

INSTITUTIONAL ARRANGEMENTS FOR ETHICS AND JUSTICE

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Summary

A conceptual framework for global institutions for ethics and justice will often use the rhetoric of sustainability. However, there is no globally shared interpretation of sustainability. The cases of Japan and New Zealand illustrate the problems of dealing with sustainability claims and “rights” within non-Western cultures and multicultural societies. The concern for ethics and justice as implied in the definition and agenda of sustainable development are culturally biased. However, this does not mean that the call for ethics and justice is beyond practical and political significance. Instead, it calls for a more dynamic, open strategy, a dynamic learning process of intercultural understanding. The most important characteristic of political and legal institutions is, therefore, not their foundation in substantive normative principles, but their ability to function as a flexible, adjustable framework for ethical decision making. The basic task for sustainability is not to create a tight system of norms that is supposed to regulate almost any approaching challenge in an unambiguous, predictable way. It is to establish an

institutional framework that motivates all relevant parties to cooperate in an endeavor to meet actual challenges in a most appropriate way. This is true for social institutions, too.

1. Sustainability and the Quest for Global Institutions for Ethics and Justice

Sustainability in any of its current interpretations is considered to be a global issue demanding global solutions. Such solutions presuppose a minimum agreement on basic issues such as a common terminology, a shared diagnosis of present conditions, an agreed concept of a desirable development, and a consensus on procedural rules. However, at the beginning of the twenty-first century none of these issues obtained global consent. As a consequence, the attempt to give the concept of sustainable development a specific *material* interpretation while searching for a universal agreement has been almost entirely abandoned. Utilizing its rhetoric strength, the main focus is now primarily on necessary processes of change in response to particular environmental problems (i.e. to perceived instances of clearly unsustainable conditions). There is no general answer to what sustainability aims at, but there is a consensus that something has to happen to meet actual challenges to humankind and other natural beings now and in the near future.

The non-committal reference to sustainability in legal documents and policy statements has at least two valuable effects: they force politicians, administrators, researchers, business people, and communities to reflect on problematic socioeconomic (i.e. unsustainable) practices and they may eventually initiate actions to address them. Due to its high level of abstraction, however, the concept of sustainability invites ideological misuse and neglect of relevant specific circumstances. The concept of sustainability is intertwined with a renewal of universalism and as such is unfit to deal with the peculiarities of actual situations. This is increasingly the case when sustainability is given a global interpretation and institutionalized in international law and policy.

Thus, on the one hand sustainability is considered to be a global issue; and on the other hand the search for global solutions runs into substantial problems. This article deals with problems connected with the attempt to promote sustainability by establishing transnational institutions, in particular where they deal with questions of ethics, justice, and equivalent matters (Section 2). The next step is to elaborate necessary and ideal conditions and models for institutionalizing ethical and ethical-like concerns (Section 3).

How these ideas can be realized and already are partially realized within social, political, and legal institutions is exemplified in Section 4 before conclusions are drawn in Section 5. To make institutions work, questions of ethics, justice, and the like play a vital role. Socioeconomic, political, and legal problems are often derivatives of substantial existential (or ethical) challenges. To answer the question “What kind of institutions of ethics, justice, and equivalents are needed to promote sustainable development?” is, therefore, a matter of substantial political interest. The following discussion is not intended to be an overview and analysis of existing institutions. Its aim is to provide a normative framework for ethically sustainable institutionalizations (see *Ethics and Justice Needs for Sustainable Development* and *Human Resource Development: Ethics and Justice Needs for Sustainable Development*).

2. Problems for Global Justice and Ethics Institutions

2.1. Introduction

In discourses on sustainable development, the concern for ethics and justice mitigates social and environmental effects of economic activities. Thus, while ethical issues are not acknowledged as the primary objective of the political agenda they form the normative framework and provisos of sound economic development. Without the intervention of ethics, justice, and equivalent considerations, the distribution of economic benefits and costs and of externalities (environmental load) would generate problems of equity and threaten the social and political order. So far, there is widespread global agreement on the importance of having at least some kind of ethical parameters to handle the distributional aspects of human entrepreneurship. This is reflected in many international and national documents that address this problem in their preliminary statements or objectives, although usually in very general terms. Here, however, agreement also ends. When it comes to the identification and interpretation of policies and their implementation, divergences emerge and the process often terminates. This not only prevents joint international action, but national progress, too.

Some people believe in a cosmopolitan, global understanding that creates legitimate expectations to find a basis for global ethics. A general framework for global ethics must comprise basic ideas of social and environmental justice. It is commonly believed that, in spite of any differences in personal and cultural values, principles of justice or fairness can reasonably be expected to be shared among people all over the world. But even John Rawls, whose famous *Theory of Justice* moves intentionally beyond particular historical and social positions, is aware that the project of a global concept of justice as fairness is unsuccessful. He acknowledges that the rationale of his concept of fairness is intimately bound with occidental culture and that the spirit of liberalism gives his search for interpersonal agreement an unmistakable normative bias. What would change this situation is the complete Westernization of the world. The concern for ethics and distributive justice is part of occidental culture and, according to some, largely absent in any other cultural tradition.

