

SUSTAINABLE DEVELOPMENT POST RIO+20: IMPACT ON LEGAL EDUCATION

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ABSTRACT

International legal concepts such as ‘sustainable development’ have a significant impact on the development of policies and legislation that affect global, regional, national and local levels of environmental law. This article investigates the concept of sustainable development in light of the United Nations Conference on Sustainable Development (Rio+20) in June 2012. The aim of this investigation is to examine the impact of the concept of sustainable development and how the latest developments could influence university curriculums and the global outlook of legal education in Australia.

I. INTRODUCTION

The recent United Nations Conference on Sustainable Development (Rio+20) indicated that reliance by all members of the international community upon state leaders and governments to negotiate effective international agreements on sustainable development has not resulted in satisfactory outcomes over the past twenty years.¹ There is a view that all individuals need to be educated in sustainable development objectives if humanity is to resolve critical global threats of environmental deterioration.² Processes that facilitate public access to information and participation can result in increased public pressure on governments to take action on sustainable development.³ Education can assist individuals to participate in these processes⁴ and encourage future leaders to be citizens of the world with a global outlook. Improvements to education could be achieved by ensuring that sustainable development education programs are included in the curriculums of schools and universities.⁵ It is critical that education for sustainable development forms part of all disciplines in universities (including law) in the future⁶ so that individuals are equipped to adopt sustainable lifestyles in a world where the

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- 1 *The Future We Want* United Nations Rio+20 United Nations Conference on Sustainable Development Outcome of the Conference A/CONF.216/L.1* Brazil (19 June 2012) <<http://www.uncsd2012.org/content/documents/370The%20Future%20We%20Want%2010Jan%20clean%20no%20brackets.pdf>> [20] (*The Future We Want*).
- 2 United Nations General Assembly Distr.: General 4 August 2010, Sixty-fifth session, Item 20(h) of the preliminary list ‘Mid-Decade Review of the United Nations Decade of Education for Sustainable Development, 2005-2014’ Note by the Secretary-General, [1] ‘In December 2002, the United Nations General Assembly, through its Resolution 57/254, declared a Decade of Education for Sustainable Development (DESD, 2005-2014), emphasizing the critical role of education in achieving sustainable development’. See *Agenda 21: Programme of Action for Sustainable Development* UN Conference on Environment and Development (UNCED), United Nations Publication, New York, (3-14 June 1992) GA Res S-19/2 <http://www.un.org/esa/dsd/agenda21/res_agenda21_00.shtml> [36.3] (*Agenda 21*).
- 3 *The Future We Want* above n 1, [43].
- 4 *The Future We Want* above n 1, [229].
- 5 See *Agenda 21* above n 2, [36.5(i)]; Rio + 20 UN Conference on Environment and Development, *Higher Education Sustainability Initiative for Rio +20* <http://www.uncsd2012.org/rio20/hei_engage.html>
- 6 *The Future We Want* above n 1, [233].

availability of some natural resources is rapidly diminishing.⁷ This paper will argue that the Australian Bachelor of Laws degree should include the study of sustainable development because some law students will later become leaders and decision-makers on environment and development issues. They may have the opportunity to make decisions addressing sustainable development concerns and influence people's attitudes. The argument is pursued as follows: first the paper will set out a brief history of the concept of sustainable development and the role education plays in the attainment of sustainable development. Second, the paper discusses the development of an ethical approach to education for sustainable development. Third, the paper reviews the teaching of sustainable development in Australian higher education and concludes by considering the ways in which sustainable development can be included in the education curriculum of Australian universities and law schools.

II. SUSTAINABLE DEVELOPMENT

Sustainable development is a key concept in international environmental law that influences international, regional, national and local legal systems⁸ and is defined in a report by the World Commission on Environment and Development (WCED) titled *Our Common Future* (Brundtland Report).⁹ The definition in the Brundtland Report has two important requirements which are: first, that priority should be given to the essential needs of the world's poor and second, that 'sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs'.¹⁰ The Brundtland Report takes into account the fact that present and future generations have the right to an adequate environment. This report also notes that the concept of sustainable development implies limits upon technology and the organisation of environmental resources because there are restrictions on the capacity of the biosphere to absorb impacts from human actions.¹¹

'Sustainable development' is endorsed in a number of international agreements including the *Declaration of the United Nations Conference on Environment and Development (Rio Declaration)*,¹² *Agenda 21: Programme of Action for Sustainable Development, (Agenda 21)*¹³ and the *Programme for the Further Implementation of Agenda 21*.¹⁴ One of the reasons that the United Nations (UN) General Assembly organised the 1992 UNCED was to develop *Agenda 21* as a program of action for worldwide sustainable development. This blueprint for

7 OECD, *OECD Environmental Outlook to 2050*, (OECD Publishing, 2012) 26 <<http://dx.doi.org/10.1787/9789264122246-en 172-173>>.

