A BOTTOM-UP APPROACH TO RIGHTING FINANCIAL REGULATION

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If current trends in consumption continue, by 2030, the world would have the impossible task of producing at least 50 per cent more food, 45 per cent more energy and 30 per cent more water,[1] just as arable land, energy sources and clean and safe water shrink at historic rates. The continuity of climate-related disasters, growing food insecurity, sky-rocketing unemployment and lack of decent work (particularly among youth and migrants) and gaps in care provision are only some of the most urgent indicators of the seriousness of what is at stake.

Unfettered financial markets play a key role in undermining sustainability. One example are the extreme volatility and unbalanced accumulation patterns observed in financialized commodity markets, which has rendered sustainable and equitable management of natural resources more difficult. Another can be seen in the proneness of the financial markets to create bubbles. When these bubbles burst, capacity can remain underutilized for long periods, with the result that natural resources used to generate such capacity are wasted.

In 1992 sustainable development was defined at the United Nations Conference on Environment and Development as "development that meets *the needs of the present without compromising the ability of future generations to meet their own needs."* The conference was a hallmark in a history of struggle for human rights in the context of sustainable development, that had produced earlier, for instance, the Cocoyoc Agreement (1974) and the Brundtland report (1987). The recently-held Conference on Sustainable Development (Rio +20) reaffirmed a pledge on sustainable development, upholding its three pillars: social, economic and environmental. A review of the paradigm for regulating financial markets is urgently needed to put the world back on a path to fulfill such pledge.

Parallelisms between human rights and sustainable development

A vast array of groups, networks and campaigns, have long given well-researched evidence of the links between financial regulation and sustainable development, which bear some parallels to links between financial regulation and human rights.

Firstly, choices on whether to regulate the financial sector, and how, have clear implications for the extent to which governments can ultimately fulfill their human rights.[2] Likewise, financial regulation choices will inevitably frame the extent to which countries, men, women, peoples and nature can succeed in achieving sustainable development. This is especially so given the brutal dominance of finance as a driver of so much economic activity in the last three decades.[3] Importantly, remedies to financial crises –in the form of financial bailout and austerity— offer remarkable resemblance to more-business-as-usual solutions to the ecological crisis: they follow the same patterns of inequitable distribution along the lines of ethnicity, gender, age and socio-economic status/income.

Secondly, promoting an inclusive human rights-approach to the regulation of the financial sector will require political will and a meaningful and well-resourced action to open up a debate currently dominated by financial industry companies and their representatives (firms such as Citigroup, Goldman Sachs, etc).[4] The scope of the debate has shrunk as views and opinions representing interests of movements and other sectors of society have typically been disregarded, excluded, attacked and criminalized. That same lack of diversity in the debate represents an obstacle to the "out-of-the-box," transformational thinking necessary to ensure financial regulation attends the commitment to sustainable development that is inclusive of the defense of the well-being of all.

Thirdly, growing pressure by unbridled financial markets on States to reduce their capacities and regulatory power in favor of capitalist "market-led" approaches is turning goods and services that are internationally sanctified human rights (e.g. food, health, education and other human and natural resources) into commodities. Their market-set prices would, thus, be the ultimate arbiter of access and affordability by people and communities. Likewise, a number of capitalist profit-oriented approaches to allocation, control and ownership of natural resources and the revenue streams they generate are built on the perilous premise that sustainability can be achieved by putting prices to, and creating markets on, natural resources and ecosystems. Today the territories and the commons are the main targets of capital.

Integrating human rights and sustainable development

Proposals to reform financial regulation from the perspective of human rights and sustainable development should depart from the lessons those parallels offer, but go beyond parallels to integrate those dimensions. They must challenge the same logic and mechanisms that are keeping people hungry and destroying the planet.

