OPPORTUNITIES TO TRANSFORM THE CONCEPT OF SUSTAINABLE DEVELOPMENT

a Liliya Beloglazova, b Diana Stepanova, c Irina Telezhko, d Nataly Shaitura, e Elena Kirillova, f Vladimir Biryukov

ABSTRACT

Objective: At present, sustainable development has acquired the status of an influential legal principle and has become a key marker in the field of legislation that regulates development in all spheres of life. The authors proceed from the fact that the concept of sustainable development will inevitably be transformed. The study aims to determine the opportunity to transform the concept of sustainable development into a new global branch of law with its subject, methods, principles, and functions.

Methods: Qualitative research methods, including a desk review and comparative analysis of scholarly works related to sustainable development, were employed. A selection criteria-based approach was used to identify relevant publications, resulting in the analysis of 72 pertinent papers.

Results: The study results include the main concepts of legal understanding that can be applied to the law of sustainable development, as well as the typical features of social-legal relations included in the subject of sustainable development law. The law of sustainable development is an emerging global branch of law that regulates social relations in the field of sustainable development using traditional and alternative methods.

Conclusion: The study proves that it is expedient to apply the systematic method and the method of public obligations in the law of sustainable development. Opportunities exist for transforming the concept of sustainable development into a distinct global branch of law, facilitating enhanced environmental protection, poverty alleviation, improved quality of life, and national security.

Keywords: concept of sustainable development, corporate governance, ecological resources, legal relations, responsible attitude to the environment.
OPORTUNIDADES PARA TRANSFORMAR O CONCEITO DE DESENVOLVIMENTO SUSTENTÁVEL

RESUMO

Objetivo: Atualmente, o desenvolvimento sustentável adquiriu o estatuto de um princípio jurídico influente e tornou-se um marcador fundamental no domínio da legislação que regula o desenvolvimento em todas as esferas da vida. Os autores partem do fato de que o conceito de desenvolvimento sustentável será inevitavelmente transformado. O estudo visa determinar a oportunidade de transformar o conceito de desenvolvimento sustentável em um novo ramo global do direito com seu assunto, métodos, princípios e funções.

Métodos: Foram utilizados métodos de pesquisa qualitativa, incluindo revisão documental e análise comparativa de trabalhos acadêmicos relacionados ao desenvolvimento sustentável. Foi utilizada uma abordagem baseada em critérios de seleção para identificar publicações relevantes, resultando na análise de 72 trabalhos pertinentes.

Resultados: Os resultados do estudo incluem os principais conceitos de entendimento legal que podem ser aplicados à lei do desenvolvimento sustentável, bem como as características típicas das relações sócio-legais incluídas no tema da lei do desenvolvimento sustentável. A lei do desenvolvimento sustentável é um ramo emergente da lei global que regula as relações sociais no campo do desenvolvimento sustentável usando métodos tradicionais e alternativos.

Conclusão: O estudo comprova que é oportuno aplicar o método sistemático e o método das obrigações públicas na lei do desenvolvimento sustentável. Existem oportunidades para transformar o conceito de desenvolvimento sustentável num ramo distinto do direito mundial, facilitando uma maior proteção ambiental, a redução da pobreza, a melhoria da qualidade de vida e a segurança nacional.

Palavras-chave: conceito de desenvolvimento sustentável, governança corporativa, recursos ecológicos, relações jurídicas, atitude responsável em relação ao meio ambiente.

1 INTRODUCTION

The concept of sustainable development is taking over the world and changing society (Syngellakis, 1993; Dzhancharova et al., 2023; Rybak et al., 2023). It is an approach to the development of society that considers the long-term consequences of human activities on the environment and seeks to achieve a balance of economic, social, and environmental aspects (Denoncourt, 2020; Zhang et al., 2023).

The concept of sustainable development was formed when humanity realized that natural resources are limited (Pawlowski, 2009; Koval et al., 2023). In 1987, the report of the World Commission on Environment and Development “Our Common Future” (Brundtland Report) was the first to define sustainable development (United Nations
General Assembly, 1987). According to this document, it is understood as development in terms of respecting environmental resources to care for the needs of future generations. There are three components in the concept of sustainable development: social, economic, and environmental (Morris, 2002; Handl, 1998).

