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SDLP AFTER 20: SUSTAINABLE DEVELOPMENT IN THE ANTHROPOCENE

by David Hunter*

This volume marks the 20th anniversary of *Sustainable Development Law and Policy (SDLP)* published by the students of American University's Washington College of Law. *SDLP* was founded to explore the legal and policy dimensions of sustainable development (i.e. the simultaneous pursuit, or integration, of economic development, environmental protection, and social welfare). During its twenty years, *SDLP* has provided a forum for scholars, practitioners, and students to analyze the complex challenges to achieving economic and social justice within the constraints of our planet's natural environment. From its first volume addressing liability for carbon trading, the regulation of genetically modified organisms, and the internationalization of the Amazon,¹ to its most recent symposium exploring the link between air quality and environmental justice, *SDLP* has addressed contemporary, complex, and critical issues at the intersection of environment and the economy.

Understanding that intersection remains vital, particularly given that the past twenty years has seen a profound increase in the speed and scale of environmental change caused by economic activity. Processes associated with industrialization have increased the earth's global average surface temperature by approximately 1.1 °C (or 2°F),² and the warming trend is accelerating. 2019 was the second hottest year on record, trailing only 2016; the previous five years were each among the hottest five years ever; the decade ending in 2019 was the hottest decade in recorded history; and nineteen of the hottest twenty years occurred in the past two decades.³ Major disasters that at least partly reflect the impacts of climate change are almost weekly events, including: fires in California, Brazil and Australia; unprecedented flooding in the United States, Europe and Asia; hurricanes in Texas and Puerto Rico; typhoons in Myanmar and the Philippines; and deadly heatwaves and droughts on every continent. All of these disasters can be linked to climate change.

Climate change is also contributing to what is now recognized as the planet's sixth wave of mass extinction. On average, approximately twenty-five percent of all species, across all ecosystems and all plant and animal groups for which data exists, are threatened with extinction.⁴ That includes more than forty percent of amphibian species, almost a third of reef-forming corals, sharks and rays, and over a third of marine mammals.⁵ Insect populations are plummeting with an estimated ten percent of species threatened with extinction.⁶ Terrestrial habitat has been reduced by thirty percent, suggesting that more than 500,000 species have insufficient habitat for long-term survival—destined for extinction unless their habitats are restored.⁷

To these massive changes in climate and biodiversity can be added other significant changes in the global environment, including, for example, increased ocean acidity, the pervasiveness of hazardous chemicals and plastics, and scarcity of fresh water. Overall, these environmental changes will cause enormous economic losses through a significant decline in ecosystem services such as pollination, clean air, storm protection, water filtration, and fish production.

In short, humanity is changing our natural planetary systems in ways that have fundamental implications on a geologic scale. This has led many to harken in a new geologic era, the Anthropocene, denoting the dominant role humanity now has in shaping the planet.⁸ Until now, we have taken the Earth's relatively stable largesse mostly for granted, but in the Anthropocene we will be required to manage the planet's global environmental systems proactively, as well as address the socio-economic impacts that will surely come from declines in vital environmental services.

Over the past several decades, the international community has tried to keep pace with environmental change by adopting different institutional and policy approaches to achieve "sustainable development," which remains the primary organizing concept for squaring ecological limits with economic growth. This essay surveys the international community's shifting approach to promoting sustainable development in light of the challenges posed by the Anthropocene. Part I discusses the emerging legal dimension of sustainable development as the organizing framework for the global pursuit of balancing environmental protection with economic activity.⁹ Part II addresses the utility of convening regular Sustainable Development Summits in light of the upcoming 50th anniversary of the Stockholm Convention.¹⁰ Part III traces the transition from the UN Commission on Sustainable Development to the High Level Policy Forum.¹¹ Part IV analyzes the shift from Agenda 21's policy prescriptions to the Sustainable Development Goals,¹² and Part V describes the effort to include private sector initiatives through recognition of Sustainable Development Partnerships.¹³

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I. TOWARD A BINDING COMMITMENT TO SUSTAINABLE DEVELOPMENT

The 1992 Rio Earth Summit positioned sustainable development as the shared goal of international environmental and economic policy, requiring attention to its “three pillars” of environmental protection, economic development, and social welfare. The term has proven to be sufficiently elastic to embrace a wide range of approaches to environment and development. In fact, the primary value of “sustainable development” is that it provides a rhetorical framework for multiple stakeholders to discuss how the economy relates to environmental limits and social welfare. Its inherent ambiguity creates a valuable, albeit contested, space for dialogue; a wide range of actors can embrace the concept and then fight over its meaning. We may not know precisely what the term means, but it does invite an enriched dialogue over the interface between environment and development, allowing no one to be completely comfortable focusing on just one of the three pillars. Integrating the environmental, economic, and social dimensions into decisionmaking also adds needed complexity to the discussion, inviting compromise and attention to long-term trade-offs and consequences.

