

Can Earth jurisprudence put the brakes on unsustainable consumption?

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Overview

- The short answer is: on its own? No
- But it can play a part
- Part 1 - consumption in a culture without limits
- Part 2 – limitations in our current legal system regarding management of consumption
- Part 3 – earth jurisprudence and sustainable consumption
- Conclusions and further work



So what's the problem with consumption?

Consumption of *material* resources




“Humankind has consumed more natural resources since 1950 than in all previous human history”

(Durning, How Much is Enough, 1992)



1960 – 2010

- * World population grew by a factor of 2.2
- * Consumption expenditures *tripled* per person globally
(Worldwatch Institute, 2010)
- * Australian consumption grew 152% (ABS)



60 billion tonnes of resources are now extracted annually – 50% more than 30 years ago.

Equivalent of 112 Empire State Buildings extracted from the earth every day

In 2008 alone, people around the world purchased

- **68 million vehicles**
- **85 million refrigerators**
- **297 million computers**
- **1.2 billion mobile phones**

One outcome - waste

- 2001 Australia had 4th highest levels of waste to landfill in the world
 - **690kg per person, per year**
 - (US/Israel first:730kg, c/f NZ 400kg, Canada 350kg)
- 2004 we threw away more than \$5.2 billion worth of unconsumed food and drink



Hamilton, Growth Fetish

International recognition of problem

- 1992 Rio Declaration
 - 178 countries recognised ‘unsustainable patterns of consumption and production’ as contributing to environmental degradation
- 2002 UN World Summit on Sustainable Development → Marrakech Process created (2004-12)
 - Created international, regional and national working groups, task forces, research projects
- OECD Research (2002, 2008)
- National SCP strategies
 - UK Strategy for Sustainable Development, ‘Securing the Future’, released in 2005
 - (Australia doesn’t have one)

Natural environment continues to deteriorate – why?

Lots of 'action' but no reduction in consumption or environmental degradation

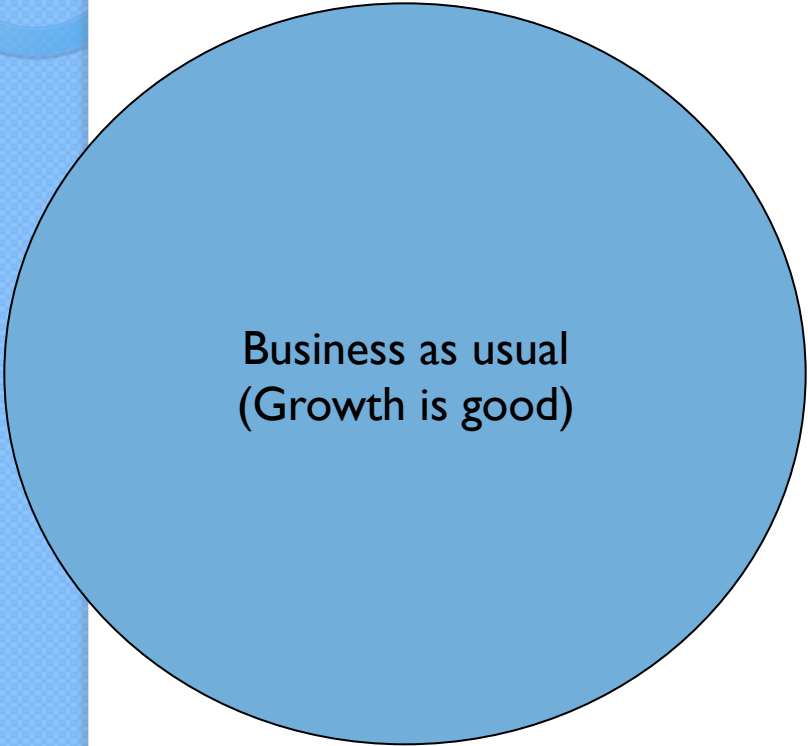
In 2005, a report compiled by over 2000 scientists from ninety-five countries concluded that:

60% of global ecosystem services were "being degraded or used unsustainably" including fresh water, fisheries, air and water purification and the regulation of natural hazards and pests.

(Millennium Ecosystem Assessment, 2005)

