are eroding the very foundations of our economies, livelihoods, food security, health and quality of life worldwide."

According to the 2020 IPBES report, around a million animal and plant species are now under threat of extinction, in particular over the coming decades, a situation that has never previously existed in human history. Since 1900, the abundance of local species in the majority of the world's largest terrestrial habitats has declined by at least 20 per cent on average. More than 40 per cent of amphibious species, almost 33 per cent of coral reefs and over a third of all marine mammals are under threat. The World Wide Fund for Nature (WWF) has warned of the planetary ecocide of wild vertebrates. Between 1970 and 2016, 68 per cent of wild fauna disappeared, according to the Living Planet Index published in 2020²³. The main cause of this has been the destruction of natural habitats, mainly for agriculture.

The five direct factors of change that are affecting nature and having the strongest impacts at a global level are, in descending order: (1) changes in land and sea use: three quarters of land and around 66 per cent of the marine environment have been significantly modified by human activity; (2) direct exploitation of certain organisms and overexploitation of resources: more than a third of the world's land surface and almost 75 per cent of freshwater resources are now used for farming or livestock; (3) climate change; (4) pollution; and (5) invasive tropical species.

Soil degradation has led to a 23 per cent reduction in the productivity of the world's land surface. The most recent World Atlas of Desertification²⁴ confirms the severity of the situation for humans. By 2050, some 90 per cent of land worldwide will have been damaged by humans, thereby considerably increasing the number of people already being forced to flee because of climate change and water scarcity.



Respecting the rights of nature would enable us to guarantee the fundamental rights of vulnerable populations, but also the rights of future generations. In the light of this terrifying assessment, the World Bank has recommended a rethink of migration management, explaining that "if well managed, internal climate migration and associated shifts in population distribution can become part of an effective adaptation strategy, allowing people to rise out of poverty, build resilient livelihoods, and improve their living conditions"²⁵. Does this not already constitute an admission of failure? Or worse, a refusal to face up to the causes of climate change and biodiversity loss, and to assign responsibility accordingly?

During his landmark speech on the state of the planet, on 2 December 2020, the Secretary-General of the United Nations gave an implacable assessment, which he began thus: "To put it simply, the state of the planet is broken. Dear friends, humanity is waging war on nature. This is suicidal"²⁶. Perhaps it is time to think out of the box in order to find the path to a life that is in harmony with nature and thus truly respectful of fundamental human rights. We cannot have one without the other. **Respecting the rights of nature would enable us to guarantee the fundamental rights of vulnerable populations, but also the rights of future generations**: the right to a healthy environment, the rights to accessible, clean water, to unpolluted air and soil, to food, to health and even to housing; in short, the right to dignified living conditions.

As we can see, while we must aim for carbon neutrality, we cannot deal with the climate crisis without taking action to stop the staggering erosion of biodiversity, and without correctly understanding all of the ecological interactions and balances of our planet. Every balance we upset creates a domino effect that threatens humanity's future by destroying the living world of which we are part.

We must therefore rethink our economic model before all the planet's balances are thrown off. We have to accept that industrial activity must be regulated by complying with standards defined in line with the limits that the Earth offers us, those boundaries beyond which the planet becomes inhospitable. We must incorporate feedback loops into our decisions on our impact on living things and apply them over the long term. Only then will we be able to protect the living conditions of the most vulnerable populations and those of future generations. We must also radically rethink our place in the world, redefine new rules of coexistence that include non-humans and adopt laws and governance that are centred on respect for the biosphere. We are drifting aimlessly within a conceptual system in which we are the only concern - and it is leading us to our ruin. We live disconnected from the matrix, incapable of living in harmony with other species and natural spaces; we merely regard them as resources or objects. To preserve our living conditions in the long term, we must redefine our role within a larger community woven from relationships between species and systems that support life. Western law should evolve to recognise the principle of interdependence that governs the life cycle. It should also recognise elements of nature as subjects of law to ensure that they are able to play their role, as species or ecosystems, within the community of life. This normative and also philosophical change concerning the right of nature to exist for itself and to maintain its ecological cycles and systems, with the atmosphere being an integral part thereof, would enable us to give humanity a more protective role towards other forms of life, meaning that we would have the responsibility to support their intrinsic value beyond our own immediate interests.

- ²⁵ https://openknowledge. worldbank.org/bitstream/ handle/10986/36248/ Groundswell%20Part%20II. pdf?sequence=8&is Allowed=y
- ²⁶ https://www.un.org/en/ climatechange/unsecretary-generalspeaks-state-planet



"In the Philippines, one of the most disaster-prone countries, residents wade through water after Typhoon Vamco." Source: © Ezra Acayan (AFD)

> An ambitious proposal – a draft universal declaration of the rights of Mother Earth – emerged from the Peoples' World Conference on Climate Change and the Rights of Mother Earth, held in Cochabamba, Bolivia, in 2010. The General Assembly of the United Nations began a dialogue on the subject the following year and launched the "Harmony with Nature" initiative. In August 2016, the Secretary-General himself acknowledged that prevailing environmental laws were "ineffective based on the conceptual underpinning [...] These laws work by breaking ecosystems into separate parts, which is inconsistent with the fact that they are entwined and interdependent." He proposed that the planet should no longer be considered as "an inanimate object to be exploited, but as our common home, alive and subject to a plethora of dangers to its health: this process requires a serious reconsideration of our interaction with nature as well as support for Earth jurisprudence in laws, ethics, institutions, policies, and practices, including a fundamental respect and reverence for the Earth and its natural cycles". In 2012, during its guadrennial meeting, the International Union for Conservation of Nature (IUCN) adopted a resolution²⁷ recommending the incorporation of the rights of nature "at all levels and in all areas of intervention" and the creation of a "strategy for dissemination, communication and advocacy concerning the rights of nature".

²⁷ World Conservation Congress "Incorporation of the Rights of Nature as the organizational focal point in IUCN's decision-making", WCC-2012-Res-100, September 2012. Countries in the Americas were the first to try out this legal revolution. In Ecuador in 2008, nature was accorded the constitutional right to have its existence fully respected and for its vital cycles and all the elements that form an ecosystem to be maintained. The precautionary principle was enshrined in the Constitution with a view to preventing any extinction of species and any destruction of ecosystems or permanent alteration of their natural cycles. Nature can be represented and defended in court by any individual, community, people or nation in the country and has a right to restoration. Ecuador has shown us the way in terms of applying these rights. Since 2011,

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some 50 cases have been brought on behalf of natural entities or species (e.g. rivers, forests, mangroves, condors, jaguars and sea cucumbers), many of which have been won. In December 2021, the Constitutional Court of Ecuador upheld the constitutional rights of nature for the first time to protect a forest from mining concessions. In 2010, Bolivia adopted a law, backed by its Constitution, on the rights of Mother Earth; in Mexico, three states have recognised the rights of nature in their constitutions. In Colombia, which has enshrined the constitutional right to a healthy environment, it is Supreme Court judges that are setting the pace. Some 20 court rulings since 2016 have accorded legal status to ecosystems, including the Amazon rainforest, and recognised new human rights, namely biocultural rights. In Brazil, Argentina and, in particular the United States of America, dozens of cities and counties, as well as many indigenous nations, have incorporated the rights of nature into their legislation or their constitution.

In Africa, Uganda took the lead in February 2019, adopting a law on the rights of nature. Nature has become a subject of law and now has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and evolving processes. Every person has the right to bring proceedings before a competent court for any breach of the rights of nature under the law.

In the Pacific region, New Zealand has led the way by legislating on the country's iconic but at-risk ecosystems. For example, the Te Urewera protected area, Whanganui River and Mount Taranaki are recognised as living, legal entities. The Maori tribes that signed agreements with the New Zealand Parliament are working together to protect these ecosystems' interests based on the physical and spiritual links that they have with them.

In Asia, too, the decisions of the courts are supporting the rights-of-nature movement. Since 2017, the courts in a number of northern Indian states have recognised as subjects of law not only the Ganges and its tributary the Yamuna, in order to protect them from pollution, but also glaciers, forests, lakes and swamps. In Bangladesh, in 2019, the High Court of Dhaka accorded the Turag River the status of a legal entity to protect it from encroachment and declared that this status would be applied to all the country's rivers.

This movement is finally spreading in Europe through motions passed by cities, districts and metropolises in the Netherlands, Northern Ireland and France, as well as through emerging grassroots initiatives that are behind draft legislation in Spain, Switzerland and Sweden. The principle of ecological damage has been recognised in France since 2012 following the Erika oil tanker case, thus enshrining nature's intrinsic value. However, this value can only be cited if the damage has already occurred. Given the climate and environmental emergency we are facing, it seems to me that we need to take an additional step. **Recognising the rights of species and living systems would enable us to adopt a preventive law, thus opening the way to enacting conservation measures, so necessary in the light of the damaged state of our common home.**

Recognising the rights of species and living systems would enable us to adopt a preventive law, thus opening the way to enacting conservation measures.



Yacouba KÉBÉ

Thinking today about the rights of nature, is this a revolution or is it simply a return to how things were before in the Global South? In addition, in your view, do we need further investment in research linked to the right to a healthy environment and the rights of nature in order to speed up awareness of these challenges and translate them into concrete actions?

Valérie CABANES

The emergence of the recognition of the rights of nature has also been noted in the United States and Canada. This is the case, in particular, in some 30 cities in the United States, owing to the right in certain states to legislate locally, also known as the right to local self-government, which is specific to the United States. In this context, counties, districts and cities have adopted charters recognising the rights of nature. Some recent progress has also been made in Quebec, where agreements have been signed between indigenous communities and the local authorities to recognise the rights of the Magpie River in northern Quebec.

It is worth noting that the first place in the world to recognise the rights of nature was not in South America, nor in a traditional or indigenous society. It was Tamaqua, a borough of Pennsylvania. I have often asked representatives of indigenous peoples why they were not the first. The lack of legal recognition has been due to their relationship with the world: they view their environment in a holistic manner. Humans are part of life on Earth and indigenous peoples believe that they belong to a territory and not that the territory belongs to them. It is therefore an extremely different relationship with respect to ownership. The representatives told me that it was such an obvious fact for them that they had never felt the need to transpose into positive law – or written law – the fact that nature has rights. Nature is pre-existing, it has rights which are intangible and which condition the rules of life that communities determine for themselves.

It is precisely because Western law, which has been imposed across the globe due to the colonisation of thought and territories, has an extremely anthropocentric vision that these peoples have, at a certain moment in time, had to use this tool and write these rights into law. This has been the case in the constitutions of Amerindian nations and in Ecuador, where the indigenous nations lobbied the Constituent Assembly in 2008 in the drafting of a new Constitution.

