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Bridging Sovereignty and Sustainability: The Transnational Legal Process in BRICS

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Abstract. In an era marked by the increasing importance of a Global South agenda to overcome environmental challenges, the BRICS have gained prominence as an influential actor in pursuing sustainable development. This paper investigates how transnational legal mechanisms have become indispensable in propelling sustainability in the BRICS context. It explores the complexities of current environmental legal documents and how the BRICS founding members have addressed them to understand the challenges associated with harnessing legal processes to foster sustainability. By analyzing the interplay between transnational legal frameworks and sustainability agendas, this research contributes valuable insights into the evolving landscape of global governance. It illuminates how BRICS nations navigate legal pathways to address environmental concerns, promote clean energy, and bolster socio-economic development while balancing their domestic legal frameworks. Finally, this paper underscores the significance of transnational legal processes, highlighting the implications for international sustainability efforts in an increasingly interconnected world, particularly in emerging economies.

Keywords: BRICS; international law; transnationalism; sustainable development; environment law.

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Introduction

The BRICS were established in 2009 as a platform for transnational cooperation. It aims to offer an alternative to existing global systems for exploring commonalities such as sustainable development, trade, and mutual investments. With originally four members, also referred to as global emerging economies, South Africa soon joined the BRICS representing the fast-growing African continent.

The inauguration of the New Development Bank (NDB) in Shanghai, China, in 2015[1] became their first milestone, enabling infrastructure and development projects with sustainability as their main motto. Despite controversies, the BRICS' importance for the global order goes beyond being a threat to existing international systems, including the Bretton Woods Institutions, or being an oppositional platform to the United States while presenting new possibilities for trade currency to reduce the reliance on American dollar. On the contrary, the BRICS is a platform for representation of the Global South.

In recent years, the expansion to accept new members–full members or partners–became its second milestone. During the 15th BRICS Summit held in Johannesburg, South Africa in 2023, an announcement was made that new members were officially invited, and if accepted, they would join the BRICS+ in 2024–2025.[2] By enabling countries to become partners, the BRICS+ opened a precedent for a more flexible cooperation arrangement, contributing to widening economic opportunities that should increasingly involve innovation.

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[1] World Economic Forum. (2015). *What is 'new' about the New Development Bank?* https://www.weforum.org/stories/2015/08/what-is-new-about-the-new-development-bank/

[2] Patrick, S., et al. (2025). *BRICS expansion and the future of world order: Perspectives from member states, partners, and aspirants*. Carnegie Endowment for International Peace. https://carnegieendowment.org/2025/03/31/brics-expansion-and-future-of-world-order-perspectives-from-member-states-partners-and-aspirants-pub-95079

The BRICS+ now includes nearly twenty countries with different levels of economic development, with members from South America, Africa and Asia. These members can enhance knowledge exchange, diversify trade and establish new partnerships in incipient or unexplored areas. There is still significant progress to be made. The BRICS countries exhibit unique attributes that extend beyond mere regional cooperation and economic partnerships; they serve as a platform for knowledge sharing and the articulation of common ideologies. The BRICS has gained legitimacy operating under the auspices of the New Development Bank, becoming a forum for cooperation among a group of leading emerging economies. The Bank, also known as the BRICS Bank, has contributed much to bring a new perspective to traditional global finance systems through issuing green bonds, and allowing loans and international transactions in various currencies, including the Chinese renminbi.

As several countries have voiced their interest in becoming members in recent years, the BRICS has then become BRICS+ with new official member states–Egypt, Ethiopia, Iran, the United Arab Emirates, and Indonesia. The BRICS+ has also welcomed partner states including Belarus, Cuba, Bolivia, Malaysia, Uzbekistan, Kazakhstan, Thailand, Vietnam, Nigeria, and Uganda. The partner states will be able to enhance cooperation on trade, investment, and development with BRICS+ members.

The expansion, occurring over a decade after its establishment, highlights the need for the alliance to reconsider its international status to voice critical topics such as climate change, responsible AI and other issues as a cohesive platform in order to maintain its relevance. The BRICS+ presents a successful model for transnational cooperation among emerging economies with increasing global significance.

The BRICS+'s representativeness within the global economy is noteworthy, as it accounts for a substantial share of the world's population and global GDP. Collectively, the BRICS+ countries represent nearly half of the global population, with a 40% share of global GDP by Purchasing Power Parity (PPP) in 2024.[3] This demographic and economic strength underscore their imperative to lead the development and implementation of AI in the Global South.

The ongoing addition of new members enhances their capacity for collaborative initiatives. The BRICS and the New Development Bank have consistently placed environmental protection at the forefront of their agenda, financing a multitude of projects that prioritize sustainability. In recent years, however, the BRICS countries have broadened their focus to include technology as a significant element of their initiatives.

The expansion of the BRICS introduces on one hand, domestic priorities into the BRICS framework, on the other hand, a new ground for the exploration of

[3] Souto, M. (2025). *BRICS GDP outperforms global average, accounting for 40% of world economy*. BRICS Brazil 2025. https://brics.br/en/news/brics-gdp-outperforms-global-average-accounts-for-40-of-world-economy#:~:text=In%202024%2C%20BRICS%20collectively%20reached,rising%20to%2041%25%20in%202025

commonalities to promote a sustainable agenda which is based on the lessons learned and cooperation between and among its members. The transnational theory helps to understand how their diverse legal cultures interact, particularly regarding their understanding of sustainable development and adherence to international agreements, which means to not only to fulfill their obligations but also to achieve the sustainable development goals.

1. Methodology

The British jurist Jeremy Bentham first coined the term "International Law" in 1789 in the essay titled "The Principles of International Law," through which he defined international law as a set of rules governing relations between states.

This traditional–and outdated–definition does not reflect the increasing international cooperation through bilateral and multilateral agreements, alongside the emergence of international organizations.[4] Amidst the wave of globalization, a distinct evolution unfolded within the realm of international law, characterized by two main changes: the broadening array of actors engaged, such as international organizations, and the upsurge of blocs and cross-continental treaties.[5]

Based on this interpretation, international law regulates the affairs between and among states, which became outdated due to the dynamism of world affairs. Even though international law includes the relations between states and individuals, international organizations and individuals are not recognized as international law's actors, therefore they do not possess legal personality. They are the subject, object or purpose of international treaties; only states and international organizations are considered actors. The Universal Declaration of Human Rights is a feasible example, since it promotes equal rights and human freedom to all individuals, being those rights and freedom guaranteed and protected by the states with the cooperation of the United Nations.

In contrast to contemporary definitions, which encompass relations between states, individuals, and international organizations, as Law has taken on multifaceted dimensions, emphasizing the necessity of exploring its relevance and applicability

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[4] One of the earliest non-governmental organizations with international exposure was the International Committee of the Red Cross (ICRC) founded in June, 1863.