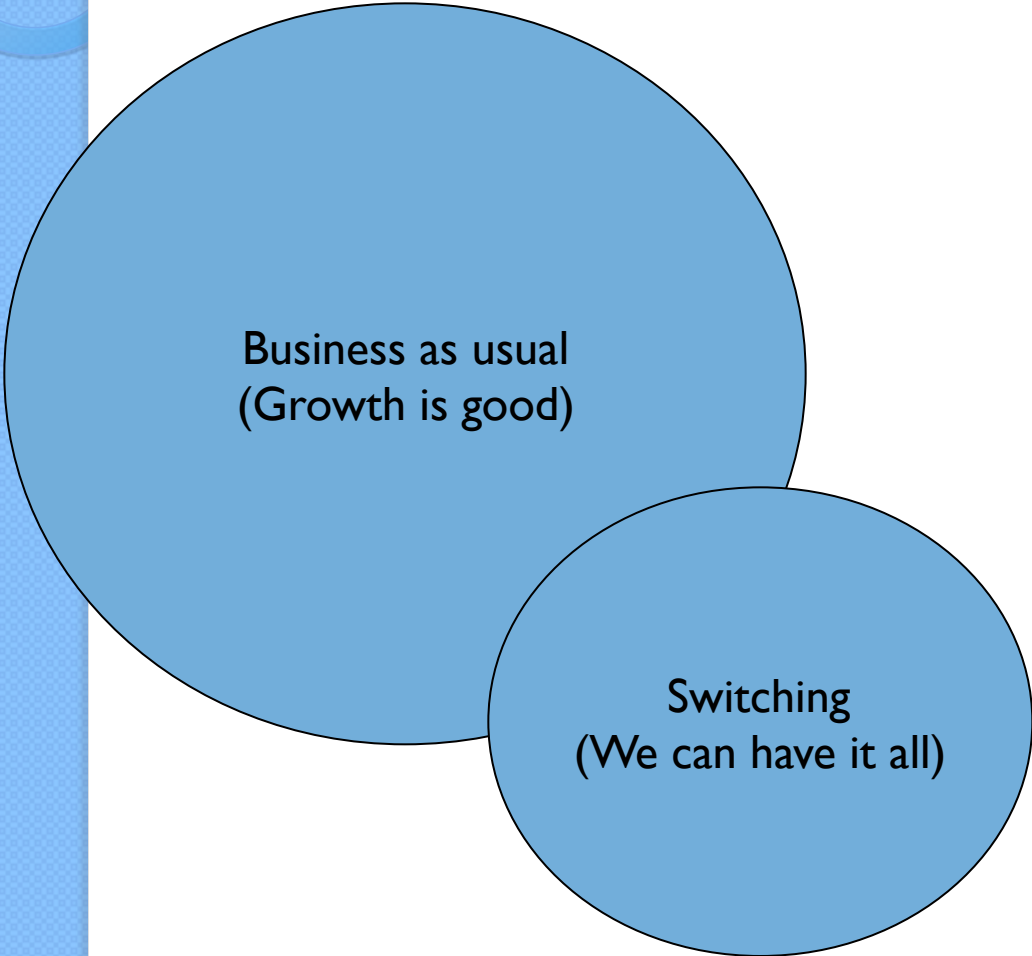


Three responses to consumption



Business as usual
(Growth is good)