Sustainable development has also emerged as a legal principle that requires the integration of environment and development, at least in the transboundary context. As Judge Weeramantry concluded in the *Gabčíkovo-Nagymaros Project* case, “the principle of sustainable development is ... a part of modern international law ... It reaffirms in the arena of international law that there must be both development and environmental protection, and that neither of these rights can be neglected.”¹⁴ The focus on integration as a core part of sustainable development was explored further in a case involving Belgium’s request to reactivate a railway that traverses the Netherlands. Belgium’s right of transit was codified in two treaties; the latest concluded in 1973. Neither mentioned environmental protection. The railway had been in disuse for several decades, and the parties disagreed whether Belgium could legally reactivate the railway and, if so, whether the Netherlands could impose binding environmental regulations on Belgium. In its decision, the Permanent Court of Arbitration Tribunal held that international law requires:

the integration of appropriate environmental measures in the design and implementation of economic development activities ... Environmental law and the law on development stand not as alternatives but as mutually reinforcing, integral concepts, which require that where development may cause significant harm to the environment there is a duty to prevent, or at least mitigate, such harm.¹⁵

The Tribunal upheld both Belgium’s right of passage and the Netherlands’ right to impose reasonable environmental regulations. Moreover, Belgium had to share in the costs of environmental protection resulting from reactivation of the railway.

Sustainable development’s emergence as a legal principle is significant, but it remains constrained by the principle of state sovereignty. As reflected in Principle 2 of the *Rio Declaration*, States “have the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies.”¹⁶ Two exceptions limit state sovereignty in the environmental context: (1) where a State voluntarily consents to join an environmental agreement; or (2) where the country’s activities harm the environment outside their territory (i.e. in a neighboring state or the global commons). Otherwise, countries are free to pursue *unsustainable* development policies within their borders—so long as they do not run afoul of the prohibition against transboundary harm. Moreover, the legal approach to transboundary harm has not kept pace with the science of environmental change. Today we can verify what ecologists have known for decades—that in the environment, everything is connected to everything else. Most significant economic activity can now be linked to transboundary or global environmental change. Thus, a better understanding of transboundary harm could serve as the basis for enhanced international cooperation, as would a stronger conceptual foundation for the international pursuit of sustainable development.

The conceptual foundation for strengthening sustainable development as an obligation on States’ internal economy can be further rooted in the principle that sustainable development is a “common concern” or a “common responsibility” of humanity.¹⁷ This principle reflects that, because the planet is ecologically interdependent, humanity has a collective interest in certain activities that take place, or resources that are located, within State boundaries. Until now, the recognition that nations have a common concern in the global environment has provided a critical conceptual framework for specific treaties addressing such issues as climate change and biological diversity. As we enter the Anthropocene, humanity’s common concern in managing the planet needs to be extended to support a general obligation that a state must pursue *sustainable* development even inside its borders. In an era when the environment/development balance must be proactively and continually managed, meeting sustainable development challenges must be viewed less as a narrow exception to state sovereignty and more as the default position favoring international cooperation.¹⁸

Curbing the fidelity to state sovereignty in this way will require a significant advance from the current state of international environmental law. The *Rio Declaration* is the closest the field has to a set of principles, but it is not binding law. More to the point, the *Rio Declaration* secures the rights of States to follow their own development path, conditioned only by the prohibition against transboundary harm.¹⁹ In recent years, some global leaders led by President Macron of France have sought to cure both deficiencies, proposing governments adopt a binding *Global Pact on the Environment*. The proposed draft would require Parties to “pursue sustainable development” and to “integrate the requirements of environmental protection into the planning and implementation of their policies and national ... activities.”²⁰ Advocates of the Global Pact hope to have the

treaty concluded and signed at the summit being planned for 2022.²¹

What difference would such an instrument make? The recent international criticism of Brazil's response to extensive fires in the Amazon—and President Bolsonaro's sharp counterattack defending Brazil's sovereignty—provides an illustrative example.²² Sovereignty prevailed for now, but would it in a future marked by greater climate change? Would an instrument like the *Global Pact* that makes sustainable development binding make any difference? Would, for example, Brazil be required to accept international aid to stop the fires? Would Brazil be required to change the land-use policies that contributed to the fires? In other words, would States be obligated to pursue environmentally sustainable development within their borders? These are critical questions, but the trajectory of recent Sustainable Development Summits suggests a movement away from the negotiation of legal texts and toward partnerships, goals and other strategies aimed at implementation of sustainable development.

