Session 2B - "Contributions of International Law to the UN Sustainable Development Goals"

Thursday November 5, 2015

1:30-3:00

Chair
Marie-Claire Cordonier Segger, Centre for International Sustainable Development Law

Speakers
Katherine Lofts, Centre for International Sustainable Development Law
Chidi Oguamanam, University of Ottawa
Freedom-Kai Phillips, Centre for International Sustainable Development Law

Reported by: Jessica Spina

Note: The presentations of the panel centered on the Sustainable Development Goals (SDG) agreed upon at the United Nations Sustainable Development Summit in September 2015.

Katherine Lofts, Centre for International Sustainable Development Law

Ms. Loft's presentation focused on the contributions of international law to SDG 13 on Climate Action. In brief, SDG13 requires states to take urgent action to combat climate change and its impacts. Among the targets listed are the need to strengthen resilience and adaptive capacity to climate related hazards and natural disasters in all countries; to integrate climate measures into national policies, strategies and planning; and to improve education, awareness raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning.

The UN Framework Convention on Climate Change (UNFCCC) provides legal support for the adoption of SDG13. For example, Article 4.1(f) of the UNFCCC urges all Parties to take climate change considerations into account in their social, economic and environment policies. This corresponds to proposed SDG13.2. Article 4.1(i) of the UNFCCC asks parties to cooperate in educating their citizens on climate change and encouraging the widest participation in this process. This corresponds to proposed SDG13.2 and 13.3. Lastly, Article 4.3 of the UNFCCC states that developed country Parties will provide financial resources to meet the full costs incurred by developing countries in complying with their obligations. This corresponds to proposed SDG13.a.

Other international instruments, both environmental and human rights-focused, provide support for combating climate change and SDG13. The Convention on Biological Diversity (CBD), the Ramsar Convention and the UN Convention to Combat Desertification all set out frameworks for state responsibility in the conservation of the environment.

The International Convention on Economic, Social and Cultural Rights and the Universal Declaration on Human Rights protect the individual's right to food, water, housing, economic, social and cultural rights.

Ms. Lofts pointed to some of the obstacles to implementing SDG13. For instance, effective implementation requires cooperation among members of the international community. In addition, the need for new and predictable financing is a must in ensuring that vulnerable countries can adapt to the effects of a changing climate. Ultimately, effective implementation of SDG13 may require changes to national laws and policies, in the form of reduced subsidies and preferential tax treatment for fossil fuel industries and by incentivizing the use of renewable energies and the development of renewable energy technologies.

The presentation concluded with a discussion of the innovative international law and governance mechanisms that can be used to ensure implementation of the SDGs. Ms. Lofts suggested that regional trade agreements be used as a means of promoting cooperation on climate change issues. She also suggested that given the interconnectedness between SDG13 and many of the other proposed SDGs it is important to adopt frameworks that utilize a cross-sectoral approach to achieving the enumerated goals. Aspects of many other proposed goals will contribute to the realization of SDG13.

Chidi Oguamanam, University of Ottawa

Professor Oguamanam highlighted the positive effect the United Nations has had as a platform for the promotion of the principles of sustainable development. He drew attention to the fact that it was as a result of the 1972 United Nations Conference on the Human Environment that the 1987 Bruntland Commission opened the discussion on sustainable development, which has since become the cornerstone of international law on the environment.

Professor Oguamanam described the 1992 Rio Summit on Environment and Development as a watershed. Agenda 21 recognizes that integrating environmental and development concerns will promote the fulfillment of basic needs, improve living standards, better protection and management of ecosystems and a safer, more prosperous future. In addition, Agenda 21 outlines the need for global collaboration on sustainable development and notes that nation states cannot achieve sustainable development on their own.

The United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the Statement of Forest Principles were also born out of the Rio Earth Summit. All three of the aforementioned instruments have been pivotal in sustaining global momentum on the environment and sustainable development.