8 *The Future We Want* above n 1,[43].

9 World Commission on Environment and Development, *Our Common Future* (Australian edition, Oxford University Press, 1987) 43 ('*Brundtland Report*'). 'Sustainable development seeks to meet the needs and aspirations of the present without compromising the ability to meet those of the future. Far from requiring the cessation of economic growth, it recognizes that the problems of poverty and underdevelopment cannot be solved unless we have a new era of growth in which developing countries play a large role and reap large benefits.[Sustainable development] contains within it two key concepts:

- The concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and
- The idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs.'

10 *Rio+20 United Nations Conference on Sustainable Development* <<http://www.uncsd2012.org/rio20/about.html>>.

11 *Brundtland Report* above n 9, 8.

12 *Declaration of the United Nations Conference on Environment and Development* (14 June 1992) UN Doc A/CONF.151/26 (Volume 1), 31 ILM 874 ('*Rio Declaration*').

13 *Agenda 21* above n 2.

14 *Programme for the Further Implementation of Agenda 21* 19/09/1997 <www.un.org/documents/ga/res/spec/ares19-2.htm>.

future sustainable global action anticipates that such action will be taken by governments, non-governmental organisations (NGOs), business, the private sector and individuals. About forty chapters in this document cover a range of strategies to foster economic development that is environmentally sustainable and to prevent further deterioration of the environment as the result of human activities.¹⁵ This program for action applies in conjunction with the principles in the *Rio Declaration* to improve the management and protection of the environment and the future lives of all human beings.¹⁶ However a number of states and NGOs were dissatisfied with the outcome of UNCED because there was no international agreement on an Earth Charter. Another difficulty is that both *Agenda 21* and the *Rio Declaration* are soft law agreements (that is they are not binding on states) and this has resulted in problems with their implementation.

At the World Summit on Sustainable Development (WSSD) in 2002, the *Declaration on Sustainable Development* (Johannesburg Declaration) and the *Plan of Implementation* (POI)¹⁷ were negotiated. ‘Sustainable development’ is promoted in these agreements as a means for achieving economic, social and environmental objectives that will improve the quality of life for present and future generations. The Johannesburg Declaration describes the concept as having three main pillars: economic development, social development and environmental protection.¹⁸ The WSSD identified social development as the third pillar of sustainable development and considered that these three pillars are interdependent.¹⁹ The aim of sustainable development is to ensure that the action concerned (such as the management of natural resources) can continue to support future generations and in order to achieve this outcome the ecological balance of the environment must be taken into account. Key challenges identified at the WSSD for future action on sustainable development include: poverty eradication, changing consumption and production patterns, and careful management of natural resources.²⁰ These international agreements added emphasis to the earlier sustainable development instruments however they have not resulted in any major improvement on action for sustainable development.²¹

The reason for this is that sustainable development has not been clearly defined in the Brundtland Report²² and whether or not it forms a principle of international law, remains controversial²³. The majority decision in the International Court of Justice (ICJ) *Case Concerning the Gabčíkovo-Nagymaros Project* referred to ‘sustainable development’ as a concept of international law²⁴ and recognised that this concept includes a focus on social equity, both intra-generational equity and inter-generational equity. A-Khavari and Rothwell analyse the outcome of this case:

What is the status of sustainable development in customary international law? The court implicitly rejected the assertion that sustainable development is a principle of international law by calling it a concept.²⁵

15 *Agenda 21*, above n 2, 3.

16 *Ibid.*

17 *United Nations Report of the World Summit on Sustainable Development* <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/NO2/639/93/PDF/NO263693.pdf?OpenElement>>.

18 World Summit on Sustainable Development *Plan of Implementation*, [2].1.1.5 <http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf>.

19 *Ibid.*

20 *Ibid.*

21 *The Future We Want*, above n 1, [19].

22 See Laura Horn ‘Emerging Trends in Sustainable Development: The International Initiatives’ [2002] *Australian International Law Journal* 24, 26.

23 Patricia Birnie, Alan Boyle and Catherine Redgwell, *International Law and the Environment* (Oxford University Press, 3rd ed, 2009) 125-126.

24 *Case Concerning the Gabčíkovo-Nagymaros Project* (Hungary v Slovakia) (Judgment) 37 ILM 162, 201 (1988) [140] <<http://www.icj-cij.org/docket/files/92/7375pdf>>.