Inequality, marginalization and poverty are, absent action by the State or the international community to address them within their means, human rights violations. In a scenario where those violations still occur, a shift to sustainable development will hardly be politically and socially feasible. After all, it is the first principle recognized in the 1992 Rio Declaration that “Human beings are at the centre of concerns for sustainable development.” The respect and protection of human rights including principles of non-discrimination and the protection of minimum thresholds in the enjoyment of economic, social and cultural rights act as safeguards for the transition to sustainable forms of development. To make the shift successfully also requires democratically-agreed and culturally-sensitive strategies and the articulation of interests by intermediate groups in a decentralized way. Human rights guaranteeing access to justice, public participation, association and access to information are, thus, inextricably linked to the needed transformation.

On the other hand, sustainable development is crucial to ensure that human rights strategies have an intergenerational equity component, and avoid the temptation of short-termism or excess parochialism. Deep awareness, quality assessment and analysis of the planetary boundaries to current economic neoliberal and patriarchal paradigms are a necessary safeguard for sustainability for all. It ensures that among a number of possible visions and strategies to increase the enjoyment of human rights and the rights of nature (already in place in certain contexts), those that are least resource- or energy-intensive, and least polluting or waste-generating, will be followed. Principles adopted in the Rio Declaration, such as “common and differentiated responsibilities,” equity or the precautionary principle are helpful guidance to better match the new path towards human rights-based strategies to a sustainable future for all.

What does this all mean for financial regulation?

What an integrated and inclusive approach of human rights and sustainable development actually means for financial regulation is largely a social construction that has yet to be further developed with the participation of civil society and movements. It will have to begin with giving the financial sector a role that is subservient to the real economy, a real economy that in turn should support ecological sustainability and human rights. The two decades preceding the crisis yield one clear lesson though: leaving the achievement of such goals to financial markets will not do the trick. Thus, the importance of public authority exercised through financial regulation in steering the financial sector in a direction that it will not transit on its own.

In such a pursuit, the first bias that needs to be shed is the notion of GDP as an accurate benchmark of progress. Before the crisis, a large part of the growth in GDP had been driven by growth of financial sector assets with no productive counterpart in the real economy. This, alone, should be a wake-up call. Tendencies to create markets in natural resources threaten to offer capital a new frontier to invade, and financial firms a new field to expand paper profits, while worsening inequitable access to resources and neglecting conservation. These aspects would, in a GDP-based approach to measure reform success, surely be missed. New benchmarks are needed.

A second clue to look at in assessing financial regulation is the type of activity whose financing it is encouraging in a society. Can sustainable modes of production –oftentimes small scale endeavours-- expect to receive appropriate financial support in the system? Or is it encouraging oversized demand and consumption of goods and energy for a small minority? Can innovation and technologies needed to cut waste and pollution earn a reasonable profit? Or is finance encouraging depletion of non-renewables or less energy-efficient enterprises?

A third indicator to use to assess financial regulation through the lens of human rights and sustainable development is to look at whether it encourages financial agents to channel real resources to real activities, or it simply expands the “chips” for owners of financial capital to bet with (in the process draining the real economy). This latter seems to be the case with proposals to create markets for the ecosystem or natural capital. Why would we expect different results when the short-termism of financial capitalism gets applied to nature?

Each of us has a unique responsibility to ask these questions and to engage in the social and political process of ensuring the answer in line with the social contract we want as communities, societies and, ultimately, as a species sharing one planet.

(Endnotes)

1 UNSG High Level Panel on Global Sustainability 2012. Resilient People, Resilient Planet: A Future Worth Choosing.

2 Commitments, for instance, contained in the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Right to Development, the Convention on the Elimination of Discrimination Against Women, etc; See also A Bottom Up Approach to Righting Financial Regulation Initiative 2011. Why a human rights approach to financial regulation is needed.

3 From 1970 to 2007, for instance, average trade openness in developing countries rose 60 % while financial globalization in the same countries rose an astonishing 800 %. See UNCTAD 2011. Report of the Secretary General of UNCTAD to UNCTAD XIII, p. 16.

4 Connor, Kevin 2010. Big Bank Takeover: How Too-Big-To-Fail’s Army of Lobbyists Has Captured Washington. Institute for America’s Future.

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