II. UN SUSTAINABLE DEVELOPMENT SUMMITRY: WHAT TO DO AT STOCKHOLM +50

The 1972 UN Conference on the Human Environment held in Stockholm launched the modern field of international environmental law by confirming that environmental protection was a legitimate subject of international cooperation, but development issues were decidedly not on the agenda. That would change by the 1992 UN Rio Conference on Environment and Development (known as the Earth Summit) where the parallel global discussions of environmental protection and economic development merged into a unified discussion of sustainable development. Since the Earth Summit, the United Nations has held regular, high profile summits to address the pursuit of sustainable development. The latest was the 2012 Rio+20 Summit on Sustainable Development, which followed the 2000 Millennium Summit and the 2002 World Summit on Sustainable Development (WSSD) held in Johannesburg.²³

These sustainable development summits are frequently criticized, but they remain important events for regularly forcing governments to reflect on the state of the global environment and our progress (or lack of it) in responding to global environmental change.²⁴ Although the past two Summits (2002 and 2012) have not resulted in significant new legal instruments, they did provide a high profile venue to focus world leaders on the challenges for achieving sustainable development as well as to showcase promising public and private initiatives.²⁵ The 2012 Rio+20 Summit, in particular, became the venue for significant positive changes in the institutions that address sustainable development, strengthening UNEP and replacing the Commission on Sustainable Development with the High Level Policy Forum.²⁶ The summits also catalyze the global sustainability community to form around each conference, sharing ideas and knowledge. Some 40,000 activists, journalists, and business leaders attended Rio+20, and many more followed the conference or participated online.

There is thus ample reason to believe sustainable development forums will continue to be important venues for coordinating the global response to the challenges of the Anthropocene. Bringing the global sustainability community together in high profile events remains critical for building political will at all levels—the global, national and local—and among all sectors—government, business and civil society. If nothing else, at least the scope and scale of the UN sustainability summits match the scope and scale of the forthcoming challenges—even if the actual outcomes have not always responded to the urgency of the problems.

By all accounts, the next sustainable development summit will occur in 2022, marking the 50th anniversary of the Stockholm Conference and the establishment of the UN Environment Programme (UNEP) (as well as the 30th anniversary of the Earth Summit).²⁷ Given the current state of the environment and the environmental focus of the original Stockholm Conference, some observers are arguing for a UN Environment Summit focusing primarily on the environmental dimension of sustainable development.²⁸ As noted above, among the proposals for Stockholm+50 is the adoption of a binding *Global Pact on the Environment* championed by President Macron of France.²⁹ Although the *Global Pact* has met with mixed enthusiasm, such bold initiatives are needed for the Anthropocene. At the very least, a Summit focused on environmental change could reposition protection of fundamental ecological systems as the foundation (not just a pillar) of the sustainable development edifice.

III. SUSTAINABLE DEVELOPMENT'S GLOBAL POLICY AND INSTITUTIONAL CHALLENGE

Sustainable development is an expansive concept and it sprawls across the mission of many international organizations. UNEP is the principal international environmental organization, but dozens of institutions have some responsibility for one or more environmental issue. The development side may be even more crowded. The UN Development Programme (UNDP) and the World Bank could compete for the premier development institution, but some regional or bilateral development agencies rival them in size and influence. This panoply of diverse agencies, each with distinct mandates, presents a significant coordination issue. Since the 1992 Earth Summit, the governments have tried different institutional and policy approaches to coordinate and align the missions, policies and activities of these various institutions.

A. THE SHIFT FROM PRESCRIBING POLICIES TO SETTING GOALS

The most ambitious effort to align the international community's actions toward a common understanding of how to implement sustainable development was arguably *Agenda 21* adopted at the 1992 Earth Summit.³⁰ *Agenda 21* prescribed comprehensive and detailed policies for the future implementation of sustainable development at all levels.

