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Environmental law

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[21/7/2017]



What is environment?

- Environment has been described as the totality of nature and natural resources as well as the context within which they exist and interact and includes infrastructure constructed to support socio-economic activities.
- “The environment is not an abstraction but represents the **living space**, the **quality of life** and the very **health of human beings**, including **generations unborn**”





ENVIRONMENT

- **ENTIRE RANGE OF LIVING AND NONLIVING FACTORS THAT INFLUENCE LIFE ON EARTH**
- **ENVIRONMENT IS NOT A SECTOR, BUT A DIMENSION OF EVERY SECTOR OF HUMAN ACTIVITY AND EVERY ASPECT OF LIFE ON EARTH.**
- **INCLUDES:**
 - **LIVING AND NON-LIVING RESOURCES**
 - **PHYSICAL LIFE SUPPORT SYSTEMS**
 - **HISTORICAL, CULTURAL, SOCIAL AND AESTHETIC**

- IMPLICATIONS FOR LAW MAKING





STATUTORY DEFINITIONS OF ENVIRONMENT

- The general definition of “ environment” includes:
 - The entire range of living and non living factors that influence life on the earth and their interactions.

• **Living resources** including humans, animals, plants and micro-organisms.

- This would include:
Non-living resources i.e.

- physical life support systems of the planet such as the geography, hydrology, atmosphere, matter, and energy
- historical, cultural, social and aesthetic components including the built environment.





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WHAT IS ENVIRONMENTAL LAW

“The body of law which contains elements to control the human impact on the environment.”





SYSTEMS OF LAW

- COMMON LAW
- CIVIL LAW
- SHARIA LAW
- SOCIALIST LAW
- INDIGENOUS LAW

- DEFINITIONS OF ENVIRONMENT
- ENVIRONMENTAL INSTITUTIONS
- JURISDICTIONAL ISSUES
- ENFORCEMENT PROCESSES
- COURT ORDERS AND REMEDIES
- COURT SYSTEMS

