Regional Law and Policy Developments

Achieving Sustainable Development Goals Through Effective Domestic Laws and Policies on Environment and Climate Change

by Muhammed Tawfiq Ladan

In New York in September 2015, Heads of State and Government adopted a comprehensive universal, integrated and transformative agenda which included a set of 17 far-reaching and people-centred Sustainable Development Goals (SDGs) and 169 targets. This occurred only one month after the 193 Member States reached consensus on the document on which it was based—a sustainable development agenda entitled, “Transforming our World: The 2030 Agenda for Sustainable Development” (the 2030 Agenda). The SDGs are part of an ambitious, bold sustainable development agenda that focuses on the three interconnected elements of sustainable development: economic growth, social inclusion and environmental protection/sustainability. The SDGs are aimed at tackling key systematic barriers to sustainable development such as inequality, poverty, unsustainable consumption and production patterns, inadequate infrastructure and lack of decent jobs.

The SDGs provide useful guidance for shaping law, policy and practice for implementation of effective and ambitious climate change action. Specifically, they exhort nations to share innovation and prosperity, promote global cooperation and solidarity, and ensure that equality and climate justice are promoted and attained. Climate change is generally recognised as a critical issue for Africa and, along with poverty, represents the greatest challenge facing the continent in the 21st century. It is expected to disproportionately affect the continent’s development trajectory, as most African countries are characterised by undiversified economic structures, poor infrastructure, fragile governance and institutions, poor human development and, most importantly, heavy reliance on agriculture.

Economic growth is central to development and poverty reduction. Climate change poses a threat to economic growth that is among its most significant consequences. Thus, climate change directly threatens Africa’s aspirations for economic growth and poverty reduction, including by changing water availability; causing the loss of biodiversity; leading to a decline in (or increased volatility of) agricultural yields, and increased incidence and prevalence of vector-borne diseases; weakening infrastructure; fomenting political instability due to heightened conflict over scarce resources and displacement of people; and indirectly causing numerous secondary effects of these phenomena, as well as increasing the number and severity of climate-related humanitarian disasters (including floods and droughts).

The effects of climate change are more severe for vulnerable and disempowered groups in the community including women, children and persons with disabilities. These groups have the potential of being strong actors in current and future development, and their participation is critical—a hostile climate will make achieving SDGs much more costly for African countries.

Tackling climate change and fostering sustainable development are two mutually reinforcing sides of the same coin; sustainable development cannot be achieved without climate action, and many of the SDGs address the core drivers of climate change, hence their implementation, since 1 January 2016, is expected to accelerate transition towards the implementation of the Paris Agreement that will enter into force in 2020.

The Paris Agreement on climate change is the newest, inclusive and most ambitious international agreement to combat the complex problem of climate change, adopted on 12 December 2015 at the Conference of the Parties (COP-21) to the UN Framework Convention on Climate Change (UNFCCC). The Agreement entered into force on 4 November 2016. Its commitments will begin to apply from the year 2020, replacing the existing Kyoto Protocol to the UNFCCC under which only developed countries have binding emission reduction targets. The Paris Agreement is all-encompassing, with legal obligations on all countries to report and account for their mitigation actions. It offers clear direction with long-term goals and signals, and a commitment to...
respond to the impact of climate change on global issues like poverty, natural resource management, and attainment of the 17 SDGs.\(^{18}\)

It is against this background that this paper seeks to realise the following objectives:

i. To establish a significant nexus between the SDGs, human rights and climate change;

ii. To determine the effectiveness criteria of law and policy, and locate the role of law and parliaments in the progressive realisation of the SDGs, particularly in Africa; and

iii. To conclude with some viable options for domestic implementation of the SDG framework.

The SDGs, Human Rights and Climate Change

First, the challenge of sustainable development is to alleviate poverty for the 1.3 billion people who live on less than US$1 per day and the 3 billion people who live on less than US$2 per day,\(^{19}\) to provide adequate food,\(^{20}\) especially for the 800 million people who are malnourished today (this will require food production to double in the next 35 years without further environmental degradation, e.g., deforestation); to provide clean water for the 1.3 billion people who live without clean water and provide sanitation for the 2 billion people who live without sanitation;\(^{21}\) to provide energy\(^{22}\) for the 2 billion people who live without electricity;\(^{23}\) to provide a healthy environment for the 1.4 billion people who are exposed to dangerous levels of outdoor pollution and the even larger number exposed to dangerous levels of indoor air pollution and vector-borne diseases;\(^{24}\) and to provide safe shelter for those who live in areas susceptible to civil strife due to environmental degradation and those vulnerable to natural disaster.\(^{25}\)

Second, the challenge of sustainable development is to achieve a balance in inter-relationships among the three dimensions.\(^{26}\) Economic growth therefore has to be environmentally friendly and socially responsible. For economic growth to be sustainable, efforts need to be directed to an efficient and sustainable use of natural resources; agricultural practices that are environmentally friendly; renewable energy development; less carbon-intensive production of goods and services, including efficient transportation; and less intensive production and consumption of resources, goods and services, among others.\(^{27}\) These promote efficient and resilient production systems, and minimise resource depletion and greenhouse gas (GHG) emissions, thus leading to stronger and more resilient economies.\(^{28}\)

The three dimensions of sustainable development\(^{29}\) are cast in the overarching role of governance and institutions.\(^{30}\) For the African region, governance and institutions in particular are fundamental to sustainable development, as they provide the foundation on which economic growth, and socially responsible and environmentally friendly development rests.\(^{31}\) In enabling governance of environmental matters through functional institutions, States can provide constitutional, accountable, regulatory and legal frameworks that enable productive activities to thrive\(^{32}\) while meeting legal requirements, which in turn will enhance sustainable development.\(^{33}\)

Africa’s sustainable development largely depends on goods and services derived from its environment and natural resource base. The land, soil, water, forest, biodiversity, marine ecosystems and mineral resources form the basis of primary production, and support most of the sectors that drive socio-economic development in Africa.\(^{34}\)

In order to achieve sustainable development, it is necessary to tackle climate change as an inevitable and urgent global challenge with long-term implications for human and ecological systems.\(^{35}\) African countries continue to design and implement national adaptation programmes of action (NAPAs) to guide country-level adaptation strategies.\(^{36}\) Under the UNFCCC, countries are increasingly carrying out nationally appropriate mitigation actions (NAMAs), which are supported and enabled by technology, financing and capacity building. This is aimed at achieving a reduction in emissions relative to business-as-usual emissions in 2020.\(^{37}\)

As revealed by Table 1 below, sustainable development cannot be achieved without climate action, as many of the SDGs\(^ {38}\) are actually addressing the core drivers of climate change, such as rising concentrations of GHGs or carbon dioxide (CO\(_2\)), methane (CH\(_4\)) and nitrous oxide (NO\(_2\)) caused by human activities;\(^ {39}\) unsustainable practices or activities that are easy to recognise and eliminate, such as consumption and production patterns;\(^ {40}\) energy\(^ {41}\) wastage and deforestation;\(^ {42}\) and over-exploitation and unsustainable management of natural resources\(^ {43}\) which have led to a drier habitat that can no longer sustain the populations of many animals and hunters that exist in the once green environment of the Sahara desert in Africa.\(^ {44}\)

The decision to develop a set of SDGs was made by the UN Member States at the UN Conference on Sustainable Development (known as Rio+20), held in Rio de Janeiro, Brazil, in June 2012. The SDGs represent an unprecedented agreement around sustainable development priorities among 193 UN Member States. Since adoption, they have received world-wide support from civil society, businesses, parliamentarians and other actors.\(^ {45}\)

The 17 goals and 169 targets will stimulate action over the next 15 years in areas of critical importance: people, planet, prosperity, peace and partnership.\(^ {46}\) While the SDGs provide a framework for shared action, to be implemented by all countries and all stakeholders acting in collaborative partnership, the 169 targets that accompany the goals set out quantitative and qualitative objectives for the next 15 years. These targets are global in nature and universally applicable, taking into account different national realities, capacities and levels of development, and respecting national policies and priorities.\(^ {47}\)