The idea of sustainable development has become a civilizational development vector that can significantly transform modern legal systems (Kalashnikov et al., 2022; Muschett, 1996; Kashina et al., 2022). Within the framework of international organizations, unions, and professional associations, as well as at the international and supranational levels, states adopt legal acts regulating social relations that determine sustainable development (Bañon Gomis et al., 2011; Khoruzhy et al., 2023).

Under these conditions, there is a need to legally interpret the concept of sustainable development into the law of sustainable development with its subject, methods, and principles of regulation (Germanovich et al., 2020). The law of sustainable development is complex and interdisciplinary. It cannot be reduced to international, environmental, social, and economic law since it is based on the principles of many legal branches and requires a comprehensive analysis (Bekezhanov et al., 2021). The definition of sustainable development as a new branch of law is relevant and innovative as the traditional approach to the ideas of sustainable development and respect for the environment is transformed into a completely new concept (Zhatkanbayeva et al., 2017).

The study determines the possibility of transforming the concept of sustainable development into a new global branch of law with its subject, methods, principles, and functions, which will promote environmental protection, the fight against poverty, the quality of life, and the level of national security.

The structure of the article is as follows: literature review, methods, and results. To sum up, we drew theoretical and practical conclusions and determined study limitations.

2 LITERATURE REVIEW

Many scholars have considered the concept of sustainable development and concluded that in modern conditions it is being transformed into a separate branch of law with its subject, principles, and methods (Fedchenko et al., 2023; Kalashnikov et al., 2023; Kaldiyarov et al., 2021; Yerezhepkyzy et al., 2021).
Back in 1995, C. Mitcham (Mitcham, 1995) highlighted the ambivalence of the concept of sustainable development related to the need for consumption and environmental protection and stated the formation of a separate subject. The scholar wrote about the specifics of social relations that fall within the scope of sustainable development.

B. Hopwood, M. Mellor, and G. O’Brien (2005) emphasize that the ideas of sustainable development became a vector for the development of civilization which could transform the legal systems of modern states. At the international level, legal acts have been adopted that regulate social relations governing sustainable development (Yerezhepkyzy et al., 2017; Rzabay et al., 2018).

C.A. Ruggerio (2021) describes some principles of sustainable development indicating the formation of a legal array with its own subject and fundamental principles.

S. Shapiro (Shapiro, 2011) developed the planning theory of law. Based on the idea that planning is an integral part of legal regulation, this theory applies to the field of sustainable development. The scholar emphasizes that the difficulty of making legal decisions in the field of sustainable development is due to complex problems since it is impossible to obtain a criterion for the effectiveness of the measures taken in an analytical form.

M. Decleris (2000) prepared a report for the European Commission on the law of sustainable development, where the scholar formulated the definitions of sustainable development in both narrow and broad senses. In a narrow sense, sustainable development is the expansion of production and the increase in the gross product, which will not lead to an environmental catastrophe. In a broad sense, sustainable development is a recovering policy aimed at maintaining a balance between ecosystems and artificial conglomerates. In modern conditions, this balance is disturbed by the dominance of consumption. Decleris highlights the features of sustainable development law expressed in the fact that it is an open system of communication with society. The system is based on the principles of transparency, awareness, broad public participation in identifying problems, and feedback to determine the correctness of the chosen goals and methods for achieving them.

M. Van Hoecke (2002) proposes an innovative approach to defining the law of sustainable development not as a hierarchy of normative rules and laws but as
communication. This approach is successfully used in the formation of new branches of law: network law, platform law, and digital law.

A.J. Bañon Gomis, M. Guillén Parra, W.M. Hoffman, and R.E. McNulty (2011) stress the role of sustainable development in changing society and restructuring management business models, which encourages legislators to adopt the concept principles and form sustainable development law, whose subject is public relations with different system affiliation.

