

ARTICLE

Why Do States Adhere to the Sustainable Development Goals?

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Abstract

The rationale behind state support for, and obedience to, normative rules and obligations has long been a topic of international law scholarship discourse. What has yet to be fully established, however, is why virtually all states have agreed to adhere to a seemingly novel global paradigm with ambitious yet non-binding objectives – the United Nations 2030 Sustainable Development Goals (SDGs). This article identifies six factors as contributing to the influencing power of the SDGs – namely, the role of law, particularly inter- and transnational law, the legitimacy of the framework, the notion of reciprocity, reputational concerns, national self-interest, and the moral duty to address the shared global challenges of sustainable development.

By exploring their strengths and limitations through several theoretical frameworks (including Harold Koh's theory of transnational legal processes, Thomas Franck's theory of legitimacy, and Ryan Goodman and Derek Jinks' three mechanisms of social influence), this article argues that the combination of these factors motivates voluntary state commitment, reporting, and cooperation under the SDG framework and that, overall, the SDGs offer a versatile lens to explore the different motives for state adherence to a soft law framework in the inter- and transnational legal spheres.

Keywords: Sustainable development; United Nations 2030 Sustainable Development Goals (SDGs); International law; Transnational lawmaking; State compliance

1. Introduction

The concept of sustainable development has undergone considerable evolution since its first explicit articulation in the 1987 Report of the World Commission on Environment and Development, 'Our Common Future', which described 'sustainable development' as development that meets the needs of present and future generations by balancing social and economic advancement with environmental protection.¹ The realization of this conceptualization of development has long been an aspiration and challenge for international law and governance. With the rapid proliferation of intersecting environmental crises, achieving the ecological and social justice ambitions of

¹ United Nations General Assembly (UNGA), 'Report of the World Commission on Environment and Development: Our Common Future', 4 Aug. 1987, UN Doc. A/42/427, available at: <https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>.

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sustainable development has never been so urgent. In response to these mounting challenges, the United Nations (UN) Sustainable Development Goals (SDGs) were adopted in 2015.² Intended to guide domestic and global decision making for at least 15 years, the framework aspires to take ‘bold and transformative steps’ to realize sustainable development and has permeated many aspects of social organization, including global governance, international relations, and inter- and transnational law.³ While the SDGs do not constitute binding obligations, it is evident that their elaboration and ongoing implementation were intentionally designed to support and complement existing norms and principles of international law and policy. They may, therefore, act as a means of measuring domestic performance outcomes, indicating the importance and quality of certain state behaviour and commitments against SDG objectives. These normative, albeit soft, alignments raise fundamental questions concerning the influencing powers of the SDGs and the possible reasoning behind state adherence to this framework.

When seeking to characterize ‘adherence’ in this context, the Cambridge Dictionary definition of adherence might be used, described as ‘the fact of someone behaving exactly according to rules, beliefs, etc.’, and offers synonyms such as ‘obedience’, ‘attachment’, and ‘loyalty’.⁴ A common thread between these terms is the idea of commitment, which is a central element that must be considered when exploring why states sign up to particular normative frameworks, and in this case why states agree to alter their behaviour and engage in transnational cooperation to realize the SDGs. In this context, it would be inappropriate to refer to matters of strict compliance;⁵ this article therefore focuses on the notion of adherence to this non-binding framework. To understand the authority of the SDGs, six potential factors are identified to elucidate why virtually all states have agreed to adhere to a set of aspirational goals.

Insights are drawn from theories of state behaviour and compliance with international law. The analysis extends beyond binding treaties, permitting consideration of broad, dynamic, and varied dimensions of the international order. Franck, for example, includes the spectrum of rules that exist in the international field (including UN General Assembly (UNGA) resolutions) when discussing how and to what extent states obey existing international rules.⁶ Koh also acknowledges how international law has evolved to include a diverse range of hard and soft rules in efforts to regulate state behaviour.⁷

² UNGA Resolution 70/1, ‘Transforming our World: The 2030 Agenda for Sustainable Development’, 21 Oct. 2015, UN Doc. A/RES/70/1, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf (2030 Agenda).

³ *Ibid.*, Preamble.

⁴ ‘Meaning of Adherence in English’, *Cambridge Dictionary*, available at: <https://dictionary.cambridge.org/dictionary/english/adherence>; ‘Synonyms and Antonyms of Adherence in English’, *Cambridge Dictionary*, available at: <https://dictionary.cambridge.org/thesaurus/adherence>.

⁵ Compliance can be described as the way in which international law controls state conduct and interactions; see A.T. Guzman, ‘A Compliance-Based Theory of International Law’ (2002) 90(6) *California Law Review*, pp. 1823–87, at 1826, 1830.

⁶ T.M. Franck, *The Power of Legitimacy Among Nations* (Oxford University Press, 1990), pp. 41–2.

⁷ Koh remarks that ‘[i]nternational law now comprises a complex blend of customary, positive, declarative, and “soft” law, which seeks not simply to ratify existing practice, but to elevate it’: H.H. Koh, ‘Why Do Nations Obey International Law?’ (1997) 106(8) *Yale Law Journal*, pp. 2599–659, at 2630–1.

Past explorations, at times, have been disparaging of soft law,⁸ or indeed excluded such from ‘the theoretical framework of international legal scholars’.⁹ As a result of such omissions, these works fail to provide a full picture of the intricate and interactive nature of international law. Recognizing the role of non-binding rules, Goodman and Jinks observe that ‘under certain conditions, “soft law” mechanisms will be more effective in establishing durable norms’ than binding obligations.¹⁰ While appreciating the differences between binding and non-binding rules, it has been said that soft law can ‘support a similar normative discourse’, and be used by campaigners to advance particular causes and to hold governments to account.¹¹ Thus, existing dynamics suggest that it is possible to adapt such theories in exploring the influence of soft law instruments such as the SDGs.

Section 2 of this article begins by briefly introducing the SDG framework and its relationship with international law before examining the possible reasons for state adherence to the SDGs in Section 3. These include the legality embedded within the SDGs (3.1), the legitimacy of the framework (3.2), the notion of reciprocity (3.3), reputational motivations (3.3), national self-interest (3.4), and the moral duty to address the common challenges of humankind (3.5). Three principal theoretical frameworks are employed to explore these factors. Firstly, Harold Koh’s theory of transnational legal processes as interactive engagement is used to examine state obedience to the framework and its associated mechanisms. Secondly, Thomas Franck’s theory of legitimacy is applied to the SDGs. Using his four identified dimensions of rule legitimacy, the degree of alignment between the framework and legitimacy is discussed. Lastly, Ryan Goodman and Derek Jinks’ three mechanisms of social influence are analyzed, charting parallels with the SDG data mechanisms. Section 4 of the article concludes with a brief reflection on the versatility demonstrated by the SDGs as a novel mechanism of global governance and transnational rule making.

2. The SDGs

The SDG framework, composed of 17 goals and 169 targets, outlines aspirational objectives of unprecedented magnitude, with the general ethos of the goals being that ‘no one will be left behind’.¹² Incorporating lessons learned from the preceding Millennium Development Goals (MDGs), states committed under the SDGs to take unified steps to end social inequalities, combat the climate crisis, and promote ecological conservation – monumental objectives that require expansive and long-term changes across all sectors of society to be achieved. The SDGs embody an institutional cosmopolitan approach to sustainable development: states, as individual nations and as an international community, are committed to the realization of common objectives

⁸ See K.W. Abbott & D. Snidal, ‘Hard and Soft Law in International Governance’ (2000) 54(3) *Legalization and World Politics*, pp. 421–56, at 422–3.

⁹ Guzman, n. 5 above, pp. 1879–81.

¹⁰ R. Goodman & D. Jinks, ‘How to Influence States: Socialization and International Human Rights Law’ (2004) University of Chicago Public Law & Legal Theory Working Paper No. 62, pp. 2–55, at 46.

¹¹ Abbott & Snidal, n. 8 above, p. 452.

¹² 2030 Agenda, Preamble.

that serve to benefit all people, working under the institutions created by the framework.¹³ Ebbesson and Hey classify this normatively as an ‘innovative and bold cosmopolitan understanding of sustainable development’, as it focuses on the well-being and interests of the individual.¹⁴ Applicable to all states, the SDGs are to be implemented through collaborative means while recognizing differences in national capacity, ultimately grounded in the ‘spirit of strengthened global solidarity’.¹⁵ All 193 UN member states signed up to adhere to the SDGs and report on domestic progress made towards their realization.¹⁶

When considering their normative relationships, the SDGs may align well with international law. For example, paragraph 8 of the 2030 Agenda emulates the importance of human rights standards, non-discrimination norms, and the rule of law for sustainable development:

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 realisation of human potential and contributing to shared prosperity.¹⁷

By endorsing this so-called transformative agenda, states reiterate their ‘commitment to international law’ and recognize the normatively reinforcing role that the SDGs play: while the SDGs did not seek to create any strict obligations as such, the framework is ‘to be implemented in a manner that is consistent with the rights and obligations of States under international law’.¹⁸ Indeed, many SDG targets mimic existing international provisions. In the context of SDG 14 (Life Below Water), Huck demonstrates that obligations of international marine law are ‘embodied’ in the ambitions of the 2030 Agenda.¹⁹ She further notes that the objectives and indicators of SDG 14 in addition to ‘its embeddedness in [the United Nations Convention on the Law of the Sea] and maritime law regimes reveals to a certain extent how a sustainably managed ocean or an ecologically sound marine resource is constituted’.²⁰

Likewise, SDG 15.6, which seeks to ‘[p]romote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources’,²¹ is consistent with the objectives of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits

¹³ See T.W. Pogge, ‘Cosmopolitanism and Sovereignty’ (1992) 103(1) *Ethics*, pp. 48–75.

¹⁴ J. Ebbesson & E. Hey, ‘Introduction: The Sustainable Development Goals, Agenda 2030, and International Law’, in J. Ebbesson & E. Hey (eds), *The Cambridge Handbook of the Sustainable Development Goals and International Law* (Cambridge University Press, 2022), pp. 1–49, at 2.

¹⁵ 2030 Agenda, Preamble.

¹⁶ UN, ‘Historic New Sustainable Development Agenda Unanimously Adopted by 193 UN Members’, 25 Sept. 2015, available at: <https://www.un.org/sustainabledevelopment/blog/2015/09/historic-new-sustainable-development-agenda-unanimously-adopted-by-193-un-members>.

¹⁷ 2030 Agenda, para. 8.

¹⁸ *Ibid.*, para. 18.

¹⁹ W. Huck, *Sustainable Development Goals Article-by-Article Commentary* (Nomos, 2022), p. 527.

²⁰ *Ibid.*, p. 549. See pp. 526–34 for more discussions on SDG 14 and alignments in international law.

²¹ 2030 Agenda, SDG 15.

