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The Story of Masdar: 'Sustainable Development' for Migrant Justice?

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Abstract
This article explores whether the doctrine and rhetoric of sustainable development (SD) are compatible with robust notions of migrant justice, through a focus on Masdar City, an eco-smart city in oil-rich Abu Dhabi. After discussing what migrant justice entails and the potential link between SD and migrant workers' concerns, I examine how SD is practiced in Masdar City. Drawing on Third World Approaches to International Law (TWAIL), I study the example of Masdar to understand the process of how SD gets coopted because of SD's conceptual evolution which consistently places economic concerns over social and environmental aspects. Ultimately, my study of Masdar City shows the eco-modernist logic and unidimensional view of economic-centered growth that is embedded in the concept of SD, watering down its social content and undermining its compatibility with migrant justice.

Key words
Sustainable development; migration; development; environment; labour

1 Introduction

Migrant workers' rights and labour standards are increasingly being framed in terms of sustainable development (SD), as the 2030 Agenda for Sustainable Development solidifies its central role in international policy.[1] SD rhetoric is also emerging in the oil-rich monarchies of the Persian Gulf where the average proportion of non-nationals

[1] Tonia Novitz, 'Engagement with Sustainability at the International Labour Organization and Wider Implications for Collective Worker Voice' (2020) 159:4 *International Labour Review* 463.

employed is 70.4 percent.[2] In the past two decades, the United Arab Emirates (UAE) in particular has shown a readiness to adopt SD guidelines. Since Abu Dhabi announced its Economic Vision 2030,[3] it has established several initiatives under Crown Prince Sheikh Mohammed bin Zayed Al Nahyan and Foreign Minister Sheikh Abdullah.[4] Among them, Masdar City – a USD 18 billion project aiming to be the world's first carbon neutral zero-waste city – has become a staple in discussions about SD.

Meanwhile the *kafala* system, which is codified in labour law, residency laws, contracts, as well as other informal rules that regulate migration in the Gulf and other countries in the Middle East, has become a focus of development debates in the region, given the predominant role of migrant labor.[5] Like other guest worker schemes, *kafala* legally ties each worker with a sponsor (*kafeel*) who is either a citizen or a company owned by citizens, during a contractually-fixed period typically for one to three years.[6] *Kafala* is criticized for its highly discretionary nature and unequal power balance that restricts employees from switching and challenging employers.[7] *Kafala* gives sponsors and many 'middle men' such as recruiters inordinate control over migrant workers while leaving only a minimal role for the state. Given the UAE's efforts to jump on the SD bandwagon, this article investigates what the story of Masdar City tells us about SD's compatibility with migrant justice.

Although SD's latest iteration as Sustainable Development Goals (SDGs)[8] has received high-level political support and is endorsed by the Global Migration Compact, SD's definition remains contested. It is most often defined as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs.'[9] Of the three pillars (economic, environmental

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[2] International Labour Organization, 'Labour Migration (Arab States)' (2017) https://www.ilo.org/beirut/areasofwork/ labour-migration/lang--en/index.htm (accessed 1 October 2021).

[3] Abu Dhabi Government 'Abu Dhabi Economic Vision 2030' (2006) https://www.actvet.gov.ae/en/Media/Lists/ ELibraryLD/economic-vision-2030-full-versionEn.pdf (accessed 1 October 2021).

[4] Mari Luomi, *The Gulf Monarchies and Climate Change: Abu Dhabi and Qatar in an Era of Natural Unsustainability*, (OUP, 2014).

[5] Andrew Gardner, 'Reflections on the Role of Law in the Gulf Migration System' (2018) 47:1 *Journal of Legal Studies* 129, 132.

[6] Sabine Damir-Geilsdorf & Michaela Pelican, 'Between Regular and Irregular Employment: Subverting the *Kafala* System in the GCC Countries' (2019) 8:2 *Migration and Development* 155.

[7] Neha Vora & Natalie Koch, 'Everyday Inclusions: Rethinking Ethnocracy, Kafala, and Belonging in the Arabian Peninsula' (2015) 15:3 *Studies in Ethnicity and Nationalism* 540.

[8] *Transforming Our World: The 2030 Agenda for Sustainable Development*, UN General Assembly, Sess 70th, UN Doc A/RES/70/1 (21 October 2015)

[9] G.H. Brundtland, *Our Common Future: Report of the World Commission on Environment and Development* (1987) UN Doc A/42/427 [*Brundtland Report*].

and social) that SD claims to balance, the social pillar – the most relevant to migrant workers' concerns – remains the most undertheorized.[10] Although its legal nature remains contested, SD gives rise to some concrete obligations and, at the very least, its social pillar '[encompasses] basic human needs such as access to food, water, healthcare, shelter, and education'.[11] While literature on SD is vast, this article focuses on Third World Approaches to International Law (TWAIL), which historicizes SD, criticizing the development project's relentless commitment to economic growth and emphasizing the need for plural conceptions of justice and development.

This article explores whether the doctrines and rhetoric of SD are compatible with robust notions of migrant justice. It first introduces a critical capabilities-based approach to migrant justice which is used to counter the traditional hierarchy between SD's three pillars. Second, a TWAIL account of SD precedes a brief overview of how SD incorporates migration concerns. Third, I examine the case of Masdar City to understand how in practice the social aspects of SD are diluted. Fourth, relying on TWAIL, I propose that one reason explaining why SD is prone to cooption and dilution is how the concept evolved, consistently placing economic concerns over social and environmental aspects. Ultimately, I use the Masdar City example to illustrate how the eco-modernist logic and unidimensional view of economic-centered growth embedded in SD waters down its social content and undermines its compatibility with migrant justice.

This project's focus is on Pakistani migrant workers involved in construction and other '3-D' jobs – dirty, dangerous, and difficult.[12] South Asian migrants make up more than 50 percent of the UAE's population and more than 80 percent of its workforce.[13] It is also worth noting at the outset that categories such as migrant

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[10] Magnus Boström, 'A Missing Pillar? Challenges in Theorizing and Practicing Social Sustainability: Introduction to the Special Issue' (2017) 8:1 *Sustainability: Science, Practice and Policy* 3; Luis Eslava, Michael Fakhri & Vasuki Nesiah (eds.), *Bandung, Global History and International Law: Critical Pasts and Pending Futures* (CUP, 2017); Tonia Novitz & David Mangan (eds.), *The Role of Labour Standards in Development: From Theory to Sustainable Practice* (OUP, 2011).

[11] Sumudu Atapattu & Shyami Puvimanasinghe, 'Guidance from the Ground up: Lessons from South Asia for Realizing the Sustainable Development Goals' in Wei Zhang (ed.), *The Right to Development* (Brill, 2019) 141–167; Sumudu A Atapattu, Carmen G Gonzalez & Sara L Seck (eds.), *The Cambridge Handbook of Environmental Justice and Sustainable Development* (CUP, 2020), at 4.

[12] Emily Jane Cordeaux, 'Contrasting Responses to Migrant Worker Precarity in Canada and the United Arab Emirates' (March 2014) http://summit.sfu.ca/item/14820, 8 (accessed 1 October 2021); Giovanni Di Lieto, *Migrant Labour Law: Unfolding Justice at Work in Free Markets* (Federation Press, 2016), 44.

