

SUSTAINABILITY LAW FOR THE NEW MILLENNIUM AND THE ROLE OF ENVIRONMENTAL LEGAL EDUCATION

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Abstract. The first half of this paper discusses the development of sustainability law. It takes as its basis that environmental law plays a central role in the achievement of sustainable development and that environmental lawyers and those from associated disciplines must come to terms with the imperatives of the internationally accepted concept of sustainable development. The second half of the paper deals with the implications of sustainability law for the teaching of environmental law, including the need to further liberate environmental law from the confines of law schools and lawyers, and to make it part of the common discourse of government, business and communities at large. A number of current initiatives in environmental legal education and training are canvassed, focussing on the Asia Pacific region.

Keywords: environmental conventions, environmental law, environmental law education, globalisation, international, sustainable development

1. Introduction

If we are to achieve sustainability of the earth's environment, a holistic and integrated approach to environmental management should be taken in all sectors of economic activity and covering all environmental media: atmospheric, marine, riverine and terrestrial. Without a holistic and integrated approach, the continuation of business as usual is for the most part expected, with national governments often going in different directions from each other, and the private sector going about its usual business.

At a global level, states, in close collaboration with institutions such as the United Nations Environment Programme (UNEP) and the United Nations Development Programme (UNDP), are beginning to more closely cooperate to achieve the implementation of conventions and strategies. These efforts are often backed by financial institutions such as the various components of the World Bank, and with inputs from individual countries through overseas development assistance programmes. Environmental conventions now exist to cover a myriad of environmental problems, including biodiversity conservation, the establishment and maintenance of protected areas, climate change, desertification, air pollution, marine pollution and freshwater pollution.

At a regional level, in order to address these issues more efficiently and in ways which are not as seemingly overwhelming, a trend is emerging towards the generation of regional strategies and conventions, often promoted through



regional offices of global environmental bodies. These include the Regional Office for Asia and the Pacific of UNEP situated in Bangkok, and the regional offices of UNDP, as well as regionally-focussed intergovernmental organizations. These include the South Pacific Regional Environment Programme, based in Samoa, covering some 20 Pacific Island developing countries and dependencies, the ASEAN Environment Programme, covering 9 South East Asian countries, and the South Asia Cooperative Environment Programme, catering to 9 South Asian countries. They also include regional banks such as the Asian Development Bank and the African Development Bank.

In recent years, the concept of sustainable development has begun to be recognized in international law, though not unambiguously. It is clearly the basis of the Rio Declaration on Environment and Development and is the fundamental concept behind Agenda 21. With these two documents, generated through the process of the 1992 United Nations Conference on Environment and Development, we already have a set of basic principles, and the plans and strategies to carry out those principles (Boer, 1995). Clearly it is now time to operationalise these principles in all sectors of economic activity, through legal and policy mechanisms at the national level.

We also see the concept of sustainable development endorsed through inclusion in various environmental conventions. Variations of the term and associated principles are also found in a number of recent instruments, particularly in preambular statements, such as in the 1992 Convention on Biological Diversity, the Framework Convention on Climate Change and the Desertification Convention. Further, the preparation of *the* IUCN Draft Covenant on Environment and Development of 1995 and the Earth Charter (1999 draft) promise to facilitate the incorporation of the notion of sustainability into national policy and legislation. Some of these documents will be briefly explored below.

This paper uses the term “sustainable development” for the most part. On occasion, the term “sustainability” is used, especially when referring to the broader dimensions of environmental management, in an attempt to remind readers not to assume that development is always necessary, or that it is always acceptable as long as it is somehow sustainable.

This paper focuses on the central role that environmental law plays in the achievement of sustainable development and relates to the implications of sustainability law for the teaching of environmental law. As an illustration, a number of current initiatives in environmental legal education and training are presented, focussing on the Asia Pacific region.