

Sustainable Development Goals and the Law

Measuring Sustainable Development - International Conference
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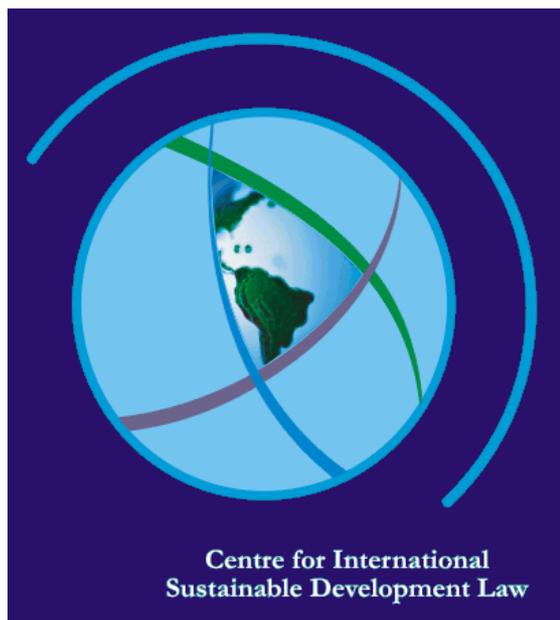
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Faculty of Law

Overview

1. Introduction
2. Sustainable Development Law
3. Role of International and Domestic Legal Regimes
4. Future Legal Research Agenda

CISDL Programming:



The Centre for
International Sustainable
Development Law
(CISDL)
www.cisd.org

- **Dialogue:** Conferences (*Sustainable Justice 2002: Implementing International Sustainable Development Law*, Montreal); Legal Experts Panels (WSSD, UN CBD, WTO, UNCCD, Climate COPs); Academic Workshops (McGill, Yale, Oxford), etc.
- **Curriculum:** Legal Seminars & Courses (McGill, Cambridge, UChile, Nairobi, etc.); Judicial Education (UNEP, IDLO, NJI).
- **Research:** Six Research Programmes, led by nine Lead Counsel, with over 80 Legal Research and Associate Fellows and a Student Research Group.
- **Publications:** *Sustainable Development Law: Principles, Practices & Prospects* (Oxford University Press, 2004); *Sustainable Justice* (Martinus Nijhoff, 2004); *Sustainable Developments in World Trade Law* (Kluwer, 2005); *World Trade Law in Practice* (Globe, 2006); *Sustainable Development in World Investment Law* (Kluwer, 2010) etc.
- **Partnerships:** *International Law for Sustainable Development* Experts Events at international negotiations.

Introduction

- Encouraging ‘ownership’ can be done through multi-layered law and governance – in different sectors and at different levels. Binding legal rules are in many ways outcomes of successful ownership.
- SDGs shall comply with Rio Declaration and be compatible with international law.
- Legal frameworks matter for SDGs at all levels.
- National legal and international regimes can foster or frustrate SDGs.
- New, innovative legal approaches are being developed and tested around the world.
- Stakeholder engagement enhances sustainability for policy and law.

Sustainable Development Law

Sustainable Development Law:

International Environmental Law
(atmosphere, water, biodiversity)

International Social Law
(Human Rights, Social Development, Health Law)

International Economic Law
(Trade, Investment, Competition, Natural Resources)



See Cordonier Segger & Khalfan, OUP 2004

SDGs and International Law

- Goal 1: End poverty in all its forms everywhere
- Goal 2: End hunger, achieve food security and improved nutrition, and promote sustainable agriculture
- Goal 3: Ensure healthy lives and promote well-being for all at all ages
- Goal 4: Ensure inclusive and equitable quality education and promote life-long learning opportunities for all
- Goal 5: Achieve gender equality and empower all women and girls
- Goal 6: Ensure availability and sustainable management of water and sanitation for all
- Universal Human Rights, *International Covenants*
- Right to Food, Right to Water, *FAO Treaty, Seed Treaty*
- Right to Health, *International Covenant, Rights of the Child Convention*
- Right to Education, *International Covenant, CEDAW, UNDRIP*
- *Convention on the Elimination of all forms of Discrimination against Women (CEDAW)*
- Right to Water, *International Covenant*

