

KEEPING FOSSIL FUEL AND TOBACCO INDUSTRY ACCOUNTABLE

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Introduction

It is naïve and perhaps erroneous to summarise in few lines a wide and complex thought like human rights and climate justice within a global debate. While there is no widespread agreement on who decides “**what is justice in climate justice**”, it is also difficult deciding who partake in UN climate negotiation. Negotiations and treaties, we believe, should voice the sufferings of the most vulnerable and hold the perpetrators accountable rather than welcoming an “open fruitless” negotiation with capitalist fossil fuel and tobacco industry representatives sitting side by side their own victims. The end has always been an empty talk.

Human rights have become one of the most important political and legal languages of our time. We use it often times in politics, economics, religions and in other spheres of life as a fundamental guiding principle. Usually human rights statement are valid and nondiscriminatory. It is therefore not unanticipated that human rights’ articulation of the demand for climate justice and human rights’ claim to protect the vulnerable from state abuse, private corporations, and companies have become subject to intense scrutiny and public debate globally. This article first introduces briefly the international human rights regime and then focuses on a series of critical approaches to human rights in relation to climate change –a debate of the century.

A brief examination of the nature of human rights obligations and their enforcement will be followed by a critical examination of the universality of human rights and its emancipatory potential in the light of “**keep the fossil fuel and tobacco industry accountable**”. More specifically, I will discuss the debate on cultural relativism, we will explore some of the dark sides of humanitarianism and we will interrogate the origins of human rights and the limits of the human rights in our globalised world.

International Governance and the Biosphere

Traditionally, we understand **coordination and cooperation between sovereign states** to create a system of global governance without world government. In a world divided between sovereign states, basic morals and legal responsibilities of governments, private corporations and individuals are mostly confined within national boundaries and international jurisdictions only secondarily. Today, however, **economic and ecological interdependence as well as global migrations of capital, goods, people, ideas, conflicts and diseases** challenge the Westphalian inter-state system and the distinction between domestic and international problems and responsibilities.

Exploring the contemporary structure of global governance from the point of view of some of the challenges imposed by pressing global problems, such as poverty, inequality, humanitarian crises and climate change, in this case induced more by fossil fuel and tobacco industry and their international politics, must be given focus through the human rights perspective for a consensus and specific regulatory mechanisms. The universality claim of human rights give another power to the fight for climate justice. That **the biosphere is a commons** (though polluted and threaten by a few) is another claim for climate justice.

Does global interdependence, the globalisation of economic exchange and the emergence of global problems also enlarge our legal, political and moral responsibilities beyond state borders? If in fact governments, private corporations, and peoples begin to accept legal, political and moral responsibilities beyond the boundaries of nation-states, how should the Westphalian interstate structure be transformed to make room for **cosmopolitan –legal, political and moral— duties** (so that while giving a general diagnoses of the problem, we must not be scared to take pragmatic measures to bring the situation under control)?

Since the 19th century, more and more societal problems began to be discussed merging them together as a mega problem with different facets. Some physicists have already started calling it a problem of perception. “There are solutions to the major problems of our time, some of them even simple. But they require a radical shift in our perceptions, our thinking, our values. And, indeed, we are now at the beginning of such a fundamental change of worldview in science and society, a change of paradigms as radical as the Copernican revolution. But this realisation has not yet dawned on most of our political leaders. The recognition that a profound change of perception and thinking is needed if we are to survive has not yet reached most of our corporate leaders, either, or the administrators and professors of our large universities”(Fritjof Capra, 1996).

Evidence of climate change: droughts, global warming, hunger, poverty, diseases and natural disasters displacing millions are confirmations that we have exceeded nature’s limits and that we are not doing enough to put things right. But **are we all to blame or have we all equal responsibilities?** For the Global South, especially in food and agriculture, the impacts of climate change are devastating: droughts are artificial and more frequent, lands have refused to produce and the poor status of peasants does not permit them to buy **fertilisers** from the very polluting industries. My own poor father used to tell me that when they were young, the earth was so amicable and sacred that they walk on it with prudence and that the soil was so fertile that when you deep your fingertip into it, it will germinate. Growing up in a traditional society who regards the earth as their eternal mother, they are now sceptical if that belief is any longer sustainable. They are beginning to ask if their gods have not abandoned them or whether they (gods) have not gone mad.

