

# Journal of Education for Sustainable Development

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## **The Principle of Sustainability : Transforming Law and Governance**

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*Journal of Education for Sustainable Development* 2010 4: 309

DOI: 10.1177/097340821000400223

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occurs in the Environmental Literature course at Florida Gulf Coast University. Here, humanities education becomes eco-education through exploring the relationships of humans not only to their internal worlds but also to their external worlds. In the course, students and instructors explore traditional definitions of ethics and sustainability, which sets the stage for engaging with the Earth Charter and thinking beyond anthropocentric views. The study of literary words through the lens of the Earth Charter allows students the opportunity to broaden their listening to include the forgotten voices of the natural world and of our elders. Because true learning of sustainability must be enacted in space and time, students complete a service learning project that allows them to bring their nascent ethics of sustainability to life.

In 'Utopianism and Education Processes in the United Nations Decade of Education for Sustainable Development: A Critical Reflection', Heila Lotz-Sisitka writes that recent international policy literature on education for sustainable development puts forward utopian concepts of sustainable development and transformed learning as objects for educational thinking and practice. The essay draws on three illustrative educational investigations with youth in a South African context to critically examine how educators and scholars might engage with utopian concepts such as those proposed in the Earth Charter and the Decade of Education for Sustainable Development. It incorporates an engagement with other related utopian concepts, such as democracy and social justice. The author argues that if we are to keep valuable utopian concepts such as democracy, sustainability and social justice from becoming 'toxic knowledge', a reflexive realist orientation must guide educational engagements with such concepts.

## The Principle of Sustainability: Transforming Law and Governance

**Klaus Bosselmann**, Ashgate Publishing, Farnham, Surrey, UK, 2008, 252 pages, £55.00, US\$99.95 (hard cover)

**Reviewed by Rakhyun E. Kim**

**H**ow should we transform the current system of law and governance if we are to build a just, sustainable and peaceful global society and institutionally implement the Earth Charter? What might a particular law say if the subjects of it are not only human beings but the whole Earth community? Klaus Bosselmann shares his insights on these questions and more in his recent book, *The Principle of Sustainability: Transforming Law and Governance*. A law professor at the University of Auckland, New Zealand, Bosselmann is a leading figure in international environmental law, especially because of his ethical and ecological approach to the subject.

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*The Principle of Sustainability* is about the true meaning of sustainability and its legal implications. Bosselmann argues that the principle of sustainability should be universally recognised as a fundamental principle of law (and the most fundamental environmental principle), like justice, equality and freedom. In Chapters 1 and 2, he traces the true meaning of sustainability to its historical and philosophical foundations and defines it as the duty to protect and restore the integrity of the Earth's ecological systems. He makes a case that sustainability has the historical, conceptual and ethical quality typical of a fundamental principle of law. As a legal principle, Bosselmann argues that it creates meaning and legal status for the concept of sustainable development. In Chapters 3, 4, 5 and 6, Bosselmann discusses how the principle of sustainability informs other fundamental norms and concepts such as justice, human rights, state and territorial sovereignty, and citizenship. He challenges that we can no longer rely on the conventional meanings and uses of such traditional concepts of law and governance, and reconceptualises and redefines them in the light of ecological reality. In so doing, he contributes to a theory of the next generation of international environmental law and governance, namely global sustainability law and governance for ecological integrity. This new model is concerned with the whole community of life and is grounded in value-based norms such as ecological justice, ecological human rights and ecological citizenship, which are interpreted in the light of the principle of sustainability.

This book is about how ecology should inform jurisprudence. Bosselmann's theory of global sustainability law is grounded in the simple, fundamental and well-established ecological reality (but one that is often forgotten and ignored) that humans are an integral part of the community of life and that there are ecological boundaries to be respected at a planetary scale (See, for example, Rockström et al. 2009: 472). It follows from this truth that the very survival of our species depends on our ability to respect and maintain the Earth's ecological integrity. He argues that the principle of sustainability is, therefore, paramount and should not have to be negotiated, like justice and human rights.

'Grounded in our experience of the natural world', Bosselmann's theory of global sustainability law is 'not intended to be a lofty, transcendental theory' (p.176). The theory of global sustainability law is, 'literally and metaphorically, down to Earth' (p.176). Many people have a clear sense of justice and sustainability, he says. Just like most of us intuitively know when something is not 'just' or 'fair', we know what is unsustainable. Although many of us are ignorant about the ecological reality, we do come to a realisation from time to time that we share Earth as our home with fellow nonhuman 'citizens'; we know that it is unfair to live at the expense of other species, just like it is unfair to live at the expense of other people and future generations; we know that our individual freedom is not absolute and needs to be limited not solely by our social context, but also by our ecological context; we know that the global environment is an indivisible organic whole, and that our relationship to Mother Earth needs to be governed in a holistic and integrative manner.