Today, the rights of nature are mainly written rights, based on Western law, that aim to change the rules without pitting human rights and the rights of nature against each other. It is extremely important to adopt an ecosystem-based vision, as the rights of nature are intangible, pre-existing and they guarantee human rights. What is being proposed is a legal revolution

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that involves the regulation of commercial law, so that it serves the other two levels of law. It is a reversal of the current set of standards, as there is a tendency nowadays for commercial free-trade law, which was tabled and drafted by multinationals in the 1970s in collaboration with the World Trade Organisation (WTO), to sometimes be imposed even on States, a fact that is becoming increasingly unacceptable.

As far as research is concerned, there are two important fields to consider. The first is law: the field of research on the rights of nature has taken off worldwide. Certain universities are even launching citizen initiatives. For example, a university in Spain has launched a petition on the Mar Menor, collecting more than 300,000 signatures from the public. In the past 10 years in France, an increasing number of academics and PhD students have been incorporating the concept of the rights of nature into their classes on the subjects of environmental rights and the right to a healthy environment. This has been seen as another step towards achieving this right to a healthy environment.

There is a second field of research on which we must rely in order to define rules that respect ecological rhythms and balances. This is the field of ecological research, notably with regard to planetary boundaries. This has been proposed by the Stockholm Resilience Centre and the Potsdam Institute for Climate Impact Research in particular. It seems to me that we need to go even further. Today, legislators need to draw on the science to define new ground rules, in a way that is mindful of these ecological balances. They have perhaps still not fully understood the magnitude of what is at stake.



Source: © Gaia Amazonas





Francisco VON HILDEBRAND

CEO, Gaia Amazonas

Today, 17 per cent of the Amazon rainforest has been completely deforested. First, I would like to provide some context as to why a middle-aged white man is here talking about the rights of indigenous peoples. I was lucky enough to have been raised in a deeply intercultural context. My grandparents and both of my parents devoted their lives to protecting the rights of indigenous peoples and supporting them in the implementation of those rights. I grew up with the profound conviction that no one culture has all the answers to the challenges we are facing as a species. Diversity may be a source of conflict or of dialogue: it is a choice. I believe that by having diversity in dialogue we can make full use of the genius of the human species to drive the innovation needed to overcome the challenges facing us.

Over the past 35 years, our organisation, Gaia Amazonas, has succeeded in protecting 25 million hectares in Colombia, an area equivalent to 48 per cent of the size of France. Today, we are supporting indigenous local governments to be fully recognised and to implement environmental, social and education programmes in a region covering 12 million hectares. The solutions are there, in the field. The problem is that there is an enormous gap between the solutions available in the field and the resources available to implement them at scale.

The Amazon rainforest is in danger. The latest studies show that the destruction of 20 to 25 per cent of the Amazon rainforest will take us to a point of no return, meaning that the rainforest will be completely destroyed through a process of "savannisation", wherein the rainforest is replaced by arid savannah grassland. Today, 17 per cent of the Amazon rainforest has been completely deforested; 65 per cent is under pressure from various sectors, such as mining, gas and oil; and 52 per cent is already showing signs of early degradation. In my view, we have a one-in-three chance of avoiding the tipping point. We therefore have a window of opportunity, but we need to act now, together, and at every level.

Indigenous peoples play a central role in the past, present and future of the Amazon rainforest. Around 48 per cent of the Amazon is managed, directly or indirectly, by indigenous peoples, whether as national parks or as protected indigenous territories. On the North of the Amazon, there is the last continuous strip of rainforest that connects the eastern and western parts of the Amazon. Part of these territories are indigenous territories or national parks, 65 per cent of which are protected territories. They provide many ecosystem services, including what are known as "flying rivers", a phenomenon through which water evaporates in the Atlantic and is transported by the Amazon through the cloud system to the Andes, thus irrigating the Americas. Some 350 million people depend on this last flying river for drinking water, as does 65 per cent of food production in Latin America and 70 per cent of the region's GDP.





This is the last flying river because the southern part of the Amazon has already been destroyed to the point that the flying river system is no longer functioning. That is why we are seeing more and more fires, not to mention a drinking water crisis, as is the case in the city of São Paolo, Brazil. The central part of the Amazon is nearing collapse, and enormous investments will be needed to rebuild the ecosystem. Protecting the northern Amazon is plan C; there is no plan D.

Sixty-five per cent of the Amazon is managed by indigenous peoples, who are therefore the most important actors in the Amazon rainforest working to avoid this tipping point. We must work directly with the indigenous peoples and support them so that they can continue to protect the rainforest. We have talked a lot about partnerships and collaborations between different actors as a response to the opportunity to protect this last flying river. Relationships have been built with pioneering institutions, both indigenous and non-indigenous, that have been behind effective change in the Amazon basin. We have come together and created the North Amazon Alliance. This is an alliance of indigenous community organisations and other civil society organisations with a presence in the Amazon basin. The objective is to facilitate action on the ground, within a regional strategy, with a view to implementing solutions that have been proven to be effective and can be replicated. This is a major step forward; by replicating what works at the local level, we can now take action together at the regional level, together with indigenous peoples, local governments and civil society organisations.

We have partnered with AFD and the French Global Environment Facility on a project known as TerrIndigena. Through this project, we are starting to implement at scale, over some 17 million hectares, solutions that have been developed over the past 30 years. We have identified the best lessons learned from both indigenous and non-indigenous experiences and have consolidated them into a regional plan to protect the Amazon rainforest.

"[Flying rivers] is a phenomenon through which water evaporates in the Atlantic and is transported by the Amazon through the cloud system to the Andes, thus irrigating the Americas." Source: ©Petmal (iStock)



Two elements of the project are particularly important when it comes to human rights. One of the components of the programme involves supporting indigenous local organisations to strengthen their governance tools and strategies, in particular life plans. These are akin to development plans, but are based on the values, principles and aspirations of local communities. In this context, a free, prior and informed consent protocol is crucial. Within the development agenda, each and every actor has a specific understanding of the notion of "well-being" and, clearly, that understanding may be different for somebody from Bogotá compared with New York, for example. The principle of free, prior and informed consent is therefore a critical tool for articulating human rights and development strategies. This principle is enshrined in the ILO²⁸ Indigenous and Tribal Peoples Convention, 1989 (No.169), which covers a whole package of human rights for co-governance and joint decision-making. This set of tools enables us to nurture diversity in dialogue in order to promote the emergence of innovative solutions.

The other component of the project is effective cooperation agreements. Civil society and indigenous organisations have been working together to develop regional strategies. We must ensure that international agencies do the same. We need to be particularly strategic to determine where every cent goes. This strategy requires joint planning with international cooperation agencies, beneficiaries and implementers. AFD and the French Global Environment Facility clearly have a role to play in this regard.



Source: © Elias Alex (pexels)

Lastly, while indigenous peoples account for 400 million people around the world, or 5 per cent of the global population, they are the guardians of 80 per cent of biodiversity on Earth. We will not be able to resolve problems without the help of the indigenous peoples. We must therefore establish intercultural partnerships.

²⁸ International Labour Organization.







Yacouba KÉBÉ

The NGO Global Witness published a report in October 2021 in which it noted a significant increase in murders of environmental activists. Colombia recorded the highest number of such killings in 2020. What recommendations do you have to better protect these defenders of environmental rights?

Francisco VON HILDEBRAND

Indeed, Colombia has the highest murder rate of defenders of environmental rights. It is important to take immediate measures to protect these activists, but that alone will not be enough. We need to address the structural causes. Colombia is in the midst of a dynamic of land grabs involving national and international powers. This phenomenon has its roots in a process of land speculation and the race to acquire the last few resources. Against this backdrop, we need to revise our approach so as to take into account two elements. First, we need to recognise and formalise indigenous local governments and civil society organisations and give them enough space to participate in decision making, including with regard to the private sector and government.

In an effort to avoid the constraints imposed by due diligence principles, financing often passes directly through municipalities. It is thus important to ensure the traceability of these financial flows and of actors in the value or supply chain. In these contexts, it is very difficult to demonstrate the legal relationship between the actors of this chain and the responsibility of international financial institutions and Governments.



Multi-country project TerrIndigena. Source : © Gaia Amazonas




Felix RIES

Adviser, Global Programme on Human Mobility in the Context of Climate Change, GIZ

Both slowonset events and extreme weather events threaten people's livelihoods, thus fuelling migration flows. I would like to talk to you today about the link between migration, human rights and climate change. Valérie Cabanes has already described the impact of climate change and extreme weather events, such as hurricanes and floods, as well as slow-onset events, such as rising sea levels, which are putting pressure on livelihoods and economies. All of these events are having an impact on migration flows. Essentially, climate change may have a direct detrimental effect on human rights, in particular social and economic rights, such as the rights of access to food and water and the rights to health and housing. The right to life is likewise threatened by the increased incidence of malaria, diarrhoea and heat stress.

According to the World Health Organization (WHO), there will be approximately 250,000 additional deaths each year due to climate change between 2030 and 2050, in particular in developing countries. Those population groups that are already marginalised and vulnerable will be disproportionately affected in comparison with more privileged groups. That is why it is also necessary to focus on poverty reduction through a holistic approach.

Both slow-onset events and extreme weather events threaten people's livelihoods, thus fuelling migration flows. It should be noted that other factors also come into play, such as economic opportunities, the political situation in the country of origin, and conflicts. In the majority of cases, it is not possible to establish a clear link between climate change and migration decisions. In all cases, it is, nevertheless, an additional factor driving such decisions. There are three forms of human mobility, as recognised in the Cancun Agreements, established under the United Nations Framework Convention on Climate Change (UNFCCC). The first is migration, which is based on a more or less voluntary decision, often in the case of an individual or a family. The second is forced displacement, which may be caused by extreme weather events, such as cyclones. Typically, this does not affect one individual alone but entire communities. The third is planned relocation, a measure of last resort for dealing with recurring climate events, such as rising sea levels, to which it is not possible to adapt. In this case, communities have to relocate elsewhere.

The international media often talks about "climate refugees". At GIZ, we do not use this term because it does not appear in the 1951 Geneva Convention relating to the Status of Refugees, which focuses on persecution or conflict, rather than on environmental impacts, such as climate change. Nevertheless, persons displaced due to climate change are protected under the human rights framework, notably through the two international covenants on human rights and other international conventions. Displaced



Vunidogoloa is the first village in Fiji that had to be relocated due to the effects of climate change. © GIZ/Aaron March



people therefore have rights, and States must protect them. There is growing awareness of the issue at an international level, namely through the Global Compact for Safe, Orderly and Regular Migration and through the Global Compact on Refugees, in which climate-induced displacement is recognised. However, these are not legally binding agreements.