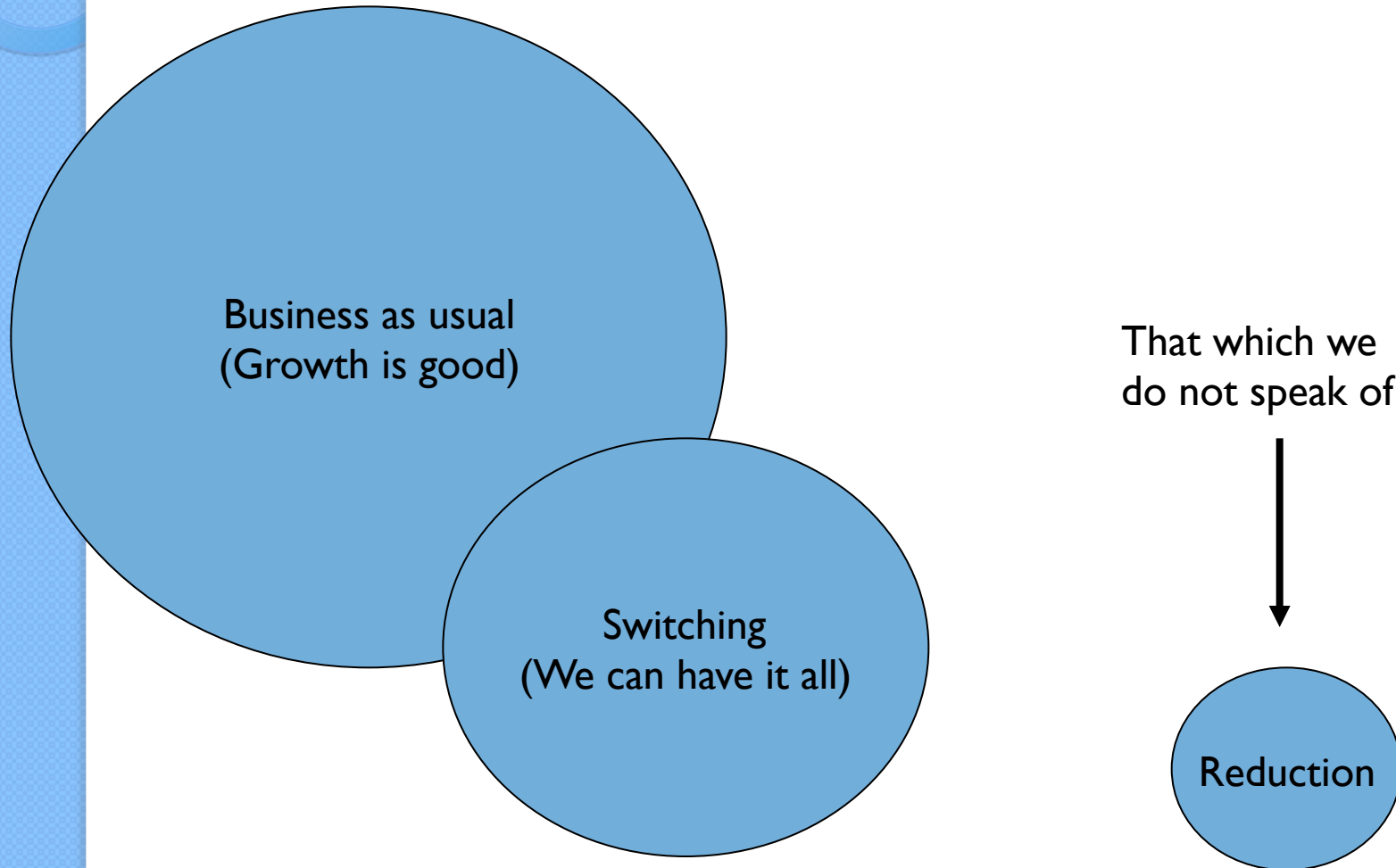
Three responses to consumption



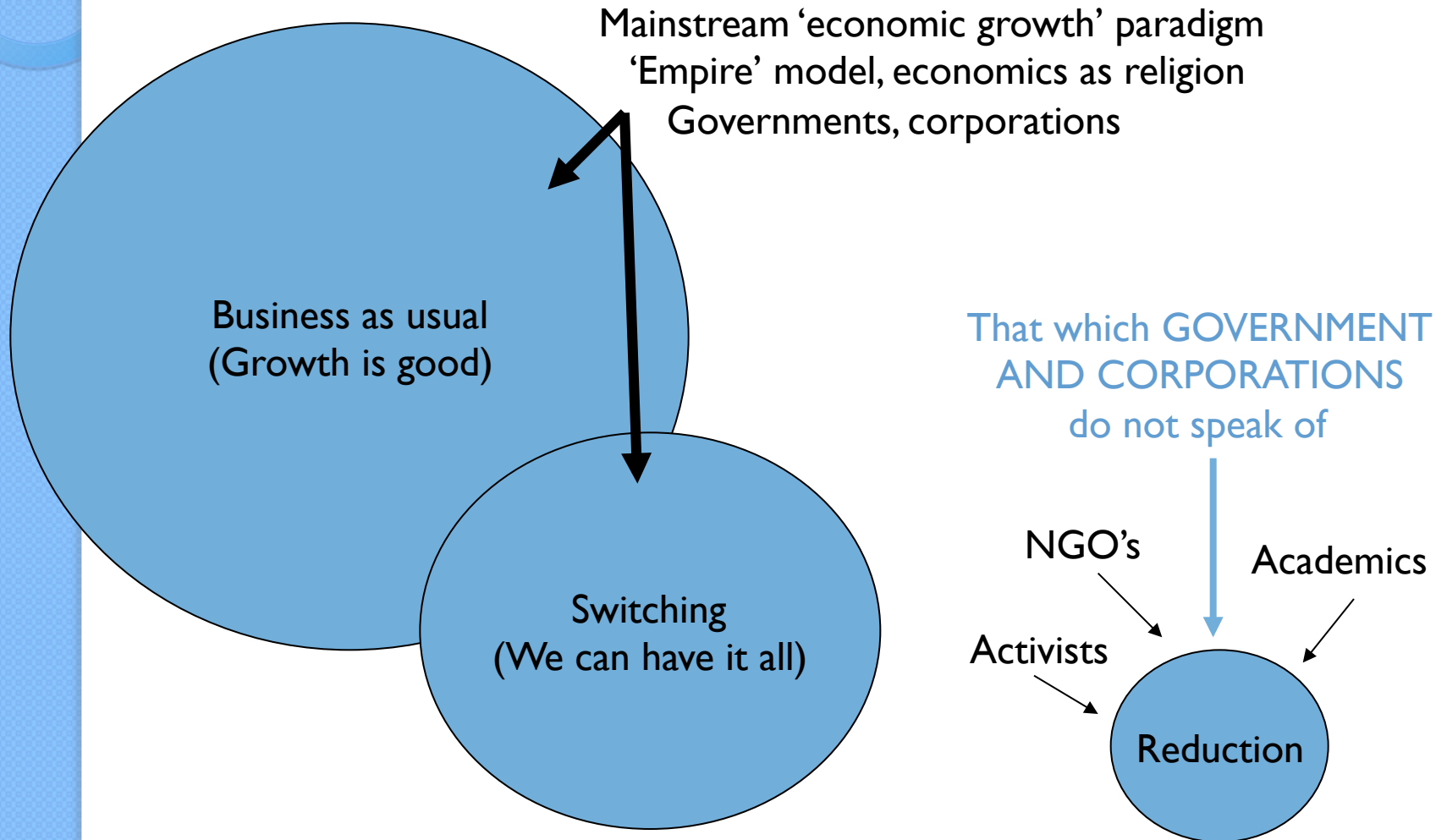
Business as usual
(Growth is good)

