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Intersections of Environmental Justice and
Sustainable Development*Framing the Issues**Sumudu A. Atapattu, Carmen G. Gonzalez, and Sara L. Seck*

1.1 INTRODUCTION

Humanity stands at a critical juncture. It has entered a new geologic era called the “Anthropocene,”¹ in which unbridled economic activity threatens irreversible ecological harm. In the name of “development,” human beings have caused massive ecosystem destruction and species extinction, disrupted the planet’s climate, and generated vast amounts of toxic waste – exceeding the assimilative and regenerative capacity of nature.

Global statistics are sobering. The world has entered a sixth wave of mass extinction where, according to some estimates, 27,000 species vanish every year² and about one million species currently face extinction.³ Climate change is accelerating more rapidly than scientists predicted, leading the World Meteorological Organization to warn that lack of aggressive mitigation measures will likely result in a catastrophic temperature increase of 3–5 degrees Celsius (5.4–9.0 degrees Fahrenheit) above preindustrial levels by 2100.⁴ In 2016, the world generated 242 million tons of plastic waste.⁵ If present trends continue, there will be more plastic in the oceans than fish by 2050.⁶ Between 1945 and the present, the worldwide generation of hazardous

¹ See P. J. Crutzen, “Geology of Mankind – The Anthropocene” (2002) 415 *Nature* 23; C. Gonzalez, “Global Justice in the Anthropocene,” in L. Kotzé (ed.), *Environment Law and Governance for the Anthropocene* (Oxford: Hart, 2017); C. Jefferies, S. L. Seck, and T. Stephens, “International Law, Innovation, and Environmental Change in the Anthropocene,” in N. Craik, C. Jefferies, S. L. Seck, and T. Stephens (eds.), *Global Environmental Change and Innovation in International Law* (Cambridge, UK: Cambridge University Press, 2018), pp. 1–18.

² See E. O. Wilson, “The Diversity of Life 280 (1992),” referred to in D. Hunter, J. Salzman, and D. Zaelke, *International Environmental Law and Policy* 5th ed. (Sunderland, UK: Foundation Press, 2015), p. 8.

³ E. S. Brondizio, J. Settele, S. Díaz, and H. T. Ngo (eds.), “Global Assessment Report on Biodiversity and Ecosystem Services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services” (IPBES secretariat, Bonn, Germany: IPBES, 2019), p. 12.

⁴ “Global Temperatures on Track for 3–5 Degree Rise by 2100: U.N.,” Nov. 29, 2018, www.reuters.com/article/us-climate-change-un/global-temperatures-on-track-for-3-5-degree-rise-by-2100-u-n-idUSKCNiNY186. See also, World Bank, “Series: Turn Down the Heat,” www.worldbank.org/en/topic/climatechange/publication/turn-down-the-heat.

⁵ The World Bank, “Global Waste to Grow by 70 Percent by 2050 Unless Urgent Action Is Taken: World Bank Report,” Sept. 20, 2018, www.worldbank.org/en/news/press-release/2018/09/20/global-waste-to-grow-by-70-percent-by-2050-unless-urgent-action-is-taken-world-bank-report.

⁶ R. Harrington, “By 2050, the Oceans Could Have More Plastic than Fish,” Jan. 26, 2017, www.businessinsider.com/plastic-in-ocean-outweighs-fish-evidence-report-2017-1.

waste increased from 5 million to 400 million tons *per year*.⁷ Much of this waste is generated in affluent countries (the Global North) and is exported to poor and middle-income countries (the Global South) for disposal⁸ – a practice that has been denounced as “toxic colonialism.” From heavy metals in soils to the chemical contamination of air and water, the extraction of wealth from nature and the disposal of wastes has rendered some places on earth so toxic that they are not suitable for human habitation.⁹ Every year, air pollution kills more than seven million people, while lack of access to fresh water and sanitation has been linked to the death of five million people per year.¹⁰

It is important to recognize that not every person or every state contributed equally to environmental destruction. Nor do all segments of society lead unsustainable lifestyles. Sadly, those who contributed the least to environmental degradation are disproportionately exposed to the resulting harm. In affluent and impoverished countries alike, it is the poor and vulnerable who pay the price for the consumption-driven lifestyles of national and global elites. This imbalance between those who benefit from economic activity and those who bear its adverse social and environmental impacts is one of the hallmarks of environmental injustice.