[5] International law, according to the modern definition from the Cornell University Legal Information Institute is defined as: "[…] rules and principles governing the relations and dealings of nations with each other, though recently, the scope of international law has been redefined to include relations between states and individuals, and relations between international organizations. Public international law, concerns itself only with questions of rights between several nations or nations and the citizens or subjects of other nations. In contrast, Private international law deals with controversies between private persons, natural or juridical, arising out of situations having significant relationship to more than one nation." International Law. (n.d.). Cornell Legal Information Institute. https://www.law.cornell.edu/wex/international_law

to emerging international actors is necessary. It is based on this concept of further analysis of common grounds within the BRICS+ to address environmental concerns, promote clean energy, and socio-economic development. Due to the lack of institutionalization of the "bloc," the New Development Bank and its environmental governance mechanisms will strengthen the novelty of the findings.

This paper employs a comprehensive research framework to analyze evolving facets of international law, emphasizing the vital role of transnational legal mechanisms in promoting sustainability within the BRICS context. The intricacies of contemporary environmental legal frameworks are examined to understand how the BRICS founding members address these complexities, thereby highlighting the inherent challenges in using legal processes to foster sustainability.

Through an empirical analysis of relevant international documents related to sustainability, this research offers valuable insights into how the BRICS nations navigate legal avenues to address environmental concerns while harmonizing their domestic legal systems. It addresses the following key research question: What are the broader implications of this distinctive legal approach for international governance and cooperation, particularly within the context of the BRICS?

By adopting empirical analysis methods and situating these findings within a robust legal theoretical framework, this paper contributes to a more profound understanding of the BRICS' approach to sustainability and its significance in current international conjuncture. Finally, this research makes a valuable contribution by reframing transnational law through a BRICS lens, offering insights that are both academically rigorous and policy-relevant for scholars and practitioners in international law and sustainable development. Its findings aim to resonate in debates about the future of global governance, particularly as the Global South asserts greater agency in shaping legal norms.

2. The Concept of Legalization

International law is divided into themes of private and public international law, depending on the actors involved. Relations regarding private and public corporations at the international level are feasible through international agreements,[6] but these corporations do not carry legal personality.

Globalization has also brought new characteristics to international legal sources, with customary law, treaties and declarations being added to the traditional *pacta sunt servanda*, *jus congens*.[7] International treaties and Treaty Law have fundamental

[6] According to the Legal Information Institute, the international law sources are: a) international conventions; b) international custom, as evidence of a general practice accepted as law; c) the general principles of law; d) judicial decisions and the teachings of the most highly qualified publicists of the various nations, as secondary sources. International Law. (n.d.). Cornell Legal Information Institute. https://www.law.cornell.edu/wex/international_law

[7] Menkel-Meadow, C. (2011). Why and how to study "transnational" law. *UC Irvine Law Review*, *1*(1), 97, 101.

importance to this paper, since they are key means of international rules creation. International treaties are therefore considered as the most crucial source of international law, for sustainable development. They divided into public or private quasi-legal[8] or binding legal instrument,[9] depending on its nature; which are determinant to explain their soft and hard aspects.

Abbott, Keohane, Moravcsik, Slaughter, and Snidal in their study "The Concept of Legalization" bring an innovative paradigm of international principles.

Table 1: **The Dimensions of Legalization**[10]

Obligation	Expressly nonlegal norm ←→ Binding rule (*jus cogens*)
Precision	Vague principle ←→ Precise, highly elaborated rule
Delegation	Diplomacy ←→ International course, organization, domestic application

The table shows the dimensions of legalization in international law,[11] which is based on the criteria obligation,[12] precision of rules and delegation to a third party decision maker. Obligation concerns the level of legal binding commitment; precision involves an analysis of the level of details of the rules, which can be vague or precise; and delegation, which is the level of authority the State grants to third parties such as international courts and international organizations in order to implement, interpret and apply international rules. This tree-pillar concept of legalization aims at distinguishing hard from soft laws in terms of enforceability and legal obligation, being a contemporary subject of study in international treaty law. Hard law has a high level of all obligation, precision and delegation, which results in a stronger commitment at the cost of giving up, at least partially, the State's sovereignty. Soft law,[13] on the contrary,

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[8] Quasi-legal instruments of international law are often referred to as soft law, which has non-legal binding characteristics.

[9] Binding legal instruments are often referred to hard law, which can be treaties, the United Nations Security Council Resolutions and certain customary international rules.

[10] Abbott, K. W., Keohane, R. O., Moravcsik, A., Slaughter, A.-M., & Snidal, D. (2000). The concept of legalization. *International Organization*, *54*(3), 401, 404.

[11] Legalization concerns characteristics that institutions may or may not possess.

[12] For Koh, "[…] the concept of legal obligation (so-called *opinio juris sive necessitatis*) emerged as the keystone for distinguishing customary international law from voluntary practice to which states might conform, but which they felt legally free to disregard. The very concept of obligatory custom assumed that nations, by virtue of their sovereign statehood, had de facto consented to compliance with customary practices out of a sense of legal obligation." Koh, H. H. (1997). Review essay: Why do nations obey international law? *Yale Law Journal*, *106*(8), 2599, 2608.

[13] Most common soft law documents in international law are normative resolutions, declaration and recommendations of international organizations, concluding texts of summit meetings or international conferences, recommendations of treaty bodies overseeing compliance with treaty obligations, bilateral or multilateral memorandum of understanding, executive political agreements and inter-

depends on the willingness to commit and comply,[14] as it has flexible interpretation or enforcement within the parties.

Soft law is often perceived as a non-traditional international law, or even a lower level normativity, but in reality the lack of legally binding force does not eliminate its legal effects.[15] To counter-argue scholar's refutable arguments to define a soft law source as political or moral obligation[16] soft law accentuates the static characteristics of international law. Soft law documents do influence and contribute to customary international law, being a new mode of international law making. International environmental law is perhaps the field that has felt its impact the most, i.e., the Rio Declaration, which directly contributed to transform sustainable development into an international legal principle and fundamental right as well as international courts jurisprudence.

According to Abbott's explanations, the elements from the left side have the weakest forms, while the elements from the right side have the strongest form. The combination of these elements facilitates comprehending softness or hardness characteristics of international laws, with eight possible combinations. In this case, weak and soft; strong and hard, are considered as synonyms. To exemplify, once legal arrangements are weakened along one or more of the dimensions of obligation, precision, and delegation that would define a soft law.[17] In other words, what defines and differentiates hard from soft law is the "legalization."

Possible combinations in terms of intensity such as "high," "low" or "moderate" are possible, thus becoming useful to analyze a certain treaty, as defined by the forms of international legalization.

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national guidelines or codes of conduct. *See* Shelton, D., & Kiss, A. (2005). *Judicial handbook on environmental law* (p. 18). United Nations Environment Programme. https://wedocs.unep.org/bitstream/handle/20.500.11822/8606/JUDICIAL_HBOOK_ENV_LAW.pdf?sequence=3&amp%3BisAllowed=

[14] Raustiala, K., & Slaughter, A.-M. (2002). International law, international relations, and compliance. In W. Carlsnaes, T. Risse & B. A. Simmons (Eds.), *The handbook of international relations* (pp. 538, 551). Sage Publications.