[13] The UAE does not publish population figures and demographic characteristics of the resident population in real time. This number is an estimate based on data available on Gulf Labour Markets and Migration's website: Gulf Labour Markets and Migration, 'UAE: Estimates of population residing in the UAE by country of citizenship (selected countries, 2014)' (2015) https://gulfmigration.org/uae-estimates-of-population-residing-in-the-uae-by-country-of-citizenship-selected-countries-2014 (accessed 1 October 2021); Dubai Statistics Center, 'UAE, Dubai: Percentage Distribution of Employed Population (Aged 15 and Above) by Nationality Group and Sex (2017)' (2018) https://gulfmigration.org/uae-dubai-percentage-distribution-of-employed-population-aged-15-and-above-by-nationality-group-and-sex-2017/ (accessed 1 October 2021).

workers, expatriates, and Emiratis (locals) are contested and malleable. While 'migrant worker' may be defined as 'a person who is to be engaged or has been engaged in remunerated activity in a State of which he or she is not a national',[14] 'expatriate' is not legally defined. Popular discourse frequently visualizes the former as 'non-white', non-Western and low-skilled',[15] while the latter refers to 'white Western nationals abroad'.[16] Similarly, in rentier states with stringent citizenship rules such as the UAE, Emirati is a highly guarded and politicized category. Such categories reproduce racialized and gendered power relations often based on multiple vectors of social location such as ethnicity, Indigeneity, language, and religion which are constructed to exclude and disempower.[17]

This article draws on my multi-scalar doctoral research project that includes interviews with Pakistani migrant workers upon their return to Pakistan from the UAE, Masdar City's student-residents, as well as ethnographic reflection notes taken in the UAE and Pakistan during fieldwork in 2018.[18] This data supplements a range of legal and policy instruments on SD, international organization and government reports, and publicly available information published by Masdar. While my focus is on Masdar, the issues discussed are not unique to this eco-city or the Gulf. Indeed, by situating this discussion within broader international debates on SD, I aim to de-exceptionalize the Gulf region.

2 Migrant Justice

Although there are many definitions of migrant justice and my purpose is not to provide a tidy meaning, this paper uses a critical capabilities-based approach to migrant justice which entails (a) capabilities as the evaluative space, (b) a principle that explicitly favours worse off agents, and (c) TWAIL as an account of structural constraints.

According to the capabilities approach (CA), the justness of an arrangement ought to be measured in terms of capabilities (what people are able to do and be) and

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[14] Article 2(1) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families' (Migrant Workers' Convention), GA Res 45/158, UNHCHR, 45th sess, UN Doc A/RES.45.158 (18 December 1990).

[15] Sarah Kunz, 'Expatriate, Migrant? The Social Life of Migration Categories and the Polyvalent Mobility of Race' (2020) 46:11 *Journal of Ethnic and Migration Studies* 2145.

[16] Sophie Cranston, 'Expatriate as a "Good" Migrant: Thinking Through Skilled International Migrant Categories' (2017) 23:6 *Population, Space and Place* e2058.

[17] Roger Zetter, 'Labelling Refugees: Forming and Transforming a Bureaucratic Identity' (1991) 4:1 *Journal Refugee Studies* 39.

[18] This research received ethics review and approval by the Delegated Ethics Review Committee of York University, which has delegated authority to review research ethics protocols from the Human Participants Review Sub-Committee of the York University Ethics Review Board. It conforms to the standards of the Canadian Tri-Council Research Ethics Guidelines.

functionings (actual achievements).[19] CA argues that value-neutral capabilities, or option freedoms, offer a more capacious informational basis and pluralistic notion of justice than other metrics of justice.[20] A focus on capabilities is able to make two distinctions: (a) means from ends, and (b) outcomes from processes.[21] In other words, migrant workers' ability to move freely is not only seen as a by-product or a means to achieve economic growth but is an end itself – one that non-state actors can contribute to. While the CA is notoriously open-ended, it is useful for this means-ends distinction which can explicitly re-hierarchize social and environmental dimensions over economic dimensions of SD. Using CA for its evaluative space can capture and treat complex beings and doings – such as meaningful labour and being able to support oneself and one's family – as valuable ends on their own. As I have written elsewhere, movement and supportive capabilities understood broadly as 'being able to move freely' and 'being able to support one's family' go beyond SD's social pillar.[22] They entail not only the right to work but also demand, for example, opportunities for meaningful work, opportunities to be trained and educated, as well as family reunification, and the right to enjoy a private life.

In addition to focusing on capabilities, migrant justice entails a distributive principle to balance tensions between emigration and migration. While Anglo-American philosophers have stayed within models of 'closed societies',[23] over the last two decades debates on migrant justice have proliferated, ranging from nationalists who justify states' right to exclude to cosmopolitanists advocating for 'open borders'.[24] Without going into details, Ypi's critique on egalitarian accounts that try to simultaneously and equally accommodate immigration *and* emigration justice claims is useful in this context, where the host state (UAE) is concerned with its ability to provide subsidies to its citizens and the sending state (Pakistan) is concerned with 'brain drain'.[25] Ypi suggests one way to decide who ought to enjoy unrestricted freedom of movement based on the following principle:

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[19] Ingrid Robeyns, *Wellbeing, Freedom and Social Justice: The Capability Approach Re-Examined* (Open Book Publishers, 2017).

[20] Schlosberg (2009).

[21] Amartya Sen, *The Idea of Justice* (Harvard University Press, 2009).

[22] Asma Atique, *Just Greening the Gulf: Sustaining Justice for Migrant Workers* (unpublished PhD thesis, York University, 2021).

[23] Rainer Bauböck, 'Towards a Political Theory of Migrant Transnationalism' (2003) 37:3 *International Migration Review* 700.

[24] Alison M Jaggar, 'Decolonizing Anglo-American Political Philosophy: The Case of Migration Justice' (2020) 94:1 *Aristotelian Society Supplementary Volume* 87.

[25] Lea Ypi, 'Justice in Migration: A Closed Borders Utopia?' (2008) 16:4 *Journal of Political Philosophy* 391–418.

> the less able worse-off agents are to take responsibility for their economic development,[26] the more they should be favoured. The right principle would therefore attempt to combine urgency and ascription of responsibility: urgent claims for which people cannot take responsibility (past and future) should be favoured over those for which they can.[27]

In other words, this would invert the traditional preference of 'high-skilled' workers over 'low-skilled' workers. Ypi clarifies that while open borders may address inter-state migration, they do not remedy 'the spatially-related socio-economic inequalities' that make borders problematic.[28] Similarly, while a focus on capabilities is able to re-hierarchize SD's pillars, CA is likely to get coopted without an explicit structural account.

Therefore, alongside CA and a distributive principle favouring worse-off agents, this paper also relies on TWAIL. TWAIL investigates how international law can be complicit in reproducing the unequal power dynamics that it purports to counter, and TWAIL sees international law as a site of struggle.[29] TWAIL is used here for its critical account of how SD evolved, allowing us to trace the persistence of a unidimensional view of economic-centered growth and development.

3 Historicizing Sustainable Development: TWAIL and Migration

SD's evolution in international environmental law is conventionally narrated as a compromise between global North and South. This section outlines SD's journey from the 1973 Stockholm Conference on the Human Environment to the SDGs using insights from TWAIL scholarship. It emphasizes select moments where SD was negotiated to illustrate how the North-South divide was overemphasized, and a unidimensional view of development as economic growth eclipsed broader understandings of development and social and environmental concerns. It concludes by describing the role of migration in the resultant conception of SD.

The road to SD started before the Stockholm Conference. TWAIL scholar Mickelson's account of the negotiations preceding and following the Stockholm Conference are particularly helpful. These negotiations reflect a focus not simply on environmental protection versus development but rather alternative views of development and its relationship to the environment. These processes included the

[26] Read 'capabilities' with regard to 'tak[ing] responsibility', so the focus is on whether people are able to lead lives they value rather than assuming economic development will lead to the former.

[27] Ibid.

[28] Ypi (2008).

[29] Julia Dehm, 'Reflections on Paris: Thoughts Towards a Critical Approach to Climate Law' (2018) *Revue québécoise de droit international* 61.