Accordingly, the SDGs commit to ending extreme poverty in all its forms, including hunger, and call on all people to enjoy universal access to essential services and basic infrastructure by 2030.\(^ {48}\) They also commit to protect the planet from degradation, including through
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<th>SDGs</th>
<th>SUSTAINABLE DEVELOPMENT GOALS</th>
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| 1. No poverty | End poverty in all its forms everywhere: Targets include eradicating extreme poverty; implementing social protection measures; and ensuring equal access of men and women to economic resources. | • Right to an adequate standard of living [UDHR Art. 25; ICESCR Art. 11; CRC Art. 27]  
• Right to social security [UDHR Art. 22; ICESCR Art. 9; CRPD Art. 28; CRC Art. 26]  
• Equal rights of women in economic life [CEDAW Arts 11, 13, 14(2)(g), 15(2), 16(1)] |
| 2. Zero hunger | End hunger, achieve food security and improved nutrition, and promote sustainable agriculture: Targets include ending hunger and malnutrition; improving agricultural production; sustainable and resilient food production; correcting trade distortions; and ensuring functioning food commodity markets. | • Right to adequate food [UDHR Art. 25; ICESCR Art. 11; CRC Art. 24(2)(c)]  
• International cooperation, including ensuring equitable distribution of world food supplies [UDHR Art. 28; ICESCR Arts 2(1), 11(2)] |
| 3. Good health and wellbeing | Ensure healthy lives and promote wellbeing for all at all ages: Targets include reducing maternal mortality; ending preventable child deaths; ending or reducing AIDS and other diseases; universal health coverage; affordable essential medicines; sexual and reproductive health care; vaccine research; and access to medicines. | • Right to health [UDHR Art. 25; ICESCR Art. 12] |
| 4. Quality education | Ensure inclusive and equitable quality education and promote life-long learning opportunities for all: Targets include universal access to free, quality pre-primary, primary and secondary education; improving vocational skills; equal access to education; expanding education facilities, scholarships, and training of teachers. | • Right to education [UDHR Art. 26; ICESCR Art. 13], particularly in relation to children [CRC Arts 28, 29]; persons with disabilities [CRC Art. 23(3), CRPD Art. 24]; and indigenous peoples [UNDRIP Art. 14]  
• Equal rights of women and girls in the field of education [CEDAW Art. 10]  
• Right to work, including technical and vocational training [ICESCR Art. 6]  
• International cooperation UDHR Art. 28; DRtD Arts 3–4], particularly in relation to children [CRC Arts 23(4), 28(3)], persons with disabilities [CRPD Art. 32], and indigenous peoples [UNDRIP Art. 39] |
| 5. Gender equality | Achieve gender equality and empower all women and girls: Targets include eliminating discrimination and violence against women and girls; valuing unpaid care and domestic work; ensuring the full participation of women; access to reproductive health care; and equal access of women to economic resources. | • Elimination of all forms of discrimination against women [CEDAW Arts 1–5] and girls [CRC Art. 2], particularly in legislation, political and public life (Art. 7), economic and social life (Arts 11, 13), and family relations (Art. 16)  
• Right to decide the number and spacing of children [CEDAW Arts 12, 16(1)(e); CRC Art. 24(2)(f)]  
• Special protection for mothers and children [ICESCR Art. 10]  
• Elimination of violence against women and girls [CEDAW Arts 1–6; DEVAW Arts 1–4; CRC Arts 24(3), 35]  
• Right to just and favourable conditions of work [ICESCR Art. 7; CEDAW Art. 11] |
| 6. Clean water and sanitation | Ensure availability and sustainable management of water and sanitation for all: Targets include ensuring universal and equitable access to safe, affordable drinking water, sanitation and hygiene for all; reducing pollution; increasing water-use efficiency; and promoting participatory management of water and sanitation services. | • Right to safe drinking water and sanitation [ICESCR Art. 11]  
• Right to health (see above)  
• Equal access to water and sanitation for rural women [CEDAW Art. 14(2)(h)] |
| 7. Affordable and clean energy | Ensure access to affordable, reliable, sustainable and modern energy for all: Targets include ensuring universal access to affordable, reliable and modern energy services. | • Right to an adequate standard of living (see above)  
• Right to enjoy the benefits of scientific progress and its application [UDHR Art. 27; ICESCR Art. 15(1)(b)] |
|   | Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all: Targets include promoting sustained economic growth; improving resource efficiency in production and consumption; full and productive employment and decent work for all; eradicating forced and child labour and trafficking; protecting labour rights including those of migrant workers; and increasing access to financial services. | Right to work and to just and favourable conditions of work [UDHR Art. 23; ICESCR Arts 6, 7, 10; CRPD Art. 27; ILO Core Labour Conventions and ILO Declaration on Fundamental Principles and Rights at Work]  
- Prohibition of slavery, forced labour, and trafficking of persons [UDHR Art. 4; ICCPR Art. 8; CEDAW Art. 6; CRC Arts 34–36]  
- Equal rights of women in relation to employment [CEDAW Art. 11; ILO Conventions No. 100 and No. 111]  
- Prohibition of child labour [CRC Art. 32; ILO Convention No. 182]  
- Equal labour rights of migrant workers [CMW Art. 25] |
|---|---|---|
|   | Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation: Targets include affordable and equitable access to quality infrastructure; employment generating industrialisation; access to financial services and markets; innovation and technology transfer; and increasing access to ICT. | Right to enjoy the benefits of scientific progress and its application (see above)  
- Right to access to information [UDHR Art. 19; ICCPR Art. 19(2)]  
- Right to adequate housing, including land and resources [UDHR Art. 25; ICESCR Art. 11]  
- Equal rights of women to financial credit and rural infrastructure [CEDAW Art. 13(b), Art. 14(2)] |
|   | Reduce inequality within and among countries: Targets include promoting higher growth rates for the bottom 40 per cent; promoting social, economic and political inclusion; reducing inequalities in opportunities and outcomes; ensuring social protection for all; securing participation in economic decision making; facilitating migration, and reducing transaction costs for migrant remittances. | Right to equality and non-discrimination [UDHR Art. 2; ICESCR Art. 2(2); CCPR Arts 2(1), 26; CERD Art. 2(2); CEDAW Art. 2; CRC Art. 2; CRPD Art. 5; CMW Art. 7; DRD Art. 8(1)]  
- Right to participate in public affairs [UDHR Art. 21; ICCPR Art. 25; CEDAW Art. 7; ICERD Art. 5; CRPD Art. 29; DRD Art. 8(2)]  
- Right to social security (see above)  
- Promotion of conditions for international migration [CMW Art. 64]  
- Right of migrants to transfer their earnings and savings [CMW Art. 47(1)] |
|   | Make cities and human settlements inclusive, safe, resilient and sustainable: Targets include ensuring access to housing, basic services and public transport for all; participatory planning of human settlements; safeguarding cultural and natural heritage; and strengthening resilience to disasters. | Right to adequate housing (see above)  
- Right to participate in cultural life [UDHR Art. 25; ICESCR Art. 15; ICERD Arts 5, 7; CRPD Art. 30; CRC Art. 29; DRD Art. 8(2)]  
- Right to social security (see above)  
- Accessibility of transportation, facilities and services particularly for persons with disabilities [CRPD Art. 9(1)], children [CRC Art. 23], and rural women [CEDAW Art. 14(2)]  
- Protection from natural disasters [CRPD Art. 11] |
|   | Ensure sustainable consumption and production patterns: Targets include achieving sustainable management and efficient use of natural resources; improving waste management; promoting sustainable public procurement; ensuring access to information; and building capacity for sustainable development. | Right to health (see above), including the right to safe, clean, healthy and sustainable environment  
- Right to adequate food and the right to safe drinking water (see above)  
- Right of all peoples to freely dispose of their natural resources [ICCPR, ICESCR Art. 1(2)] |
|   | Take urgent action to combat climate change and its impacts: Targets include strengthening resilience and adaptation to climate change and natural disasters, including in marginalised communities; implementation of the Green Climate fund. | Right to health (see above)  
- Right to adequate food & right to safe drinking water (see above)  
- Right of all peoples to freely dispose of their natural wealth and resources (see above) |
|   | Conserve and sustainably use the oceans, seas and marine resources for sustainable development: Targets include reducing marine pollution; conserving coastal ecosystems, coastal marine areas and fish stocks; securing market access for small-scale fishers; protection of marine biodiversity. | Right to health (see above)  
- Right of all peoples to freely dispose of their natural wealth and resources (see above) |
sustainable production and consumption patterns, and the sustainable management of natural resources, including ocean and marine resources, ecosystems and biodiversity, as well as taking urgent action to tackle climate change. The goals further commit to ensure that all human beings can enjoy prosperous and fulfilling lives, and that economic, social and technological progress occurs in harmony with nature. Hence they commit to addressing social exclusion, gender and income inequalities, youth unemployment and discrimination, marginalisation and exclusion of vulnerable groups such as the elderly, children, indigenous peoples, persons with disabilities and displaced populations, among others.

The SDGs further commit to foster peaceful, just and inclusive societies, which are free from fear and violence, because there can be no sustainable development without peace and there can be no peace without sustainable development. Therefore critical steps for sustainable development include promoting good governance, the rule of law, human rights and fundamental freedoms, equal access to fair justice systems, as well as combating corruption and curbing illicit financial flows. Effective and inclusive governance institutions are necessary to prevent all forms of abuse, exploitation, trafficking, torture and violence. Collaborative partnerships of all kinds and levels (national, regional and global) will be essential to build effective, accountable and inclusive institutions at all levels. Accountability and transparency will be increasingly important at all levels of society, with revised regulatory mechanisms needed to ensure respect for and enjoyment of human rights in their economic, social, cultural, civil, political, environmental and developmental contexts.

As a globally agreed blueprint for 2016–2030, the SDGs are likely to become the major point of reference for development actors at all levels and will have a significant effect on the human rights agenda for years to come.
SDG 13 as the Blueprint for Climate Action

Failure to address climate change effectively will compromise the ability of countries to achieve many of the SDGs.\(^\text{56}\) Most directly, SDG 13 specifically calls for urgent action to combat climate change and its impacts. Its targets include strengthening resilience and adaptive capacity to climate-related hazards and natural disasters in all countries; integrating climate-change measures into national policies, strategies and planning; improving education, awareness raising and human and institutional capacity on climate-change mitigation, adaptation, impact reduction and early warning; and promoting mechanisms for raising capacity for effective climate-change-related planning and management in least developed countries and small island developing States, including focusing on women, youth, and local and marginalised communities.\(^\text{57}\) Clearly, SDG 13 and its targets as well as the draft indicators for the Goal, do relatively well in linking the fight against poverty with climate-resilient and low-carbon development.\(^\text{58}\)

In addition, many other SDGs (e.g. 9, 11, 12, 14 and 15) have climate-related targets. These indicators\(^\text{59}\) seek to ensure that actions for climate adaptation and mitigation are based on social protection floors, reduce the carbon footprints of enterprises, and create decent work as part of a just transition to human dignity for all by 2030.\(^\text{60}\)

On the other hand, the Paris Agreement on climate change\(^\text{61}\) is an ambitious climate agreement that is essential to creating the best chance of achieving the SDGs by 2030 because it can potentially have a significant impact on the state of the economy and social wellbeing in the poorest and most climate-vulnerable countries in Africa, Asia and Latin America, before 2030, improving the likelihood that they will achieve the SDGs.\(^\text{62}\) It provides a clear policy framework and the legal basis for action on climate change;\(^\text{63}\) it can incentivise international cooperation on climate change;\(^\text{64}\) and it seeks to mobilise additional finance and resources for mitigation and adaptation activities that support climate-compatible development.\(^\text{65}\)

SDGs as New Opportunities for Sustainable Development in Africa

Informed by a regional analysis of sustainable development issues, Africa’s sustainable development priorities are captured in the following 12 proposed regional goals,\(^\text{66}\) and have fed into the discussions, consultations and final adoption of the 2030 Agenda and its SDGs:\(^\text{67}\)