Arising from their Utilization (Nagoya Protocol)²² to the Convention on Biological Diversity (CBD).²³ The ambition to address issues of illegal poaching and trafficking of protected plants and animals established by SDG 15.7 aligns with the regulatory processes and protective provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).²⁴ Clear parallels can also be made with the Aichi Biodiversity Targets, including between SDG 15.1 and Aichi Target 11, SDG 15.8 and Aichi Target 9, and SDG 15.9 and Aichi Target 2. In fact, the Subsidiary Body on Scientific, Technical, and Technological Advice of the CBD has noted that '[m]ost of the Aichi Biodiversity Targets are well reflected' in the SDGs.²⁵

Altogether, the 2030 Agenda could be seen to represent a non-traditional method of rule making.²⁶ International law has long used top-down approaches to establish binding obligations, and the universal adoption of this novel paradigm may indicate a shift towards 'shared state responsibility and collective values over strictly binding systems' to address demanding multifaceted sustainable development challenges.²⁷

2.1. SDG Mechanisms

Reporting

States are primarily responsible for monitoring SDG progress: evidence of state adherence can thus be found in their reporting behaviour as well as the degree of SDG internalization within domestic governance structures and legal systems. The framework recognizes that good governance and strong institutions at all levels are essential for sustainable development efforts.²⁸ As outlined by the UN Economic and Social Commission for Asia and the Pacific (UNESCAP), good governance embodies eight fundamental characteristics, including the rule of law.²⁹ This dimension of good governance is of particular interest as it aligns with the underlying basis of the legal system in addition to the overall objective of SDG 16 (Peace, Justice, and Strong Institutions), specifically target 16.3.³⁰ A total of 248 indicators were developed to act as follow-up and review mechanisms. Intended to be a 'simple yet robust' system,

²² Nagoya (Japan), 29 Oct. 2010, in force 12 Oct. 2014, available at: <https://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf>.

²³ Rio de Janeiro (Brazil), 5 June 1992, in force 29 Dec. 1993, available at: <https://www.cbd.int/convention>.

²⁴ Washington, DC (US), 3 Mar. 1973, in force 1 July 1975, available at: <http://www.cites.org/eng/disc/text.php>; see, e.g., provisions under Art. VIII.

²⁵ CBD Subsidiary Body on Scientific, Technical and Technological Advice, 'Biodiversity and the 2030 Agenda for Sustainable Development', 12 Sept. 2017, UN Doc. CBD/SBSTTA/21/2/Add.1, para. 4, <https://www.cbd.int/doc/meetings/sbstta/sbstta-21/official/sbstta-21-02-add1-en.pdf>.

²⁶ Multiple edited volumes have been published exploring the SDG–international law relationship; see, e.g., Ebbesson & Hey, n. 14 above; D. French & L.J. Kotzé (eds), *Sustainable Development Goals: Law, Theory and Implementation* (Edward Elgar, 2018).

²⁷ N. Guiry, 'International Law & The Sustainable Development Goals' (2024) 7 *The Boolean*, pp. 1–5, at 3.

²⁸ 2030 Agenda, para. 35, SDG 16.

²⁹ UNESCAP, 'What is Good Governance?', 10 July 2009, available at: <https://www.unescap.org/sites/default/files/good-governance.pdf>.

³⁰ SDG 16.3: 'Promote the rule of law at the national and international levels and ensure equal access to justice for all'.

the indicators correspond to all goals and targets at the regional, national, and global levels, allowing data to be compiled and measured.³¹ Concurrently, states began to carry out voluntary national reviews (VNRs) in 2016 as a method of recording national SDG progress, which includes ‘the means of implementation, in all countries in a manner which respects their universal, integrated and interrelated nature and the three dimensions of sustainable development’.³² By 2023, 188 countries had presented VNRs to the High-Level Political Forum on Sustainable Development (HLPF) and many countries have embedded the 2030 Agenda into domestic development plans.³³ Despite the lack of dispute-resolution mechanisms associated with the framework or sanctions for failure to adhere to the SDGs, the framework has been, to a degree, influential on state behaviour.

Adherence

Adherence to the SDGs is built upon political collaboration and transparency rather than a system of punitive action. The lack of existing enforcement mechanisms has been described as an intentional design characteristic of the SDGs. According to Donald, states adopted a purposefully ‘narrow’ interpretation of ‘accountability’ and resisted its inclusion because of the non-binding character of the framework.³⁴ SDG 16 and SDG 17 (Partnership for the Goals) seek to strengthen domestic implementation of the framework but do not provide much elaboration on how specifically this would be achieved.³⁵ Implementation and accountability, therefore, lie in the hands of state governments and their citizens and in the follow-up and review mechanisms of the framework. Nevertheless, evidence of state adherence to the SDGs can be found, particularly if one investigates the VNR outputs.

To date, over 370 VNR-related state documents have been submitted.³⁶ The latest VNRs Synthesis Report shows how the SDGs have had an impact on state behaviour: it states that every VNR received in 2023 outlined ‘Government actions to integrate the 2030 Agenda and the SDGs into their national development plans and strategies or equivalent policy frameworks’.³⁷ Brief examples of actionable changes taken in domestic settings to align with the 2030 Agenda include the adoption by the Swedish government of a bill (Govt Bill 2019/2020:188) to guide and enhance national

³¹ 2030 Agenda, paras 47–8, 75.

³² UN Department of Economic and Social Affairs, ‘Synthesis of Voluntary National Reviews: 2016’, pp. 10–1, available at: https://sustainabledevelopment.un.org/content/documents/127761701030E_2016_VNR_Synthesis_Report_ver3.pdf.

³³ UN, ‘The Sustainable Development Goals Report 2023: Special Edition’, 10 July 2023, p. 49, available at: <https://unstats.un.org/sdgs/report/2023>; UN Department of Economic and Social Affairs, ‘2022 Voluntary National Reviews Synthesis Report’, pp. 10–1, available at: <https://hlpf.un.org/sites/default/files/2022-10/VNR%202022%20Synthesis%20Report.pdf>.

³⁴ K. Donald, ‘Promising the World: Accountability and the SDGs’, *Health and Human Rights Journal*, 27 Jan. 2016, available at: <https://www.hhrjournal.org/2016/01/promising-the-world-accountability-and-the-sdgs>.

³⁵ 2030 Agenda, SDG 17.18–19.

³⁶ See HLPF, ‘Countries Who Have Presented Their Voluntary National Reviews’, available at: <https://hlpf.un.org/countries>.

³⁷ HLPF, ‘Voluntary National Reviews Synthesis Report: 2023’, p. 10, available at: https://hlpf.un.org/sites/default/files/2023-12/2023_VNR_Synthesis_Report.pdf.

SDG implementation, putting particular emphasis on human rights (including the rights of the child and gender equality).³⁸ In Scotland, a National Performance Framework (NPF) has been used to translate the SDGs into implementational actions at regional, local, and national levels alongside monitoring the progression of objectives, with each national outcome linked to its corresponding SDG(s) and accompanied by a national indicator.³⁹ The NPF also directly informs corresponding strategies and programmes, including Scotland's Forestry Strategy 2019–2029,⁴⁰ the Environment Strategy for Scotland,⁴¹ and the Climate Ready Scotland: Climate Change Adaptation Programme 2019–2024, the latter of which was 'derived' from the NPF and the SDGs.⁴² Lastly, Norway designated the Ministry of Local Government and Modernization responsible for coordinating domestic SDG implementation in 2020, an appointment that is credited for enhancing 'cross-sectoral cooperation and a holistic approach to sustainable development'.⁴³

Despite evidence of domestic integration, the framework is criticized for having limited normative and institutional impacts.⁴⁴ Whether states are truly adhering to the SDGs can therefore be questioned. The overwhelming majority of states may have committed to the SDGs but many are far-removed from comprehensively realizing their objectives.⁴⁵ That said, in the light of near-universal state support for these

³⁸ Sweden, 'Report on the Implementation of the 2030 Agenda for Sustainable Development', 10 June 2021, pp. 11–2, available at: https://hlpf.un.org/sites/default/files/vnrs/2021/279582021_VNR_Report_Sweden.pdf.

³⁹ Scottish Government, 'Scotland's National Performance Framework: Our Purpose, Values and National Outcomes', available at: https://nationalperformance.gov.scot/sites/default/files/documents/NPF_A4_Booklet.pdf; United Kingdom, 'Voluntary National Review of Progress towards the Sustainable Development Goals', 26 June 2019, p. 11, available at: https://hlpf.un.org/sites/default/files/vnrs/2021/23678UK_12072019_UK_Voluntary_National_Review_2019.pdf.

⁴⁰ Scottish Government, 'Scotland's Forestry Strategy 2019–2029', 5 Feb. 2019, p. 17, available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2019/02/scotlands-forestry-strategy-20192029/documents/scotlands-forestry-strategy-2019-2029/scotlands-forestry-strategy-2019-2029/govscot%3Adocument/scotlands-forestry-strategy-2019-2029.pdf>.

⁴¹ Scottish Government, 'The Environmental Strategy for Scotland: Vision and Outcomes', 25 Feb. 2020, p. 6, available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2020/02/environment-strategy-scotland-vision-outcomes/documents/environment-strategy-scotland-vision-outcomes/environment-strategy-scotland-vision-outcomes/govscot%3Adocument/environment-strategy-scotland-vision-outcomes.pdf>.

⁴² Scottish Government, 'Climate Ready Scotland: Second Scottish Climate Change Adaptation Programme 2019–2024', 23 Sept. 2019, p. 10, available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2019/09/climate-ready-scotland-second-scottish-climate-change-adaptation-programme-2019-2024/documents/climate-ready-scotland-second-scottish-climate-change-adaptation-programme-2019-2024/climate-ready-scotland-second-scottish-climate-change-adaptation-programme-2019-2024/govscot%3Adocument/climate-ready-scotland-second-scottish-climate-change-adaptation-programme-2019-2024.pdf>.

⁴³ Norway, 'Voluntary National Review 2021 Norway: Report on the Implementation of the 2030 Agenda for Sustainable Development', 2021, p. 22, available at: https://hlpf.un.org/sites/default/files/vnrs/2021/28233Voluntary_National_Review_2021_Norway.pdf.

⁴⁴ F. Biermann et al., 'Scientific Evidence on the Political Impact of the Sustainable Development Goals' (2022) 5 *Nature Sustainability*, pp. 795–800.

⁴⁵ Anonymous, 'Get the Sustainable Development Goals Back on Track' (2020) 557(7788) *Nature*, pp. 7–8; UN Department of Economic and Social Affairs, *The Sustainable Development Goals Report 2021* (UN, 2021), pp. 2–7, available at: <https://unstats.un.org/sdgs/report/2021/The-Sustainable-Development-Goals-Report-2021.pdf>.

non-binding goals, the influence of the SDGs on state and non-state actors cannot be denied. The next section identifies several, potentially overlapping, elements that contribute to the power and legitimacy of the framework.