There is also the case of Ioane Teitiota, a citizen of the Pacific islands of Kiribati, who submitted a complaint against the Government of New Zealand to the Human Rights Committee of the United Nations. The Committee concluded that a person cannot be returned to their country of origin where – due to the effects of climate change – their life is at risk. In this particular case, the Committee decided that, taking into account the level of risk, it was possible for the complainant to be returned to his country of origin. Nevertheless, States must take into consideration whether the threat is imminent or not.

I work for a global programme on human mobility in the context of climate change. We operate in a number of regions, such as the Caribbean, the South Pacific, the Philippines and East and West Africa, and our work is based on three pillars. The first pillar concerns our involvement in international policy processes, such as the Global Compact for Safe, Orderly and Regular Migration, as well as the Platform on Disaster Displacement. The second pillar is the generation and dissemination of knowledge on the topic. The third pillar involves support for partners in regional, national and local projects. For example, we have been working with the Government of Fiji, which is facing rising sea levels, tropical cyclones and coastal erosion. In this context, 50 communities will be moved as part of a planned relocation project. The Government of Fiji has developed planned relocation guidelines, established a fund to finance relocation projects and is creating standard operating procedures on relocation and rehousing. This is important because it involves several ministries that require coordination. My colleague, Sunia Ratulevu, will provide some insight into these challenges.

The Global Compacts on Refugees and Migration recognize climate-induced displacement. However, these are not legally binding agreements.





Sunia RATULEVU

Principal Policy Officer, National Disaster Management Office, Fiji

The National Disaster Management Office is the Fijian authority that deals with risks related to natural disasters. This ranges from prevention to response and recovery. It is an honour for me to take the floor to highlight the importance of protecting the human rights of displaced persons affected by climate change and natural disasters.

The islands of Fiji have been hit by nine tropical cyclones since 2016, two of them classified as category 5. Over the same time period, Fiji has completed the planned relocation of two communities. Despite the challenges and hardships, the Government was able to draw valuable lessons from these experiences, allowing us to adopt policies to respond to the impacts of climate change and natural disasters. The Fijian Constitution safeguards the human rights of the population. We must therefore ensure that no individual rights are violated by government development initiatives. This is borne out by the protection of indigenous lands and by seeking the consent of indigenous peoples to use their lands for development purposes.

This approach is further illustrated in the context of planned relocations carried out by the Fijian Government. According to the 2018 planned relocation guidelines, the human rights of all affected persons must be safeguarded, including the rights of persons who do not wish to be part of a relocation project. There are always risks when carrying out a relocation project, such as hostility on the part of communities, who are often against having to be relocated. Relocated persons may also face discrimination from the host community. To minimise these risks, all stakeholders must be involved in order to find amicable solutions. The preservation of human life is of the utmost priority before, during and after a natural disaster. It is critical to ensure that human dignity is protected and that assistance is provided to the persons affected. According to the displacement guidelines adopted by the Fijian Government in 2019, **climate change may lead to an increase in conflict and undermine human rights, in particular the rights of indigenous peoples**. The Government is obliged to respect the individual rights of displaced persons, without discrimination based on sexual orientation or religion, among other grounds.

The severity of Cyclone Yasa, which hit Fiji in December 2020, led to an entire village being displaced. Efforts have been made to ensure that the relocated persons still have access to their livelihoods. Three communities were relocated. We have been able to draw on the experiences and lessons learned from the cyclone in order to implement the relocation projects. **Relocating a community must be the solution of last resort**. When it is the only possible option, the process must be carried out in a holistic manner. This means that relocated communities should have the same standard of living that they had before and should have access to basic infrastructure and government services.

Climate change may lead to an increase in conflict and undermine human rights, in particular the rights of indigenous peoples.





Residents are rebuilding their house following the 2016 cyclone, in the village of Nabukadra. Source: ©Andrew Murray (AFD)

Yacouba KÉBÉ

According to the World Bank²⁹, internal climate migration is likely to accelerate in most regions of the world, affecting 216 million people, or 3 per cent of the global population, by 2050. Based on the experience of GIZ, what recommendations for action do you have for development actors in this context?

Felix RIES

Those figures are dependent upon the action we take. The scenario in which 216 million people are displaced due to climate change is the most pessimistic scenario. It all depends on us to change direction. According to the World Bank, the figure of 216 million people could be reduced by 80 per cent, provided that we reduce greenhouse gas emissions sufficiently to limit global warming to 1.5°C. We must act now in this regard.

We also need to invest in climate change resilience and adaptation. If we support more equal development, if we strengthen the resilience of communities and if we provide these communities with instruments to help them cope with climate change, then the number of people having to leave their homes will be reduced. In addition, we need to create the right conditions for migration to be a successful and sustainable adaptation strategy. Migration is not always bad in itself: it can actually support the resilience of households and individuals. But this requires a specific framework and dedicated programmes. The aim should be to ensure that people who have to migrate because of climate change can improve their situation, rather than find themselves in an even more vulnerable position.

²⁹ World Bank, Groundswell Part 2: Acting on Internal Climate Migration, 2021. Available at https:// openknowledge. worldbank.org/ handle/10986/36248.





Laurène SECA

PhD student (researching climate justice), AFD

The increasing intensity and frequency of extreme weather events pose real challenges for people living in poverty, including a regression in their human rights. As the number of catastrophes has tripled over the past 30 years, and owing to their location, poor countries have been the most susceptible to the different effects of climate change, such as water stress, severe droughts and heat waves. It is estimated that around 90 per cent of exposure to climate risks applies to Africa and South-East Asia.

This will lead to significant setbacks in development and extremely problematic situations in terms of human rights. Regarding the right to health, for example, infectious diseases, such as malaria, dengue fever and chikungunya, will become even more deadly than they are now. As for development setbacks, **post-disaster material damage represents around 300 billion dollars a year**, only about half of which is insured. Inequalities between countries are also projected to increase by 25 per cent due to the effects of climate change.

These various elements lead us to reflect on the impacts of climate change - impacts that extend beyond our abilities to adapt. This is particularly relevant to the loss and damage framework, which is now recognised as the third pillar of climate policy and has become an increasingly important issue in global climate negotiations. To better understand what the issue of loss and damage concerns, imagine that there is a rock on a cliff above a village. If we push the rock closer to the cliff edge - with each push representing an emission - the rock will fall and damage the village. If we stop pushing the rock - and thus if we stop emitting - then the rock will still be on the cliff edge but will stop moving and will not fall. This represents the impacts of climate change that can be mitigated. Now, imagine that the rock falls from the cliff and starts to roll. This signifies the impacts requiring adaptation. The point is that if nothing is done, these impacts will hit the village and cause damage. However, if this damage is far enough removed, we could perhaps change the rock's course, put a barrier in place or take measures to protect the village. This corresponds to the intuitive idea of adaptation. This is dependent on having sufficient time to prepare the adaptation and having an understanding of the risks in order to mitigate the damage. Lastly, because climate change is so advanced, some of these impacts have crossed a critical threshold; they are so close that we know that we are going to be hit in various ways. This is already true today. These are the impacts known as loss and damage – they are already too advanced for us to be able to adapt.

Post-disaster material damage represents around 300 billion dollars a year.



The issue of loss and damage took centre stage in 2013, at the nineteenth session of the United Nations Climate Change Conference (COP19) held in Warsaw, Poland, during which the two distinct positions of the countries of the North and South were at odds. The position endorsed by vulnerable countries focused on compensation for damages and the legal obligation of funding by rich countries. The countries of the Global North, on the other hand, advocated an approach based on disaster risk reduction and management. The COP19 established the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts. The subject still elicits a great deal of tension at United Nations Climate Change Conferences, as was once again demonstrated at COP26 in Glasgow, United Kingdom, more recently. In fact, article 8 of the Paris Agreement on climate change excludes a legal obligation to provide funding to address loss and damage. An outcome of COP26 in Glasgow was a first step towards specific funding for loss and damage, through the establishment of the Glasgow Dialogue to discuss the arrangements for the funding of activities to avert, minimise and address loss and damage³⁰. Start-up funds have also been promised, most notably by Scotland (2 million pounds sterling), the Belgian province of Wallonia (1 million euros) and private philanthropic foundations (3 million dollars).





³⁰ Glasgow Climate Pact, para. 73. Available at https://unfccc.int/ sites/default/files/ resource/cma3_auv_2_ cover%20decision.pdf.

"The losses and damages: recognised as the third pillar of climate policy." Source: © Alari Tammsalu (pexels)



Thus, while the legal obligation to provide funding for loss and damage is excluded under the Paris Agreement, the broader theoretical debate continues. Compensationfocused approaches are based on a corrective concept of justice and on the historical liability of developed nations. In political terms, this currently presents certain limits in respect of immediate, concrete feasibility. Other approaches include arguments based on a more redistributive concept of justice and view the issue of loss and damage as indivisible from the issue of increasing the future resilience of populations to climate change. This risk management-based approach is that which has been accepted in the current climate talks. In fact, the Warsaw International Mechanism for Loss and Damage combines the disaster risk reduction agenda with a non-legally binding compensation agenda. The mechanism therefore aims to blend the preventive vision with the curative vision (i.e. the ex post disaster remedies).

It is worth noting that, even when viewed within a compensatory justice framework, we are soon faced with certain limits when it comes to the means of compensation. These limits could, in financial terms, be due to damage accumulation; they could also be due to non-economic loss and damage, such as the loss of cultural heritage or lands, raising the question as to whether one way of life can be substituted for another. In terms of justice, this is an extremely complicated matter. Nevertheless, it is clear that adaptation measures can in no way remove the need for compensation and ex post remedies; however, compensation alone is not enough. Each policy is truly complementary and non-substitutable in nature. It is this complementarity and its implementation that must be defined in an international policy framework on loss and damage.

Regarding ex post remedies, post-disaster capital flows are an important tool for reducing climate vulnerabilities and thus inequalities. Intelligent design of these mechanisms would help to mitigate shocks and build future resilience. For expost remedies, it is important to differentiate between economic loss and damage and non-economic loss and damage, such as the loss of biodiversity or cultural heritage. It is also key to distinguish the type of climate event, such as sudden events or slowonset events, which include rising sea levels. In terms of remedies for economic loss and damages, there are various instruments that can be grouped under the term "post-disaster social and financial protection". Traditionally, these are parametric insurance mechanisms, meaning that these instruments disburse funds based on a trigger event that meets a predefined threshold of a quantifiable measure, such as wind speed or rainfall. These instruments have emerged as innovative and promising solutions, in particular in the wake of the G7's 2015 "InsuResilience Initiative" which led to partnerships of States, international donors, civil society and the private sector with the aim of ensuring financing for insurance funds. In less than three years, 715 million dollars was raised.