25 Afshin A-Khavari and Donald Rothwell, ‘The ICJ and the Danube Dam Case: A Missed Opportunity for International Environmental Law?’ (1998) 22 (3) *Melbourne University Law Review* 507, 520.

This concept is also referred to in international environmental conventions including the *United Nations Framework Convention on Climate Change*²⁶ and the *Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification*.²⁷ The study of this concept illustrates the difficulty for new fields of international law that rely primarily on the development of ‘soft law’ agreements to influence and change state policy and practice with the potential for some concepts to eventually become part of international customary law. Some commentators have pointed out that sustainable development is a policy which can lead to changes in existing law.²⁸ Arguably, the abovementioned sustainable development programs should extend beyond this application as merely policy, to instead require action by states because they are designed to change the way that humans live in the future in order to prevent irreversible environmental destruction.

Clearly, there has been a failure to achieve much progress on the implementation of earlier commitments to sustainable development since the United Nations Conference on Environment and Development in 1992.²⁹

We acknowledge that since 1992 there have been areas of insufficient progress and setbacks in the integration of the three dimensions of sustainable development, aggravated by multiple financial, economic, food and energy crises, which have threatened the ability of all countries, in particular developing countries, to achieve sustainable development.³⁰

One of the problems has been the failure to focus on the environmental pillar³¹ so global environmental degradation has continued to occur and will eventually lead to further deterioration of economic and social conditions for human beings. Evidence of continuing degradation is contained in the OECD *Environmental Outlook to 2050* report which points out that it is critical for action to be taken now to prevent further environmental deterioration, and that postponing action will result in increasing costs, weak growth and the risk of future catastrophic changes to the environment.³² Another problem is that even though there have been a number of agreements on sustainable development during the past twenty years, these agreements lack binding international standards and permit states to have a broad discretion to adopt policies that suit their circumstances.

The outcome of the Rio+20 Conference in June 2012 is another non-binding agreement called *The Future We Want*. Once again, state governments claim that they are trying to achieve a sustainable future for present and future generations and the planet. They aim to increase their efforts to eradicate poverty and they call for ‘a holistic approach to sustainable development which will guide humanity to live in harmony with nature.’ Two main themes at the Rio+20 Conference were the promotion of the green economy, and the strengthening of the international institutional framework for sustainable development.

It is likely that the outcomes of the Rio+20 Conference over the next decade will again result in little progress as these commitments are not binding and are worded in such broad and general terms that it is difficult to know what action is required. States are proposing the

26 *United Nations Framework Convention on Climate Change* opened for signature 9 May 1992, 1771 UNTS 107, (entered into force 21 March 1994) art 2.

27 *Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification* opened for signature 14 October 1994, 1954 UNTS 3 (entered into force 26 December 1996) art 2(1).

28 Birnie et al, above n 23, 127. See Marie-Claire Cordonier Segger and Ashfaq Khalfan, *Sustainable Development Law Principles, Practices and Prospects* (Oxford University Press, 2004) 45 ‘Sustainable development has been accepted as a global policy’.

29 *The Future We Want*, above n 1, [19].

30 Ibid [20].

31 Rio+20 United Nations Conference on Sustainable Development, *The History of Sustainable Development in the United Nations* (20-22 June 2012) <<http://www.uncsd2012.org/rio20/history.html>>.

32 OECD, above n 7, 26.

development of a green economy in the context of sustainable development and the reform of sustainable development institutions to adopt more effective governance. However the words ‘green economy’ are not defined in the agreement and some of the main proposals for institutional reforms are left to further negotiation by states in the future. One possible method that could improve sustainable development outcomes is for schools and universities to focus on education that encourages all individuals to take action on sustainable development because education can promote sustainable development and improve the ability of people to deal with environment and development concerns.

III. EDUCATION AND SUSTAINABLE DEVELOPMENT

Education plays a key role in the achievement of sustainable development and can encourage public participation as well as ensure that all individuals and major groups make progress on sustainable development objectives. *Agenda 21* indicates that education is essential to changing individual’s views so that they become aware of environmental ethics, are encouraged to take action to address sustainable development issues and effectively participate in decision-making.³³

The United Nations General Assembly declared that 2005 -2014 is the ‘Decade of Education for Sustainable Development’ and noted the significant role which education plays in achieving sustainable development.³⁴ The aim is to integrate principles and values of sustainable development into all areas of education.³⁵ Education for sustainable development is:

