

THE CRIMINAL LEGAL FRAMEWORK FOR THE PROTECTION OF SUSTAINABLE DEVELOPMENT RIGHTS: A STUDY OF JORDANIAN LEGISLATION AND INTERNATIONAL AGREEMENTS.

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Abstract:

This study examines the intersection between penal law and sustainable development rights within the legal framework of Jordan and relevant international conventions. It aims to clarify how Jordanian legislation and international agreements contribute to the criminal protection of rights that are fundamental to achieving sustainable development. The research analyzes the legal foundations of this protection, the key international instruments, the roles and responsibilities of governmental bodies, and the practical implications of these legal measures in advancing the Sustainable Development Goals (SDGs).

Keywords: Criminal Legal, Protection of Sustainable Development Rights, Jordanian Legislation, International Agreements.

1. Introduction

In an era marked by growing global concern over environmental degradation, social inequality, and economic instability, sustainable development has become a central theme in contemporary legal, political, and socio-economic discussions. As countries strive to strike a delicate balance between economic progress and the preservation of both ecological systems and social welfare, the protection of sustainable development rights has gained critical importance.

This study examines the complex relationship between criminal law and the protection of sustainable development rights, focusing on the framework of Jordanian legislation and its interaction with international agreements. Within today's rapidly changing global context, recognizing and safeguarding these rights has become an essential goal for nations seeking inclusive and lasting progress. Legal systems play a decisive role in this process, shaping national policies, influencing governance structures, and upholding accountability mechanisms.

Among the various branches of law, criminal law occupies a particularly significant position, serving as a fundamental tool for enforcing legal norms and ensuring the protection of rights vital to sustainable development. Within Jordan's unique legal structure, this research aims to uncover the constitutional and legislative foundations that form the basis for sustainable development rights and their protection. It also explores Jordan's engagement with international treaties and conventions, assessing how these commitments contribute to strengthening the criminal protection of such rights within both national and international frameworks.

Through a detailed and systematic analysis, this research seeks to enhance scholarly understanding of the interconnection between penal law and sustainable development, while offering practical insights that can inform effective policy implementation. As this exploration unfolds, it becomes clear that the intersection between criminal law and sustainable development rights is both dynamic and multifaceted. By addressing this evolving relationship, the study aspires to shed light on the growing significance of penal law in ensuring that sustainable development is not merely an aspirational ideal, but a legally protected reality—both within Jordan and across the wider international community.

2. Theoretical Framework

In a study conducted by (Ghaneem & Abuzanat, 2007) on sustainable development and its philosophy, as well as its planning methods, the researchers extensively explored the concept of development, its goals, principles, dimensions, and the utilization of natural resources. The prevailing economic culture was discussed, along with Geographic Information Systems (GIS). The study also addressed some environmental methods employed in sustainable development planning, touching upon the concepts of the environment, land use, and the measurement of sustainable development.

In a study conducted by (Taraaf ,2012) on international and civil responsibility in environmental and sustainable development issues, the researcher reviewed the nearly depleted resources in the realm of sustainable development. Foremost among these are the economic and renewable resources crucial for the perpetual existence of humans and all living beings. Examples include sustainable water resources and the economic role of sustainable forest resources for nations and populations. The study emphasized the significance of sustainable soil, renewable resources, and natural production. Additionally, the research highlighted the reasons behind rising prices amid the decline in food security.

In the study conducted by (Hiyajneh ,2014) , the author delves into the general theory of environmental law, addressing its origins, protection, definition, characteristics, and sources. The study has presented the principles of sustainable development, the preventative principle, the principle of polluter pays, and the principle on public participation. It also discusses environmental law in Jordan, evaluates environmental impact in Jordan, and explores international environmental law, including its system of environmental rights and the institutional and legislative framework designed for its protection.

In another study by (Alwan &Al-Mousa ,2014), the researchers review the governing principles of applying protected rights at both the domestic and international levels. The study discusses the integration and universality of human rights, the specificity of legal provisions in this regard, and enumerates individual rights while examining them in detail. It also addresses collective rights, particularly the right of communities to development, exploring their foundations, content, and justifications. Additionally, the study highlights the right to a balanced and healthy environment, the foundations of its indirect protection, and the rights of marginalized or vulnerable communities. What sets this study apart from previous research is its unique focus on the topic of sustainable development rights and their connection to penal protection, grounded in both local laws and international legislations. The understanding of these rights will be enhanced through a review of international agreements and treaties, coupled with a profound analysis of decisions made in international conferences within this realm. This approach enriches the comprehensive understanding of how sustainable development rights are integrated into legal systems at both the national and international levels, and how the criminal protection of these rights can be strengthened within the framework of diverse laws and agreements.

