

# Indigenous Peoples' Right to Sustainable Development and the Green Economy Agenda

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## **Abstract**

*In this paper, I interrogate the potential for the realisation of the right to sustainable development in relation to the green economy agenda. This is based on the rationale that development paradigms that prioritise economic growth and the market economy over people-centred development are morally and ethically unjustifiable. Focusing on the indigenous communities of the Equatorial rainforest, I establish that the manner in which guaranteeing the right to sustainable development is envisaged to be achieved through the green economy raises human rights concerns. I argue that the market-oriented green economy is neither people-centred nor human rights-based, and because it lacks the potential to achieve sustainable development and on the contrary rather poses a threat to indigenous peoples' right to sustainable development, its advancement into the indigenous space should be embraced with caution.*

## **Introduction**

Africa's development history holds great lessons for the peoples of Africa if they do not want to make the same mistakes that have been committed in the past. Issues relating to development and human rights are established by the ultimate objective to improve human well-being, involving among other things the sustainable management of the environment.<sup>1</sup> However, the connection between human rights and sustainable development is noted to be missing in the development agenda of most countries.<sup>2</sup> Whilst the concept of sustainable development has been widely popularised, its significance seems to have become diluted. Defined as the ability to meet the needs of the present without compromising the ability of future generations to meet their own needs,<sup>3</sup>

sustainable development rests on a pragmatic model that prioritises and seeks to ameliorate the condition of the human person.<sup>4</sup> It envisages development as a continuous commitment to deal with environmental risks and ecological scarcities, with the aim to improve human well-being and to achieve social equity, attainable through the 'green economy'.<sup>5</sup>

The United Nations Environment Programme (UNEP) envisages the green economy as 'one that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities'.<sup>6</sup> In principle, the green economy anticipates a socially friendly economic system that is intended to generate minimal carbon emissions and pollution, ensure efficient use of natural resources and prevent damage to the ecosystem with the anticipation to achieve improved human well-being in the process.<sup>7</sup> Conceptualised as an economic growth model to sustain the market economy,<sup>8</sup> the green economy philosophy translates into practice through 'carbon markets', which have gained currency in recent years as a means of dealing with greenhouse gas emissions through climate negotiations. In effect, carbon markets are established from the practice of converting green spaces into 'carbon projects' to generate 'carbon credits' for sale to industrialised societies. More on the green economy and carbon markets is discussed later.

Though recognition is given to ensuring human well-being as part of sustainable development efforts, the manner in which it is anticipated to be achieved – through the carbon market driven green economy – raises genuine human rights concerns. These concerns arise from the fact that the green economy as it is argued here, does not incorporate any ambitious strategy in addressing the plight of indigenous communities that are usually most affected by environmental and climate change hazards and thus should supposedly constitute the immediate beneficiaries of any sustainable development initiative. Questions on sustainable development often invoke the idea of indigenous peoples, which in Africa is susceptible to confusion as many local communities understand the term 'indigenous' to mean original settlement prior to colonial invasion.<sup>9</sup> The concept has, however, developed as a human rights construct that aims to distinguish certain categories of persons who have historically been disadvantaged on the basis of which they are granted protection under international law.<sup>10</sup> In human rights terms, indigenous peoples refer to groups that self-proclaim a collective identity, aver an intimate attachment to ancestral lands and live a lifestyle that is distinct from the rest of society, and who have, in addition, experienced deprivation and marginalisation as a result of historical injustice.<sup>11</sup>

Present-day marginalisation of indigenous peoples is perpetuated through economic development models that seek to either assimilate them into the dominant modern culture or alienate them from their accustomed way of life.<sup>12</sup> In spite of the general belief that economic growth is good and more of it is needed James Speth points out that '[e]conomic activity and its growth are the principal drivers of massive environmental decline'.<sup>13</sup> Consequently, the rights-based approaches to development have increasingly intended to override economic growth models with the aim to project the human person as the central subject rather than the object of development.<sup>14</sup> However, the tempo of development and human rights politics in Africa seems attuned to the rhythm of the *Bafia* dance where, for every single stride forward, three strides are taken backward. This paper aims to show that sustainable livelihood for the indigenous peoples of the Equatorial rainforest is threatened by the carbon market driven green economy model to sustainable development owing to the fact that the right to sustainable development, though guaranteed for protection under the

African human rights system is not sufficiently protected at domestic level within the states that make up the Equatorial rainforest region.

