

FELIPE PÉREZ, B., IGLESIAS MÁRQUEZ, D. y MARTÍNEZ HERNÁNDEZ, L., *Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance*, Cambridge Scholars Publishing, Newcastle upon Tyne, 2018, 191 pp.

*Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance* offers an innovative understanding of the concept of sustainable development, exploring the concept's very essence, as well as its strengths and weaknesses. The book carries out a thorough and articulated analysis of whether sustainable development can still provide a paradigm that promotes values like procedural fairness and distributive justice in international environmental law.

In particular, the book pursues the ambitious purpose of *rethinking* the concept of sustainable development. It argues for the need to revisit and adapt the normative, institutional and regulatory paradigms of a wide legal reality—encompassing various areas of law at different levels that range from international law and international governance to constitutional law—in order to promote social fairness and environmental sustainability (p. 3).

More specifically, the book offers a critique of certain instruments and patterns in the current approach to sustainable development and of how sustainable development is itself conceived. This critique deconstructs different elements in the concept of sustainable development in order to disclose the latter's inherent shortcomings, which have led to an application and implementation that has often been inadequate. In this way, the book underscores how practical obstacles often derive from theoretical flaws in the conception and vision of sustainable development

From this viewpoint, the book highlights how the language and the rhetoric of sustainable development itself involves an intrinsic compromise that explains why it does not always express its full, intended potential in practice. Talking about “sustainable development” suggests an acceptance of the very capitalistic view of natural resource management and systems of production that have led to their

overexploitation. Too often the way resources are used abdicates the foresight of preserving them for future generations and frustrates the principles that have animated the international community's discourse about environmental justice and sustainability since the 1992 Rio Conference.

A necessary premise for understanding the importance and scope of the book is that it was conceived within the framework of the First Tarragona International Environmental Law Colloquium (TIEC), where the research now gathered in the book was first presented and shared. The First TIEC opened a thriving tradition that celebrated its third edition last May, and that has become a fundamental forum for reflecting and sharing knowledge and ideas, not only among scholars devoted to environmental law, but also for scholars who, although prevalently focused on other areas of knowledge, wish to join the stimulating and innovative environmental law debate that the TIEC hosts. The context in which the book was conceived helps to clarify and illustrate the richness and comprehensiveness of the issues it encompasses, written by authors with manifold areas of competence and sensibilities.

*Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance* is structured in three sections, each of which is further structured in three chapters that are respectively dedicated to sustainable development and justice, sustainable development in context, and sustainable development and judiciaries.

In these frameworks, the concept of sustainable development—which was advanced by the World Commission on Environment and Development in 1987 and has subsequently evolved and led to United Nation's Sustainable Development Goals (SDGs) —is analysed in depth from different perspectives. Each chapter is complete, exhaustive and independent from the others, but all chapters are also connected by a narrative thread.

Let us delve into the first section of the book. In Chapter 1, entitled "Sustainability and Justice: A Constitution of Fragility", Professor Jordi Jaria i Manzano examines the concepts of sustainability and sustainable development in depth, contextualizing his reflection within the narrative of the Anthropocene. From this perspective, his reflection invokes distributive justice and justice of recognition,

which together lead to a conception of “environmental justice” that represents the necessary starting point for “any constitutional framework reacting to Anthropocene” (p. 8). After criticizing “the hegemonic social responses regarding the transition to the Anthropocene” (p. 11) as possessive individualism, Professor Jaria i Manzano develops his proposal for the Constitutionalism of Fragility, which starts from the idea of the Earth system’s fragility. Prof. Jaria i Manzano elucidates some weaknesses in the conception of sustainable development that views it as an unequal exchange between the centre and the periphery of the global economy, involving an exchange between different social groups that leads to the accumulation of capital. The Constitutionalism of Fragility is advanced as a response to these shortcomings, as it promotes an approach inspired by the principles of precaution, cooperation and responsibility. From this framework, duties of care for the environment arise for “humans as a community”. These duties would involve environmental preservation and conservation for the benefit of future generations, as well as responsible and equitable use, distribution and consumption of natural resources. The result is “a shift from rights to responsibilities in the axiological core of global society, assuming a communitarian idea and a holistic perspective” (p. 21).

In Chapter 2, entitled “Plural Understandings of Social-Environmental Justice”, Stephanie Hawkins explores the concept of sustainable development, theoretically and practically, from the perspective of the social and environmental justice movement that grew from the American Civil Rights and Environmental movements of the 1960s. Stephanie Hawkins applies a multidimensional methodological approach that informs a theoretical and practical analysis of, and comparison between, different normative and institutional frameworks. She explores variable distributive and procedural concerns with relation to different understandings of socio-environmental justice, elucidated especially through the ideas of “framing” and “claim making”. The author then delves into a thorough evaluation of national and international justice systems in relation to the rule of law and the various conceptions of justice embodied in law and institutions. The way Stephanie Hawkins incorporates the discourse of sustainable development into her methodological approach, extensively illustrating and developing it, can

offer a promising means for theorizing the pursuit and implementation of the SDGs.