3. Factors Influencing State Adherence to the SDGs

3.1. The Role of Law

The rationality behind state compliance with international law has long been a topic of debate in legal scholarship.⁴⁶ Chayes and Chayes believe that when nations ratify international agreements, ‘they alter their behavior, their relationships, and their expectations of one another over time in accordance with its terms’.⁴⁷ Some scholars argue that power is the overriding influence on state behaviour, and not the rule of law or the normativity enshrined in international law.⁴⁸ While law cannot be separated from our ‘social reality’,⁴⁹ to dismiss its normative influence on state behaviour, particularly in the context of the SDGs, fails to recognize the power of the ‘principled ideas’ of international law.⁵⁰ While perceived by some as an ‘alternative to international law’,⁵¹ the normativity of the SDGs is debated. Before proceeding, the discourse regarding the effectiveness, or lack thereof, of soft law must be acknowledged. To do so, the nature of such instruments must first be established:

Soft law instruments range from treaties, but which include only soft obligations (‘legal soft law’), to non-binding or voluntary resolutions and codes of conduct formulated and accepted by international and regional organizations (‘non-legal soft law’), to statements prepared by individuals in a non-governmental capacity, but which purport to lay down international principles.⁵²

Said to ‘offer a focal point for convergence’,⁵³ soft law is believed to have had considerable impacts on international law, especially regarding the development of

⁴⁶ Koh, n. 7 above; A. Chayes & A.H. Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Harvard University Press, 1995); E.A. Posner, ‘Do States Have a Moral Obligation to Obey International Law?’ (2003) 55 *Stanford Law Review*, pp. 1901–19.

⁴⁷ A. Chayes & A.H. Chayes, ‘On Compliance’ (1993) 47(2) *International Organization*, pp. 175–205, at 176.

⁴⁸ B.A. Simmons, ‘Compliance with International Agreements’ (1998) 1 *Annual Review of Political Science*, pp. 75–93, at 79–80.

⁴⁹ H. Bull, ‘International Law and International Order’, in H. Bull (ed.), *The Anarchical Society: A Study of Order in World Politics* (Red Globe Press London, 2nd edn, 1977), p. 123.

⁵⁰ See O.A. Hathaway, ‘Between Power and Principle: An Integrated Theory of International Law’ (2005) 72(2) *University of Chicago Law Review*, pp. 469–536.

⁵¹ L.-A. Duvic-Paoli, ‘From Aspirational Politics to Soft Law? Exploring the International Legal Effects of Sustainable Development Goal 7 on Affordable and Clean Energy’ (2021) 22(1) *Melbourne Journal of International Law*, pp. 1–23, at 3.

⁵² C.M. Chinkin, ‘The Challenge of Soft Law: Development and Change in International Law’ (1989) 38(4) *International and Comparative Law Quarterly*, pp. 850–66, at 851.

⁵³ A.-M. Slaughter, *A New World Order* (Princeton University Press, 2004), p. 180.

international environmental norms and principles.⁵⁴ This, however, is not a universally held perspective. Klabbers, for example, disputes the ability of soft law to contribute to the application of binding law and argues that it is not only unnecessary but potentially harmful to the rule of law.⁵⁵ There are also concerns surrounding both the theoretical complexities (whether soft law is conceivably a type of law at all or if it transcends dimensions as ‘non-law’) and the practical effects of soft law (whether it can actually be enforced).⁵⁶ These criticisms, however, do not recognize the flexibility offered by soft law, including its adaptability to change and its role in facilitating state agreement.⁵⁷

As the dichotomy of hard and soft law continues to be a source of discussion, similar debates are ongoing concerning the SDGs and their position within the legal order. French, for example, argues that the SDGs cannot be categorized as law as they ‘remain conceptually and programmatically indeterminate’,⁵⁸ whereas Duvic-Paoli is more receptive to the influencing legal power of the SDGs.⁵⁹ Castillo-Winckels argues that the framework does, in fact, have the ability to shape domestic frameworks, given that it is underpinned by international norms and treaties.⁶⁰ Bantekas and Akestoridi have gone so far as to classify the SDGs as ‘political normativity’, as each goal and target was meticulously negotiated by state actors before receiving near-universal approval; thus embedding ‘political commitments’ and domestic priorities into the framework, which consequently ‘allows the parties to implement the SDGs as if they were based on normative commitments’.⁶¹ Acknowledging the variety of opinions concerning the credibility, or lack thereof, of soft law and the normative status of the SDGs, it is necessary to examine how different fields of law may be interacting with the 2030 Agenda and consequently affecting the framework’s authority.

International law

It could be argued that the interrelationship between international law and the SDGs is an example of a novel regime interaction. As mentioned, the goals are said to be guided by international law and implemented in accordance with international law

⁵⁴ See P.-M. Dupuy, ‘Soft Law and the International Law of the Environment’ (1991) 12(2) *Michigan Journal of International Law*, pp. 420–35; W. Scholtz & M. Barnard, ‘The Environment and the Sustainable Development Goals: “We Are on a Road to Nowhere”’, in French & Kotzé, n. 26 above, pp. 222–49.

⁵⁵ See J. Klabbers, ‘The Redundancy of Soft Law’ (1996) 65(2) *Nordic Journal of International Law*, pp. 167–82; J. Klabbers, ‘The Undesirability of Soft Law’ (1998) 67(4) *Nordic Journal of International Law*, pp. 381–91.

⁵⁶ F. Weiss, ‘The Device of Soft Law: Some Theoretical Underpinnings’, in F. Weiss & A.J. Kammel (eds), *The Changing Landscape of Global Financial Governance and the Role of Soft Law* (Brill Nijhoff, 2015), pp. 47–58, at 53.

⁵⁷ A. Boyle & C. Chinkin, *The Making of International Law* (Oxford University Press, 2007), p. 214.

⁵⁸ D. French, ‘The Global Goals: Formalism Foregone, Contested Legality and “Re-imaginings” of International Law’, in Z. Yihdego, M.G. Desta & F. Merso (eds), *Ethiopian Yearbook of International Law 2016* (Springer, 2017), pp. 151–78, at 151.

⁵⁹ Duvic-Paoli, n. 51 above.

⁶⁰ N.S. Castillo-Winckels, ‘How the Sustainable Development Goals Promote a New Conception of Ocean Commons Governance’, in French & Kotzé, n. 26 above, pp. 117–46, at 121–2.

⁶¹ I. Bantekas & K. Akestoridi, ‘Sustainable Development Goals, Between Politics and Soft Law: The Emergence of “Political Normativity” in International Law’ (2023) 37(4) *Emory International Law Review*, pp. 499–560, at 504.

obligations. While states are not legally bound to achieve the SDGs, given the influence of international law on the framework's formation, many overlaps exist between the SDGs and (non)-binding obligations and regimes, as outlined in Section 2. Target 14.1 further elucidates this interconnection: its focus is to 'reduce marine pollution of all kinds'⁶² and corresponds to Part XII Section 5 of the UN Convention on the Law of the Sea (UNCLOS),⁶³ the International Convention for the Prevention of Pollution from Ships,⁶⁴ the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter,⁶⁵ and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.⁶⁶ SDG 14.5 seeks to conserve at least 10% of coastal and marine areas by 2020, with progress made towards this objective measured through the '[c]overage of protected areas in relation to marine areas'.⁶⁷ While Scott describes this target as an 'important catalyst' to enhance measures related to existing legal regimes, she also identifies existing ambiguity, highlighting that SDG 14.5 does not delineate what 'conserve' means in this context and the lack of specificity concerning what area-based protection mechanisms should be implemented.⁶⁸

A 2022 study found that SDG 14.5 remains a distant goal for many countries, a shortcoming that is of concern as the objective pre-exists the SDGs.⁶⁹ Aichi Target 11 contains the same objective as SDG 14.5,⁷⁰ demonstrating an alignment between the SDGs and non-binding international obligations, albeit an alignment that may now, in some respects, be outdated. The Kunming-Montreal Global Biodiversity Framework (KBF), established by the Conference of the Parties (COP) to the CBD, enhances conservation ambitions pertaining to marine protected areas.⁷¹ Target 2 of the KBF aims to ensure that at least 30% of degraded terrestrial, inland water, coastal, and marine ecosystems are restored by 2030.⁷² Target 3 seeks to ensure that 30% of

⁶² 2030 Agenda, SDG 14.1.

⁶³ Montego Bay (Jamaica), 10 Dec. 1982, in force 16 Nov. 1994, available at: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

⁶⁴ London (United Kingdom (UK)), 2 Nov. 1973, in force 2 Oct. 1983, available at: <https://www.wco.int/en/LocalResources/en/KnowledgeCentre/ConferencesMeetings/Documents/MARPOL%201973%20-%20Final%20Act%20and%20Convention.pdf>.

⁶⁵ London (UK), 13 Nov. 1972, in force 30 Aug. 1975, available at: <https://treaties.un.org/doc/publication/unts/volume%201046/volume-1046-i-15749-english.pdf>.

⁶⁶ Basel (Switzerland), 22 Mar. 1989, in force 5 May 1992, available at: <https://www.basel.int/Portals/4/Basel%20Convention/docs/text/BaselConventionText-e.pdf>.

⁶⁷ UN Statistics Division, 'Tier Classification for Global SDG Indicators as of 9 June 2022', 9 June 2022, p. 23, available at: https://unstats.un.org/sdgs/files/Tier%20Classification%20of%20SDG%20Indicators_9%20Jun%202022_web.pdf.

⁶⁸ K.N. Scott, 'SDG 14: Conserve and Sustainably Use the Oceans, Seas, and Marine Resources for Sustainable Development', in *Ibbesson & Hey*, n. 14 above, pp. 354–75, at 366–7.

⁶⁹ M. Andriamahefazafy et al., 'Sustainable Development Goal 14: To What Degree Have We Achieved the 2020 Targets for Our Oceans?' (2022) 227(1) *Ocean & Coastal Management*, pp. 1–9, at 5.

⁷⁰ *Ibid.*; CBD COP, Decision X/2, 'The Strategic Plan for Biodiversity 2011–2020 and the Aichi Biodiversity Targets', 29 Oct. 2010, UN Doc. UNEP/CBD/COP/DEC/X/2, available at: <https://www.cbd.int/doc/decisions/cop-10/cop-10-dec-02-en.pdf>.

⁷¹ CBD COP, Decision 15/4, 'Kunming-Montreal Global Biodiversity Framework', 19 Dec. 2022, UN Doc. CBD/COP/DEC/15/4, available at: <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-04-en.pdf>.

⁷² *Ibid.*

these ecosystems are protected and sustainably managed by 2030.⁷³ As Kim writes, ‘international law provides a normative context in which the SDGs and targets should operate and interact with each other’.⁷⁴ Yet, in the eight years since their establishment, the SDGs may have fallen behind the aspirations of international law in the area of marine protection, something that could be a symptom of an inherent weakness of the framework overall. The 15-year timeline may facilitate integrative thinking regarding sustainable development solutions but, in the absence of established processes to review and revise SDG objectives, the framework does not have the ability to keep pace with ongoing and emerging international law developments.