When referring to post-disaster social and financial protection, it is important to bear in mind how this is used to address the vulnerabilities of poor and exposed populations. It must provide for an equitable remedy. Similarly, when talking about insurance, it is essential to consider the architecture of the insurance mechanisms, the ways in which they include the public and private sectors and, more importantly, the costs that they would incur for vulnerable populations. How are the risk premiums determined and who pays them? Right now, these premiums are largely subsidised, but it remains a critical issue in terms of justice to ensure that they are truly affordable for poor

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populations. A second aspect relates to the way in which insurance can effectively function as both a curative and a preventive mechanism, with a view to building future resilience. In other words, how can insurance be integrated into a risk reduction mechanism? In fact, insurance can be developed in such a way as to generate incentives so that insured parties reduce their risk, something that is very interesting in terms of the resilience of populations.

There is a wide insurance penetration gap globally: on average, in poor countries, just 2 per cent of total loss due to weather events is insured; in Europe and the United States, this figure exceeds 60 per cent. Currently, the insurance mechanisms in place in developing countries primarily consist of two types of policies: (1) microinsurance, providing cover for households, farmers and small and medium-sized enterprises; and (2) regional sovereign insurance pools, such as the African Risk Capacity, that can provide support to Governments. The advantage of insurance is that it can be a more reliable, faster way of dealing with disasters than depending on the occasional and often belated generosity of donors. Cash flows provided ex post by insurers essentially enable Governments to invest in reconstruction and recovery, reducing long-term costs and setbacks to development due to disasters.

Social protection policies, which have now become preferred tools in international development policy, also represent an important instrument in terms of post-disaster remedies, especially when it comes to slow-onset events, which insurers are not able to cover. The various social protection programmes include social security nets, which offer the greatest potential for addressing climate shocks. They provide benefits to vulnerable individuals and households that do not have an adequate means of subsistence or have suffered a sudden loss of income. Unlike emergency programmes, social security nets form part of a well-established national system providing support for persons facing temporary difficulties or long-term poverty.

In Sub-Saharan Africa, social security nets only cover a tenth of people living in poverty, and in South Asia this figure is a fifth.

However, further progress is needed on integrating the adaptation, loss and damage, and social protection agendas, as currently very few social protection programmes work in coordination with climate and disaster risk management agencies, thus leaving them without the expertise needed to take these concerns into account. In addition, the coverage of social protection systems remains low, especially in regions where the poorest are the most vulnerable to climate shocks, such as in Asia and Africa. **In Sub-Saharan Africa, social security nets only cover a tenth of people living in poverty, and in South Asia this figure is a fifth.**

In closing, there are many avenues of research to explore in the study of what we are calling post-disaster social and financial protection, including with regard to how it can help to reduce climate inequalities and climate vulnerabilities. It is also a matter of analysing how this can fit into a financing mechanism specifically dealing with the issue of loss and damage, and in relation to progress on this issue in climate negotiations. Lastly, it would be interesting to study the extent to which the curative strategy can tie up with a preventive strategy concerning future damage and, thus, with adaptation strategies.





What courses of action would you propose to development banks such as AFD so that the rock, the metaphor you used, does not leave so much damage in its wake?

Laurène SECA

I think it is important to focus more intensely on the issue of non-economic loss and damage, in conjunction with the issue of migration. As far as non-economic loss and damage is concerned, we are reaching the limit of what post-disaster financial and monetary compensation can achieve. We therefore need to devise remedies that are not solely financial in nature; we also need to develop our understanding of these challenges, with a view to working with local communities to put in place restoration and rehabilitation mechanisms and policies that can address the vulnerabilities as well as loss and damage caused by disasters.



Speech of the Minister of Tuvalu at the COP 26, feet in the water, to warn about sea-level rise Source: Screenshot https://www.facebook. com/100069216129964/ videos/1013681669 232418



Members of the public asked the panellists whether there was a will to change the global economic system in order to ensure the conservation of biodiversity and effectively combat climate change. One participant questioned the suitability of the current energy transition, based on an extractive model, to mitigate climate change. The audience raised the question of whether human rights should be invoked in climate litigation to promote compliance with the Paris Agreement by States and businesses. Lastly, a participant asked the panellists about how to strike a balance between ending the use of fossil fuels in Africa and ensuring the fulfilment of human rights.

Francisco VON HILDEBRAND

We want to change the paradigm; and even if we don't, we will be forced to do so. There is a wall right in front of us, and there is no way around it. We do not have a choice. There is a lot to learn from indigenous peoples. In the territories where they live and work, indigenous peoples do not see a collection of objects, they see a group of subjects with which they have a relationship. They are in constant consultation to redress the imbalances caused by human activity. We need to adapt to the planet: we no longer have any other choice.



Valérie CABANES

Regarding ways to find a balance, there is the example of Kate Raworth's doughnut theory. She proposes a vision of a "regenerative and distributive" economy that takes into account human well-being, which she calls the "social foundation", and limited planetary resources, which she calls the "environmental ceiling". The just and safe space for humanity lies between the two. It would allow the needs of everyone to be met while preserving the planet. Under these conditions, the extractive model leads to the continued exploitation of territories and their resources, primarily to the benefit of the world's richest populations, thus fuelling the ecological and climate crises. It needs to be accepted that, in the Global South, we can help people achieve a decent standard of living by providing support to facilitate resilience and adaptation to the new climate conditions. At the same time, the Global North must adopt a new, more moderate energy-economic model. It is an essential balance that we must find.



With regard to Africa and the dependence of certain countries, such as the Democratic Republic of the Congo and Algeria, on revenues from the exploitation of fossil fuels, the question that arises is about the redistribution of the profits from these operations. I do not believe they are redistributed among the population in an equitable manner.

Lastly, the legal system can indeed play a role in compelling States to take climate action, and it is beginning to work, as borne out by the 1,300 cases of climate litigation under way around the world, 800 of them in the United States alone. Some of these litigations have been won, in particular in the Netherlands and France. Among these cases was that known as "l'Affaire du siècle" [the case of the century] brought by four NGOs, including Notre Affaire à Tous. Although the international agreements are non-binding, the fact that States declare that they will follow them and comply with them progressively creates a legal doctrine and obligations for States with regard to the protection of their territory, their population and the environment. In this context, **if the countries of the Global North do not abide by their climate commitments, do not recognise their differential responsibility with regard to the countries of the Global South and do not agree to help them, then they are violating their international obligations and moreover, compromising human security.**



PREVENTION DES VIOLATIONS DEFENSEURS DES DROITS POLICE COHERENCE ETAT CIVIL DROITS BIOCULTURELS WATCHDOGS ACCOUNTABILITY ALERTE DUE DILIGENCE SENSIBILISER INTENTION REDEVABILITE NON-DISCRIMINATION ACTION PUBLIQUE AMAZONAS CYCLE LA NATURE HUMANITUS SECTEUR PRIV MULTI-ACTEURS BRIDGE IMPACT INFORMATION ENGAGEMENT BONNE VOLONTE IMAGINATION CO HERENCE OPTIMISME ENGAGING PEOPI FLEARN LIFE PLAN COLLECTE LGBTI+ INTERCULTURALITE EQUITE INTENT DROITS DES ENFANTS HUMAN GENERATIONS FUTURES EXEMPLARITE SOLIDAIRE CO-DECISION TERRE-MERE LE VIVANT SOCIETE CIVILE CREATIVITE DROITS DU VIVAN RECLAMATION COMPENSATION INEQUALITIES FREE PRIOR CON DEDOMMAGEMENT PARTAGE CONNAISSANCES CAPACITY BUILDING PARTICIPATION CITOYENNE EASUREMENT INDICATORS CHAINE DE VALEURS CONTEXTUALISATION PEOPLE-CENTERED DEVELOPMENT

CLOSING

During the conference, the panellists were invited to choose a word to symbolise the priorities for action for development actors in view of the challenges that they had highlighted. Making reference to this, and recalling the current major threats to the realisation of human rights at a global level, Iara Pietricovsky de Oliveira, President of Forus – a global network of national NGO platforms – issued a call to action urging all development actors to fully consider the indivisible link between human rights and sustainable development. In particular, she underscored the key role of civil society and citizens in the process of drawing up development policies.

Rémy Rioux, Chief Executive Officer of AFD, closed the conference by recalling that the French Programming Act on inclusive development and combatting global inequalities, adopted on 4 August 2021, now gives AFD an explicit mandate to further promote human rights. In this context, he called for efforts that go beyond safeguards and to pursue projects in order to generate rights, by seeking out "the universal in what are still specific contexts". He then outlined the various actions that AFD plans to take from 2022 to achieve this goal in cooperation with all development actors.

Yacouba KÉBÉ

The words "partnership" and "cooperation" feature prominently in the word cloud that has been forming throughout the conference on the basis of our panellists' contributions. Indeed, during this event, we have highlighted the resolve to collaborate and work together to ensure that human rights are part of a common agenda, rather than an agenda specific to a certain number of actors. The notion of "accountability" (or "responsibility") also came up a lot because of the enormity of what is at stake, and this is something we must understand in order to safeguard the rights of future generations. For all the actors gathered here today – researchers, public authorities, civil society, development banks, journalists – the challenge is to ensure the consistency of our actions. We can find our way in that regard through intercultural dialogue.





Iara PIETRICOVSKY DE OLIVEIRA

President of Forus

Ladies and gentlemen, I thank you for the invitation to present our ideas in this important debate.

Talking about human rights in the current context is not an easy task, not only because of the complexity of the topic, but because the progress and frameworks that have been built over the past decades, with much social and political struggle, are at risk. Today, being here as a representative of Forus, which is a network made up of organisations representing civil society worldwide, I would like to share some thoughts to add to the calls to action that we have heard today. All of us here, in our various roles, we are all part of the construction of these rights and of the struggle to uphold them all around the world.

In Forus, we fight daily for the respect of human rights to become a reality, we are vigilant guardians of the existing achievements. Forus represents a segment of society that is closely connected to the defence and implementation of the human rights framework in all its depth and to the uncompromising defence of a broad and radical democracy.

And this is desperately needed. The bankruptcy of the current development model is expressed especially in the energy, climate and food crises and, in recent months, the COVID-19 health crisis, and in the deep crisis of the political systems of the so-called modern democracies. In fact, something rotten is spreading in the modern bourgeois democracies that does not seem to have a quick and painless solution. The death of democracies is being observed and announced as a civilisational wake-up call.