This volume seeks to examine the complex and multidimensional forms of oppression that produce environmental injustice at the national and international level and the legal frameworks and strategies that have been deployed to combat these injustices. The goal is to develop a more robust conception of environmental justice by engaging with the literature on sustainable development and human rights – particularly the often-neglected social pillar of sustainable development. As many of the case studies in this volume illustrate, environmental justice struggles overlap with struggles for other forms of justice. Despite these overlaps and intersections, the literature on environmental justice often treats them as single, isolated challenges without taking the larger context and underlying historical causes into consideration. As a result, the “solutions” that are adopted or proposed do not address the structural issues that give rise to intersecting forms of injustice, many of them dating back to the colonial era.¹¹ And the separation of environmental law from other bodies of law makes it impossible to address the root causes of many of these injustices in economic, trade, and investment law.¹²

This chapter proceeds as follows. Section 1.2 describes the evolution of the concept of sustainable development from the 1987 report of the World Commission on Environment and Development (WCED) to the Sustainable Development Goals (SDGs). It discusses contemporary degrowth and green growth movements, before introducing the relatively novel concept of just sustainabilities, a synthesis of environmental justice and sustainable development. Section 1.3 defines environmental justice and discusses its relationship to human rights and the social pillar of sustainable development, reflecting on which dimensions of environmental justice are well reflected in this book and which proved more difficult to address. Section 1.4 then provides an outline of the volume, and assesses limitations, challenges, and areas for further research.

⁷ The World Counts, “Hazardous Waste Statistics,” www.theworldcounts.com/counters/waste_pollution_facts/hazardous_waste_statistics.

⁸ The disposal of hazardous waste can cost as much as US\$2,000 per ton in developed country versus just US\$40 per ton in Africa (Hunter et al., note 2, p. 11).

⁹ For example, La Oroya in Peru, the site of a lead smelter, is regarded as one of the world’s most polluted places. B. Walsh, “The World’s Most Polluted Places: La Oroya, Peru,” http://content.time.com/time/specials/2007/article/0,28804,1661031_1661028_1661020,00.html.

¹⁰ See Hunter et al., note 2, p. 15.

¹¹ See Chapters 3 and 18 in this volume.

¹² See *ibid.*, Chapters 5 and 29.

1.2 SUSTAINABLE DEVELOPMENT FROM BRUNDTLAND TO THE SDGS

Prior to the advent of sustainable development, the right to development was promoted by the Global South as a manifestation of their right to self-determination.¹³ The right to development and sustainable development operated in parallel until the adoption of the SDGs in 2015.¹⁴ Sustainable development has emerged as the overarching framework for environmental governance¹⁵ and a potential alternative to the dominant economic development paradigm.¹⁶ It has come a long way since it was first popularized by the 1987 report of the WCED, also known as the Brundtland Commission.¹⁷

Defined as “development that meets the needs of the present without compromising the ability of future generations to meet their needs,”¹⁸ sustainable development initially required the balancing of two pillars – economic development and environmental protection.¹⁹ The binary nature of sustainable development was modified at the 1995 World Summit for Social Development, which added a third pillar: social development.²⁰ As explained in the Summit’s Declaration:

[E]conomic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve a higher quality of life for all people. Equitable social development that recognizes empowering of the poor to utilize environmental resources sustainably is a necessary foundation for sustainable development. We also recognize that broad-based and sustained economic growth in the context of sustainable development is necessary to sustain social development and social justice.²¹

Influenced by the Copenhagen Declaration, the 2002 Johannesburg Declaration on Sustainable Development²² affirmed “collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development – economic development, social development and environmental protection – at the local, national, regional and global levels.”²³

¹³ See K. Mickelson, “The Stockholm Conference and the Creation of the South–North Divide in International Environmental Law,” in S. Alam, S. Atapattu, C. G. Gonzalez, and J. Razzaque (eds.), *International Environmental Law and the Global South* (Cambridge, UK: Cambridge University Press, 2015), p. 109.