The SDGs unite all states in the pursuit of common goals, promoting and enhancing transboundary development cooperation, a key feature of international environmental law. The majority of freshwater resources are transboundary, shared between two or more states,⁷⁵ and, as McIntyre demonstrates, the targets of SDG 6 – to ensure the availability and sustainable management of water and sanitation for all – are consistent with current obligations found in domestic and international environmental and human rights law.⁷⁶ Using the example of SDG 6.1, which seeks to provide universal access to clean water by 2030, a normative alignment is drawn with the human right to water outlined in General Comment No. 15: The Right to Water, based on the International Covenant on Economic, Social, and Cultural Rights.⁷⁷ Furthermore, the coordinated reporting obligations found in SDG 6.5.2, and SDG 6 overall, are consistent with the commitments and principles of international water law, including the Convention on the Protection and Use of Transboundary Watercourses and International Lakes,⁷⁸ mechanisms that may have ‘sowed the seeds for a more transparent and collaborative system’.⁷⁹

Langford argues that the normativity embodied by the SDGs allows states to use the framework as a ‘political resource’ to prioritize and promote specific sustainable development challenges that warrant support.⁸⁰ Nevertheless, given the overarching focus of the SDGs on the environmental, social, and economic pillars of sustainable

⁷³ Ibid.

⁷⁴ R.E. Kim, ‘The Nexus between International Law and the Sustainable Development Goals’ (2016) 25(1) *Review of European, Comparative & International Environmental Law*, pp. 15–26, at 17.

⁷⁵ M. de Chaisemartin, ‘Measuring Transboundary Water Cooperation within the Framework of Agenda 2030: A Proposal for a Revision of SDG Indicator 6.5.2’ (2020) 45(1) *Water International*, pp. 60–78, at 61.

⁷⁶ See O. McIntyre, ‘International Water Law and SDG 6: Mutually Reinforcing Paradigms’, in French & Kotzé, n. 26 above, pp. 173–200.

⁷⁷ Ibid., p. 179; UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 15: The Right to Water (Arts 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) of the Covenant’, Nov. 2002, UN Doc. E/C.12/2002/11, available at: <https://digitallibrary.un.org/record/486454?ln=en>.

⁷⁸ Helsinki (Finland), 17 Mar. 1992, in force 6 Oct. 1996, available at: https://treaties.un.org/doc/Treaties/1992/03/19920317%2005-46%20AM/Ch_XXVII_05p.pdf.

⁷⁹ A. Rieu-Clarke, ‘Can Reporting Enhance Transboundary Water Cooperation? Early Insights from the Water Convention and the Sustainable Development Goals Reporting Exercise’ (2020) 29(3) *Review of European, Comparative & International Environmental Law*, pp. 361–71, at 370.

⁸⁰ M. Langford, ‘Lost in Transformation? The Politics of the Sustainable Development Goals’ (2016) 30(2) *Ethics & International Affairs*, pp. 167–76, at 175.

development, not all international obligations are included in the SDGs.⁸¹ The framework can therefore be described as a ‘subset of existing intergovernmental commitments’, creating a seemingly mutualistic relationship between relevant fields of international law and the SDGs through which law and the goals can interact.⁸² A failure to realize SDG objectives may result in a failure to comply with critical obligations enshrined in conventional and customary international law, whereby state non-compliance may be sanctionable.

Transnational law

Transnational law represents a type of lawmaking that challenges the way in which we theorize law as it transcends domestic borders, mainstream mechanisms of global governance, and traditionally perceived international relations.⁸³ It is not a ‘unitary system’, but acts as ‘an amalgam of norms, processes and actors with normative effects’ that can take the form of ‘discourse, methodology, or field of practice’.⁸⁴ Koh describes transnational legal processes as the ‘theory and practice of how public and private actors ... interact in a variety of public and private, domestic and international fora to make, interpret, enforce, and ultimately, internalize rules of transnational law’.⁸⁵ These are complex processes through which norms are formed and conveyed.⁸⁶

The SDGs bear many of the hallmarks of transnational legal processes identified by Koh. Firstly, these processes are non-traditional, as transnational legal processes bridge the divide between public-private and national-international law.⁸⁷ International law has ‘traditionally’ been made up of customary international law derived from common state practice and conventional international law derived from ratified instruments.⁸⁸ As aforementioned, the SDGs circumvent the typical method of rule making as they encompass both domestic and international legal frameworks, representing an unorthodox paradigm that uses voluntary norms to motivate states to realize shared objectives. Its non-binding nature, combined with its significant regard for the rule of law and international law standards, establishes an internal contradiction within the SDGs, which is a significant deviation from the long-established traditional means of developing international law.

⁸¹ Kim, n. 74 above, p. 16.

⁸² *Ibid.*, pp. 16–7.

⁸³ See P.C. Zumbansen, ‘Transnational Law, Evolving’, in J. Smits (ed.), *Elgar Encyclopedia of Comparative Law* (Edward Elgar, 2nd edn, 2012), pp. 898–925; G. Teubner, ‘Breaking Frames: The Global Interplay of Legal and Social Systems’ (1997) 45(1) *The American Journal of Comparative Law*, pp. 149–69; V. Heyvaert & L.-A. Duvic-Paoli, ‘The Meanings of Transnational Environmental Law’, in V. Heyvaert & L.-A. Duvic-Paoli (eds), *Research Handbook on Transnational Environmental Law* (Edward Elgar, 2020), pp. 2–17, at 3–5.

⁸⁴ Heyvaert & Duvic-Paoli, *ibid.*, pp. 4–6.

⁸⁵ H.H. Koh, ‘The 1994 Roscoe Pound Lecture: Transnational Legal Process’ (1996) 75(1) *Nebraska Law Review*, pp. 181–207, at 183–4.

⁸⁶ G. Shaffer, ‘Transnational Legal Process and State Change’ (2012) 37(2) *Law & Social Inquiry*, pp. 229–64, at 235–6.

⁸⁷ Koh, n. 85 above, p. 184.

⁸⁸ R.B. Baker, ‘Customary International Law in the 21st Century: Old Challenges and New Debates’ (2010) 21(1) *European Journal of International Law*, pp. 173–204, at 176.

Secondly, Koh characterizes transnational legal processes as non-statist.⁸⁹ Non-state actors have played a significant role in the formation of the SDGs, with non-state collaborative partnerships and engagement acting as core elements of the 2030 Agenda. In January 2013, the Open Working Group on Sustainable Development Goals (OWG) was formed to develop the SDGs. Consisting of 30 members, the OWG held 13 sessions between March 2013 and July 2014.⁹⁰ Through these sessions, civil society stakeholders could submit proposed amendments to the draft SDGs.⁹¹ These suggestions were considered by the OWG and helped to shape the final framework. Paragraph 89 of the 2030 Agenda states that the HLPF is to facilitate stakeholder engagement with the follow-up and review mechanisms.⁹² Despite providing no elaboration on how such participation would be facilitated, engagement with non-state actors is an active facet of the framework. For instance, the 2030 Agenda Partnership Accelerator was established by the UN to enhance partnerships to achieve the SDGs.⁹³ In 2019, UN states launched a political declaration to advance action to realize the SDGs by 2030, which recognized the need to establish deep-rooted partnerships between governments and public, private, and civil society stakeholders.⁹⁴ Altogether, active engagement by civil society with the framework and its efforts to hold public actors accountable reflect an ‘emerging multi-faceted and multi-layered approach to implementing the 2030 Agenda’⁹⁵ and strongly align with the non-statist element of Koh’s framework.

Thirdly, transnational legal processes are dynamic.⁹⁶ Koh writes that ‘[t]ransnational law transforms, mutates, and percolates up and down, from the public to the private, from the domestic to the international level and back down again’.⁹⁷ As the text of the 2030 Agenda has not been altered since its initial publication, the SDGs themselves remain static, demonstrating a weak alignment with this aspect of transnational legal processes. Nevertheless, the UNGA has continued to enact decisions to support SDG implementation. For example, the UNGA has adopted resolutions supporting the

⁸⁹ Koh, n. 85 above, p. 184.

⁹⁰ UNGA Draft Decision, ‘Open Working Group of the General Assembly on Sustainable Development Goals’, 15 Jan. 2013, UN Doc. A/67/L.48/Rev.1, available at: <https://digitallibrary.un.org/record/742043?ln=en&v=pdf>.

⁹¹ OWG, ‘Eleventh Session of the Open Working Group on Sustainable Development Goals (5–9 May 2014), Major Groups and other Stakeholders Morning Hearings: Summary of Statements (FA 1–10)’, May 2014, available at: <https://sdgs.un.org/sites/default/files/documents/3758mgsummary11.pdf>; UN Department of Economic and Social Affairs, ‘Open Letter to Co-chairs from Major Groups’, 16 June 2014, available at: https://sdgs.un.org/statements/open-letter-co-chairs-major-groups-12463_2.

⁹² 2030 Agenda, para. 89.

⁹³ See D. Stibbe & D. Prescott, *The SDG Partnership Guidebook: A Practical Guide to Building High Impact Multi-stakeholder Partnerships for the Sustainable Development Goals* (UN & The Partnering Initiative, 2020), available at: https://sustainabledevelopment.un.org/content/documents/2698SDG_Partnership_Guidebook_1.01_web.pdf.

⁹⁴ UNGA, ‘Political Declaration of the High-Level Political Forum on Sustainable Development Convened under the Auspices of the General Assembly’, 9 Sept. 2019, UN Doc. A/HLPF/2019/L.1, para. 14, available at: <https://digitallibrary.un.org/record/3827215?ln=en&v=pdf>.

⁹⁵ See Biermann et al., n. 44 above, p. 796.

⁹⁶ Koh, n. 85 above, p. 184.

⁹⁷ *Ibid.*

sustainable consumption and production goals of the 2030 Agenda⁹⁸ and objectives linked to eradicating poverty.⁹⁹ Likewise, the UNESCAP has published documents related to mainstreaming the SDGs into domestic economic policymaking,¹⁰⁰ and the UN Framework Convention on Climate Change (UNFCCC)¹⁰¹ has outlined in a technical paper the opportunities for SDG integration with the UNFCCC and the Sendai Framework for Disaster Risk Reduction 2015–2030.¹⁰² Though limited, the SDGs exhibit some degree of dynamism consistent with Koh's theory.

The last characteristic of transnational legal processes, as identified by Koh, is normativity, which is described as the ability for 'new rules of law [to] emerge', and explores both how transnational actors shape law and how law in turn shapes these interactions.¹⁰³ While the framework did not establish any binding obligations, the preparatory sessions were grounded in law and the framework gives due regard to the rule of law, the importance of good governance, and existing principles and treaties of international law.¹⁰⁴ It remains unclear if the transnational interactions being facilitated by the SDG–international law interrelationship is resulting in the formation of new rules and norms. Bearing in mind this complex relationship, however, some scholars do contend that the SDGs may have the power to directly affect our 'legal thinking'.¹⁰⁵

Koh outlines, in his 1997 paper, that the cyclical system of interaction (state-state cooperation), interpretation (generation of norms based on interactions), and internalization (integration into domestic law systems) of transnational legal processes facilitates state obedience to international law, and asserts that 'perceived self-interest' is the motivation for compliance.¹⁰⁶ Divergence from this pattern creates 'frictions' between states, and so nations are compelled to comply with international legal systems.¹⁰⁷ This could also be applied to the SDGs. Close state cooperation, as required under the framework, allows for the generation of shared development solutions.