1. Eliminate all forms of poverty;
2. Promote sustainable agriculture and achieve food security and adequate nutrition for all;
3. Ensure quality, adequate, affordable, accessible and comprehensive health services for all;
4. Achieve universal access to affordable and quality education at all levels;
5. Achieve gender equality, protect and empower women, youth and persons in vulnerable conditions;
6. Ensure social inclusion and protection, including guaranteed minimum income and social security, as well as decent employment for all, particularly for the youth;
7. Structurally transform economies and attain inclusive sustained economic growth; accelerate infrastructure development, inclusive and sustainable industrialization and access to affordable energy; and build resilient cities and sustainable human settlements;
8. Enhance environmental quality, resilience and protection, and promote sustainable exploitation, use and management of natural resources;
9. Combat desertification and land degradation, mitigate drought and promote sustainable management of land and oceans;
10. Promote culture, research, science, innovation and technology development;
11. Scale up global and regional partnerships for development; and
12. Promote good governance at national and international levels.\(^\text{68}\)

It is apparent that, in adopting the 2030 Agenda and its SDGs, the UN Members took Africa’s sustainable development priorities and challenges into consideration by articulating the goals and targets consistent with Africa’s position and by referring to Africa’s vulnerability in para. 22 and the region’s challenges in para. 56.\(^\text{69}\) The 2030 Agenda further reaffirms the importance of supporting the African Union’s Agenda 2063 and the programme of the New Partnership for Africa’s Development (NEPAD), both of which are integral to the 2030 Agenda.\(^\text{70}\)

The SDG framework provides new opportunities for sustainable development in Africa. It sets out the opportunities for development relevant to Africa’s priorities and challenges in the following terms: inclusive, universal, integrated, locally focused, technology-driven development.\(^\text{71}\) Breaking out the five key descriptors, we note, for example, that:

1. “inclusive development” requires that “no one will be left behind”\(^\text{72}\) in the progressive realisation of the SDGs, and that governments, international organisations, the business sector and other non-State actors and individuals must all contribute to it.\(^\text{73}\)
2. In contrast to the MDGs, the SDGs are “universal goals” that apply to all countries and involve the entire world, developed and developing countries alike, taking into account different national capacities and realities and development priorities or levels.\(^\text{74}\)
3. The SDGs are “integrated and indivisible and balance the three dimensions of sustainable development”.\(^\text{75}\) The success of one leads to the success of all.
4. Further, many of the critical challenges of implementing the SDGs will depend heavily on local planning and service delivery, community buy-in and local leadership, and must be well coordinated with the work of other levels of governance. Placing attention, investment, and innovation in cities, which are the locus of worldwide consumption and production, will bring the world closer to the SDGs.\(^\text{76}\)
5. Finally, rapid technological change, particularly in information and communication technology (ICT),
and the current “data revolution” (characterised by an explosion of available data resources and rapidly evolving technologies for analysing those data) are factors of great note for the SDGs. New technologies also offer tremendous opportunities to deliver public services, including healthcare, education and basic infrastructure to more people at lower cost.\textsuperscript{77}

As Table 1 shows, the SDGs are relevant for the progressive realisation of human rights. Several goals focus on important economic and social rights\textsuperscript{78} issues such as the alleviation of poverty;\textsuperscript{79} the provision of food and nutrition;\textsuperscript{80} health\textsuperscript{81} and education;\textsuperscript{82} and addressing the lack of access to water and sanitation.\textsuperscript{83} The goals on the environment, climate change and natural resources management\textsuperscript{84} are also linked to human rights enjoyment and standards applicable to all individuals and groups in all nations.\textsuperscript{85}

The SDGs also include a goal on accountable and inclusive institutions and access to justice for all.\textsuperscript{86} This goal touches on important human rights standards and principles, for example, including targets on procedural rights of access to justice, to information and to participation in decision-making processes;\textsuperscript{87} principles of non-discrimination;\textsuperscript{88} and recognition of equality.\textsuperscript{89} The inclusion of such commitments provides a much-needed recognition of the crucial role that civil and political rights\textsuperscript{90} play in making sustainable development possible.

Two goals focus specifically on inequalities: Goal 5 on gender equality and Goal 10, which addresses income inequality, socio-economic and political exclusion, and discrimination. The other goals and targets also include important language on equal and universal access (e.g., to healthcare, education and energy) and tackling gender disparities. They thus reflect the core human rights principles of non-discrimination and equality.\textsuperscript{91}

Vulnerable groups such as the elderly, displaced persons, children, women, persons with disabilities and indigenous people are also specifically mentioned in some of the targets.\textsuperscript{92} The fact that tackling inequalities and discrimination is both a stand-alone and a mainstream objective in the 2030 Agenda clearly opens another important avenue of engagement by civil society and national human rights institutions with an explicit sustainable development mandate in the context of human rights.\textsuperscript{93}

Human rights are indivisible and inter-dependent, and the realisation of one particular right will inevitably depend and contribute to the realisation of others.\textsuperscript{94} Table 1 aims to highlight some of the inter-linkages between the SDGs and human rights standards.\textsuperscript{95}

**Linking Security to Human Rights and Climate Change**

Climate change is referred to as a “threat multiplier” because of its potential to exacerbate many of the current challenges and threats already being faced in some countries, such as infectious disease, terrorism and conflict over scarce resources. It can contribute to instability, lead to displacement and migration, worsen existing conflicts and threaten global security. Many developing countries, and particularly weaker and poorer States, have less capacity to prepare for and adapt to climate change, with a flood or drought capable of causing instability and unrest. For example, climate change can contribute to food insecurity and increase the frequency and intensity of extreme weather events, which can lead to massive displacement and/or migration, conflict over food, water and/or arable land, and border disputes. This ultimately creates a lack of security in the daily lives of people. As climate-change impacts worsen and temperatures rise, the threats to security have the potential to become more prominent and definitive.

Historically, not all countries have been comfortable with (or even aware of) the view that climate change is a security threat. In the early stages of international discussions on climate change, this issue was not so prevalent and the linkages, when expressed, were more tenuous. Thus, the UNFCCC and its Kyoto Protocol contain no reference to human security.

When discussions on security and climate change at the international level first took place almost ten years ago, the UN Security Council addressed the impacts of climate change on peace and security as a “future” concern.\textsuperscript{96} At that time, climate change was considered an “environmental issue” and primarily fell under the purview of environmental ministries, and its international discussions were mostly addressed within the strictly climate-change-related bodies. Today, security is widely recognised as a legitimate concern in relation to climate change and is being broadly addressed in a range of international discussions; however, security-related concerns have yet to make their way into the formal climate-change negotiations under the UNFCCC. Countries, organisations and various studies and reports are continuing to highlight the issue, however, and some countries are making changes to their national policies to accommodate these concerns. As such threats proliferate and become more diverse and the planet continues to warm, the international nature of these will require a more concerted international response.

It is now well established that climate change can and does adversely affect the enjoyment of a broad range of human rights.\textsuperscript{97} On Human Rights Day in 2015, human rights experts at the UNFCCC COP-21 in Paris issued a press release on “human-rights-based climate action”.\textsuperscript{98} It stated that “there can be no doubt that climate change has both direct and indirect impacts on a range of human rights, health, housing and development. The human rights community has lobbied hard to ensure a just agreement that explicitly aims to respect and protect the rights of all persons, particularly the most vulnerable, and ensure a healthy planet for this and future generations”.\textsuperscript{99}

A December 2015 report entitled “Climate Change and Human Rights”\textsuperscript{100} describes these linkages, and the latest projections and observations of how climate-change impacts and responses can affect the environment, individuals and communities. Some of the key findings include the following:
• It has long been recognised that a clean, healthy and functional environment is integral to the enjoyment of human rights, such as the rights to life, health, food and an adequate standard of living.

• Anthropogenic climate change is the largest, most pervasive threat to the natural environment and human societies the world has ever experienced.

• The latest assessment report from the Intergovernmental Panel on Climate Change (IPCC) describes how observed and predicted changes in climate will adversely affect billions of people and the ecosystems, natural resources, and physical infrastructure upon which they depend. These harmful impacts include sudden-onset events that pose a direct threat to human lives and safety, as well as more gradual forms of environmental degradation that will undermine access to clean water, food, and other key resources that support human life. As a consequence, climate change will have a profound effect on the enjoyment of human rights for individuals and communities across the planet.

• Climate change is not merely an abstract, future possibility; it is already affecting temperatures, hydrological conditions, ecosystem functioning, and agricultural productivity in many regions. Displacement is also an imminent prospect for some communities, such as those situated in the rapidly melting Arctic and low-lying coastal areas.

**Role of Law and Parliaments in the Realisation of the SDGs**

The SDGs complement international treaties and other tools of international law by producing a globally shared normative framework that fosters collaboration across countries, mobilising all stakeholders and inspiring action. In fact, the 2030 Agenda repeatedly stresses the importance of respect for the rule of law, reaffirms commitment to international law and emphasises that it should be implemented in a manner that is consistent with the rights and obligations of States under international law.\(^{101}\)

Academically and legally, despite significant academic discourse surrounding sustainable development and its potential customary international law status, it remains unclear whether “sustainable development” is a binding principle of international law or merely an objective, concept or interpretative tool.\(^{102}\) The implementation of sustainable development and the reconciliation/coordination of legal regimes across social, economic and environmental spheres present significant challenges.\(^{103}\)

As an instrument of promoting economic and socially inclusive development and environmental sustainability, the law seeks to address inequalities; promote an inclusive society wherein development is both inclusive and integrated; and protect the environment from all forms of degradation or harm.\(^{104}\) Hence the law is both an enabler and facilitator of development that is both inclusive and integrative of all the three dimensions of sustainable development,\(^{105}\) a fact that underscores the law’s potential for guiding the implementation of the 2030 Agenda and its SDGs through the application of the key principles of sustainable development.\(^{106}\)

At the national level, the role of parliamentarians (including law making, oversight functions, budgetary allocation, advocacy and dialogue with civil society and other stakeholders) is critical, in order for the SDGs to be achieved. Hence, there is a great need for transboundary cooperation and national strategic actions to optimise the rule of law in all three dimensions of sustainable development.\(^{107}\)

**Legal Foundation for the SDGs**

According to the 1987 Brundtland Commission Report, development is said to be sustainable when it meets “the needs of the present generation without compromising the ability of future generations to meet their own needs”,\(^{108}\) through empowerment, consultation, impact and risk assessment, the expansion of opportunities and capacities, public participation and by integrating economic growth with social justice and environmental protection, balancing people’s economic and social needs with the regenerative capacity of the natural environment.\(^{109}\)