3. Methodology

This study employs a combination of cognitive descriptive methods and legal norm interpretation methods as the primary analytical approaches. The investigation relies on the examination of both international and national legal acts to form the basis for the analysis of issues within the environmental regulatory framework. The study incorporates foreign and national research findings and summaries to enrich the overall analysis and provide a comprehensive perspective on the subject matter.

4. Result and discussion

4.1 Concept of sustainable Development

The concept of sustainable development is an evolving and continuous concept due to the ongoing challenges faced by societies. It has been important and necessary to delve into the essence of sustainable development by examining the content discussed in global summits, conferences, international documents, and various reports related to this subject. This exploration comes in the wake of global awareness of environmental issues threatening life, with a focus on improving the quality of human life without compromising the environment. This can only be achieved by the optimal utilization of natural resources, staying within the limits of their natural renewal rates, and the efficient consumption of renewable resources. It involves finding alternatives to resources that do not generate waste beyond the environment's capacity to absorb.

The sustainable development concept was first presented in the 1987 report of the World Commission on Environment and Development, defining development as: meeting the needs of the present without compromising the ability of future generations to meet their needs.

Referring to the Limits on Growth report issued by the Club of Rome in (1972), the concept faced population growth rates, agricultural production growth, environmental pollution, and resource depletion. It concluded that continuing production and consumption growth in this manner would lead to the failure of nature to supply basic human needs (Rabea, 2015).

There are also definitions equally important as those mentioned in international reports by some international law scholars, such as William Ruckelshaus, the Director of the U.S. Environmental Protection, defining sustainable development as "the process that recognizes the need to achieve economic growth that aligns with environmental capacities, as economic development and environmental conservation are integrated processes rather than contradictory ones" (Ghaneem & Abu Zant, 2007). As for the World Bank, it defines sustainable development as a process that concerns achieving interconnected equity, ensuring the provision of current developmental opportunities for future generations. This is achieved by ensuring the stability or continuous increase of comprehensive capital over time, that involves factory capital (equipment, methods), human capital (knowledge, skills), social capital (relationships, institutions), and environmental capital (forests, coral reefs) (Al-Hayiti, 2014). Among the examination of the previous definitions, all of them confirm that sustainable development reflects a characteristic of stability. This is about making our world better by taking care of the land and its precious resources. It's about meeting the needs of people, improving their lives, and getting rid of poverty, which can lead to environmental, social and economic problems. It emphasizes the need for proper environmental management to ensure the sustainable utilization of natural resources without waste, achieved through the establishment and enforcement of environmental legislation and laws.

4.2 Elements of Sustainable Development

Sustainable development is based on several elements, as outlined by (Al-Hayiti, 2014)

1. **Economic Element:** This is grounded at the principle of maximizing societal well-being to the fullest extent possible and eliminating poverty through optimal utilization of natural resources. It also involves the efficient use of human resources.
2. **Social Element:** This pertains to the relationship between humans and nature, aiming to enhance individual well-being, provide a minimum level of security, and improve various services such as healthcare and education. It emphasizes respecting human rights, cultural growth, and the necessity of involving individuals in decision-making.

3. Environmental Element: This is associated with preserving the base of material and biological resources, ecological system science, and promoting them. The environmental domain focuses on the completeness of these systems, while the social system seeks to achieve the aspirations of individuals and communities. It also emphasizes the comprehensive health of ecological and social systems.