The paper consists of four parts. The first part explores the Equatorial indigenous space in terms of the relationship that indigenous peoples have with the rainforest and the implications of advancing the green economy into the indigenous space. The second part examines the dimensions of sustainable development as a human right and endeavours to establish what sustainable development represents in terms of how it relates to indigenous peoples and in terms of the guaranteed recognition and protection of sustainable development as a human right. The third part unpacks the green economy from a rights-based perspective, investigating its potential as a development model by which to achieve sustainable development. In this regard, the conceptual nature of the green economy and its actual agenda are explored, following which a description is given of what a rights-based approach to sustainable development would entail. Part four examines the threats posed by the green economy to the right to sustainable development through its carbon market annexation scheme. The concluding section situates the plight of the rainforest's indigenous peoples within the broader context of development in Africa, on the basis of which some recommendations are made regarding precautionary measures that need to be taken.

## **The Equatorial Indigenous Space**

The discussion in this section focuses on the Equatorial rainforest and the indigenous communities living therein, for two principal reasons: First, because of the symbiotic relationship that the indigenous peoples share with the rainforest, which represents their indigenous space; and second, because of the implications of advancing the green economy agenda into the rainforest region. By indigenous space is meant the territories which indigenous peoples, as original inhabitants of the rainforest, are by law granted the right to exercise collective ownership over,<sup>15</sup> superseding other intervening interests, especially those of an assimilating or alienating nature. The right of ownership over indigenous territories gives to the right holders, as Sengupta has explained, a basis for claiming responsibility from duty bearers to ensure respect, protection and fulfilment of that right.<sup>16</sup>

### **Relationship between Indigenous Peoples and the Equatorial Rainforest**

The Equatorial rainforest, which covers approximately 200 million hectares of tropical evergreen space, stretches across parts of Cameroon, the Central African Republic, Congo, Equatorial Guinea, Gabon and the Democratic Republic of Congo (DRC). The forest contains a rich biodiversity of flora and fauna as well as large indigenous settlements.<sup>17</sup> The indigenous populations consist of many distinct tribes that have commonly been referred to by the generic name 'Pygmies', which they are said to dislike; they prefer to be called by the names of their ethnic groupings, such as the Batwa, Baka, Aka, Ituri and Bagyeli, to name a few.<sup>18</sup> The tribes are distinguished by different cultural characteristics but generally share several similar traits and commonalities, particularly in how they relate with nature and also in their perception about the forest they live in. They are

traditionally hunter-gatherers, and owing to their nomadic pastoral lifestyle the rainforest is the environment best suited to their survival.

Their indigenous identities, cultures, lifestyles and spiritual well-being are inseparably linked to nature, which means destroying the environment may amount to their annihilation or denying them the right to life. The forest ecosystem is central to their livelihood, which is based on an age-old symbiotic relationship that transcends material dependence to incorporate an intimate cultural and spiritual bond.<sup>19</sup> It is a relationship of intimate reciprocity where the indigenous communities depend on the forest for habitat, sustenance and spiritual fulfilment; in return, they maintain the ecological balance and ensure the sustainable management and conservation of the forest resources.<sup>20</sup> Uniquely suited to claim custodianship over the Equatorial pristine green space, they have consistently demonstrated that they have the necessary know-how, even without the use of modern-day technology, to sustainably take what they need from the forest for the benefit of present generations while being mindful of the fact that future generations will also depend on the forest for their own needs.

It is evident from the above that strategies for the realisation of sustainable development cannot exclude indigenous communities, and yet their inherent right to be part of the conservation of the ecosystem has often been disregarded. Drawing from the relationship between indigenous peoples and the Equatorial rainforest, sustainable development can thus be understood to involve issues relating not only to the environment but also to human development. The Brundtland Report highlights the fact that the environment does not exist in isolation from human interactions and the means of achieving well-being, thus dealing with issues of livelihood in connection with the environment.<sup>21</sup> The proficiency of the indigenous peoples in sustainably managing the forest to suit their survival needs informs their conservation culture, which necessitates keeping the forest unadulterated.<sup>22</sup>