With 40 chapters and over 300 pages, *Agenda 21* covered the environmental, social, and economic dimensions of sustainable development, as well as policies for strengthening the participation of all groups in the implementation of sustainable development.³¹ Every chapter of *Agenda 21* originally included the estimated cost of implementation. At the last minute, donor countries prevailed in excising the cost estimates from the final version. Removal of the financial numbers meant the adequacy of financial assistance could not be monitored, and international support would prove to be insufficient for the implementation of *Agenda 21*.

Ultimately, *Agenda 21*'s influence in moving governments toward sustainable development mostly disappointed, or, at least, it was difficult to isolate any impact of *Agenda 21* in catalyzing behavioral change.³² Without the promised levels of financial support, few incentives existed for adhering to *Agenda 21*'s policy blueprint.³³ Responsibility for monitoring implementation of *Agenda 21* was vested in the Commission on Sustainable Development, which had few tools to persuade governments toward further implementation.³⁴ As a result, most countries, including the United States, never seriously implemented *Agenda 21* at least in any comprehensive way.³⁵

As the turn of the millennium approached, an international consensus emerged that the development agenda should take center stage. The governments were skeptical that further detailed policy prescriptions would fare any better than *Agenda 21*. The governments sought a different approach for the September 2000 Millennium Summit. Rather than develop a long list of policy prescriptions (like *Agenda 21*) or a set of principles (like the *Rio Declaration*), the Millennium Summit used the political moment to gain broad government commitment for achieving eight discrete but ambitious Millennium Development Goals (MDGs).³⁶

For the United Nations and indeed the entire international community, the MDGs quickly became the core priorities for the sustainable development agenda. As Kofi Annan, Secretary-General to the United Nations, stated in presenting the MDGs:

The adoption of the Millennium Development Goals ... constituted an unprecedented promise by world leaders to address, as a single package, peace, security, development, human rights and fundamental freedoms.

* * *

The eight Millennium Development Goals range from halving extreme poverty to halting the spread of HIV/AIDS and providing universal primary education—all by the target date of 2015. They form a blueprint agreed by all the world's countries and all the world's leading development institutions—a set of simple but powerful objectives that every man and woman in the street, from New York to Nairobi to New Delhi, can easily support and understand.³⁷

In describing the MDG approach, Secretary-General Annan further emphasized that the goals were “time-bound,” “measurable,” and “achievable.”³⁸ In this way, the MDGs represented a strategic plan for the United Nations—one with clear priority goals.

Although progress was mixed on meeting the MDGs, the general approach—to identify and monitor progress toward clear, measurable goals with specified timeframes—was considered effective.³⁹ The approach allowed agencies to coordinate their actions toward a common goal without being told precisely how to do it. Consistent with the adage of “that which gets measured gets done,” the identification of clear priorities with matching indicators for measuring progress incentivized institutions to align their actions toward those goals or at least to re-define their activities as furthering those goals.

As the MDG's 2015 deadline neared, governments and others called for a new set of “Sustainable Development Goals” (SDGs). At the 2012 Rio+20 conference, the governments established a process for setting the SDGs to replace the MDGs when the latter expired. The governments agreed that the SDGs would be “action-oriented, concise and easy to communicate, limited in number, aspirational, global in nature and universally applicable to all countries while taking into account different national realities, capacities and levels of development and respecting national policies and priorities.”⁴⁰

The SDGs were adopted in 2015 as part of the 2030 Agenda for Sustainable Development.⁴¹ The seventeen SDGs are generally written in vague and aspirational language, but they are accompanied by 169 detailed targets. The SDGs and their targets together are much more extensive in their coverage than their predecessor MDGs. They also apply to all countries.

The Sustainable Development Goals and targets are integrated and indivisible, global in nature and universally applicable, taking into account different national realities, capacities and levels of development and respecting national policies and priorities. Targets are defined as aspirational and global, with each Government setting its own national targets guided by the global level of ambition but taking into account national circumstances. Each Government will also decide how these aspirational and global targets should be incorporated into national planning processes, policies and strategies.⁴²

Progress toward each of the SDG Targets is evaluated according to one or more specified indicators. On the next page, for example, are several of the targets and indicators for SDG 6, relating to access to water and sanitation.⁴³