1971 Meeting of Experts on Environment and Development (Founex meeting), which was attended by mainly developing country officials. The resulting Founex Report illustrated that North-South debates were about different *kinds* of environmental problems.[30] The Report articulated developing countries' environmental problems as primarily related to poverty and, while development was seen as imperative, the Report also criticized development's narrow focus on economic growth as measured by growth in Gross National Product.[31] Both environmental and development problems were, therefore, understood broadly at the time.

Developing country officials' participation during the Stockholm Conference also reflects a focus on alternative views of development.[32] The roots of SD are found in its outcome document – the 1972 Declaration of Principles for the Preservation and Enhancement of the Human Environment, which connected environment and development. Mickelson notes how Indira Gandhi, then Prime Minister of India, insisted poverty itself has environmental impacts. While Gandhi did not abandon development altogether, she called for an alternative to mainstream development. She asserted that the conflict was not 'between conservation and development, but between environment and the reckless exploitation of man and earth in the name of efficiency'.[33] The root causes of ecological destruction were seen to be 'the isms of the modern age … which assume that man's cardinal interest is acquisitions'.[34] Mickelson notes how Gandhi insisted pollution was not a 'technical problem but a problem of values.'[35] Nevertheless, the resulting Stockholm Declaration, despite attempts to challenge the broader project of development, offers 'rational planning' as a tool to reconcile development and environment tensions, reinforcing a modernist view of progress.

Mickelson shows how the New International Economic Order (NIEO) and the Cocoyoc Declaration also provided 'nuanced and multi-faceted' accounts of environmental protection and development emerging from the South.[36] The NIEO proposals attempted to reform the international economic system, demanding more equitable distribution of industrial production, more significant financial support, and

[30] Karin Mickelson, 'The Stockholm Conference and the Creation of the South–North Divide in International Environmental Law and Policy' in Shawkat Alam et al (eds.), *International Environmental Law and the Global South* (CUP, 2015) 109, at 115.

[31] Aaron Wu, 'Sustaining International Law: History, Nature, and the Politics of Global Ordering' (2018) http://etheses.lse.ac.uk/3845/ (accessed 1 October 2021).

[32] Mickelson (2015).

[33] Ibid 116.

[34] Ibid citing I. Gandhi, 'The Unfinished Revolution' (1972) 28 *Bulletin of the Atomic Scientists* 35, 35.

[35] Ibid.

[36] Ibid 121.

changes in international markets and governance structures. The Cocoyoc Declaration called for a new economic system and a redefinition of development. It emphasized multiple paths to development and 'self-reliance' while recognizing both "'inner limits" of satisfying fundamental human needs … [and] "outer limits" of the planet's physical integrity'.[37]

Both NIEO and the Cocoyoc Declaration radically criticized and denounced the international system's injustices, highlighting the need to change exploitative trade patterns.[38] While governments in the global North, including the United States, ultimately rejected the NIEO and the Cocoyoc Declaration, these two endeavors illustrate what was at stake in the conversations leading to SD. It was not environmental protection advocated by the global North versus development advocated by the global South, but rather the South advocating for alternative views of development and its relationship with the environment.[39]

In the wake of this history, and during the economic recession in the North and debt crisis in the South, the United Nations General Assembly established the World Commission on Environment and Development in 1983, whose mandate included reconciling economic development with environmental protection. Comprised of representatives from each of the UN regional groups and under the chairmanship of Gro Harlem Brundtland, the WCED published the landmark report 'Our Common Future' in 1987. Also known as the Brundtland Report, it first popularized the term SD. Partly due to its 'brilliant ambiguity',[40] the Brundtland formulation seemed to appease the North and the South and continues to serve as one of the primary definitions of SD.

The Brundtland Report rebranded the problem of ecological destruction as one linked to poverty, while deliberately excluding more radical views that challenged development as centred on economic growth. Instead, poverty reduction was accepted as the basis for reconciling different positions. The Report insisted: 'Those who are poor and hungry will often destroy their immediate environment in order to survive'.[41] Recasting poverty and the poor as the problem shifted the responsibility of tackling environmental issues to the very people suffering most from environmental impacts. Without challenging the consumption patterns of the industrialized affluent global North that caused ecological destruction, the solution to both poverty and ecological

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[37] 'The Cocoyoc Declaration: A Call for the Reform of the International Economic Order' (1975) 31(3) *Bulletin of the Atomic Scientists* 6 at 6.

[38] Mickelson (2015).

[39] Wu (2018) 147-149.

[40] David Hunter et al, *International Environmental Law and Policy* (Foundation Press, 2015) at 169.

[41] *Brundtland Report*, Chapter 1, Section I, para 8.

destruction was cast as increased production, consumption, and economic growth.[42] As the TWAIL and Critical Race Theory scholar Ruth Gordon observes, under this formulation 'more, not less, growth and industrialization were needed' for environmental protection.[43]

Additionally, this conception of SD did not challenge the role of the global economy and international institutions in creating rampant poverty in the global South. Gordon notes, for instance, that the World Bank and IMF's interventions and resulting debt obligations forcing countries to produce cash crops for export has led to damaging environmental impacts. [44] This has significant implications for unemployment in the South, which, in turn, may act as a 'push factor' for prospective migrant workers. By subscribing to more of the same and reinforcing economic growth, SD failed to challenge the major contributors of both poverty and ecological destruction.

This 'old thinking about economic growth' prevailed following the Brundtland Report and during the United Nations Conference on Environment and Development process, also known as the 1992 Rio Earth Summit. While the resulting Rio Declaration reinforced the connection between environment and development, there was little discussion of consumption.[45] The fixation on simply greening economic growth is further illustrated in the 2002 Johannesburg Declaration on Sustainable Development, which sought to be more pragmatic than its predecessors. [46] It emphasized market-based solutions to environmental problems such as public-private partnerships, engagement of the business sector, and transparency-based accountability and improved reporting.[47]

Ten years later, Rio+20 was intended to renew commitment to SD. Rio+20's focus on green economy once again sparked North-South tensions. The South was concerned about potential trade restrictions and a single neoliberal development model.[48] In UN Secretary General Ban Ki-Moon's words, Rio+20 became a 'free

[42] Wu (2018) 167-187

[43] Ruth Gordon, 'Unsustainable Development' in Shawkat Alam et al (eds.), *International Environmental Law and the Global South* (CUP, 2015) 50, at 51.

[44] Ibid 65.

[45] United Nations, *Report of the United Nations Conference on Environment and Development, Annex I*, 'Rio Declaration on Environment and Development', UN Doc. A/CONF.151/26 (vol I), 12 August 1992.

[46] *Johannesburg Declaration on Sustainable Development,* UN Doc. A/CONF. 199/20), 4 September 2002, 1–5.

[47] Mickelson, (2015) 126.

[48] Mickelson (2015) 128-129.

market revolution for global sustainability'.[49] Rio+20 rejected any policies that could be disguised as trade restrictions and insisted urban infrastructure projects would improve a country's social welfare.[50] Green economy became, as Wu writes, the 'new one-size-fits-all model to achieving sustainable development'.[51] The resulting outcome document, The Future We Want: Declaration of the UN Conference on Sustainable Development,[52] and its idea of the green economy is criticized for, as Goodman and Salleh write, '[reflecting] the rise of neoliberal ecologism, with "ecological" sustainability translated first into "economic" sustainability, and then into "free markets"'.[53]

The Rio+20 process also laid the foundations for the SDGs, which replaced the Millennium Development Goals.[54] Negotiated alongside the climate change negotiations that resulted in the 2015 Paris Agreement, which prioritized broader membership over stringent obligations, the SDGs were similarly touted as an improvement to their predecessor.[55] In addition, as noted by Dodds, Donoghue and Roesch who took part in the negotiation process for SDGs, a number global South countries such as the UAE played a significant role in promoting the SDGs.[56]

The Open Working Group of the SDGs established in 2012 was chaired by Hungary and Kenya and included Pakistani and Emirati officials. While the first half of the Working Group sessions relied heavily on experts, the second half widened its consultative scope. Pingeot notes how the resulting document's focus on economic growth could be attributed to the fact that most of the corporate involvement was from the European Union and the United States and featured extractive industries.[57] As Novitz warns, while the SDGs' emphasis on participation is promising, 'it seems

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[49] United Nations Secretary-General, 'Twentieth-Century Model "A Global Suicide Pact", Secretary-General Tells World Economic Forum Session on Redefining Sustainable Development' (January 2011) https://www.un.org/press/en/2011/sgsm13372.doc.htm (accessed 1 October 2021)

[50] Wu (2018) 211.