Considering the broader concept of sustainable development, M.C. Segger (2009) claims that harmonious development ensures harmony between society and nature, different social groups, and the interests of modern and future generations. The ideas of sustainable development are acquiring a global scale, and the corresponding social relations have different sectoral and system affiliations, which provides a cumulative effect (Rybak et al., 2023).

D. Dontsov and N. Yushkova (2017) examine the principles of sustainable development law that are in line with the main goals of sustainable development identified in the UN report of 2015. The authors regard the law of sustainable development as a new branch going through the stages of formation and development. Therefore, it is important to determine the subject, methods, and principles of sustainable development.

Both N.J. Schrijver and F. Weiss (2004) refer to the principles of sustainable development law. The principles mentioned by the authors have an ecological orientation. In particular, it is assumed that the main ideas are aimed at saving the natural potential and caring for future generations.

Many scholars dwell on the concept of sustainable development, putting forward various ideas and approaches. However, the research is fragmentary in terms of forming a theory about the transformation of the concept into the law of sustainable development. Therefore, it is necessary to consider this topic comprehensively.

3 METHODS

According to the number of publications, the topic of sustainable development is relevant. We visited https://scholar.google.com and found 511,000 (0.07 sec.) scientific studies for the keyword “concept of sustainable development” as of May 8, 2023, which proves the relevance of this topic.
We used a desk review and a comparative analysis of scientific works written on the topic of sustainable development and respect for the environment and nature. A bibliographic search was conducted in Scopus and Web of Science, as well as official websites where the main international legal acts are posted. For a comprehensive analysis, we selected studies that contained definitions of sustainable development, principles on which the concept of sustainable development is based, and methods used in various areas that are closely related to the field of sustainable development.

Studies were selected automatically according to the following criteria:

1. The author wrote at least three scientific works on the concept of sustainable development over the past 20 years;
2. More than 60% of legal research in the total number of publications;
3. The author’s profile must indicate that their publications are thematically related to legal sciences;
4. The scientific work was written between 1995 and 2022.

Under this approach, we selected over 150 publications. After careful consideration, we reduced the sampling to 72 papers.

Based on the features revealed, we formulated the subject of sustainable development law. The analysis was carried out as a comprehensive assessment that highlights the fundamental principles of sustainable development law. New principles were introduced that were described by the experts. These can serve as fundamental ideas in a new legal branch, i.e., the law of sustainable development.

When determining the functions of sustainable development law, the analogy method was used. As a result, we showed the functions that are most closely related to the subject of sustainable development law.

In the course of the study, we determined the subject, methods, functions, and principles of sustainable development law.

4 RESULTS

The main ideas of the concept of sustainable development transform the legal systems of modern states and bring them to a new level. At the international level, the concept is becoming a key marker in the field of legislation (Harris, 2000). Almost all countries have adopted legal acts related to sustainable development (Hopwood et al., 2005). However, scholars stress the ambivalence of the concept postulates. On the one
hand, it requires the conservation of natural resources and a careful attitude to them. On the other hand, it puts forward the thesis of combating poverty and hunger, which de facto conditions the need for serious exploitation of natural resources to satisfy the poorest segments of the population (Mitcham, 1995). Therefore, law-sustainable development should not be qualified as a traditional branch of law and as a set of imperative legal norms issued by legislative bodies, whose implementation is ensured by the force of coercion.

To form the law of sustainable development, it seems logical to treat law as communication (Mokhnenko et al., 2019) i.e., instead of a hierarchy of legal rules, use the concept of a network that combines many elements into a single entity (Van Hoecke, 2002). The law of sustainable development combines many legal branches, including environmental, economic, social, corporate, etc., and uses various methods, including alternative ones. Thus, it is impossible to use the hierarchy of legal norms to regulate legal relations in the field of sustainable development (Segger, 2009; Golusin, Ivanović, 2009).

In addition, the concept of legal understanding by S. Shapiro applies to the law of sustainable development. According to this theory, legal regulation should not only establish rules and norms but also include a planning process to determine the goals and objectives of legal regulation, as well as to develop appropriate mechanisms for their implementation. The scholar identifies three main elements of the planning theory (Figure 1).