Nation States are incapable of mediating the diverse interests of society, being overwhelmed by the interests of large economic conglomerates. These have accumulated more and more power to influence political and economic processes. The result is the reduction of the role of the State, the privatisation of public goods, even of life itself, and unsatisfactory solutions such as public-private partnership (PPP) programmes, a formula advocated by multilateral financial agencies. We are witnessing the era of total corporate power over local, national and international governments.

We see democratic processes being undermined by this economic logic, generating unemployment, successive loss of rights won over decades of struggles, unpunished violations of human rights, forced migrations caused by the climate crisis and wars, among others. The countries that experienced social democracy after a violent Second World War, and that largely inspired democratisation and the incorporation of human rights into development, have in recent years begun to cut social rights, promote austerity policies, close borders, without being able to address widespread discrimination.

Nation States are incapable of mediating the diverse interests of society. The result is the reduction of the role of the State. the privatisation of public goods, even of life itself. and unsatisfactory solutions such as public-private partnership (PPP) programmes.



We cannot forget to highlight how this economic logic, together with the rise of the extreme right all over the world, are impacting nature, indigenous peoples and their livelihoods – who are the true guardians of the remaining forests on our planet – as well as the fight of the black population against discrimination. The criminalisation of these people and their movements is part of the tragic logic where the market and its invisible hands is what matters. We must fight for the right of nature and for respect for diversity, at all levels.

The logic of security comes at the expense of freedom and equality. This phenomenon is now repeated with the health crisis. The widening of inequality is tragically visible in the distribution of COVID-19 vaccines. Rich countries close themselves off, monopolise vaccine production, and do not act in solidarity.

In this context, international agreements such as the Paris Agreement on Climate Change and the 2030 Agenda should anchor the implementation of human rights. But do these agreements actually represent a progression in the implementation of these rights? Let's see:

The United Nations Conference on Environment and Development and in 1992 was an important milestone for governments on environmental policy and revealed a key international policy agenda for the decades ahead. It was the largest event organised by the United Nations (UN) up to that time. It brought together 179 countries with 108 heads of State and Government meeting in the city of Rio de Janeiro.

From there on, a series of Global Conferences were held with the aim of deepening and committing countries and peoples to a new framework of rights and a new logic about the meaning of development.

In this period, the UN still enjoyed de facto global political trust, thus allowing the convening, with legitimacy, of several high-level international meetings after Rio 92, which had the human rights framework as the basis of their approach.

There was a favourable political environment, as long as the debate about who would pay for the transition of the development model was not on the table. As a matter of fact, this is one of the issues that has been holding up all the negotiations, restructuring the institutions and redefining the actors who decide in the international fora to this day.

In 2000, with the launching of the Millennium Development Goals (MDGs), and after the beginning of a new cycle of conference reviews, the signs of "fatigue" of the system became evident. The UN as an institution began to lose its political power and legitimacy. This became evident over time by the low level of commitment from governments and the lack of investment by the system itself to make the negotiations yield effective results. The ensuing financial crisis contributed to weaken it further.

Since then, both the UN system and the nation States represented there have gradually lost strength and vigour. As a result, the agreements and treaties have remained more in the realm of discourse, and few have been effectively implemented. Even more rarely have there been any consequences for promises and commitments that were not kept.



From then on, we have faced more and more economic crises of all kinds, starting with the Southeast Asian crisis, passing through the transition economies of Latin America (Mexico, Brazil, Argentina), the crisis in developed countries, the sub-prime crisis, and now the addition of the economic impacts of the global health crisis.

Social movements and many civil society analysts warned, from the beginning of these conferences, about the urgency for a new international financial architecture, a new governance and more social responsibility of the Bretton Woods institutions and the World Trade Organization (WTO). They warned about the need for an evaluation of the social and environmental impacts of the liberalisation of investments in all places on the planet, and that it was essential to seek new development models based on sustainability, a profound change of the neoliberal economic vision.

Given this context, one of the main challenges that permeate the construction of the 2030 Agenda concerns the weakening of public power, either nationally or within the framework of multilateralism.

Companies are not only invited to the table; they are also asked to come up with financial solutions. But all too often, these do not act sufficiently in favour of sustainable development; on the contrary, at the end of the day they aim for profit rather than sustainability, for the short term rather than a long-term vision of harmony between people and planet. The State's power is undermined, and its legitimacy is attacked. As a result, the field of human rights is suffering enormous losses, since the power and legitimacy for these rights to be put into effect for the populations resides in the State.

The processes that took place until Rio+20, with all their problems and fragilities, resulted in an international framework emerging from the consensus by nation States of values and the protection of rights that cannot be ignored. This process gave rise to the Millennium Development Goals (MDGs), the Sustainable Development Goals (SDGs), the Conferences of the Parties on Biodiversity, the Paris Agreement on Climate Change as well as the 2030 Agenda.

Although the UN and some governments try to broaden the discussion through global civil society participation, through new communication technologies and open data to bring organisations and citizens into the debate, what we have is a bottleneck. Agreements that are supposed to be made for a better future for people do not reflect the main demands and concerns expressed by the organisations and citizens invited to give their opinion. And any agreement is meaningless if it is not implemented with the effective participation of those impacted and with civil society.

At the same time, it must be recognised that, on paper, the SDGs represent a breakthrough in terms of the commitment of member States to the implementation of broadscope policies, without which countries will not meet the goals outlined. Even though the global agenda is overly captured by private interests, it is still important to emphasise that the 2030 Agenda is a reference point amidst the serious civilisational and environmental crisis we are experiencing.

It is still important to emphasise that the 2030 Agenda is a reference point amidst the serious civilisational and environmental crisis we are experiencing.



Finally, I would like to refer specifically to Finance in Common, a process initiated under the leadership of AFD. For the first time, over 400 public development banks are coming together to seek common visions to face the health, food and climate crises, among others. We believe it is a crucial initiative because it may be through this initiative that we will be able to enact real change in the patterns of public policies, through incorporating the framework of rights and democratisation. This process can become a unique, exemplary and guiding framework for a new order of multilateral spaces and participating actors who are eager to define new paths based on the respect and promotion of human rights.

But for this initiative to become a guiding star, it will have to walk the talk about the meaningful inclusion of civil society, of human rights defenders, and of those who are supposed to benefit from this public finance: the people on the ground. This is why, as Forus, and with some others who are present here today, such as the International Federation of Human Rights, we commit to continue to push for the adoption of human rights-based approaches in all spaces. Because we do not only need to be guardians of existing rights, we all need to be aiming higher and pushing further for better frameworks. Because the gap between the words heard in these meetings and the realities on the ground is deeper and darker than ever.



Rémy RIOUX

Chief Executive Officer, AFD

Thank you all. I am honoured to be closing this conference, albeit with a sense of urgency.

This international conference on human rights and their connection with development issues and policy is the first of its kind for AFD. That might seem strange, given that AFD recently celebrated its eightieth anniversary on 2 December 2021. Eighty years ago, on 2 December 1941, AFD was created, as the Caisse Centrale de la France Libre [Central Fund for Free France], in London, and later in Brazzaville, to resist the most hostile forces to democracy and humanism that the world has ever known.

Our institution's commitment to fundamental rights is thus total and rooted in our history. It is in our DNA. This event has been a way to remind us of that fact. At the same time, in 80 years, this is our first conference on the subject. So this is not something to be taken for granted. The world of finance, of which we are part, has long been very timid – or even completely silent – when it comes to the issue of human rights. It has long considered human rights a risk to the accomplishment of its goals and the implementation of its projects; in other words, a risk to be mitigated by putting safeguards in place. Safeguards are standards to be followed in the execution of projects. Human rights have not been at the heart of our development mandate. To a certain extent, these two worlds – development finance and rights protection – have drifted apart for too long and become separate. Thankfully, this conference and your participation in all its diversity clearly show that this situation is changing.

It is changing for a number of reasons. The first reason is linked to our lived reality: we have all noted the severe disruptions to our societies and ecosystems, as highlighted by Valérie Cabanes. These social and environmental imbalances render democracies more vulnerable around the world, in the Global North and South alike – although these denominations are no longer really relevant. We are facing a major regression in human rights, rights that are as fundamental as the right to life and the rights of living beings. Achille Mbembé referred to the need to extend the human rights agenda beyond humans to cover non-humans. The current movement to recognise the rights of non-humans, and to even acknowledge ecocide as a crime, contributes to the recognition that there is a genuine, legal emergency.

The second reason is the revolution that began in 2015 with the adoption of the Sustainable Development Goals, a new version of what the 1948 Universal Declaration of Human Rights had already described as the pursuit of a common standard of achievement for all peoples and all nations. Or, as we have termed it at AFD, a "world in common". This global pursuit is now our mandate: to seek out the universal in what are still specific contexts, to bring out this universality and to protect it.

The adoption of the Sustainable Development Goals, a new version of what the 1948 Universal Declaration of Human Rights had already described as the pursuit of a common standard of achievement for all peoples and all nations.



Furthermore, in France, the promotion of human rights became an explicit part of our mandate through the Programming Act of 4 August 2021 on inclusive development and combatting global inequalities – to date, the only law to be unanimously adopted by the French Parliament in its current term of office. The Act sets out three objectives for French development policy. The first objective – a typical, traditional objective – is to eradicate poverty, tackle inequalities, combat food insecurity and support education and health. The second objective is to protect global public goods, in particular to protect the planet. We could have stopped there, but legislators wished to add a third objective, namely to "promote human rights, in particular children's rights, strengthen the rule of law and democracy, and promote the French-speaking world". As part of France's feminist diplomacy, the promotion of gender equality between women and men, girls and boys, was also specified as a cross-cutting objective. We consider this third component an honour. Of course, it means that we have to take this objective into account and reflect on how we can achieve it through development action.

In addition to this are the undertakings made by the President of France, Emmanuel Macron, during the New Africa-France Summit, held in Montpellier on 8 October 2021, where he spoke with African civil society actors. The issue of rights and democracy emerged quickly, loudly and clearly during the discussion. The President is committed to responding to the points raised and, in particular, at the suggestion of Achille Mbembé, to create a fund on innovation for democracy in Africa. We are actually working on this fund which will be linked to our own innovations and those developed elsewhere in the world.

So, that is our background and the new context. I wish to thank everyone for their contributions, which will provide us with food for thought with regard to this new strategic space that has opened before us. This space is, of course, already occupied by so many human rights advocates whom we respect, support and sometimes even finance. We need to clearly identify and build our own contribution to this space. For an institution like AFD, this contribution to the new agenda would come from what the institution already does, with the addition of another dimension; what I consider to be a twofold contribution.