4.3 Protecting the Concept of Sustainable Development in International Agreements

International environmental law has been actively addressing environmental issues since 1972, marked by its institutional formation, notably exemplified by the convening of the United Nations Conference on the Human Environment. This conference emphasized the necessity of legal responsibility and the establishment of legal regulations related to environmental affairs. This stands in contrast to the role of regional and international organizations discussed in the previous section, where their focus was on environmental protection and sustainable development through specialized committees and regional offices. These entities played a role in shaping and bringing forth environmental law through international agreements aimed at safeguarding the environment. When examining the provisions on the agreement from (1 - 12) in the report of the Executive Director at the United Nations Environment Programme that titled with : enhancing International Environmental Governance, presented at the first meeting on the Open-ended Intergovernmental Group of Ministers or their Representatives Concerned with the International Environmental Governance, in New York on April 18, 2001 (Agenda item 3 of the provisional agenda) , it has been clarified that, in the introduction and since the Stockholm Conference in (1972) and the Earth high in (1992) , there has been consistent progress in establishing institutional mechanisms that address a spectrum of issues, ranging from environmental and economic concerns to social and developmental challenges. The Nairobi Declaration in (1997) designated the United Nations Environment Programme as the central entity at the coherent implementation of the environmental dimension of sustainable development. This was further affirmed by the first meeting in the Forum held in Sweden in May 2000, focusing at the major environmental challenges in the 21st century. Consequently, governments agreed that the World Summit on Sustainable Development on (2002) should review the need for an institutional structure for international environmental governance capable on addressing environmental issues and problems. This need arises from the proliferation of structures, agreements, and conferences, placing a burden, particularly on developing countries. The increasing number of international agreements addressing environmental and sustainable development issues has led to an expanded scope of problems requiring attention. This underscores the necessity for continuous coordination at the policy level between agencies and at the international governmental level. The adoption of the new model of improved international environmental governance highlights the need for sustainable development that meets economic, social, and environmental needs. Binding international instruments lack the necessary cohesion regarding new environmental policy issues such as sustainable development. While some agreements emphasize sustainable resource use on the environment, negotiation and agreement on international laws aiming to enhance sustainable management of shared resources are considered crucial mechanisms for promoting international cooperation, as indicated in paragraph 52 of the report.¹

Referring to the discussion paper presented by the Executive Director at emerging issues on public policy, submitted presented during the twelfth special meeting ta the United Nations Environment Programme/Global Ministerial Environment Forum in Nairobi on February 20-22, 2012 (Agenda

¹ <https://www.unep.org/IEG/docs/working%20documents/reportfromED/K0135172.a.doc>

item 4 of the provisional agenda), it was highlighted that over the past four decades since the Stockholm Conference, the international community's understanding of the environment has improved. There was a surge in global, regional, and bilateral environmental agreements since the Earth Summit, all point at achieving sustainable development. The documents pointed out that in (7/ 2012), government leaders, business entities, also the civil society representatives from all around the world would convene in (Rio de Janeiro) to the United Nations Conference on Sustainable Development. The purpose is to assess developments since the Earth Summit, renew political commitments, and address challenges hindering global sustainability. The report emphasized that the Millennium Development Goals are integral to various international environmental agreements, as highlighted in item 10. Additionally, item 65 underscored the need for a clear vision of sustainability and the promotion of sustainable thinking in society through education and awareness.¹

4.4 The Legal Basis for Sustainable Development as a Human Right

Sustainable development inherently embodies the quality of stability, characterized by its ability to communicate and endure. It represents progress that means meeting present needs without compromising or harming the rights of future generations. This is based at the pillars of social, economic, and environmental sustainability, all of which reflect well-being across generations (Taher, 2013). International cooperation serves as the legal foundation for international development law, drawn from the texts within it. These texts are the starting point for all international organizations concerned with development issues. While they are generally stated and not specific legal obligations, they form the primary foundation for the United Nations in shaping development strategies. In the article 31 on the Charter on Economic Rights and Duties of States, that publish on (December 12, 1974) , highlights the necessary in the participation of all nations in promoting global economic prosperity. It emphasizes that prosperity for states can only be achieved among collaboration, stating that "All members undertake to work individually and collectively with the organization to realize the purposes set forth in Articles 5 and 51." Additionally, it commits to "facilitate solutions to international economic, social, health, and related problems." The frequent emphasis in the United Nations on implementing these texts contributes to strengthening their effectiveness, generating a sense of respect and implementation among nations (Khalifa, 2007). The Declaration of Philadelphia, which outlines the purposes on the International Labour Organization (ILO), implicitly encompasses the right for the sustainable development. Adopted by the International Labour Organization's General Conference on (October 5, 1944), that declaration asserted the right for every individual, irrespective on gender, creed, or race, to pursue both material and spiritual well-being. It highlighted the conditions necessary for this pursuit, including freedom, dignity, economic independence, and equal opportunities. Explicit recognition of the right to development as a human right came from the Human Rights Committee. The Economic and Social Council also recommended that the Secretary-General study the international dimensions of the right to development in relation to human rights. This resulted in a confirmation of the existence of this right, with an emphasis on the duty of member states to establish conditions enabling the exercise of the right to development. In (1981), the Human Rights Committee established a governmental working group tasked with studying the scope and content at the right to development and the most effective means in order to secure economic, social, and cultural rights. The General Assembly reiterated this idea, emphasizing that the right to development is an inherent human right. On December 4, 1986, the