In Chapter 3, entitled “Religion, Sustainability and Law”, which closes the first Section of the book, Jerônimo Basilio São Mateus explores the interrelationship between human beings and nature, thus supplementing the reflections that preceded with a legal approach that is especially useful against the backdrop of the current environmental crisis. The author adopts the perspective of the growing research field of Religion and Ecology studies (RnES) for the purpose of illustrating how the incorporation of certain values that inform religious cosmologies into the discourse of sustainable development can help to shape adequate approaches to legislation and global policy. After thoroughly analysing the weaknesses of other methodological approaches, Jerônimo Basilio São Mateus considers the relevant reference instruments of international law, putting particular emphasis on incorporating the idea of the protection of sacred sites. The Author concludes that RnES can promote a renewed, effective approach to tackle sustainable development.

Chapter 4, “Deflective Discourse and Sustainable Development” by Professor Ed Atkins, opens the second Section of the book. Prof. Atkins focuses on the highly-disputed construction of the Belo Monte dam in the Brazilian Amazon region, which has given rise to a long and complicated debate, and which provides a context for highlighting the risks of deflection—in particular of discourse as a means of deflection—in relation to the concept of sustainable development. This risk originates in the fact that the concept of sustainable development does not establish definite priority levels between the three distinct types of concerns that it aims to balance, namely environmental, societal and economic concerns. This uncertainty may allow distorted uses of the notion, for example by dissimulating the real impact of some initiatives on the areas affected and on the human rights of the persons involved. Professor Atkins suggests that the language of justice may help to reveal deflections in how the concept of sustainable development is used. For example, in the case he examines, the language of justice would have helped to highlight issues of distributive injustice, misrecognition, procedural injustice and issues of capability. In this respect, the way sustainability is understood and the role it plays in resistance discourse should be widened.

In Chapter 5, on “Indigenous Peoples and Sustainable Development within the International Biodiversity Regime”, Dr. Federica Cittadino explores the role of sustainable development as a means for solving conflicts between human rights law and international law regimes that address biodiversity when the rights of indigenous communities are at stake. After showing how this scenario has been underestimated in the practice of human rights bodies, the author brings to light some ways in which the system of the Convention on Biodiversity (CBD) falls short in this regard. Dr. Cittadino concludes that the concept of sustainable development has failed to fulfill one of its functions, namely that of solving conflicts between norms. However, some improvement in terms of justice may be achieved by incorporating the rights of indigenous peoples—especially participatory rights—into the system of the CBD.

Chapter 6, “The Incorporation of the Sustainable Development Goals into Domestic Policies: The Mode, the Role of Law and the Impact on Justice”, by Simone Walker-McFarlane, Edna Ayeley Okine, Regine Acluche and Linda Mensah, provides a critical assessment of four local contexts at different stages of development in order to analyse how different SDGs have been incorporated at the national level. Specifically, the Chapter focuses on Jamaica and SDG 13 on climate action in relation to SDG 2 on food security; Uganda and SDG 1 on poverty eradication; the United States of America, more specifically the City of New York, and SDG 11 on sustainable cities and communities; and Ghana and SDG 6 on the achievement of universal and equitable access to safe drinking water. Justice is an element of basic importance for each assessment. In Jamaica, the incorporation of sustainable development into a strong legal framework and access to justice are identified as basic means for achieving food security. In Ghana, the implementation of SDGs can help to uphold water justice by enhancing existing viable legal instruments. The experience of Uganda—where the marginalisation of rural people, the reduction or eradication of their source of livelihood and land grabbing are serious threats—shows that the implementation of SDGs cannot do without procedural guarantees and distributive justice. The City of New York is an example of decentralized and participatory policy-making to address climate change.

After these detailed analyses of sustainable development in context, the book moves on to assess sustainable development in relation to the judiciary.

The third and last section of the book is opened by Chapter 7, entitled “Seeking Access to Justice for Victims of Corporate Abuses through the Sustainable Development Goals” and written by Dr. Daniel Iglesias Márquez and Dr. Maria Chiara Marullo. This chapter provides an in-depth analysis of sustainable development and access to justice, setting the focus on SDG 16 and in particular on Goal 16 Target 3, according to which States undertake to “[p]romote the rule of law at the national and international levels and ensure equal access to justice for all”. The authors explore how the practical implementation of SDG 16 plays a role in pursuing justice in sustainable development and in helping to manage the fragmentation of international law. There is a risk in the formulation of the SDGs that they may remain empty statements if not adequately implemented. This is particularly true with regard to the role of transnational corporations (TNCs) because “TNCs can make a positive contribution to fostering respect for human rights and environmental protection through their financial, organizational and technological capabilities” (p. 125), as SDG 17 acknowledges. It is fundamental to ensure that TNCs are accountable by guaranteeing access to justice in cases of rights violations related to their activities. The authors explore the major obstacles that hinder people’s access to justice and to the affirmation of corporate accountability, while highlighting viable ways to ensure judicial protection. In particular, the authors analyse access to justice in host and home States from the perspectives of international law and European Union law, and in relation to the theory of *forum necessitatis* that, on some occasions, has paved the way to ensure access to justice for abuses committed in countries of the Global South. Hence, the authors suggest that this theory “has a crucial significance to the right of access to justice as recognized in the SDGs and international law”, although there is still a long way to go.

