

Chapter 6

Climate Change, the Right to Development and the 2030 Agenda for Sustainable Development

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Learning Objectives:

- To understand how the right to development framework can help promote and implement the climate-linked development objectives of SDG 13 in line with key climate change agreements and the wider rights-based development parameters.
- Become aware of the synergies between the main principles of the right to development and the climate change objectives of the 2030 Agenda.
- To understand the regulatory framework for climate change and in that context, to understand how to apply SDG 13 through the lens of the right to development framework to achieve climate mitigation and adaptation objectives while protecting the right to development of the world's poor and vulnerable.
- To assess the implications of pursuing climate-linked development strategies and to make a real legal and policy reflection on the value of the right to development in promoting SDG 13 and sustainable development.

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Introduction

Climate Change refers to the state of the climate that can be identified by changes in the variability of its properties persisting over extended periods.¹ It is precipitated by anthropogenic greenhouse gas (GHG) emissions, which primarily derive from the burning of fossil fuels (e.g. coal, oil, natural gas, diesel, petrol, etc.) in power generation, transportation, buildings and industry; the generation of heat and electricity and land-use change such as deforestation.² The effects of climate change range from rises in temperature and extreme weather conditions, to impact on water systems and changes in the ecosystem and its functions. The cumulative impacts have profound implications for economic development, sustainability of food production, industrial development, and livelihoods of people and communities. Many of the world's poorer regions lack the financial capital, adequate systems of governance, and the appropriate technology to pursue environmental and socially sustainable economic activities, to mitigate the threats and effects of climate change.³

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted in 1992 as a global initiative that establishes the framework of objectives and principles to stabilise GHG emissions and guide further implementation measures.⁴ The Kyoto Protocol of 1997,⁵ and the Paris Agreement of 2015,⁶ build on the UNFCCC's efforts to hold the increase in the global average temperature below 2⁰ C and to limit the temperature increase to 1.5⁰ C above pre-industrial levels.⁷ Both agreements identify implementation strategies and mechanisms for reducing GHG emissions, mitigation, and adaptation to climate change threats and sustainable development.

Sustainable Development Goal 13 (SDG 13) of the 2030 Agenda for Sustainable Development recognises that the adverse impacts of climate change undermines the ability of all countries to achieve sustainable development and the need to "take urgent action" to combat climate change and its impacts.⁸ It prescribes practical ways in which countries can work towards addressing climate change threats in a cooperative framework. The UN Declaration on the Right to Development Declaration, 1986 (DRTD), recognizes that all human beings have an inalienable

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¹ Intergovernmental Panel on Climate Change (IPCC), *Climate Change Synthesis Report, 2007*, available at https://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf, accessed on 29th August 2016.

² Stern, N H, *The Economics of Climate Change: The Stern Review* (Cambridge: Cambridge University Press, 2006); George Pring, Alexandra Haas, and Benton Drinkwine, "The Impact on Health, Environment, and Sustainable Development", in Zillman *et al.* (eds), *Beyond the Carbon Economy: Energy Law in Transition* (Oxford: Oxford University Press, 2008); International Energy Agency, *World Energy Outlook, 2010* (Paris: OECD/IEA, 2010).

³ Paul Collier, Gordon Conway, and Tony Venables, "Climate Change and Africa", in Dieter Helm and Cameron Hepburn (eds), *The Economics and Politics of Climate Change* (Oxford: Oxford University Press, 2009).

⁴ United Nations, *Framework Convention on Climate Change*, 9 May 1992, United Nations Treaty Series, vol. 1771, p. 107.

⁵ United Nations, *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, 11 December 1997, United Nations Treaty Series, vol. 2303, p.162.

⁶ United Nations, *Paris Agreement*, 12 December 2015, available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&lang=_en&clang=_en, accessed on 26 July 2017.

⁷ United Nations, *Paris Agreement*, Article 2.

⁸ A/RES/70/1, SDG 13.

“human right” to participate in, contribute to, and enjoy economic, social, cultural, and political development within a viable institutional framework.⁹

The RtD vision and paradigm of development can complement the 2030 Agenda’s climate change objectives contained in SDG 13 and enable their practical and cooperative implementation by countries to address the threats of climate change, while also guaranteeing that right to development is promoted and not undermined.