Switching
(We can have it all)

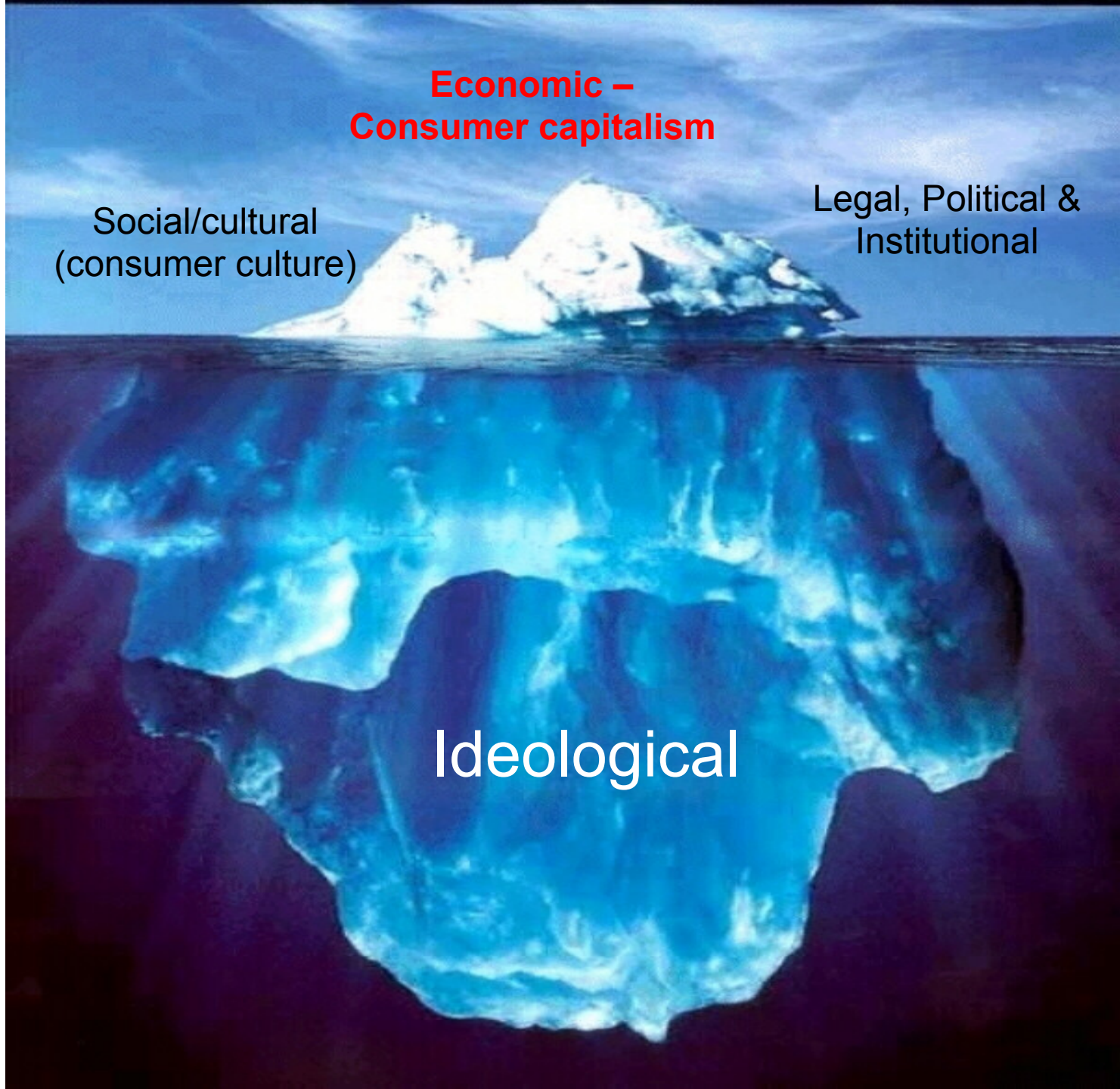
Three responses to consumption



Three responses to consumption



