



**Essential Readings in Environmental Law**  
**IUCN Academy of Environmental Law (www.iucnael.org)**

**SUSTAINABLE DEVELOPMENT LAW**

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**OVERVIEW OF KEY SCHOLARSHIPS**

**Origin of Sustainable Development**

1. International Union for the Conservation of Nature and Natural Resources., World Conservation Strategy: Living Resource Conservation for Sustainable Development (1980), available at <http://data.iucn.org/dbtw-wpd/edocs/WCS-004.pdf>.
2. World Commission on Environment and Development, Report of the World Commission on Environment and Development: Our Common Future, U.N. Doc. A/42/427 (1987), available at <http://www.undemocracy.com/A-42-427.pdf>.

**Outcomes of International Conferences on Sustainable Development**

3. United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, June 3-14, 1992, Agenda 21, U.N. Doc. A/CONF.151.26 (1992), available at <http://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>.
4. United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, June 3-14, 1992, Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26/Rev.1 (Aug. 12, 1992), reprinted in 31 I.L.M 874 (1992), available at <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>.
5. U.N. Conference on Sustainable Development, The Future We Want, in Report of the United Nations Conference on Sustainable Development, U A/CONF.216/16 (2012), available at <http://www.uncsd2012.org/content/documents/814UNCSD%20REPORT%20final%20re-vs.pdf>.

**International Court of Justice Decisions**

6. Gabcikovo-Nagymaros Project, (Hungary v. Slovakia) [1997]ICJ Rep 7, 90 (separate opinion of Weermantry J, finding that sustainable development constitutes a principle of customary environmental law)

## Secondary Sources

7. Bosselmann, K., *The Principle of Sustainability: Transforming Law and Governance*, (London and Burlington: Ashgate, 2008).
8. Weiss, E.B., *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity*, (Ardley: Transnational Publishers, Inc., 1989).
9. Sands, P., J. Peel, A. Fabra, and R. MacKenzie, *Principles of International Environmental Law* (3rd Edition), (Cambridge: Cambridge University Press, 2012).
10. Cordonier Segger, M.-C. and A. Khalfan, *Sustainable Development Law: Principles, Practices, & Principles*, Oxford: Oxford University Press, 2004.
11. Ross, A., *Sustainable Development Law in the UK: From Rhetoric to Reality?*, (Abingdon and New York: Earthscan, 2012).
12. Dernbach, J.C. et al., *Acting as if Tomorrow Matters: Accelerating the Transition to Sustainability*, (Washington, D.C.: Environmental Law Institute, 2012).
13. Agyeman, J., B. Bullard and B. Evans (eds.) *Just Sustainabilities: Development in an unequal world* (Earthscan, 2003).

## Background

Humans have always understood, to some degree, that their quality of life and wellbeing depend on the quality of their environment and the availability of necessary resources. Conservation and environmental laws—most of which predate the term “sustainable development”—reflect that understanding.

1. What makes sustainable development distinctive is the idea that decision-making for environmental protection and decision-making for development should be systematically integrated. That proposition was first articulated in 1980 in *World Conservation Strategy: Living Resource Conservation for Sustainable Development*, which was written by the **International Union for the Conservation of Nature and Natural Resources**, as the organization was then called, or IUCN. The strategy explicitly links conservation and development in a new term, sustainable development.
2. Several years later, in the *Report of the World Commission on Environment and Development: Our Common Future*, the World Commission on Environment and Development—a blue ribbon panel of experts from around the world that was chaired by then-Norwegian Prime Minister Gro Harlem Brundtland—reached a similar conclusion. “The common theme throughout this strategy for sustainable development is the need to integrate economic and ecological considerations in decision making.” Importantly, the report links environmental degradation to poverty. The Commission’s report also contains the iconic definition of sustainable development: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

These works reflect the world of the 1980s, which is both similar to and different from our own. But they are essential for anyone who wants to understand not only the origin of sustainable development but also the centrality of integrated decision-making to the meaning of the term. The latter report also reflects the importance of poverty eradication and social wellbeing to sustainable development—something that is often missed by those in developed countries who limit themselves to the environmental part of sustainable development.

### **Outcomes of International Conferences on Sustainable Development**

3. and 4. The United Nations Conference on Environment and Development (UNCED or Earth Summit) in Rio de Janeiro in 1992 was a direct outgrowth of *Our Common Future*. Two major documents were agreed to at this conference. The first is *Agenda 21*, an ambitious global strategy for sustainable development that was agreed to by nations around the world. In adopting this plan, each nation agreed to work toward sustainable development within its own borders and as part of its international activities. *Agenda 21* provides a comprehensive checklist of the best ideas that are available for sustainable development, and recommends that decision-making involve prior input from all relevant stakeholders.