As traditional custodians, the rainforest communities exploit the forest with veneration and the consciousness that their well-being and the survival of their spiritual heritage and, indeed, their kind depend on the sustainable management of the ecosystem.<sup>23</sup> They operate an indigenous economy that is regulated not by the conventional economic growth models practised by modern societies but by the barter system, which allows for the efficient management of the forest resources on a sustainable basis.<sup>24</sup> Disturbingly enough, though, it is reported that the indigenous communities are increasingly being manipulated and defrauded to abandon the barter model in favour of a market economy where the natural wealth is converted into fiscal value, thus resulting in a dwindling of the forest resources.<sup>25</sup> Consequently, their custodial role in environmental stewardship and guardianship over their ancestral lands, cultures, lifestyles and indigenous spirituality is threatened as commercial interests competing for the forest's resources multiply, and even more aggressively with the advent of the green economy.

### **Implications of Advancing the Green Economy into the Indigenous Space**

The marginalisation from which the indigenous tribes of the Equatorial rainforest continue to suffer stems from the fact that during the colonial period, these communities were left out of mainstream society by the colonial government on the pretext that their practices were uncivilised and primitive and therefore it was considered inappropriate to include them in the development

agenda.<sup>26</sup> This marginalisation has continued in the neo-colonial era, with huge portions of the indigenous space having been lost to logging and extractive industries, mega-industrial development ventures and other infrastructure projects that have contributed in compromising indigenous lifestyles. With the advent of the green economy, the rainforest is exposed to even more aggressive forms of invasion by the corporate community to whom the green economy offers business opportunities to make money. Owing to its rich biodiversity and its ability to perform the eco-metabolic function of moderating climatic conditions against the effects of global warming, the Equatorial forest has been earmarked as a carbon reservoir with the potential to generate economic benefits of immense proportions.<sup>27</sup>

It is important to note that advancing the green economy into the Equatorial rainforest through conservation programmes that are envisaged to form part of an extensive 'carbon market' scheme has a number of implications for the indigenous populations. By ascribing a market value to the rainforest, as is increasingly becoming the practice,<sup>28</sup> the indigenous space is basically being put out to tender for bidding and global competition. Ascribing market value to the forest is explained to mean a process of attributing monetary values to forest resources and the social and environmental services it provides.<sup>29</sup> This opens the way for capitalist annexation, driven by the neo-liberal obsession to push the frontiers of the market economy beyond the corridors of modern society into the interiors of the indigenous space. This is problematic in the sense that the indigenous communities will not only have to struggle to cope with the pressures exerted by the activities of extractive industries and large-scale infrastructure projects; they are also likely to face massive dispossession and dislocation from their ancestral lands and resources, thus compelling them to resort to unsustainable patterns of survival. The scenario is such that if left unchecked, it will inevitably result in the shrinking of the indigenous space, with a resultant adverse impact on the human rights of the indigenous inhabitants. Below, the phenomenon of carbon markets is elaborated on to illustrate how they constitute a threat to the realisation of the right to sustainable development.

## **Sustainable Development and the Dimensions of a Human Right**

### **Sustainable Development – What Does It Represent?**

What does sustainable development mean to indigenous peoples whose survival remains threatened?<sup>30</sup> The term sustainable development may have different meanings in different contexts, depending on the perspective from which it is approached. Following the widely used definition of sustainable development, which relates to the ability to meet the needs of the present without compromising the ability of future generations to meet their own needs, a proper understanding of what sustainable represents to indigenous peoples would be determined by what their present and future needs consist of. Needs are the most essential requirements to support livelihood. In relation to sustainable development, three interconnected factors are important to consider: the environmental factor, the needs factor and the human factor.

The environmental factor ensures the supply of needs, the needs factor satisfies the essential requirements for human well-being and survival, and the human factor co-ordinates the

management of the environmental supplies to ensure consistent availability of needs to the present generation as well as to future generations. I argue that sustainable development is determined by a combination of these factors, which informs the indigenous beliefs in the Equatorial rain forest of restrained exploitation of the natural environment. Accordingly, the human factor is central to ensuring the sustainable management of the ecosystem so that it can maintain a steady supply of essential needs for livelihood support. To the rainforest's indigenous peoples, what would count as sustainable development is an ecologically friendly space that guarantees peaceful habitation, provision and livelihood security. Any guarantee that future generations will also be able to benefit from the resources of the rainforest depends on how sustainably the present generation of indigenous peoples manages the environmental resources to ensure a steady supply.