¹⁴ R. Gordon, “Unsustainable Development,” in Alam et al., note 13, p. 50. See UN General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, Oct. 21, 2015, UN Doc. A/RES/70/1.

¹⁵ See Hunter et al., note 2, p. 114.

¹⁶ See UN World Commission on Environment and Development, *Our Common Future, Report of the World Commission on Environment and Development* (Oxford: Oxford University Press, 1987).

¹⁷ Ibid.

¹⁸ Ibid., p. 43.

¹⁹ Ibid.

²⁰ UN, *Report of the World Summit for Social Development, Copenhagen*, Mar. 6–12, 1995, UN Doc. A/CONF.166/9 [Copenhagen Declaration].

²¹ Ibid.

²² UN World Summit on Sustainable Development, *Johannesburg Declaration on Sustainable Development*, Sept. 4, 2002, UN Doc. A/CONF.199/20.

²³ Ibid., para. 5. While the Copenhagen Declaration added the social pillar to sustainable development, Agenda 21 adopted at the 1992 United Nations Conference on Environment and Development (UNCED) recognized the importance of social development. It recognized the need to combat poverty, address consumption patterns, and protect health, as well as promoting sustainable human settlements as coming within the social

Thus, sustainable development now comprises three pillars and requires the balancing of all three. But what does social development mean? This third pillar remains under-theorized,²⁴ but seems to encompass basic human needs such as access to food, water, healthcare, shelter, and education.²⁵ The social pillar intersects with human rights because many of these basic needs are expressed in rights language.²⁶

The commitments made by states in the Copenhagen Declaration elucidate the meaning of the social pillar. These commitments include: creating an economic, political, social, cultural, and legal environment that will enable people to achieve social development; eradicating poverty; promoting the goal of full employment to enable men and women to attain sustainable livelihoods; promoting social integration by fostering societies that are stable, safe, and just, based on the promotion and protection of all human rights and nondiscrimination; promoting full respect for human dignity to achieve equality and equity between men and women; and promoting and attaining the goals of universal and equitable access to quality education and the highest attainable standard of physical and mental health.

Sustainable development is said to embrace the “triple bottom line approach to human wellbeing.”²⁷ It aims for a combination of economic development, environmental sustainability, and social inclusion. Social inclusion includes principles such as nondiscrimination, gender equality, and participation. While states have the “sovereign right to exploit their own resources pursuant to their own environmental and developmental policies,”²⁸ this right is neither absolute nor limitless and “cannot lawfully be exercised without regard for the detrimental impact on human rights or the environment.”²⁹

If sustainable development resembles a three-legged stool, giving equal weight to each leg (environmental protection, economic development, and social development) is necessary to ensure that the stool (sustainable development) is stable. However, this depiction of sustainable development has been criticized for placing humanity *outside* the environment and failing to encourage us to recognize our place within the biosphere:³⁰

[I]t perpetuates an even older myth that the environment is something apart from humanity, humanity’s economy, and its social well-being. We do not discuss whether sustainable development itself is an oxymoronic concept. We do assume that sustainable development represents a real change in the way humans choose to live so that the viability and subsistence of all living species and their places are ensured.³¹

and economic dimensions of sustainable development. UN Sustainable Development, “United Nations Conference on Environment and Development: Agenda 21, June 3–14, 1992.

²⁴ C. G. Gonzalez, “Environmental Justice, Human Rights and the Global South” (2015) 13 *Santa Clara Journal of International Law* 151.

²⁵ See Copenhagen Declaration, note 20.

²⁶ See J. Knox, “Human Rights, Environmental Protection and Sustainable Development Goals” (2015) 24 *Washington International Law Journal* 517 at 518 who argues that while (draft) SDGs set out many worthwhile goals, “the targets often do not contain language that is concrete and focused enough to effectively promote human rights or environmental protection.”

²⁷ See J. Sachs, “From Millennium Development Goals to Sustainable Development Goals” (2012) 379 *Viewpoint* 2206–2211 at 2206.

²⁸ UN General Assembly, *Rio Declaration on Environment and Development*, Aug. 12, 1992, UN Doc. A/CONF.151/26 (Vol. I), Principle 2.

²⁹ See P. Birnie, A. Boyle, and C. Redgwell, *International Law and the Environment* 3rd ed. (Oxford: Oxford University Press, 2009), p. 115.