[15] Fuentes, C. I. (2008). *Normative plurality in international law: The role of soft law in the jurisprudence of the Inter-American Court of Human Rights* (p. 12). SSRN. https://doi.org/10.2139/ssrn.1134101

[16] Agenda 21 is often suggested as a result of political will, nonetheless international discussions over sustainable development are better motivated by the current levels of environmental degradation. More specifically concerning sustainable development resulted from the necessity to combine economic growth with environmental protection.

[17] Abbott et al., 2000, p. 404.

Table 2: **Forms of International Legalization**[18]

Document/Agreement	Year	Obligation	Precision	Delegation
Stockholm Declaration	1972	Low	Low	Low
CITES	1973	High	High	High
Vienna Convention	1985	High	Low	Low
Montreal Protocol	1987	High	High	High
Brundtland Report	1987	Low	Low	Low
Rio Declaration	1992	Low	Low	Low
Agenda 21	1992	Low	Low	High
UNFCCC	1992	High	Low	High
Convention on Biological Diversity (CBD)	1992	High	Low	High
Kyoto Protocol	1997	High	High	High
Millennium Development Goals (MDGs)	2000	Low	High	Low
Paris Agreement	2015	High	High	High
Sustainable Development Goals (SDGs)	2015	Low	High	Low
Vienna Convention for the Protection of the Ozone Layer	1985	High	Low	Low
Montreal Protocol on Substances that Deplete the Ozone Layer	1987	High	High	High
Helsinki Forest Final Act	1992	Low	Low to Medium	Low
BRICS Summit Declarations	Various	Low	Low	Low

The analysis of international agreements is done individually or case-by-case and the "hardness" or "softness" levels are divided into the levels "low" and "high" for obligation, precision and delegation, and anarchy, the last one, is the ideal type. It is important to state herein that anarchy,[19] is not a complete absence of norms and institutions, but low levels of all three components, being easier to achieve due to

[18] Amended from Abbott et al., 2000, p. 406.

[19] Abbott, Keohane, Moravcsik, Slaughter and Snidal consider that "'Anarchy' is an easily misunderstood term of art, since even situations taken as extreme forms of international anarchy are in fact structured by rules–most notably rules defining national sovereignty–with legal or pre-legal characteristics." Abbott et al., 2000, p. 407. *See* also Abbott, K. W., & Snidal, D. (1998). Why states act through formal international organizations. *Journal of Conflict Resolution*, *42*(1), 3, 6.

its adaptability (and non-binding characteristics). The Agenda 21 and BRICS Summit Declaration, such as the latest 2025 Rio Declaration, are examples of "anarchy."

The Kyoto Protocol and the Paris Agreement, on the contrary, have a high level of obligation, high level of precision, high level of delegation, being considered a hard law document.

The 2015 Paris Agreement, reinforced Kyoto's approach to sustainable development *in toto*. Differently from the Kyoto Protocol and the 2012 Doha Agreement, the 2015 Paris Agreement, on its Article 6.1 recognizes the voluntary contribution for mitigation and adaptation acts, according to each *signatoire*'s own capabilities and needs. Due to the dichotomies and combination of binding and non-binding characteristics that resulted in a further adherence of developed and developing states. Though it is necessary to pinpoint that the Paris Convention[20] follows the same line of the Kyoto Protocol and Doha Agreement when tackling sustainable development, it has aimed to address issues of compliance and global participation, with a flexible framework to encourage nations to set and achieve their own nationally determined contributions to reduce greenhouse gas emissions. Amongst BRICS+ members, only Iran has not yet ratified the Paris Agreement.

Koh justifies the commitments with soft law by stating that "international rules are rarely enforced but usually obeyed."[21] The limited enforcement is due to the lack or reduced legal obligation, obedience being the reason why nations decide to follow international quasi and non-binding rules. Sustainable development norms present soft law characteristics that guide governments to draft their own legislation, which should therefore be in line with the international principles. The BRICS+ is considered an instrument of soft law, since it is not a formal international organization with binding legal authority. The declarations and the New Development Bank's frameworks are not legally enforceable treaties. Hence, it is feasible to foster cooperation having sustainability as one of the main pillars of the "bloc," particularly considering mutual benefits from collaboration in trade and investment opportunities.

3. Sustainable Development Framework and Principles

As a result of governments' efforts aiming at achieving higher rates of economic development, the challenge to balance growth and sustainability became subject of fierce discussion. Increasing concerns over environmental degradation and its impacts have brought renewable energy alternatives to the spotlights in the past decades.[22]

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[20] The Paris Agreement resulted from the 2015 U.N. Climate Conference held in Paris, also known as COP21. It aimed to establish a finance mechanism to reach long-term climate change actions. The Paris Convention is a binding legal document.

[21] Koh, 1997, p. 2603.

[22] Vylegzhanin, A., Ivanov, D., & Milyukova, M. (2023). Renewable energy in international law: The Russian perspective for developing a common BRICS approach. *BRICS Law Journal*, *10*(2), 5, 18.

Some questions are raised concerning this dichotomy: Is economic growth responsible for environmental degradation? Is sustainable development viable and safe for the environment? How to keep economic development and promote sustainability at the same time? Even though these questions have no clear or straightforward answers, they are fundamental to understanding the importance of investing in sustainable development, as it became a consensus.

The term sustainable development was first introduced in 1987 in the report drafted by the United Nations World Commission on Environment and Development (WCED), Our Common Future, being described as the "development which meets the needs of current generations without compromising the ability of future generations to meet their own needs."[23] Gradually, the term was shaped around three pillars: economy, society and environment, where they are interconnected.[24] Broadly speaking, economic growth shall not be delinked from promoting natural resource management and environmental protection, aiming at establishing a harmonious society[25] in a holistic way. One of the most predominant concepts ever developed is the Environmental Kuznets Curve (EKC), which in short, states that

> […] there is an inverted U-shaped relationship between economic output per capita and some measure of environmental quality [...] As the GDP per capita rises, so does environmental degradation. However, beyond a certain point, increases in GDP per capita lead to reductions in environmental damages.[26]

According to the Kuznets Curve, economic environmental damage is both positive and negative proportional to the country's GDP per capita at different points of the curve. In low-income countries (particularly least developed countries), the limited income has few impacts on the environment, as it is used to meet the population's basic consumption needs. As soon as the income level gains speed, consumption increases, resulting in environmental damage. By the center of the curve, individuals prefer improvements in environmental quality to consumption and this trade-off comes alongside with economic growth.

The Kuznets Curve brings a simplistic hypothesis between the relationship of environmental damage and GDP per capita according to different stages of

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[23] Department of Economic and Social Affairs Sustainable Development. (1987). *Report of the World Commission on Environment and Development: Our common future*. https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf

[24] Edenhofer, O., et al. (Eds.). (2011). *Renewable energy sources and climate change mitigation: Special report of the Intergovernmental Panel on Climate Change* (prepared by Working Group III of the Intergovernmental Panel on Climate Change, p. 764). Cambridge University Press.