‘[T]ransformative learning. It promotes a sense of both local and global responsibility, encourages future-oriented and critical thinking, integrates traditional knowledge, builds recognition of global interdependence and promotes reflection on new lifestyles that combine well-being, quality of life, and respect for nature and other people.’³⁶

The aim of education for sustainable development is to achieve a transformation in the way that people think about their relationship to the environment and to encourage everyone to change their behaviour and attitude so that all individuals can contribute to the achievement of sustainable development goals.³⁷ The shortcomings of the reliance on state government to negotiate effective environmental international agreements has led to the development of civil society initiatives from members of the public, organisations and NGOs. One example is the inadequacy of the present international legal regime on climate change:

[T]he short term effectiveness of the international climate change regime must be called into question. Global GHG [greenhouse gas] emissions continue to increase, and although the precise meaning of “dangerous anthropogenic interferences with the climate system” has yet to be defined, preventing such interference is generally expected to involve emission reductions well beyond the level called for in the Kyoto Protocol.³⁸

33 *Agenda 21*, above n 2, [36.3]. ‘It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making.’ See also World Summit on Sustainable Development Plan of Implementation above n 18, [116].

34 United Nations General Assembly Resolution 57/254 Fifty-seventh session, Second Committee Agenda item 87 (a) Environment and Sustainable Development: Implementation of Agenda 21 and the Programme for the Further Implementation of Agenda 21.

35 United Nations General Assembly Distr.: General 4 August 2010, Sixty-fifth session, Item 20(h) of the preliminary list ‘Mid-Decade Review of the United Nations Decade of Education for Sustainable Development, 2005-2014’ Note by the Secretary-General, [2].

36 *Ibid* [8].

37 *Ibid* [74].

38 Michele Betsill , ‘International Climate Change Policy: Toward the Multilevel Governance of Global Warming’ 111,124 in Regina Axelrod, Stacy Vandever and David Downie (eds), *The Global Environment Institutions, Law and Policy* (CQ Press, 3rd ed, 2011) 111, 124.

An illustration of civil society engagement that fosters an ethical approach to sustainable development is through the development of the Earth Charter.

IV ETHICS – THE EARTH CHARTER

In 1990, the Association of Universities for a Sustainable Future drafted the Talloires Declaration³⁹ Ten Point Action Plan to encourage universities from all around the world to take action because of concern about the degradation of the environment and the depletion of natural resources. The universities in this declaration agreed on a number of proposals including action to ‘increase awareness of environmentally sustainable development, create an institutional culture of sustainability and educate for environmentally responsible citizenship’.⁴⁰ This Association of Universities for a Sustainable Future also supports the Earth Charter as a resource to advance sustainable development in higher education.⁴¹

The development of a charter was recommended in the Brundtland Report,⁴² however negotiations amongst states at the United Nations Conference on Environment and Development (UNCED) in 1992 failed to agree on an intergovernmental charter of environmental ethics.⁴³ In order to further this project, the Earth Charter Commission was formed and the drafting process for a new charter was undertaken by many groups from different communities in over forty countries. So the present Earth Charter is aimed at people rather than governments⁴⁴ and is not an international agreement negotiated by states. However this charter influences civil society as an ethical guide and covers four key themes: ‘respect and care for the community of life’, ‘ecological integrity’, ‘social and economic justice’ and ‘democracy, non-violence and peace’.⁴⁵

The Earth Charter has adopted an intrinsic view of the environment as Bosselmann indicates in the following quote:

Environmental concerns are perceived differently from social and economic concerns. The environment is not perceived as the resource base for human consumption and not as one of three equally important factors, but as the basis of all life. This shift from a narrow human-centred to a broader life-centred perspective is expressed in respect and care for the community of life and ecological integrity as the two overarching principles of governance.⁴⁶

The Earth Charter bases its ethics on ecological integrity and has been adopted by a number of communities, cities, governments as well as by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the International Union for the Conservation of Nature (IUCN).⁴⁷ The ethical challenge for sustainable development education⁴⁸ and the goal of the current UN Decade of Education for Sustainable Development is to ‘integrate the values inherent

39 Association of Universities for a Sustainable Future *The Talloires Declaration* <http://www.ulsf.org/programs_talloires.html>. There are 350 signatories including 21 from Australia. See <http://www.ulsf.org/programs_talloires_signatories.html#Australia>.

40 Ibid.

41 Ibid.

42 Brendan Mackay, ‘The Earth Charter, Ethics and Global Governance’ in Laura Westra, Klaus Bosselmann and Richard Westra (eds), *Reconciling Human Existence with Ecological Integrity* (Earthscan, 2008) 61, 64.