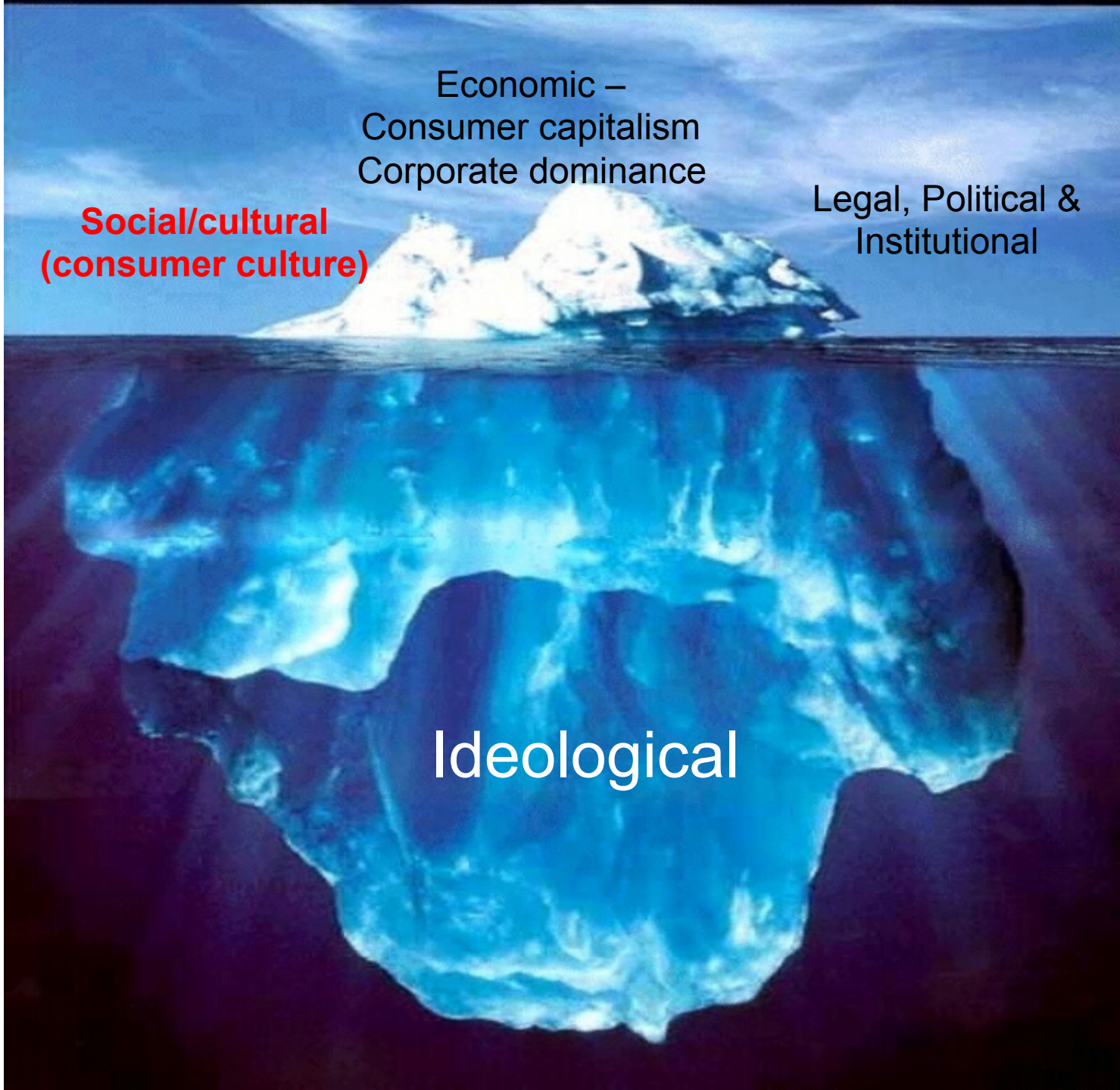
Barriers





“Of course nobody needs one, that’s why I called you advertising people in.”