[25] The conceptualization of harmonious society was present in the Chinese government speeches in the Hu Jintao era, which could be interpreted as economic development by means of social inequality reduction.

[26] Everett, T., Ishwaran, M., Ansaloni, G. P., & Rubin, A. (2010). *Economic growth and the environment* (Defra Evidence and Analysis Series, Paper 2, p. 17). GOV.UK. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69195/pb13390-economic-growth-100305.pdf

economic development, however there is a complexity and external factors that may influence.[27] The theory has gained supporters who have also attempted to develop the paradigm furthermore.

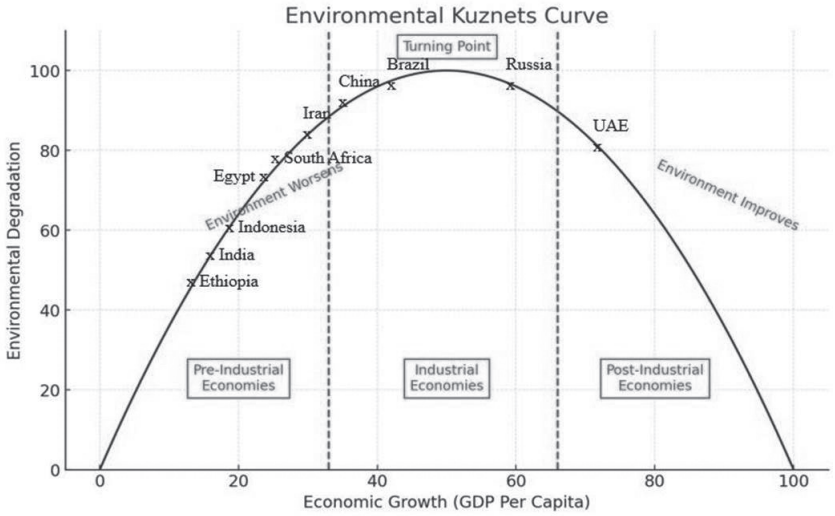

Figure 1: **Kuznets Curve–BRICS+ Members**[28]

Emerging economies are in the early to middle stage of economic development, where environmental degradation has become alarming and the need for the government to take actions is imminent.[29] China and India have presented great economic advancements in the past decade, Brazil ranks higher in combined score Human Development Index (HDI) and Environmental Performance Index (EPI), with a better human-environmental quality balance.

Economic growth *per se* does not eminently contribute for a better society, but all components are synchronized. Economic growth is only beneficial to society if it is done in a sustainable way.

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[27] Zhang, J. (2012). *Delivering environmentally sustainable economic growth: The case of China* (p. 6). Asia Society. http://asiasociety.org/files/pdf/Delivering_Environmentally_Sustainable_Economic_Growth_Case_China.pdf; Edenhofer et al. (Eds.), 2011, p. 765.

[28] Source: Own Author. The graph was calculated based on a development-environment composite score, where Kuznets Composite Index = Human Development Index + (Environmental Performance Index/100) /2. *See* Yale Center for Environmental Law & Policy. (2022). *Environmental performance index: 2022 EPI results*. https://epi.yale.edu/epi-results/2022/component/epi; United Nations Development Programme (UNDP). *Human development reports: Human development index (HDI)*. https://hdr.undp.org/data-center/human-development-index#/indicies/HDI

[29] Zhang, 2012, p. 5.

In order to create a scenario of sustainable economic growth, certain barriers may be taken into consideration. The ideas on how to achieve sustainability are still to be further developed by the United Nations through two key concepts defined as following: a) the concept of "needs," being the priority the need of least developing countries; and b) limitations caused by the gap caused by technological advancements, which not only impacts the society's development but also how their present and future needs can be met.[30]

The concept of population's essential "needs," such as food, clothing, shelter and jobs is inherent to improve the quality of life and to leverage human beings' legitimate aspirations; highlighting these priorities is essential for drafting conclusive sustainability goals, despite existing challenges,[31] since "meeting essential needs depends in part on achieving full growth potential, and sustainable development clearly requires economic growth in places where such needs are not being met."[32] There was a clear shift in the discussions over the causes and consequences of industrialization. Originally, the *rationale* was the simplistic argument that industrialization causes environmental damage, which gave place to more elaborate discussions about what is needed to promote economic growth without harming the environment.

In international law, it has become generally accepted that: a) failure to respect human rights can lead to environmental destruction by ignoring the needs of individuals and groups; b) failure to conserve natural resources and biodiversity can undermine human rights; c) failure to provide information or consult affected persons can negatively impact both human rights and environmental protection.

Sustainable development has thus become the object and purpose of international documents. It is no more a mere definition stated in their preamble, but a matter of legal obligation applicable to states that is extended to the domestic legal systems.

4. Transnational Legal Process

Transnationalism as a theory has emerged from the globalization phenomenon. Since the 1950s, the term has been applied to several fields in social sciences, economics and law, and its scholarship gained space accordingly. As mentioned by Philip Jessup in 1956 in a speech addressed at the American Yale University, transnational law emerged as a doctrine, that is widely applied in different fields of law, such as immigration and criminal procedure law.[33]

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30 Department of Economic and Social Affairs Sustainable Development, 1987.

31 Cançado Trindade, A. A. (1994). Environment and development: Formulation and implementation of the right to development as a human right. In S. K. Ko, M. C. W. Pinto, & J. J. G. Syatauw (Eds.), *Asian yearbook of international law 1993* (Vol. 3, pp. 15, 41). Martinus Nijhoff; Cullet, P. (1995). Definition of an environmental right in a human rights context. *Netherlands Quarterly of Human Rights*, *13*, 25, 28.

32 Department of Economic and Social Affairs Sustainable Development, 1987.

33 Koh, 1997, p. 2626.

The adoption of an international norm into the domestic legal system is done through interaction, interpretation and internalization.[34]

Transnational legal process represents a mechanism through which international norms are internalized into domestic legal systems through executive, legislative, or judicial action, thereby increasing state compliance with and obedience to these norms.[35]

Despite adopting a dualist approach, this premise does not support the traditional idea of dualism described above, with the separation and independence of international and domestic law, rather with certain elements of interdependence and influence.

Transnationalism differs from international law in three elements: it is non-traditional in terms of form; non-static in terms of actors; dynamic in terms of content; and normative in terms of behavior.[36] Unlike international law, there is no traditional segregation between international and domestic, public and private laws, as they are interconnected. International law, as previously explained, influences domestic laws after the internalization process is implemented; while public law may also deal with elements of private law and vice versa that, for instance, are applicable to mixed ownership corporations. In transnational law, the actors can be either states or non-state actors and individuals, while the international law usually considers states, international organizations and non-governmental organizations as actors with international legal personality, excluding individuals, public and private corporations.[37] Another difference is that transnational law is dynamic, since it is in constant change resulting from globalization challenges and new society's needs.