This responsibility requires the indigenous communities to also perform a gate-keeping function to safeguard the indigenous space from over-exploitation and extermination. The dilemma in doing so is that conventional sustainable development strategies have side-tracked from emphasising the human factor as being core to achieving sustainable development, and consequently also failed to take cognisance of the custodial role that indigenous communities already play in the management of the ecosystem.<sup>31</sup> On the basis of these concerns, the plight of the rainforest's indigenous peoples has become not just a development issue but, importantly, also a human rights concern. Owing to the human interest attached to issues relating to the Equatorial rainforest, sustainable development therefore necessitates actions to improve not only the rainforest but, crucially, the human condition of the peoples living therein, to ensure their survival. Basically, it has to do with the inherent human right to life with dignity.

### **Sustainable Development as a Human Right**

Human rights are inalienable entitlements that every human person is born with and can be exercised and enjoyed either by an individual or by a collective of persons. They cannot be forfeited or traded for less than their inherent values. Human rights are also central to every aspect of development, thereby justifying the need for a people-centered approach in addressing the cycle of poverty and the environmental crisis, both of which impact negatively on indigenous livelihoods.<sup>32</sup> Sustainable development for indigenous peoples, entails exercising the continuum of rights and freedoms required to live with dignity within an enabling environment that is not detrimental to their well-being.

This is of significance to the indigenous communities of the Equatorial rainforest whose dignity as a people is unavoidably connected to their collective identity and the environment in which they live. Having been accustomed to living in remote places, indigenous peoples are entitled to preserve their cultural uniqueness and are thus guaranteed the right not to be alienated from their communities.<sup>33</sup> Development activities that infringe on the indigenous peoples' fundamental rights and freedoms, that endanger the space which they value as home, that pose a threat to the survival of their cultures or that compromise the enjoyment of their well-being would amount to a violation of the right to sustainable development, which in Africa is protected by law.

## Guarantees of the Right to Sustainable Development

The idea of sustainable development as a human right has evolved over time, implied initially in other universally recognised human rights such as the right to life with dignity and the right to an adequate standard of living and the continuous improvement of living conditions.<sup>34</sup> A creative interpretation of the rights to life with dignity and to an adequate standard of living could be understood to imply what came to be known as sustainable development in the sense that these fundamental rights incorporate issues of livelihood and human well-being achievable through the process of development. Interpretation of this kind is evident in Indian jurisprudence where, through the practice of judicial activism to protect minority groups, judges have interpreted the right to life guaranteed by the Indian Constitution and international human rights instruments as implying the right to development.<sup>35</sup> An adequate standard of living would be understood to include the standards that indigenous peoples have established for themselves as constituting well-being while the requirement of an enabling environment for an adequate standard of living entails respect for the fundamental rights of indigenous peoples in the management of the ecosystem that provides them with a habitat and the resources for sustenance.

The following arguments may be used to justify the shift towards the right to sustainable development, which according to Virginie Barral 'underpins most, if not all human action(s)' and 'pervades the environmental, social, political, economic, and cultural discourses'.<sup>36</sup> Issues of this nature, which relate to human rights and development as McInerney has explained, are not dissociated but mutually reinforcing.<sup>37</sup> The right to development eventually gained international recognition, entitling every individual and all peoples to a participatory model of development through which the full range of human rights and freedoms may be realised.<sup>38</sup> Xigen Wang rather argues in favour of a right to sustainable development as a development model for the reason that it encompasses all aspects of development and human rights.<sup>39</sup> Taking up the idea of sustainable development seriously, the 1992 Rio Declaration emphasised that the fulfilment of the right to development is important in ensuring that the developmental and environmental needs of present and future generations are met in an equitable manner.<sup>40</sup> More concretely, the Declaration on the Rights of Indigenous Peoples formally recognised that indigenous peoples are entitled to the conservation and protection of the productive capacity of their indigenous space.<sup>41</sup> Though the declarations mentioned here are not legally binding, they set moral standards which states are expected to comply with.