Thus, Shapiro’s planning theory offers a broader approach to legal regulation which embraces not only the establishment of certain norms and rules but also the planning process (Shapiro, 2011).
The theory of M. Decleris (2000) complies with Shapiro’s planning theory. Its essence lies in the development of legal acts that are focused on specific goals and can be changed if the results of law-making do not correspond to forecasts. Under this approach, rule-making does not consist of dogmatic norms and rules but aims at possible changes and adjustments in response to new circumstances. According to Decleris, the law of sustainable development is a system of communication with society, while society is directly involved in determining environmental, social, and economic problems and provides feedback for the adoption of legal acts and their correction, if necessary. The scholar also singles out the principles of sustainable development law, including the principles of transparency, trust in law, feedback, and accountability.

If the planning theory of Shapiro is applied to the definition of sustainable development law, the goals of the concept can be transformed into fundamental principles (Schrijver, Weiss, 2004). The main sustainable development goals were adopted by the United Nations in 2015 (Figure 2).

![Sustainable Development Goals](source: Compiled by authors)

Figure 2. Sustainable Development Goals

Principles are the fundamental rules on which social relations are built. Within the framework of sustainable development law, principles must ensure the satisfaction of the
needs of the modern generation and not undermine the consumption opportunities of future generations (Ruggerio, 2021; Gberevbie, Ibietan, 2013).

The analysis of approaches and theories shows that the law of sustainable development forms a system of rules based on natural science, as well as scientific and technological laws (Cordonier Segger, Khalfan, 2004). It is necessary to highlight the principles on which the law of sustainable development is based. The main principle is to prevent damage to the environment. If this principle is violated, humanity is doomed to the depletion of environmental resources, poverty, hunger, and other negative consequences (Di Vaio, 2020). The principle of the rational use of natural resources requires the maximum use of natural resources with the least impact on the environment (Barral, 2012; Biermann et al., 2017). This means that it is necessary to use natural resources with maximum efficiency and minimum damage to the environment (Harris, 2000; Meadowcroft, 2007). The use of natural resources should be sustainable and not disturb ecosystems, i.e., to be cost-effective to minimize costs and maximize profits (Rasulov, 2020; Gaines, 2002). The principle of responsibility for one’s actions, which is expressed in a responsible attitude towards the environment, conserves resources and does not shift responsibility to other citizens and circumstances (Nguyen, 2016). It is also necessary to highlight the principle of humanity that enters into all life processes and is based on respect for life and the dignity of every citizen. This principle protects against violence, discrimination, and exploitation (Ramlogan, 2010; Ashby, 2022). The principle of solidarity can become a fundamental principle of sustainable development law since it is a principle of social justice that states that all members of society should have equal rights and opportunities to achieve success and well-being (Davidson, 1996; McGoldrick, 1996). This principle is based on the idea that society should take care of its members and help them achieve their goals.

After the stage of formation, the concept of sustainable development demonstrates that social-legal relations under its influence are autonomized or isolated since their regulation is subject to general principles, approaches, and methods (Marong, 2003; Fuentes, 2004).

The nature of legal relations united by the idea of sustainable development and careful attitude to natural resources endows the regulatory framework with a supra-industry (Herrmann, 2004), inter-system (Manby, 2021), and inter-industry character (Mohanty, 2020). This conclusion indicates the formation of a new legal branch that does
not fit into the traditional legal framework and violates the following dichotomous foundations: international law – national law, private law – public law. While analyzing the origins of new supra-industry, inter-industry, and inter-system branches of law (including digital law, network law, sports law, medical law, etc.), it can be stated that the law of sustainable development is formed in a similar way (Grabara et al., 2020). The emergence of new branches of law is a trend of the 21st century in jurisprudence (Mazhorina, 2022; Borodina et al., 2023).

We considered scientific works and determined typical characteristics of social relations included in the subject of sustainable development law. As a result, four features were identified which were mentioned by 48% of the experts (Table 1).