Transnational law sources, like the traditional international law, are composed by customary practices, norms, and patterns of behavioral regulation, which transcends and crosses borders, being a hybrid of international and domestic laws.

Koh's analogy of transnational law with the internet "dot.com" concept, which explains that the law can be "downloaded" and "uploaded," is an interesting method

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[34] Koh describes as transnational legal process as: "One or more transnational actors provokes an interaction (or series of interactions) with another, which forces an interpretation or enunciation of the global norm applicable to the situation. By so doing, the moving party seeks not simply to coerce the other party, but to internalize the new interpretation of the international norm into the other party's internal normative system. The aim is to "bind" that other party to obey the interpretation as part of its internal value set. Such a transnational legal process is normative, dynamic, and constitutive. The transaction generates a legal rule which will guide future transnational interactions between the parties; future transactions will further internalize those norms; and eventually, repeated participation in the process will help to reconstitute the interests and even the identities of the participants in the process." Koh, 1997, p. 2646.

[35] Raustiala & Slaughter, 2002, p. 544; Guzman, A. T., & Meyer, T. L. (2010). International soft law. *Journal of Legal Analysis*, *2*(1), 171, 177.

[36] Koh, H. H. (1996). The 1994 Roscoe Pound lecture: Transnational legal process. *Nebraska Law Review*, *75*(1), 181, 184.

[37] Rezek, F. (2010). *Direito internacional: Curso elementar* (12th ed., p. 154). Editora Saraiva. (In Portuguese).

for analysis and comprehension. First, international law shall be downloaded to domestic law.[38] It is a process of internalization of the law, and a common process for international laws to be valid within the borders of the State. Second, the law is uploaded and then downloaded. A domestic law that is adopted by an international law, such as the Human Rights and the International Covenant on Civil and Political Rights, can be drafted considering the states' own recommendations, reservations and optional protocol adherence. Once it becomes an international norm, it is adopted and internalized into their legal systems.[39] Third, the law is borrowed and "horizontally" implemented from one nation to another, as was the case of several colonies that adopted norms originating from their colonizers.[40] Sustainable development has become a legal value within their legal system, where the members shall accomplish through new strategies and governmental planning. Nonetheless, sustainable development became an applausive linkage between international and domestic laws, with renewable energy being the main tool to achieve it. International commitment with sustainability has been crucial to tighten the relations among and between states.

In order to compile and harmonize international documents, existing laws were amended and new laws needed to be enacted. It is in this scenario that the interaction between sustainable development and renewable energy became evident, and renewable energy is framed in the context of sustainable development as a hierarchy of goals and constraints within international law.[41]

The concept of normativity is related to the process of interaction and internalization. International law influences national identities since it is internalized in the domestic legal systems in a very natural way.[42] The domestic legal system has the important role to modify key characteristics of international regulations[43] since the parties alter their behavior, relationships and expectations not in response to international laws, but due to their commitments and relationships with one another.[44] These identities and interests are endogenous to and arise from the interaction, when interpretations and cultural values are shared between actors.

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38 Koh, H. H. (2006). Why transnational law matters. *Penn State International Law Review*, *24*(4), 745, 745.

39 Raustiala & Slaughter, 2002, p. 546.

40 Koh, 2006, p. 746.

41 Edenhofer et al. (Eds.), 2011, p. 713.

42 Domestic adoption of international norms process differs from country to country and either topic by topic. One of the most standard processes is by ratification in the Congress or similar Legislative body. International norms, in some jurisdiction, may or may not have the same hierarchy as federal laws.

43 Koh, 1997, p. 2603.

44 Simmons, B. A., & Steinberg, R. H. (Eds.). (2007). *International law and international relations: An international organization reader* (p. 66). Cambridge University Press.

Koh, however, failed to raise the possibility of conflict of laws, most specifically between international and domestic laws with the advent of internalization. Certain jurisdictions may adopt of the principles *lex superior derogat legi inferiori* (a law higher in the hierarchy repeals the lower one), *lex posterior derogat legi priori* (a later law repeals a prior one) or *lex specialis derogat legi generali* (a special law repeals a general law) as main remedies.

The second approach is similar to the *lex specialis derogat legi generali*: a special treaty or a special rule in a treaty prevails over a related domestic law,[45] as seen in Kyoto Protocol with its implementation provisions and mechanism of compliance. The most unique legal characteristic of Chinese law is that there is no universal approach to solve conflicts of laws: its resolution depends on the subject of law, being in Civil Procedure Law or other areas of law.

Interpretation, the second step of Koh's transnational legal process, is considered as an instrument to avoid unconstitutionality of the international treaty. The international treaty shall only be adopted after the analysis done by the judiciary to ensure that there is no conflict with equivalent domestic law, thus creating case precedents in the domestic legal system.[46]

By way of illustration, multilateral environmental treaties' obligation to promote public participation shall be referred as guidance by a judge in interpreting legislation that concerns public environmental objections to a proposed industrial development.

Sustainable development has also presented characteristics of interstitial norms.[47] As a meta-principle, it works as a means for interpretation

> […] acting upon other legal rules and principles–a legal concept exercising a kind of interstitial normativity, pushing and pulling the boundaries of true primary norms when they threaten to overlap or conflict with each other. Lowe's interstitial norms operate as modifying norms which "do not seek to regulate the conduct of legal persons directly" but rather establish the relationship between primary norms.[48]

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[45] Xue, H., & Jin, Q. (2009). International treaties in the Chinese domestic legal system. *Chinese Journal of International Law*, *8*(2), 299, 304.

[46] Rose, G. L. (2011). *National and global environmental laws: Dichotomy and interlinkages as examined through the implementation of multilateral environmental agreements* (p. 5). First Preparatory Meeting of the World Congress on Justice, Governance and Law for Environmental Sustainability. United Nations Environment Programme. http://www.unep.org/delc/Portals/24151/NationalandGlobalEnvironmentalLaws.pdf; Simmons & Steinberg (Eds.), 2007, p. 78.

[47] Sustainable Development was a term coined by Vaughan Lowe, defined as being norms emerged from the international legal system. *See* Barral, V. (2012). Sustainable development in international law: Nature and operation of an evolutive legal norm. *European Journal of International Law*, *23*(2), 377, 378.

[48] Barral, 2012, p. 389.

The meta-principle clarifies the subject of discussion through details where the norm is still non-existent.

The judiciary analyzes treaties when interpreting domestic laws at any level to avoid ambiguity and conflicts of law through an interpretative enforcement mechanism.[49] Several international environmental documents are based on information-sharing and voluntary compliance, which facilitate this mechanism.[50]

This statement shall be valid for general documents that state principles and guidelines concerning environmental protection. Provisions related to sustainable development shall also object to interpretative enforcement, since it is a relatively new principle taken from international treaties and implemented domestically. In order words, depending on the nature of the document, and how specific or general it is, the interpretative enforcement may or may not be valid.