43 The Earth Charter Initiative, *Values and Principles to Foster a Sustainable Future* <<http://www.earthcharterinaction.org/content/>>.

44 Mackay, above n 48, 64.

45 Ibid 63.

46 Klaus Bosselmann, *Principles of Sustainability: Transforming Law and Governance* (Ashgate Publishing Group, 2008) 178.

47 Laura Westra and Klaus Bosselmann, ‘Introduction’ in Laura Westra, Klaus Bosselmann and Richard Westra (eds), *Reconciling Human Existence with Ecological Integrity* (Earthscan, 2008) 3, 4.

48 See UNESCO *Globalization and Education from Sustainable Development Sustaining the Future* (International Conference 28-29 June 2005 Nagoya Japan), 12 <<http://unesdoc.unesco.org/images/0014/001492/149295e.pdf>>.

in sustainable development into all aspects of learning to encourage changes in attitudes and behaviour that allow for a more sustainable and just society for all.⁴⁹ UNESCO has a leadership role to play in education for sustainable development and views education as vital to achieving sustainable development because presently there is a lack of knowledge about how to deal with global environmental, economic and social crises. Education of present and future leaders can lead to the development of solutions to these problems.⁵⁰

The Earth Charter is a useful guide about global ethics for sustainability and could possibly form a foundation for a new UN legally binding agreement on environment and development.⁵¹ This charter has been used in teaching programs⁵² and has the potential to influence public ethics and the education of individuals about sustainable development in the future.

The Future We Want shows this movement towards an ethical shift is also influencing agreements at the international level. The wording of this agreement demonstrates an intrinsic view of the relationship of humans with nature and the following paragraph reflects a change in attitude by humans to way they live in their natural environment:

We recognize that planet Earth and its ecosystems are our home and that “Mother Earth” is a common expression in a number of countries and regions, and we note that some countries recognize the rights of nature in the context of the promotion of sustainable development. We are convinced that in order to achieve a just balance among the economic, social and environmental needs of present and future generations, it is necessary to promote harmony with nature.⁵³

An understanding of these ethical changes could be incorporated into programs designed for sustainable development education to encourage a change in attitude by students to their relationship with their environment.

The Rio+20 Conference and the publicity associated with this conference provided an opportunity for civil society to engage with sustainable development issues. Many higher education institutions made voluntary commitments to the Higher Education Sustainability Initiative at the Rio+20 Conference.⁵⁴ This initiative included a declaration that the higher education institutions would teach sustainable development concepts across all disciplines⁵⁵ and promoted a broad view of education for sustainable development:

Education for sustainable development aims at enabling everyone to acquire the values, competencies, skills and knowledge necessary to contribute to building a more sustainable society. This implies revising teaching content to respond to global and local challenges. It should

49 Ibid 17.

50 UNESCO *Education for Sustainable Development* <<http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-sustainable-development/education-for-sustainable-development/>>.

51 Mackay, above n 48, 69.

52 Ibid 64.

53 *The Future We Want*, above n 1, [39].

54 Rio + 20 UN Conference on Environment and Development, *Voluntary Commitments* <<http://www.uncsd2012.org/allcommitments.html>> and for a list of institutions see <<http://rio20.euromed-management.com/roll-of-commitments-2/>>.

55 Rio + 20 UN Conference on Environment and Development, *Higher Education Sustainability Initiative for Rio +20* <http://www.uncsd2012.org/rio20/hei_engage.html> ‘As Chancellors, Presidents, Rectors, Deans and Leaders of Higher Education Institutions and related organizations, we acknowledge the responsibility that we bear in the international pursuit of sustainable development. On the occasion of the United Nations Conference on Sustainable Development, held in Rio de Janeiro from 20-22 June 2012, we agree to support the following actions: Teach sustainable development concepts, ensuring that they form a part of the core curriculum across all disciplines so that future higher education graduates develop skills necessary to enter sustainable development workforces and have an explicit understanding of how to achieve a society that values people, the planet and profits in a manner that respects the finite resource boundaries of the earth. Higher Education Institutions are also encouraged to provide sustainability training to professionals and practitioners.’

also promote teaching methods that enable students to acquire skills such as interdisciplinary thinking, integrated planning, understanding complexity, cooperating with others in decision-making processes, and participating in local, national and global processes towards sustainable development.⁵⁶

In addition to these higher education commitments at the Rio+20 Conference, developments have occurred through a civil society movement that have encouraged universities to adopt short, medium and long term actions on sustainable development in education.