In recent years, discussions of the role of law (particularly international law) in sustainable development have expanded considerably.\(^{110}\) Many of these principles\(^{111}\) have primarily emerged from “soft law” instruments\(^{112}\) (international statements\(^{113}\) and declarations\(^{114}\) related to environmental, social and economic issues since the 1992 UN Conference on Environment and Development, also known as the Rio de Janeiro Earth Summit),\(^{115}\) while “soft” provisions in other instruments (objective or preambular references in hard-law instruments) are beginning to assert a level of persuasive legal force.\(^{116}\)

**The 1992 Rio Declaration: Catalyst for the Recognition of an Overarching Sustainable-Development Legal Standard**

Following the Brundtland Report, the next milestone in the evolution of sustainable development was the Rio Earth Summit in 1992, whose major contribution was to give equal importance to the environment and development. It endorsed Agenda 21, both as a think piece and a programme of action, governing human activities with an impact on the environment. It further endorsed the Rio Declaration on Environment and Development.\(^{117}\)

The Rio Declaration included a compact set of 27 Principles that promoted concepts such as the centrality of human beings to the concerns of sustainable development;\(^{118}\) the primacy of poverty eradication;\(^{119}\) the importance of the environment for current and future generations and its equal footing with development;\(^{120}\) and the special consideration given to developing economies.\(^{121}\) It also enshrined the two critical economic principles: the Polluter Pays Principle\(^{122}\) and the Precautionary Approach.\(^{123}\) It introduced principles
relating to three important rights of access: to information, to participation and to justice in environmental matters, as well as noting the importance of the inclusion of civil society in sustainable development. Lastly, it requested States to adopt adequate legislative instruments to address environmental issues.

**Successful Implementation and Legal Application of the Rio Principles 5, 10, 15, 16 and 17**

As a non-binding, soft-law instrument, the Rio Declaration and the successful implementation of its Principles take many shapes. Their legal impact can be loosely understood through their various “offspring”: international agreements and national laws that have included some aspects of the principles, often in the form of hard-law obligations. Such principles have in some instances been applied in practice and tested in the courts. As a result, some of these principles have been widely accepted as part of international jurisprudence.

The most prominent examples of this legal application are Principles 5, 10, 15, 16 and 17, all of which demonstrate varying elements of wide and successful transposition or adoption in law. The following sections demonstrate this acceptance, saving examples of Principle 5 for last.

**Principle 10**

Rio Principle 10 provides for the development of national legislation on access to information, public participation in decision-making and access to justice in environmental matters, as a critical foundation for achieving the SDGs. Citizens or the public can only participate effectively in decision making over natural resources management and national development priorities if they have access to all the necessary information and effective access to justice for redress and remedy. Since 1992, Principle 10 has spawned laws providing access to environmental information in more than 100 countries, public participation provisions in more than 120 countries, and access to environmental justice through the establishment of environmental courts and tribunals in more than 44 countries.

Internationally, Principle 10 is fully reflected in Principle 23 of the World Charter for Nature, in the 1991 Convention on Environmental Impact Assessment in a Transboundary Context, in the 1992 Convention on Biological Diversity (CBD), and in the 1993 Council of Europe Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment. Access to environmental information may also be a prerequisite to the procedural rights of access to justice and to rights to life or private life under existing human rights treaties. For instance, in *Guerra v. Italy* and *LCB v. UK*, the European Court of Human Rights held that information concerning serious environmental health risks should have been made available by government to those known to be at risk. Similarly, the access to justice article of the 1966 Covenant on Civil and Political Rights and the European Convention on Human Rights would apply to environmental claims where there is an interference with property rights or a risk to life and health.

More specific provisions for access to justice in environmental cases are found in the 1993 North American Agreement on Environmental Cooperation. In Article 6, this Agreement gives persons with a “legally recognized interest” the right to bring proceedings to enforce national environmental laws and to seek remedies for environmental harm. Article 7 requires these proceedings to be fair, open and equitable, and to conform to standards of due process.

The most significant and comprehensive multilateral scheme for giving effect to Rio Principle 10 is the 1998 UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). The real test of the significance of Rio Principle 10 lies less in international instruments than in national law. It is here that most of the important applications of the principle have taken place. In particular, public interest litigation has become an important feature of access to environmental justice, whether in the form of class actions, liberal rules of *locus standi* or allowing intervention by non-governmental organisations (NGOs). In North America, legislation in Ontario and Michigan allows citizens the right to sue for harm to public resources. Decisions of courts in common-law countries (e.g., England, the US and New Zealand) have generally granted environmental groups and NGOs *locus standi* on a liberal basis in administrative review proceedings, although such groups must usually demonstrate some interest in the issue beyond a mere concern for the environment. Some civil-law jurisdictions also allow an *actio popularis* in environmental cases, although standing before the European Court of Justice remains very restrictive. Nor is this trend confined to developed States. India, Pakistan, Bangladesh, the Philippines, Malaysia and several Latin American jurisdictions have also embraced public interest litigation on environmental issues.

The main advantage of focusing on procedural rights like access to effective justice is that it enables individuals and NGOs to enforce domestic environmental law and may help them shape domestic environmental policy. Such rights can also be employed in the interests of future generations. A further advantage of such litigation is that it can serve as a means of making public bodies accountable for their actions under international law. It has enabled environmental groups in the US to seek review of governmental decisions affecting the conventions on trade in endangered species and whaling, while in India, international environmental laws, including treaties and the Rio Declaration, have been relied on in public interest cases. The extent to which public international law and treaties can be invoked or enforced by national courts varies across jurisdictions, however, and is beyond the scope of this article.

Governments also have a role as public interest plaintiffs. Following the Bhopal disaster in India, the
government assumed parens patriae power to negotiate a mass settlement of claims against Union Carbide.\textsuperscript{150}

It has been argued that currently, the scope of access to justice, environmental information and participation in decision making is limited in Africa owing, perhaps, to the apprehension that public participation and detailed procedural rights may constitute an obstacle to foreign investments. However, access to justice as a procedural right in environmental matters under Rio Principle 10 is an important way of giving voice and legal protection to those individuals or groups who want to seek legal redress or speak for the environment. Procedural mechanisms also have the considerable virtue of being flexible in the light of substantive values changing over time, given their emphasis on processes rather than outcomes.

In Angola, Article 24 of the Constitution enunciates a right to live in a healthy and unpolluted environment. The State is enjoined to take measures necessary to protect the environment and any acts which are damaging to the environment are declared punishable by law.

In Benin, the right to a healthy, pleasing and sustainable environment, and the corresponding duty of all to protect it, is provided for in Article 27 of the Constitution. The State is responsible for the protection of the environment. Articles 28 and 29 prohibit the handling, stockpiling, transportation, importation and discharging of harmful wastes in Benin. Protection of the environment and conservation of natural resources fall within the purview of law pursuant to Article 98 of the Constitution.

In Nigeria, the 1999 National Constitution does not expressly provide for a right to a clean environment; however, the protection of the right to life under Section 33 encompasses the right to an environment not detrimental to the right itself. Section 20 of the non-justiciable chapter of the Constitution provides that the State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria. Section 36 of the Constitution protects the right to a fair hearing within a reasonable time by a court of competent jurisdiction or other tribunal established by law. The right to seek redress for a violation or threatened violation of an individual’s fundamental rights is provided for in Section 46 and gives the High Court original jurisdiction to conduct such applications. There is a right of appeal to the Court of Appeal and finally to the Supreme Court on points of law and constitutionality under sections 241(1) and 233 respectively. Further, Section 59 of the Environmental Impact Assessment (EIA) Act of 1992 also recognises the principle of access to justice as it makes provisions for judicial review, apparently without the usual impediment of the locust standi rule.

Other African States have adopted legislative initiatives on the implementation of Rio Principle 10. The growing imperative to legislate on the right of access to information is indicative of its status as a fundamental human right and an essential component of the constitutionally guaranteed right to freedom of speech and expression.

South Africa, for example, has one of the most progressive freedom of information laws in the world. The 1996 Constitution of the Republic of South Africa\textsuperscript{151} not only guarantees the right to access information held by the State, but also to information held by private bodies which is necessary for the exercise of any right. The Constitution also requires the government to pass a law giving effect to this right within three years of its coming into force. The enabling legislation is the Promotion of Access to Information Act, which came into effect in March 2001. It contains provisions on the nature and scope of the right of access to information, process requirements, duty to publish, exceptions and exemption clauses, the right of appeal and promotional measures.

In 2011, Nigeria followed the global trend of recognition of the fundamental nature of this right, as a bedrock upon which the free flow of information and ideas shall be based for the progressive realisation of sustainable development goals. The Freedom of Information Act, 2011 guarantees citizens a legally enforceable right for access to any record and documents under the control of a government or public institution or private entities performing public functions and services. The Act provides that nobody needs to demonstrate or explain any specific interest in the information or record being requested. It also sets a time limit for response to access requests, penalties for destruction of public records, protection of whistleblowers against legal proceedings and from reprisals, right of access to justice for remedies and judicial review, and the obligation is placed on the Attorney-General of the Federation and Minister of Justice to oversee the proper implementation of the Act. Accordingly, the Attorney-General issued Guidelines and a Memorandum on the implementation of the Act in Nigeria in 2012.\textsuperscript{152}

At the continental level, the African Ministerial Conference on the Environment, a forum established in 1985, adopted the Kampala Declaration on the Environment for Development, which recognised that success in achieving global sustainable development goals will ultimately depend upon development and implementation of sound and cost-effective national response policies and measures; good environmental governance; effective participation by civil society; collection and exchange of quality data and information on how to improve good governance; and public participation in decision-making processes.\textsuperscript{153} In 2013, the African Commission on Human and Peoples’ Rights adopted the Model Law for Access to Information in Africa.\textsuperscript{154} The Law aims at promoting transparency and accountability, as factors contributing to sustainable development, human rights and democracy across the continent. It provides a template for all African countries to draft national laws on access to information.