[51] Ibid 204.

[52] The Future We Want, UN Doc. A/CONF.216/L.1 (19 June 2012).

[53] James Goodman & Ariel Salleh, 'The "Green Economy": Class Hegemony and Counter-Hegemony' (2013) 10:3 *Globalizations* 411.

[54] Sakiko Fukuda-Parr, 'From the Millennium Development Goals to the Sustainable Development Goals: Shifts in Purpose, Concept, and Politics of Global Goal Setting for Development' (2016) 24:1 *Gender & Development* 43; Elaine McGregor, 'Migration, the MDGs, and SDGs: Context and Complexity' in Tanja Bastia & Ronald Skeldon (eds.), *Routledge Handbook of Migration and Development* (Routledge, 2020).

[55] Felix Dodds, *Negotiating the Sustainable Development Goals: A Transformational Agenda for an Insecure World* (Routledge, 2017).

[56] Ibid.

[57] Lou Pingeot, 'Corporate Influence in the Post-2015 Process', Global Policy Forum Working Paper January 2014 (Global Policy Forum, 2014).

more likely that there could be deregulatory effects … given an international context responsive to corporate power dynamics'.[58]

In summary, economic growth concerns continued to loom large at the expense of social and environmental issues despite efforts from the global South to present alternative views on development. TWAIL scholars have noted how SD and its focus on poverty reduction shifted the burden of solving environmental problems to the South while downplaying the role of production and consumption patterns of the affluent.[59] The solution presented is the same unidimensional economic growth-centred path towards development altered only by techno-managerial fixes designed to sustain economic growth.

While economic growth concerns prevailed and the journey has not been linear, certain moments in SD's evolution in international environmental law also highlight how SD incorporates migration issues. The 1995 Copenhagen Declaration on Social Development, for instance, promoted the full employment of men and women and explicitly included migrant workers, committing signatories such as the UAE to take concrete steps against the exploitation of migrant workers.[60] In 2012, the Rio+20 outcome document went a step further by calling to protect 'the human rights and fundamental freedom of all migrants regardless of migration status'.[61] The 2015 SDGs have reinvigorated efforts to frame labour standards and migrant workers' rights in terms of SD.[62] As several studies on the migration-development nexus highlight,[63] SDGs incorporate migration primarily through SDG 8, which calls for 'full and productive employment and decent work for all' and has targets that refer to ILO's fundamental labour standards, and *inter alia* the vulnerability of migrant workers in precarious employment.[64]

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[58] Margherita Pieraccini & Tonia Novitz (eds.), *Legal Perspectives on Sustainability* (Bristol University Press, 2020), at 52.

[59] See for example Ruth Gordon, 'Unsustainable Development' in Carmen G. Gonzalez et al (eds.), *International Environmental Law and the Global South* (CUP, 2015) 50; Sumudu Atapattu et al (eds.), *The Cambridge Handbook of Environmental Justice and Sustainable Development* (CUP, 2021); Usha Natarajan & Julia Dehm (eds.), *Locating Nature: Making and Unmaking International Law* (CUP, 2022).

[60] *Copenhagen Declaration,* Annex C, Commitment 3, Commitment 4.

[61] The Future We Want, A/CONF.216/L.1 (19 June 2012) at 29, para 157.

[62] Pieraccini & Novitz (2020).

[63] See for example Richard Mallett, 'Decent Work, Migration and the 2030 Agenda for Sustainable Development' (September 2018) https://cdn.odi.org/media/documents/12390.pdf (accessed 14 October 2022); Novitz (2020); Global Forum on Migration and Development, 'GFMD Working Group on Sustainable Development and International Migration' (2021) https://www.gfmd.org/gfmd-working-group-sustainable-development-and-international-migration (accessed 13 October 2022).

[64] Final list of proposed Sustainable Development Goal indicators, Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators, UN Doc E/CN.3/2016/2/Rev.1, 10-11.

As Piper posits, the SDGs have the potential to address migration because their realization goes beyond providing 'safe and orderly migration' and they address the lack of 'decent work' and participatory decision making.[65] However, as will be shown below, there are significant concerns that undermine SDGs' partial embrace of decent work, precarious employment, and irregular migration.

4 Masdar City for Migrant Justice?

Celebrated by some as a 'city of possibilities'[66] and criticized by others for being a 'sandcastle',[67] Masdar[68] City is a staple in discussions about SD in the Gulf region.[69] While its own ambitions, labels, and completion dates have continuously changed, Masdar City consistently claims to be moving Abu Dhabi towards a post-oil future.[70] It joins the growing number of so-called eco-cities in both the global South and the North.[71]

It was launched in 2006 by the Masdar Initiative, a state-owned renewable energy and clean technology company, and funded by Crown Prince Muhammad bin Zayed Al Nahyan's Abu Dhabi-owned Mubadala Investment Company.[72] This 'eco-smart city' is still under construction in a 6-square-kilometre-area neighbouring the Abu Dhabi international airport, around 15 kilometres from downtown Abu Dhabi.

Masdar City aimed to become the world's first zero-carbon, zero-waste city that would serve as a testbed for clean technology, renewable energy and smart technologies. Its original master plan by Foster and Partners used traditional Islamic architecture[73] and urban planning to create a pedestrian, car-less city. However, Masdar

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65 Nicola Piper, 'Migration and the SDGs' (2017) 17:2 *Global Social Policy* 231.

66 Steven Griffiths & Benjamin K. Sovacool, 'Rethinking the Future Low-Carbon City: Carbon Neutrality, Green Design, and Sustainability Tensions in the Making of Masdar City' (2020) 62 *Energy Research & Social Science* 101368.

67 Federico Cugurullo, 'How to Build a Sandcastle: An Analysis of the Genesis and Development of Masdar City' (2013) 20:1 *Journal of Urban Technology* 23.

68 'Source' in Arabic

69 Ayona Datta & Abdul Shaban (eds.), *Mega-Urbanization in the Global South: Fast Cities and New Urban Utopias of the Postcolonial State* (Routledge, 2017) at 2.

70 Federico Cugurullo, Davide Ponzini & Politecnico di Milano, 'The Transnational Smart City as Urban Eco-Modernisation: The Case of Masdar City in Abu Dhabi' in Andrew Karvonen, Federico Cugurullo & Federico Caprotti (eds.), *Inside Smart Cities: Place, Politics and Urban Innovation* (Routledge, 2018) 149.

71 Federico Cugurllo. 'Speed Kills: Fast Urbanism and Endangered Sustainability in the Masdar City Project' in Ayona Datta & Abdul Shaban (eds.), *Mega-Urbanization in the Global South: Fast Cities and New Urban Utopias of the Postcolonial State* (Routledge, 2017) 66.

72 Martin De Jong, Thomas Hoppe & Negar Noori, 'City Branding, Sustainable Urban Development and the Rentier State. How Do Qatar, Abu Dhabi and Dubai Present Themselves in the Age of Post Oil and Global Warming?' (2019) 12:9 *Energies* 1657.