Conflict of laws is a contemporary topic within international law. While monists and dualists converge concerning the dual spheres of law, international or domestic, the traditional and static characteristics of international law debate have become obsolete. Sharia Law poses a challenge to both international law and transnationalism, due to its influence on both elaboration of laws and treaty ratification process. In addition, the legal system in countries where Sharia is the main source of law might have diverse interpretations on topics, particularly regarding human rights. Contemporary topics such as sustainable development have required a dynamic approach that allows other forms of legal interpretation and enforcement. For Aburounia, sustainable development aims to establish a balance between the environment, economic and social dimensions. In dualist systems where Sharia is a constitutional or supreme legal source, Sharia law is often considered to have a higher legal authority than international treaties. If a domestic law implementing an international treaty is found to conflict with Sharia principles, the Sharia-based interpretation prevails. Alternatively, the ratification of treaties is done with reservations.[51] The accession of new members into the BRICS+ reveals a more complex process for legal harmonization and alignment of ideas regarding sustainability and climate change.

International law has, indeed, its limitations. International law's constraints stem from its case-by-case application, involving one or more states, and the eminent conflicts with domestic laws due to its vertical nature.[52] The content of each international agreement is related to one specific topic to states or organizations, which limits

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[49] Hathaway, O. A., McElroy, S., & Solow, S. A. (2012). International law at home: Enforcing treaties in U.S. courts. *Yale Journal of International Law*, *37*(1), 52, 87.

[50] Raustiala & Slaughter, 2002, p. 539.

[51] Aburounia, M. H. (2022). *Islam and sustainable development* (Conference presentation). ResearchGate. https://www.researchgate.net/publication/364936887_ISLAM_AND_SUSTAINABLE_DEVELOPMENT

[52] Wilets, J. D. (2014). A unified theory of international law, the state, and the individual: Transnational legal harmonization in the context of economic and legal globalization. *Journal of International Law*, *31*(3), 753, 756.

the scope of international law as a whole. It is for this reason that international law as a theory is outdated to study international cooperation within BRICS+ members.

The evolution of international law from Bentham's state-centric model to contemporary, multi-actor frameworks, suggests a significant shift from a system primarily concerned with the relations between sovereign states to a more complex and inclusive order that incorporates non-state actors such as international organizations, firms, and individuals. The development of parallel quasi-legal instruments and institutions, such as the New Development Bank (NDB), which operates with its own set of rules and governance principles, pose a challenge to traditional legal studies. Future research should not only elucidate a vertical approach of law, but also a horizontal one, alongside considering informal legal actors, including the BRICS+.

5. Theoretical Framework Applied to the BRICS

Intergovernmental organizations (IOGs) are a legal phenomenon justified by the increasing state interdependence. While in academia, scholars like Waltz, Keohanne, Abbot and Snidar have debated the formation of these organizations as well as their functional characteristics, the transnationalism school affirmed their importance as

> […] Instead of focusing narrowly on nation-states as global actors, scholars began to look as well at transnational networks among nonstate actors, international institutions, and domestic political structures as important mediating forces in international society.[53]

In other words, IGOs are not sole actors in international law, and sovereignty is not a barrier to engaging in multilateralism. Intergovernmental organizations are mostly formed by a treaty or a charter through which the members decide to adhere according to their internal process, as specified by their domestic laws. The absence of a treaty indicates that the organization does not confer legal personality, an important aspect to define their international rights and obligations.[54]

The treaties' importance is the credibility and a joint stance that may alter the international *status quo* of developing countries while, which is not facilitated by informal cooperation. Most of these organizations are constituted

> […] through a concrete and stable organizational structure and supportive administrative apparatus […] including membership and voting rules, external relations, finance, and the authority of specific organs.[55]

The premises are defined by the founding members, in a process that may be time consuming. Conventionally, the General Assembly is the organ responsible for

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[53] Koh, 1997, p. 2624.

[54] Rezek, 2010, p. 259.

[55] Abbott & Snidal, 1998, p. 4.

the voting process; the Secretariat is the organ for administration and finance; and the Council is the organ responsible for consultations.

Currently, the BRICS does not possess legal personality, being purely based on political motivation to enhance cooperation. Its informal nature minimizes impediments to cooperation dynamics.

The nuances of the BRICS can be found in all institutionalization, geography and thematic area aspects. The BRICS is an informal group,[56] but there is a strong discussion in academia if the BRICS Development Bank, hereinafter, "the Bank," will encourage its institutionalization and if it does, at what level. For Xue and Jin,

> by institutionalization means the BRICS would become a formal "G," an organization with an agreed charter or a treaty that has a certain degree of binding power as well as a permanent secretariat in place.[57]

Defining the BRICS as an international actor is arguable, since its institutionalization became a permanent subject of discussion among BRICS scholars.

Concerning geography, the BRICS comprises states with different levels of economic development, representing a true example of transnational cooperation with members from South America, Africa, Asia, Europe and India subcontinent.

BRICS+ is an unprecedented case for the other acronyms, a unique model that can be defined as an uncategorized bloc, with no international personality, but developed through summits and respective declarations, having the New Development Bank and its branches as its main organs. The BRICS+ underscores a new era of development of the bloc which promises to expand its reach to the Middle East and other regions.

Legal personality is capable of enforcing rights and duties in the international sphere as distinct from operating merely within the confines of separate municipal jurisdictions, which contributes to avoid conflicts or disagreements between members.[58]

The New Development Bank (or the BRICS Bank) was the step forward for the bloc to formalize the alliance.[59] It is the main instrument to reach concrete sustainable development goals. In 2014, the Treaty for the Establishment of a BRICS Contingent Reserve Arrangement (CRA) stipulates resources commitments, governance[60] and

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[56] Informality means lack of internationally recognized treaty, and lack of permanent secretariat or other significant institutionalization such as a headquarters and/or permanent staff. *See* Vabulas, F. A., & Duncan, S. (2011). *Informal Intergovernmental Organizations (IIGOs)* (APSA 2011 Annual Meeting Paper). SSRN. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1903350

[57] Xue & Jin, 2009, p. 304.

[58] Nowrot, K. (1993). *New approaches to the international legal personality of multinational corporations towards a rebuttable presumption of normative responsibilities* (p. 7). European Society of International Law. https://esil-sedi.eu/wp-content/uploads/2018/04/Nowrot.pdf

[59] Khorbaladze, E. (2021). BRICS development strategy – priority areas of cooperation for gaining a foothold in a multipolar world order. *BRICS Law Journal*, *8*(4), 4, 10.

[60] Silva, E., & Campos B. (2021). Possible legal cooperation for a BRICS perspective on international and transnational economic law. *BRICS Law Journal*, *8*(4), 31, 32.

decision-making, financial instruments and other financial provisions. Considering the new developments of the BRICS cooperation in renewable energy–and sustainable development–it is now paramount to establish a legal framework that matches the new goals of its members and upcoming members. In other words, a clear legal framework for cooperation of the BRICS shall be implemented in the near future in order to allow investments in renewable energy projects and improve cooperation barriers. Transnationalism as a theory emerged in order to attend to new issues brought by globalization, since the idea of a cross-border regulatory system satisfies the BRICS more than a statistical international law. As "[…] law plays a critical role both in stabilizing the expectation and in reinforcing the restraints that regimes seek to foster,"[61] it is necessary for the success of the BRICS cooperation in sustainable development.