2030 Climate Change Agenda and the RtD

The 2030 Agenda recognises that the adverse impacts of climate change undermine the ability of all countries to achieve sustainable development and impresses the need to “take urgent action” to promote development while combating climate change. It calls for the widest possible international cooperation on reducing GHG emissions and addressing adaptation and mitigation of impacts.¹⁰ This objective is firmly rooted in the DRTD, which preserves the sovereignty of states over their natural resources and confer on human beings an inalienable “human right” to enjoy economic, social, cultural, and political development – all of which currently face threats from climate change.

The exercise of the RtD requires also that people participate in and contribute to the processes that seek to ensure the enjoyment of development.¹¹

It is estimated that by 2030, climate change impact will become a snare to the RtD, if development is not inclusive and climate informed.¹² The 2030 Agenda validates the potency of the RtD by focusing on human beings as the *centre of concern*, and in seeking to “build dynamic, sustainable, innovative, and people-centred economies”.¹³ The DRTD could therefore apply to impose the legal duty on States to protect their people and economies through legal and regulatory frameworks.¹⁴ In other words, the RtD translates into an obligation to protect people from the impacts of climate change, through the formulation, adoption, and implementation of mitigation and adaptation policies, programmes, and legislation that will improve human well-being. It also includes a duty to create favourable conditions at the international and domestic level, and to take measures for the realisation and enjoyment of the benefits of the RtD.¹⁵

The “process” aspect of the RtD is at the very heart of “development”. That process includes international cooperation to provide developing countries with the “means” to facilitate comprehensive development and improvement in human well-being.¹⁶ In other words, countries must ensure equal and adequate access to essential resources including the mobilisation or transfer of financial, environmental, technological resources to developing countries; as well as to assist with capacity building and pursue cooperative approaches to promote fair development policies.¹⁷

⁹ A/RES/41/128, Article 1.

¹⁰ A/RES/70/1, paragraphs 14 and 31.

¹¹ A/RES/41/128, Articles 1(1) and 2(1).

¹² World Bank, *Shock Waves: Managing the Impacts of Climate Change on Poverty, Climate Change and Development Series* (Washington DC: World Bank, 2016).

¹³ A/RES/70/1, paragraph 27.

¹⁴ A/RES/41/128, Articles 2(3), 4(2) and 10.

¹⁵ *Ibid*, Articles 3(1) and 4(1).

¹⁶ *Ibid*, Article 4(2).

¹⁷ A/RES/70/1, paragraph 41; OHCHR, *Development is a Human Right*, <http://www.ohchr.org/EN/Issues/Development/Pages/Backgroundrtd.aspx>, Accessed on 17 August 2016.

The main climate change objectives that subsume in SDG 13 of the 2030 Agenda are to:

- strengthen resilience and adaptive capacity to climate-related hazards;
- integrate climate measures into national policies, strategies and planning;
- improve education, awareness-raising, human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning;
- implement the financial commitments undertaken by developed countries under the UNFCCC to mobilise funds to address the needs of developing countries; including operationalising fully the Green Climate Fund;
- promote climate capacity orientated planning and management in developing states focusing on women, youth, local and marginalized communities.

These goals should be implemented through several mechanisms. Notable amongst such mechanisms are: the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries; to garner international support for implementing effective and targeted capacity-building in them; and to mobilise financial resources (public and private) to climate change efforts through the global financing framework.¹⁸

Operationalizing the RtD therefore would require viewing climate regulation through the 2030 Agenda as a process of imposing climate mitigation targets on rich states on the one hand and a means of empowering developing nations and their people to take mitigation measures in line with their development needs with support and assistance from developed states. Drawing from the objectives of both SDG 13 and the RtD, we can construct the following six basic principles that will inform the operationalization of the RtD in implementing SDG 13 and the key climate change agreements:

- 1) Exercise of full sovereignty over domestic resources for development while strengthening the resilience and adaptive capacity to address climate-related hazards;
- 2) Establish legal and regulatory frameworks to promote economic, social, political, and cultural rights and integrate climate measures into national policies and planning;
- 3) Ensure participation in climate-linked development and improve education and institutional capacity on mitigation, adaptation, impact reduction and early warning;
- 4) Provide equal opportunity to countries and peoples to be able to plan and manage climate change in developing states focusing especially on marginalized groups;
- 5) Create favourable conditions for climate-linked development, especially mobilising funds from the UNFCCC financial commitments to the needs of developing countries;
- 6) Transfer, disseminate and diffuse environmentally sound technologies in developing countries.