These pressing issues are so transparent and unbearable that the world needs to take a shift in its so-called governance schemes that has let us combat climate change today. Popularly spearheaded by the United Nations and few developed northern countries, the predicaments of climate change are possible today because **those who could have done something really significant have done so little to control it.** Not only a thing of the global south, climate change is causing a general and almost irreversible impacts on our ecology that will go so far in interrupting future developments. How can we satisfy our own needs without endangering the needs of future generations is the question we must face. Environmentalists have drawn closer their research interests towards our biosphere and human life but their relentless efforts have met very limited and insignificant support from the world’s policeman – the UN (but also most developed western countries.) More than anytime else the significance of the UN is being tested in whether it can handle the problem of our climate by **holding the fossil fuel and tobacco companies accountable for burning the world.** We are living in a society where consumption of fossil fuel continue to hamper the lives of millions of people every year while our politicians and international organisations fly with other agendas very far from our priorities. More sure for the tobacco industry as well.

Holding Fossil Fuel and Tobacco Industry Accountable

For winning the debate and holding the fossil fuel and tobacco industry accountable, we must first **strengthen our domestic laws** that will hold them accountable for the human rights violations which also constitute international crimes. However, while it is difficult to see any enforceable regulatory mechanism in international law, states have no other immediate option rather than assuming their own local jurisprudence against the exploitation and human rights violations of this industry. Under the **Rome Statute of the International Criminal Court** (Emeka Duruigbo, "Corporate Accountability and Liability for the International Human Rights Abuses: Recent changes and reassuring challenges" (2008) 6 Nw U J Int'l Human Rights 222 at 224) states have the primary liability to protect themselves.

For addressing climate change and giving it a sustainable solution, the UN and states must reframe the argument in basically two ways. First, we need **a public debate to discuss how much pollution is too much**. To critically outsmart the immoral capitalist markets intentions, we cannot share the same UN round-table all the times with careless fossil fuel and tobacco industries in fairly deciding about how much we are worth to have in terms of clean air, water, energy, food and good health. We will have to table climate justice negotiation without being distracted by these enemies of sustainability. This is called **the new politics of the common good**, where the enemies of progress are tabled about and instructed to do for the good of all.

We must begin to put **stronger regulation upon free air and water** that sustain all of us but been used by a few as a tool of destruction, plundering our common biosphere. While their "unmanageable consumption" patterns grows and create disasters for all, they are shared disproportionately mostly **affecting the global south**. To use Steven Hawking's phrase, "our scientific pattern of creation is becoming both the problem and the solution" rather than put most of the blames on the village idiots, it is the scientific idiots who are endangering our common space -the biosphere. Therefore, we must ask ourselves some fundamental questions like; who protect the vulnerable majority of poor women and children and who guarantees a sustainable ecology for the future generations yet to come?

This is the debate we need, in order to determine the moral limits of markets that have become catalysts of our major problems, without trying to really give it any solution. We almost have passed those times when we can fully have faith in markets as protectors of our core values. The believe that states will protect their citizens against market misbehaviors seems to have faded with **market triumphalism**. The responsibility of the state to direct the market regulations is no more as sustainable a promise in a society, where consumption patterns skyrockets and irrationally so. As human beings, we think of nature as an infinite existence and therefore need not worry. Such believes are profoundly erroneous and egoistic. The UN, States, and NGOs should enter into a democratic debate and put and set feasible regulations to hold the perpetrators accountable without diminishing us to monetary values. That is, without putting monetary values on our lives.