It became evident that international law provides limited possibilities to this study, mostly due to, but not limited to, two reasons. International law doctrine possesses a static nature. The BRICS, an informal group, is not considered as an actor with legal personality. Second, the idea of division of laws into international and domestic, public and private. International law doctrine allows the adoption of international treaties into the domestic legal system through a vertical mechanism, but in the BRICS case, such a mechanism is non-existent, since there is no specific Charter or general treaty, just non-binding agreements in the form of joint summits.

6. Recommended Legal Cooperation Approach within the BRICS

The BRICS have expressed their international commitment to the "Race to Zero and Race to Resilience." Nevertheless, the existence of diverse legal systems, legislative processes, and varying approaches and interpretations poses constraints on collaboration and hinders further support for both the founding and new member countries. The BRICS can be viewed as an evolving legal network aimed at facilitating the exchange of knowledge and practices, in contrast to a rigid legal transplant approach. This innovative perspective represents a significant leap forward in strengthening the bloc's position as an important actor on the global stage and in providing support to sustainable projects, particularly in light of its potential expansion to include new member states. By fostering an environment of shared expertise and collaborative learning, the BRICS can more effectively adapt to the needs and priorities of both its existing and prospective members.

6.1. BRICS+ Individual Countries Path to Sustainable Development and Climate Change

The understanding of individual BRICS+ members' current achievements and challenges on sustainability and climate change allows them to draft strategic

[61] Koh, 1996, p. 200.

recommendations. Each BRICS+ member follows its own legal and political procedures to integrate international commitments as stated in the Paris Agreement (with the exception of Iran), through a dualist approach, where an international treaty, in this case, the Paris Agreement, does not automatically become domestic law and/or binding regulation and must be incorporated through specific legislation. Apart from Brazil, which was formally incorporated into Brazilian law through a federal decree (Decree No. 9,073/2017), having a status of a supranational law unlike most of the treaties, other BRICS+ members rely on enacting their own regulatory framework which should be in line with international documents. Below are the current environmental legal documents and how the BRICS+ members have addressed them to understand the challenges associated with harnessing legal processes to foster sustainability and implement the Paris Agreement in their domestic legislation.[62]

Brazil: Brazil has been on the forefront of climate change discussions since hosting the Rio Summit, or Eco-92. Alongside ratifying the Paris Agreement, which domestically, it has supranational status, it has not only developed a robust legal framework that must be in line with the Agreement but also increased the production and use of renewables in its energy matrix. The National Policy on Climate Change (Law 12,187/2009), National Policy on Climate Change and Federal Law 4.904/2024 regulate climate change and the greenhouse gas emissions trade system. The Climate Action Tracker defines the country's policies as "Insufficient" and its Net Zero target is "Poor."

Russia: Russia ratified the Paris Agreement in 2019, committing to lower greenhouse gas emissions by 2050 in October and reaching net zero greenhouse gas (GHG) emissions by 2060, 80% below 1990 levels by 2050. The Climate Action Tracker defines the country's policies as "Highly insufficient" and Net Zero targets as "Poor."

India: India ratified the Paris Agreement in 2016. Its climate policy and regulatory framework is highly fragmented. National Action Plan for Climate Change (NAPCC), National Electricity Plan 2023 (NEP2023), the National Green Hydrogen Mission and the recently amended Energy Conservation Act (Ministry of Law and Justice, 2022; Ministry of New and Renewable Energy, 2023; Ministry of Power, 2022) are some of the main legal documents to regulate energy and climate change. The Climate Action Tracker defines the country's policies as "Highly Insufficient" and Net Zero targets as "Poor."

China: China has achieved remarkable results in the establishment of a robust industry to produce wind and solar energies, also becoming one of the main exporters in the world. However, its reliance on coal, high levels of pollution despite having a comprehensive regulatory framework named 1+N policy system for carbon peaking and carbon neutrality. The Climate Action Tracker defines the country's

[62] Climate Action Tracker. https://climateactiontracker.org/countries/

policies as "Highly Insufficient" and Net Zero targets as "Poor." China ratified the Paris Agreement in 2016.

South Africa: South Africa passed the Climate Change Act in 2024 and the Nationally Determined Contribution (NDC), which defines targets and actions to reduce greenhouse gas emissions are the main documents in the country, which reinforces its commitments to the Paris Agreement. Reportedly, the country will not meet the 2030 targets due to the coal industry, and currently there are calls to revise the targets. The Climate Action Tracker defines the country's policies as "Insufficient" and Net Zero targets as "Target Information Incomplete."

Egypt: Egypt ratified the Paris Agreement in 2017. The Nationally Determined Contribution (NDC) from 2015 to 2030, Egypt's Vision 2030, the emerging Long Term Low Emission Development Strategy 2050 (LT-LEDS), the National Climate Change Strategy 2050 (NCCS) and the National Strategy for Disaster Risk Reduction 2030 are some of the main regulatory documents in place to support the Paris Agreement. The Climate Action Tracker defines the country's policies as "Insufficient," and the country has not committed to the Net Zero target. The country's main challenge is to decrease the reliance on fossil fuels.

Ethiopia: Ethiopia ratified the Paris Agreement in 2017. Alongside stipulating that clean and healthy environments are a constitutional rights; the Climate Resilient Green Economy (CRGE) Strategy is supported by the 10-Year Development Plans. According to the Climate Action Tracker,

> Ethiopia's climate targets and policies are "Almost Sufficient." This rating indicates that Ethiopia's climate policies and commitments are not yet consistent with the Paris Agreement's 1.5°C temperature limit but could be with moderate improvements.[63]

Indonesia: According to the Climate Action Tracker,

> Indonesia's climate policy presents a complex and contradictory picture, marked by a clear tension between the country's gradual efforts to promote renewable energy, its continued reliance on fossil fuels, and significant emissions from deforestation.

Indonesia's policies and actions "Critically Insufficient" and has not yet committed to net zero emission targets. Its regulatory framework includes the Presidential Regulation No. 98 of 2021 that implemented a carbon pricing mechanism, and the Renewable Energy Bill did not come into force.

Iran: Iran has not ratified the Paris Agreement. Its policies and climate change action are "Critically Insufficient." The main regulatory framework is the Seventh Five-Year Development Plan (2023–2027), which contains budgets and policy developments for renewable energy, however it does not contain any mitigation measures, according to the Climate Action Tracker.[64]

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[63] Climate Action Tracker. https://climateactiontracker.org/countries/

[64] Climate Action Tracker. https://climateactiontracker.org/countries/

The United Arab Emirates: The UAE ratified the Paris Agreement on Climate Change in 2016. Most recently, it enacted Federal Decree Law No. 11 in 2024 on the Reduction of Climate Change Effects which regulates gas emissions and established a national carbon credit registration process. For the Climate Action Tracker,

> The UAE has made significant progress both in terms of plans and in transparency, publishing an updated national emissions inventory and a comprehensive policy plan. However, it also has become clear that the UAE is planning to rely heavily on carbon capture and storage (CCS) technologies to achieve its 2050 net zero target, undermining the target's credibility,[65]

while its policies are defined as "Insufficient."