**Principle 15**

Rio Principle 15 enunciates the precautionary principle, one of the prominent and widely accepted standards for the promotion of sustainable development.
It calls on States to take preventive or pre-emptive measures on protection of the environment and human health against any harm or damage, even if a lack of scientific certainty does not permit a reliable risk assessment, in particular if the chain of causation possibly leading to environmental damages is not fully corroborated or the probability of harm remains to be clarified.\textsuperscript{155}

Under customary international law, the precautionary principle does not directly establish rights and obligations. Rather it helps to define pre-established rules and may guide the interpretation of statutes and treaties.\textsuperscript{156}

In the European Union (EU), the precautionary principle is the overarching standard for sustainable development policy. EU law also deploys the “polluter pays” principle, which extends to precautionary measures. Article 191(2) of the Treaty on the Functioning of the European Union states,

\begin{quote}
Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.
\end{quote}

The European Court of Human Rights reads the precautionary principle into the guarantee of rights which may be affected by measures possibly harming the environment such as the right to a private and family life.\textsuperscript{158} This approach provides anthropocentric underpinnings for the obligation to prevent environmental damage.

At least to some extent, World Trade Organization (WTO) law is also receptive to the precautionary principle.\textsuperscript{159} Members of the WTO may justify restraints on trade with fighting risks even if there is no consensus among scientists about the existence and relevance of the risk.\textsuperscript{160}

A number of African national constitutions and environmental legislations provide explicitly for the precautionary principle. In Nigeria, precautionary is the foremost guiding principle recognised in the national environmental regulation of the environmental and human health effects of dams and reservoirs.\textsuperscript{161} Regulation 5 states that “the precautionary principle shall be observed, and where there are threats of serious or irreversible damages, the absence of scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation”.

National environmental legislation in the Democratic Republic of the Congo (DRC),\textsuperscript{162} Mozambique,\textsuperscript{163} South Africa,\textsuperscript{164} Swaziland\textsuperscript{165} and Zambia\textsuperscript{166} also includes the precautionary principle.

**Principle 16**

The “polluter pays” principle\textsuperscript{167} is included as Principle 16 of the Rio Declaration. Whilst, as noted above, it has been transposed into a range of legal instruments in a number of contexts and jurisdictions, including Africa, there remain ideological differences to its practical application which have undermined the successful implementation of the principle on the whole. Such ideological differences in some areas have led to the development of parallel systems that are not based on the polluter pays principle, such as in the case of waste disposal supply chains. In practice, pollution and waste continue to pervade our lifestyles, reflecting the less than successful implementation of the principle.

**Principle 17**

EIA requirements, as discussed in Rio Principle 17, are commonly found in national instruments that are integral to the planning and development process.\textsuperscript{168} Although the efficacy of these instruments has been challenged, the process by which EIAs and other strategic impact assessments have been transposed into national legal instruments is instructive in showing how soft law can be applied in a very practical way. The popularisation of such tools demonstrates that where there has been the impetus to develop such a national instrument, the regulation to support it and the subsequent application of it in practice can develop with reasonable speed and intent.

**Principle 5**

Rio Principle 5 addresses the eradication of poverty and raising standards of living for all. As such, it helped spotlight the inequity that exists in the world and the wealth divide between rich and poor. Following its example, the Millennium Development Goals (MDGs)\textsuperscript{169} were a direct heir of Principle 5 and espoused a sincere intent to eradicate poverty. When they expired in September 2015, the final aspect of the principle on reducing disparities in standards of living, both nationally and globally, appears to have been directly forgotten – left out of the development discussion, which almost exclusively focused on reducing income poverty. Rio+20 reiterated the need to address poverty and social inequities including inequalities between countries. At that point, it was reported that Africa, excluding North Africa, had reduced poverty levels from 56.5 percent in 1990 to 48.4 percent in 2010. This 14 percent reduction was well below the MDG target of 28.25 percent.\textsuperscript{170}

Almost all African countries have introduced different constitutional, legislative, policy and institutional measures to eradicate poverty and improve the standard of living of their citizens. A few countries however, provide for innovative legal provisions on poverty eradication. Article 30 of the Constitution of the Arab Republic of Egypt,\textsuperscript{171} for example, provides that the national economy shall be organised in accordance with a comprehensive, constant development plan, ensuring the increase of national income, enhancement of standard of living, elimination of poverty and unemployment. Similarly, Article 37(1) of the Constitution of the Republic of South Sudan\textsuperscript{172} states that the principal objective of the economic development strategy shall be the eradication of poverty; attainment of the MDGs/SDGs; guaranteeing the equitable distribution of wealth; redressing imbalances of income; and achieving a decent
standard of life for the people of South Sudan. Section 16 of the Nigerian Constitution provides that the State shall harness the resources of the nation and promote national prosperity in an efficient, dynamic and self-reliant manner, as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity; protect the right of every citizen to engage in any economic activities both within and outside the major sectors of the economy; that the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of a few individuals or a group of people; and that suitable and adequate shelter and food, reasonable national minimum living wage, old age care and pensions, unemployment and sickness benefits as well as welfare of the disabled are provided for all citizens by means of State policy direction.

Efforts at the country level vary, with some countries reducing poverty rates much faster than others. The greatest reduction was in the Gambia with a 32 percent reduction, followed by Burkina Faso, Niger, Swaziland, Ethiopia, Uganda and Malawi. As noted above, the 2030 Agenda and the SDGs place poverty eradication as priority number one (namely, SDG 1).

Gaps, Challenges and Prospects

Despite the selected successes outlined above, the Rio Declaration left a huge gap in effective promotion of sustainable development. By placing undue emphasis on the economic development and environmental protection pillars, the social equity dimension of sustainable development was left behind. A decade after Rio, the World Summit for Sustainable Development in Johannesburg, South Africa, 2000, brought it to the fore, but did not reopen the discussion on the Rio Principles. Thus, one of the three pillars of sustainable development remains relatively absent from the Rio Declaration, which, as of 2015, was still widely regarded as the highest-level document that had been adopted on sustainable development. This probably explains why the SDG proposals originally put forward by the governments of Colombia and Guatemala, in July 2011, led to the creation of a thirty-country open working group intended to conclude initial thoughts in time for the 2013 UN General Assembly as part of a two-year process to merge the SDGs and MDGs into one process.

The emergence of the SDGs in 2012 changed the developmental goals landscape. Unlike the MDGs, which arose as a developed-country initiative, the UN’s process in 2012 focused on enabling all countries and stakeholders to participate in the articulation and adoption of the SDGs, which fully integrate all three pillars of sustainable development, through, for example, the principle of integration (described above), which refers to the interdependence of social, economic and environmental as well as financial and human rights aspects of principles and rules of international law relating to sustainable development and the needs of current and future generations of humankind. This principle has been reechoed in a number of global, regional and national instruments as well as in case law.

While many countries of the world face significant challenges in attaining sustainable development, largely due to, inter alia, the global economic recession, financial crises and insecurity, the majority of African countries are more vulnerable to these challenges due to bad governance, mismanagement of natural resources, poverty, inequality, fragile democratic systems, weak institutional accountability and lack of capacity to implement global agreements and standards. Global initiatives have been developed to assist UN Member States develop capacity to implement Rio Principles such as Principle 10. In this connection, in February 2010, a Special Session of the UN Environment Programme (UNEP) Governing Council and Global Ministerial Environment Forum in Bali, Indonesia, unanimously adopted the Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters, also known as the “Bali Guidelines”. This was a significant milestone in the field of sustainable development law and application of Principle 10. The Guidelines are voluntary and underline recognition of the need to fill gaps in legal norms and practices within the framework of national legislation and processes.

More importantly, the 1992 Rio Earth Summit went beyond endorsing Agenda 21 and the Rio Declaration, helping to finalise the three Rio Conventions, the UNFCCC, the CBD and the UN Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD).

The Treaty and Case-law Foundation of the SDGs

A range of legal tools exist for implementing the concept, principles and policies of sustainable development, including international and regional treaties, constitutional rules, legislation, regulations and formal decisions.

Global Instruments

Significant contributions to the evolution of the legal basis for the SDGs can be attributed to international treaty law, wherein sustainable development is considered as an agreed objective and purpose of the growing number of global and regional treaties related to environmental, social and economic matters. They are, therefore, considered directly relevant as a guide in the interpretation of their provisions by international courts and tribunals.

Of all the above mentioned legal tools for enhancing the attainment of the SDGs, multilateral environmental agreements (MEAs) are the most pronounced. These include the UNFCCC and its 1997 Kyoto Protocol; the CBD and its 2000 Cartagena Protocol on Biosafety and its 2010 Nagoya Protocol on Access to Genetic Resources and Benefit Sharing; the 1994 UNCCD; and other relevant treaties such as the 2001 International Treaty on Plant Genetic Resources for Food
The 2003 African Union Convention on the Conservation of Nature and Natural Resources; and the 1985 ASEAN Agreement on the Conservation of Nature and Natural Resources. Of equal importance to sustainable development are the trade-related treaties, particularly, the Agreement Establishing the World Trade Organization and the 1994 North American Free Trade Agreement (NAFTA). In each instance, the sustainable development objective is worded and operationalised slightly differently.

The UNFCCC is perhaps the most significant MEA in support of sustainable development. It has been signed by about 165 nations and is legally binding on 197 Parties (196 States and the EU as a regional economic integration organisation). Article 3(4) of the UNFCCC states, “The Parties have a right to, and should, promote sustainable development”. Article 4(1)(d) further provides that all Parties shall “[p]romote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases ....”. Thus the concepts of sustainable development and sustainable management have a firm foundation in a treaty with universal acceptance.

Article 2(1) of the Kyoto Protocol includes the following words as a “chapeau” to its obligations: “Each Party included in Annex 1, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:...”. Its Article 10 similarly opens with the words, “All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, without introducing any new commitments for parties not included in Annex 1, ...... to advance the implementation of these commitments in order to achieve sustainable development....”.

More recently, the preambles to the 2015 Paris Agreement and UNFCCC COP-21 Decision embrace climate coordination in the broader global sustainability endeavour. They do so by referencing the SDGs, in particular Goal 13, and by specifically “[e]mphasizing the intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty”. This emphasis is important because the poverty, inequality, energy and climate-related SDGs depend on the Paris Agreement that is strong on climate mitigation, adaptation and financing. Undoubtedly, the Paris Agreement is an ambitious climate agreement that is essential to creating the best chance of achieving the SDGs by 2030 because it can potentially have a significant impact on the state of the economy and social wellbeing of people in the poorest and most climate-vulnerable countries in Africa, Asia, Latin America and the small island developing States.