From Rio de Janeiro in 1992 to the **Kyoto Protocol in 1997** and all the negotiations in between, up to the recent **Paris 2015 negotiation**, we have but seen very little actions from both stakeholders and private citizens in response to climate change, rather, the fossil fuel and tobacco industries are still hitting the earth to the best of their market metrics beyond the physical abilities of the planet earth. Why is this and what can be done about it? In analysing to see which ways we must take in addressing climate change, we must first know where the chord of the problem lie and how to hold a public discuss to diminish climate injustice. Since 2014 IPCC confirmed that climate change was caused by the deliberate actions and

inactions of man, nothing more, nothing less. However, the cycle of un-fulfilment on the part of the UN and the developed world continue to aggravate the problems. Some developed countries like Germany, the UK and perhaps China are trying to reassume their responsibilities, but others like the US and Russia, are yet to start and much more are uninterested. While global south, in particular, contribute very little to climate change, they bore most of the consequences ranging from **poverty, artificial droughts, diseases, lack of energy, global warming**, to name just a few, making them very vulnerable and powerless. Meanwhile, they have the rights to potentially decide over the biosphere and call for accountability—the power they just began to assume.

Towards the second answer, my own metaphor for this problem (climate change) is from the medical field: it is like the world has come to my clinic for a comprehensive medical analysis at the eve of the 21st century, commemorating man's control of almost everything on the planet, but threaten at the end by climate change. It was from the year 1992–2012 that climate causalities has attracted a global debate, with **4.4 billion persons affected by environmental adversity or disasters**: flooding, artificial droughts, storms and forceful environmental migration (UNISDR, 2012) with 1.3 million perished, over the 80% in Asian-Pacific region (Laczkò and Aghazarm, 2009; IPCC V, 2014). Between 2008–2014 the number of persons affected have risen to 210 million, with variations ranging from 95.3 million in 2013 to 245.7 million in 2012 (IDMC/NRC 2015:9), affecting biodiversity, habitats, health, and general quality of life, stability and security. Yet many talks, but fewer actions. We must approach **climate justice** with moral and spiritual oriented mindsets not only by dancing to the neoliberal market tunes (market triumphalism), which now pause the faith of our planet in jeopardy.

When we technically approach the problem, we cannot forget the history of climate change and how the US, EU, China, Russia, Japan, Brazil, India and others have contributed to it unequally more than the rest. This way we do not ignore the injustice between and among countries and only on this very way the perpetrators can be held accountable for their acts. **These industries must bore the cost of rehabilitating our planet** with all the scientific resources it might take to reduce global warming. It will be rather unfair and unwise to chose to ignore the history of the problem as we have done in other areas (notably, in slavery and colonialism and western imperialism on the culture and resources of other societies). We must not forget the genesis of such calamities, which makes others rich and, to put it banally, condemned others to fight for their faiths or survivals. **To hold polluters accountable, history is paramount.**

Yet, for any scientific model to be adopted to redress the problem, such models must not be another market creation. It is unfair to abstractly put the blame on all, since that means blaming no one and if we do fail to concretely face the truth scientifically and historically we will heavily miss our target to reduce climate injustice and hold fossil fuel and tobacco industries accountable. And therefore, this industry, most of them in the developed world should **share the burden** of climate change to become more responsible and pay for the consequences of their inhuman market models.

Fortunately and unfortunately, we do have many solutions available on our table today, which are scientifically sustainable, verified and achievable, if our politicians, technocrats and institutions are ready to take up to the challenge. We cannot assume any sustainable pattern for a livable planet without initiating natures inherited potentials. Until we change our **dynamics of production, cultural activities and perceptions** about nature as infinite or an and end to our means. We need a radical shift of our perception -a whole change from capitalism to post-capitalism. The flag bearer of the above destructive paradigm affecting

human existence this century and perhaps the future is the fossil fuel and tobacco industry. The general call for convergence to hold fossil fuel and tobacco industry accountable can follow the pattern below;

