

**REGIONAL CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE.
STRENGTHENING THE CAPACITY FOR ENVIRONMENTAL AND
CLIMATE CHANGE LAWS IN ASIA AND THE PACIFIC**
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**SESSION 3: INTRODUCTION TO ENVIRONMENTAL LAW
DRAFTING EXERCISE:**

LEGISLATIVE DEFINITION OF “ENVIRONMENT”



Presented By:

Prof. Bharat H Desai, Jawaharlal Nehru University

Definition

- Drafting legislative definition of “environment” for insertion into national legislation concerning environmental protection
- The definition of the term will indicate the scope of the legislation – a narrow definition will limit application, a broad definition will allow for wider application (but may give rise to other issues)

Methodology

- Drafting exercise – can involve drafting instructions for new legislation, drafting objectives for legislation, or even definitions for new legislation

What is “environment” in environmental law?

- ❑ Environmental law manages and regulates the environment – but what exactly is the “environment”?
- ❑ Do legislative instruments capture the diversity of various conceptualizations of the “environment”?
 - ❑ Eco-centric approaches
 - ❑ Natural and cultural heritage perspectives

❑ In the 1960s/70s, “environment” was typically construed in **anthropocentric** terms with humans – MAN – as a central point of reference. 1972 Stockholm Declaration proclaimed:

PREAMBLE: “Man is both creature and molder of his environment...”

PRINCIPLE 1: “Man has the fundamental right to freedom, equality and adequate conditions of life in an environment of quality...”

❑ Environmental law generally focused on single areas of the environment like water or air, and on point source pollution.



UNCHE: Stockholm Declaration 1972

- According to Principle 2 of the Stockholm Declaration of the United Nations (UN) Conference on Human Environment (UNCHE, A/CONF 48/14/Rev 1, 1972), the environment encompasses **“the natural resources of the earth, including the air, water, land, flora and fauna”**
- Provides further for **“especially representative samples of natural ecosystems”**
- The term environment covers **“all those elements which, in their complex inter-relationships, form the framework, setting and living conditions for mankind, by their very existence or by virtue of their impact”**. (EEC OJ C 115, May 1976, p 2)



The Brundtland Report 1987

- ❑ The World Commission on Environment and Development, *Our Common Future*, 1987 (the Brundtland Report):
 - “The environment does not exist as a sphere separate from human actions, ambitions, and needs, and attempts to defend it in isolation from human concerns have given the very word “environment” a connotation of naivety in some political circles...
 - **the “environment” is where we all live.”**
- ❑ Environment conceived more broadly
- ❑ Re-introduced the notion of sustainable development (done earlier in the World Conservation Strategy 1980):
 - “...development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”



The “environment” in environmental law

- ❑ The definition is shifting due to changing notions of “environment” from philosophy, ecological economics, and ecological science.
- ❑ More recent definitions attempt to dissolve the separation between humans and nature.
- ❑ Further, while divisions between components of the environment are still apparent in some legal instruments, the interconnectedness between ecosystems and their constituents are more frequently recognized.

❑ ***Environment Protection Act 1986 (India)***

- Section 2 (a) - “environment includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property”

Same definition reiterated in:

❑ ***National Green Tribunal Act 2010***

- Section 2 (c) – “environment includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property”

❑ ***Pakistan Environmental Protection Act 1997***

➤ Environment includes

air, water and land; (b) all layers of the atmosphere; (c) all organic and inorganic matter and living organisms; (d) the ecosystem and ecological relationships; (e) buildings, structures, roads, facilities and works; (f) all social and economic conditions affecting community life; and (g) the inter-relationships between any of the factors in sub-clauses (a) to (f).

❑ ***Environment Protection Act 2053 (1997, Nepal)***

➤ "Environment" means the interaction and inter-relationship among the components of natural, cultural and social systems, economic and human activities and their components.



❑ *The Bangladesh Environment Conservation Act, 1995*

"environment" means the inter-relationship existing between water, air, soil and physical property and their relationship with human beings, other animals, plants and micro-organisms.

❑ *Environment Assessment Act, 2000 (Bhutan)*

Environment means the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings.



□ Sri Lanka

“environment” means the physical factors of the surroundings of human beings including the land, soil, water, atmosphere, climate, sound, odours, tastes and the biological factors of animals and plants of every description “

Section 33 of the *National Environmental Act* No. 47 of 1980 as amended



Conclusion

- ❑ Tendency in many international instruments is towards a broadening of definitions of the environment.
- ❑ Increasingly other values have been included, such as cultural heritage, man-made environments, sustainable development, and equity.
- ❑ Focus now is more on interconnectedness of environmental issues rather than distinct media.
- ❑ Definitions are still dependent on the overarching objectives of the instrument and value a society attaches to different components of the environment.