³⁰ See N. Dawe and K. Ryan, “The Faulty Three-Legged-Stool Model of Sustainable Development” (2003) 17 *Conservation Biology* 1458.

³¹ *Ibid.*

In other words, “the environment is not and cannot be a leg of the sustainable development stool. It is the *floor* upon which the stool, or any sustainable development model, must stand.”³² Because humanity and the economy cannot survive without the ecosystem services provided by nature,³³ environmental protection must be the foundation of all development activities. Critics question whether we will ever understand our place on the planet and choose to live within the limits set by the biosphere. Perhaps we can do it, but not by relying on the three-legged stool model “because it continues to place us outside those limits. And while we may be able to think outside the limits, we cannot live outside the limits.”³⁴

In short, one of the most significant critiques of sustainable development is that it fosters the illusion of unlimited economic growth on a finite planet.³⁵ Critics point out that the concept of sustainable development has been deployed by global elites to continue to subordinate nature to the imperatives of economic growth, while ignoring ecological limits and planetary boundaries.³⁶ An economic model based on perpetual economic growth and unbridled extraction of wealth from nature is ill-suited for the achievement of sustainable development. Relying on the same system that created the problem to fix the problem is shortsighted, to say the least. The case studies in this volume illustrate how states continue to give primacy to economic development over environmental protection and social development – to the detriment of species, ecosystems, and vulnerable human beings.

In many respects, sustainable development came of age with the adoption of the 2030 Agenda for Sustainable Development, with its seventeen SDGs and 169 targets.³⁷ The SDGs build on the Millennium Development Goals (MDGs) and seek to complete what the MDGs failed to achieve. However, the SDGs go much further. Never before have world leaders pledged common action across such a broad and universal policy agenda based on economic, social, and environmental targets within a human rights framework. The SDGs seek to realize human rights for all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: economic, social, and environmental. Agenda 2030 further recognized that each country faces specific challenges in its pursuit of sustainable development and that vulnerable people must be protected, including children, youth, persons with disabilities, people living with HIV/AIDS, older persons, Indigenous peoples, refugees, and internally displaced persons, and migrants.

Unlike the MDGs, the 2030 agenda and the SDGs are explicitly based on human rights:

We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity. A world which invests in its children and in which every child grows up free from violence and exploitation. A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed. A just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.³⁸

³² Ibid. p. 1459.

³³ See Hunter et al., note 2.

³⁴ See Dawe and Ryan, note 30.

³⁵ See Gordon, note 14, pp. 50, 63–64; W. Haydn, *Demystifying Sustainability: Towards Real Solutions* (London: Earthscan, 2015), p. 36.

³⁶ M. Redclift and G. Woodgate, “Sustainable Development and Nature: The Social and the Material” 21 *Sustainable Development* 92–100 at 92.

³⁷ This section draws from S. Atapattu, “From ‘Our Common Future’ to Sustainable Development Goals: Evolution of Sustainable Development under International Law” (2019) 36 *Wisconsin International Law Journal* 215.

³⁸ UN General Assembly, note 14.

It remains to be seen how much progress the international community will make toward achieving the SDGs by 2030. Although reducing poverty and improving the living standards of people has been on the global agenda since the creation of the UN, over one billion people continue to live in poverty.³⁹ The problem is not the failure to generate wealth, but the uneven distribution of this wealth, including its concentration in fewer and fewer hands.⁴⁰ In addition, the SDGs continue to envisage economic growth as the primary engine of poverty reduction. Goal 8, for example, seeks to increase gross domestic product (GDP) growth in the least developed countries along with higher levels of economic productivity in all countries.⁴¹ By failing to acknowledge the need to reduce economic growth in affluent countries in order to improve living standards in poor countries without exceeding ecological limits, the SDGs “fail to reconcile the contradiction between growth and sustainability at the core of sustainable development.”⁴²