V IMPLICATIONS FOR UNIVERSITY EDUCATION

Concerned citizens decided to galvanise civil society in order to progress the sustainable development agenda by forming a strategy that advances a Global Citizens Movement.⁵⁷ This engagement led to proposals to organise global civil society and the development of a Global Citizens Movement⁵⁸ that would unify the global society on sustainable development. Indeed, the Global Citizens Movement is occurring because of the failure of state governments to develop effective governance of institutions at the international level that could implement sustainable development agreements. Fortunately, this reluctance of governments to advance sustainable development objectives has not deterred the civil society movement from taking positive action. This civil society movement has led to the drafting of a number of peoples' treaties on sustainable development issues to encourage organisations and the public to make progress on sustainable development action. The Peoples' Sustainability Treaties⁵⁹ create a platform to enable a collective voice of civil society and allow participation by the public in a number of areas of sustainable development. Some of these areas include consumption and production, sustainable development governance and corporate social responsibility. These peoples' treaties are not international legal agreements and are not binding, but they have the potential to impact on a number of areas concerning sustainable development including education at universities.

VI PEOPLE'S SUSTAINABILITY TREATY ON HIGHER EDUCATION

The Peoples' Sustainability Treaty on Higher Education indicates that there should be changes in five areas for educational institutions such as universities. These areas are: cultural change, campus management, curriculum, community engagement and connecting the system (where policies are aligned with sustainable development objectives). This treaty was drafted with input from higher education agencies and organisations together with student bodies.⁶⁰

The signatories to this people's treaty⁶¹ commit to a number of actions to achieve these changes with immediate, short-term (by 2013), medium-term (2012-2015) and long-term

56 Ibid.

57 Peoples' Sustainability Treaties, *People's Sustainability Treaties-Synthesis Report for Rio +20* (13 June/2012) <<http://sustainabilitytreaties.org/draft-treaties/synthesis-report/>>.

58 Peoples' Sustainability Treaties, *People's Sustainability Treaties Alternative Pathway for a Sustainable Transition* <<http://sustainabilitytreaties.org/movement/>>.

59 Peoples' Sustainability Treaties, *People's Sustainability Treaties- Treaties@Rio+20* <<http://sustainabilitytreaties.org/draft-treaties/>>.

60 Peoples' Sustainability Treaties, *People's Sustainability Treaty on Higher Education*, Preamble, foreword <<http://sustainabilitytreaties.files.wordpress.com/2012/05/peoples-sustainability-treaty-on-higher-education-draft-for-rio20.pdf>>. The Treaty has been drafted by representatives from twenty five higher education agencies, organisations, associations and student groups rooted in different parts of the world.'

61 Rio+20 UN Conference on Sustainable Development *People's Sustainability Treaty on Higher Education* <<http://www.uncsd2012.org/index.php?page=view&type=1006&menu=153&nr=135>>. This site lists organisations making the commitment to the *People's Sustainability Treaty on Higher Education* including for example: the Copernicus Alliance, The China Green University Network and UNESCO Chairs of Higher Education.

(2016-2025) actions. As far as curriculum is concerned, a university that is a signatory to this agreement should take action in the short-term to provide ‘supportive frameworks for embedding education for sustainable development competencies within higher education experiences.’⁶² A medium-term action is to mainstream education for sustainable development in national education programs and to ensure sustainability literacy and engagement is an integral part of all curriculums.⁶³ In the long-term, the aim is to embed education for sustainability competencies within teaching and learning programs and to enable all staff and students to engage with this agenda.⁶⁴ So there are proactive movements in civil society to encourage changes that promote sustainable development as part of the curriculum.

The University of Western Sydney (UWS) is an example of an Australian university that will promote these changes. The United Nations University approved the establishment of a Regional Centre of Expertise on Education for Sustainable Development in the Greater Western Sydney region.⁶⁵ UWS has also endorsed the Peoples’ Sustainability Treaty on Higher Education and this treaty has implications both for ensuring the campus is setting sustainability priorities in campus management (such as energy efficiency) and also for development of the curriculum and research. The aim of the university is to reorient curriculum to align with sustainable development in the future. This will be achieved through encouragement for students to participate in existing sustainable development units⁶⁶ and the adoption of new courses. It is probable that a number of other universities in Australia⁶⁷ and overseas will adopt similar practices in the future.