These principles should guide states in taking practical steps to implement SDG 13 through the RtD framework. The next section will demonstrate how these climate-linked RtD principles (SDG13-RtD) can be applied to the relevant global climate change mitigation and adaptation regulatory framework to pursue economic, social, political and cultural RtD.

Climate-linked Development and Climate Change Agreements

The UN Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol and most recently the Paris Agreement are pertinent for assessing the adaptability of the SDG 13–RtD framework. The UNFCCC’s main objective is to achieve stabilisation of greenhouse gas (GHG)

¹⁸ A/RES/70/1, paragraph 17.

concentrations in the atmosphere. It lays down the general commitments applicable to all parties with a specific aim for developed countries to commit to emission reduction targets. It requires that the time frames for achieving emissions reduction levels be sufficient to allow ecosystems to adapt naturally to climate change and not threaten food production.¹⁹ Along these lines, the Paris Agreement aims to enhance efforts to strengthen the global response to climate change threats and increase the ability to adapt to the adverse climate impacts and promote sustainable development and poverty eradication.²⁰

Applying the first principle under the SDG 13–RtD framework to the UNFCCC, would mean that countries reserve the right to exercise full sovereignty over their domestic resources for development. This right however would carry with it a responsibility on all states (rich and poor) to protect their ecosystems and food production from the adverse impacts of climate change including the measures they may take to stabilise GHG emissions.²¹ Also, efforts by states to strengthen the resilience of ecosystems and secure other vital resources from climate-related hazards could allow for economic development to proceed in a sustainable manner.²²

The UNFCCC does not create legally binding obligation on the parties regarding limits on GHG emissions or enforcement mechanisms, but sets the framework within which parties can negotiate binding emissions limits, financial support and technology transfer. The measures recommended by the UNFCCC for meeting targets include keeping national inventories, integrating climate change issues across policymaking and adoption of measures to limit GHG emissions.²³ The Kyoto Protocol of 1997 and the Paris Agreement of 2015 are the key instruments on negotiated binding emissions limits, financial support, and technology transfer. Other efforts include the Bali Action Plan (2007),²⁴ Cancun Agreement (2010),²⁵ and the Doha Amendments (2012)²⁶. The Kyoto Protocol entails industrialised countries (Annex 1 Parties) arrangements on specific commitments for emissions reduction targets and the mechanisms to ensure subsequent wider and deeper reductions.²⁷ Parties can utilise emissions trading schemes, joint implementation, and clean development mechanisms (CDM) in their implementation efforts.²⁸

The UNFCCC’s common but differentiated responsibility (CBDR) principle places responsibility on developed countries for past GHG emissions to take the lead in combating climate change and to take mitigating measures.²⁹ This principle evokes an expectation that developing countries require a window for “survival emissions” by which to meet their social and developmental needs

¹⁹ United Nations, *Framework Convention on Climate Change*, Article 2.

²⁰ United Nations, *Paris Agreement*, Article 2.

²¹ United Nations, *Framework Convention on Climate Change*, Article 2.

²² *Ibidem*.

²³ *Ibid*, Article 7.

²⁴ *Report of the Conference of the Parties of the United Nations Framework Convention on Climate Change on its thirteenth session, Bali, 3 – 15 December 2007* (FCCC/CP/2007/6/Add.1).

²⁵ *Report of the Conference of the Parties of the United Nations Framework Convention on Climate Change on its sixteenth session, Cancun, 29 November – 10 December, 2010*, (FCCC/CP/2010/7).

²⁶ United Nations, *Doha Amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, December 2012*, available at http://unfccc.int/files/kyoto_protocol/application/pdf/kp_doha_amendment_english.pdf, accessed on 26 July 2017.

²⁷ United Nations, *Kyoto Protocol*, Article 3; See also: Dierter Helm and Cameron Hepburn. *The Economics and Politics of Climate Change* (Oxford: Oxford University Press, 2009).

²⁸ United Nations, *Kyoto Protocol*, Article 6.