Another role model convention is the CBD as a framework for the protection and sustainable use of biological resources. Its Article 2 defines sustainable use as “the use of components of biodiversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations”.

The Agreement Establishing the WTO similarly proclaims in its Preamble, “the optimal use of the world’s resources in accordance with the objective of sustainable development”. WTO dispute settlement bodies have referred to this principle when balancing free trade and environmental protection.

It is evident from the review of the development of the legal foundation for the SDGs in international treaty law, that four recurring principles appear to underpin the legal elements of the concept of sustainable development in international agreements:

- the need to preserve natural resources for the benefit of future generations (the principle of inter-generational equity);
- the aim of exploiting natural resources in a manner which is sustainable, prudent, wise or appropriate (the principle of sustainable use);
- the equitable use of natural resources implying that use by one State must take account of the needs of other States (the principle of equitable use or intra-generational equity); and
- the need to ensure that environmental concerns are integrated into economic and other development plans, programmes and projects, and that development needs are taken into account in applying environmental objectives (the principle of integration).

Other core principles of sustainable development include the precautionary approach, public participation and the polluter pays principle.

**Regional Instruments**

At the regional level, support for “sustainable use or management” as a legal term is found in two regional instruments.

- The 1985 ASEAN Agreement was one of the first treaties to require parties to adopt a standard of “sustainable utilization of harvested natural resources... with a view to attaining the goal of sustainable development”.
- The 2003 African Union Convention on the Conservation of Nature and Natural Resources, spells out, in Article 2, three objectives which correspond to key elements of a sustainable development approach: the achievement of ecologically rational, economically sound and socially acceptable development policies and programmes. Parties are therefore required to enhance the protection of the environment, foster the conservation and sustainable use of natural resources, and coordinate and harmonise policies in these fields. Article 14 of the same Convention provides for sustainable development and conservation and management of natural resources by calling on the State Parties to integrate developmental and environmental concerns by treating both as an integral part of national or local
development plans. It spells out that ecological, social, economic and cultural factors should be given full consideration in their development, with the overall objective to promote sustainable development.

Case Law

The International Court of Justice (ICJ) case of Gabcikovo Project (Hungary v. Slovakia)\(^{198}\) led the current trend in sustainable development case law, having described sustainable development as a concept, then ruled in part that “the Parties together should look afresh at the effects on the environment of the operation of the Gabcikovo power plant” and “in particular they must find a satisfactory solution for the volume of the water to be released into the old bed of the Danube river and into the side arms of both sides of the river”.\(^{199}\) In his oft-cited separate opinion, Judge Weeramantry referred to components of the principle of sustainable development as ranging from well established areas of international law such as human rights, State responsibility, environmental law and equity, to such far-reaching principles as trusteeship of the earth’s resources and inter-generational rights.\(^{200}\)

The Asia-Pacific region demonstrates an even greater dedication of the judiciary to environmental causes and, ultimately, the promotion of sustainable development, green growth and the green economy. In States such as India, the Philippines and Australia, we see courts incorporating some or all aspects of sustainable development into their decisions as a matter of law. Often the focus of these courts has been establishing the principle of intergenerational equity as a matter of law, sometimes going so far as to generate the concept of intergenerational responsibility and justice. The right to a healthy environment has also been established by some courts in the region, and there is a trend toward flexibility in terms of standing allowances and an increase in permitted public interest litigation related to environmental issues. Additionally, some States in the region have begun to create specialised judicial entities for environmental issues. These courts have taken the form of designated environmental courts, specialised environmental bodies within the general court system, the creation and use of “environmental judges”, designated environmental tribunals, and quasi-environmental judicial bodies. Further, some systems allow for more specialised environmental-based remedies.

In Oposa v. Factoran,\(^{201}\) the Philippines Supreme Court asserted two concepts: “intergenerational responsibility” and “intergenerational justice” in conjunction with the right to a balanced and healthful ecology, stating that every generation had a responsibility to the next to preserve the rhythm and harmony for the full enjoyment of a balanced and healthful ecology and that the petitioners could, for themselves, for others of their generation and for succeeding generations, file class suits.\(^{202}\) The Supreme Court of India also recognised the concept of intergenerational equity in its judgements, taking into consideration the interests of future generations.\(^{203}\) Significantly, the Court interpreted Article 21 of its Constitution, which enshrines the right to life, to comprise elements of sustainable development, including intergenerational equity.\(^{204}\)

Legislative Initiatives by African Parliaments for Realisation of the SDGs

Understanding the role of parliaments will guarantee sustainable development in Africa.\(^{205}\) Parliamentary duties are wide-ranging, and include legislating for good governance, inclusive development and representation of citizens and constituencies; as well as budgeting and oversight functions over the executive’s actions or responses to addressing inequalities and the effects of climate change on the enjoyment of human rights. The importance of effective institutions is perhaps clearest in countries that are experiencing strong growth, and are looking for ways to translate the benefits into sustainable human development that can be shared by all.

In Nigeria, for example, this critical role is well established and expressly includes the power to make laws for the progressive realisation of Chapter 2 of the Constitution on fundamental social, economic, educational, political, environmental and foreign policy objectives and directive principles of State policy, which aim to address the negative impacts of inequalities and climate change on the quality of life and standard of living of Nigerians, through inclusive and sustainable development. Particularly, Section 14(2)(b) of the Constitution declares that the primary purpose of government is to promote the security and welfare of all people, while Section 13 places fundamental obligations and responsibility on all organs of government, all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this chapter, especially sections 15–20 on political, economic, social, educational, foreign policy and environmental objectives, as well as item 60(a) of the Second Schedule to the Constitution. This item provides that the National Assembly has the exclusive legislative power to make laws for the establishment and regulation of authorities for the federation or any part thereof: “(a) to promote and enforce the observance of the Fundamental Objectives and Directive Principles of State Policy contained in this constitution”. As affirmed by the Supreme Court of Nigeria in the cases of Attorney General of Ondo State v. AGF and Attorney General of Lagos State v. AGF,\(^{206}\) these provisions can be made justiciable by the National Assembly enacting implementing legislation on them as it did with the country’s Corrupt Practices and Other Related Offences Act in 2000.

Prior to the adoption of the SDGs in 2015, a number of parliaments in African States had already adopted legislative measures to address many SDG issues. As noted, many African national constitutions contain provisions on justiciable social, economic and environmental rights or the constitutional obligation to promote the progressive realisation of the fundamental objectives and directive principles of State policy relating to social, economic and environmental matters. For example, the South African Constitution leaves no doubt
about the justiciability of social, economic and cultural rights, and this has been confirmed by the Supreme Court in the country’s notorious *Grootboom* case.\(^{208}\)

In Nigeria, it is settled law, by the combined effect of Section 4(2), Chapter 2 provisions on fundamental social, economic, environmental etc. objectives and item 60(a) of the Exclusive Legislative List, 2nd Schedule of the 1999 Constitution as well as the affirmation of the Supreme Court in these cases\(^{209,210}\) that enacting an enabling legislation by the legislature on any of the constitutional objectives for sustainable development will render them justiciable and effectual. More specific information about Nigerian legislative action addressing these issues is set out in Table 2.

The constitutions of Kenya,\(^{211}\) Uganda,\(^{212}\) Tanzania,\(^{213}\) Namibia,\(^{214}\) Angola,\(^{215}\) Malawi,\(^{216}\) Ethiopia,\(^{217}\) Ghana,\(^{218}\) DRC,\(^{219}\) Eritrea,\(^{220}\) Mozambique\(^{221}\) and Egypt\(^{222}\) all include similar constitutional provisions sufficient to support legislative initiatives for the progressive realisation of at least SDGs 1–11 (relating to poverty, hunger, healthy life, education for all, gender equality, water and sanitation, energy for all, economic growth

<table>
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<td>1. No poverty</td>
<td>Sections 14(2)(b), 15(5), 16, 17(2)(b), 17(3)(a) and 34 on the right to human dignity.</td>
<td>Poverty is a cross-cutting issue in Environmental Law and Policy for Sustainable Development. The 2016/2017 Revised National Policy on the Environment, items 3.2–3.3(x) and item 7.6(poverty).</td>
<td>Climate Change Bill pending before the NASS since 2008. National Policy on Climate Change, 2013, item 2.2 para. 1; and item 4.1, pillar 2.</td>
<td>National Poverty Eradication Programme (NAPEP) 2001</td>
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<td>2. Zero hunger</td>
<td>Sections 16(2)(a–(d) exp. (d) and 34.</td>
<td>National Policy on Environment, 2017, items 4 and 6.5.</td>
<td>National Climate Change Policy, items 3.1.2 and 4.1 (pillar 2).</td>
<td>National Policy on Agriculture, 2016, items 4.3.4 and 4.3.6.</td>
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and decent work, sustainable industrialisation, inequality and human settlements/housing). SDGs 12–17 are more elaborately addressed in legislative and policy frameworks than in most national constitutions due to a lack of comprehensive scientific evidence, credible impact information and technical comprehension of climate-related issues.

Evidence abounds to indicate a legislative trend in Africa in respect of sustainable use and management of natural resources, social equity and poverty alleviation, environmental regulation of industrial pollution, energy access and efficiency and renewable energy, climate protection gender equality, education, sanitation and water, health and employment, among others. The South African National Water Act\textsuperscript{223} seeks to ensure that water resources are protected, used, developed, conserved, managed and controlled in ways which take into account the basic human needs of present and future generations; facilitating social and economic development; providing for growing demand for use; protecting aquatic and associated ecosystems and their biodiversity; and reducing and preventing pollution and degradation of water resources. The Mauritius Fisheries and Marine Resources Act\textsuperscript{224} provides for the sustainable management, conservation and protection of fisheries and marine resources and ecosystems. Article 60(1) of the 2012 Constitution of Kenya\textsuperscript{225} provides for sustainable land use and management in accordance with the principles of equitable access to land, and sustainable and productive management of land resources.