1. The fossil fuel and tobacco industry must work towards **reducing environmental threats by strictly following regulations** reached at the international level that puts the voice of the global south paramount and protect the human rights of the vulnerable majority.
2. This industry must, as a way of holding them accountable, **increase the environmental resistance measures** to environmental stress. They must bear the cost of this rehabilitation process.
3. They must **enable mobility and migration** to all vulnerable and those affected who usually are the poor and vulnerable southerners, bitterly living on less than 2 dollars a day, (but live and lives of people cannot be put into monetary value, climate justice is more than the metric of 2 dollars a day or less, it is a life and death matter not merely GDP). This will include : strengthening the localities before disasters happened; taking anticipating migration for those whose resilience and adaption depends on outside aid, providing effective responses to environmental disasters when they start to happen; providing at least the minimum condition of safety and protection for those who are forced to stay; achieving return measures or to respect the option of selecting the non-return or resettlement elsewhere for displaced (Black et al., 2013:41). UN and the developed north should wear their moral and spiritual glasses to many environment refugees to hold the developed world accountable.
4. The world must **begin to divest from fossil fuel and tobacco industry** cutting all ties to keep their emissions below 2°C. Although, the earth is already boiling below and above us it is too late to protect the future. Thus, rather than providing financial resources to their disastrous activities through buying or holding loans, shares, bonds, among others, states, and the UN should come up with restrictive climate policies to hold this industry accountable. This might also includes not buying their assets.
5. The global citizenry needs sensitization. Scientific information on **the danger of the fossil fuel and tobacco industry must be embedded in our national and international policies** more concretely and should state how they endanger human rights. Most politicians support the industry's supplies for agriculture, transport, and construction, not least because many are shortsighted, but also because they failed the cost-benefit analysis between fossil fuel and green energy. In rethinking our business and political paradigms, we all need to listen to climate reports and work collaboratively since no one nation or entity can do it all. To see the new business in green energy go further, we must first hold the fossil fuel and tobacco industry accountable or else we are justifying their evil activities.

The way forward to climate justice and accountability

The 21st century might be the only century with immense scale of the future and the threats to our existence. Science has the solution to climate change, what is unclear is whether we are capable of assuming the solutions. It calls for more **accountability** with concrete debates and pragmatic solutions as the earth continues to suffer. For Astronomer Royal, Professor Martin Rees, "we are stewards of the world at a very special time" he said, " man has the future in his own hands".

As the world's populations continue to "burst at the seams" (Michele Sandel), it comes with further attention towards redirecting our priorities at all levels. Most importantly for climate

justice, we have to ask whether mother earth will be able to inhabit the projected **9 billion people by 2050**. We have the science to make it possible, but are we ready to implement it? Attending to the need of the future generation(s) call for a **“convergence between science and law”** (Ugo Mattei and Fritjof Capra, 2015), but also how much we are willing to confront the injustices that caused these threats. The future population will need just more than antibiotics to survive. Areas like agriculture and fisheries are under potential threats due to climate change and the world must find an urgent solution, first by holding accountable those who have driven us to this calamity (the fossil fuel and tobacco industry) and second by making policies to prevent such occurrences in the future.

Much more iconic for environmentalists and policy makers is the current living standard of the developed world whose impacts lives it ugly marks mostly on the southerners living purely on agriculture and other areas only secondarily. The present US level is 20 tons of carbon dioxide emissions per person per year, about 10 in the EU, 1.5 in China and India. To defeat the fossil fuel and tobacco industry, we must coordinate, develop and implement **some general attitudinal change towards dirty energy**: consuming not more than 2 tonnes of CO₂ per year per person will help a lot while holding them accountable. In the absent of political interests towards climate justice, even a very strong civil society will find it difficult to bring climate perpetrators to justice. In so doing, the developed world must lead the bandwagon near clean energy. The Nobel Prize-winning physicist Steve Chu, unequivocally put it that clean energy is the future of global energy.

As we increase in population, the earth will also be warmer and the warmer it becomes the greater the risks. The melting down of Greenland's ice cap is a further implication that the consumption of fossil fuel has to be drastically reduced if not totally eliminated at all levels. **Energy, food, and climate security, are the greatest concerns of the 21st century** and giving them a solution means the planet's security. As an African proverb put it, “a cow does not know the importance of its horn until it is gone away”. We must be prepared to hold accountable the bio-terror culprits like fossil fuel and tobacco industry before they shatter the fabric of our civilisation. More than village idiots, we are battling with scientific errors which do not seem to cease anytime soon. Therefore, by converging science (that is, the use of the best possible models for consumption) and jurisprudence (making laws that allow sustainability and fairplay), we will be better stewards of our mother earth. We must play to the rules.

As scientific errors began to increase because science is under expansion and fossil fuel and tobacco industries began to govern our consumption patterns, we need a drastic revolution in technology, politics, law and in our individual lifestyles to live in harmony with nature without diminishing the capabilities of future generations to provide for their own needs.