²⁹ United Nations, *Framework Convention on Climate Change*, Articles 3(1) and 4(2); United Nations, *Paris Agreement*, Article 2.

although, the intergenerational equity and precautionary principles should inform a sustainable development path for poor countries.³⁰

It is clearly possible to adopt the SDG13–RtD framework to implement these provisions especially the fourth, fifth, and sixth principles constructed earlier in the previous section. The respective principles advocate for example the provision of equal opportunity to nations (and peoples) to enhance their ability to manage climate change and the creation of favourable conditions for the pursuit of climate-linked development through financial commitments. They also call for the mobilisation of funds and the facilitation of transfer and diffusion of environmentally sound technologies. The principles could also effectively implement the CBDR principle by carving a right for special consideration to be accorded to the needs of developing countries, and for developed countries to make commitments towards capacity building, technology transfer; and the provision of financial resources to meet developmental needs, including addressing climate change threats.

The application of the CBDR principle ensures participation of poor countries and their peoples in climate-linked development. It also guarantees their human right not to be inequitably consigned to a much lower level of economic activity in order to mitigate climate change.³¹ Similarly, the market-based CDM makes it possible for polluters in developed countries to invest in clean projects like rural electrification using solar panels or hydroelectricity in developing countries and claim saleable credits for such projects to assist in the reduction of emissions and promote economic and social aspects of the RtD.

However, the Kyoto mechanism is not adequate to represent as the main international policy instrument for attaining global emissions reduction, abate the threats of climate change, and simultaneously address rights-based development objectives under the RtD. It cannot effectively function as a general principle because it adopts a sectoral and programmatic approach. Further, it does not create that stable and predictable policy framework that the private sector needs for reorienting its business strategies involving “low carbon” foreign investment including technology diffusion to poor countries.³²

The Paris Agreement remedies the deficits of the Kyoto Protocol, in that, it closely aligns with the overarching themes of the SDG 13–RtD framework, making it easier to adopt the RtD framework in its implementation. For instance, the Agreement recognises that climate impacts are a “common concern of humankind”, and calls for the promotion of obligations on human rights including the RtD. It adopts concepts of “development” as underlying principles for the implementation of climate objectives, namely “low GHG emissions development” (LGED) and “climate-resilient development” (CRD).³³ It also identifies certain “sustainable” approaches and mechanisms on climate mitigation and adaptation actions that should guide implementation

³⁰ United Nations, *Framework Convention on Climate Change*, Preamble, Articles 3, 4 and 12; See also: Søren E. Lütken, and Axel Michaelowa, *Corporate Strategies and the Clean Development Mechanism: Developing Country Financing for Developed Country Commitments* (Cheltenham: Edward Elgar, 2008), p. 53.

³¹ Friedrich Soltau, *Fairness in international Climate Change Law and Policy* (Cambridge: Cambridge University Press, 2009).

³² UNCTAD, *World Investment Report 2010: Investing in a Low-carbon Economy* (Geneva: UNCTAD, 2010).

³³ United Nations, *Paris Agreement*, Article 2.

strategies and measures to promote LGED and CRD, sustainable development and environmental integrity.

Parties must prepare, maintain, report, and publish intended nationally determined contributions (NDC), and the mitigation measures for achieving their objectives, including the provision of support to developing states.³⁴ They may use cooperative approaches to their mitigation and adaptation actions to implement their NDC such as internationally transferred mitigation outcomes.³⁵

The Paris Agreement calls on the Parties to adopt climate mitigation mechanisms that incentivise public and private participation, contribute to Host party and global emissions reduction, and integrate “holistic, and balanced non-market approaches”.³⁶ Adaptation actions should be country driven, participatory, and transparent in approach and designed to protect people, livelihoods, and ecosystems.³⁷ Parties should pursue cooperative action on technology development and transfer, education and training, and enhancing endogenous capacities and technologies. They must build transparent frameworks for support to build capacity especially of LDCs and vulnerable states.³⁸

These measures and actions can be adopted by Parties and non-Party stakeholders – civil society, the private sector, financial institutions, cities, and other sub-national authorities, local communities and indigenous peoples – in the widest form of international cooperation.

Operationalizing the RtD in implementing SDG 13 can in turn aid the implementation of these climate-linked development objectives in the Paris Agreement principally through the second and third principles on integration and participation. The principles provide for the establishment of legal and regulatory frameworks to integrate climate measures into national policies and planning to promote economic, social, political, and cultural rights. They call for enhanced participation through awareness raising, education and institutional capacity on mitigation, adaptation, and early warning systems.

Given the popular consensus among States on the 2030 Agenda, its implementation through operationalizing the RtD is strongly desirable. This will work to overcome or temper the atmosphere of recrimination among poor and rich states for climate responsibility, conflicts over investment and trade interests in technology transfer, and the political posturing that often surrounds climate change negotiations. The SDG13–RtD framework to implementation will encourage and enhance the cooperation and flexibility that is required by Parties and non-Parties to take actions to combat climate change without undermining development.

