

JURISPRUDENTIAL CHALLENGES TO THE PROTECTION OF THE NATURAL ENVIRONMENT

by

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THE SUBSTANCE OF ENVIRONMENTAL LAW

The legal relationship between

- Humans and the environment
- The environment and humans.

The factor of perspective.

The focus of legal perspectives

NORMATIVE INSTRUMENTS FOR PROTECTION OF THE NATURAL ENVIRONMENT

- Principles
- Objectives
- Strategies
- Regulatory rules
- Liability rules
- Protectable rights
- Enforceable duties

THE STRUCTURE OF NORMATIVE INSTRUMENTS

- Humans as subjects
- Nature as objects
- Preservation of nature as an objective
- Nature as subject
- Components of nature as subjects

THE IMPORTANCE OF LANGUAGE AND GRAMMAR

- active
- passive
- transitive
- intransitive
- nominative
- accusative
- dative



THE WORLD CHARTER FOR NATURE 1982

Nature shall be respected and its essential processes shall not be impaired.

WORLD CHARTER FOR NATURE 1982

Article 24

Each person has a duty to act in accordance with the provisions of the present Charter; acting individually, in association with others or through participation in the political process, each person shall strive to ensure that the objectives and requirements of the present Charter are met.



DRAFT INTERNATIONAL COVENANT ON ENVIRONMENT AND DEVELOPMENT

Article 1

The objective of this Covenant is to achieve environmental conservation and sustainable development by establishing integrated rights and obligations

DRAFT INTERNATIONAL COVENANT ON ENVIRONMENT AND DEVELOPMENT

Article 2

Nature as a whole warrants respect. The integrity of the Earth's ecological systems shall be maintained and restored. Every form of life is unique and is to be safeguarded independent of its value to humanity.

CONSTITUTION OF ECUADOR

Article 71

Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.

CONSTITUTION OF ECUADOR

Article 406

The state shall regulate the conservation, management and sustainable use, recovery, and boundaries for the domain of fragile and threatened ecosystems, including among others high Andean moorlands, wetlands, cloud forests, dry and wet tropical forests and mangroves, marine ecosystems and sea shore ecosystems.

PROTECTION OF THE ENVIRONMENT
ADMINISTRATION ACT 101 OF NEW SOUTH
WALES

Section 6(1)(a)

To protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development.

LIABILITY RULES

- The Comprehensive Environmental Response, Compensation and Liability Act of the United States of America
- The Environmental Damage Prevention and Remediation Act of Germany

INSTRUMENTS FOR WATER ECOSYSTEMS CONSERVATION

- the environmental water reserve in Victoria
- the priority given to protecting water sources and ecosystems in New South Wales
- the requirement for ecological outcomes in water resource plans in Queensland
- the functions of the Commonwealth Environmental Water Holder

WATER RESOURCE (BURNETT BASIN) PLAN 2000 OF QUEENSLAND

Section 7(a), (c) and (d)

The ecological outcomes include:

- To maintain pool habitats and their associated native plants and animals in the watercourses
- To provide flow regimes that favour native plants and animals associated with watercourses
- To provide wet season flow to benefit native plants and animals