Common standards of practice are established, which can be integrated into domestic policy. If states breach existing codes of conduct, it could have ramifications not only for

⁹⁸ UNGA Resolution 76/202, 'Promoting Sustainable Consumption and Production Patterns for the Implementation of the 2030 Agenda for Sustainable Development, Building on Agenda 21', 5 Jan. 2022, UN Doc. A/RES/76/202, available at: <https://digitallibrary.un.org/record/3953782?ln=en&cv=pdf>.

⁹⁹ UNGA Resolution 76/219, 'Eradicating Rural Poverty to Implement the 2030 Agenda for Sustainable Development', 10 Jan. 2022, UN Doc. A/RES/76/219, available at: <https://digitallibrary.un.org/record/3954762?ln=en&cv=pdf>.

¹⁰⁰ UNESCAP, 'Mainstreaming the Sustainable Development Goals into Economic Policymaking', 28 Aug. 2019, UN Doc. ESCAP/CMPF/2019/1, available at: https://www.unescap.org/sites/default/d8files/event-documents/CMPF-2~1_2.PDF.

¹⁰¹ New York, NY (US), 9 May 1992, in force 21 Mar. 1994, available at: <https://unfccc.int>.

¹⁰² UNFCCC Secretariat, 'Opportunities and Options for Integrating Climate Change Adaptation with the Sustainable Development Goals and the Sendai Framework for Disaster Risk Reduction 2015–2030', 19 Oct. 2017, UN Doc. FCCC/TP/2017/3, available at: <https://unfccc.int/resource/docs/2017/tp/03.pdf>.

¹⁰³ Koh, n. 85 above, p. 184.

¹⁰⁴ 2030 Agenda, paras 8–10, 18–9, 23, 30, 35.

¹⁰⁵ P. Wrangé, 'SDG 16: Promote Peaceful and Inclusive Societies for Sustainable Development, Provide Access to Justice for All and Build Effective, Accountable and Inclusive Institutions at All Levels', in Ebbesson & Hey (eds), n. 14 above, pp. 399–21, at 405.

¹⁰⁶ Koh, n. 7 above, p. 2655.

¹⁰⁷ *Ibid.*

the shared sustainable development matter in question but for state relations overall. It has been said that the international law system is being transformed ‘through transnational legal process and the development of governance regimes, from the era of state “individualism” to the era of the collective community of state’.¹⁰⁸ The SDGs seek to surpass normative state individualism in the collective pursuit of sustainable development, and are compatible with many of the characteristics of transnational legal processes, albeit to varying degrees, demonstrating the potential of the framework to represent a novel method of transnational rule making. The SDGs challenge traditional binary divisions of law, and the international legal system, by offering an approach consistent with transnational law: it is flexible, holistic, inclusive of all actors, and inherently interactional, fully dependent on state commitment and partnerships to fulfil its objectives.

3.2. Legitimacy

Legitimacy can be described as a ‘non-coercive’ method of obedience¹⁰⁹ and is simultaneously a ‘source of power and a constraint on power’.¹¹⁰ Legitimacy is not necessarily immediately established; rather it is something that builds over time under the rule or institutions at issue.¹¹¹ According to Franck, determinacy, symbolic validation, coherence, and adherence are four factors that serve as indicators of rule legitimacy.¹¹² The alignment of the SDGs, or lack thereof, with these factors of legitimacy, will now be explored.

Determinacy

Determinacy can be described as the clarity and accessibility of legal text and rules.¹¹³ For legitimacy to be established, states must understand what is expected of them and what type of behaviour is acceptable, or unacceptable, under the rule(s) in question.¹¹⁴ Issues concerning the ambiguity of the SDGs, how these commitments are to be achieved, and lack of clarity regarding stakeholder engagement were discussed above. The framework recognizes the critical role of non-state actors in SDG implementation¹¹⁵ but, as Bexell and Jönsson highlight, commitments centred around non-state involvement are ‘vague’ and dependent on the voluntary initiative of non-state actors.¹¹⁶ This, based on Franck’s theory, weakens the SDGs’ legitimacy.

¹⁰⁸ M.-C. Cordonier Segger & H.E. Judge C.G. Weeramantry, ‘Introduction’, in M.-C. Cordonier Segger & H.E. Judge C.G. Weeramantry (eds), *Sustainable Development Principles in the Decisions of International Courts and Tribunals: 1992–2012* (Routledge, 2017), pp. 1–26, at 4.

¹⁰⁹ Franck, n. 6 above, p. 16.

¹¹⁰ M. Bexell & K. Jönsson, *The Politics of the Sustainable Development Goals: Legitimacy, Responsibility, and Accountability* (Routledge, 2021), p. 25.

¹¹¹ Chayes & Chayes, n. 46 above, p. 128.

¹¹² T.M. Franck, *Fairness in International Law and Institutions* (Oxford University Press, 1998), p. 30.

¹¹³ *Ibid.*, pp. 30–1.

¹¹⁴ T.M. Franck, ‘Legitimacy in the International System’ (1988) 82(4) *American Journal of International Law*, pp. 705–59, at 713, 716.

¹¹⁵ 2030 Agenda, paras 39, 45, 60.

¹¹⁶ M. Bexell & K. Jönsson, ‘Responsibility and the United Nations’ Sustainable Development Goals’ (2017) 44(1) *Forum for Development Studies*, pp. 13–29, at 22.

It is conceivable that general aspirations and mechanisms were formalized to allow states to embody a more ‘flexible’ approach to sustainable development, something that is a useful feature of indeterminacy.¹¹⁷ This is not without disadvantages, however, as indeterminacy can complicate state conformity and be used to rationalize non-observance.¹¹⁸

Transparency of processes also increases textual determinacy and, by extension, legitimacy.¹¹⁹ The SDG follow-up and review mechanisms, and the data that is subsequently derived from these processes, were designed to be accessible and transparent.¹²⁰ As most states have participated in the VNR processes, and guidelines for national SDG reporting are readily available, this could suggest that these objectives – transparency and accessibility – are being achieved to some degree.¹²¹ Reporting domestic progress towards agreed commitments is key not only to enhancing transparency but also overall state understanding of said commitments.¹²² Determinacy, which includes the clarity of the SDGs and the availability of processes to clarify existing uncertainty around their character or implementation, affects the legitimacy of the framework.¹²³ The follow-up and review mechanisms, therefore, reinforce determinacy, while the existing ambiguity weakens this aspect of the framework’s legitimacy.

Symbolic validation

While determinacy can convey the meaning of rules and associated processes, symbolic validation conveys their ‘authority’.¹²⁴ The idea that the legitimacy of a rule is influenced by the characteristics that communicate its position in the ‘overall system of social order’ refers to symbolic validation.¹²⁵ The framework aligns with this dimension of legitimacy. The SDGs were officially adopted through an UNGA resolution. Described as the ‘predominant political body of the world organization’, the UNGA does not possess traditional normative powers but can have a substantial influence on state opinion, behaviour, and compliance through the adoption of resolutions.¹²⁶ The framework was not adopted as a conventional action plan, but as a collective undertaking to transform our world, holding significant symbolic weight of unity and universal equality. Furthermore, the SDG branding is highly recognizable and aligns with the ‘symbolic reinforcement’ dimension of Franck’s legitimacy theory.¹²⁷

¹¹⁷ Franck, n. 112 above, p. 31.

¹¹⁸ *Ibid.*

¹¹⁹ Franck, n. 114 above, p. 716.

¹²⁰ 2030 Agenda, paras 47, 72, 74(g).

¹²¹ See UN Development Group, ‘Guidelines to Support Country Reporting of the Sustainable Development Goals’, available at: <https://unsdg.un.org/sites/default/files/Guidelines-to-Support-Country-Reporting-on-SDGs-1.pdf>.

¹²² Rieu-Clarke, n. 79 above, p. 362.

¹²³ Franck, n. 114 above, p. 725.

¹²⁴ Franck, n. 112 above, p. 34.

¹²⁵ *Ibid.*

¹²⁶ G.R. Lande, ‘The Changing Effectiveness of General Assembly Resolutions’ (1964) 58 *Proceedings of the American Society of International Law at Its Annual Meeting*, pp. 162–73, at 162–4.

¹²⁷ Franck, n. 112 above, pp. 34–6.

Franck identifies ritual and pedigree as associated concepts of symbolic validation.¹²⁸ Rituals often take the form of ceremonies, and one could argue that the annual meetings of the HLPF – during which SDG commitments are reaffirmed and established formalities and diplomatic practices are strictly adhered to – communicate the framework’s core values and purpose.¹²⁹ Pedigree strengthens the legitimacy and compliance power of a rule or institution by highlighting its ‘historical origins’ and ‘cultural or anthropological deep-rootedness’.¹³⁰ Described as ‘historic’ by the UN,¹³¹ the SDGs unify states with the intention of building a world without inequality, injustice, and violence. Near-universal commitment to the framework signals strong political support for the SDGs, their objectives and overarching global vision. Furthermore, their collective nature creates a sense of ownership of the goals among state and non-state actors alike, which may, as Franck writes, ‘reinforce the sense of a “rule community”’.¹³²

From representatives of the Office of the UN High Commissioner for Human Rights recognizing the interlinkages between human rights and the 2030 Agenda¹³³ to the UNESCAP adopting resolutions to enhance SDG implementation,¹³⁴ the effects of the SDGs on the processes of UN institutions are visible. To illustrate, the UN Economic Commission for Europe (UNECE) has recognized the ability of the Environmental Performance Review Programme to aid the realization of the SDGs,¹³⁵ alongside exploring ways in which the Programme could incorporate SDG considerations into its review processes.¹³⁶ In terms of embedding gender considerations into the progressive implementation of the KBF, the CBD Subsidiary Body on Implementation (SBI), which operates under the auspices of the UN Environment Programme (UNEP), gave due regard to the 2030 Agenda when formulating the Gender Plan of Action. Under considerations of modalities

¹²⁸ Ibid.; Franck, n. 114 above, p. 733.

¹²⁹ For information on the format of HLPF meetings see UN High-Level Political Forum on Sustainable Development, ‘Summary of the President of the General Assembly’, 21 Oct. 2019, available at: https://sustainabledevelopment.un.org/content/documents/25200SDG_Summary.pdf.

¹³⁰ Franck, n. 114 above, p. 726.

¹³¹ See UN, n. 16 above.

¹³² Franck, n. 112 above, p. 34.

¹³³ M. Bachelet, ‘Ensuring that No One Is Left Behind: How Do We Protect the Poorest and Most Vulnerable from the Crisis and Empower Them to Realize the SDGs’, 6 July 2021, available at: https://sustainabledevelopment.un.org/content/documents/28686Statement_Ms_Michelle_Bachelet_Jeria.pdf; I. Brands Kehris, ‘Human Rights Council’s 3rd Intersessional Meeting for Dialogue and Cooperation on Human Rights and the 2030 Agenda for Sustainable Development’, 14 Jan. 2021, available at: <https://www.ohchr.org/en/statements/2021/01/human-rights-councils-3rd-intersessional-meeting-dialogue-and-cooperation-human>.