The African Charter on Human and Peoples' Rights (African Charter) appears to be the principal treaty-based instrument guaranteeing legal recognition and protection of the right to sustainable development. The Charter explicitly guarantees that all African peoples shall have 'the right to a general satisfactory environment favourable to their development'.<sup>42</sup> A satisfactory environment for development is one in which indigenous peoples can, without constraint or undue interference, exercise the right of collective ownership of their ancestral lands with the natural endowments thereof and the right to live their unique cultural lifestyles and to practise their indigenous spirituality. Both the article 24 provision on the right to a satisfactory environment and article 22, which enshrines the right to economic, social and cultural development could be read together to imply the right to sustainable development. The Protocol on the Rights of Women in Africa (Women's Rights Protocol) explicitly provides that the rights to a healthy and sustainable environment and to

sustainable development are granted to all African women, including all the indigenous women of the Equatorial rainforest.<sup>43</sup>

Having been guaranteed legal protection under the African human rights system, the right to sustainable development sets normative standards for seeking protection, the weaponry for asserting legitimate claims and the tools for crafting legal remedies in the event that the right is threatened or a violation is determined. The African Charter and the Women's Rights Protocol thus impose legal obligations on state parties to respect, protect and fulfil the right to sustainable development in Africa. The obligation to respect the right to sustainable development requires refraining from actions that may interfere with the enjoyment thereof. The obligation to protect it requires establishing legislative and policy measures to deal with potential threats or violations. It may also require preventive action to ensure that potential threats are halted before they result in actual violations. This may necessitate monitoring any activities within indigenous communities that may result in the violation of the right to sustainable development. The obligation to fulfil requires positive administrative, judicial and other programmatic measures guaranteeing material entitlement to and enjoyment of the right to sustainable development.

Under these guarantees, the right to sustainable development empowers indigenous peoples to seek protection against threats while at the same time providing a justifiable basis for demanding accountability from state governments on their treaty obligations to protect human rights. Policy programming for the achievement of sustainable development must thus prioritise the rights of the indigenous communities. Interestingly, the Rio+20 Declaration emphasises that green economy policies towards achieving sustainable development must promote respect for all human rights and enhance the welfare of indigenous peoples and their lifestyle practices.<sup>44</sup> Paradoxically, in spite of the legal protection guaranteed by the African Charter and the Women's Rights Protocol on the right to sustainable development, measures to ensure that implementation becomes effective at domestic level remain lacking.

All six countries of the Equatorial rainforest region have ratified the African Charter and all except the Central African Republic have ratified the Women's Rights Protocol, meaning that the state parties are legally bound by the obligations imposed by these instruments to ensure enforcement of the right to sustainable development at domestic level.<sup>45</sup> However, only the DRC has proceeded to domesticate the right to sustainable development by incorporating it in the national Constitution.<sup>46</sup> This leaves the indigenous peoples in the other countries within the region without sufficient domestic protection and thus vulnerable to the adverse impact of the green economy.

## **Analysis of the Green Economy**

### **Conceptual Nature of the Green Economy**

Conceptually, the green economy has a dual purpose of seeking to promote the market economy while at the same time ensuring that market forces do not become detrimental to the environment.<sup>47</sup> This claim derives from the recommendations advanced by the Brundtland Commission and UNEP, suggesting that economic growth holds the solution to achieving sustainable development.<sup>48</sup> It should be noted that the human factor does not feature in the equation. It simply proceeds from



the assumption that the achievement of environmental protection through economic growth would translate into improving the human condition.

Following on the United Nation's unequivocal position on pursuing rights-based approaches to development,<sup>49</sup> it is paradoxical that in formulating the concept of the green economy, UNEP failed to sufficiently incorporate rights-based approaches on an issue as important as sustainable development. A joint report between the Office of the High Commissioner for Human Rights and UNEP shows a commitment to taking human rights and the environment seriously.<sup>50</sup> However, UNEP's concept of a green economy does not feature the human rights component. Conceptualised as an economic model, the green economy focuses principally on the market economy, with an innovative dimension to achieve environmental protection in the course of doing business.<sup>51</sup> It is designed in such a manner that corporate interests; characterised by profit maximisation and the accumulation of wealth, take precedence over human interests.

The green economy delineates the aspirations of global capitalism, which envisage a continuous search for 'emerging markets' such as the vast expanse of an evergreen indigenous space like the Equatorial rainforest, owing to its rich biodiversity. It is argued here that the green economy is essentially capitalist-inclined, anchored on the drive for rapid and unrestrained expansion of the market as conventional marketplaces in modern societies become increasingly saturated.

