



SCOPE AND CONTENT OF ENVIRONMENTAL LAW

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DEFINITION

According to UNEP

- **Environment includes:** *The entire range of living and non living factors that influence life on the earth and their interactions.*
- **Environmental Law** consists of:
The body of law which contains elements to control the human impact on the environment.



CONCEPTS, PRINCIPLES AND EVOLUTION

- Concepts and Principles overlap and evolve with time
- New concepts and new principles come into play as result of
 - i. new ideas
 - ii. scientific discoveries
 - iii. effects of past practices
 - iv. Environmental activism(Not Exhaustive)



CONCEPTS, PRINCIPLES AND EVOLUTION Cont.

- Traditional/Indigenous/local concepts or customs spread/evolve into national and international practices
- May be enacted into laws
- May be incorporated into bilateral, multilateral, regional or global/international commitments or Treaties.



Types of environmental law

- Environmental law exists at many levels.
- Partly constituted by:
 - international declarations, conventions, and treaties
 - statutory enactments of legislative bodies
 - Regulations generated by agencies charged by governments with protection of the environment
 - Customary law/common law
- In addition, many countries have included some right to environmental quality in their national constitutions.



Types of environmental law cont.

- Environmental laws typically involve these elements: (not exhaustive)
 - identification of a type of environmentally harmful activity,
 - imposition of specific conditions or standards on that activity, and
 - prohibition of forms of the activity that fail to comply with the imposed conditions or standards



International and National Environmental Law

- International law binds generally states whereas national law generally binds individuals in a particular state but not always such clear demarcation.
- The practice of incorporating international treaties into national legislations further blurs this concept.
- A question of extent of jurisdiction / territoriality / state sovereignty



Emerging Issues in Litigation

- Environmental law is not static and environmental issues cannot be considered in isolation.
- As more factors are identified as having some link to the state of the environment, more laws, regulations and treaties are considered
- More ways for implementation/enforcement
- Access to justice



Seychelles context

Constitutional Provision Right to safe environment

- Article 38. The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realisation of this right the State undertakes -
- (a) to take measures to promote the protection, preservation and improvement of the environment
- (b) to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles;
- (c) to promote public awareness of the need to protect, preserve and improve the environment.



Seychelles cont.

- List of Conventions
- Lists of enactments

(See Environment Ref folder)

What Does It All Mean To *THE JUDGE*?



- Interpret and apply existing laws
- Judges not activists
- Why expertise in Environmental issues?
- Rely on Parties to come up with convincing, legally safe submissions and sufficient facts
- Use experts



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"You wouldn't understand, Your Honor — it's a *guy* thing."

The End