¹ <https://www.unep.org/gc/gcss-xii/docs/download.asp?ID=3570>

Declaration at the Right to Development, has been adopted by a majority by 146 countries. It underscored that "the right to development is an inalienable human right, and equal opportunities to development are a right on nations and individuals alike" (Alwan, 2014).

4.5 General Principles of Law

Since the establishment of the Statute in the Permanent Court of International Justice, the general principles on international law was enshrine. However, these principles only emerged in the first half of the twentieth century and have recently appeared in the field of environmental law. One of their advantages is their contribution to interpreting the rules of international law, despite lacking specific material practices. There is a legal school that considers the general principles of law as a transitional stage for the formation of international customs. Another advantage is that a careful study of various texts of human rights conventions allows the extraction of general principles of international human rights law" (Al-Jundi, 2012). This source or legal basis is part of the recognized legal principles in the internal systems of the international community. It reflects the consensus of the global conscience, including considerations of justice, good neighborliness, and the reconciliation between the private interests of each state and the interests of the international community. Paragraph (C of Article 38) in the Statute of the International Court of Justice states that general principles of law recognized, by civilized nations are sources on international law applied by the Court of deciding international disputes presented to it. In the field of environmental protection from pollution, we find principles that have emerged in the international community as a result of environmental pollution. One of these is the principle of non-harmful use of territory, which could serve as a basis for international responsibility for damages resulting from pollution. A state is not allowed for using its territory, for activities that could cause harm to neighboring states, as emphasized in the Stockholm Declaration and reiterated in the Rio Declaration. Another principle is the sovereign right in states to exploit their natural resources, while respecting the collective international interest in preserving and protect the environment (Al-Hayiti, 2014).

Firstly, the Preventive Principle involves taking precautionary measures and anticipating environmental hazards to prevent them. It is more effective in protecting and conserving the environment compared to reacting after environmental problems occur. This is because the economic cost of prevention is lower than the cost of addressing the impacts. Some environmental issues may leave irreversible damages that cannot be remedied (Hiyajneh, 2014).

Secondly, the Polluter Pays Principle that establishes the responsibility on the polluter, to compensate to the damages resulting from their activities. This principle first appeared in 1972 as part of the recommendations formulated by the council on the economic aspects of environmental policies. Since then, the principle was enshrined in international and local declarations, treaties, and national legislation in various countries (Abdulqader, 2016).

Thirdly, the Principle of Environmental Impact Assessment aims to assess the effects of a specific project at all stages of its establishment. This involves identifying and describing the impacts of the project, studying them to understand the project's influence on economic and social aspects, and determining ways to mitigate any negative environmental effects. Evaluation has conducted during the economic feasibility study, project planning, implementation, operation, and decommissioning. The Rio Declaration on Environment and Development explore the importance of assessing the environmental impact of proposed activities. According to Principle 17, this process, known as Environmental Impact Assessment, is considered a national instrument. It recommends conducting assessments for activities expected to have a substantial adverse impact on the environment, The decision to carry out such assessments is within the jurisdiction of a

competent national authority. (Hiyajneh, 2014). The advisory jurisdiction of the International Court of Justice was limited to legal matters.

The fatwas provided are non-binding consultative opinions for the requesting party, albeit possessing literary value. Since the League of Nations and subsequently the United Nations, there were a commitment to respecting and adhering to these rules (Al-Sayyid, 2001).