73 Janet L. Abu-Lughod, 'The Islamic City - Historic Myth, Islamic Essence, and Contemporary Relevance' (1987) 19:2 *International Journal of Middle East Studies* 155.

City's master plans have gone through many iterations. The 2008 economic crisis significantly undermined its development, pushing the 2016 deadline to 2030.[74]

During my fieldwork in 2018, Masdar City's entrance was lined with taxis and featured buildings that Masdar Institute of Science Technology (MIST) was using as it merged with King Abdullah University of Science and Technology. Masdar City also housed several clean-tech businesses, the International Renewable Energy Agency (IRENA), two residential buildings, and a 10 megawatt solar photovoltaic plant. Although its population was 1,300 at the time, it eventually plans to house 50,000 residents and be able to run on various on-site clean technologies.[75] As will be shown below, Masdar City's practice of SD illustrates the deeply embedded eco-modernist logic within SD that dilutes its social pillar.

4.1 Masdar City Construction and Exclusions

> Man with a brush could perform a feat that extensive technological innovations could not so far handle … Masdar City attempted to help humanity fight climate change … but its understanding of humanity was particular and selective. It did not include the man with a brush.[76]

To diffuse financial risk, Masdar City investors decided to outsource construction to third-party developers, which allowed Masdar City to distance itself from the construction and forego implementing sustainability principles in the construction process.[77] Although Abu Dhabi initially presented Masdar City as having been conceived according to the principles advocated by 'One Planet Living', these were later diluted. Launched by the World Wildlife Fund (WWF) and an environmental consultancy, the 'One Planet Living' scheme included requirements for fair working conditions.[78] Principle 9, in particular, called for fair wages and working conditions for all workers as defined by international labour standards. In 2008, WWF announced that Masdar planned to observe this scheme's ten principles. However, in 2010 Masdar's framework changed to: 'Masdar must ensure that the community's impact

[74] Cugurullo (2013) 29.

[75] Masdar, 'FAQ' (2021) http://masdar.ae/en/About Us/Useful Links/FAQ (accessed 1 October 2021).

[76] Gökçe Günel, *Spaceship in the Desert: Energy, Climate Change, and Urban Design in Abu Dhabi* (Duke University Press, 2019).

[77] Ian R. Simpson, 'Contradictions of Citizenship and Environmental Politics in the Arabian Littoral' (2020) 16:1 *Journal of the Indian Ocean Region* 79.

[78] Laurence Crot, 'Planning for Sustainability in Non-democratic Polities: The Case of Masdar City' (2013) 50:13 *Urban Studies* 2809.

on other communities is positive: Masdar City is committed to helping the broader Abu Dhabi community, the UAE, the region and the world'.[79]

Masdar City's physical location allows it to distance itself from the majority of migrant workers who construct it. Musaffah, an industrial neighbourhood in the city's outskirts where majority of the migrant workers live, remains disconnected from the public transportation system. While Masdar City had initially planned to implement a '20 percent policy' that would reserve an area of the city for low-income workers, at the time of writing this had not been implemented.[80] Instead, the newest developments in Masdar City have featured 'My City Centre Masdar', Abu Dhabi's 'most sustainable retail destination', that opened in April 2019; and the Mohammed bin Zayed University of Artificial Intelligence.[81]

Additionally, the images that adorn the walls inside Masdar City's buildings and feature in its master plans and promotional materials represent its residents as either 'expatriates' or 'locals', excluding migrant workers from South Asia who account for the majority of the UAE's workforce. Masdar City fits in what Yasser Elsheshtawy calls a 'fractured urbanity', which shapes urban development in the Gulf where 'people are confined to certain sections within the city based on nationality, ethnic background and socio-economic criteria'.[82] As one of the interviewed migrant workers reported after returning to Pakistan, he never left the industrial area where he worked and lived during his three-year stay in the UAE. Masdar was planned based on binaries such as expatriate/worker and local/non-local. Zoning codes and regulations formally attribute residency based on ethnicities along the lines that Elsheshtawy has observed. The Urban Planning Council (currently the Department of Municipalities and Transport), Abu Dhabi's strategic planning agency, has allocated specific neighbourhoods to Emiratis, while legal codes related to 'orderly appearance of public spaces' are used to remove certain migrant workers from public spaces.[83]

As Luomi writes, 'originally the city was … designed to attract wealthy expatriates interested in [its] unique niche of the high-end real estate market'. Given that cheaper apartments in Masdar are around AED 500,000 to buy and AED 40,000

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[79] Ibid.

[80] Federico Cugurullo, 'Urban Eco-Modernisation and the Policy Context of New Eco-City Projects: Where Masdar City Fails and Why' (2016) 53:11 *Urban Studies* 2417.

[81] Masdar Staff, 'Masdar City Welcomes World's First AI University', *Masdar News* (17 October 2019) https://news.masdar.ae/en/news/2019/10/23/09/46/masdar-city-welcomes-worlds-first-ai-university (accessed 1 October 2021).

[82] Yasser Elsheshtawy, 'Sultans of Green: Arab Gulf Cities and the New Urban Agenda' (August 2018) https://dubaization.com/post/176821563973/the-sultans-of-green-arab-gulf-cities-and-the-new (accessed 1 October 2021).

[83] Yasser Elsheshtawy, 'Urban Enclaves and Transient Cosmopolitanism: Scenes from Abu Dhabi and Dubai' (2020) 24(5-6) *City* 805.

per year to rent, these prices exclude 'low-skilled', 'low-income' migrant workers. Of the 750 initial homes, 500 were leased to corporations and educational institutions affiliated with Masdar. Similarly, as Jensen and Yigtincanlar show, most of the city's residents in 2016 were MIST faculty members, students and researchers associated with Masdar-affiliated projects.[84]

One of the only times construction workers are featured in Masdar City's materials is in the context of awareness campaigns. The Masdar Initiative voluntarily published Sustainability Reports from 2012 to 2019 using the Global Reporting Initiative Sustainability Standards, which are in partnership with one of the SDG coordination mechanisms and include reporting on labour practices and decent work.[85] According to the 2012 Sustainability Report, Masdar City participated in a heat stress preventive campaign to '[e]ducate construction workers about heat stress and how to avoid it'. Similar 'heat safety awareness campaigns' were launched in 2013, 2014 and 2015.[86] Contractors and the construction workers employed in Masdar were given training on how to avoid heat-related health problems. The fact that these interventions are awareness campaigns paints these workers as uninformed and makes preventing heat-related health problems *their* responsibility.

This image of workers as uninformed or uninterested in SD was also replicated by one of my interlocutors, Mohammad, a Pakistani research engineer working for a Masdar project and a former student-resident of the city. He said, 'Do you think they know where they are working? I've asked a few times. They don't really know',[87] while pointing to a worker cleaning in a brightly lit, air-conditioned room in one of Masdar Institute's buildings. This perception is in contrast with accounts shared by interviewed migrant workers upon their return to Pakistan. While I was unable to formally interview migrant workers in the UAE due to ethical and security reasons, interviews with migrant workers who had returned to Pakistan reflect not only an awareness of the projects they were working on but also how environmental factors impacted their working and living conditions. Muzammil, who worked in construction, shared an account echoing TWAIL and environmental justice scholarship in observing that environmental change is experienced largely by the most marginalized:

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[84] B. Jensen, 'Masdar City: A Critical Retrospection' in Steffen Wippel et al (eds.), *Under Construction: Logics of Urbanism in the Gulf Region* (Routledge, 2016) 45; Tan Yigitcanlar, *Technology and the City: Systems, Applications and Implications* (Routledge, 2016).