Barriers

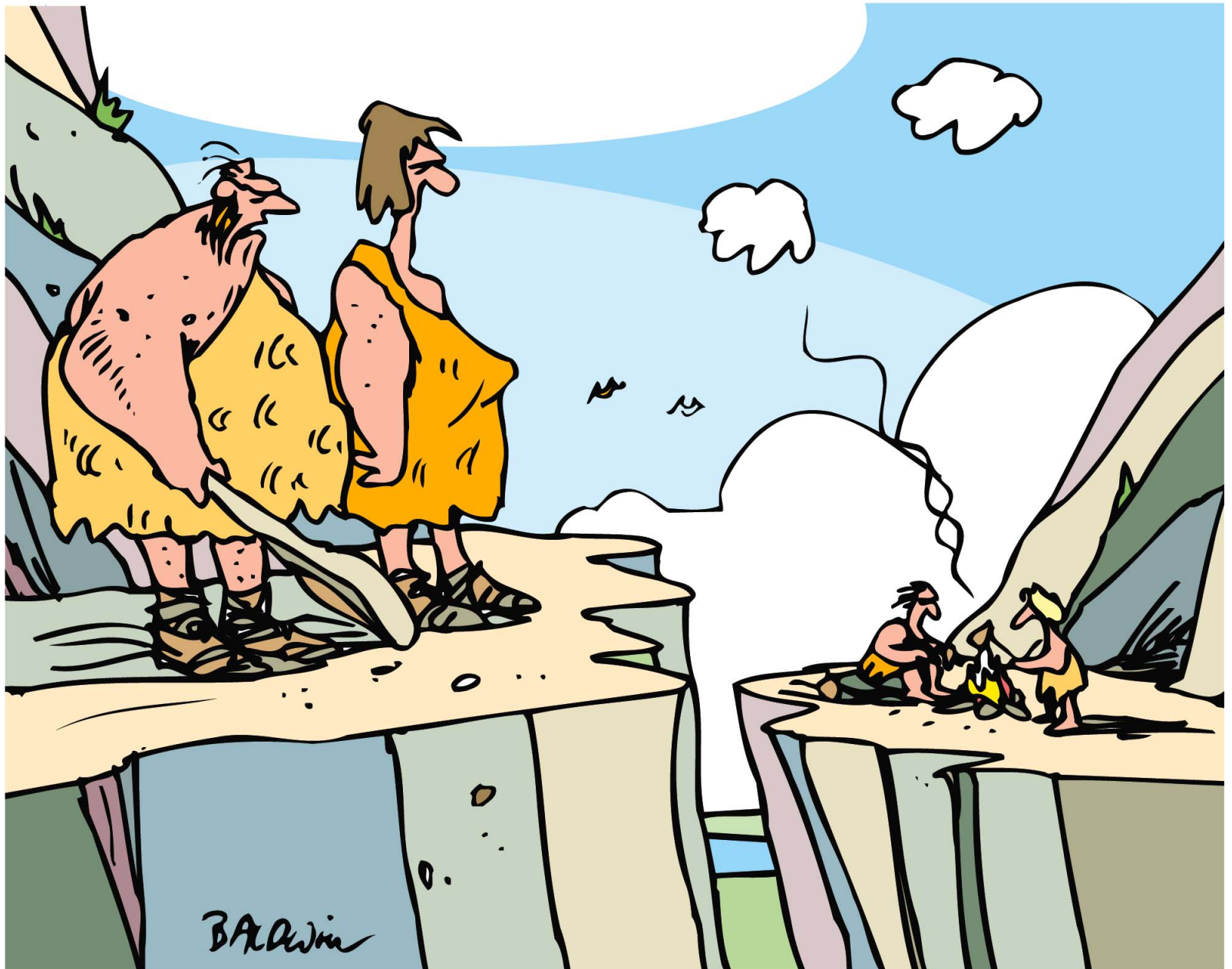


**Social/cultural
(consumer culture)**

Economic –
Consumer capitalism
Corporate dominance

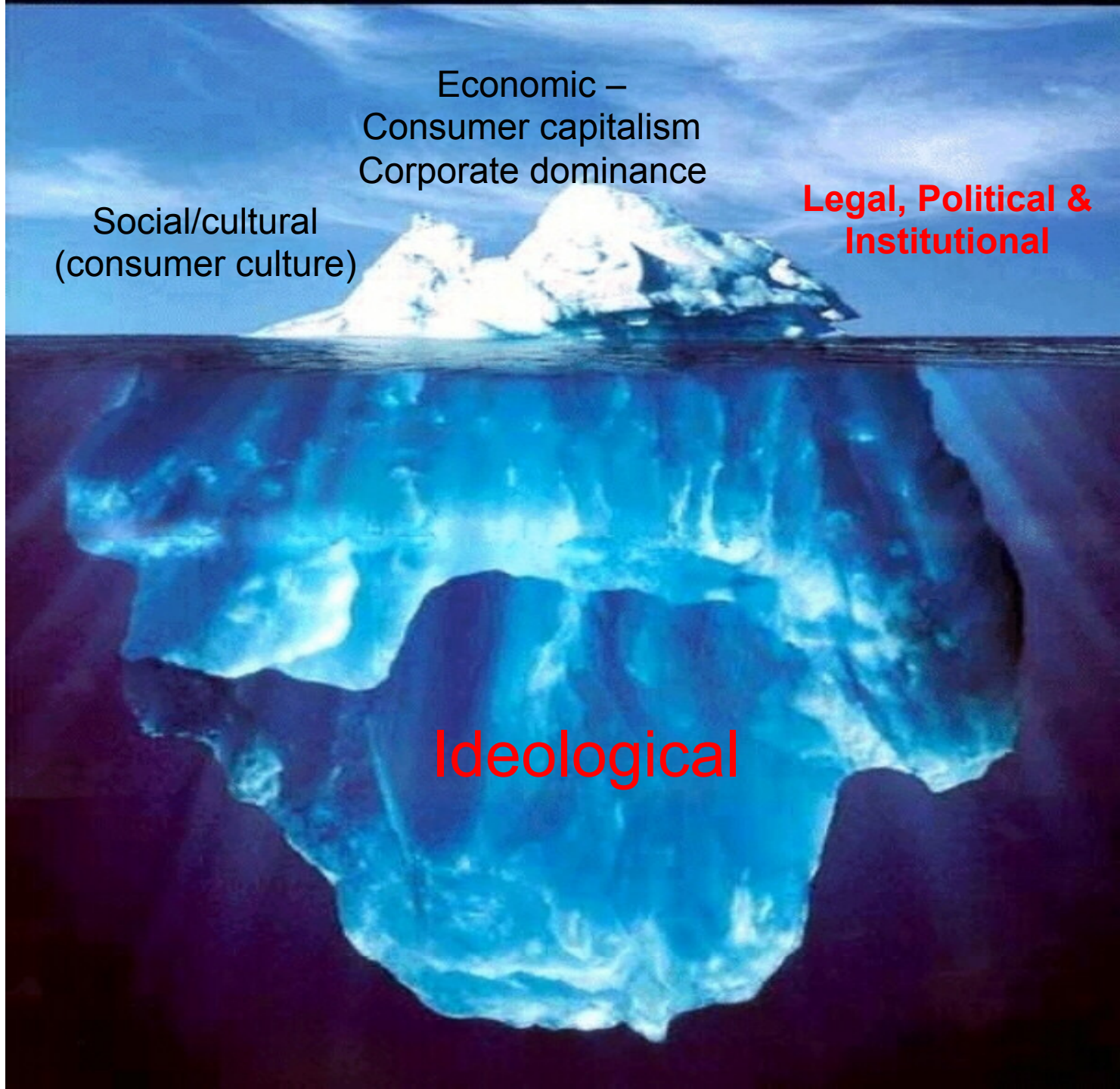
Legal, Political &
Institutional

Ideological



“Well, well, would you look at that. Fire. Talk about living beyond your means.”

Barriers



Economic –
Consumer capitalism
Corporate dominance

Social/cultural
(consumer culture)

**Legal, Political &
Institutional**

Ideological



Can law and regulation play a role in reducing consumption?

‘Too blunt an instrument’?

Law as culture - “Magic Mirror”

Other cultures, ‘lore’ set limits

Law has set limits in our culture in the past ...

- Kysar and Vandenberg remind us that in WW2, rationing & conservation was directly promoted by western governments



Artist: Weimer Pursell, 1943

2. Limitations in our current legal system

- A lack of overarching framework for addressing demand
- A lack of common understanding of the problem, or the solution
- Most existing laws regulate patterns, not volume
- The few examples of legal regimes that aim to reduce consumption of natural resources are limited in their operation

Lack of framework for addressing demand



A lack of common understanding of the problem or solution



Many existing laws govern patterns, not volume



Laws setting limits on consumption are rare

- Examples?
- Quotas for recreational and commercial fishing
- Water restrictions (urban water); markets/quotas for irrigation
- Bans, taxes on plastic bags, plastic bottles



Normative proposals for regulating consumption



- Scale (Herman Daly)
 - Understanding carrying capacity
 - Setting total limits
 - Creating systems to enable complex industrial societies to live within these limits
- Introducing values to production and consumption
 - Values exist in other fields of environmental law and policy – eg wildlife management (Harsch)
 - Completely absent in consumer products (on environmental grounds)
- Reversing the onus of proof (Joseph Guth)

Regulating for Anthropocentrism - why turbo charged cars but not hummers?

- **Liberalism accepts state regulatory interference for direct protection of individual wellbeing**
 - **Seat belts save lives**
 - **Banning young drivers from turbo-charged cars 'saves lives'**
 - **(Why can't we ban hummers and 4WDs, save carbon and *indirectly* save lives??)**
- Acceptable if the intrusion *supports* rather than takes away from key tenants of human ideology - property, liberalism, minimal government, rule of law (Cotterrell, 1998)
- Lack of value placed on harm to the environment (anthropocentric priorities), means currently not enough 'justification' to 'interfere' (Cullinan, 2003)
 - Contrast with biocentric worldview, deep ecology, earth jurisprudence



Role of earth jurisprudence?

