

PREFACE

The future of the Earth may well turn on how quickly we can improve the legal framework for sustainable development. Some experts suggest that we have but a decade or two before we transgress critical global ecosystem limits and suffer significant irreversible consequences. But we *can* still choose a sustainable future, if we learn how to manage our relationship with the Earth. *MAKING LAW WORK: ENVIRONMENTAL COMPLIANCE & SUSTAINABLE DEVELOPMENT* helps us do this by presenting an empowering set of concepts and insights that offer hope for the evolution of an effective legal system that is strong enough to avert future disaster and promote sustainable development.

We all have a duty to do whatever we can to restore respect for the rule of law, which is the foundation for a fair and sustainable society. We must build this respect by ensuring that law draws on our deepest values and principles, including the principle of intra-generational equity, which requires poverty alleviation and protection of human rights, and the principle of inter-generational equity, which requires respect for future generations. Building on these deepest values ensures the legitimacy of law and fosters in all of humanity a sense of obligation – to each other, to our community (both local and global), and to future generations. We can and must foster the emergence of a global ethic for the Earth, even as we strengthen the rule of law for sustainable development.

As this book recognizes, the rule of law as a mere concept is not enough. Sustainable development cannot be achieved unless laws governing society, the economy, and our relationship with the Earth connect with our deepest values and are put into practice internationally and domestically. Law must be enforced and complied with by all of society, and all of society must share this obligation.

At the international level, all States need a framework of fair and equitable rules to manage humanity's interaction with the Earth – rules that each State can be confident that others will obey or face appropriate sanctions. Much of this framework already exists in the form of Multilateral Environmental Agreements and the domestic laws that implement them. Yet the legal framework for sustainable development is still a work in progress, too often lacking the muscle needed to turn it into an effective legal system. And too often, the existing framework lacks the

commitment of funding and technology needed to develop the institutional capacity of developing countries and small- and medium-size enterprises to implement and comply with their commitments.

Yet we have our success stories. At the domestic level, an increasing number of countries have included constitutional provisions to ensure environmental protection and sustainable development. Judges at all levels are gaining experience and expertise with these issues, including through judicial training initiatives offered by INECE and the United Nations Environment Programme. The UNEP-INECE Global Judges Symposium at the Johannesburg World Summit for Sustainable Development in 2002 articulated the *Johannesburg Principles on the Role of Law and Sustainable Development* and declared:

We emphasize that the fragile state of the global environment requires the Judiciary as the guardian of the Rule of Law, to boldly and fearlessly implement and enforce applicable international and national laws, which in the field of environment and sustainable development will assist in alleviating poverty and sustaining an enduring civilization....

At the international level, there are other examples of success. Supported with adequate financing and technology transfer, the Montreal Protocol on Substances that Deplete the Ozone Layer shows how law can evolve to solve a critical environmental problem. Many other international agreements are playing a significant role in improving the problems they were designed to address. We are making further progress with additional funding mechanisms, including the Global Environmental Facility. We also are improving institutional capacity to implement, enforce, and ensure compliance with environmental law at the national level through the UN Environment Programme and the UN Development Programme, as well as through efforts at the World Bank and the regional development banks, the European Commission, and many bi-lateral programs. Many of these efforts are explicitly part of broader endeavors to improve the rule of law, and all are contributing to the task of improving compliance with the rules for sustainable development.

INECE works in partnerships with these organizations, as well as with the Organization for Economic Co-operation and Development and many other national, regional, and international organizations around the world, including nongovernmental organizations, which play an

important role in monitoring and ensuring compliance with law. Through these partnerships – and through this important book – INECE is making a valuable contribution to our understanding of the critical issues that animate compliance. INECE offers empowering ideas for action by governments and nongovernmental organizations alike to strengthen the rule of law for sustainable development.

Our generation has been given the challenge of ensuring sustainable development for all, including future generations, and we are not yet succeeding sufficiently to arrest the continuing deterioration of critical ecosystems. History will judge us harshly if we do not develop a deeper ethical responsibility for the Earth, based upon an enlightened modesty concerning our relationship with the natural world that sustains us all. History will judge us harshly if we do not build the strong and effective law we need for a fair and sustainable society.

INECE and its partners are doing their part to ensure that our generation will not be found wanting. It is now time for the rest of humanity to join in this effort.

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