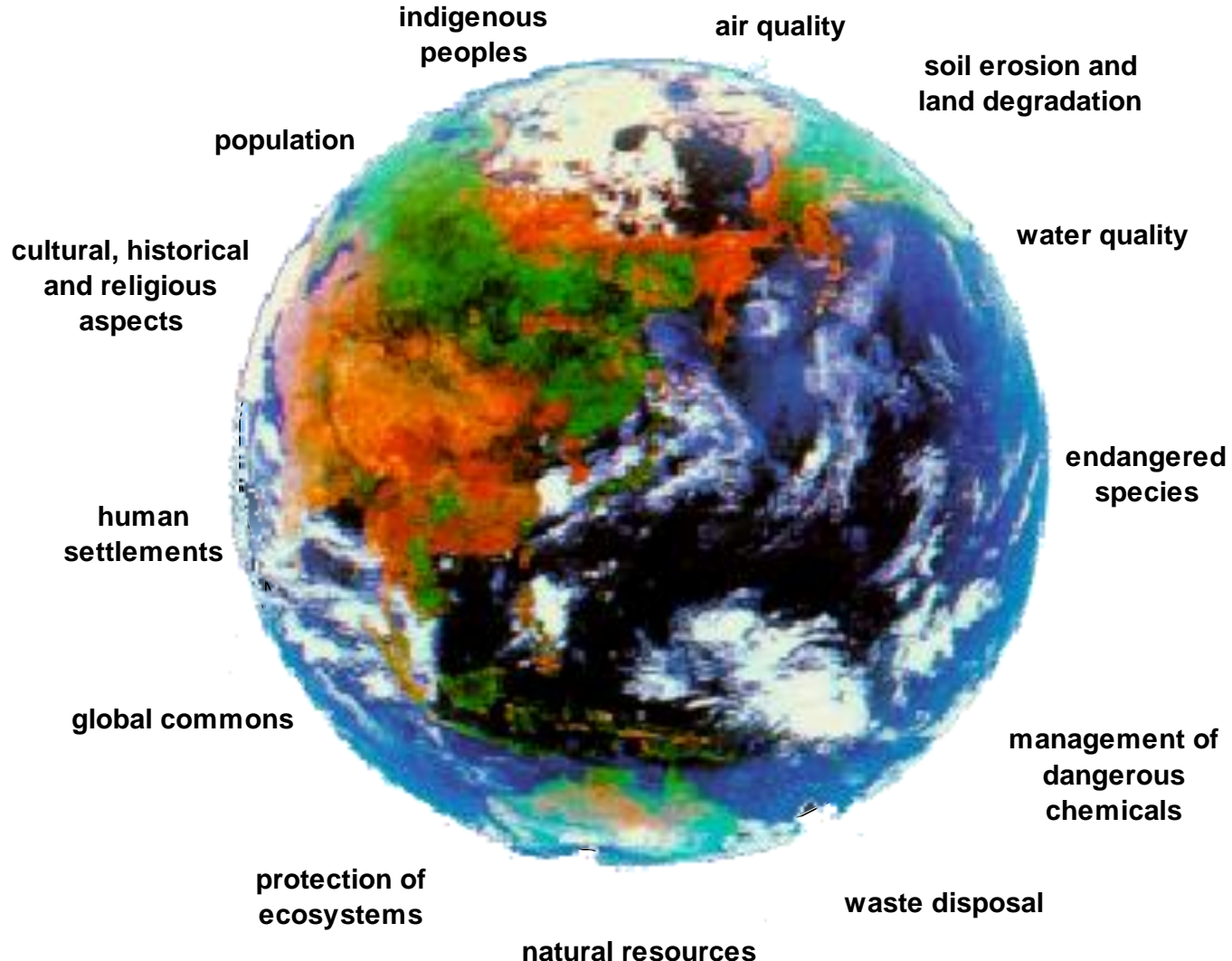