After analyzing the paths of all BRICS+ individual countries to sustainable development and climate change, one may conclude that there is the need to further enhance their policy frameworks. The reliance on fossil fuels is also one of the main challenges of the members. In effect, the NDB has the mandate to support these initiatives through financing sustainable development and infrastructure projects, and in the near future, it can play a crucial role in harmonizing standards regarding carbon accounting and green financing.

Table 3: **New Development Bank Projects in 2025**[66]

Country	**Project**	**Area**
China	Ping A Sustainable Transport Project	Clean Energy and Energy Efficiency
China	Shanxi Taiyuan Wusu Zero-Carbon Airport Project	Social Infrastructure
Brazil	Brazil Smart Hospital Project	Multiple Areas
India	National Investment and Infrastructure Fund: Private Markets Fund – II	Environmental Protection
Bangladesh	North Dhaka Waste-to-Energy Project	Multiple Areas
South Africa	Program for Upgrade of Infrastructure for Metropolitan Municipal Services	Clean Energy and Energy Efficiency
India	Serentica Captive Renewable Energy Project	Water and Sanitation

[65] Climate Action Tracker. https://climateactiontracker.org/countries/

[66] New Development Bank. (n.d.). *All projects*. https://www.ndb.int/projects/all-projects/page/2/#paginated-list

South Africa	Magalies Bulk Water Supply Scheme Project	Multiple Areas
South Africa	IDC Sustainable Infrastructure Project	Social Infrastructure
India	Piramal Finance Affordable Housing Project	Social Infrastructure
South Africa	Limpopo Central Hospital Project	Clean Energy and Energy Efficiency
Brazil	Graca Aranha – Silvania Energy Transmission Project	Multiple Areas
China	Greener Shanghai Project	Multiple Areas
Bangladesh	City Bank Sustainable Infrastructure Project	Transport Infrastructure
Brazil	Integration, Social and Sustainable Development Program of Maceió	Water and Sanitation
Brazil	Pará Sanitation Development Project	Transport Infrastructure
China	Hubei Huangshi New Port Modern Logistics Hub Project	Transport Infrastructure
India	Shriram Finance Sustainable Transport Project	Clean Energy and Energy Efficiency
Brazil	Brasilia Capital of Solar Lighting Project	Clean Energy and Energy Efficiency

Bangladesh, which has been a member of the NDB since 2021 but is not a member of the BRICS+, currently has two approved projects–the North Dhaka Waste-to-Energy Project and the City Bank Sustainable Infrastructure Project.

One of the few governance commitments that NDB members adhere to is outlined in the NDB's Environmental and Social Framework governing the issuance of green, social, and sustainability debt instruments:[67]

> C. Policy Approach
>
> 5. Under the Framework, NDB requires the clients to meet the key requirements for environment and social assessment, involuntary resettlement and indigenous peoples standards (Part 2) in the preparation and implementation of NDB projects. 6. NDB promotes the use of strong country and corporate systems in the management of environment risks and impacts. NDB relies

[67] New Development Bank. (2023). *Second-party opinion overview of the New Development Bank sustainable financing policy framework*. https://www.ndb.int/wp-content/uploads/2023/02/SPO-Sustainlytics.pdf; New Development Bank. (2024). *NDB's policy framework*. https://www.ndb.int/wp-content/uploads/2024/10/IEO-CLE-PolicyFramework.pdf

> on country and corporate system in the preparation and implementation of the projects, on the basis that such system is fully consistent with the key requirements of NDB's Environmental and Social Policy and Environmental and Social Standards. NDB addresses the gaps, if any, through engaging client to take adequate actions to ensure the full achievement of the objectives of this Framework.[68]

The NDB's Environmental and Social Framework mandates that the projects selected by the institution must benefit society, while mitigating environmental risks.[69]

It is unlikely that the NDB will be the body responsible to promote transnational legal mechanisms and harmonized standards, unless it is to regulate carbon trade and investment-related projects. The BRICS currently lacks a cohesive environmental policy framework, operating under the principle of common but differentiated responsibilities to support Global South economies, yet largely reliant on goodwill. The BRICS members (and likely, the BRICS+ members) plan to increasingly adopt similar stances on multilateral platforms such as the G20 and COP. For instance, it is expected that the countries will issue a joint framework for climate finance to be presented at COP30 that will happen in November 2025. Climate change and sustainable development are topics that can be further explored by the countries, while some members may still disagree on other topics, for instance, China and India often have border disputes. The future of BRICS+ lies in becoming the voice of the Global South.

In 2025, the BRICS announced the establishment of the BRICS Climate Research Platform and the BRICS Laboratory for Trade, Climate Change and Sustainable Development. The Lab's main purposes are: a) to analyse the impact of green barriers on their exports and economies; b) to develop a unified, data-driven response: c) to facilitate exchange of information and best practices to adapt their policies, while the Research Platform will enhance expert and scientific cooperation and capacity-building. These two initiatives, particularly of the Lab, can further contribute to the development of common methodologies for carbon accounting and low-emission technologies that reflect the specific economic structures and resource mixes of BRICS+ members, but more can be done to harness legal harmonization processes to foster sustainability. Carbon trade and green finance could be the focus to increase mutual investment opportunities.

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[68] New Development Bank. (2016). *Environment and social framework*. https://www.ndb.int/wp-content/uploads/2017/02/ndb-environment-social-framework-20160330.pdf

[69] New Development Bank, 2016.

Conclusion

In an era when the Global South plays a crucial role in addressing pressing environmental challenges, the BRICS–and its expanding BRICS+ framework–have become influential actors in the promotion of sustainable development.

This paper explored the role of transnational legal processes to first understand the shifts in international law studies that are no longer adequate to study the bloc. By analyzing the interplay between transnational legal frameworks and sustainability agendas, it was found that these evolving legal dynamics serve as a platform for fostering greater cooperation, allowing members to leverage their diverse legal systems, legislative processes, and interpretations, while also contemplating potential expansion with new members. Most BRICS+ members have considerable room for improvement in terms of policies, risking falling behind on their commitments under the Paris Agreement. While the NDB continues to be the main organ for climate finance and investments, future cooperation can be further developed through the newly established BRICS Climate Research Platform and the BRICS Laboratory for Trade, Climate Change and Sustainable Development. Carbon trade and green finance can become common grounds for mutual investment opportunities.

This framework positions the BRICS+ to act as a dynamic and influential actor, capable of addressing global challenges in a way that aligns seamlessly with the evolving landscape of international governance and collaboration in sustainable development.

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