As a consequence, the dialogue on sustainable policies, based on globally shared moral institutions or principles of justice, will run into problems, most probably on an intermediate, strategic level. Negotiators with different cultural backgrounds will often find it convenient to sign agreements backing business contracts and other forms of cooperation. Often, top-level political agreements use theoretical vocabulary and formulate rhetorically convincing objectives that rarely include specific obligations. For more specific tasks, pragmatic interests will relatively easily determine the necessary conditions for cooperation. If general objectives are interpreted in specific tasks, the will to cooperate is great. International agreements are most successful if they are quite specific and refer to well-defined, short-term actions. However, if the question is to frame strategic policies, important differences appear and generate long, exhausting, and often unsuccessful controversies. The reason is that, at this level, considerations of ethics and justice are important but are not universally shared, because of major cultural differences. In this article, two cases, involving Japan and New Zealand, will illustrate

this problem and give an indication of what can be expected of institutions of ethics and justice that claim global adherence.

However, it should be noted that cultural obstacles are not the only obstacles that prevent implementation, compliance, and effectiveness of policies of sustainability. Weiss and Jacobson's overview of factors affecting implementation, compliance, and effectiveness is reproduced in abbreviated form in Figure 1.

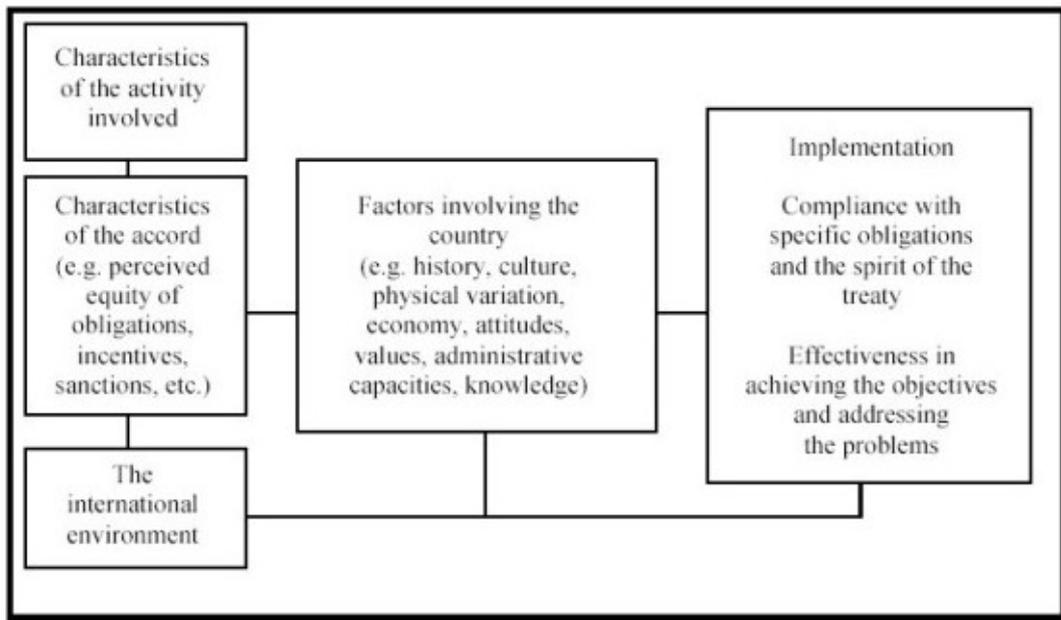


Figure.1. A model of factors that affect implementation, compliance, and effectiveness (Source: E.B. Weiss and H.K. Jacobson, eds., *Engaging Countries: Strengthening Compliance with International Environmental Accords* (Cambridge, Mass.: MIT Press, 1998))

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Biographical Sketch

Ulli Zeitler studied philosophy and history at the University of Aarhus, Denmark. From 1984 to 1994 he lectured in philosophy at the University of Aarhus and the University of Copenhagen, Denmark. He was a research fellow at the Centre for Social Science Research on the Environment, Aarhus, from 1994 to 1999. After completing his Ph.D. about transport ethics in 1997, Dr. Zeitler worked as an associate professor at the University of Aalborg, Denmark. Since 2001, Dr. Zeitler has been the director of the Centre for Innovation in Nursing Education in the County of Aarhus, Denmark. His publications include *Philosophy of Production* (1988), *Grundlagen der Verkehrsethik* (1999), and numerous articles in the field of environmental ethics and transport ethics.