SDGs and International Law

- Goal 7: Ensure access to affordable, reliable, sustainable, and modern energy for all
- Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
- Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
- Goal 10: Reduce inequality within and among countries
- Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable
- *UNFCCC, IRENA, Energy Charter Treaty*
- *ILO Conventions, WTO Treaties, such as the GATT, GATS; World Bank Statute*
- *Road and Rail Conventions, UNCLOS, IMO Conventions, WIPO Conventions, TRIPS*
- Non-discrimination in Human Rights law and special and differential treatment in *WTO*.
- UNHabitat, *UNFCCC*

SDGs are enshrined in international rules

- Goal 12: Ensure sustainable consumption and production patterns
 - Goal 13: Take urgent action to combat climate change and its impacts
 - Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development
 - Goal 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
 - Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
 - Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development
- *UN Fisheries Conventions, Regional Seas, Illegal logging provisions in RTAs*
 - *UNFCCC, Kyoto Protocol, climate provisions in RTAs*
 - *UNCLOS, Regional Sea Conventions, Straddling Fish Stock Convention, Bonn Convention*
 - *UN CBD, CITES, Ramsar Convention, Bonn Conventions*
 - *Human Rights Covenants, Aarhus Convention, Regional Human Rights Courts, Convention against Corruption*
 - *Tech transfer provisions in Rio Conventions, Financing through Global Climate Fund etc.*

Role of International and Domestic Legal Regimes

- Principles: National Constitutions / International Law
- Policies & Plans: Goals / objectives / milestones
- Enabling Legal Frameworks: Laws / directives / regulations / guidelines, mandated authorities / institutions, incentives / compliance & enforcement instruments
- Transparency / Stakeholder Empowerment: Accountability for authority / Human Rights
- Dispute Settlement Mechanisms: Access to justice, recourse to resolve claims

... Laws can provide sticks but also carrots

.... Smart car, Cadillac, sometimes even horse & cart

Impact Assessment Laws facilitating Ownership

- Key procedural rules, see Aarhus Convention.
- Impact assessment as a tool for sustainable development through process
 - Increasing information and participation
 - Identifying mitigation and flanking measures, keeping options open.
 - Well tested instrument, successful in many areas, though more difficult the more abstract the policy choice.
 - Realisation of precaution through process?
- Multilayered process – project, plans, policies, treaties and laws.
- Globally accepted instrument – now customary international law.
- SDGs influence the way assessments are conducted.

Impact Assessment Laws facilitating Ownership

- Assessments at all levels can be one way to ensure sustainable development goals are enhanced and not frustrated by projects or policies.
- Assessments can also build robust data for negotiations and highlight areas important for sustainable development.
- A brief review of existing assessments reveals that it is often very difficult to predict the economic effects of a policies, for example an investment treaty, leading to difficulties in assessing environmental and social impacts.
- Scrutiny of domestic regulatory systems increased through assessment.
- Important challenges remain: How can partner countries become better involved? How to link project assessment and broader policy assessment? How can more robust data be secured? How can the regulatory dimension of assessment be strengthened?

Innovative Regulatory Pathways and Practices for Sustainable Development Goals

- Efforts are made to ensure coherence.
- New trend towards new and innovative laws ensuring outcomes similar to SDGs, across many industries and within both developed and developing countries.
- Existence of legal rules or policies influences grassroots discourse (see *Radjavi*).
- Different kind of development often requires legislative change, which in turn depends on international law or policies.

(see Gehring, *Compendium of Selected Innovative Provisions Promoting Green Economy for Sustainable Development and Poverty Eradication*)

Future Legal Research & Education Agenda

- Sustainable development goals require legal innovations.
- Ownership can be encouraged through tailored regulation, in particular procedural rules.
- Government policies / regulations / institutions play a key role for sustainable development goals.
- Solid legal understanding and research for sustainable development is needed.

Many thanks, merci, gracias, danke

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