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<td>17. Partnerships for the goals</td>
<td>Sections 16 and 19</td>
<td>NESREA Act sections 2 and 7(b) National Policy on Environment, items 8.5–8.6 and 9.5.</td>
<td>Items 2.6(9), 4.1, pillars 5–7, 4.2.2 and 4.2.5.</td>
<td>National Policy on ICT, 2015 National Policy on Trade National Information Technology Development Agency Act, 2007 National Office for Technology Acquisition and Promotion Act, 2004, etc.</td>
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as its main objectives, for the sustainable development of Nigeria’s natural resources, biodiversity conservation, environmental protection, sustainable management of ecosystems and enforcement of the provisions of international treaties on the environment, climate change, biodiversity conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes, ozone depletion, marine resources and wildlife, among others. In Ghana, the Energy Efficiency Standards and Labelling Regulations\textsuperscript{227} seek to ensure that only electrical appliances that meet minimum energy efficiency standards enter the Ghanaian market. The Environmental Protection Act of the DRC\textsuperscript{228} establishes the Council for the implementation of all policies, plans and programmes on sustainable development and environmental management for the benefit of the local population. The South African National Environmental Management Waste Act\textsuperscript{229} aims at reforming the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development.

In Kenya, Energy Management Regulations\textsuperscript{230} mandated the Regulatory Energy Commission to carry out energy consumption ratings of facilities to be classified as low, medium and high, and subsequently requiring the owner or occupier of every facility to develop an energy management policy in accordance with the minimum standards. While the Namibian Environment Investment Fund\textsuperscript{231} provides for the establishment of the Fund in support of sustainable environmental and natural resources management in...
Namibia, the 2011 Nigeria Sovereign Investment Authority (Establishment, Etc.) Act\textsuperscript{232} provides for the management and diversified investment of accrued revenue to the federating units in preparation for the eventual depletion of Nigeria’s hydrocarbon resources for the development of critical infrastructure in Nigeria to attract and support foreign investment, economic diversification, growth and wealth creation in Nigeria as well as disburse residual funds to the newly created Future Generations Fund, and the Nigerian Infrastructure and Stabilization Funds.

Both Aspiration 3 of the African Union Agenda 2063 and SDG 16 point to the rule of law and access to justice as drivers and outcomes of sustainable development. The rule of law is also of cross-cutting relevance to all development goals and aspirations, in terms of enabling participatory, accountable and equitable processes in the economic, social and environmental spheres. The African Union’s Common African Position (CAP) on the post-2015 development agenda provides an agreed set of specific African priorities, many of which are mirrored by the SDGs and fully aligned with AU Agenda 2063. The CAP highlights the need to build productive capacities, including greater access to quality education and health care, youth development and women’s empowerment, and sustainable resource management; to address the challenges of environmental degradation and climate change as well as to promote peace and security; and to establish a more accountable global governance architecture. Advancing justice and the rule of law is central to the enabling environment to achieve these priorities.

The following are six key points on the role of Parliament in this regard:\textsuperscript{233}

- **Accountability.** Parliament, by definition any nation’s most representative institution, plays a critical role in passing fair and sound laws, as well as overseeing the actions of the executive. In this way it represents a downward accountability mechanism that responds to the people of the country. The need for parliaments to be anchors of accountability and trust is therefore greater than ever, especially in addressing inequalities and responding to climate-change effects.

- **Gender inequality.** This remains the most pervasive form of inequality around the world. This is evidenced in gender-based violence and discrimination, the gaps in women’s access to education and financial assets, and their underrepresentation in political and public life. Acknowledging and redressing these inequalities of power and resources requires advancing equal representation and participation of women in decision making. The promotion of gender equality and the empowerment of women are central to the mandate of the UN and intrinsic to its development approach. When women are not represented, issues such as quality health and education services, child and elderly care are often out of sight and out of mind.

- **Civil society.** A meaningful dialogue and engagement with citizens are crucial to inclusive policy making. The protection of civic space and adequate procedures to allow for public participation in legislative processes not only make for better solutions to complex problems but also guarantee the representation of interests of otherwise marginalised groups. This is at the core of the democratic ideal and is key to addressing inequality, which is so pervasive in many of our societies.

- **Open society.** In building successful open societies, guaranteed access to information is a most critical element. Freedom of speech and freedom of association also play a crucial part. Citizens should be able to discuss the issues of the day, challenge the media and government, and, when they see fit, register their dissenting views in peaceful demonstrations. In turn, those in positions of public trust and authority should listen to citizens’ concerns. Many parliaments have built-in procedures for this purpose that systematise citizen input to their law-making and oversight roles.

- **Conflict prevention and resolution.** Parliament – as a body that represents the different stakeholders and interest groups in a country – has an important conflict prevention and resolution function. This can include finding the path to mitigate religious and ethnic tensions, brokering consensus amongst competing demands over natural resources and so on. Countries that do not have a functioning parliament often face persistent conflicts and tensions that become a main driver of development failure and regression. The key here is that Parliament has to be truly representational.

- **Human rights.** Parliament has a key role in ensuring that all people enjoy their full human rights. This role includes overseeing the implementation of the international human rights and climate change treaties and conventions, and making national law consistent with these obligations.\textsuperscript{234}

### Conclusion

The 17 SDGs and 169 targets did not emerge from, and were not inserted into, a normative vacuum. They are grounded in international law and made consistent with existing global commitments expressed in various international legal instruments. A clear, long-term vision for sustainable development beyond 2030 is a necessary but absent leverage point in the SDG framework. Before embarking on SDG implementation, stakeholders should explore how to take stock of a country’s current performance on sustainable development, how to convene a multi-stakeholder dialogue, prepare a roadmap, and finally, provide a set of tools to support the design of sector and goal-based strategies.\textsuperscript{235}

A quick “temperature check” of the key dimensions of sustainable development, including economic development, social inclusion, and sustainable environmental management, can help develop a shared understanding of priorities for implementation. In this way, national and local government actors and other key stakeholders can commence a dialogue on implementation
Table 3. Effectiveness criteria for law and policy

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<td>Utility</td>
<td>Value (added to the subject matter) or usefulness (to the target group), as opposed to outdatedness or outliving its usefulness.</td>
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<tr>
<td>Responsiveness</td>
<td>To the conflicting and competing societal interests, human needs, problems and challenges facing humanity and societies.</td>
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<tr>
<td>Compliance monitoring</td>
<td>For improved environmental quality and public health that results when environmental law and policy are complied with. Compliance reinforces the credibility of environmental protection efforts for sustainable development and the legal systems that support them.</td>
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<tr>
<td>Enforcement</td>
<td>Legal action, where necessary to compel compliance and to impose sanctions as a consequence for violating the law or posing a threat to public health or environmental quality. An effective enforcement strategy (judicial, prosecutorial, administrative and non-litigious methods such as arbitration) helps ensure fairness for those who willingly comply with legal and policy standards.</td>
</tr>
<tr>
<td>Evaluation</td>
<td>Calls for periodic review and reform of law and policy.</td>
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<tr>
<td>Implementation</td>
<td>Require strategies (administrative, budgetary, judicial, voluntary etc.) for discharging obligations, responsibilities or duties.</td>
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of the SDGs with a common understanding of current conditions and the business-as-usual trajectory.236

Developing SDG strategies and plans should be a multi-stakeholder process, engaging national and local government representatives, civil society, businesses, faith-based groups and representatives from academia and science. As noted in the Transforming Our World document, inclusive development means “all stakeholders, acting in collaborative partnership, will implement this plan”.237 Effective multi-stakeholder engagement will build on the expertise of individual actors to do collective problem solving. Different actors will need clearly defined roles and responsibilities to make the process work.

National governments bear the primary and ultimate duty under the SDG agenda. Having endorsed the agenda in September 2015, national governments are now bound to embark upon a comprehensive programme of implementation, developing a national strategy agreeing upon a national monitoring framework and a process for annual reporting, and establishing multi-stakeholder advisory groups to support implementation. Above all, governments need to show a strong public commitment to implementing the SDGs. They will be accountable to their citizens through national formal and informal mechanisms, and to the international community via annual dialogues at the High-level Political Forum.238

The integrated nature of the SDGs requires corresponding institutional arrangements, within and across national and local governments, involving multiple ministries, departments and government agencies. This level of cross-sectoral cooperation requires innovative planning instruments that use frameworks and incentives to coordinate cross-ministerial activity. This further requires ministries to collaborate effectively in areas including information sharing, human resources, technology, strategy design, and monitoring and evaluation.239

There are various ways for a country to design a coordination mechanism to oversee SDG-based national planning. For example, Nigeria established a parliamentary committee on SDG implementation; the office of Senior Special Assistant to the President on SDGs; a country transition strategy framework (from the MDGs to SDGs); and a high-level inter-ministerial committee that brings together sectoral working groups across ministries.240 Above all, Nigeria reflected, in its 2016 national budget, special intervention funds targeting SDGs.241

The primary responsibilities of such an inter-ministerial group should be the following:
- to develop or coordinate SDG implementation strategies;
- to develop a national monitoring framework and accompanying set of national indicators;
- to compile or update an annual sustainable development report;
- to consult with key stakeholders; and
- to prepare for regional and global dialogues on the implementation of the SDGs.242

The 2030 Agenda and SDGs affirm the importance of partnerships to achieve the SDGs at the national and international levels. Effective partnerships are not centrally planned, and they do not require one actor that oversees all activities. Yet delivering results at the required scale requires a high degree of mobilisation of resources and organisation.243