Issues in Climate-linked development Strategies

A strict textual reading of the DRTD reveals an omission of “environmental” RtD, including the balancing that needs to take place between the three dimensions of sustainable development – economic, social, and environmental. This textual anomaly is primarily because the DRTD predated widespread consciousness on the environment, climate change and sustainable development. However, the environmental perspective is an inherent component of the RtD as is

³⁴ Ibid, Articles 4 and 5.

³⁵ Ibid, Articles 6(1) and 6(2).

³⁶ Ibid, Articles 6(4) and 8.

³⁷ Ibid, Article 7.

³⁸ Ibid, Articles 10–13.

validated by the affirmation in the 2030 Agenda of Principle 3 in the 1992 Rio Declaration, which states, that “the right to development must be fulfilled so as to equitably meet the developmental and environmental needs of present and future generations”.³⁹ In addition, the textual anomaly in the DRTD is also cured by the 2030 Agenda, which focuses on human beings as the *centre of concern* for climate change actions and supports the integration of climate measures into national policies.⁴⁰

A more compelling concern is the link that is being made between climate change and poverty. In the view of the World Bank, climate change is not yet the dominant driver of global poverty. It is envisaged however that by 2030, climate change can have a large impact on poverty if development is not rapid, inclusive, and climate informed.⁴¹ There is thus an emerging but rapidly growing trend toward a climate-linked development philosophy and strategies. These have been framed severally as “low GHG emissions development” (LGED), “climate-resilient development” (CRD), *green economy*, *green development*, *green growth* and *green recovery*.⁴²

These climate-linked development strategies focus on how to ensure that industrialised countries make deeper cuts in emissions reduction and how developing countries can take quantifiable mitigation actions, supported by agreed assistance with financial and technological resources.⁴³ Such framing of climate and development could raise competing or undermining dynamics between climate-linked development and traditional pathways of economic, social, political, and cultural development identified in the RtD as a human right. The latter bears a slant towards sovereignty over domestic resources, poverty alleviation, participatory and institutional rights in a process that is *people centred*.

If climate change is not the dominant driver of poverty currently as the World Bank suggests,⁴⁴ one could argue that climate-linked development therefore cannot be an appropriate or adequate strategy to address the traditional RtD questions, like investment in education, health, housing, and infrastructure (e.g. telecommunications, roads, ports, electricity etc). But the case could also be made that climate-linked development applied through the Kyoto protocol CDM offers possibilities for developing countries to attract commercial investment aimed at emissions reduction while also supportive of economic development through the creation of jobs, local infrastructure and the generation of growth – in a clean, low-carbon manner.⁴⁵

Another issue area relates to the provision and availability of climate-oriented development finance. Climate-linked development tends to view “development finance” in terms of adequate and predictable financial resources committed by developed countries to assist developing countries to implement adaptation and mitigation strategies and measures; and to pursue climate

³⁹ A/RES/70/1, paragraph 12.

⁴⁰ See Ibid, Target 13.2.

⁴¹ World Bank, *Shock Waves*.

⁴² United Nations Environmental Programme (UNEP), *Green Economy*, available at <http://web.unep.org/greeneconomy/>, accessed on 8 July 2016; United Nations, *Paris Agreement*.

⁴³ Harald Winkler, “An Architecture for Long-Term Climate Change: North-South Cooperation Based on Equity and Common but Differentiated Responsibilities”, in Biermann, Pattberg and Zelli (eds), *Global Climate Governance Beyond 2012: Architecture, Agency and Adaptation* (Cambridge: Cambridge University Press, 2010), pp. 97–116.

⁴⁴ World Bank, *Shock Waves*.

⁴⁵ United Nations Environment Programme (UNEP), *Finance Initiative: Innovative Financing for Sustainability*, available at http://www.unepfi.org/fileadmin/documents/and_yet_it_moves.pdf, accessed on 17 August 2016.

capacity orientated planning and management.⁴⁶ Since the UNFCCC, several financing initiatives and mechanisms have been set up to address these goals and the evolving climate-oriented development agenda. They include the Global Environmental Facility (GEF), the Green Climate Fund, the LDC Fund, the Special Climate Change Fund, and the Global Financing Framework for the 2030 Agenda and SDG 13.

