

**KLAUS BOSSELMANN, DAVID GRINLINTON AND PRUE TAYLOR, EDS.:
ENVIRONMENTAL LAW FOR A SUSTAINABLE SOCIETY (2ND EDITION)**

(New Zealand Centre for Environmental Law, Monograph Series,
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REVIEWED BY: GRANT HEWISON*

It is timely, given the shifting landscape of environmental law over the past decade, for Auckland University's New Zealand Centre for Environmental Law to publish the second edition of 'Environmental Law for a Sustainable Society'. This Monograph of nine essays builds on the first edition published in 2002. While the book has a New Zealand focus, it will also be relevant to readers in other countries. New Zealand's experience of its "state-of-the-art" resource management legislation has matured since enactment of the Resource Management Act ('RMA') in 1991, with a number of essays reflecting on this experience, offering opportunities for comparison with environmental law in other countries.

Prue Taylor joins the editorial team of Klaus Bosselmann and David Grinlinton. Among the authors are Taylor, Bosselmann and Grinlinton together with Nicole Bakker, Kenneth Palmer, Benjamin Richardson, Angela Thomson, Andrea Tunks and Krushil Watene. The contributors are leading scholars in the field of environmental policy and law, with most being members or associates of the New Zealand Centre for Environmental Law. Also included is a Bibliography of New Zealand Environmental Writing assembled by Vernon Tava, Caroline Fergusson and Ben Leonard. This is an important resource, and includes a list of student research completed between 2002 and 2012 at the University of Auckland.

The book has been written with legal advisors, policy consultants, educators and students in mind, making it readable and engaging. While the structure and content of the book, at one level, provides an introduction to the law of sustainability for those new to the subject, the essays also challenge those who are more familiar with this field. We are confronted with the

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question of how our legal system should be reformed to recognise that we share one finite planetary ecosystem.

Chapter 1 explores the origins and guiding ideas of environmental law, noting it is a product of scientific discovery, social and economic awareness and political initiative. It ends by discussing New Zealand's recognition of sustainable management, both in the RMA and other legislation, concluding that the concept has proven "elusive to interpret and apply".

Chapter 2 picks up discussion of New Zealand's adoption of the sustainability principle in more detail, especially the systems of integrated environmental management enacted in the RMA and other natural resources legislation. However, a number of "system failures" are also pointed out, with the chapter questioning whether New Zealand will retain its position as an innovator and leader in integrating sustainability into environmental law and policy.

A comparative perspective, evaluating European and North American environmental law, is the essence of Chapter 3, particularly as this relates to biodiversity conservation. The chapter criticises the apparent superior environmental law and performance of these regions. It points to this being due, in large part, to those countries exporting their ecological footprint both spatially and temporally to emerging economies, where the majority of consumer products are manufactured at significant expense to the global environment.

Two chapters question whether the notion of State sovereignty remains appropriate. As suggested in Chapter 4, "[e]cological interdependence ... muddies the logic of sovereignty as it relates to environmental issues." This is particularly true in three cases: (1) shared resources such as regional seas, riverbeds, stocks of migratory animals; (2) trans-boundary externalities; and (3) issues of global commons. As a consequence, "... the existing international environmental [legal] regime, amidst a growing interdependence and globalisation of the planet, appears to be failing to grapple with environmental concerns in any substantive way." Chapter 4 suggests a way forward through a less State-centered approach, while Chapter 8 advocates building a new "normative architecture for global environmental law".

Chapter 5 asks a good question – what is sustainable development? While the chapter notes that nobody welcomes 'unsustainable development', when groups as diverse as big corporations, government agencies and environmental organisations find common ground with the term, one has to question its usefulness. And when countries like New Zealand, who have had the concept of 'sustainability' at the core of their environmental legislation for

more than 20 years, have in that time increased their consumption of finite natural resources, rather than developing within the limits of them, “the time seems ripe for genuine SD legislation.” The chapter concludes that “[w]ithout a new morality, no legal principle of SD could make any difference to present unsustainable development”.

Chapters 6 and 7 explore the role of indigenous values in the conceptualisation of sustainable development. They note that indigenous values challenge the legal, scientific and economic assumptions that currently define global environmental decision-making: “[D]eep conceptual differences remain.” The concept of sustainable development “does not yet conceptually ‘cross’ appropriately into indigenous cultures.” As a consequence, these chapters observe, the vision for sustainable development law is likely to remain monocultural until its ideology is fundamentally changed.

The book ends with Chapter 9 arguing that the goal of sustainable development must be to promote the ‘greening’ of the entire legal system. With that in mind, sustainable development should be perceived as focused on three basic concerns: for the poor; for future generations; and for our planetary ecosystem. Finally, “[t]he concept of SD needs to be a guiding principle, defined by its elements, enshrined in law, enforced through institutions and exercised by people. The challenge before us is to advocate this at all levels of the political process.”

I have enjoyed the opportunity to read these essays and reassess my own understanding of sustainable development in writing this review. Each essay has challenged my appreciation of the concept in different, but also cumulative ways. Around twenty-five years ago, I first read about ‘sustainable development’ in the Brundtland report. I recall at the time thinking the definition was so simple and clear: “Development that meets the needs of the present without compromising the ability of future generations to meet their own needs”. Perhaps it is not so much that the concept of sustainable development is elusive, but simply our willingness as a species to restrain ourselves to live by it.