Table 1. Main characteristics of social relations included in the subject of sustainable development law

<table>
<thead>
<tr>
<th>Main characteristics of social relations included in the subject of sustainable development law</th>
<th>% of analyzed scientific papers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Different system affiliation</td>
<td>13%</td>
</tr>
<tr>
<td>Different industry affiliation</td>
<td>13%</td>
</tr>
<tr>
<td>Inter-disciplinary architecture</td>
<td>9%</td>
</tr>
<tr>
<td>Cumulative effect</td>
<td>13%</td>
</tr>
</tbody>
</table>

Source: Compiled by authors

Scholars evaluate social-legal relations that are associated with sustainable development in different ways and highlight their characteristics (Kurbatova et al., 2020; De Mulder et al., 2012). In any case, legal relations that are the subject of sustainable development law have certain features and characteristics. The table presents the features of public relations that are included in the range of legal relations for sustainable development (Table 2).

Table 2. Features of social relations that are the subject of sustainable development law

<table>
<thead>
<tr>
<th>Features of social relations that constitute the subject of sustainable development law</th>
<th>Experts who identified the relevant features of public relations</th>
</tr>
</thead>
</table>
The subject of sustainable development law is dynamic (Boyle, Freestone, 2001), complex (Enemark, 2001), comprehensive (Voigt, 2009), and cross-cutting since it comprises national and international public relations and has different industry and system affiliations.

The method of sustainable development law is a set of special techniques and methods used to regulate legal relations included into the subject of sustainable development law (Schrijver, Weiss, 2004).

Considering the properties of the subject of sustainable development law, it is necessary to apply a systematic method to the regulation of such legal relations that will allow them to be regulated in the context of interconnectedness and conjugation within the system of sustainable development law (Figure 3).

5 DISCUSSION

In addition to the systematic method, an alternative method of public obligations should be applied to the regulation of legal relations in the field of sustainable development (Kalashnikov et al., 2022; Cicin-Sain, 1993). This method consists of the following elements:

– The general and objective differentiation of obligations;
– The legislative establishment of the grounds for the emergence of legal facts;
– Unconditional performance.
The method of public obligations allows one to rationally use natural resources, protect the environment, and develop methods to minimize environmental risks, which will save the nature and pass it on to future generations. Environmental risks must be not only assessed but also managed. For this purpose, priorities for the use of economic objects are determined and sources of risk are identified (Zaccai, 1999; Alekseev et al., 2022).

Among the functions of sustainable development law, we should emphasize an ecological one aimed at respecting the environment since the existence of future generations largely depends on natural resources available (Bantserova, Kasimova, 2023). There is also a preventive guarantee function aimed at combating poverty, protecting health (Zenin et al., 2022), nature, environment, water bodies, etc. A socio-political function should ensure a high quality of life, national security, and social equality (Shikverdiev et al., 2023).

Based on the study results, we drew several theoretical conclusions that explain the obtained results. The law of sustainable development is an emerging global branch of law that regulates public relations in the field of sustainable development using traditional and alternative methods. The study proves that it is expedient to apply the systematic method and the method of public obligations in the law of sustainable development.

The subject of sustainable development law is social relations that have different systems (international, national) and industry affiliations and are included in legal relations related to sustainable development.

The main functions of sustainable development law include environmental, preventive-guarantee, and socio-political.

The law of sustainable development is based on such principles as the rational use of natural and water resources, responsibility for one’s actions, humanity, solidarity, gender equality, access to energy sources, employment, innovations, inequality reduction, the safety of cities, rational consumption, and minimum damage to the environment.

6 CONCLUSION

Based on the results obtained, the opportunities for transforming the concept of sustainable development are focused on a new global branch of law having its subject, methods, principles, and functions. It should increase the efficiency of protecting the environment, combating poverty, improving the quality of life, and enhancing the level
of national security. The law of sustainable development is an emerging global branch of law which is a complex system of legal norms based on natural science, as well as scientific and technological laws. The law of sustainable development is characterized by social and humanitarian principles aimed at realizing plans in the field of sustainable development.

The study is limited to the chosen topic. Further, we plan to create a legislative framework that will regulate legal relations in the field of sustainable development and possible legal acts aimed at the protection of environmental resources and their efficient use.
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