The *Rio Declaration* is a statement of 27 principles necessary for sustainable development. These include not only integrated decision-making but also the precautionary approach, intergenerational equity, internalization of environmental costs, public participation in decision-making, and the handling of environmental issues “at the relevant level” of government (not necessarily at the national level). The **Rio Declaration** also states: “Human beings are at the center of concerns for sustainable development.” It thus makes clear that sustainable development is anthropocentric, not biocentric.

*Agenda 21*, while somewhat dated, continues to be important as a checklist and because of the public participation process it endorses. It is also useful as a way of understanding the many different contexts in which sustainable development can be applied. Finally, it reflects a continuing commitment by every nation to make sustainable development happen. That said, the *Rio Declaration* may have more importance over the long term, particularly to lawyers, because the principles it articulates can be, and have been, written into law, and because the principles are unlikely to become dated anytime soon.

The UNCED conference was not a once-and-done event. It anticipated continuing progress and review of national actions taken to advance sustainable development. In June 1997, the U.N. General Assembly held a five-year review of progress toward sustainable development, and issued a report recommending future actions. In 2002, on

the ten-year anniversary of the Earth Summit, the *World Summit on Sustainable Development* in Johannesburg, South Africa issued a somewhat similar report.

5. In 2012, in Rio de Janeiro, the **United Nations Conference on Sustainable Development** issued the most recent such report—*The Future We Want*. This Rio+20 report renews the Earth Summit and other commitments, endorses greening of the world's economies, and creates new processes to produce resolution of a handful of major issues. These include the strengthening of international environmental institutions and the establishment of sustainable development goals to replace the *Millennium Development Goals*, which are to be achieved by 2015, as well as making sustainable energy available to a much greater share of the world's population. The Rio+20 report is important not only for what it says, but also for the processes it creates, the results these processes are likely to produce, and, more generally, for the fact that it created separate international processes for separate sustainability issues. The Rio+20 report also reflects growing attention to the poverty eradication part of sustainable development—a trend in international conferences since the Earth Summit.

### **International Court of Justice Decision**

6. While not regularly featuring in court, sustainable development has been considered in some national and international courts often as a means of balancing conflicting concerns. In *Gabcikovo-Nagymaros Project (Hungary v Slovakia)*, the International Court of Justice refers for the first time to “this need to reconcile economic development with protection of the environment [which] is aptly expressed in the concept of sustainable development.”

### **Secondary Sources**

7. In *The Principle of Sustainability: Transforming Law and Governance* **K. Bosselmann** examines sustainable development from a jurisprudential perspective and makes the case that as a universally shared concern, environmental protection and the principle of sustainability should contribute to the ‘greening’ of the fundamental principles of law and governance. He makes the case that ecological sustainability should have the status of a fundamental legal principle.
8. In her book, titled *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity*, **E. Weiss** articulates a comprehensive approach to intergenerational equity based on three elements: (1) conservation of “the diversity of the natural and cultural resource base,” (2) an entitlement by this generation to a quality of planet enjoyed by prior generations and an obligation to pass to the next generation a quality of planet that is no worse than it received, and (3) conservation of

access, which requires all people in the current generation to have the same minimum level of access to this legacy.

9. In *Principles of International Environmental Law*, **P. Sands et al.** describe the various international environmental law regimes, which tend in varying ways to embody at least elements of sustainable development. They also explain in considerable detail how many of the principles contained in the *Rio Declaration* have been applied in other treaties and international agreements.
10. **M.C. Cordonnier Segger** and **A. Khalfan**, in *Sustainable Development Law: Principles, Practices, & Principles*, survey the origin of sustainable development, describe in detail the meaning and application of various principles of sustainable development, explain case studies of innovative sustainable development instruments and implementation challenges, and describe emerging research agendas in six key areas.<sup>1</sup>
11. and 12. Much of the responsibility for delivering sustainable development rests with national governments. **A. Ross** and **J. C. Dernbach et al.**, in their respective books, entitled *Sustainable Development Law in the UK: From Rhetoric to Reality?* and *Acting as if Tomorrow Matters: Accelerating the Transition to Sustainability*, provide comprehensive assessments of national progress (U.S. and U.K. respectively) towards sustainable development and make recommendations as to the steps needed for genuine sustainability.
13. The compilation by **J. Agyeman et al.** uses a wide range of the case studies, literatures and theoretical perspectives to analyse links among environmental degradation, social oppression, and economic exploitation. It provides an integrated approach to addressing questions of sustainable development, environmental justice and equity together.

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<sup>1</sup> For a comprehensive listing of various international tribunals applying various sustainable development principles, see Centre for International Sustainable Development Law, Sustainable Development Law: Analytical Tool, <http://cisdl.org/tribunals/tool.html>.