

Session Three: Introduction to Environmental Law: Goals, Objects, Principles and Norms

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Learning outcomes

Session topic:

Core components of environmental law (introduction to Sessions 4-8)

Goals - Sustainable development and the UN Sustainable Development Goals

Objects – legislative objects via objects clauses

Principles - Core principles of Environmental Law

Relationship of environmental law to other disciplines

Learning methodologies:

Understanding the value of free form discussion

The Scope of Environmental Law

- Environmental law is potentially very broad.
- Sessions 4-8
- It includes:
 - Environmental planning and impact assessment
 - Environmental protection and pollution
 - Protection of biodiversity, and natural and cultural heritage
 - The protection and sustainable use of all natural resources
 - Terrestrial and marine nature conservation
 - Climate change and energy law



Sustainable Development and the UN SDG's

- Defined in the Brundtland Commission Report, *Our Common Future (1987)* – “...development that meets the needs of the present without compromising the ability of future generations to meet their own needs”
- **Why teaching about sustainable development is important:**
 - Concept of sustainable development is now fundamental to all international and national environmental law and policy
 - Sustainable development was at the heart of the 8 Millennium Development Goals, to be achieved by 2015.
 - A new set of Sustainable Development Goals have been identified for 2015 and beyond.

Sustainable development: definition

Brundtland Report *Our Common Future*,

1987: "...development that meets the needs of the present without compromising the ability of future generations to meet their own needs"

- Principle of intra-generational equity
- Principle of inter-generational equity
- Principle of integration: economic, environmental and social/cultural integration
- Precautionary principle



MILLENNIUM DEVELOPMENT GOALS (MDGs) 2000

- The eight Millennium Development Goals (MDGs) – 15 yr agenda tackling the indignity of poverty by the target date of 2015 – agreed to by all the world’s countries and leading development institutions.
- Progress on:
 - Income poverty
 - Access to improved sources of water
 - Primary school enrolment
 - Child mortality
- Job still unfinished – move to sustainability



Sept 2015 – 17 Sustainable Development Goals by 2030

1. End poverty in all its forms everywhere
2. End hunger, achieve **food security** and improved nutrition, and promote **sustainable agriculture**
3. Ensure **healthy lives** and promote wellbeing for all at all ages
4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
5. Achieve gender equality and empower all women and girls
6. Ensure availability and sustainable management of **water and sanitation** for all
7. Ensure access to affordable, reliable, sustainable and modern **energy** for all
8. Promote sustained, inclusive and **sustainable economic growth, full and productive employment, and decent work for all**
9. Build **resilient infrastructure**, promote inclusive and **sustainable industrialisation**, and foster innovation
10. Reduce inequality within and among countries



11. Make cities and human settlements inclusive, safe, **resilient and sustainable**
12. **Ensure sustainable consumption and production patterns**
13. Take urgent action to **combat climate change** and its impacts (taking note of agreements made by the UNFCCC forum)
14. **Conserve and sustainably use the oceans, seas and marine resources for sustainable development**
15. **Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification and halt and reverse land degradation, and halt biodiversity loss**
16. Promote peaceful and inclusive societies for sustainable development, provide **access to justice for all** and build effective, accountable and inclusive institutions at all levels
17. Strengthen the means of implementation and revitalise the global partnership for sustainable development

Q – How do we measure these? What are the SD indicators for each state? What is the role of Environmental law here? Can law provide these indicators?



Implementing SDG's – bottom up approach

- Countries are obliged to report upwards on their strategy for implementation of the 2030 Agenda – along the same lines as required re climate targets under the Paris Agreement – integrating global sustainability perspectives and country specific contexts.
- Implementation of the Global 2030 Agenda for Sustainable Development in and by Germany <https://www.globalpolicy.org/home/271-general/52849-implementation-of-the-global-2030-agenda-for-sustainable-development-in-and-by-germany.html>
- SDG's and Indicators for a Small Planet – Securing Means of Implementation in Viet Nam <http://www.asef.org/projects/themes/sustainable-development/3622-vietnam-sustainable-development-goals-publication-launch>
- Can Sustainable Development Goals or International Law lead us to sustainability <https://app.secure.griffith.edu.au/news/2015/08/27/can-sustainable-development-goals-or-international-law-lead-us-to-sustainability/>
- Sustainability in a changing world: integrating human health and well being, urbanisation and ecosystem services <https://sustainabledevelopment.un.org/content/documents/9490Brief%20GSDR2016%20FE%20Fellows%20Nexus.pdf>



Implementing SDG's

- National implementation plans
- **SDG 7. Ensure access to affordable, reliable, sustainable and modern energy for all**
- **SDG 13. Take urgent action to combat climate change and its impacts**
- Fast binding fossil fuel phase-out + socially fair economic transformation
- Fossil fuel subsidies abolished
- Financial institution to relinquish fossil fuel investment assets
- Decarbon industry
 - Refrain from mining and/or importing hazardous fossil fuels such as hydrocarbons from conventional and unconventional fracking
- Decarbon transport sector – promoting low carbon transport options
- Socially and ecologically viable energy transition
- Increasing cooperation (both technical and financial) with the global south to promote renewable energies
 - Immediately end development cooperation and foreign trade promotion which promote fossil energy