- My key argument:
- *Earth jurisprudence, with its emphasis on creating human laws that fit within the 'Great law' or laws of the natural world, can provide an overarching framework for managing demand that is lacking in our current legal system*
- Can build on and progress existing normative proposals

Earth jurisprudence and sustainable consumption

- What elements of Earth jurisprudence are relevant to creating a framework for guiding sustainable consumption?
 - ‘The great jurisprudence’, ‘Great law’
 - Eco-centrism
 - Rights for nature

Limitations imposed on human law by Great Law

- * Set by the universe
- * Rights of each being limited by the rights of other beings
- * Laws must strengthen the earth community, not weaken it

Earth jurisprudence and sustainable consumption

- How would elements of earth jurisprudence influence sustainable consumption?
 - Increasing knowledge of the natural world; understanding the 'higher laws of the universe'
 - Setting limits, imposing duties and obligations

Increasing knowledge of the natural world

- Cultural change to increased focus on understanding our natural ecosystems
 - Thomas Berry suggested all key institutions – education/academic, religious, government - need a focus on deepening understanding and connection to natural world
- Laws and positive ethical constructs (obligations and duties) for constraining human activities
- Carrying capacity, bio-regional limits, cumulative impacts, 'parameters' → central

Setting limits

- Cultural change – greater acceptance of limits
 - Social movements – voluntary simplicity, degrowth, slow food, adbusters, Post Growth Institute
 - Law and culture
- New policy frameworks and objectives
 - ‘Steady State’, ‘Degrowth’
- Decision making processes
 - Values, prioritisation of production and consumption
 - Participatory Democracy
 - Innovative community based responses
- Regulating to reduce consumption
 - Laws setting limits
 - Previous examples: urban water, fisheries, plastic bags

Regulating to reduce consumption



Regulating to reduce consumption

- SEQ Water Restrictions 2005-2009
- Water unlimited until 1990's:
 - No restrictions
 - 90% households unmetered
 - Sprinklers, hoses, pools
 - Estimated use **700 litres** per person per day (Spearitt)
 - Official literature: water use 300 litres per person per day at the beginning of the drought
- Height of drought: TARGET 140
- Permanent target: 200
- Today – consistently UNDER target (150-170)



How do we transition?

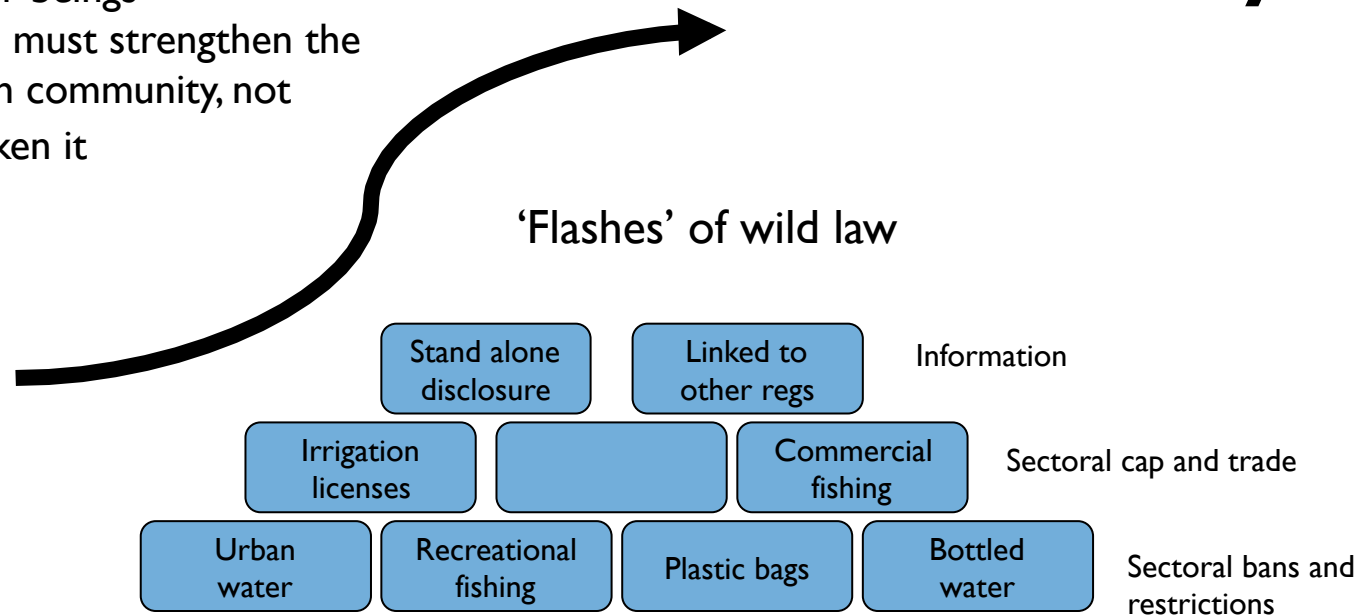
Radical transformation v build on what we have

Limitations imposed on human law by Great Law

- * Set by the universe
- * Rights of each being limited by the rights of other beings
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Earth Community

Empire



Conclusions

- Earth jurisprudence offers a framework for sustainable consumption
- Flashes of wild law – building blocks?
- Law playing a role in the broader web of social change for environmental outcomes

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BECAUSE WE CAN'T AFFORD TO STOP SHOPPING!