AFD has the unique ability in France to decentralise, which is why our anniversary has the maxim "80 years by your side". This is a rather sweeping statement, but one that I sincerely believe to be accurate. AFD was born in Africa but now operates not only in that continent but all over the world. It draws its strength from its network of experts, engineers and other staff who seek an in-depth understanding of the societies in which they are called to intervene and the rights that originate there. These challenges go beyond the usual Global North and South definitions, as a result of the Sustainable Development Goals and due to the fragility we are all feeling, including in our own countries. Joe Biden emphasised this yesterday about the United States, during the Summit for Democracy. Against this backdrop, I think it is very important to have an actor who can provide a basis for comparison, identify new ideas, finance them and attempt to fully understand the trends in order to share them. **The issue of human rights is not only alive in our own countries. There is also a very powerful movement that hails from the South on these subjects that is being expressed as a thirst for social, political and climate justice – aspirations from which we can draw inspiration.**

The issue of human rights is not only alive in our own countries. There is also a very powerful movement that hails from the South on these subjects that is being expressed as a thirst for social, political and climate justice



AFD's second added value in this debate lies in our development financing role. It is our mission to change reality, society, the environment and ecosystems. In this context, we are in a position to consider the issue of rights from a grassroots level. We have often considered rights as formulas to be applied, but this was back when social and environmental emergencies were less pressing. However, in his latest book, Jean-Marie Guéhenno³¹ rightly described how democracy, as a procedure, is no longer the central issue. The issue now is knowing how to protect and generate rights in societies as fragmented, fractured, individualistic and impoverished as our own. Of course, we need safeguards and we need to protect rights within our projects. Beyond that, we must reflect on how to pursue our development activities across all sectors, and in numerous countries, in order to actually generate rights. This is perhaps something that we have not been permitted to do until now. We should also try to understand – through research, anthropology and economics – how universal rights emerge from a unique fertile ground. Such a study could provide inspiration for our activities. With this in mind, the question is how AFD can take on this subject.

The President and Prime Minister of France recently announced that AFD would change its name. This is a momentous step for any institution, because, of course, a change of name only occurs when there is a change of mandate. This development is explained by the new Act (of 4 August 2021) and the current context which we have been discussing today. This requires us to seek out ways to occupy this new space, and this should be reflected in our name. Thank you for your contributions, we will perhaps draw inspiration from the word cloud that you have helped to create today. Our new name will be the fruit of collective discussions, but I would like it to incorporate the issues debated during this conference.

We are increasingly working on the issue of inequalities. In this light, the European Commission has provided us with funding for a research facility covering areas that have much in common with the subject of today's event. We will go further by reflecting on the human rights-based development approach and the links between its various dimensions. In addition, we are designing and thinking about our new strategy for the 2023-2027 period; we will try to take account of the message of this conference.

We are already carrying out activities that aim to promote and generate human rights. We have provided a total of 60 million euros of funding for projects directly related to human rights over the past four years through our mechanism promoting the initiatives of civil society organisations (the Initiatives-CSO programme). This was also a key topic for the Generation Equality Forum, held in Paris in 2021, where we launched a fund to support feminist organisations. Some 55 projects have already been financed through this fund for a total of 80 million euros. It is an important source of inspiration and education around the world.

We are also now responsible for implementing French governance-related action, in other words strengthening the rule of law, justice, civic participation, the media and democracy. In this context, we have begun developing public policy dialogues with a number of countries, enabling us to address the issue of human rights in various domains in a more honest, proactive way. More broadly, **all AFD's operations, whether projects concerning water management, job creation or infrastructure improvement**,

³¹ Guéhenno Jean-Marie, Le premier XXI^e siècle. De la globalisation à l'émiettement du monde, Flammarion, Paris, 2021



could be used to facilitate the generation of rights through development action. There are many examples in which we have managed to change legislation and introduce rights through development action. We could try to do this in a more systematic way.

Lastly, I would like to announce a number of more specific initiatives that will be carried out by AFD and that may be viewed as evidence of our resolve and commitment to these topics. I wish to thank all those colleagues who are involved. We will intensify our efforts next year, in collaboration with civil society. For example, in 2022 we will be launching a triennial programme entitled "Freedoms! Supporting the defenders of human rights" via the mechanism promoting the initiatives of civil society organisations. We will also be launching a call for projects to promote innovative schemes led by environmentalists. We know that these new rights defenders often face very difficult, dangerous, sometimes even life-threatening situations. Their struggle is clearly only going to escalate, and thus support is required.

We are also planning to create several working groups and forums in order to continue our deliberations; these will involve diverse actors, such as civil society organisations, the public institutions of partner countries, European technical cooperation agencies (in conjunction with our subsidiary Expertise France), public development banks and the private sector. Another pledge I would like to make concerns the Finance in Common summit, which was mentioned by the United Nations High Commissioner for Human Rights, Michelle Bachelet, and the President of Forus, Iara Pietricovsky de Oliveira. The event brought together 530 public development banks from around the world, thereby also signifying a world in common. Together, these banks represent 15 per cent of global public investment. I believe that the 530 heads of these public finance institutions are familiar with the issue we are talking about today. They may not always have a mandate to work on human rights issues – we ourselves did not have it as clearly as we do now – and they may not necessarily have the tools. However, I believe that, among these institutions, there is a willingness to create a bigger space for these issues and, as public institutions, a unique ability to connect actors, link the Sustainable Development Goals and enhance the promotion of human rights internally. We clearly need to have this experience ourselves, and I am committed to sharing it with my colleagues in this space so that we can compare our experiences and make further progress.

I will conclude by thanking all of you. Almost 500 people have taken part in this conference. I would like to thank my Government for initiating this evolution and setting us an ambitious schedule, as approved by Parliament. This began in 2018 with the adoption of France's Human Rights and Development Strategy, which was the start of what is now an approved legal provision. I would also like to thank the European Union, with whom we will participate in the European Union-African Union Summit on 17-18 February 2022 under the French presidency of the Council of the European Union. As planning begins on the new European development finance instrument covering the next seven years, now is the time to consider these issues and identify how to be more ambitious in incorporating them into the Team Europe format. This is an issue to which the European Commission and all of the development institutions of the EU, public banks, development finance institutions and consultancies can contribute.



My thanks also go to the research community. Several leading researchers have been here with us today. Their research is the foundation for our action and the safeguard against errors. The greatest possible knowledge of the contexts is required to cultivate a universal outlook and forestall the risk of producing wholly inverse effects. We are also extremely grateful for the message from the United Nations High Commissioner for Human Rights, Michelle Bachelet. In opening this conference, she endowed it with all the strength and legitimacy of her commitment and her office. Her message has served to guide us throughout this event. Thanks, too, to the International Federation for Human Rights, with which we actively work and which will celebrate its centenary in 2022. Perhaps we can all meet again next year at this celebration to measure how far we have come. We need to get back to long-term thinking: that is what we are doing for the climate; we need to do the same for rights.

Pursue projects in order to generate rights, by seeking out the universal in what are still specific contexts.





BIOGRAPHY OF THE SPEAKERS



Chiara ADAMO

Acting Head for Human Development, Migration, Governance and Peace Directorate

Chiara Adamo is currently Acting Director for Human Development, Migration, Governance and Peace Directorate in DG International Partnerships (DG INTPA) in the European Commission. Chiara has more than 20 years of European Commission's experience, working on human rights and democracy, migration and human development related policies, particularly equality policies, both within and outside the EU. She is also the head of the "Human Rights, Gender and Democratic Governance" unit in DG INTPA. Before joining the European Commission, she studied International and Diplomatic Relations in Gorizia (Italy) and specialised in European Law in Rome and at the College of Europe, Bruges. She also previously worked for civil society organisations and local administrations on development cooperation and in the European Parliament.



André Franck AHOYO

Executive Director of UIAfrica (Urgence Identité Afrique)

André Franck Ahoyo is a graduate in law and political science from the National Universities of Benin and Panthéon-Sorbonne (Paris I). He is currently the Executive Director of the "Fonds Urgence Identité Afrique". In 1998, he participated in the creation of the Association for the Unification of Law in Africa (UNIDA). He accompanied the Organization for the Harmonization of Business Law in Africa (OHADA) through the International Organization of the Francophonie and then as a technical assistant of IFC (World Bank Group) seconded to the Permanent Secretariat of OHADA in Yaoundé (Cameroon) from 2009 to 2013. He is also a lecturer at the Sorbonne Paris Nord University.





Michelle BACHELET

United Nations High Commissioner for Human Rights

Michelle Bachelet is the current United Nations High Commissioner for Human Rights. Ms. Bachelet was elected President of Chile on two occasions (2006 - 2010 and 2014 - 2018). She was the first female president of Chile. She also served as Health Minister (2000-2002) as well as Chile's and Latin America's first female Defense Minister (2002 - 2004). During her presidential tenures, she promoted the rights of all but particularly those of the most vulnerable. Among her many achievements, education and tax reforms, and the creation of the National Institute for Human Rights and the Museum of Memory and Human Rights stand out. So do the establishment of the Ministry of Women and Gender Equality, the adoption of quotas to increase women's political participation, and the approval of Civil Union Act legislation, granting rights to same sex couples and thus, advancing LGBT rights.

Since the early 1990s, Ms. Bachelet has worked closely with many international organizations. In 2010 she chaired the Social Protection Floor Advisory Group, a joint International Labor Organization (ILO) and World Health Organization (WHO) initiative, which sought to promote social policies to stimulate economic growth and social cohesion. In 2011, she was named the first Director of UN Women, an organization dedicated to fighting for the rights of women and girls internationally. Economic empowerment and ending violence against women were two of her priorities during her tenure. She has recently pledged to be a Gender Champion, committing to advance gender equality in OHCHR and in international fora.



Delphine BORIONE

Ambassador for Human Rights, Ministry for Europe and Foreign Affairs

Delphine Borione is the Ambassador for Human Rights responsible for international issues relating to the Holocaust, looted property and remembrance since February 2021. She is a graduate from the French National School of Public Administration (ENA), and the Paris Institute of Political Studies (Sciences Po). Throughout her career, she held numerous bilateral and multilateral positions in the areas of sustainable development, economic, cultural and educational cooperation. From 2017 to 2020, Delphine Borione was Ambassador, Permanent Representative of France to the United Nations Organizations in Rome (FAO, WFP and IFAD). Previously, she has held positions as Senior Deputy Secretary-General of the Union for the Mediterranean (UfM) in charge of social and civil affairs; Director of Cultural Cooperation and French Language Promotion at the French Foreign Ministry; Ambassador of France to Kosovo; Cultural Counsellor and head of the Cooperation and Cultural Action Service of the French Embassy in Italy. She was tasked with preparing the G8 at the Ministry of Foreign Affairs;

and for the Presidency of the Republic under Jacques Chirac, to whom she was also Adviser on Multilateral Affairs. She has worked for the United Nations Mission in Kosovo (UNMIK) and the UN World Food Programme. She was a key negotiator of the UNFCCC on climate change in 1992. She is a Chevalier in the Legion of Honour of the French Republic and Commander in the Order of Agricultural Merit. In addition to French, she speaks English, Italian, German and Spanish.