The spill over effect of this trend is that the International Financial Institutions (IFIs) have now linked climate finance and development finance.⁴⁷ The World Bank for instance maintains funds and facilities under categories of *Carbon* funds and *Climate* funds including innovative new multi-donor climate investment funds. They particularly focus on forests for carbon stores and biodiversity benefits directed towards providing support for the Banks *ecosystem-based approach* to climate change regulation.⁴⁸ The Strategic framework for climate change and development (SFCCD), BioCarbon Fund, Forest Carbon Partnership Facility and Prototype Carbon Fund (PCF) are pertinent examples. It is worth noting that the land-based mitigation policies and payment for ecosystem services however involve land conflicts that disproportionately affect the poor. This is because many developing countries, including the LDCs, usually lack developed land-tenure institutions, enforcement capacity, and climate-friendly landscape management that are explicitly designed to support poverty reduction in these countries.⁴⁹

However, some projects maintain an explicit poverty dimension that may reflect the participatory, contributory, and enjoyment of benefits components of the RtD framework. For example, the Community Development Carbon Fund (CDCF) employs a “co-benefit approach” that links carbon finance with poverty reduction through the purchase of emissions reduction from small-scale projects that provide community benefits. Also, the Strategic Climate Fund (SCF) with its pilot, Forest Investment Program (FIP) is a way of integrating climate risk and resilience into core development.⁵⁰ Also, the strategies on technology could enhance economic RtD, especially those that encourage the adaptation of technology locally or that build technical and financial capacities - like renewable energy development projects; and innovative business models involving low carbon options that the private sector can adopt.⁵¹

⁴⁶ United Nations, *Paris Agreement*, Article 9; FCCC/CP/2015/L.9/Rev.1, section III, Paragraphs 53 to 57, within the Decision for Adoption of the Paris Agreement; A/RES/70/1, SDG 13.

⁴⁷ See World Bank, *Financing for Development Post-2015*, 2015, available at <http://www5.worldbank.org/mdgs/post2015.html>, (accessed on 26 July 2017).

⁴⁸ World Bank, *Convenient Solutions to an Inconvenient Truth: Ecosystem-based Approaches to Climate Change*, June 2009, available at https://siteresources.worldbank.org/ENVIRONMENT/Resources/ESW_EcosystemBasedApp.pdf, accessed on 26 July 2017; I. Hagbrink, *Carbon Finance for Sustainable Development: 2012 Annual Report* (Washington D.C.: World Bank, 2012), p.12–19.

⁴⁹ World Bank, *Shock Waves*, pp.195–196.

⁵⁰ Priscilla Schwartz, “Powering the Right to Development: Sustainable Energy in a Changing Climate”, Available at www.ohchr.org/Documents/Issues/Development/Dignity/PriscillaSchwartz.pdf, accessed on 8 on August 2016; World Bank, *Convenient Solutions to an Inconvenient Truth*; I. Hagbrink, *Carbon Finance for Sustainable Development*.

⁵¹ Global Environmental Facility, *Renewable Energy and Energy Access*, available at <https://www.thegef.org/topics/renewable-energy-and-energy-access>, accessed on 5 September 2016; Abbe Brown, *Environmental Technologies, Intellectual Property and Climate Change: Accessing, Obtaining and Protecting* (Cheltenham: Edward Elgar Publishing, 2013).

Notwithstanding the fact that some climate-oriented projects and programmes may contain an explicit poverty dimension, it is clear that the climate-linked development agenda does encroach on the social or cultural RtD imperatives, or at least, dress them as climate related when they may or may not be so. The distrust underpinning the controversies over industrialised countries' responsibilities for past emissions and the CBDR principle has ensnared the developing countries' quest for development rights into this uneasy "climate change and development" alliance that is based on financial expectations. This has led to calls for a justice and fairness orientated approach to be taken in climate change issues, such that would be invoked in order to reach acceptable allocation of costs and targets in emissions prevention.⁵²

The appeal of the climate-linked development philosophy is excused to the extent that the idea of a cheap transition to a low-carbon economy seduces politicians into this comfort zone where they can avoid admitting to their electorates that climate change challenges are substantial.⁵³ Yet other viewers with narrower lenses advocate for climate concerns to be decoupled from the demands of economic growth in order to avoid the "demands of survival and lifting living standards from pitiful levels" from being prioritised.⁵⁴ The World Bank however uses a much broader lens in its assessment of climate-linked development efforts involving the poor, and calls for an immediate departure from current development trends in pursuing climate stabilization objectives. This is because, in the view of the Bank, pro-poor mitigation policies like land-use planning, infrastructure, rural healthcare systems, and social assistance in emergence (which usually are difficult political economy obstacles), are needed to reduce the long-term threats from climate change.⁵⁵