*The Principle of Sustainability* is Bosselmann's attempt to reflect these basic truths in law and governance, hence closing the gap between ecological reality and legal fiction. He establishes the principle of sustainability as a legal principle on the

laws of nature, making it more fundamental than other principles that only reflect the laws of society. Bosselmann clarifies the original meaning of sustainability as ecological (or strong) sustainability by focusing on the ethical and legal context in which the term has been used in European history, in particular. He reminds us that the concept of sustainable development represents an application of the principle of sustainability; that the original meaning of sustainable development is, therefore, ecologically sustainable development. It is not about balancing economic, social and environmental needs. The notion of sustainable development, according to Bosselmann, calls for development within the limits of the environment's ability to protect and restore the integrity of Earth's ecosystems.

In much the same way as 'sustainable' can be understood as modifying 'development', the principle of sustainability also informs other fundamental norms. Bosselmann presents his interpretations of ecologically informed ideas of justice (Chapter 3), human rights (Chapter 4), territorial sovereignty (Chapter 5) and citizenship (Chapter 6). His reconceptualisations are grounded in an ethical acknowledgement of the inherent limits of anthropocentrism and reductionism, and embrace ecocentrism and holism.

For example, Bosselmann observes that conventional theories of justice, being concerned mainly with intragenerational and intergenerational justice, have been insufficient to conceptualise the ecological dimension of justice. So he adds a third element: the concern for the nonhuman natural world or interspecies justice. He argues that since it is our duty to pass on the integrity of the planetary ecosystem we have inherited, interspecies justice needs to act as a benchmark for any form of ecological justice. The concept of ecological human rights is similarly informed by the logic of ecological integrity. Bosselmann's ecological approach acknowledges that human rights need to respect ecological boundaries by responding to the fact that the individual not only operates in a social environment (environmental human rights), but also in a natural environment where other intrinsically valuable life forms also exist (ecological human rights). Bosselmann also applies this logic of ecological integrity to set limits on state/territorial sovereignty over natural resources (a legal construct), and give a trusteeship role to the state with respect to the global environment. Like ecological human rights, territorial sovereignty, as redefined by Bosselmann from a sustainability perspective, contains the right to use, but not to abuse, pollute, exploit or otherwise overuse the environment. The notion of ecological citizenship is also based on the realisation that we are both citizens of a social community and of an ecological community. It follows from this that a fiduciary relationship exists between citizenship and nonhuman entities.

Throughout the book, Bosselmann references the Earth Charter as a blueprint for overcoming the global ecological crisis. He states that Principle 1 ('Respect Earth and life in all its diversity') of the Charter sums up what sustainability is all about: 'the recognition of the inherent value of all life and faith in the dignity and potential of human beings' (p.75). Bosselmann interprets the preservation of ecological integrity (Principles 5 to 8) as the end of the sustainability principle and the integrity and potential of human beings (Principles 9 to 12) as the means to get there. Furthermore, Bosselmann observes that the Earth Charter considers human rights to be the basis

of (Principles 3(a), 7, 8(a), 9(a), 11, 12, 13), and at the same time, the limitation to (Principles 1(a), 2(a), 6(a)), human welfare and existence. His theory of a law based on sustainability could be viewed as a coherent reflection of the principles of the Earth Charter.

The Earth Charter Preamble states, ‘We stand at a critical moment in Earth’s history, a time when humanity must choose its future’. In *The Principle of Sustainability*, Bosselmann discusses how we can choose to avoid collapse. His message is loud and clear: we need to change our thinking. The fundamental ideas upon which our societies are built—justice, human rights, sovereignty, etc.—and their reductionist, positivist and anthropocentric underpinnings that separate scientific facts from ethical values and morality from law, are responsible for the ecological challenges facing us. His theory is truly transdisciplinary, going beyond ecology, ethics and law. We need ecology to inform our jurisprudence, he urges. We need a new frame of mind to transform our anthropocentric legal institutions into ecologically and ethically guided global sustainability law and governance for the community of life. Thus Bosselmann ends the book with the words: ‘A new governance for sustainability is the only choice we have’, because unless we take that path, ‘humanity would either be destroyed by the powers of militant states or by the powers of nature’ (p.208).

This book is about the truth and necessity of sustainability. Fundamentally, Bosselmann wants to expand the boundaries of *justitia communis* to include non-human species. His transformational approach is more than reformative but less radical than a revolution. Bosselmann assures that, although ‘[t]he shift from traditional anthropocentrism to ecocentrism may be revolutionary in its conceptualization[,] making the shift in practice is likely to be more evolutionary and gradual’ (p.176).

While the title of the book may scare some nonacademic readers away, it is very readable. As former Vice President of the International Court of Justice Christopher Weeramantry states in the foreword, ‘[a]ll who read it will be the wiser for the experience. It has a message for everyone in terms within the reach of everyone’. It should be read by all those concerned about a just, sustainable and peaceful future and from all disciplinary and cultural backgrounds. For international environmental lawyers, this is a must-read.

## Reference

Rockström, Johan, W. Steffen, K. Noone, et al. 2009. A Safe Operating Space for Humanity, *Nature*, 461: 472–75.