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Title: Acts of Government and Acts of God: Using U.S. Coastal Legal Doctrines to Critique the United Nations Sustainable Development Goals



The United Nations Sustainable Development goals call, in part, for strengthening institutions that address sustainability by enhancing coastal ecosystems and reducing coastal hazards. These goals do not address the institution of private property rights, however, or provide guidance on reconciling expectations of private property ownership with publicly oriented goals like economic development, resource conservation, and hazard mitigation. The purpose of this essay is to critique and inform these UN goals by working through them using several key legal doctrines at play along coastal shores.

Institutions can be defined as “humanly devised constraints that structure political, economic and social interaction,” including “both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights)” (North 1991, 97). Four of the UN goals speak directly to the intersection of institutions and sustainability as it relates to the conservation of ecosystems and the mitigation of coastal hazards, including: Goal 11 (resilient cities); Goal 13 (climate change); Goal 14 (marine resources); and Goal 16 (institutions). Absent are the institution of private property rights and a means to reconcile conflicts from promoting development, on the one hand, while enhancing ecosystems and/or reducing hazards, on the other. Moreover, the goals fail to provide guidance on appropriate codes of conduct or liability when governmental acts (e.g., safeguarding private land use, building harbor structures) influence natural dynamics in ways that might undermine the long-term sustainability of both coastal ecosystems and communities.

Addressing the theme of climate change, and using Great Lakes coastal settings for context, I draw upon selected legal doctrines implicated by coastal management to critique and comment on the UN goals, including doctrines speaking especially to acts of government (e.g., building harbor structures, regulating land use) and those speaking to natural dynamics (e.g., erosion/accretion) (e.g., Sax 2009), focusing especially on the implications of ‘acts of God’ (e.g., limits on liability from unforeseeable natural events). I conclude by discussing implications for the UN goals in coastal and other settings of high resource value and vulnerability (e.g., mountainous wildfire areas), and in terms of reconciling conflicting goals in application.