VII UNIVERSITIES IN AUSTRALIA

Education in sustainable development is necessary for all major groups and individuals to play a role in furthering sustainable development. The challenge to promote education for sustainable development in universities is acknowledged in *The Future We Want*:

We strongly encourage educational institutions to consider adopting good practices in sustainability management on their campuses and in their communities with the active participation of, inter alia, students, teachers and local partners, and teaching sustainable development as an integrated component across disciplines.⁶⁸

The Australian Government action plan, *Living Sustainably: The Australian Government’s National Action Plan for Education for Sustainability* is a framework for national action that sets out strategies covering education for sustainability and will enable all Australians to

62 Peoples’ Sustainability Treaties, *People’s Sustainability Treaty on Higher Education*, 7 short term action 2

<<http://sustainabilitytreaties.files.wordpress.com/2012/05/peoples-sustainability-treaty-on-higher-education-draft-for-rio20.pdf>>.

63 Ibid 8 medium-term action 4.

64 Ibid long-term action goal 3.

65 University of Western Sydney, *UWS Sustainability March Bulletin*

<http://www.uws.edu.au/_data/assets/pdf_file/0003/292836/final_feb_newsletter.pdf>.

66 University of Western Sydney, *Sustainability UWS Curriculum* <<http://www.uws.edu.au/sustainability>> ‘The University has a wide range of units of study, majors and sub-majors which focus on issues of social, economic and environmental sustainability.’

67 See *United Nations Commitment to the Sustainable Practices of Higher Education Institutions Initiative*

<<http://www.universitiesaustralia.edu.au/page/policy---advocacy/international/un-commitment-to-the-sustainable-practices-of-higher-education-institutions-initiative/>> ‘Universities Australia (UA) has endorsed the ‘Commitment of Sustainable Practices of Higher Education Institutions on the Occasion of the United Nations Conference on Sustainable Development in Rio 2012’.

68 *The Future We Want*, above n 1, [234].

have knowledge and skills necessary for living sustainably.⁶⁹ This action plan forms part of Australia's participation to the UN Decade of Education for Sustainable Development.⁷⁰ The second strategy in this plan is called 'reorienting education systems to sustainability'.⁷¹ Action required to implement this strategy including the development of a program to support change for sustainability throughout universities including: research, teaching and learning, as well as management of the campus.⁷² This approach should be adopted in universities in Australia where sustainability units could be taught as part of the curriculum in all university degrees.

The success of achieving action on sustainable development requires actions by all individuals, companies and organisations⁷³ so academics at law schools in Australia could consider methods for implementing changes to the curriculum.

VIII THE CONCEPT OF SUSTAINABLE DEVELOPMENT IN AUSTRALIAN LAW SCHOOLS

To date, the legal profession and academics have generally been reluctant to incorporate sustainable development units as a compulsory requirement of the legal curriculum. However this debate should be on the reform agenda as the Australian government has flagged that sustainability can be incorporated into professional learning qualifications (including law) as part of the focus on sustainability education in the National Action Plan on Education for Sustainable Development:

2.2.4 Sustainability for key professions

The Australian Government will work with appropriate partners to promote integration of sustainability into professional learning qualifications and university degree accreditation. This project will research incorporating sustainability into university courses for key professions such as engineering, accountancy, economics, law, architecture, planning and teaching. Priority will be given to those professions with the greatest and most immediate impact on sustainability outcomes. This work will build on the existing work of the Australian Research Institute in Education for Sustainability with business schools and teacher education institutions.⁷⁴

The concept of sustainable development is usually taught in law schools as part of units that are electives such as environmental law⁷⁵ or international environmental law. However all law students would benefit from learning about the objectives of sustainable development and the ethics of living a sustainable lifestyle because these skills and values will enable them to engage in public participation in decision-making,⁷⁶ it is recommended that law schools include environmental law as a compulsory unit in their legal programs, indeed, Southern Cross University is an example of a university that does so.⁷⁷

69 *Living Sustainably: The Australian Government's National Action Plan for Education for Sustainability*, 4 <<http://www.environment.gov.au/education/nap/>> ('Living Sustainably').

70 *National Action Plan for Education for Sustainability* <www.environment.gov.au/education/nap/>.

71 *Living Sustainably*, above n 75, 21.

72 *Ibid* 23 [2.2.1].

73 See *Agenda 21*, above n 2, [23.2], [36(5) (i)].

74 *Living Sustainably* above n 75, 23.

75 Leading environmental law text books in NSW include a discussion about ecological sustainable development see Gerry Bates, *Environmental Law in Australia* (LexisNexis Butterworths, 7th ed, 2010) chapter 7, Rosemary Lyster et al, *Environmental and Planning Law in NSW* (The Federation Press, 2nd ed, 2009) 21, David Farrier and Paul Stein, *The Environmental Law Handbook* (Redfern Legal Centre Publishing 5th ed, 2011) 8.

76 *Agenda 21*, above n 2, [36.3].

