



# **Environmental Protection and the Common Law**

Edited by John Lowry and Rod Edmunds

B L O O M S B U R Y

# Environmental Protection And The Common Law

**Sean Coyle, Karen Morrow**



## **Environmental Protection And The Common Law:**

Environmental Protection and the Common Law John Lowry, Rod Edmunds, 2000-06-20 Within the broad framework of the common law of tort the torts of nuisance and the rule in *Rylands v Fletcher* are central to the protection of the rights of landowners to use and enjoy their land without unreasonable interference and to be free from material damage to their interests Negligence actions can also serve to promote the protection of personal and property interests Yet toxic torts are often seen as being beset by theoretical and practical drawbacks Overall there are serious concerns about the continued value of common law principles as an effective and coherent system that is geared to protecting the environment Environmental law is increasingly developing its own statutory regimes to address a range of environmental problems This accentuates the sense in which the aims and reach of these two different branches of the law appear to be diverging Questions inevitably arise about the inter relationship between private law sphere of tort and public regulatory schemes The contributors to this volume of essays include many of the UK's leading academics in the relevant fields of private and public law While the essays are broadly based the focus of the book is on the challenges posed by accommodating tort with environmental law

*The Common Law and the Environment* Roger E. Meiners, Andrew P. Morriss, 2000 Since 1970 when the Clean Air Act was passed and the Environmental Protection Agency was created the primary means for addressing environmental problems in the U S has been through comprehensive federal statutes and detailed regulations Evaluating almost three decades of experience with the Clean Air Act Superfund the Clean Water Act the Endangered Species Act and other major federal environmental statutes the contributors to this volume question the effectiveness and impact of the legal regime that created these regulations While most studies of environmental policy paint a picture of improvement through government initiatives these essays argue the contrary Pointing to Cleveland's burning river the death of Lake Erie smog in Los Angeles and Love Canal the contributors demonstrate that command and control regulation of the environment has not delivered the great improvements in environmental quality as promised The Common Law and the Environment offers principles for a new approach to protecting the environment and looks to evidence of the successes of alternative legal systems to address significant problems

Symposium, 2008 *Environmental Regulation Through Financial Organisations: Comparative Perspectives on the Industrialised Nations* Benjamin Richardson, 2002-02-13 This book takes a comparative perspective of practice in the European Union North America Japan and Australasia arguing that existing legal reforms to promote sustainable development are unlikely to be successful unless environmental policy can be diffused and embedded in the financial services sector This sector plays a crucial role in creating the financial conditions that allow much economic development to proceed Financial markets are already highly regulated in pursuance of various public policy objectives and there is scope to adapt existing regulation to incorporate environmental aspects into the financial services sector In terms of specific reforms the book focuses on the role of corporate environmental reporting economic instruments

and liability rules to provide a proper context for engaging financial organisations with the environment as well as reforms to the system of prudential regulation that currently governs this sector Beyond the focus on the financial services sector the book raises complex questions regarding the relationship between the state and market institutions in environmental policy and will appeal to scholars from a wide range of disciplines interested in problems of environmental governance

**The Philosophical Foundations of Environmental Law** Sean Coyle, Karen Morrow, 2004-04 Legal regulation of the environment is often construed as a collection of legislated responses to the problems of modern living Treated as such environmental law refers not to a body of distinctive juristic ideas such as one might find in contract law or tort but to a body of black letter rules out of which a distinct jurisprudence might grow This book challenges the accepted view by arguing that environmental law must be seen not as a mere instrument of social policy but as a historical product of surprising antiquity and considerable sophistication Environmental law it is argued is underpinned by a series of tenets concerning the relationship of human beings to the natural world through the acquisition and use of property By tracing these ideas to their roots in the political philosophy of the seventeenth century and their reception into the early law of nuisance this book seeks to overturn the perception that environmental law's philosophical significance is confined to questions about the extent to which a state should pursue collective well being and public health through deliberate manipulation and restriction of private property rights Through a close re examination of both early and modern statutes and cases this book concludes that far from being intelligible in exclusively instrumental terms environmental law must be understood as the product of sustained reflection upon fundamental moral questions concerning the relationship between property rights and nature

The Role of the Judiciary in Environmental Governance Louis J. Kotzé, Louis J Kotzé, Alexander R. Paterson, 2009-01-01 This important book investigates the environmental legal frameworks court structures and relevant jurisprudence of nineteen countries representing legal systems and legal cultures from a diverse array of countries situated across the globe In doing so it distils comparative trends new developments and best practices in adjudication endeavours highlighting the benefits and shortcomings of the judicial approach to environmental governance