### **The Green Economy Agenda**

The idea of a green economy provokes a number of important questions relating to what it actually aims to achieve, how it intends to achieve it and whom it intends to benefit. In spite of the noble theoretical intention behind the green economy, which is anticipated to result in 'improved human well-being and social equity',<sup>52</sup> the manner in which this is to be achieved – through economic growth – makes clear that human well-being is a secondary issue which can only be achieved once economic growth has been achieved. UNEP has made it clear that the green economy is not a substitute for sustainable development but a means to 'achieving sustainability', which entails 'getting the economy right' by going green.<sup>53</sup> Logically, one would assume that for the green economy to achieve sustainable development, both ought to share a common purpose. However, as Farouk points out, there appears to be very little concurrence between the idea of sustainable development and the precepts underlying the green economy,<sup>54</sup> in the sense that economy growth as epitomised by the green economy has been established to be the principal cause of environmental crises.<sup>55</sup>

On the one hand, sustainable development entails exploiting the earth's resources in a restrained manner such that future generations are capable of benefiting from the same resources. It portrays a strong focus on providing human needs while emphasising the limitations in the environment's ability, if not sustainably managed, to constantly supply those needs both in the present and in the future.<sup>56</sup> The green economy, on the other hand, prioritises the market and only proposes to achieve sustainable development by making the economy greener in the course of economic growth. In essence, the green economy is premised on the fact that 'there are many green sectors which show significant opportunities for investment and related growth in wealth'.<sup>57</sup> It is further suggested that 'greening the economy can generate consistent and positive outcomes for increased wealth, growth in economic output, decent employment, and reduced poverty'.<sup>58</sup> The

question is, in whose interest? Who is envisaged to benefit from the wealth that is proposed to be generated by the green economy?

Economic growth alone does not translate directly into human development.<sup>59</sup> It is unlikely that wealth generated through the green economy would trickle down to indigenous peoples, much less improve their well-being. The green economy, it is argued here, simply means a 'green market' – an extensive marketplace where nature's resources are seen as economic commodities and ascribed a market value, to be bought and sold at a price for the purpose of accumulating wealth. Wilson notes that an approach that uses market mechanisms to deal with issues of sustainable development is inherently problematic.<sup>60</sup> This is because market approaches tend to negate the human factor in sustainable development. Meanwhile, it is asserted that the struggle to attain well-being for indigenous peoples can be achieved without economic growth, implying that economic growth is not a prerequisite for achieving sustainable development.<sup>61</sup> From this it can be concluded that, fundamentally, the green economy is not about achieving human well-being but rather about promoting the market economy. This paper therefore argues that a rights-based approach has greater potential to achieve sustainable development than the market approach that the green economy embodies.

### **A Rights-Based Approach to Sustainable Development**

According to rights-based standards, it is not the outcome of the development process that matters but, importantly, the process through which development is created. The outcome is determined by the process. If the anticipated outcome of sustainable development is to achieve improved human well-being through environmental protection, then the process needs to be people-centred and focused on measures that genuinely aim to protect the environment so that human well-being can be achieved. Yet the green economy, by its neo-liberal orientation, is driven by market forces; and because the process is not people-centred, it is unlikely to produce an outcome of improved human well-being. To approach sustainable development through the green economy model can therefore not logically be expected to produce human well-being results. The intention of the green economy to attain human well-being is only implied by the assumption that economic growth will translate into improving the human condition.

The narrative on the green economy remains very vague as regards how the green economy would result in the anticipated eradication of poverty.<sup>62</sup> It does not state, for instance, how profits from economic growth will be shared with indigenous peoples from whose territories such profits are generated. For the green economy to achieve improved human well-being and social equity, it requires a people-centred process and a rights-based approach. The green economy does not subscribe to any ambitious agenda for advancing the cause of improving human well-being, however; nor does it integrate rights-based approaches into the process to achieve sustainable development. It is fundamentally not human rights-based and therefore lacks the potential to ensure the realisation of sustainable development, particularly for indigenous peoples, to whom sustainable development equates to protecting their livelihood in their interaction with the environment.

A rights-based approach to sustainable development in the context of the indigenous communities of the Equatorial rainforest entails respect for their right to self-determination and sovereign ownership over their natural wealth and resources. It necessitates recognition of the right to

collective ownership of their ancestral lands. It entails giving priority to the right to free, prior and informed consent in decision-making on issues relating to their lives and to their indigenous space. It also means respect for the right to meaningful participation in the development process, ensuring transparency and accountability in the management of their indigenous resources. Lastly, it entails guaranteeing the right to equitable sharing of the benefits accruing from every development initiative established within their indigenous space. Approaching the issue of sustainable development from a rights-based perspective provides assurance that the indigenous communities can be guaranteed an adequate standard of living within an environment that is conducive to their indigenous lifestyle. However, the rights of the rainforest people in relation to sustainable development remain threatened with the encroachment of the green economy into their indigenous space.