TARGET	INDICATOR
6.1. By 2030, achieve universal and equitable access to safe and affordable drinking water for all	6.1.1. Proportion of population using safely managed drinking water services
6.2. By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations	6.2.1. Proportion of population using safely managed sanitation services, including a hand-washing facility with soap and water
6.3. By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally	6.3.1. Proportion of wastewater safely treated 6.3.2. Proportion of bodies of water with good ambient water quality
6.4. By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity	6.4.1. Change in water-use efficiency over time 6.4.2. Level of water stress: freshwater withdrawal as a proportion of available freshwater resources

A brief look at these examples shows the potential value of the SDGs' clear deadlines and benchmarks. There are also clear challenges. To measure progress, countries must have baseline data for each indicator. This is likely not the case. Also, the indicators may not be adequate to measure progress with the target as for example the emphasis on handwashing as the primary indicator (6.2.1.) to measure progress for a target (6.2) that clearly includes access to feminine hygiene products.⁴⁴

Notwithstanding any flaws, the SDGs quickly became the planning priorities for much of the international community. Institutions of all sizes and all sectors have announced initiatives in furtherance of one SDG or another. Since 2015, the United Nations has registered over 5000 partnerships or commitments aiming toward implementation of the SDGs.⁴⁵ The influence of the SDGs in the international community's discourse is undeniable; less clear is whether activities are simply being repackaged—a sort of SDG-washing—or whether new resources are being coordinated in a more effective way. Answering that question is partly the role of the High Level Political Forum.⁴⁶

B. FROM "COMMISSION" TO "HIGH LEVEL POLICY FORUM": MUCH ADO ABOUT NOTHING?

The UN Commission on Sustainable Development (CSD) was established at the 1992 Earth Summit and tasked with the responsibility for monitoring implementation of *Agenda 21*.⁴⁷ The CSD was comprised of fifty-three member states elected for three-year terms operating under the auspices of the United Nations Economic and Social Council (ECOSOC).

The CSD had a staggering scope but an equally staggering lack of authority. In short, the CSD was tasked with monitoring the world's progress toward sustainable development, particularly as embodied in *Agenda 21*'s 300 pages of commitments. The CSD organized annual discussions of three cross-cutting themes each year. Although the CSD's substantive scope was broad, it had little authority to recommend, let alone compel, actions. Thus, in monitoring the implementation of sustainable development around the world, it relied solely on voluntary self-reporting by

States. Both the decision whether to report and the contents of any report submitted were left to the discretion of the States. Moreover, Agenda 21's policy prescriptions were not easily measured or monitored.

Amidst continuing critiques that the CSD was long on general discussions but short on specifics and action, a consensus emerged in the run-up to Rio+20 that the CSD did not contribute sufficiently to the global pursuit of sustainable development. The governments believed greater political prominence could improve the effective integration of the three pillars of sustainable development within the UN system.

At Rio+20, the governments "decided to establish a universal intergovernmental high level political forum, building on the strengths, experiences, resources and inclusive participation modalities of the Commission on Sustainable Development, and subsequently replacing the Commission."⁴⁸ The governments provided a list of possible functions for the new forum topped by providing "political leadership, guidance, and recommendations for sustainable development," enhancing the "integration of the three dimensions of sustainable development in a holistic and cross-sectoral manner at all levels," and providing "a dynamic platform for regular dialogue, and stocktaking and agenda setting to advance sustainable development."⁴⁹

The resulting UN High Level Political Forum on Sustainable Development meets annually under the auspices of ECOSOC for eight days, including a three-day ministerial segment. Every four years the High Level Forum includes a two-day meeting of Heads of State under the auspices of the General Assembly.⁵⁰ By commanding the attention of ministers and heads of state, the High Level Forum is intended to give a higher profile, and thus build greater political will, toward achieving sustainable development, particularly as reflected in the SDGs. Like the CSD, the High Level Forum conducts its global review largely based on voluntary national reports contemplated as part of the 2030 Agenda.⁵¹ The High Level Forum's reviews are also voluntary as well as State-led, although the Forum is to operate transparently with input from civil society.⁵²

Ultimately, the High Level Forum does not appear to be a significant improvement over the CSD. Both involve general reviews of progress based primarily on voluntary reporting by countries. Indeed, any greater success attributed to the Forum will likely reflect that the SDGs present a better substantive framework for incentivizing, measuring and reporting changes than did *Agenda 21*. But the system's success depends not only on the willingness of countries to report honestly and timely, but also on how well the indicators measure real progress toward the goal. For example, the sole indicator for measuring progress in improving "sanitation and feminine hygiene" is accessibility of hands-washing facilities.⁵³ At best, that indicator will provide no data on progress toward providing feminine hygiene products.⁵⁴

IV. BUILDING CONTEXTUAL ACCOUNTABILITY FOR SUSTAINABLE DEVELOPMENT PARTNERSHIPS

The state-centered, consensus-based nature of the international law system has hindered efforts to achieve sustainable development and effectively respond to our global environmental crisis. Moreover, private actors are only indirectly the subject of treaties or other forms of international environmental law and thus escape direct accountability under traditional state-centered approaches. Recognition of these inherent limitations of a state-centered architecture has led to more flexible models of "new governance."