Implementing SDG's

- National implementation plans – eg Germany
- SDG 8. Promote sustained, inclusive and **sustainable economic growth, full and productive employment, and decent work for all**
- Stop living at the expense of other people and future generations
- Establish an 'ecological debt ceiling' (as ambitious as the fiscal one)
- A policy pushing transformation towards a sustainable and fair economic model
 - Abolish subsidies harmful to the environment
 - Ecological tax reform towards a higher taxation of resource consumption
- Create alternative wealth and development measures to GDP
 - Internalise social and ecological costs in economic and business balance sheets
- Better promote employment
 - Cuts to social services stopped
 - Structural discrimination of migrants in the labour market must be stopped
- Legal sanctions against companies based in Germany, involved in human

rights breaches



Implementing SDG's

- NATIONAL IMPLEMENTATION PLANS
- Goal – Energy and Climate Change
- Goal statement
- Sub-goal statements –
 - 1. everyone has access to sufficient energy, and consumption is efficient and sustainable.
 - 2. the generation of clean and sustainable renewables is increased
 - 3. the rate of increase in greenhouse gas (GHG) concentration in the atmosphere is reduced.
- Eg .renewable energy power plants receive funds for investment and exemptions from electricity tariffs and taxes
- Investors benefit from import tax and land fee exemptions
- Investors can get preferential loans for the investment costs of projects in renewable energy enterprises



What are our environmental laws trying to achieve?

- **Goals, objects, principles**
- Goal –
 - How do we frame such a goal? Is it SD? SDG's?
 - ESD – useful but hard to implement
 - Balancing economic, environment, social; Implies a growth paradigm; lack of ethical foundation for nature
- Objects
 - an aim or outcome that is attributed to environmental legislation, normally by way of its inclusion in an “objects” clause.
 - goal-related and legislation-specific
- Core principles
 - **principles** of environmental law which can provide the appropriate guidance and direction with respect to both the design and implementation of environmental laws.



Environmental law principles

- Polluter pays principle
- Public participation, access to justice, access to information
- Principle of non-regression
- Common but differentiated responsibility
- Precautionary principle
- Prevention principle
- Inter-generational equity
- Intra-generational equity



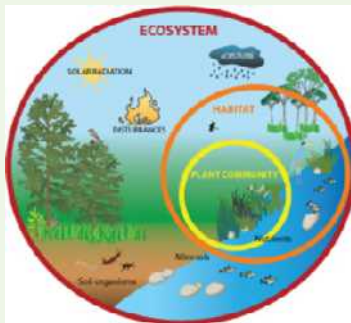
ENVIRONMENTAL LAW AND OTHER DISCIPLINES

- Science and ecology
- Engineering – new inventions, solar & wind energy etc
- Geography - land use planning, especially for urban areas
- Public health
- Economics
- Ethics and philosophy
- Business & management- “Green Business”, CSR (corporate social responsibility)
- Public Policy



- **Ecology** studies the interactions between organisms and their environments.
- An **ecosystem** consists of living organisms like plants, animals, and microbes, and nonliving components like air, water and mineral soil that interact as a system.
- **Ecosystem management** is a strategy for the integrated management of land, water, and living resources that promotes conservation and sustainable use.

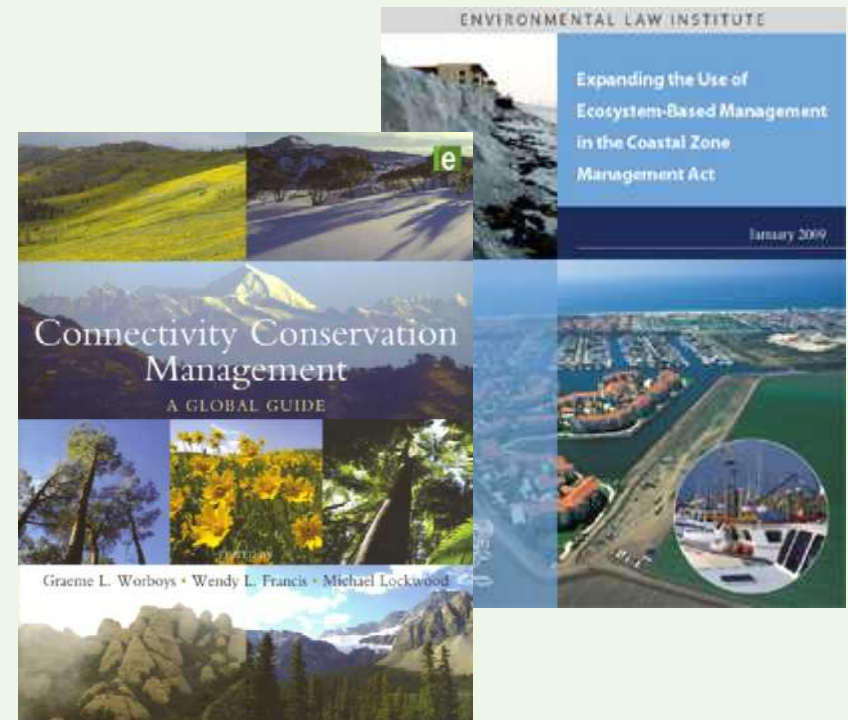
How can the law encourage ecosystem management?