Finally, for SDGs to be achieved, implementation strategies need to be backed by law at the national level.244 This requires triggering the active role of parliamentarians in legislating for good governance and inclusive development, budgetary allocation or appropriation, oversight functions over the executive’s actions and responses to climate change through the progressive realisation of the SDGs for sustainable development, especially in Africa.245
Notes
1 Adopted by the Heads of State and Government during the 70th anniversary of the UN, as the road to human dignity and for global action for the next 15 years (2016–2030).
2 The complete list of goals and targets are available at http://www.un.org/sustainabledevelopment/sustainable-development-goals/.
3 After months of tireless intergovernmental negotiations, and a final session dragging over the weekend, the SDGs process concluded on Sunday, 2 August 2015, with the adoption of the 29-page document entitled: “Transforming our World: the 2030 Agenda for Sustainable Development” (the 2030 Agenda). The outcome is available at http://sustainabledevelopment.un.org/post2015/transformingourworld.
4 In 1987, the World Commission on Environment and Development released the Brundtland Report, Our Common Future, which included what is now one of the most widely recognised definitions of the term: “Sustainable development is development which meets the needs of the present without compromising the ability of future generations to meet their needs”. The WCED (chaired by Gro Harlem Brundtland) was convened by the UN in 1983. In establishing the Commission, the UN General Assembly recognised that environmental problems were global in nature and determined that it was in the common interest of all matters to establish policies for sustainable development.
5 Ibid. The environmental dimension of sustainable development is covered in the goals on climate resilience, oceans, marine resources, ecosystems and biodiversity, thereby bringing consistencies into the goals and larger framework for global action. See SDGs 11 and 13–15.
6 See SDGs 1–10 and 12.
7 SDG 13 serves as the blueprint for climate action.
9 See SDGs 5 and 13.
10 Recent reports of the Intergovernmental Panel on Climate Change (IPCC) (2007, 2011 and 2012) have shown that Africa is the most vulnerable continent to climate change.
12 The African Commission on Human and Peoples’ Rights Meeting at its 56th Ordinary Session held in Luanda, Angola, 28 April–12 May 2014, adopted a Resolution on Climate Change in Africa, wherein it requested its Working Group on Extractive Industries and Human Rights Violations in Africa to undertake an in-depth study on the impact of climate change on human rights in Africa. This is with a view to contributing to the development of effective human rights-based measures and solutions.
15 The estimated impact of climate change on the cost of achieving the MDGs and adaptation needs in Africa, 2010–2020, is 40 percent higher than the external financing for the MDGs alone. See Fankhauser, S. and Schmidt-Traub, G. 2010. From adaptation to climate-resilient development: the costs of climate-proofing the Millennium Development Goals in Africa, tables 1 and 2. London: Grantham Research Institute on Climate Change and the Environment. On 30 November 2015 at the UNFCCC COP21 Global Climate talks in Paris, the World Bank Group unveiled a new plan of US$16 billion dollars in funding to help African people and countries adapt to climate change and build up the continent’s resilience to climate shocks. According to the current estimates, the plan says that the region requires US$5–10 billion dollars per year to adapt to a global warming of 2°C. See Daily Trust Newspaper, 27 November 2015, at 2.
16 See SDGs 11–17.
18 Ibid., Article 2. Also see Ladan, M.T. 2016. “Review of the Paris Agreement: The Heart of the Post-2020 International Legal Regime on Climate Change and its Implications for Sustainable Development Goals and the Energy Sector”.
19 World leaders declared in New York while adopting the 2030 Agenda that “No one will be left behind”, recognising that human dignity is fundamental to the progressive realisation of the SDGs. See Declaration, para. 4; and also SDG 1 and its targets.
20 Ibid., SDG 2 and its targets.
21 Ibid., SDG 3 and its targets.
22 Ibid., SDG 7 and its targets.
24 See SDGs 11–15 and their targets.
25 Ibid., SDGs 11, 13 and 16.
27 See SDGs 7, 9 and 11–15.
28 SDGs 8, 9 and 11.
29 The economic, social and environmental dimensions of sustainable development as reflected in the Preamble to the 2030 Agenda, supra, note 3, para. 3.
30 See SDG 16, for example.
35 supra, note 17, Article 2.
36 By December 2015, about 40 African countries had developed and submitted their NAPAs to the UNFCCC Secretariat, an increase from 28 in 2008.
37 By December 2015, over 40 African countries had developed and submitted their NAMAs to the UNFCCC Secretariat.
38 See SDGs 9 and 11–15.
40 Refer to the draft indicators and targets of SDG 12.
41 SDG 7 and targets with draft indicators.
42 SDG 15 and its targets and draft indicators.
43 SDGs 6, 8, 14 and 15 and their targets and indicators.
45 The SDGs are the result of a three-year-long transparent, participatory process inclusive of all stakeholders and people’s voices.
46 supra, note 3, Preamble.
47 supra, and Declaration of the Agenda, paras 54–59.
48 supra, note 46; and SDGs 1–9 and their targets.
49 supra, note 46; and SDGs 11–15 and their targets.
50 supra, note 46.
51 Ibid.; and SDGs 5, 8, 10 and 16.
52 supra, note 46.
53 supra, and Declaration of the Agenda, paras 54–59.
54 supra, note 46; and SDGs 1–9 and their targets.
55 supra, note 46; and SDGs 11–15 and their targets.
56 supra, note 17, Article 2.
57 See draft indicators for SDG 13 and its targets.
58 ibid.
59 Draft indicators were to be finalised by the end of March 2016 by an expert Working Group.
60 supra, note 46.
61 supra, note 17.
62 See COP 21 Decision to Adopt the Paris Agreement on Climate Change. CP/21/FCCC/CP/2015/L.19. Preamble.
63 supra, note 17, Articles 1–29.
64 ibid., Articles 6–7.
65 supra, Article 9.
66 See UNECA/AU/ADB. 2015. Africa Regional Report on the SDGs, Summary, at 13, Table 2.
67 supra, Note 3.
68 supra, Note 66.
69 Compare the African region’s proposed 12 SDGs with the adopted 17 SDGs: they are quite compatible.
70 supra, Note 3, para. 42.
71 supra, Note 3, Preamble and paras 1–59 of the Declaration.
72 supra, Note 3. The Agenda pledges that it is about embarking “on this great collective journey”, Declaration, para. 4.
73 ibid., Preamble.
74 ibid., Declaration, para. 5.
75 ibid.
76 supra, Note 7, its targets.
94 However, it is important to underline that the linking of individual SDGs and targets to specific human rights targets could lead to a simplistic, narrow or compartmentalised interpretation of human rights. Rather, this discussion should serve as a starting point for further in-depth analysis of the nexus between SDGs and human rights.
95 Ibid.
99 Ibid.
100 Supra, note 14.
101 Supra, note 3, paras 8, 9, 10, 18, 19, 23 and 35.
102 The 2030 Agenda is part of a history of multilateral efforts to shift the world into a sustainable and resilient pathway. Intergovernmental efforts formally began with the 1972 UN Conference on the Human Environment. The phrase “sustainable development” was defined, adopted and popularised in the 1987 report of the UN World Commission on Environment and Development and was used for the next 25 years. It was adopted at the 1992 UN Conference on Environment and Development in Rio de Janeiro. Over time, the definition has evolved to capture a more holistic approach, linking the three dimensions of sustainable development: economic development, social inclusion and environmental sustainability. This three-dimensional approach was emphasised at the 2012 Rio +20 Conference.
103 Ibid.
105 Supra, note 26.
106 Supra, note 54, Ladan (2015b).
107 Ibid., at 14–15.
108 Supra, note 122.
111 Such as the Precautionary, Polluter Pays and Inter-generational Equity principles.
113 See e.g., the 1992 Rio Statement of Forest Principles and the Beijing Declaration and Platform for Action.
114 The 1992 Rio Declaration on Environment and Development, adopted in Rio de Janeiro, Brazil, by the UN Member States. Its predecessor is the 1972 Stockholm Declaration.
116 For instance, Rio Principle 10 on three access rights: information, participation and justice in environmental matters.
117 Adopted by 178 UN Member States in 1992 at the Rio de Janeiro Earth Summit, the Rio Declaration was at the time perceived as a progressive statement by all nations that enshrined the recognition of the indivisibility of the fate of humankind from that of the Earth, and established sustainable development in an international framework. It reaffirmed the Stockholm Declaration of the UN Conference on the Human Environment, adopted at Stockholm, Sweden on 16 June 1972 and consequently set a new global agenda for sustainable development goals in the 21st century.
118 Rio Declaration, Principle 1.
120 Ibid, Principles 3 and 21.
121 Ibid.
122 Ibid., Principle 16.
123 Ibid., Principle 15.
124 Ibid., Principle 10.
128 Articles 2(6) and 3(8).
129 Article 14, but only where appropriate.
130 See Article 14-16 Explanatory Report in Council of Europe CDCJ (92) 50.
133 (1999) 27 EHRR 212.
134 See ICCPR and ICESCR of 1966, Article 14, and 1950 Convention on Human Rights, Article 6(1).
138 In the Netherlands, see 1980 Netherlands YBIL 111: 318; Environmental Protection Act of 1993; and the Collective Actions Act of 1994.
142 Farooque v. Govt. of Bangladesh (1997) 49 DLR (AD) 1.
146 See Philippines Supreme Court decision in Minor Osposa case, supra, note 143; Kendra Dehadran case, supra, note 140; and Port Hope Environmental Group v. Canada, 20.
181 Such as the ICJ, WTO Appellate Body and the International Tribunal for
182 Adopted in 1992 at the Rio Earth Summit and entered into force on 21
183 Adopted on 11 December 1997.
185 Adopted on 29 January 2012; and the
186 Adopted on 15 October 2010 in Nagoya, Japan.
188 Of 27 August 2012.
190 See various authors in RECIEL (1998).
191 Act No. 108 of 1996, Section 32; and see also Schedule 6, item 23 of the
194 Early cases are, for instance, Government of the Republic of South Africa and Others v. Grootboom and
195 See various authors in supra, note 34, at 3.
197 Adopted in Bali, Indonesia.
199 During 2015, the SDGs, for consideration and appropriate action. Sgro, supra note 34.
200环境权
205 supra, note 3.
206 supra, note 3, paras 18–39.
207 ibid., paras 40–41.
208 supra, note 3, paras 39–40.
209 ibid., paras 47, 52 and 55–59.
210 ibid.
211 supra, note 3, paras 18–39.
212 ibid., paras 40–41.
213 ibid., paras 40–41.
214 supra, note 3, paras 39–47.
216 supra, note 3, paras 39–47.
218 supra, note 3, paras 39–47.
219 supra, note 3, paras 43–48.
221 supra, note 3, paras 39–47.
222 supra, note 3, paras 43–48.
223 supra, note 3, paras 43–48.
224 supra, note 3, paras 43–48.
225 supra, note 3, paras 43–48.
228 supra, note 3, paras 43–48.
229 supra, note 3, paras 43–48.
230 supra, note 3, paras 43–48.
231 supra, note 3, paras 43–48.
233 supra, note 3, paras 43–48.
234 supra, note 3, paras 43–48.
236 supra, note 3, paras 43–48.
238 supra, note 3, paras 43–48.
239 supra, note 3, paras 43–48.
244 supra, note 3, paras 43–48.
245 supra, note 3, paras 43–48.
246 supra, note 3, paras 43–48.