¹³⁴ UNESCAP Resolution 79/4, ‘Accelerating the Implementation of the 2030 Agenda for Sustainable Development for a Better Future For All in Asia and the Pacific’, 22 May 2023, UN Doc. E/ESCAP/RES/79/4, available at: https://www.unescap.org/sites/default/d8files/event-documents/ESCAP_RES_79_4_E_0.pdf.

¹³⁵ UNECE, ‘Report of the Eighth Environment for Europe Ministerial Conference’, 13 June 2016, UN Doc. ECE/BATUMI.CONF/2016/2/Add.1, para. 9, available at: <https://unece.org/DAM/env/documents/2016/ece/ece.batumi.conf.2016.2.add.1.e.pdf>.

¹³⁶ UNECE, ‘Role of Environmental Performance Reviews in Supporting the Achievement and Monitoring of Sustainable Development Goals in the Pan-European Region’, 29 Aug. 2017, UN Doc. ECE/CEP/2017/11, s. III(C), available at: <https://unece.org/DAM/env/documents/2017/ece/cep/ece.cep.2017.11.e.pdf>.

of the draft Gender Plan of Action,¹³⁷ the implementation and intended objectives of the Plan are based on '[e]nsuring coherence and coordination' with the SDGs.¹³⁸

Recognizing that ambitions of gender equality are represented as a specific SDG alongside being embedded throughout the goals, the Gender Plan of Action 'is intended to complement and support the implementation of the different Sustainable Development Goals, in line with the biodiversity agenda and the implementation of the post-2020 global biodiversity framework'.¹³⁹ While acknowledging that the SBI does not deliver legally binding recommendations, it does work to offer an authoritative voice to the CBD COP, seeking to review and shape the progress and implementation of the Convention and its protocols while strengthening coordination between the CBD, its institutional arrangements, and relevant international biodiversity instruments.¹⁴⁰ This SDG-focused modality can be found in the official Gender Plan of Action adopted by the CBD in December 2022.¹⁴¹ Such examples illustrate the correlation between the SDGs and the workings of international institutions, and how the SDGs can be used to reinforce the objectives of a foundational international biodiversity instrument.

Coherence

The above-mentioned dimensions of legitimacy intersect with coherence.¹⁴² Coherence, according to Franck, establishes consistency in the application of rules and is a 'key factor in explaining why rules compel'.¹⁴³ This concept also channels the idea that a rule can increase in strength if it is perceived as being linked with a 'network of other rules by an underlying general principle'.¹⁴⁴ The principle of sustainable development, rooted in concepts of equity and justice, is the foundation of the SDGs. Sustainable development is also closely related to other international law standards, including the precautionary principle, the principle of common but differentiated responsibility (CBDR), and intergenerational equity. While sustainable development can be found in a plethora of international legal instruments, reflecting its normative value, issues related to vague formulations of sustainable development remain.¹⁴⁵

¹³⁷ Proposed methods to support the implementation of the Gender Plan of Action. See footnote 3 of CBD Subsidiary Body on Implementation, Recommendation 3/3, 'Gender Plan of Action for the Post-2020 Global Biodiversity Framework', 28 Mar. 2022, UN Doc. CBD/SBI/REC/3/3, available at: <https://www.cbd.int/doc/recommendations/sbi-03/sbi-03-rec-03-en.pdf>.

¹³⁸ Ibid., Annex, para. 2(b).

¹³⁹ Ibid.

¹⁴⁰ See CBD COP, Decision XII/26, 'Improving the Efficiency of Structures and Processes of the Convention: Subsidiary Body on Implementation', 7. Oct. 2014, UN Doc. UNEP/CBD/COP/DEC/XII/26, available at: <https://www.cbd.int/doc/decisions/cop-12/cop-12-dec-26-en.pdf>; CBD, 'Report of the Subsidiary Body on Implementation on its First Meeting', 6 May 2016, UN Doc. UNEP/CBD/SBI/1/14/-UNEP/CBD/COP/13/6, available at: <https://www.cbd.int/doc/meetings/cop/cop-13/official/cop-13-06-en.pdf>.

¹⁴¹ CBD COP, Decision 15/11, 'Gender Plan of Action', 19 Dec. 2022, UN Doc. CBD/COP/DEC/15/11*, Annex, s. II, para. 2(b), available at: <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-11-en.docx>.

¹⁴² Franck, n. 114 above, p. 736.

¹⁴³ Franck, n. 112 above, p. 38.

¹⁴⁴ Franck, n. 114 above, p. 741.

¹⁴⁵ V. Barral, 'Sustainable Development in International Law: Nature and Operation of an Evolutive Legal Norm' (2012) 23(2) *European Journal of International Law*, pp. 377–400, at 383–5.

Enhancing policy coherence for sustainable development is the objective of SDG 17.14 and, through paragraph 63 of the 2030 Agenda, states commit to pursuing policy coherence at all levels.¹⁴⁶ The goals were designed to be ‘integrated and indivisible’,¹⁴⁷ and the complexity and coherence of each goal correlates with the number and relevance of associated targets.¹⁴⁸ The existing ambiguity within the framework, which leaves states free to interpret the meaning of critical commitments, risks generating a lack of coherence among and within domestic policy initiatives.¹⁴⁹ For example, a 2021 study found that the majority of coherence found in policy agendas related to environmental SDGs was ‘lost’ during the implementation phase.¹⁵⁰ The SDGs are, by principle, integrative, but the obscureness of some aspects lessens their coherence and, by extension, their legitimacy.

Adherence

According to Franck, the manner in which primary rules are supported by a hierarchical framework of secondary rules and processes that oversee their development and implementation is known as adherence.¹⁵¹ The legitimacy of the rule is influenced by the degree of adherence to this secondary framework and, as Franck outlines, rules that have this secondary ‘procedural and institutional’ support impose stronger compliance powers on states.¹⁵² The SDGs and associated targets could be viewed as the primary rules that states are expected to achieve. By this logic, the 248 indicators and associated reporting mechanisms represent the supporting secondary framework. The custodian agencies responsible for compiling SDG data could also be said to correspond to the supportive institutions that Franck outlines. The hierarchical aspect of this theory, however, is lacking as the framework’s objectives are not ranked based on importance, weakening the adherence factor of the framework’s legitimacy.

Commitment to the SDGs and engagement with the regime’s voluntary mechanisms are required in order to be recognized as a proactive member of the international community of states working collectively to address sustainable development issues. The presence of these four dimensions strengthens the likelihood of state observance, while their absence weakens the authority and legitimacy of the rule or institution in question.¹⁵³ As with transnational legal processes, the SDGs demonstrate varying degrees of alignment with Franck’s legitimacy factors, meaning that the perceived legitimacy of the framework may not be an overwhelming motivator for state adherence.

Franck notes, however, that failure to comply with a rule does not always reflect weak legitimacy. Instead, non-compliance may indicate a change in national priorities. In these instances, the legitimacy of a rule can be found in the ‘discomfort’ experienced

¹⁴⁶ 2030 Agenda, SDG 17.14, para. 63.

¹⁴⁷ *Ibid.*, para. 18.

¹⁴⁸ L. Coscieme, L.F. Mortensen & I. Donohue, ‘Enhance Environmental Policy Coherence to Meet the Sustainable Development Goals’ (2021) 296 *Journal of Cleaner Production*, pp. 1–8, at 2.

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*, pp. 4–6.

¹⁵¹ Franck, n. 112 above, pp. 41–6; Franck, n. 114 above, pp. 751–2.

¹⁵² Franck, n. 112 above, p. 41.

¹⁵³ *Ibid.*, p. 30.

by the non-compliant state and in the ‘inherent pull power’ of the rule which pressures states to comply.¹⁵⁴ Given that legitimacy grows over time, one could speculate that the legitimacy of a set of non-binding global development goals began with the establishment of the MDGs. Using this logic, the legitimacy of the SDGs will continue to grow each year as it approaches the 2030 deadline and as stakeholders continue to engage with the mechanisms of the framework through which more voluntary procedures are established.

3.3. Reciprocity and Reputation

Franck writes that in the context of international law, ‘rules usually are not enforced yet they are mostly obeyed’.¹⁵⁵ Without policing or sanctioning power, SDG adherence is motivated by reciprocity and reputational concerns. States are the primary actors that create and enforce international law,¹⁵⁶ and the influence of the perception of other states engaging with the SDGs, both nationally and internationally, aligns with the idea of reciprocity. Franck describes reciprocity as ‘an awareness that what one actor does in a particular transaction is of more than passing interest because it will affect the behaviour of the same, and also other, actors in a continuing line of similar – or even different – transactions’.¹⁵⁷ This notion of reciprocity, as it is linked with state behaviour, can facilitate inter- and transnational cooperation.¹⁵⁸ Reciprocity allows for a *quid pro quo* arrangement between states in the pursuit of sustainable development, and any violations of the ‘norms of reciprocity’ could be viewed as a violation of the law itself.¹⁵⁹ The overriding concept of reciprocity, which traverses inter- and transnational law and international relations, may act as a method of political peer pressure to conform to the behaviour of fellow states in realizing the SDGs.

Mechanisms of social influence

Goodman and Jinks contend that international institutions can affect state behaviour through three mechanisms of ‘social influence’: coercion (compliance through cost-benefit considerations), persuasion (acceptance through ‘strategic inculcation’), and acculturation (conformity through assimilation).¹⁶⁰ Pressures on states to conform can originate from internal or external forces,¹⁶¹ and SDG data processes can be characterized as aligning with all three of these theoretical mechanisms. Coercive dimensions can be found in national data collection activities. Engaging with voluntary

¹⁵⁴ Franck, n. 114 above, p. 712.

¹⁵⁵ Franck, n. 6 above, p. 3.

¹⁵⁶ A.-M. Slaughter, ‘International Law in a World of Liberal States’ (1995) 6(3) *European Journal of International Law*, pp. 503–38; R. Brewster, ‘Unpacking the State’s Reputation’ (2009) 50(2) *Harvard International Law Journal*, pp. 231–69.

¹⁵⁷ Franck, n. 6 above, p. 199.

¹⁵⁸ R.O. Keohane, ‘Reciprocity in International Relations’ (1986) 40(1) *International Organization*, pp. 1–27, at 1.

¹⁵⁹ F. Paris & N. Ghei, ‘The Role of Reciprocity in International Law’ (2003) 36(1) *Cornell International Law Journal*, pp. 93–123, at 121.

¹⁶⁰ Goodman & Jinks, n. 10 above, pp. 9–13.