## Threats posed by the Green Economy

### Carbon Market Annexation of the Indigenous Space

As stated earlier, the green economy employs mechanisms such as carbon markets to achieve the objective of sustained economic growth. The context of this paper does not necessitate an elaborate discussion of the technical issues relating to various global, regional and sectoral carbon market mechanisms. Its purpose is to look at the threats that carbon markets as a mechanism of the green economy pose to the realisation of the right to sustainable development for the indigenous communities of the Equatorial rainforest. Of interest to this paper is the Reducing Emissions from Deforestation and Degradation (REDD+) mechanism, which targets the forest space in developing countries, particularly in Africa. REDD+ is a green economy mechanism through which carbon financing is made available to developing countries as an economic incentive to encourage conservation and the enhancement of forest carbon stocks to aid in offsetting greenhouse emissions.<sup>65</sup> It focuses on extensive green spaces such as forests and plantations as carbon offsets that absorb the fossil fuel carbon emissions and pollution generated by industrialised societies.<sup>64</sup>

The REDD+ carbon market operates by ascribing cash values to forest spaces as carbon reservoirs in anticipation of promoting more and more conservation and subsequent carbon trading.<sup>65</sup> Problematic about this scheme is the rapidity by which it is expanding to engulf the Equatorial rainforest, which incidentally constitutes a space of indigenous habitation and livelihood. Though still in its pilot phase, the REDD+ mechanism in Africa is reported to have already resulted in an explosion of forest carbon initiatives, with an estimated 300 carbon projects in operation since 2011.<sup>66</sup> Among the 18 countries involved in the UN-REDD carbon programme are Cameroon, Central African Republic, Gabon, Congo and the DRC, which fall within the Equatorial rainforest belt that forms part of the African forest carbon programme.<sup>67</sup>

Interestingly, most of the carbon concessions established within the rainforest region are driven not by the indigenous peoples who are supposed to be the direct beneficiaries but primarily by commercial entities and foreign stakeholders based in Europe and America.<sup>68</sup> The World Bank, known for its controversial economic growth programmes in Africa, is said to be a heavyweight financier of the carbon market initiative under the Forest Carbon Partnership Facility.<sup>69</sup> Owing to the vested interests of these capitalist stakeholders, there is little or no guarantee of any flow of

the money generated from the projects actually trickling down to the indigenous communities.<sup>70</sup> Rather, the conversion of the rainforest into a carbon market poses significant threats to the indigenous populations.

### **Perceived and Potential Threats**

Some villainous economic experiments, including, for example, slavery, colonialism and structural adjustment, have been conducted in Africa, never in the interest of African peoples but principally to advance the industrialisation of the capitalist societies of Europe and America. While all of these experiments eventually failed, they left the unpleasant legacies of massive impoverishment and widespread violation of the entire range of internationally guaranteed human rights and freedoms. The green economy poses similar threats to the realisation of the right to sustainable development, particularly for indigenous communities because of their vulnerability to the green economy agenda which comes with the excessive pressures exerted by the global competition for economic growth.<sup>71</sup>

Though REDD+ is yet to become fully operational, its potential menace to indigenous peoples' right to sustainable development is inestimable. Not only does it perpetuate environmental injustice, it threatens the right to life with dignity in the sense that industrialised countries are allowed the freedom to pollute while indigenous communities bear the burden of the climate crisis.<sup>72</sup> There is no denying the fact that the REDD+ programme promises a number of benefits as outlined in the UN-REDD Policy Brief.<sup>73</sup> This paper is concerned with the threats that the programme poses to the indigenous peoples of the Equatorial rainforest.