Creative Common Law Strategies for Protecting the Environment Lynn L. Bergeson, Tracy Hester, 2007 Publisher Description

*Environmental Protection Law and Practice* Usman, Adamu Kyuka, 2017-05-01 This is basic text which offers a comprehensive approach to the consideration of environmental protection law and practice Essential concepts and issues in Environmental science including global warming caused by greenhouse effect negative and positive feedback the Gala hypothesis the Chaos theory environmental economics principles of cost benefit analysis tradable permits and other topics have been explained in such detailed but straightforward manner for the law student law lecturer legal practitioner and even the general reader who may otherwise feel unfamiliar with some of these scientific subjects critical to appreciating the law in the area to comprehend quite easily Of tremendous benefit of the legal practitioner researchers and judges this book also examines a lot of cases of environmental protection

both in Nigeria and foreign jurisdictions such as the United Kingdom United States India the Philippines and a host of other countries mostly within the common law tradition The intention is to give life to the cold principles of environmental protection law by examining the cases in which environmental legal principles have been applied It is hoped that environmental law students law lecturers legal practitioners and policymakers should find this book indispensable and judges too in their adjudication of technical environmental matters

**Environmental Protection, Law and Policy** Jane Holder, Maria Lee, 2007-07-19 This 2007 book examines environmental law from a range of perspectives emphasising the policy world from which environmental law is drawn and nourished Those working within the discipline of environmental law need to engage with concepts and methods employed by disciplines other than law The authors analyse the ways in which legal activities are supported and legitimated by work in traditional scientific or technical domains as well as by certain more obscure but also influential cultural or philosophical assumptions A range of regulatory techniques is explored in this book through a close examination of both pollution control and land use The highly complex nature of current environmental problems demanding sophisticated and responsive legal controls is illustrated by several in depth case studies including legal and policy analysis of the highly contested issues of genetically modified organisms and renewable energy projects

**Environmental Protection and Human Rights** Donald K. Anton, Dinah L. Shelton, 2011-04-11 With unique scholarly analysis and practical discussion this book provides a comprehensive introduction to the relationship between environmental protection and human rights being formalized into law in many legal systems This book instructs on environmental techniques and procedures that assist in the protection of human rights The text provides cogent guidance on a growing international jurisprudence on the promotion and protection of human rights in relation to the environment that has been developed by international and regional human rights bodies and tribunals It explores a rich body of case law that continues to develop within states on the environmental dimension of the rights to life to health and to public participation and access to information Five compelling contemporary case studies are included that implicate human rights and the environment ranging from large dam projects to the creation of a new human right to a clean environment

**The Protection of the environment through criminal Law** J.L. De La Cuesta, L. Quackelbeen, N. Persak, G. Vermeulen, 2017-02-02 Continuing the AIDP's tradition in examining how to improve the protection of the environment through criminal law this volume addresses various challenges and scientific concerns in relation to environmental crime It touches upon a range of topics from biodiversity to corporate criminal liability to jurisdictional or prosecutorial problems and explores multiple national and regional enforcement systems drawing from best practices It brings together key proceedings of the Second AIDP World Conference on the Protection of the Environment through Criminal Law Bucharest May 18 20 2016 organised by the International Association of Penal Law AIDP in collaboration with the Romanian Association of Penal Sciences the Legal Research Institute of the Romanian Academy of Sciences and the Ecological University of Bucharest

*Environmental*

*Jurisprudence in India* C.M. Abraham, 2023-12-11 Within the last two decades India has not only enacted specific legislation on environmental protection but has also virtually created a new fundamental right to a clean environment in the Constitution The models and methods adopted in the Indian context appear at first sight similar to those in other common law systems Yet there are many subtle differences which have changed the structure and content of legal development in India Indian environmental jurisprudence brings out the unique characteristics of a new legal order which has gradually been established in India The distinguishing nature of this jurisprudence as this book shows in detail has three interconnected elements First the nature of the new Indian constitutional law regime accords greater importance to public concerns than protecting private interests Secondly this jurisprudential development reflects certain aspects of Indian legal culture through implicit and explicit reliance on autochthonous values and concepts of law encapsulated in the Indian juristic postulate of dharma Thirdly the emerging Indian environmental jurisprudence bears testimony to the activist role of the Indian judiciary which has also had a significant impact in many areas other than environmental law In short the development of environmental jurisprudence in India manifests neo dharmic jurisprudence in postmodern public law It accommodates ideas currently voiced by experts around the world for protecting the environment in forms modified by the Indian legal culture