Because the current capitalist economic model, with its emphasis on unlimited growth, is the main cause of the current environmental crisis, scholars, activists, and grassroots environmental justice movements have begun advocating for “degrowth.”⁴³ The idea of degrowth is emerging as a response to the triple crisis – environmental, social, and economic – we are facing. Degrowth is slowing down economic growth based on the narrow economic measure of GDP growth,⁴⁴ which, as the feminist movement pointed out, does not value what is not in the market, such as unpaid domestic work and voluntary work.⁴⁵ It questions the way of life linked to growth and asks what makes people really prosperous?⁴⁶ The production of goods and services and improving standards of living is the focus of the current economic model. However, “the ecological crisis tells us that this story of social progress through economic growth is highly questionable.”⁴⁷ Sustainable degrowth is defined as: “[a]n equitable down-scaling of production and consumption that increases human well-being and enhances ecological conditions at the local and global level.”⁴⁸ Proponents of sustainable degrowth do not propose degrowth across the board; they recognize that certain social and small-scale economic activities and impoverished

³⁹ See FINCA, “World Poverty Facts,” https://finca.org/campaign/world-poverty/?gclid=CjwKCAiA58fvBRAzEiwAQW-lzefldCSFYqP7dqmdBtUEqVTn_ajwlyTEK5cbbMVsmPmmwo-Hx5kiuBoCa7wQAvD_BwE. However, according to the World Bank, “in 2015, 10 percent of the world’s population lived on less than \$1.90 a day, down from nearly 36 percent in 1990. Progress has been uneven, and the number of people in extreme poverty remains unacceptably high. Given growth forecasts, the world is not on track to end extreme poverty by 2030” (“Poverty at a Glance,” www.worldbank.org/en/topic/poverty).

⁴⁰ According to Oxfam, twenty-six billionaires currently control as much wealth as the poorest half of the world’s population. Oxfam, “Public Good or Private Wealth?” Jan. 2019, p. 12.

⁴¹ See Target 8.1, <https://sustainabledevelopment.un.org/sdg8#targets>.

⁴² S. Adelman, “The Sustainable Development Goals, Anthropocentrism and Neoliberalism,” in D. French and L. Kotzé (eds.), *Global Goals: Law, Theory & Implementation* (Cheltenham, UK: Edward Elgar, 2018), p. 34.

⁴³ F. Demaria, G. Kallis, and K. Bakker, “Geographies of Degrowth: Nowtopias, Resurgences and the Decolonization of Imaginaries and Places” (2019) 2 *ENE: Nature and Space* 431; B. Akbulut, F. Demaria, J. F. Gerber, and J. Martinez-Alier, “Who Promotes Sustainability? Five Theses on the Relationships between the Degrowth and Environmental Justice Movements” (2019) 165 *Ecological Economics* 106418.

⁴⁴ J. Martinez-Alier, “Environmental Justice and Economic Degrowth: An Alliance between Two Movements, Capitalism, Nature, Socialism” (2012) 23 *Capitalism Nature Socialism* 51.

⁴⁵ F. Schneider, G. Kallis, and J. Martinez-Alier, “Crisis or Opportunity? Economic Degrowth for Social Equity and Ecological Sustainability” (2010) 18 *Journal of Cleaner Production* 511.

⁴⁶ See C. Bauhardt, “Solutions to the Crisis? The Green New Deal, Degrowth, and the Solidarity Economy: Alternatives to the Capitalist Growth Economy from an Ecofeminist Economics Perspective” (2014) 102 *Ecological Economics* 60.

⁴⁷ *Ibid.*

⁴⁸ See Schneider et al., note 45, p. 512

groups or regions may still need to grow. However, growth that externalizes its costs elsewhere is not sustainable.⁴⁹

While there is an urgent need to reduce the overall consumption of resources, it is no secret that most of this consumption takes place in the Global North, while much of the world's population remains mired in poverty. As the Degrowth Declaration of 2008 recognized: "By using more than their legitimate share of global environmental resources, the wealthiest nations are effectively reducing the environmental space available to poorer nations, and imposing adverse environmental impacts on them."⁵⁰ The Declaration also recognized that global economic growth has not succeeded in reducing poverty, that "unequal exchange in trade and financial markets" has increased inequality between countries,⁵¹ and that we need to bring economic activity in line with the capacity of our ecosystems and to redistribute wealth and income globally.⁵² The Declaration defines degrowth as "a voluntary transition towards a just, participatory and ecologically sustainable society."⁵³ Degrowth must occur in wealthy parts of the world through a transformation of the global economic system. The objectives of degrowth are "to meet basic human needs and ensure a high quality of life, while reducing the ecological impact of the global economy to a sustainable level, equitably distributed between nations."⁵⁴

Thus, the objectives of sustainable development and degrowth are similar. Degrowth, with its emphasis on reducing consumption in affluent countries, advocates for an alternative economic model that respects planetary boundaries.⁵⁵ Sustainable development has a similar objective at least in theory, even though it has failed to explicitly call for degrowth.