[85] United Nations, 'The Global Reporting Initiative (GRI) - United Nations Partnerships for SDGs platform' https://sustainabledevelopment.un.org/partnership/partners/?id=96 (accessed 1 September 2021).

[86] Masdar Staff, 'Masdar Advises Workers How to Stay Safe in the Summer Heat' (2 June 2015) https://news.masdar.ae/en/news/2018/11/28/09/55/masdar-advises-workers-how-to-stay-safe-in-the-summer-heat (accessed 1 September 2021).

[87] Masdar Resident Interview 2, Asma Atique, *Just Greening the Gulf: Sustaining Justice for Migrant Workers*, unpublished PhD thesis, Osgoode Hall Law School (2021).

> I liked the UAE in terms of cleanliness but the climate there is *very* tough. Now imagine walking a few kilometres in 48 degrees Celsius. I mean I got used to it but in our job you know there a lot of small tasks that require going back and forth. The water would be at boiling temperature, but we would keep working.[88]

Similarly, another migrant worker who lived in the Gulf for more than 30 years recalled a dynamic that resonates with Elshtaway's notion of fractured urbanity:

> When I first left Pakistan, the *goray*[89] selected me from here as a supervisor. So when I went there, the accommodation I got was in tents. The heat there was so extreme at that time when I was in Muscat. I was working in this palace, and my accommodation was in a tent because it was all a desert back then. There was nothing around us. So we lived in the tents. Everyone did. Only the *goray* lived in the city.[90]

The environment directly impacted migrant workers' lives, countering the notion that migrant workers are unaware and uninterested in environmental issues, including in SD projects such as Masdar City. Even after decades, these environmental factors are remembered by migrant workers, and an awareness of the 'containerization of labour'[91] or the spatial segregation according to race and ethnicity has been maintained.

In comparison, when I asked Mohammed, the aforementioned student-resident, to elaborate on why he thought the migrant workers did not know where they were working, he explained it was because 'if you want to be sustainable, you have to be rich'.[92] He noted how sustainability was 'for rich people like those who own Tesla', describing the dorms in Masdar City as '5-star hotels'.[93]

For Mohamed and other student-residents, Masdar City was failing because it was constructed and planned in a 'top-down' way.[94] For Mohmmad, investing in Abu Dhabi's existing transportation system would have been better. Student-residents lamented how the city and MIST failed because the development was 'too fast' and 'a lot of money was spent on a small group of people'.[95] They pointed out how the city's initial ambition to be zero-carbon was flawed given its location next to an airport. Layla

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[88] Ibid.

[89] 'White people' in Urdu.

[90] Returning Migrant Worker Interview 3, Asma Atique (2021).

[91] Abdulhadi Khalaf, Omar AlShehabi & Adam Hanieh, *Transit States: Labour, Migration and Citizenship in the Gulf* (Pluto Press, 2015).

[92] Masdar Resident Interview 2, Asma Atique (2021).

[93] Ibid.

[94] Ibid.

[95] Ibid.

also recounted how Masdar hosted many 'lavish dinners' for western professors and academics.[96] Masdar City's website continues to reflect this in its self-description as 'a living, working community where residents, academics and business professionals live, learn, work and play'.[97] Through actively attracting and limiting this group's access to Masdar City, in contrast to migrant workers constructing and maintaining it, Masdar City serves as an enclave for a select few.

4.2 Sustainable Development in Masdar City

Masdar City's articulation of SD has been progressively watered down to a narrow focus on the built environment and commercial viability. Masdar City initially aimed to be a 'pioneer in sustainable development', and its articulation of SD included economic, environmental, and social pillars. More recent articulations have replaced SD with sustainability or sustainable urban development, also allegedly based on all three pillars.[98] As Cugurullo argues, however, Masdar's social dimension of SD can more accurately be defined as 'socially acceptable'. The 'One Planet Living' principles were ultimately replaced by nine Key Performance Indicators used to measure the city's social aspects. Indicators such as occupancy, post-occupancy, and turnover are used to discern the city's attractiveness and customer satisfaction.[99]

Masdar City's most recent master plan articulates its aims to be 'a commercially viable city offering the highest quality of life within the lowest environmental footprint'. Its goals to be 'commercially viable' lend itself to promoting the city as a business-first environment. Indeed, the oft-cited quote by one of Masdar's developers is telling: 'We want Masdar City to be profitable, not just sunk cost. If it is not profitable as a real-estate development, it is not sustainable'.[100] In this way, sustainability or SD has gradually become synonymous with profitability.

Furthermore, Masdar City's master plan articulates SD as something that does not compromise 'quality of life.' In other words, it does not tackle consumption patterns, nor does it differentiate luxury emissions from subsistence emissions. All the interviewed Masdar residents noted how electricity and water subsidies in the UAE 'make energy so cheap that people start using more' and how the rich Emiratis who

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[96] Ibid.

[97] Masdar City, 'Live - Masdar City' (2021) https://masdarcity.ae/en/live/overview#Sustainability (accessed 1 March 2021).

[98] Ibid.

[99] Cugurullo (2013).

[100] As quoted in Kevin Bullis, 'A Zero-Emissions City in the Desert' (February 2009) www.technologyreview.com/2009/02/24/95291/a-zero-emissions-city-in-the-desert-2/ (accessed 1 October 2021); Mike Hodson & Simon Marvin, 'Urbanism in the Anthropocene: Ecological Urbanism or Premium Ecological Enclaves?' (2010) 14:3 *City* 298.

have bigger houses use more subsidies.[101] This is particularly relevant given that the UAE ranks among the world's top three per capita consumers of energy, and the residential sector makes up 40 percent of all electricity consumption in Abu Dhabi.[102] Since 2017, prompted by post-Arab Uprising energy subsidy reform, the rates for both Emiratis and non-Emiratis have changed to include a quota, but Emiratis continue to pay around a quarter of the price for electricity compared to non-Emiratis.[103] This is further complicated by politics between the UAE's seven emirates.

Masdar City's master plan incorporates reducing energy demand through sustainable buildings that rely on Abu Dhabi's Estidama Pearl Building Rating System and projects such as prototypes for 'Eco-villas' and the 'Saint-Gobain Multi-Comfort Home'. Absent in both the Estidama Pearl Building Rating System and the City's master plan is any mention of SD's social aspects (despite being in accordance with Leadership in Energy and Environmental Design (LEED), an international green building rating system). As Omair Awadh argues, the weight of social-related credits in both Estidama and LEED does not exceed 10 percent.[104] Therefore, Masdar City's understanding of SD is tied to the built environment and increasingly overtly to commercial viability.

Masdar City evolves based on its business partners' demands. The Masdar Initiative intended the city to be flexible to accommodate future business partners' interests. Masdar City does this through its function as a 'living urban laboratory' where businesses can test their clean technologies. It offers expertise, collaboration, infrastructure, a place to showcase businesses' products, and the opportunity to collect data.[105] Once sold, the government-owned Masdar Initiative gets revenue up to 60 percent.[106] In other words, capital circulates through green technology developed in the city and eventually flows back into the government. This type of public-private partnership is not unique to Masdar City. Like other smart cities such as Songdo, South Korea,[107] Masdar's intention is to establish a model of development where developers can extract value from being an infrastructure provider through internalizing costs and

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[101] Masdar Resident Interview 3, Asma Atique (2021).

[102] Luomi (2014) 90.

[103] Abu Dhabi Distribution Co., 'Home - Residential Rates and Tariffs 2020' (2020), www.addc.ae/en-US/residential/Pages/RatesAndTariffs2020.aspx (accessed 1 March 2021).

[104] Omair Awadh, 'Sustainability and Green Building Rating Systems: LEED, BREEAM, GSAS and Estidama Critical Analysis' (2017) 11 *Journal of Building Engineering* 25.