**Environmental Law and Governance in India** Sairam Bhat, 2024-08-20 This book provides an insightful and holistic up to date perspective of the constitutional governance and legal framework in India with regard to environmental protection Covering the foundational principles of environmental law the book details the current status of international environmental law in the face of complex environmental challenges including climate change The topics covered include water resource governance and coastal regulation with a particular focus on the growing significance of the National Green Tribunal It also covers the wide range of policies that have been introduced over the past 50 years and the impact these have had The book will be of interest to researchers legal practitioners and scholars in the field of environmental law and governance as well as international law

**Sustainability Land Use and the Environment** Mark Stallworthy, 2013-06-17 1 Nature of sustainable development 2 Sustainability and legal principle 3 Regulation and private property 4 The remit of English land use planning law 5 Environmental impact assessment 6 Seeking a sustainable framework for land use planning 7 The relationship between separate regulatory regimes 8 Environmental protection and scientific uncertainty 9 Human rights and the environment 10 Sustainability law and democratic politics 11 Afterword

Climate Change Litigation in the Asia Pacific Jolene Lin, Douglas A. Kysar, 2020-10-29 This is the first scholarly examination of climate change litigation in the Asia Pacific region Bringing legal academics and lawyers from the Global South and Global North together this book provides rich insights into how litigation can galvanize climate action in countries including Pakistan Indonesia Malaysia and China Written in clear and accessible language the fourteen chapters in this book shed light on the important question of how litigation may unfold as a potential regulatory pathway towards decarbonization in the world's most populous region

*Environmental Law in Hong*

Kong Helena Hsi-Chia Chen,2018-01-24 Derived from the renowned multi volume International Encyclopaedia of Laws this book provides ready access to legislation and practice concerning the environment in Hong Kong A general introduction covers geographic considerations political social and cultural aspects of environmental study the sources and principles of environmental law environmental legislation and the role of public authorities The main body of the book deals first with laws aimed directly at protecting the environment from pollution in specific areas such as air water waste soil noise and radiation Then a section on nature and conservation management covers protection of natural and cultural resources such as monuments landscapes parks and reserves wildlife agriculture forests fish subsoil and minerals Further treatment includes the application of zoning and land use planning rules on liability and administrative and judicial remedies to environmental issues There is also an analysis of the impact of international and regional legislation and treaties on environmental regulation Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable resource for environmental lawyers handling cases affecting Hong Kong Academics and researchers as well as business investors and the various international organizations in the field will welcome this very useful guide and will appreciate its value in the study of comparative environmental law and policy      *Environmental Law in Hong Kong* Anton Cooray,2022-11-20 Derived from the renowned multi volume International Encyclopaedia of Laws this book provides ready access to legislation and practice concerning the environment in Hong Kong A general introduction covers geographic considerations political social and cultural aspects of environmental study the sources and principles of environmental law environmental legislation and the role of public authorities The main body of the book deals first with laws aimed directly at protecting the environment from pollution in specific areas such as air water waste soil noise and radiation Then a section on nature and conservation management covers protection of natural and cultural resources such as monuments landscapes parks and reserves wildlife agriculture forests fish subsoil and minerals Further treatment includes the application of zoning and land use planning rules on liability and administrative and judicial remedies to environmental issues There is also an analysis of the impact of international and regional legislation and treaties on environmental regulation Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable resource for environmental lawyers handling cases affecting Hong Kong Academics and researchers as well as business investors and the various international organizations in the field will welcome this very useful guide and will appreciate its value in the study of comparative environmental law and policy      **APAIS 1994: Australian public affairs information service** ,      *Greening the Civil Codes: Comparative Private Law and Environmental Protection* Sabrina Lanni,2023-05-12 This book examines the greening of civil codes from a comparative perspective It takes into account the increasing requirements of supranational rules which favour measures to reduce global warming and its negative environmental impacts it discusses the necessity to expand distributive justice given the current ecological emergency and it reflects on which private law legal tools potentially

may be employed to defend nature's interests. The work fills a gap in the growing literature on developing rights of nature and ecosystem in transnational law. While the focus is on the environmental issues pertaining to the new civil codes and new projects of civil codes, the book promotes interdisciplinary research applicable to a range of environmental and natural resources focused courses across the social sciences, especially those related to comparative law systems, legal anthropology, legal traditions in the world, political science, and international relations.

**Environmental Protection** Sue Elworthy, Jane Holder, 1997-06. This book is targeted to students studying environmental law as well as legal academics, researchers, and undergraduates from other disciplines including economics, political science, and natural sciences.



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