The last judgments of the International Court in Justice serve, as elucidations of the rules of international law. Issued by a distinguished international judicial body, they define the scope of applying these rules and clarify their meaning in specific matters. They aid in identifying the rules of international law, contributing to their development, particularly in advisory opinions. Some international courts have played a role in developing certain rules of international law, and national courts have also played a significant role in developing international law by deriving some rules. This includes rules applied to the principle of recognizing states and governments and addressing issues related to the implementation of international treaties, such as the extent to which individuals enjoy judicial immunity. In reality, national courts often handle cases with an international dimension more frequently than international courts (Al-Fatlawi, 2010).

The role of international justice in establishing and developing the rules of international environmental protection remains limited. However, the International Court of Justice examined important principles, in the 1990s related to environmental law and the protection of the environment, like the principle in sustainable development.

4.6 Sustainable Development and International Laws and Legislation

The right to sustainable development has officially declared and published by the United Nations General Assembly in December 1986. The declaration affirms that, "Recognizing that development is a comprehensive, economic, social, cultural, and political process aimed to the continuous improvement in the well-being for all people and individuals at their active, free, and meaningful participation at development and in the fair distribution of benefits resulting from it". And it assures that the right of all word to self-determination, granting them the right to freely determine their political status and seek economic, social, and cultural development freely. The declaration underscores the interconnectedness of all human rights and fundamental freedoms, that assure the promotion of development requires equal attention to improving and protecting civil, political, economic, social, and cultural rights urgently. It stresses that the promotion of some human rights and fundamental freedoms cannot justify the denial of others, and all these rights should be considered and enjoyed without discrimination. Finally, the declaration affirms that the right to development is a human right, not subject to compromise. It emphasizes that equal opportunities for development are a right for nations and individuals alike, emphasizing the collective responsibility to ensure such opportunities for all.¹ Continuous and sustainable development is achieved through human efforts, realized by meeting individuals' needs and organizing their lives. Consequently, people have to be able to manage natural resources through knowledge and wisdom to ensure their sustainable use, preventing depletion and ensuring the ability of future generations to continue using them. Empowering and uplifting individuals enables them to plan effectively for the use of natural resources and increase their economic income while organizing their social lives (Tawfik et al., 1992). In this context, Article 2, consisting of three paragraphs, of the definition on the Right to Development emphasizes the central role on humans in development. The first subject states that "human beings are the main subjects of development

¹ The decision of the United Nations General Assembly (Declaration of the Right to Development) is Resolution No. 128/41 dated December 1986.

and should be active participants and beneficiaries of the right to development.”, The second paragraph ensure that the collective and individual responsibility of all humans for development, stressing the need to respect human rights and fundamental freedoms. The third paragraph underscores the role and duties of states in creating policies that positively impact human well-being and ensure their

participation in development. Further elaborating on the role of states, Article 3 emphasizes their primary responsibility in creating national and international conditions to achieve the right to development. It calls for the application of this right with full respect for the principles of international law related to friendly relations and cooperation among states, in accordance with the United Nations Charter. States are obligated to collaborate in securing development, removing obstacles to development, and promoting a new international economic system based on sovereignty equality, interdependence, mutual benefit, and cooperation among all nations, encouraging the consideration and enforcement of human rights (United Nations, 1986).¹

4.7 Sustainable development in Jordanian legislation

Although the legislator included natural and industrial elements in his definition of the environment, the elements of the environment in Article (2) of the Environmental Protection Law (52) of 2006 were limited to water, air, and soil. Therefore, the locus of criminal protection for the environment is limited to these three elements: water, land, and air.

In Jordan, many legal texts have been developed to protect the water element. However, these texts are scattered across several laws, such as the Penal Code, the Water Authority Law, the Public Health Law, and the Aqaba Special Economic Zone Law. These texts have expanded criminal protection to the water element by criminalizing various actions harmful to water. Article 2 of the Water Authority Law No. 18 of 1988 defines water as surface water, groundwater from all sources, including seas, lakes, rivers, springs, rainwater, and reservoirs. This definition also includes mineral water and hot water.

Legislation in Jordan also addresses the protection of soil through laws such as the Environmental Protection Law, Agriculture Law, Jordan Valley Development Law, and Natural Resources Affairs Regulation Law. These legislations have criminalized some actions that constitute offenses against the soil. It is worth noting that Jordanian legislation, in its criminal protection of soil and land, has balanced the importance of agriculture, crop production, food security, and industrial needs.