Amina BOUAYACH

President, National Human Rights Council (CNDH) of the Kingdom of Morocco

Former Ambassador of Morocco to Sweden and Latvia, Vice President and Secretary General of the International Federation of Human Rights Leagues, she was the first woman to chair a human rights organization in Morocco (OMDH). Member of the Consultative Commission for the reform of the Constitution of 2011, the Commission on International Humanitarian Law 2006-2012, the MENA Regional Forum for the ratification of the OPCAT, the African Forum for Civilian Oversight of Police and against Violence, the International NGO Committee for the reform of the League of Arab States, the Working Group of the Euro-Mediterranean Human Rights Network, Ms. Bouayach was also Deputy Secretary General of the Steering Committee in charge of the elaboration of the Moroccan Plan of Action for Democracy and Human Rights. She is the recipient of several national and international awards, a member of the Nelson Mandela Prize Jury, and was chosen among five eminent women human rights defenders advocating for a more egalitarian post-covid world by the OHCHR. She was decorated by His Majesty King Mohammed and designated Officer of the Legion of Honor of the French Republic.



Valérie CABANES

International Lawyer and Essayist

Valérie Cabanes is an international lawyer, specialized in human rights and humanitarian law. After two decades spent in international solidarity NGOs, she has been working since 2012 for the recognition of the crime of ecocide and the rights of Nature. She is an expert for the Stop Ecocide Foundation, the United Nations "Harmony with Nature" initiative and the Global Alliance for the Rights of Nature. She co-founded and is Honorary President of "Notre Affaire à Tous". She has written two books: *Homo Natura, en harmonie avec le vivant* (Buchet/Chastel, 2017), *Un nouveau droit pour la Terre. Pour en finir avec l'écocide* (Seuil, 2016, republished by Points, 2021) and has collaborated on numerous collective books.





Rituparna CHATTERJEE

Journalist, Reporters Without Borders (RSF)

Rituparna Chatterjee is an award-winning editor and columnist with over twenty years of experience reporting from the Indian subcontinent on gender and civil rights, feminist movements, politics, and culture. She is a safe workplaces and sexual harassment prevention campaigner, specialising in sexual harassment laws. She was one of the founding editors of HuffPost in India, works as Deputy Asia Editor at The Independent, is the current India representative at Reporters Without Borders and has worked across multiple media platforms.

She was named by Forbes in their 2019 list as one of their Women Power — Trailblazers and awarded the REX Karmaveer Global Fellowship and Karmaveer Chakra gold medal instituted by iCONGO in Partnership with the United Nations for her work with sexual violence survivors and as a changemaker. She runs an online platform to chronicle India's crisis of sexual violence that amplifies a spectrum of voices. She also runs an online platform that promotes women's equitable stake in media employment.



Clifton CORTEZ

Global Adviser on Sexual Orientation and Gender Identity, World Bank

Clifton Cortez joined the World Bank Group in November 2016 as the first Global Adviser on Sexual Orientation and Gender Identity (SOGI). Clifton leads on supporting client governments with incorporating SOGI inclusion and non-discrimination in all Bank-financed development projects. He also leads the Bank's SOGI-specific data generation efforts.

Prior to joining the Bank, Clifton served as the United Nations Development Programme (UNDP)'s Deputy Director for Health and UNDP's Global LGBTI Lead (2014-16). Based at UN headquarters in New York City, Clifton led UN efforts to ensure inclusion for LGBTI people in global development, in particular as it related to the Sustainable Development Goals.

Prior to UNDP, he was part of the U.S. Agency for International Development (USAID)'s HIV response, first as part of the Office of HIV in Washington, DC, and later in the Regional Development Mission Asia in Bangkok. Over 23 years, his work has taken him to countries throughout Asia, the Pacific, Latin America, Eastern Europe, the Caribbean and Africa. Clifton holds a law degree from Georgetown University in Washington, D.C.



Olivier DE SCHUTTER

UN Special Rapporteur on Extreme Poverty and Human Rights, University of Louvain

Olivier de Schutter is a professor at UCLouvain (Belgium) and at SciencesPo (Paris). He has been the UN Special Rapporteur on Human Rights and Extreme Poverty since May 2020. He was a member of the UN Committee on Economic, Social and Cultural Rights (2015-2020) and UN Special Rapporteur on the Right to Food. He has chaired the Advisory Council on Policy Coherence for Development and the Federal Institute for Human Rights.



Ahmed GALAI

Nobel Peace Prize laureate, President of Solidarité Laïque Méditerranée

Ahmed is currently the President of Solidarité Laïque Méditerranée, and pilots the program "Soyons Actives/Actifs", which brings together 80 associations from Tunisia and France. He received the Nobel Peace Prize in 2015 within the Tunisian National Dialogue Quartet (LTDH, UGTT, UTICA, Lawyers). He is also a member of the Scientific Committee of the Arab Institute for Human Rights, which works notably on the national dialogue for the reform of the educational system. He was a member of the Steering Committee of the Tunisian League for the Defense of Human Rights (2000-2016) and Vice President in charge of training. Ahmed Galai holds a master's degree in press and information sciences (1978) and a post-graduate degree in education sciences (1997) with a specialization in school and university information and guidance.



Sarah HAYES

Human Rights Expert, AFD

Sarah Hayes is an international lawyer specialized in international cooperation and partnerships. She has been working with AFD since 2021 as a Human Rights Expert. She works in particular on the modalities for integrating the human rights-based approach into the AFD Group's activities. Between 2017 and 2021, as part of her duties at the Ministry of Europe and Foreign Affairs, she coordinated the elaboration of the interministerial strategy "Human Rights and Development". She also participated in the following of international debates and the development and monitoring of cooperation projects dedicated to the realization of human rights, the protection of rights defenders, open data, citizen participation and land governance.

Previously, Sarah Hayes taught constitutional law and international and European law for two years at the University of Orleans (France) and the China-EU School of Law (Beijing). She has also worked for international organizations (United Nations Inter-



national Law Commission, European Commission), and has conducted research on the legal framework applicable to large-scale agricultural land acquisitions (in relation to the so-called "land grab" phenomenon), in collaboration with the Universities of Strasbourg, VU Amsterdam and the Graduate Institute of International and Development Studies of Geneva.

She holds a Master's degree in Public International Law from the University of Strasbourg (2011) and a Master's degree in Development Economics from the University of Grenoble Alpes (2021).



Philippe JAHSHAN

Director of Strategy, Foresight and Institutional Relations, AFD

Philippe Jahshan holds a master's degree in modern literature and is a graduate of Science Po Paris. For 15 years, he held several positions in NGOs, first as a project manager, then as a geographical manager and finally as a director. At the same time, Philippe Jahshan has held various mandates in civil society groups committed to international solidarity: Secretary of the Euromed France Network between 2005 and 2007, he chaired the F3E between 2010 and 2012. He was also elected administrator of Coordination SUD in 2010, which he represented in Brussels, with European networks and institutions until 2013.

In 2015, he was elected to the presidency of Coordination SUD and appointed in November 2015, member of the Economic, Social and Environmental Council (EESC) on behalf of Coordination SUD. During his mandate at the EESC, he was the rapporteur of an advisory opinion to the government on the French development policy in the context of the 2030 Agenda. Philippe Jahshan also sat on the National Council for Development and International Solidarity between 2015 and 2020, on behalf of French NGOs, where he actively contributed to the work on the new law on solidarity development. He was an administrator of AFD between 2015 and 2019.

In October 2016, he was elected President of the Mouvement Associatif where he represented Coordination SUD, and in 2018 submitted a report to the Prime Minister on the policy of support for civil society from which the Government retained 15 measures to support civil society organizations. In this capacity, he sat on the Higher Council for the Social and Solidarity Economy and the French Chamber of the Social and Solidarity Economy until March 2021. He joined AFD in January 2021, at the end of his mandates, where he was appointed Director of the Strategy, Foresight and Institutional Relations Department



Yacouba KÉBÉ

Journalist, Arc- en-ciel

Yacouba Kébé has been working in the strategic communication sector for about ten years in Mali. After his training in French literature and then in Marketing-Communication, he worked in one of the first strategic communication agencies in Mali, before holding positions in the Malian high administration.

Today, Mr. Kébé is the Associate Manager of a media and audiovisual group. He is an editorialist and coordinates the editorial staff of several newspapers. Presenter of two television programs broadcast in Mali and in Africa, he animates and moderates ceremonies covering several subjects.



Farid LAMARA

Human Development Expert, AFD

Farid Lamara is an expert in human development and a strategic advisor to AFD, particularly on issues of multidimensional inequalities and the rights-based approach. He holds a PhD in International Relations and Diplomacy and a degree in social sciences. He has specialized in global health, human rights and climate issues. Active in the field of European and international cooperation for 30 years, he has worked for a wide range of organizations – civil society organizations, international organizations, governmental development and cooperation agencies – in particular on international migration, global health, inequalities, gender, human rights, just transition and sustainable development.



Florence LAUFER

Director of Prison Insider, Vice-President of Plateforme Droits de l'Homme

Florence Laufer studied human geography at the University of Geneva, with a focus on cultural and migration geography. She has worked at the Swiss Protestant Aid in Lausanne, at the United Nations in New York and at the Cordoba Peace Institute in Geneva. She has led programs in development cooperation, conflict transformation and the integration of cultural and religious diversity. In August 2009, she became the director of Prison Insider, a trilingual platform for the production and dissemination of information on prisons around the world. Since December 2020, she has been vicepresident of the Plateforme Droits de l'Homme.





Axel MARX

Deputy Director at the Leuven Centre for Global Governance Studies, University of KULeuven

Axel Marx is Deputy Director of the Leuven Centre for Global Governance Studies, at the University of Leuven. His research interests include voluntary sustainability standards, business and human rights, global governance and EU trade policy. He has worked as an expert for inter alia the European Parliament, the European Commission, International Labour Organization, United Nations Forum on Sustainability Standards and several governments and private organizations. On human rights he has published inter alia in ANNALS of the American Academy of Political and Social Science, World Trade Review, European Yearbook on Human Rights, Business and Politics, Global Policy and International Labour Review.