¹⁶¹ *Ibid.*, p. 13.

data-reporting mechanisms establishes states as active SDG supporters. The transnational cooperation that is facilitated by SDG institutions also benefits states by helping to reduce ‘transaction costs’ and ‘collective action problems’.¹⁶² Goodman and Jinks state that coercion does not necessarily generate changes in values or attitudes. By this logic, the ‘benefits of conformity’, or the drawbacks of failing to conform, with the framework could be motivating state engagement.¹⁶³ Nations may perceive adherence with the SDGs as aligning with their ‘material interest[s]’, motivating changes in behaviour and domestic frameworks as a result.¹⁶⁴

States are persuaded to conform through ‘social “learning” and other forms of information conveyance’ with the strategic aim of changing state behaviour, as well as attitudes and values.¹⁶⁵ The established SDG data procedures instil an association of credibility and value in the information gathered and disseminated, aligning with the persuasive mechanisms of social influence.¹⁶⁶ The existence of reputable guidelines can influence states to “internalize” new norms’ and procedures of conduct, realigning domestic priorities with the framework.¹⁶⁷ States undergo peer-to-peer learning through the SDG data-reporting mechanisms, allowing nations to develop agreed procedures related to shared resources. SDG databases also allow states to gain insights from examples of good practice.¹⁶⁸ The first and second editions of *SDG Good Practices* highlight examples of initiatives submitted by stakeholders, which can be learned from and replicated.¹⁶⁹ A dedicated website acts as an online directory of SDG best practices.¹⁷⁰ In this regard, the 2030 Agenda may act as an information conduit through which states are persuaded to accept the validity of SDG processes and consequently adhere.

Goodman and Jinks characterize acculturation as ‘adopting the beliefs and behavioural patterns of the surrounding culture’.¹⁷¹ The data collection and dissemination patterns of best practice that have been developed through the framework, with which states are now familiar, aligns with this social mechanism. The SDGs may be creating a new culture, which values and promotes transnational cooperation, information sharing, and voluntary engagement. The SDG mechanisms have facilitated state behavioural change and the adoption of shared norms in line

¹⁶² Ibid., p. 10.

¹⁶³ Ibid., p. 9.

¹⁶⁴ Ibid., p. 10.

¹⁶⁵ Ibid., pp. 10–1.

¹⁶⁶ See R.O. Keohane & J.S. Nye Jr, ‘Power and Interdependence in the Information Age’ (1998) 77(5) *Foreign Affairs*, pp. 81–94, at 94.

¹⁶⁷ Goodman & Jinks, n. 10 above, p. 11.

¹⁶⁸ The data collection calendars of each SDG custodian agency and national reporting entity are readily accessible: UN Department of Economic and Social Affairs, Statistics Division, ‘SDG Indicators: Data Collection Information & Focal Points’, available at: <https://unstats.un.org/sdgs/dataContacts>.

¹⁶⁹ UN Department of Economic and Social Affairs, ‘SDG Good Practices: A Compilation of Success Stories and Lessons Learned in SDG Implementation’, Dec. 2020, available at: <https://sdgs.un.org/publications/sdg-good-practices-2020>; UN Department of Economic and Social Affairs, ‘SDG Good Practices: A Compilation of Success Stories and Lessons Learned in SDG Implementation’, Jan. 2022, available at: <https://sdgs.un.org/publications/sdg-good-practices-2nd-edition-2022>.

¹⁷⁰ UN, ‘SDG Good Practices’, available at: <https://sdgs.un.org/sdg-good-practices>.

¹⁷¹ Goodman & Jinks, n. 10 above, p. 12.

with the pursuit of common goals. The ‘social’ and ‘cognitive’ pressure to conform with this universally established framework and achieve a sense of ‘belonging’ with the international community could be leading to state adherence.¹⁷² It could also be speculated that witnessing leading states publicly and enthusiastically supporting the SDGs and engaging with the regime’s voluntary mechanisms encourages others to follow suit.¹⁷³ In short, the SDGs, according to Bantekas and Akestoridi, have established a ‘process’ which they contend is ‘far more effective than any binding treaty mechanisms’.¹⁷⁴ This is not just one single procedure, but a multi-dimensional process of reporting, cooperation, and commitment to shared goals grounded in ‘mutual trust’ and moral concerns.¹⁷⁵

National image

Those who are successful in realizing the SDGs will be rewarded with the image of a state capable of addressing complex sustainable development issues. Despite the lack of stringent compliance mechanisms, 95% of states have submitted a VNR at least once.¹⁷⁶ A state can benefit from establishing a credible reputation as a nation that respects binding and non-binding commitments and acts as a reliable member of the international community.¹⁷⁷ Transparency of action and support are central aims of the framework and, as discussed, data is compiled under every goal, target, and indicator.¹⁷⁸ The use of data gathering and indicators has become a ‘pervasive form of social pressure’ in the international landscape, used to influence and modify state policy.¹⁷⁹ Compliance mechanisms ‘seek to remove obstacles, clarify issues, and convince parties to change their behavior’,¹⁸⁰ and the reporting mechanisms of the SDGs may serve as a soft form of compliance.

Domestic performance in relation to the SDGs undergoes comparable ranking, which may act as an effective device of adherence as state progress, or lack thereof, is under scrutiny in the public eye.¹⁸¹ Any inadequate implementation of the goals, or failure to report data to the relevant custodian agencies, will be communicated to stakeholders. State aversion to incurring international reputational opprobrium for failing to engage extensively with the SDGs could contribute to their power. The responsibility for achieving these goals lies with states and the international community

¹⁷² *Ibid.*, p. 15.

¹⁷³ See B. Obama, ‘Remarks by the President on Sustainable Development Goals’, 27 Sept. 2015, available at: <https://obamawhitehouse.archives.gov/the-press-office/2015/09/27/remarks-president-sustainable-development-goals>; D. Cameron, ‘PM’s Speech to the UN Sustainable Development Goals Summit 2015’, 28 Sept. 2015, available at: <https://www.gov.uk/government/speeches/pms-speech-to-the-un-sustainable-development-goals-summit-2015>.

¹⁷⁴ Bantekas & Akestoridi, n. 61 above, p. 510.

¹⁷⁵ *Ibid.*, pp. 509–10.

¹⁷⁶ UN Department of Economic and Social Affairs, n. 33 above, p. 6.

¹⁷⁷ A. van Aaken & B. Simsek, ‘Rewarding in International Law’ (2021) 115(2) *American Journal of International Law*, pp. 195–241, at 201.

¹⁷⁸ 2030 Agenda, para. 48.

¹⁷⁹ J.G. Kelley & B.A. Simmons, ‘Politics by Number: Indicators as Social Pressure in International Relations’ (2015) 59(1) *American Journal of Political Science*, pp. 55–70, at 56.

¹⁸⁰ Chayes & Chayes, n. 46 above, p. 109.

¹⁸¹ See Kelley & Simmons, n. 179 above, p. 57.

as a whole. If these objectives are not realized by the 2030 deadline, states that fail to effectively implement SDG policy into their regional and domestic frameworks will face criticism. These dynamics may encourage states to conform out of fear of being labelled as bad actors or alienating themselves from the international community.

That said, legal scholarship is divided regarding the veracity (or inveracity) of reputational concerns as an influencing factor for state compliance with international law.¹⁸² As Guzman summarizes, '[t]he value of a reputation for compliance with international commitments is rarely large enough to affect the outcome when decisions are of such great magnitude'.¹⁸³ He argues that 'reputational cost[s]' are changeable, they may plateau at a certain point, and do not 'necessarily increase with the importance of the issue'.¹⁸⁴ Moreover, it is possible to rehabilitate the integrity and character of a state; thus, the impacts of a tarnished reputation are not perpetual.¹⁸⁵ While state reputation could be an important factor in influencing compliance with international law, it cannot act in isolation.¹⁸⁶ Brewster makes the point that states themselves are not static and, given the dynamic nature of appointed governments, reputational concerns are not necessarily an equal or consistent influence on state behaviour.¹⁸⁷ As momentum to realize the SDGs is largely dependent on political action, pursuant to Brewster's argument, transient governmental systems may be putting these objectives at great risk. It is arguable that the gradual progression of the SDGs through changeable political systems is currently moving at too slow a pace to execute the 'fundamental changes' enshrined in the 2030 Agenda.¹⁸⁸ Therefore, while national image may be a contributing factor in adherence to the SDGs, it is unlikely to be a constant or universal motivating force for every state.

3.4. National Self-Interest

It is difficult to imagine that state commitment to the SDGs is wholly altruistic. National self-interest must contribute to a state's motivation to adhere to the framework. The SDGs are framed as a progressive agenda for the good of people, the planet, and economic prosperity. Thus, political support and national integration of SDG policy considerations create an image of a country that is concerned for all citizens and the longevity of the Earth's natural resources. Increased scientific and public awareness of the perils of unsustainable living and widespread ecological crises have undoubtedly shaped domestic and international priorities. As explored by Bøggild, politicians' 'desire for re-election' and public favourability incentivize them to be receptive to the

¹⁸² See R. Brewster, 'The Limits of Reputation on Compliance' (2009) 1(2) *International Theory*, pp. 323–33; G.W. Downs & M.A. Jones, 'Reputation, Compliance, and International Law' (2002) 31(S1) *Journal of Legal Studies*, pp. S95–S114; A.T. Guzman, 'Reputation', in A.T. Guzman, *How International Law Works: A Rational Choice Theory* (Oxford University Press, 2008), pp. 71–118.

¹⁸³ Guzman, n. 5 above, p. 1883.

¹⁸⁴ *Ibid.*, p. 1884.

¹⁸⁵ Guzman, n. 182 above, p. 86.

¹⁸⁶ Downs & Jones, n. 182 above, p. S98.

¹⁸⁷ Brewster, n. 182 above, p. 325.

¹⁸⁸ See Biermann et al., n. 44 above; 2030 Agenda, para. 28.

needs and wants of voters.¹⁸⁹ Given the rise in popularity of the concept and principle of sustainable development, electoral self-interest may also be a contributing factor in SDG adherence. As Brewster comments, ‘even purely self-interested states will comply with international law because the benefits of cooperation outweigh the short-term costs of compliance’.¹⁹⁰ She further remarks that for this theory to be effective, non-compliant states must be excluded from collaborative opportunities to tip the scales of cost-benefit analysis towards compliance.¹⁹¹ It should be noted, however, that the exclusion of non-adhering states from SDG processes will only serve to hinder the overall objective of tackling shared sustainable development challenges.¹⁹²

International legal instruments are ‘artifacts of political choice and social existence’,¹⁹³ and this is also true for the SDGs. States willingly signed up to the 2030 Agenda and its formation was a democratic process, elaborated and refined by the OWG with participation and input from non-political and civil society stakeholders alike. While the OWG could consist of only 30 member states at any one time, the vast majority of nations took part in the developmental process.¹⁹⁴ It is apparent that ‘[d]ecisions are not a free good’ as time, expertise, and financial resources are required to participate in international decision-making processes.¹⁹⁵ Therefore, states are deliberate with how they spend these resources, and the advantages of state participation and compliance must exceed the costs.¹⁹⁶ Comprehensive state participation in the SDG development processes and adherence to associated reporting practices suggests that the advantages of achieving sustainable development counterbalance any existing or potential short-term disadvantages. Achievement of the SDGs is favourable to states for many reasons, two of which will now be discussed.

Climate mitigation

If global temperature increases are not limited to 1.5°C above pre-industrial levels as detailed in the Paris Agreement,¹⁹⁷ aligning with SDG 13 (Climate Action), there will be severe ecological and socio-economic consequences.¹⁹⁸ These impacts would have untold costs for national systems, forcefully displacing countless people, and

¹⁸⁹ See T. Bøggild, ‘How Politicians’ Reelection Efforts Can Reduce Public Trust, Electoral Support, and Policy Approval’ (2016) 37(6) *Political Psychology*, pp. 901–19.