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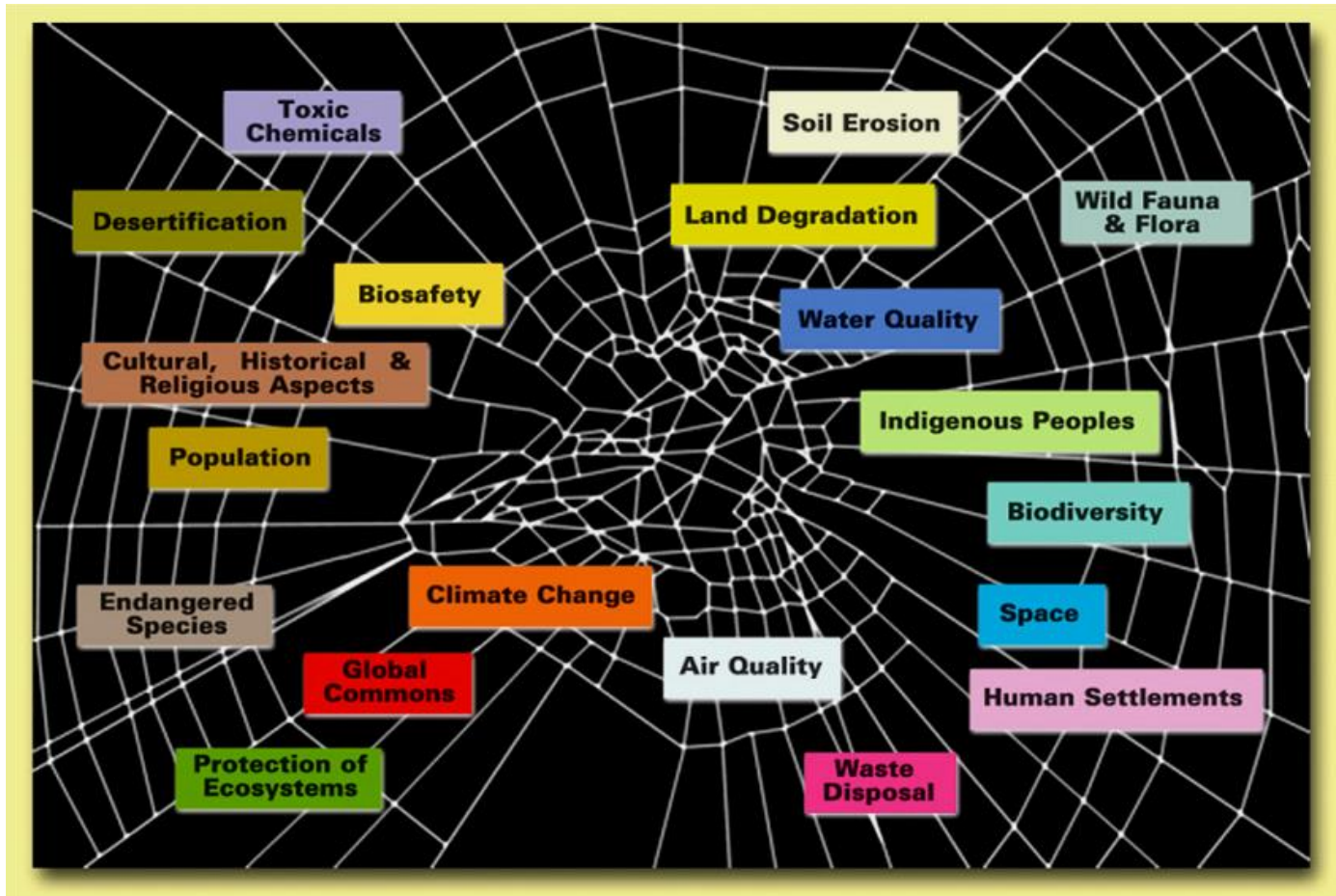