77 Southern Cross Arts/Law

<http://www.scu.edu.au/coursesin2013/?action=matrix&command=matrix_temp_load&spk_no=10237>.

Certainly there should be a requirement that students study environmental law or international environmental law as part of their law degree because these units incorporate the study of sustainable development. Some academics may argue that there is justification for their particular area of expertise to be included as part of the law curriculum instead of environmental law. Arguably, the present generation of academics would be remiss not to take into account the issue of education for sustainable development in the near future because continuing environmental deterioration and accompanying economic and social problems are likely to have serious consequences for the well-being of future generations who will not have access to the wealth of natural assets that the present generation enjoys. According to the Executive Summary of the OECD *Environmental Outlook to 2050* report:

Over the last four decades, human endeavour has unleashed unprecedented economic growth in the pursuit of higher living standards. While the world's population has increased by over 3 billion people since 1970, the size of the world economy has more than tripled. While this growth has pulled millions out of poverty, it has been unevenly distributed and incurred significant cost to the environment. Natural assets have been and continue to be depleted, with the services they deliver already compromised by environmental pollution. Providing for a further 2 billion people by 2050 and improving the living standards for all will challenge our ability to manage and restore those natural assets on which all life depends. Failure to do so will have serious consequences, especially for the poor, and ultimately undermine the growth and human development of future generations.⁷⁸

Education for sustainable development is a necessity for the next generation of lawyers who live in a world where the problems concerning legal protection of the environment are not confined to the boundaries of one country particularly concerning areas that are shared such as the climate. Presently, the focus of legal education on the Priestley 11 requirements that set out bodies of substantive law in detail as necessary for legal curriculums, are out of date. This reliance on a list of substantive law requirements has failed to take into account major changes in society,⁷⁹ so it is timely to reconsider the future direction of legal education in Australia.

It is preferable that these new programs should encourage an education that takes an ethical approach to sustainable development. Legal academics should consider changes to the curriculum to ensure that students can study a sustainable development unit with an understanding of ethical issues concerning the protection of the local, regional and global environment. New curriculum development and innovative teaching methods could encourage effective learning outcomes on this topic. One initiative is to engage students in public participation in sustainability projects. The University of Western Sydney in partnership with two other organisations is working to protect the health of the Hawkesbury-Nepean River by providing monitoring through the Hawkesbury River Waterkeeper.⁸⁰ This organisation can also provide opportunities for student involvement in community responses where the health of the river is under threat.

A focus on education for sustainable development could lead to the education of globally responsible law leaders, innovative thinkers and lawyers who will be able to develop legal frameworks to deal with global environmental challenges such as climate change and loss of biological diversity.

78 OECD, above n 7, 26.

79 See Australian Law Reform Commission *Managing Justice: A Review of the Federal Civil Justice System* Report No 89 (2000) [2.82].

80 "Hawkesbury River Waterkeeper" <<http://www.uws.edu.au/sustainability/sustainability/water>>. See Donna Craig and Michael Jeffrey, 'Non-lawyers and legal regimes: Public participation for Ecologically Sustainable Development' in David Leary and Balakrishna Pisupati, *The Future of International Environmental Law* (United Nations Press, 2010) 103, 119.

IX CONCLUSION

The reasons for the emphasis on education in recent sustainable development initiatives are to encourage the development of globally responsible citizens and to educate future leaders on environmental, economic, and social issues of global concern. Many of these developments in education are now being adopted by some universities even though state governments have not succeeded in negotiating binding international agreements on sustainable development. Consequently, civil society, organisations, NGOs and other environmental groups are now taking the initiative to progress sustainable development objectives. This is an indication of a global social civil society movement⁸¹ dedicated to change and taking positive action on sustainable development because of the failure of governance at the international level.

The global effects of social, economic and environmental changes are rapidly impacting on Australian society and in the light of these developments the Australian government has endorsed education for sustainable development. Clearly, leaders in the legal profession, law reformers and academics can discuss these issues when considering curriculum and the training of future lawyers as ethical global citizens for the benefit of our future global society.

The challenge for educating lawyers with a global outlook is that the real question is not how to provide lawyers with the tools to adapt legal concepts through comparative law or international law to improve the Australian legal system. Rather, the challenge is to educate lawyers as global citizens who have an ethical view of respect for nature⁸² with a desire to contribute to solutions for the legal protection of the global environment.

81 See Peoples' Sustainability Treaties, *People's Sustainability Treaties Alternative Pathway for a Sustainable Transition* < <http://sustainabilitytreaties.org/movement/> >.

82 See Bosselmann, above n 52.