A second approach to the interlocking economic and ecological crises is the concept of the "green economy" or "green growth," often used interchangeably. This approach ranges from a narrow emphasis on eco-industry and environmentally friendly production to a redefinition of a country's entire economy.⁵⁶ Between these two extremes are policies that promote low-carbon economies with dematerialization, decoupling of resource use and environmental impacts from economic growth, valuing ecosystem services, or simply increasing energy efficiency.⁵⁷ United Nations Environment Programme (UNEP) has been a great proponent of the green economy as "an engine for growth," generating jobs and eradicating poverty. It defines green economy as "one that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities."⁵⁸ According to UNEP:

In its simplest expression, a green economy can be thought of as one which is low carbon, resource efficient and socially inclusive. In a green economy, growth in income and employment should be driven by public and private investments that reduce carbon emissions and pollution, enhance

⁴⁹ Ibid.

⁵⁰ Research and Degrowth, "Degrowth Declaration of the Paris 2008 Conference" (2010) 18 *Journal of Cleaner Production* 523, s. 7. The Declaration was adopted at the Economic Degrowth for Ecological Sustainability and Social Equity Conference in Paris in April 2008.

⁵¹ Ibid., s. 3.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ See J. C. J. M. van den Bergh and G. Kallis, "Growth, A-Growth or Degrowth to Stay within Planetary Boundaries?" (2012) 46 *Journal of Economic Issues* 909–920; J. Martinez-Alier, "Environmental Justice and Economic Degrowth: An Alliance between Two Movements" (2012) 23 *Capitalism Nature Socialism* 51.

⁵⁶ O. Bina, "The Green Economy and Sustainable Development: An Uneasy Balance?" (2013) 31 *Environment and Planning C: Government and Policy* 1023 at 1024.

⁵⁷ Ibid.

⁵⁸ UN Environment Programme (UNEP), "Towards a Green Economy: Pathways to Sustainable Development and Poverty Eradication. A Synthesis for Policy Makers," 2011, p. 2; Bina, note 56.

energy and resource efficiency, and prevent the loss of biodiversity and ecosystem services. These investments need to be catalysed and supported by targeted public expenditure, policy reforms and regulation changes. The development path should maintain, enhance and, where necessary, rebuild natural capital as a critical economic asset and as a source of public benefits, especially for poor people whose livelihoods and security depend on nature.⁵⁹

The UNEP report points out that the green economy does not replace sustainable development but creates an enabling framework for its realization. “Decades of creating new wealth through a ‘brown economy’ model have not substantially addressed social marginalization and resource depletion.”⁶⁰ In order to transition to a green economy, specific enabling conditions will be required but these conditions are currently heavily weighted toward the prevailing brown economy, which depends excessively on fossil fuel energy. The report seeks to debunk certain myths surrounding the green economy, the most widespread being that there is a trade-off between environmental sustainability and economic progress. UNEP insists that the “greening” of economies neither inhibits wealth creation nor employment opportunities.⁶¹

However, the notion of a green economy appears to pour old wine into new bottles, essentially preserving the status quo with a few minor tweaks. Indeed, since the green economy was floated as “an alternative” to the existing economic development model (brown economy as the UNEP report calls it) at Rio+20 conference in 2012, nothing much seems to have changed. In fact, as the UNEP’s own “Emissions Gap” report shows, greenhouse gas emissions have increased to a historic high level,⁶² and global dependence on fossil fuels has not declined.