Ecosystem management examples:

Law can encourage or require ecosystem management to help build ecosystem resilience, for example “connectivity conservation” to connect separate protected areas by ecological corridors, and a unified approach to managing coastal zones.

Application to EIA

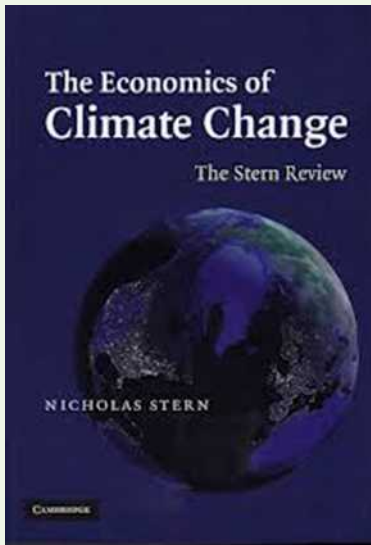




- **Public health** seeks to ensure population health by preventing and treating disease, surveillance of cases and health indicators, and promoting healthy behaviors.
- **Environmental health** is the branch of public health that is concerned with all aspects of the natural and built environment that may affect human health (physical, chemical, and biological factors external to a person).
- Eg pesticides and hazardous waste



Economics and environmental law



- **Economics** is the social science that analyzes the production, distribution, and consumption of goods and services.
- **Environmental economics** is the branch of economics concerned with the economic effects of environmental policies,.
- In contrast, **ecological economics** is a transdisciplinary field focused on the relationships between ecological and economic systems, treating the economy as a subsystem of a larger ecological life support system.



- Environmental taxes
 - E.g. British Columbia's carbon tax
- Pollution permits
 - E.g. Clean Air Act NSPS that permit air emissions
- Pollution exchanges and credits
 - E.g. EU carbon credit trading
- Q - Singapore's taxes on cars and on road usage – the Certificate of Entitlement (COE) and Electronic Road Pricing

Australian Load Based Licensing (LBL)

Sets limits on pollutants emitted by holders of environment protection licences, and links licence fees to pollutant emissions.

- sets clear minimum standards for environmental performance
- incorporates powerful incentives for ongoing pollution reduction
- gives licensees flexibility to implement cost-effective pollution abatement methods
- increases regulatory transparency



CORPORATE SOCIAL RESPONSIBILITY (CSR) AND ENVIRONMENTAL REPORTING

- Good corporate governance – nature and extent of corporate accountability : who are stakeholders? shareholders v board of directors v society?
Australian CAMAC Inquiry 2006
- Business ethics – Q – Chinese practice/culture of “Guanxi” (connections) ?
- CSR - Corporate initiative to assess and take responsibility for the company's effects on the environment and impact on social welfare
- Environmental reporting - the communication of social and environmental effects of a company's economic actions is an important element of CSR.
- See – Global Reporting Initiative & Sustainability Reporting Guidelines
- <https://www.globalreporting.org/Pages/default.aspx>
- <https://www.globalreporting.org/resourcelibrary/G3.1-Guidelines-Incl-Technical-Protocol.pdf>
- Voluntary v mandatory – see s.299(1)(f) Corporations Law (Cth)



Ethics and environmental law



- Students should have a basic understanding of the ethical and philosophical foundations of environmental law
 - Deep ecology, ecofeminism, Buddhist economics
- Can be introduced by examining modern statements of environmental charters: examples:
 - World Charter for Nature, 1982
 - Earth Charter, 2004
 - IUCN Covenant on Environment and Development, 4th ed. 2010



The Earth Charter

- The **Earth Charter** is an international declaration of fundamental values and principles for building a just, sustainable, and peaceful global society in the 21st century.
- Created by a global consultation process, and endorsed by organizations representing millions of people, the Charter "seeks to inspire in all peoples a sense of global interdependence and shared responsibility for the well-being of the human family, the greater community of life, and future generations."
- It calls upon humanity to help create a global partnership at a critical juncture in history. The Earth Charter's ethical vision proposes that environmental protection, human rights, equitable human development, and peace are interdependent and indivisible.
- The Earth Charter initiative <http://earthcharter.org/> organization exists to promote the Charter.



Religion and the Environment

- Laudato si – Pope’s encyclical 2015
http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html
 - *Islamic Declaration on Global Climate Change* – issued in Istanbul in August 2015
 - *Rabbinic Letter on the Climate Crisis*
 - See the Forum on Ecology and Religion at Yale (2009)
<http://fore.yale.edu/religion/>
 - WWF – Sacred Earth : Faiths for Conservation
<http://www.worldwildlife.org/initiatives/sacred-earth-faiths-for-conservation>
 - Charter for Compassion - <http://charterforcompassion.org/>
- Q – Inadequate? - focus only on humans