Cheikh Fall MBAYE

Organisation Adviser, General Secretariat of the Presidency of the Senegalese Republic

Cheikh Fall Mbaye is an Adviser in the Organization and Methods Office of the General Secretariat of the Presidency of the Republic of Senegal. Before that, he was Director of the Promotion of Good Governance between 2016 and 2021. In this capacity, he was responsible for the design and implementation of the policy promoting good governance within the administration and society. He led several important processes including Senegal's accession to the Open Government Partnership (OGP) and the development of Senegal's OGP National Action Plan; the adoption of the Access to Information Act; and the establishment of the Multi-Stakeholder Budget Monitoring Framework (MSBF). He has also worked for the Ministry of African Integration and the Ministry of National Education. He holds a Diplôme d'Etudes Supérieures Spécialisées (DESS) in Administration of Education and Training Systems from the University of Montreal and a Master's degree in National Security from the Centre for Advanced Studies on Defence and Security in Dakar.



Achille MBEMBE

Professor at the University of the Witwatersrand, member of the Wits Institute for Social and Economic Research

Achille Mbembé is an intellectual who has been described as one of the fathers of postcolonial studies. He is known for his critical stance on neoliberalism and the mechanisms of domination in today's societies. More recently, he has focused on discussions concerning the relations between Africa and France. Thus, after an invitation from the French Presidency, he accepted the task of writing a report for rebuilding these dynamics. It is through these seven months of work all across the African continent with key civilian figures that he also became the architect of the New Africa-France Summit which took place in October 2021.



Alexandra MEIERHANS

Programme Manager of the Global Programme on Rule of Law and Human Rights, UNDP

Alexandra Meierhans is the Programme Manager for UNDP's Global Programme on Rule of Law and Human Rights. She has experience in rule of law, security and human rights programming in conflict affected contexts; war crimes/transitional justice issues; social cohesion and preventing violent extremism programming.

Ms. Meierhans was previously working for UNDP's Istanbul Regional Hub where she was actively involved in initiating and coordinating UNDP's Regional War Crimes Project (Western Balkans), as well as the EU funded Western Balkans Counter Terrorism Initiative. Prior to that she was with UNDP Kosovo working on transitional justice and social cohesion. Before joining UNDP, she was engaged with the International Organization for Migration, as well as several civil society organizations. She holds a Master's in Development Studies from the Graduate Institute/Institut de Hautes Études Internationales et du Développement in Geneva.



Alice MOGWE

President, International Federation for Human Rights (FIDH)

Alice Mogwe has been a human rights activist since the 1990s. Her academic background is in law, public policy, African studies and mediation. She founded and directs DITSHWANELO – the Botswana Centre for Human Rights and was elected president of the International Federation of Human Rights (FIDH) in 2019, federating 192 local human rights member organizations across 117 countries. Her work has included active engagement domestically, regionally and internationally with civil society, governments and regional and international human rights bodies. Her leadership style is based on the respect of the dignity, equality and human rights of every person.





lara PIETRICOVSKY DE OLIVEIRA

President, Forus

Iara Pietricovsky de Oliveira holds a Master in Political Science and a Bachelor in Anthropology. Feminist and Human Rights Activist, she has been working on issues related to indigenous peoples and environment. She is currently Co-director of the Institute of Socio-economic Studies (INESC), an NGO based in Brasilia, Co-director of the Brazilian Association of NGOs, based in São Paulo and president of the International Forum of NGO Platforms – Forus.



Dominique POTIER

Member of the National Assembly, France

A lifelong activist, Dominique Potier has evolved in the associative movement, at the school of a rural youth movement. As a farmer, he created an organic and educational cooperative with 4 partners.

Mayor of Lay Saint Rémy, and President of the Community of Communes of Toulois, he was elected deputy in 2012 and chose to resign from his local mandates to devote himself fully to his new mission.

At the national level, beyond the issues of agro-ecological transition, Dominique Potier is committed to the issues of international regulations. He was rapporteur for the bill on international solidarity policy in 2014, and the bill known as "Sapin 2". Finally, he was the rapporteur for the bill on the duty of vigilance of multinational businesses. Adopted – after a collective fight – in February 2017, this pioneering law is now being emulated around the world and is on the way to becoming a European directive.



Sunia RATULEVU

Principal Administrative Officer for the Risk Management and Research Unit, National Disaster Management Office (NDMO), Fiji

Sunia Ratulevu hails from the beautiful Yasawa Islands in Fiji. He holds a Bachelor's Degree in Mathematics and Physics from the University of the South Pacific (USP), a Master's Degree in Business Administration (MBA) also from USP and a Post Graduate Diploma in Disaster Risk Reduction from the Fiji National University (FNU).

Prior to joining NDMO, Sunia taught secondary School Mathematics across various secondary schools in Fiji for 20 years. Following the conclusion of his teaching career, he joined NDMO in 2013 and has been with NDMO for the past 9 years. During his time with NDMO, Fiji experienced the strongest Tropical Cyclone (Winston) to ever make landfall in the Southern Hemisphere along with Tropical Cyclone Yasa (Category

5) which struck Fiji in December 2020. In spite of these challenges, Sunia has been instrumental in the developing of Fiji's National Disaster Risk Reduction Policy 2018-2030, the ongoing updating of Fiji's disaster legislation and the development of Standard Operating Procedures and manuals which will be used by NDMO once endorsed.

Sunia has a passion for building resilience towards the impacts of climate change and natural disasters especially for vulnerable communities and persons.



Felix RIES

Advisor, Global Program Human Mobility in the Context of Climate Change, GIZ

Felix Ries works as an adviser for the Global Programme Human Mobility in the Context of Climate Change at the German development agency GIZ. He has been working as an expert on climate change adaptation for the International Climate Initiative (IKI) before, where he was responsible for a large portfolio of projects on ecosystem-based adaptation, adaptation finance, and adaptation in urban areas. He started his work for GIZ in Fiji, where he worked on supporting adaptation to climate change in the pacific island region. He holds a degree in Social Anthropology and Socio-economics of Rural Development.



Rémy RIOUX

Chief Executive Officer, AFD

An expert in economics and international financial institutions, Rémy Rioux has held high-level positions in a career totally devoted to development and Africa. After serving as chief of staff of the French Economy and Finance Minister, he was appointed Deputy Secretary General of the Ministry of Foreign Affairs and International Development and coordinated the finance agenda of the Paris Agreement. Mr Rioux has headed the AFD since 2016. In 2017, he also became Chairman of the International Development Finance Club (IDFC) and organized the Finance in Common Summit (FICS) in 2020.





Anaïs SCHILL

Business and Human Rights Adviser at the National Consultative Commission on Human Rights, member of the Francophone Association of National Human Rights Commissions – a member organisation of the Plateforme Droits de l'Homme

Anaïs Schill is a French and German lawyer and holds a Master's degree in Human Rights and Humanitarian Law from the University of Paris II and an LL.M. from the Humboldt University of Berlin. She taught public law at the University and was then appointed as an associate judge at the National Asylum Court by the United Nations High Commissioner for Refugees. She joined the French Advisory Commission on Human Rights (CNCDH) in 2019 where she coordinates the working groups on Business and Human Rights and International Humanitarian Law.



Laurène SECA

PhD Student Climate Justice, AFD

Laurène Seca graduated from ESSEC in 2017 and obtained a master's degree in political philosophy from Sorbonne University in 2018. She participated in a three-month microcredit mission in Vietnam and completed an internship with Jumia Mozambique before becoming an independent consultant for AFD for two years. Passionate about development and environmental justice issues, Laurène is undertaking a PhD in political theory since 2021 on the differentiated vulnerability of countries regarding the impacts of climate change and related public policies. Her thesis associates Sorbonne University, Paris School of Economics and AFD.



Kristin SJÖBLOM

Senior Manager ESG Affairs, SwedFund

Kristin Sjöblom is a Senior Manager ESG Affairs at Swedfund International AB and the team-lead for the ESG group at the Impact & ESG Department. Kristin has a broad knowledge and experience from many sustainability areas including environment, labor, social and human rights. Kristin works currently with investments in the Energy and Climate area including forestry. Prior to Swedfund where she started 2011, Kristin worked as Sustainability Manager for a large International manufacturing company. Kristin hold a MSc. Degree in Chemical and Environmental Engineering, introductory courses in human rights laws and various trainings in the social field.



Francisco VON HILDEBRAND

CEO, Gaia Amazonas

Francis von Hildebrand is the Chief Executive Director of Gaia Amazonas (Fundación Gaia Amazonas), a Colombian NGO whose mission is to protect the Amazon, biocultural diversity, and socio-environmental resilience while actively partnering and collaborating with indigenous peoples' processes and organizations. Francis has led Gaia Amazonas as its Director and CEO since 2012 and previously worked for a decade in the organization as a researcher advancing development and conservation projects in Amazonia with indigenous communities in Colombia and in transfrontier projects. Francis is a professional in Development Studies and is an expert in local development strategies, local governance, and inter-cultural environmental management with a strong emphasis on community-based research and participation.



Elin WRZONCKI

Director of the Human Rights and Business Department, Danish Institute for Human Rights

Elin Wrzoncki is Department Director for Human Rights and Business at the Danish Institute for Human Rights since June 2020. Between 2014 and 2020 she was Programme Manager of the Business & Accountability Programme. Elin has extensive experience with the intersection between business and human rights and in working directly with various actors including business actors, NHRIs and civil society. Amongst other projects she has developed a blended learning programme for NHRIs on business and human rights, she has also supported the development of tools and methods for state actors on the implementation of business and human rights standards in particular through National Action Plans. She led DIHR's contribution to the Myanmar Centre for Responsible Business and in particular worked on a Sector-Wide Impact Assessment of the mining sector.

Before joining DIHR in 2014, she was the Head of the Globalization and Human Rights Desk at the International Federation for Human Rights (FIDH), where she was in particular supporting national human rights NGOs to document business impacts on human rights and advocating for corporate accountability. She holds a Master's Degree in Political Sciences from Sciences-Po in Paris (1999) and from Uppsala University in Sweden (2000).





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Towards a world in common

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We build shared solutions with our partners, with and for the peoples of the South. Our teams are involved in more than 4,000 projects on the ground, in French overseas departments, in 115 countries and in regions in crisis, for the common good – climate, biodiversity, peace, gender equality, education and health. We thereby contribute to the commitment of France and the French people towards achieving the Sustainable Development Goals (SDGs). For a world in common.



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