The SDGs do not endorse the green economy or green growth. On the contrary, while SDG 12 refers to the need to ensure sustainable consumption and production patterns, SDG 8 continues to use GDP as a measure of economic success.⁶³ Rather than degrowth, SDG 8 promotes the need to *increase* the rate of economic growth:

Inclusive and sustainable economic growth can drive progress and generate the means to implement the Sustainable Development Goals. Globally, labour productivity has increased and unemployment is back to pre-financial crisis levels. However, the global economy is growing at a slower rate. More progress is needed to increase employment opportunities, particularly for young people, reduce informal employment and the gender pay gap and promote safe and secure working environments to create decent work for all.⁶⁴

In sum, while sustainable development might accommodate both degrowth and the green economy, degrowth is more likely to achieve sustainable development by slowing down the global economy and reducing consumption in affluent countries in order to give poor countries the ecological space to improve living standards. Regrettably, the SDGs preserve the status quo by calling for an increase in economic growth and merely labeling it “sustainable economic growth.” Unless we recognize that the current environmental crisis is due to an economic system premised on the unbridled extraction of wealth from nature and the exploitation and dispossession of human beings, we will only be tinkering at the margins without seeing any positive results. Real change requires recognizing that the environment is the floor on which both society and the economy rest.

⁵⁹ UNEP, note 58, p. 2.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² UN Environment Programme, “Emissions Gap Report 2019, Executive Summary,” 2019.

⁶³ Target 8.1, note 41.

⁶⁴ “Progress of Goal 8 for 2019,” <https://sustainabledevelopment.un.org/sdg8>.

This volume seeks to fill a significant gap in the scholarly literature by examining the relationship between environmental justice and sustainable development, particularly its social pillar. One of the few frameworks that does attempt to address this relationship is the “just sustainabilities” framework proposed by Agyeman *et al.* The authors define “just sustainabilities” as “the need to ensure a better quality of life for all, now, and into the future, in a just and equitable manner, while living within the limits of supporting ecosystems.”⁶⁵ This framing encompasses fairness, equity including inter and intragenerational equity, precaution, environmental sustainability, and social justice. The authors acknowledge that:

In recent years it has become increasingly apparent that the issue of environmental quality is inextricably linked to that of human equality. Wherever in the world environmental despoliation and degradation is happening, it is almost always linked to questions of social justice, equity, rights and people’s quality of life in its widest sense.⁶⁶

The authors make three interrelated arguments in support of their framework. First, they point out that countries with more equal distributions of income, better rights, and higher literacy rates tend to have higher environmental quality than those who do not.⁶⁷ Second, they note that environmental problems tend to affect the poor disproportionately, even though the poor are not the major polluters. While the rich are better able to insulate themselves from the negative impacts of pollution and other environmental degradation, poor people lack the resources to do so.⁶⁸ Finally, they emphasize that sustainability “cannot be simply an ‘environmental’ concern, important though ‘environmental’ sustainability is. A truly sustainable society is one where wider questions of social needs and welfare, and economic opportunity, are integrally connected to environmental concerns.”⁶⁹

The “just sustainabilities” framework is a useful reminder that sustainability and environmental justice are inextricably intertwined. Sustainability cannot be achieved without considering social justice, economic opportunity, and environmental protection. But just what is environmental justice?

1.3 ENVIRONMENTAL JUSTICE

Environmental justice has become the rallying cry of subordinated communities throughout the world who are disproportionately burdened by environmental degradation. While social justice struggles with an environmental dimension can be found throughout history, the discourse of environmental justice emerged in the United States in the 1980s, as poor people and racial and ethnic minorities mobilized to combat the siting of polluting facilities and hazardous waste disposal sites in their communities.⁷⁰ In recent decades, vulnerable communities in both affluent and poor countries and even vulnerable states, such as the small island states, have embraced the discourse of environmental justice.⁷¹

⁶⁵ See J. Agyeman, R. D. Bullard, and B. Evans, (eds.), *Just Sustainabilities: Development in an Unequal World* (Boston, MA: MIT Press, 2003), p. 7 who believe that “one explanation for the success of the environmental justice movement can be seen in the mutual benefits of a coalition between environmental and social concerns.”

⁶⁶ *Ibid.*, p. 1.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*, p. 2.

⁷⁰ C. G. Gonzalez, “Environmental Racism, American Exceptionalism, and Cold War Human Rights” (2017) 26 *Transnational Law and Contemporary Problems* 281 at 282–283.