Chapter 8, “The Greek Supreme Court and the Principle of Sustainable Development: How to Pioneer and then Retract Environmental Protection”, by Pantelina Emmanouilidou, focuses on the principle of viability, which was incorporated into the Greek Constitution in 2001 and proved to be of fundamental importance in the national legal order for the promotion of sustainable

development. The principle, which calls for taking into consideration social integration, economic growth and environmental protection before adopting an administrative decision, has played a crucial role in the promotion of sustainable development in Greek environmental adjudication, especially in the jurisprudence of the Supreme Court since 1992, even before being incorporated into the Constitution. However, as a result of the severe financial crisis that befell Greece in 2009, decision-making about some prominent economic issues were transferred from the legislative to the executive power, and this fruitful experience came to an end.

Chapter 9, “Access to Environmental Information in Latin America: The Inter-American Court of Human Rights to the Rescue” by Gastón Mé dici Colombo, closes the book and leaves readers with a renewed sense of hope. The author analyses the evolution of the Latin American landscape, including the Escazú Agreement, until the landmark decision of the Inter-American Court of Human Rights in the *Claude Reyes* case, which had the merit of incorporating environmental participatory rights within the scope of article 13 of the American Convention on Human Rights. What is more, the protection granted at the regional level is suitable for incorporation at the domestic level, including in national jurisprudence, as the remarkable decision of the Argentinian Supreme Court of Justice in the *YPF-Chevron* case demonstrated. These decisions have played a crucial role for the implementation of Principle 10 of the Rio Declaration, and show how human rights can offer a helpful paradigm for promoting sustainable development in Latin America.

*Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance* maintains the promise of its title. Indeed, the book actually offers a reconsideration, a *rethinking* of sustainable development. Each chapter, from its own perspective, goes straight to the core of the shortcomings that have so far prevented sustainable development from expressing its full potential, and which account for the difficulties that the international community has encountered in trying to adopt appropriate instruments for making the concept of sustainable development effective.

Moreover, each chapter advances interesting and practically viable routes for improving the current situation, and these suggestions are particularly important given the difficulties that have arisen in the practical implementation of sustainable development, for instance in the attempt to enforce the SDGs.

The different thematic areas that the book encompasses—namely justice, context of implementation and the judiciaries—provide a comprehensive view of an issue that is itself multidimensional and that necessarily requires concertation at the institutional level, among states and within national realities, in a way that combines normative and judicial engagement in both theoretical and practical ways.

This is why the book succeeds in providing guidance and inspiration for developing appropriate approaches to tackle the concept of sustainable development both theoretically and practically from a political, normative and judicial perspective. In fact, *Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance* demonstrates how an appropriate interpretation and application of the concept of sustainable development from the perspective of justice is feasible through adequate engagement at all levels of governance, from the global to the domestic level, through political, legislative and judiciary approaches. It is noteworthy that the book also shows how sustainable development can be incorporated into an effective human rights paradigm, capable of conveying universal and not only Western-oriented values.<sup>1</sup>

Again, the variegated areas of expertise, experiences and viewpoints conveyed in the book are one its greatest strengths and, in this respect, it cannot but be highlighted that the editors, Beatriz Felipe Pérez, Daniel Iglesias Márquez and Lorena Martínez Hernández succeed in the difficult task of putting together distinct approaches and issues, and providing them with a solid and coherent narrative thread that leads readers through the various reflections.

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<sup>1</sup> For example, the African human rights-system and African scholarship could likely welcome a comprehensive reference as *Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance*, especially when the interpretation and implementation of the African Charter of Human and Peoples' Rights are considered, above all with reference to Article 21, on the right to free disposal of wealth and natural resources, and Article 22 on the right to economic, social and cultural development.

As to the audience, the book reaches a wide array of readers, as it is a valuable instrument for both expert academics and legal practitioners aiming to delve into an innovative and proactive perspective on sustainable development that will allow them to improve their methodological approach and acquire a variegated and comprehensive knowledge of the issues and most up-to-date discussions on the topic. Likewise, the book represents a valuable instrument for students from different subjects and for neophytes of environmental law, who wish to acquire a deep knowledge of sustainable development and its current and prospective evolution in order to orient themselves in a legal reality that is complex and dynamically in progress. Such a wide-ranging audience is possible because the book is written in a fluent, accessible language, while maintaining a technical, professional style.

In light of all this, innovation is another distinguishing feature and remarkable strength of *Rethinking Sustainable Development in Terms of Justice: Issues of Theory, Law and Governance*—a book that stands out from its vocational literary landscape and constitutes a valuable, unique contribution to the definition of an up-to-date and finally equitable, inclusive and effective conception of sustainable development.

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