It is also worth mentioning that the climate-linked development agenda tends to overlook the importance of petroleum development to oil rich developing economies. Under the sovereignty over natural resources principle such countries may, in the exercise of their RtD, rely on oil production and the forward and backward linkages (e.g. petrochemical industry and local content requirements) that are potentially needed to grow the economy. This is not to down play the link between GHG and CO₂ emissions caused by fossil fuel production, which even the international oil companies (IOCs) do acknowledge. What is required however is for these corporations operating in developing countries to scale up their commitment to address the climate consequences of fossil fuel production through meaningful and targeted investments into renewables.

For example, Shell and British Petroleum are reported to have planned spending on renewables of an average of \$100 million over five years and \$1 billion in solar product sales over three years respectively, in contrast with \$7.5 billion and \$4 billion respectively spent in 1997 on exploration and production.⁵⁶ In addition to IOC efforts, it is important for IFIs to also weigh in and support

⁵² Henry Shue, *Climate Change Justice: Vulnerability and Protection* (Oxford: Oxford University Press, 2014).

⁵³ Dieter Helm and Cameron Hepburn. *The Economics and Politics of Climate Change* (Oxford: Oxford University Press, 2009).

⁵⁴ C. Nakhle, "Energy and Climate - No need for Conflict", *Oil, Gas & Energy Law Intelligence*, vol.5, no.4 (2007), pp. 1-3, at p. 3.

⁵⁵ World Bank, *Shock Waves*.

⁵⁶ Kirsty Hamilton, *The Oil Industry and Climate Change*, August 1998, available at <http://www.greenpeace.org/international/Global/international/planet-2/report/2006/3/the-oil-industry-and-climate-c.pdf>, accessed on 24 July 2017.

the Organisation of Petroleum Exporting Countries with investments toward diversification in order to avoid a total dependence on petroleum exports.⁵⁷

The forgoing discourse should impress on policy makers and planners, the overwhelming and urgent need for countries to operationalize the RtD in implementation of the 2030 Agenda's SDG 13 both in form and in process. Operationalizing the RtD will enable them to achieve a holistic and rights-based development imperative alongside the implementation of climate-linked development policies, strategies, and measures for mitigating and adapting to the threats posed by climate change.

Conclusion

This chapter has revealed the synergies between the salient principles of the RtD framework and the objectives of the 2030 Agenda's SDG 13 on climate change. It identified six principles that are embodied within the RtD framework (SDG 13–RtD) by which to address climate change objectives and ensure sustainable development by 2030. It also introduced the legal and regulatory framework for climate change through an overview of the key agreements, the UNFCCC, the Kyoto Protocol, and the Paris Agreement, and uncovered the growing trend toward a climate-linked development. It then applied the RtD to SDG 13 to test the implementation of the climate agreements to achieve climate mitigation and adaptation objectives while protecting broad-based development opportunities especially of the world's developing, poor, and vulnerable economies, the human rights of their peoples.

In a critical analysis, we have also exposed the issues surrounding the “climate-linked development” strategies especially their primary focus on how to ensure that developed countries make deeper cuts in terms of emissions reduction and developing states take quantifiable mitigation actions. The course has demonstrated that such “climate and development” framing could see competing or undermining dynamics that could affect the more traditional pathways of development represented in the RtD as a human right.

The main policy reflection to take away from the chapter is the value of the RtD for implementing the 2030 Agenda. The RtD can apply easily through the various climate change agreements and beyond. The SDG 13–RtD framework represents a formidable unifying tool to promote sustainable development which surpasses the acrimonious and tedious relationship that sustains between industrialised and developing economies regarding climate change responsibilities, negotiations, financial commitments, and technology transfers.

⁵⁷ Thomas Stocker, “Earth in the Greenhouse – A Challenge for the Twenty-First Century”, in Thomas Cottier, Olga Nartova and Sadeq Z. Bigdeli, (eds), *International Trade Regulation and the Mitigation of Climate Change* (Cambridge: Cambridge University Press, 2009), pp.3–13.