⁷¹ L. Temper, D. del Bene, and J. Martinez-Alier, “Mapping the Frontiers and Front Lines of Global Environmental Justice: The EJAtlas” (2015) 22 *Journal of Political Ecology* 255–278.

The language of environmental justice is morally compelling and has given a voice to marginalized communities. However, much of the literature on environmental justice has failed to develop a rigorous analysis of the complex ways that poverty, race, gender, indigeneity, age, and disability, among other identity characteristics, many of which are subject to protection under international human rights law, intersect to produce environmental injustice in specific contexts. In other words, the social pillar of sustainable development and its relationship to environmental justice is under-theorized.

Environmental justice scholars and activists have attempted to address this shortcoming by articulating a four-part definition of environmental justice consisting of distributive justice, procedural justice, corrective justice, and social justice.⁷² Distributive justice requires the fair allocation of the benefits and burdens of economic activity among and within nations.⁷³ Procedural justice calls for transparent, informed, and inclusive environmental decision-making processes.⁷⁴ Corrective justice requires governments to enforce environmental laws, compensate those whose rights are violated, and terminate the harm-producing conduct.⁷⁵ Social justice emphasizes that environmental struggles are inextricably intertwined with struggles for social and economic justice.⁷⁶ In other words, environmental injustice cannot be separated from economic exploitation, race and gender subordination, the marginalization of children, the elderly, immigrants, and persons with disabilities, the ongoing dispossession of Indigenous peoples, and the colonial and postcolonial domination of the Global South. As the case studies in this volume illustrate, environmental conflicts frequently involve multiple dimensions of environmental justice, and do not fit neatly into one of the four categories. Yet, it cannot be said that the case studies in this volume grapple with the full intersectional dimensions of environmental justice; rather, different dimensions are explored in different chapters, with some dimensions untouched, perhaps most notably disability.

The chapters in this volume expand upon the four-fold definition of environmental justice. For example, several of the chapters address the failure of Western law and policy to recognize and respect the lived experiences and world views of subaltern communities, particularly Indigenous peoples⁷⁷ – a phenomenon known as epistemic injustice. Coined by philosopher Miranda Fricker,⁷⁸ the concept of epistemic injustice has been used by prominent legal scholars, such as Rebecca Tsosie, to explain the harms caused by “the uncritical application of Western values, categories, and standards to the very different social experience” of Indigenous peoples.⁷⁹ The chapters in this volume shed light on the concept of epistemic

⁷² See R. R. Kuehn, “A Taxonomy of Environmental Justice” (2000) 30 *Environmental Law Reporter* 10681; C. G. Gonzalez, “Environmental Justice and International Law,” in S. Alam, J. H. Bhuiyan, T. M. R. Chowdury, and E. J. Techera (eds.), *Routledge Handbook of International Environmental Law* (Abingdon, UK: Routledge, 2013), p. 77 (applying this definition to environmental conflicts between affluent and poor countries).

⁷³ See D. French, “Sustainable Development and the Instinctive Imperative of Justice in the Global Order,” in D. French (ed.), *Global Justice and Sustainable Development* (Leiden: Martinus Nijhoff, 2010), p. 8.

⁷⁴ See Kuehn, note 72, p. 10688.

⁷⁵ *Ibid.*, pp. 10693–10698; M. Burkett, “Climate Reparations” (2009) 10 *Melbourne Journal of International Law* 513 at 522–523.

⁷⁶ See C. G. Gonzalez, “An Environmental Justice Critique of Comparative Advantage: Indigenous Peoples, Trade Policy, and the Mexican Neoliberal Economic Reforms” (2011) 32 *University of Pennsylvania Journal of International Law* 728; R. Guha, *Environmentalism: A Global History* (New York: Longman, 2000), p. 105.

⁷⁷ See for example Chapters 4, 14, and 23 in this volume.

⁷⁸ M. Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford: Oxford University Press, 2007).

⁷⁹ R. Tsosie, “Indigenous Peoples and Epistemic Injustice: Science, Ethics and Human Rights” (2012) 87 *Washington Law Review* 1133 at 1201; B. de Sousa Santos, *Epistemologies of the South: Justice against Epistemicide* (Boulder, CO: Paradigm, 2014).