¹⁹⁰ Brewster, n. 156 above, p. 231.

¹⁹¹ *Ibid.*, pp. 231–2.

¹⁹² See Brewster (n. 182 above, p. 331) for similar arguments concerning the Kyoto Protocol to the UNFCCC (Kyoto (Japan), 11 Dec. 1997, in force 16 Feb. 2005, available at: <http://unfccc.int/resource/docs/convkp/kpeng.pdf>).

¹⁹³ Chayes & Chayes, n. 47 above, p. 180.

¹⁹⁴ Langford, n. 80 above, p. 170.

¹⁹⁵ Chayes & Chayes, n. 46 above, p. 4.

¹⁹⁶ *Ibid.*

¹⁹⁷ Paris Agreement, Paris (France), 12 Dec. 2015, in force 4 Nov. 2016, Art. 2.1(a), available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf.

¹⁹⁸ See K.L. Ebi et al., ‘Extreme Weather and Climate Change: Population Health and Health System Implications’ (2021) 42(1) *Annual Review of Public Health*, pp. 293–315; C. Bellard et al., ‘Impacts of Climate Change on the Future of Biodiversity’ (2012) 15 *Ecology Letters*, pp. 365–77; A.K. Misra, ‘Climate Change and Challenges of Water and Food Security’ (2014) 3(1) *International Journal of Sustainable Built Environment*, pp. 153–65.

thus generating significant human rights and security concerns.¹⁹⁹ Achieving the most environmentally focused SDGs would help to alleviate the domestic economic and systemic burdens of these climate challenges.²⁰⁰ The co-benefits of climate mitigation are well-established and relate to energy security, improving public health, resource efficiency, sustainable employment opportunities, and reduced socio-economic disparities.²⁰¹ Therefore, strong and ambitious leadership to address the myriad of issues associated with the environmental pillar of sustainable development would be favourable on practical and political levels.

Traditional economic growth

Domestic economic benefits are associated with sustainable development. Economic prosperity is one of the three ‘mutually reinforcing’ dimensions of sustainable development,²⁰² with SDG 8 dedicated to achieving decent work and economic growth.²⁰³ The 2030 Agenda resolves to ‘create conditions for sustainable, inclusive and sustained economic growth, shared prosperity and decent work for all, taking into account different levels of national development and capacities’.²⁰⁴ This objective of sustained economic growth, by its very nature, may be a paradox of the SDGs. As leading scholars argue, ecological sustainability is incompatible with current models of production, consumption, and development.²⁰⁵ Despite being imaged as ‘bold’ and ‘ambitious’, the framework does not seek to radically transform global development.²⁰⁶ It does not call for the deconstruction of capitalism or for a transition to an alternative economic system. Rather, the SDGs uphold the status quo of infinite economic progress under the current unsustainable capitalist model. As a result, it is likely that states perceive national self-interest in the conservative economic agenda of the SDGs. Aligning with the traditional priorities of states to pursue ‘relentless growth-driven development’, the SDGs do not require strict respect for ‘planetary boundaries’ or challenge associated ecologically or socially destructive power structures.²⁰⁷ Additionally, the SDGs do not encroach on state sovereignty.²⁰⁸ While the framework could act as a stepping stone to more progressive development agendas in the future, the SDGs do not address the root cause of the human-made climate crisis and bypass opportunities for a sustainable economic

¹⁹⁹ See V. Kolmannskog, ‘Climate Change, Environmental Displacement and International Law’ (2012) 24(8) *Journal of International Development*, pp. 1071–81.

²⁰⁰ Such as SDG 13, 14, and 15.

²⁰¹ See A. Smith, *The Climate Bonus: Co-benefits of Climate Policy* (Routledge, 2013).

²⁰² UN, ‘Report of the World Summit on Sustainable Development’, Johannesburg (South Africa), 26 Aug.–4 Sept. 2002, UN Doc. A/CONF.199/20*, para. 5, available at: <https://digitallibrary.un.org/record/478154?ln=en>.

²⁰³ 2030 Agenda, SDG 8.

²⁰⁴ *Ibid.*, para. 3.

²⁰⁵ S. Adelman, ‘The Sustainable Development Goals: Anthropocentrism and Neoliberalism’, in French & Kotzé, n. 26 above, pp. 15–40.

²⁰⁶ 2030 Agenda, Preamble, para. 7.

²⁰⁷ L.J. Kotzé & S. Adelman, ‘Environmental Law and the Unsustainability of Sustainable Development: A Tale of Disenchantment and of Hope’ (2023) *Law and Critique*, pp. 227–48, at 229–30.

²⁰⁸ 2030 Agenda, para. 18.

metamorphosis, opting instead for inadequate ‘techno-managerial green capitalist “solutions”’.²⁰⁹

3.5. Moral Obligation

States have an overriding moral obligation, both to their own citizens and as members of the international community, to tackle issues like the climate crisis, given its classification as a common concern for humankind.²¹⁰ In particular, nations in the global north have a historic responsibility for generating the majority of greenhouse gas emissions and over-exploitation of natural resources through colonial pursuits. By committing to the framework, states display their support for the realization of the 17 goals and associated norms, and state adherence to the voluntary monitoring and reporting mechanisms indicates that states believe that these objectives should be honoured and fulfilled.

Posner argues that states do not have a moral obligation to comply with international law and asserts that this way of thinking ‘sows confusion and causes harm rather than good’.²¹¹ However, upon examination of the principles of international law, it is clear that moral standards have been instilled into the foundations of the international legal system through the concept and language of solidarity. The Stockholm Declaration begins with a consideration of the need for a ‘common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment’.²¹² It goes on to recognize that environmental protection is critical for the ‘well-being of peoples and economic development throughout the world’.²¹³ The manifestation of global solidarity can also be seen through the principle of CBDR. Recognizing the differences in national capacities and availability of resources, this principle instils a duty to minimize the impacts of the climate crisis and environmental degradation with regard to and in accordance with equity and respective capabilities, as set out in the Rio Declaration on Environment and Development²¹⁴ and the UNFCCC.²¹⁵

It could be said that sustainable development has always embodied moral considerations, given its regard for intra- and intergenerational equity. The definition of sustainable development used in the Report of the World Commission on Environment and Development, ‘Our Common Future’, is based on two concepts: the ‘needs’ of humankind, particularly those in poverty, and the ‘limitations’ of the ability of the

²⁰⁹ Kotzé & Adelman, n. 207 above, pp. 235–6.

²¹⁰ UNFCCC, n. 101 above, Preamble.

²¹¹ Posner, n. 46 above, p. 1919.

²¹² Stockholm Declaration, adopted by the UN Conference on the Human Environment, Stockholm (Sweden), 5–16 June 1972, UN Doc. A/CONF.48/14/Rev.1, Preamble, available at: <https://wedocs.unep.org/bitstream/handle/20.500.11822/29567/ELGP1StockD.pdf>.

²¹³ *Ibid.*, para. 2.

²¹⁴ Rio Declaration on Environment and Development, adopted by the UN Conference on Environment and Development, Rio de Janeiro (Brazil), 3–14 June 1992, UN Doc. A/CONF.151/26 (Vol. I), 14 June 1992, Principle 7, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf.

²¹⁵ UNFCCC, n. 101 above, Art. 3.

natural environment to fulfil the needs of present and future generations.²¹⁶ In the light of these considerations, it would be erroneous to separate law and morality as these ‘are not radically distinct concepts’.²¹⁷ The SDGs represent the 21st-century ‘ethical agenda’ for sustainable development²¹⁸ and demonstrate a ‘collective endeavour based on moral commitment’ through political and social cooperation.²¹⁹ It is conceivable that the SDGs balance the legitimacy of law with principles of equity and social justice, traversing ‘political and moral dimensions’,²²⁰ and moral considerations cannot be separated from this framework. Achieving the SDGs would ‘profoundly’ improve the lives of all people and transform our world for the better.²²¹ By supporting the goals, states are taking responsibility for the well-being of current and future generations, signifying an understanding by the international community that achieving sustainable development is a morally right act. While no normative punishment exists for failure to adhere to the SDGs, there is a much greater existential cost to pay if the worst impacts of the climate crisis are not avoided, biodiversity loss is not halted, and critical human rights are not realized.

4. Conclusion

The SDGs have garnered global support and somewhat influenced domestic, international, and transnational priorities.²²² The near-universal acceptance of and reporting on a non-binding framework by states has created a newfound global paradigm, the normative impacts of which are yet to be fully established. A combination of all the above-mentioned factors contribute to the authority of the SDGs and influence state adherence, a feat that is particularly impressive when one considers its non-binding character. While national SDG progress is monitored, it may be difficult to quantify whether domestic adherence is sufficient, especially when attempting to compare nations with vastly different financial and governmental capacities. Most likely, adherence exists on a spectrum, ranging from minimal reporting and national integration to maximum engagement. States are not comprehensively adhering to this soft framework, which means that progress related to some SDG targets is inadequate, indicating ‘no movement’ or indeed have ‘regressed’ to 2015 levels.²²³ SDG non-adherence could be a deliberate decision by states, ignoring these soft commitments in pursuit of short-term gains. Yet, non-adherence does not necessarily signify state disregard for the three pillars of sustainable development. It could be

²¹⁶ ‘Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs’: UNGA, n. 1 above, Ch. 2, para. 1.

²¹⁷ J. Brunnée & S.J. Toope, ‘International Law and Constructivism: Elements of an Interactional Theory of International Law’ (2000) 39(1) *Columbia Journal of Transnational Law*, pp. 19–74, at 40.

²¹⁸ J.B.S.O.A. Guerra et al., ‘Sustainable Development Goals and Ethics: Building “The Future We Want”’ (2022) 24(1) *Environment, Development and Sustainability*, pp. 9407–28, at 9425.

²¹⁹ Bexell & Jönsson, n. 116 above, p. 21.

²²⁰ *Ibid.*, p. 20.

²²¹ 2030 Agenda, Preamble.

²²² See Biermann et al., n. 44 above (for discussions of the limited political impact of the SDGs).

²²³ UN Department of Economic and Social Affairs, n. 33 above, p. 4.

reflective of an existing lack of political will to tackle these labyrinthine challenges or a ‘shift in the policy goals’ of a state.²²⁴ Undoubtedly, the problem of inadequate state observance with agreed commitments is not unique to the SDGs, but is a widespread issue facing both binding and non-binding obligations in the international normative order.

This article identified normative, legitimacy, reciprocity, reputational, self-interest, and moral dimensions, which seem to be influencing state behaviour and motivating commitment to the SDGs. While demonstrating varying degrees of theoretical alignment, the SDGs offer a versatile lens to explore the different motives for state adherence to a soft law framework in the inter- and transnational legal spheres. The complex dynamics at play are important to recognize. As with understanding the relationship between states and inter- and transnational law,²²⁵ by discerning what motivates states to adhere to the SDGs, their functionality and practical applications can be strengthened and leveraged to inform the design and implementation of the post-2030 Agenda.

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²²⁴ Brewster, n. 182 above, p. 330.

²²⁵ Guzman, n. 5 above, p. 1826.

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