In the run-up to the 2002 World Summit on Sustainable Development (WSSD), it was clear that governments had no interest in negotiating additional treaties; they wanted the focus on implementation. Realizing that much of the energy for implementing sustainable development rested in the private sector, civil society, and international organizations, the United Nations sought a new way to engage non-state actors in its own efforts. This was against the backdrop of a broader recognition that the state-centered, consensus-based architecture of international law had inherent limitations, particularly in fields like the environment where the primary behavioral changes needed are those of corporations, consumers, and other private actors—not necessarily governments. These "new governance" approaches are inclusive, frequently relying on multi-stakeholder processes that may include not only governments, but also international organizations, private sector companies, civil society organizations, and community groups sitting down at the same table.⁵⁵

Whether knowingly or not, the United Nations embraced this new governance model at WSSD through the adoption of Partnerships for Sustainable Development. The UN approach to these Partnerships evolved further at Rio+20, where the governments:

welcome[d] the commitments voluntarily entered into ... by all stakeholders and their networks to implement concrete policies, plans, programs, projects and actions to promote sustainable development and poverty eradication. [The governments invited] ... the Secretary-General to compile these commitments and

facilitate access to other registries that have compiled commitments, in an internet-based registry. The registry should make information about the commitments fully transparent and accessible to the public, and it should be periodically updated."⁵⁶

These Partnerships run the range from single companies announcing that they will agree, for example, to go carbon neutral or eliminate the use of toxic chemicals, to complex public-private partnerships that span multiple countries, intergovernmental organizations, civil society organizations, and private businesses and entail commitments of billions of dollars. The common denominator in these initiatives and partnerships is that they are supposed to be action-oriented, ideally with specific targets and timetables. More than 700 voluntary commitments and partnerships were made by the stakeholders present at Rio+20.⁵⁷

The UN endorsement of these partnerships prompted questions at Rio+20 about what conditions should attach to the endorsement to increase accountability around these voluntary initiatives. The governments agreed that the UN Partnerships had to be transparent and would be listed on a public registry. Since 2015 that registry, which now includes over 5000 Partnerships, has been organized according to the SDGs.⁵⁸ The *Partnerships for SDGs online platform* is now the "United Nations' global registry of voluntary commitments and multi-stakeholder partnerships made in support of sustainable development and the seventeen Sustainable Development Goals."⁵⁹ The platform tracks whether annual progress reports have been submitted, but otherwise the United Nations takes few steps to compel reporting, let alone to sanction failure to meet the promised commitments. In the future, increased accountability in this context is unlikely to include formal enforcement, but it could include clearer targets and timetables, transparent reporting, independent verification, and in some cases "enforcement" through, for example, removing any Partnership from the registry that does not file an annual progress report. Civil society could also monitor implementation of the Partnerships, publicly 'naming-and-shaming' or taking other actions to ensure promises made are promises kept.

V. CONCLUSION

As we enter the Anthropocene, the scale and speed of environmental change presents unprecedented challenges for the global community that will require continually strengthening our global governance system for sustainable development. Criticisms of large UN conferences notwithstanding, the Stockholm-to-Rio+20 Conferences improved our governance through continual dialogue on the aspirations and realities of achieving sustainable development. In general, these conferences have provided forums for the interaction of governments, industry, academia, and civil society to measure, recalibrate, and test new global responses to promoting sustainable development, including treaties, action plans, goals, and partnerships. We will

need these strategies and more to meet the future challenge of sustainable development.