The presentation also emphasized the importance of integrating local and indigenous communities in sustainable policy making. Professor Oguamanam pointed to the Convention on Biological Diversity as an instrument that has given momentum to the integration of indigenous and local communities in environment and sustainable development policy-making. Moreover, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was born out of developments at the Convention on Biological Diversity. The UNDRIP promotes the right of

indigenous peoples to conserve and protect the environment and the right to implement strategies and priorities related to the development of the land.

With regard to the SDGs, Professor Oguamanam noted that the goals enumerated have their roots in Agenda 21 and other instruments on sustainable development. He also noted that, with the exception of SDG10, which focuses on the need to reduce inequality within and among nations, the other SDGs place little focus on indigenous and local communities. Professor Oguamanam discussed the importance of focusing on the inequality within states, particularly as this inequality relates to indigenous peoples. He commented on the fact that it is common for states to commit to addressing inequality among states, while ignoring inequalities within.

To conclude he suggested that the issue of biodiversity has been given center stage in the SDGs, while matters concerning indigenous local communities are of a lesser priority. He encouraged indigenous local communities to take proactive measures to advocate for the issues that affect them, as these issues arise across multiple SDGs and associated targets.

Freedom Kai Phillips, Centre for International Sustainable Development Law

Mr. Phillips' presentation focused on SDG6 and the need to ensure the availability and sustainable management of water and sanitation for all. He discussed three conventions on the protection of water; namely, the Ramsar Convention on Wetlands of 1971, the New York Convention on the Law of Non-Navigable Uses of International Watercourses of 1997 and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Convention) adopted in Helsinki in 1992 and entered into force in 1996.

Mr. Phillips discussed the objectives of the three conventions, their scope, the obligations they impose on signatory states and their corresponding SDG targets. The objectives of the New York Convention include the harmonization of terms and principles relating to watercourse agreements, the facilitation of cooperation and consultation relating to the protection of watercourses and the reconciliation of disputes on the subject. The Helsinki Convention concerns the protection of transboundary watercourses and international lakes. The Ramsar Convention facilitates the conservation and sustainable use of natural resources for the wise use of wetlands.

Mr. Phillips' discussion concluded with an analysis of the obstacles and challenges to implementation of SDG6. Successful implementation of SDG6 requires cross-jurisdictional sharing of data and effective domestic and regional monitoring to ensure compliance. Both the Helsinki and the New York Conventions provide for cooperative measures, including the sharing of ecological data, the development of mutually applicable measures and the creation of joint mechanisms to support implementation. The Ramsar Convention requires timely exchange of data relating to the ecological character of a wetland, with an Advisory Mission that may be deployed to supplement and support domestic response capacity.

The successful implementation of SDG6 may also be inhibited by inadequate financing and a lack of collaboration between states that have adopted them. To defuse the costs of policy development and to avoid such barriers to implementation, Mr. Phillips suggested that the collaborative forums provided by the Conventions be leveraged for use in the implementation of

the SDGs. In particular he pointed to the Ramsar Convention, as it has the broadest membership and the longest institutional history, as a forum for collaboration on the preservation of the aquatic ecosystems.

Lastly, Mr. Phillips noted that water is a key consideration in a number of the SDGs beyond SDG6. In particular, SDG15 calls for the protection, restoration and promotion of sustainable use of terrestrial ecosystems. SDG15.1 includes conservation and sustainable use of inland freshwater ecosystems. SDG15.8 calls for measures to prevent the introduction of invasive alien species in both terrestrial and aquatic ecosystems.

Marie-Claire Cordonier Segger, Centre for International Sustainable Development Law

Ms. Cordonier Segger concluded the panel by discussing general "takeaway messages." She expressed the view that if international law was once in a time of chaos, today the international legal system has taken steps to design the regimes that may grow into a coherent and sustainable system of international law in the future. While there is not yet coherence in the law that governs sustainable development, there is interaction amongst players in the international legal community- a good starting point, after all.