The atmospheric envelope surrounding the Earth, known as air, has also received attention in Jordanian legislation. Any change in the natural components of the atmospheric air can have negative effects on living organisms, including animals and plants. Jordan, like other countries worldwide, has enacted a set of legal texts to protect the air, found in laws such as the Environmental Protection Law, Traffic Law, Industrial Cities Corporation Law, and Public Health Law.

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¹ Article 3 of the United Nations General Assembly Resolution No. 128/41, dated December 1986, on the Declaration on the Right to Development.

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The atmospheric envelope surrounding the Earth, known as air, has also received attention in Jordanian legislation. Any change in the natural components of atmospheric air can have negative effects on living organisms, including animals and plants (Graybeh & Al-Qurshaan, 1991). Jordan, like other countries worldwide, has enacted a set of legal texts to protect the air, found in laws such as the Environmental Protection Law, Traffic Law, Industrial Cities Corporation Law, and Public Health Law.

Law No.52 of 2006 on Environmental Protection was enacted, regulating various aspects which is related to the environment and the preservation of it , including environmental protection measures. The law addresses several serious environmental crimes, like the crime of introducing hazardous materials or hazardous waste into the Jordan's territories (Article 6/c). This article prohibits the introduction of any hazardous waste into the kingdom and specifies instructions to be issued by the Council of Ministers, based on the minister's delegation (Hosni, 1989). In the event of the discovery of any hazardous waste unlawfully introduced into the kingdom, the Ministry of Environment works to repatriate it to its source at the expense of the party that brought it into Jordan. The responsible party is also liable for fines, expenses, and losses incurred by Jordan. The law also covers the crime of polluting the regional waters of the kingdom (Article 9) and other related offenses.

5. Conclusion and Recommendation

5.1 conclusion

The international community has been showing clear interest in human, development, and environmental issues through conferences, declarations, summits, and global agreements. this research delves into the penal protection of sustainable development rights within the framework of Jordanian legislation and international agreements. The study emphasizes the significance in safeguarding the environment, focusing on water, land, and air as the primary elements subjected to legal protection. The legislative landscape in Jordan has incorporated various laws aimed at preserving these natural resources, reflecting a commitment to sustainable development. The analysis in Jordanian legislation reveals the legal measures taken to address environmental threats, such as water pollution, soil contamination, and air quality degradation. The Penal Protection of Sustainable Development Rights, as explored in this research, demonstrates the country's dedication to enforcing laws that deter and penalize activities harmful to the environment.

5.2 Recommendations

Drawing upon the results and conclusions of this research, several key recommendations are proposed to strengthen the criminal protection of sustainable development rights within Jordan:

¹ This law was published on page 539 of the official gazette (issue number 3540) dated March 17, 1988.

- **Integration and Harmonization of Environmental Legislation:** It is essential to unify and streamline the various environmental laws and regulations in order to create a coherent and efficient legal framework. Such integration would enable more effective handling of environmental violations and reinforce the penal mechanisms that safeguard sustainable development rights.
- **Capacity Building and Public Awareness:** Establishing specialized training programs for legal practitioners, law enforcement officers, and policymakers—alongside community awareness campaigns—can foster a deeper understanding of environmental legislation. This, in turn, ensures proper application, compliance, and enforcement of the laws related to sustainable development.
- **Strengthening International Cooperation:** Enhancing collaboration with international organizations and other states in the field of environmental protection would facilitate the exchange of knowledge, expertise, and resources. Such partnerships can play a crucial role in improving Jordan's institutional capacity to address cross-border environmental issues and promote sustainable practices.
- **Promoting Technological Innovation:** Utilizing modern technologies for monitoring, detecting, and reporting environmental violations can significantly improve enforcement efficiency. The adoption of advanced surveillance systems, digital reporting platforms, and sustainable technologies can support proactive environmental management and contribute to achieving long-term sustainability goals.
- **Continuous Review and Legislative Reform:** Regular assessment and periodic updating of environmental laws are necessary to maintain their effectiveness and relevance. As new environmental challenges and technological developments arise, legal frameworks must evolve accordingly to ensure comprehensive and adaptive protection for sustainable development rights.

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