If history is our guide, however, strategies for achieving sustainable development will not be enough for answering the existential threats posed by the Anthropocene. Indeed, our efforts to date have not prevented us from entering the Anthropocene—a period that will be marked by unpredictable and potentially calamitous environmental change. This raises significant questions going forward about our efforts to achieve sustainable development, including whether sustainable development is still the most appropriate global framework for reconciling ecological limits with economic aspirations? Should it be environmental justice or environmental security? Does the central tenet of sustainable development – to integrate environmental concerns into economic decisionmaking—leave environmental protection too vulnerable to compromise and complexity at a time when environmental change poses such an existential threat?

Sustainable development’s focus on integration (and compromise) among the three pillars of economic development, environmental protection, and social welfare arguably obscures the critical role that the natural environment serves as the basis for all other human activity. The stability of the climate and other basic environmental services is less an equal pillar than a foundation for economic and social progress. As we enter the Anthropocene, a definition of sustainable development that subjugates the fundamental role of basic environmental systems may be ill-equipped to address the profound challenges engendered by future global environmental change.

Our planet’s environmental decline risks fundamental challenges to humanity achieving economic security for everyone. Redefining “development” through green accounting and mitigation of some environmental externalities may present opportunities within the frame of sustainable development, but such incremental changes may not reflect the urgency and seriousness of environmental change in the Anthropocene. In short, we may need to replace sustainable development with a conceptual framework that recognizes the threats to economic security, equity, and survivability that are presented by environmental change. Such a new conceptual framework might prioritize “security”, “survivability”, “right to life”, “resilience,” “restoration,” or equity more than “development”, “sustainability” or “integration”.

For sustainable development to maintain its predominant role in future governance, its framework for integration must

prioritize ecological stability as much as it has prioritized economic growth and development in the past. This suggests, in matters of global environmental change, that a state’s sovereignty over development decisions may need to yield to strengthened concepts of common concern and international cooperation. A system that presumed most transboundary environmental impacts from national-level development would be discrete and manageable through specific negotiations or dispute resolution processes is not fit for an Anthropocene where the collective scale of our domestic economies has global impacts that raise concerns of humanity’s survival as well as economic justice.

The repositioning of state sovereignty may present less of an obstacle than appears at first blush, because the pursuit of sustainable development is less dependent on state action than on the collective actions of non-state actors. The promise of the SDGs and the Sustainable Development Partnerships is that they can harness the global reach of multi-national companies and civil society movements in the pursuit of sustainable development. Leadership is still required from governments but not necessarily in the form of laboriously negotiated texts of binding commitments between States. Successful response to global environmental challenges may rely less on policing state-to-state relations and more on ensuring contextual accountability for the promises of multiple stakeholders in multiple contexts.⁶⁰ Norms may be set through the “registry of commitments” now maintained by the UN and reflecting promises found in Partnerships, SDGs, and other venues.⁶¹ This bottom-up approach has promise for building a dynamic governance system that not only promises initiative and action from a wide range of actors, but holds them accountable to commitments that in the aggregate constrain our development within planetary ecological limits.

The upcoming 50th anniversaries of the UN Stockholm Conference and the founding of UNEP create a political moment to strengthen our collective approach to sustainable development. Finding new ways to hold a variety of stakeholders accountable for stronger environmental commitments made in a variety of forms and contexts is the Anthropocene’s challenge to sustainable development governance. And by implication, sorting this mix of commitments out, making sense of it, monitoring progress—indeed holding the stakeholders to account for their promises—is the Anthropocene’s challenge to *Sustainable Development Law and Policy’s* next twenty years.



ENDNOTES

¹ Sustainable Development Law and Policy, Fall/Winter 2000, 1-32, <https://digitalcommons.wcl.american.edu/sdlp/vol1/iss1/1/>.

² INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, GLOBAL WARMING OF 1.5°C, at 31 (2018), https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Full_Report_High_Res.pdf.

³ See Brady Dennis et al., *2019 Capped World’s Hottest Decade in Recorded History*, WASH. POST (Jan. 15, 2020), <https://www.washingtonpost.com/climate-environment/2020/01/15/2010s-hottest-decade-world/?arc404=true>.

⁴ INTERGOVERNMENTAL SCI.-POL’Y PLATFORM ON BIODIVERSITY AND ECOSYSTEM SERVICES, REPORT OF THE PLENARY OF THE INTERGOVERNMENTAL SCI.-POL’Y PLATFORM ON BIODIVERSITY AND ECOSYSTEM SERVICES ON THE WORK OF ITS SEVENTH SESSION, 14-15 (2019), https://ipbes.net/sites/default/files/ipbes_7_10_add.1_en_1.pdf.

⁵ *Id.* at 15.

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