The REDD+ mechanism threatens violation of indigenous peoples' right to self-determination in deciding what constitutes sustainable development and the right to the ownership of their ancestral lands. By putting a price tag on the Equatorial rainforest for its carbon credit value, the indigenous communities are placed at an economic disadvantage in bargaining for ownership over their indigenous space. The REDD+ mechanism also creates the opportunity for investment in large-scale plantations to serve as carbon sinks, thereby encouraging land grabbing, expropriation and dispossession of indigenous communities of their ancestral lands.<sup>74</sup> Powerful investors with the potential to transform the forest into carbon projects to the satisfaction of the green economy agenda are granted the liberty to invade and take over possession of the indigenous space. So long as the indigenous communities do not have any economic value to add to the development of carbon projects or a role to play in the carbon market, they face the risk of losing their right to meaningful participation, together with the right to free, prior and informed consent in decision-making on issues that affect their lives.<sup>75</sup>

The indigenous communities are also threatened with the violation of the right to ownership of their natural wealth and resources which is protected under article 21 of the African Charter. Potential corrupt practices in the implementation of the REDD+ programme are likely to undermine the sacrosanct principles of transparency and accountability in resource management and may lead to the incitement of genocidal conflicts among indigenous tribes over contested resources.<sup>76</sup> The indigenous peoples are also further exposed to violation of the right to share equitably in the benefits generated from the carbon projects established on their indigenous territories. With the neo-liberal philosophy of wealth accumulation being associated with the green economy, it is

unlikely that the indigenous communities will reap any substantive benefit from the carbon markets. It is evident that the noble intention to achieve sustainable development through the green economy is susceptible to hijack by market forces. Thus, without adequate protection, the rainforest's indigenous communities face the danger of massive displacement from their forest habitat or the risk of continuous habitation under conditions of slavery and marginalisation perpetuated by the market-driven carbon annexation scheme.

## Conclusion

In spite of the legal guarantees of the right to sustainable development within the African human rights system, the survival of the indigenous communities of the Equatorial rainforest remains threatened with the emergence of the green economy and the encroachment of its carbon market mechanisms into the indigenous space. Sustainable development constitutes one of the pillars of the category of solidarity rights by which socio-economic transformation is envisaged for the entire African continent. The realisation of the right to sustainable development constitutes an important building block in addressing the challenges of endemic poverty and human rights violations in Africa. This development goal cannot be achieved when large segments of the African population consisting of indigenous peoples are constrained by market forces that compel them to resort to unsustainable patterns of livelihood. As argued above, strategies aimed at achieving sustainable development, including through the green economy, need to be more people-centred and human rights-based.

It is likely that the green economy carbon market annexation scheme is destined for the same demise as other economic growth models such as the World Bank structural adjustment programmes that have been experimented within Africa.<sup>77</sup> In the meantime, the concern is to ensure adequate protection against the irreversible harm that is most certainly to be caused in respect of the human rights of indigenous peoples, who remain very vulnerable to the rapid pace at which carbon markets are taking over indigenous spaces. Although state governments of the Equatorial rainforest region have subscribed to the green economy and its carbon market mechanisms, they have an obligation under the African Charter to ensure that it is not achieved at the expense of the human rights of the indigenous peoples.

The African charter imposes a legal obligation to guarantee the right to sustainable development, while the Declaration on the Right to Development enjoins states to adopt adequate national development policies to ensure a constant improvement in the well-being of their peoples.<sup>78</sup> Failure to translate these obligations into concrete protective measures and effective implementation mechanisms is tantamount to compromising the right to sustainable development. With the exception of the DRC that has enshrined the right to sustainable development in its Constitution,<sup>79</sup> the other state governments in the Equatorial rainforest region need to domesticate the provisions on the right to sustainable development by adopting legislation and comprehensive policies to ensure effective implementation at national level.

If the right of the indigenous communities of the Equatorial rainforest to sustainable development is to be taken seriously, advancement of the green economy agenda into their indigenous

space must be embraced with caution. It requires civil society organisations with a focus on indigenous affairs to perform a watchdog function in this regard and to fulfil a litigation role on behalf of indigenous peoples before the African Commission to seek remedy in the instance where their rights are violated. It also requires the African Commission and the Working Group on Indigenous Communities, in fulfilling their mandates to promote and to protect human rights, to play an instrumental role in educating indigenous peoples of the importance of the African Charter as a protective instrument on the basis of which litigation may be brought to the Commission when the right to sustainable development, among others, is threatened or violated.

## Acknowledgement

Acknowledgement goes to the University of Pretoria for providing the funds to present the paper at the International Conference on Sustainable Development on 2–3 December 2014. This article is the outcome of the conference presentation.

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