[105] Cugurullo (2016) 2427.

[106] Cugurullo, Ponzini & di Milano (2018); Cugurullo (2013).

[107] Orit Halpern, *Beautiful Data: A History of Vision and Reason Since 1945* (Duke University Press, 2015); Orit Halpern et al, 'Test-Bed Urbanism' (2013) 25:2 70 *Public Culture* 272.

commodifying resource flow.[108] Masdar City is thus conceived as an exportable, replicable commodity.

Masdar City is one of seven free economic zones in Abu Dhabi that seek to attract foreign direct investments through favourable business conditions. Unlike the rest of the UAE, where at least 51 percent UAE national ownership is required[109], Masdar City free zone allows 100 percent foreign ownership. It also advertises 0 percent import tariffs and corporate and personal income tax exemptions.[110] Free zones such as Masdar City are part of a more significant trend that has emerged since 2005 in Abu Dhabi, where long-term leases are used to extend land ownership rights to non-nationals to attract foreign capital.[111] Taken together, while interest from foreign businesses has slowly deteriorated, these features attracted multinational corporations such as Siemens, Mitsubishi and Schneider.

While free economic zones can make some of their own commercial laws and regulations, the exceptions around commerce and tax are not translated to employment regulations. Masdar City free zone's employment regulations retain many of the UAE's *kafala* system features such as the employer-sponsor relationship, discretion for employers, and restrictions for employees, and also has some additional features. For instance, under *kafala*, workers can switch employers only if both licensees and the employee give consent in writing. However, in Masdar, the free zone authority acts as the *kafeel* and can 'in its absolute discretion' approve a transfer without written consent.[112] Furthermore, if the free zone authority does not approve switching employers, the employee's sponsorship is cancelled.

While free zones may be avenues for some migrants to prolong their stay in the UAE, this is reserved for only those who can afford it. To be able to sponsor a visa, one would have to pay at least 12,500 AED as license fees. The most expensive package of 31,000 AED allows for four visas. Most migrant workers cannot afford these fees with wages that average around 1,135 AED and as low as 400 AED per month,[113] without taking into account high recruitment costs and wage theft.

Masdar City's function to help build Abu Dhabi's knowledge-based economy allows it to be selective as an employer. Masdar City was expected to create over 70,000

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[108] Hodson & Marvin (2010).

[109] UAE Federal Law No. 2 of 2015 AD on Commercial Companies ('Commercial Companies Law').

[110] Masdar (2021).

[111] Luomi (2014) 83-84.

[112] Masdar City, 'Masdar City Employment Regulations' (April 2009) https://masdarcityfreezone.com/-/media/project/masdar-free-zone/resource/employment-regulations.pdf (accessed 1 October 2021).

[113] James Reagan McLaurin, 'Labor Law in the United Arab Emirates: A Review and Recommendations' (2008) 12:2 *Allied Academies International Conference Academy of Legal, Ethical and Regulatory Issues Proceedings* 15.

jobs.[114] 45 percent of Masdar Initiative's employees are Emirati (in line with UAE's Emiratization policy) and its training and leadership programs target Emirati employees.[115] For instance, between 2012 and 2015, the average training hours for Emiratis were consistently higher than 'expats', and internship salaries were reserved for Emiratis. The term 'expats' further highlights the type of workers that Masdar caters to.

Additionally, according to one of the interviewees, while Emirati Ph.D. students in Masdar Institute were paid 42,000 AED/month, their non-Emirati counterparts were paid 7,000 AED. Layla, an Egyptian engineer, noted how Emirati students also had exceptions for Graduate Record Examinations, and Test of English as a Foreign Language and Grade (TOEFL) requirements. A foundation program allowed Emirati students to bypass TOEFL requirements.[116] These types of concessions also make it difficult for Emirati student-residents to openly discuss the project.[117] As an interviewed Emirati student-resident noted, the inability to discuss the project was detrimental because it undermined 'the advocacy push'.[118]

Furthermore, as Günel writes, the way imagery is deployed in framing Masdar City allows it to prolong the sociopolitical conditions within which it is situated. The city is always perceived in a distant future while the present is a 'vacated category'. For instance, the Masdar Institute building was described as a 'spaceship in the middle of the desert', a phrase that came from a blog post by an American student-resident that captured the attention of media and officials alike. Similar images that invoke ideas of utopia and science fiction are still used to frame the city. Their focus on the future presents the status-quo as already the 'best-case scenario', which allows the city to sustain itself in the present through continual technical adjustments.[119]

Masdar City's construction, articulation of SD, and evolution reflect a consistent hierarchization of economic aspects, while bypassing social aspects of SD. This suggests an incompatibility between SD in practice and migrant justice. This dilution of SD's social aspects allows Masdar City to become an enclave for a select few, foreclosing itself from changing the status quo for migrant workers.

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[114] Ibid.

[115] Prianjali Mascarenhas, 'The Transfer and Mobilisation of Sustainability Concepts to Abu Dhabi: The Case of Masdar and the Urban Planning Council', unpublished PhD thesis, London School of Economics and Political Science (2018) http://etheses.lse.ac.uk/3835/ (accessed 1 October 2021).

[116] Masdar Student-Resident Interview 1, Asma Atique (2021).

[117] Masdar Emirati Student-Resident Interview 1, Asma Atique (2021).

[118] Ibid.

[119] Günel (2019).

4.3 Mirroring Sustainable Development Hierarchies in Masdar City

Keeping in mind TWAIL accounts of SD, SD is inevitably practiced in the way seen in Masdar City given SD's connection with the development project, the Brundtland Report's optimism about technological changes, and the way inter- and intragenerational justice are articulated in SD. Masdar City's fixation with economic growth mirrors SD's eco-modernist logic that does not see economic growth and environmental protection as antithetical,[120] and sees market efficiency through economic growth and technological solutions as the answer to ecological crises.[121]

Masdar City's consistent hierarchizing of economic dimensions is a feature inherent to SD, which is unable to balance competing norms and different objectives through trade-offs, synergies, or a focus on justice. Baxi, in his account on Anthropocene justice, criticizes environmental justice theorists who connect SD to justice.[122] He writes, 'whether sustainable development is an oxymoron (or Baxi-moron) remains to be decided – but I have always maintained that to achieve sustainable development one must dare to articulate unsustainable thought!'[123] In other words, Baxi is critical of SD's ability to resolve competing norms as it was conceived to do. For Baxi sustainability is 'more a matter of policies and governance rather than an agendum of justice'. The central notion behind SD is development and, regardless of its definition, development 'always signifies a degree of destruction'.[124]

The modern idea of development is often traced back to the European Enlightenment and the Western concept of a modern state that equated development with the degree of state control over nature.[125] Non-European societies were seen as being trapped in a state of nature, placed within an evolutionary spectrum that understood state control over nature as the basis for modernity and progress. Rist argues that such development is a uniquely Western idea, that sees societal growth and economic, scientific and cultural progress as limitless.[126] As 'old wine in a new

120 David Harvey, *Justice, Nature, and the Geography of Difference* (Blackwell Publishers, 1996).

121 Julie Sze, *Fantasy Islands: Chinese Dreams and Ecological Fears in an Age of Climate Crisis* (University of California Press, 2015), at 16.

122 Upendra Baxi, 'Amartya Sen and Human Rights' in Upendra Baxi, *Human Rights in a Posthuman World: Critical Essays* (OUP, 2009).

123 Upendra Baxi, 'Intergenerational Justice, Water Rights, and Climate Change' in Philippe Cullet & Sujith Koonan, *Research Handbook on Law, Environment and the Global South* (Edward Elgar, 2019) 2, at 2.

124 Ibid.

125 Usha Natarajan & Kishan Khoday, 'Locating Nature: Making and Unmaking International Law' (2014) 27:3 *Leiden Journal of International Law* 573.

126 Ibid.

bottle',[127] SD is then another version of the modern idea of development, which is an extension of Western domination that has constructed the 'Southern other' as in need of transformation by the North, rather than the South having the ability to make its own decisions or provide alternative solutions.[128]

Masdar City's reliance on techno-managerial fixes and its narrow focus on the built environment reflects adherence to the predominant view of nature as a resource for generating wealth, and environmental degradation as an economic externality that can be managed through technology and finance.[129] Masdar City's attempts to invent 'ergos',[130] a currency based on energy unit expenditure, as well as the Masdar Initiative's use of clean development mechanisms,[131] are further examples of its eco-modernist approach.

Masdar City mirrors the Brundtland Report's optimism about technological changes and its focus on economic growth. The only limits that the Report alluded to were those 'imposed by the present state of technology and social organization on environmental resources and by the ability of the biosphere to absorb the effects of human activities'.[132] However, this can be managed towards 'a new era of economic growth'.[133] Conceived in this way, SD is more likely to be practiced in a way that reduces solutions to all three 'problems' of economy, society and environment to merely techno-managerial fixes. It allows projects such as Masdar City to use the same logic and relegate questions of inequality, environmental destruction and associated power relations to 'techno-scientific eco-management'.[134]

Escobar observes that the Brundtland Report's conception of SD allows for the capitalization of nature. Nature is 'reduced to stasis' with no agency. SD resignifies nature, resources, the Earth and human life through the gaze of the 'Western scientist' in a way that deems poverty as the problem, and Western managers as 'arbiters between people and nature'.[135] Furthermore, Gathii points out that SD is unable to

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127 Sam Adelman 'Beyond Development: Towards Sustainability and Climate Justice in the Anthropocene' in Sam Adelman, Abdul Paliwala & Abdul Paliwala, *The Limits of Law and Development: Neoliberalism, Governance and Social Justice* (Routledge, 2020) 54, at 62.

128 Robtel Neajai Pailey, 'De-centring the 'White Gaze' of Development' (2020) 51:3 *Development and Change* 729.

129 Natarajan & Khoday (2014) 23.

130 Gökçe Günel, 'Ergos: A New Energy Currency' (2014) 87:2 *Anthropological Quarterly* 359.

131 Steven Griffiths & Benjamin K. Sovacool, 'Rethinking the Future Low-Carbon City: Carbon Neutrality, Green Design, and Sustainability Tensions in the Making of Masdar City' (2020) 62 *Energy Research & Social Science* 101368.

132 *Brundtland Report* (1987) para 27.

133 Ibid.

134 Erik Swyngedouw & Maria Kaika, 'Urban Political Ecology: Great Promises, Deadlock … and New Beginnings?' (2014) 60:3 *Documents d'Anàlisi Geogràfica* 459.

135 Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton, 2011) 192-211.

account for the historical and structural foundations of poverty.[136] Echoing these sentiments, Kothari et al write, 'the problem is that this mantra of sustainability was swallowed up by capitalism early on, and then emptied of ecological content'.[137]

Just as 'dark and poor peasant masses'[138] were painted as responsible for environmental destruction in the Brundtland report, Masdar City's representation of migrant workers as uninformed reinforces the idea that protection from environmental impacts such as heat-related health problems is the migrant workers' responsibility and within their own power to rectify. Similarly, the utopic, science-fiction-inspired imagery deployed by Masdar, which allows it to prolong the status-quo, mirrors SD's tendency to gloss over social differences in the present and focus on the future.

While SD is composed of both inter- and intragenerational justice, these are articulated and treated separately and as fundamentally different. The dominant articulation of intergenerational justice tends to be ahistorical and apolitical, wherein generations are treated as monoliths with aggregable, identifiable interests. This conception flattens the social differences that exist within each generation.[139] Such an approach further absolves the affluent of the global North and South from adequate responsibility for ameliorating environmental harms that their production and consumption patterns have caused. Cullet and Koonan add that the unevenness of climate change is not only along the level of countries. Economic growth and the 'rise of the Rest' over the past decades have strengthened an economic and intellectual elite in the South, who are more like their affluent counterparts in the North than the majority of the poor in their own countries. Additionally, the poor and marginalized in the North are similarly disadvantaged to their counterparts in the South, even though the intensity may be drastically different.[140]

Davis observes that both Northern and Southern elites seek protection in 'green and gated oases of permanent affluence on an otherwise stricken planet'.[141] Similarly, Malm and Hornborg observe: 'For the foreseeable future … there *will* be

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136 James Gathii, 'Without Centering Race, Identity, and Indigeneity, Climate Responses Miss the Mark' in *Climate Change, Equity and the Future of Democracy* (Wilson Center, 2020) 11, at 12.

137 Ashish Kothari et al, 'Crisis as Opportunity: Finding Pluriversal Paths' in Elise Klein & Carlos Eduardo Morreo, *Postdevelopment in Practice: Alternatives, Economies, Ontologies* (Routledge, 2019) 103.

138 Escobar *(2011)* 195.

139 Jessica Eisen, Roxanne Mykitiuk & Dayna Nadine Scott, 'Constituting Bodies into the Future: Toward a Relational Theory of Intergenerational Justice' (2018) 51:1 *UBC Law Review* 1.

140 Philippe Cullet & Sujith Koonan, 'Introduction' in Philippe Cullet & Sujith Koonan (eds.), *Research Handbook on Law, Environment and the Global South* (Edward Elgar, 2019) xvi.

141 Mike Davis, 'Who Will Build the Ark?' (2010) 61 *New Left Review* 29; Carmen G. Gonzalez, 'Climate Change, Race, and Migration' (2020) 1:1 *Journal of Law & Political Economy* 109.

lifeboats for the rich and privileged'.[142] Masdar City is an example of such a 'lifeboat', a 'green and gated oasis', where racialized, poor, and so-called 'low-skilled' South Asian migrant workers are treated as 'expendable'.[143]

5 Conclusion

The same fixation on economic-centred growth development that riddled international negotiations on SD over many decades is evidenced today in Masdar City and other contemporary SD projects seeking to hide their profit-driven goals under the cloak of SD. This is not a surprise given how SD was conceived as an overarching policy imperative. Such a concept in practice, as reflected in the example of Masdar, is unlikely to offer an opportunity to expand migrant workers' capabilities or to remove the unequal hierarchies that characterize the international and domestic legal regimes regulating migrant workers. While Masdar City's part in Abu Dhabi's 'fractured urbanity' is still evolving, its development has relied on an eco-modernist logic, seeking to attract those who are deemed 'high-skilled' – clean technology and renewable energy researchers, and other professionals who will work towards building Abu Dhabi's diversified knowledge-based economy. Masdar City is not for the 'low-skilled' migrant workers who are instead treated as passive, temporary, uninterested, uninformed, and rendered invisible in representations of the city's present and future. While SD's breadth and near ubiquity offer an opportunity to use it to highlight and advance migrant justice and to counter the fragmentation that international migration law and policy often suffers from,[144] SD's inability to counter developmentalism and economic-centred growth allows it to be coopted by the most powerful. Masdar City reveals SD's inherent tensions, which work to reinforce the expendability of racialized, poor 'low-skilled' South Asian migrant workers who are left behind in the Gulf's post-oil future that they build.

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[142] Anna Grear, 'Deconstructing Anthropos: A Critical Legal Reflection on "Anthropocentric" Law and Anthropocene "Humanity"' (2015) 26:3 *Law & Critique* 225.

[143] Gonzalez (2020).

[144] Cathryn Costello & MR. Freedland, *Migrants at Work: Immigration and Vulnerability in Labour Law* (OUP, 2014).