Environment



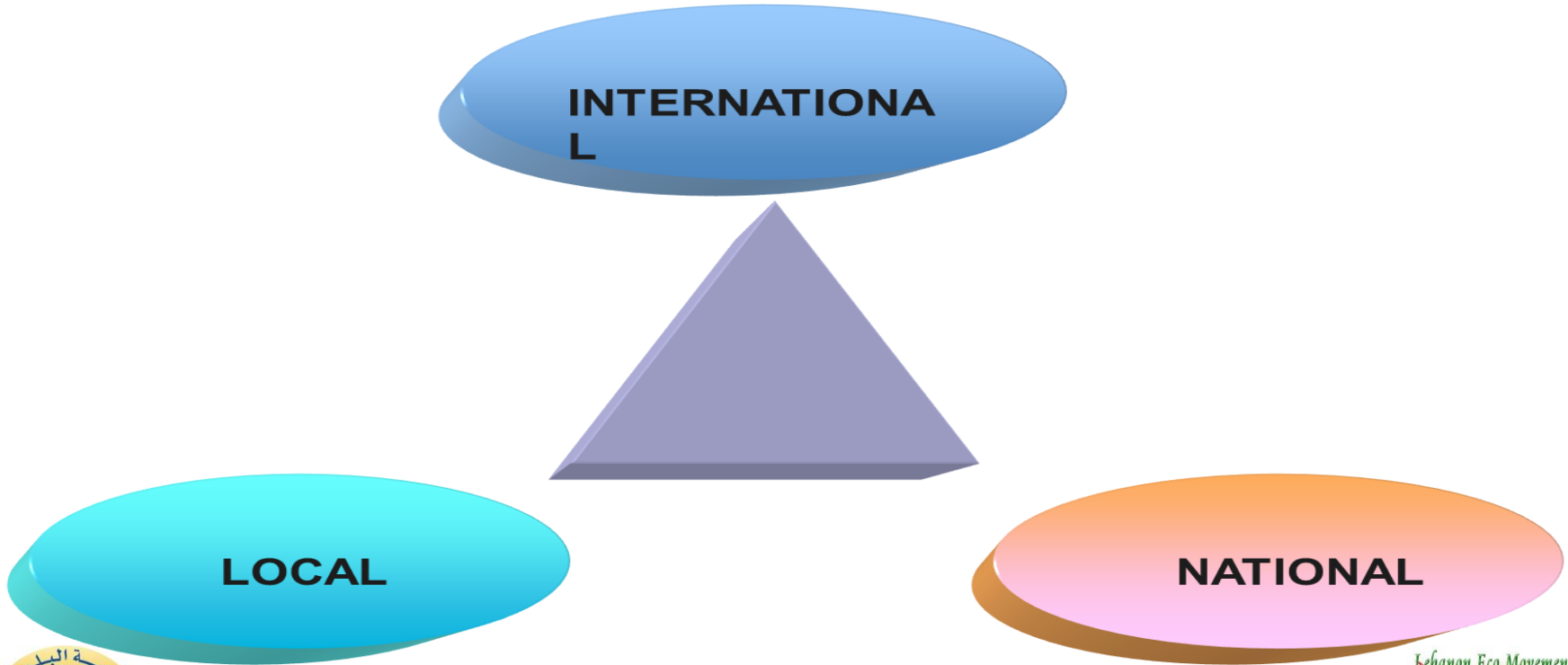


ENVIRONMENTAL INTERDEPENDENCE





SOURCES OF ENVIRONMENTAL LAW

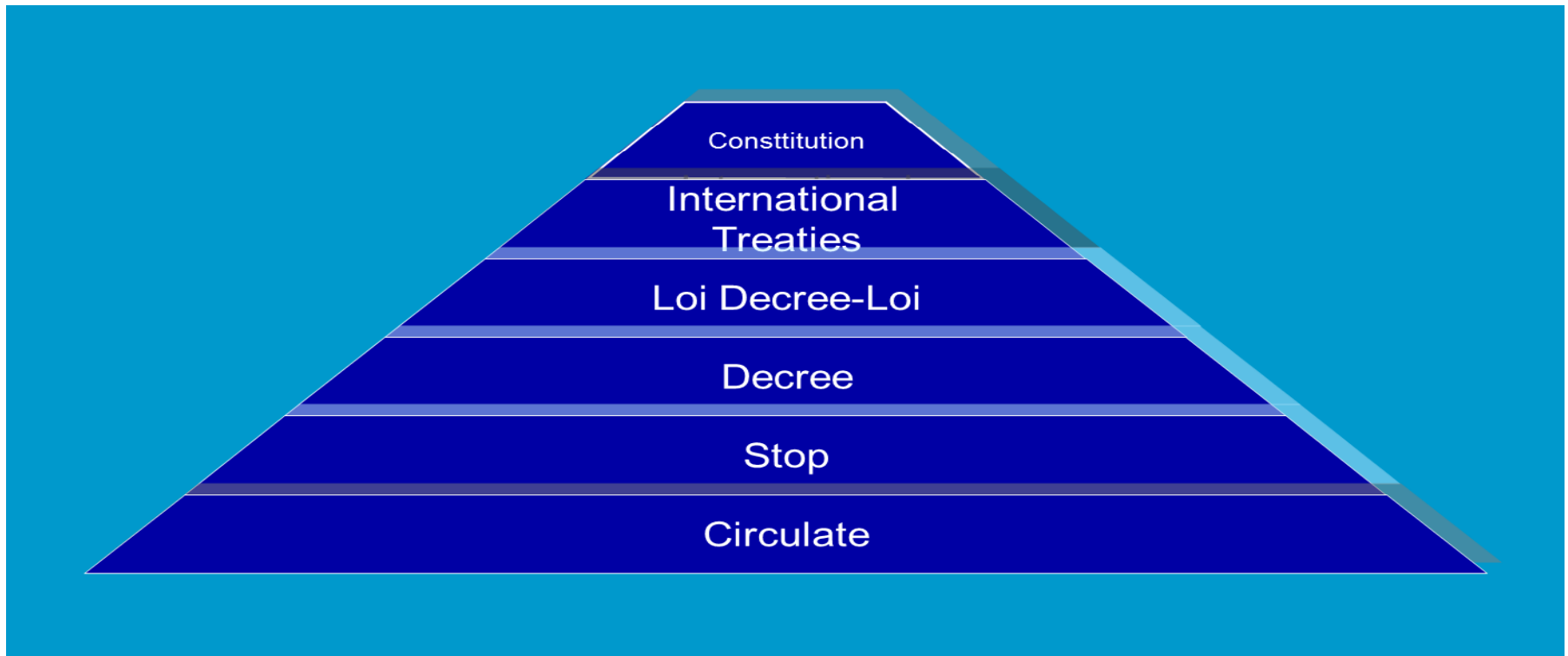




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Stages of Legal protection: The environmental interface between Science and Law





THE EVOLUTION OF ENVIRONMENTAL LAW

**NATIONAL
LAWS**

**INTERNATIONAL
ENVIRONMENTAL
LAW**

**NATIONAL
EXPERIENCE,
INCLUDING
JURISPRUDENCE**





ENVIRONMENTAL LAW AT THE NATIONAL LEVEL

**PENAL CODES,
COMMON LAW, CIVIL
CODE LAW**

**POLLUTION
CONTROL LAW**

**ENVIRONMENTAL
IMPACT ASSESSMENT
AND LICENSING**

**SUSTAINABLE
DEVELOPMENT**

**Categories of
Environmental law**

**PLANNING
LAW**

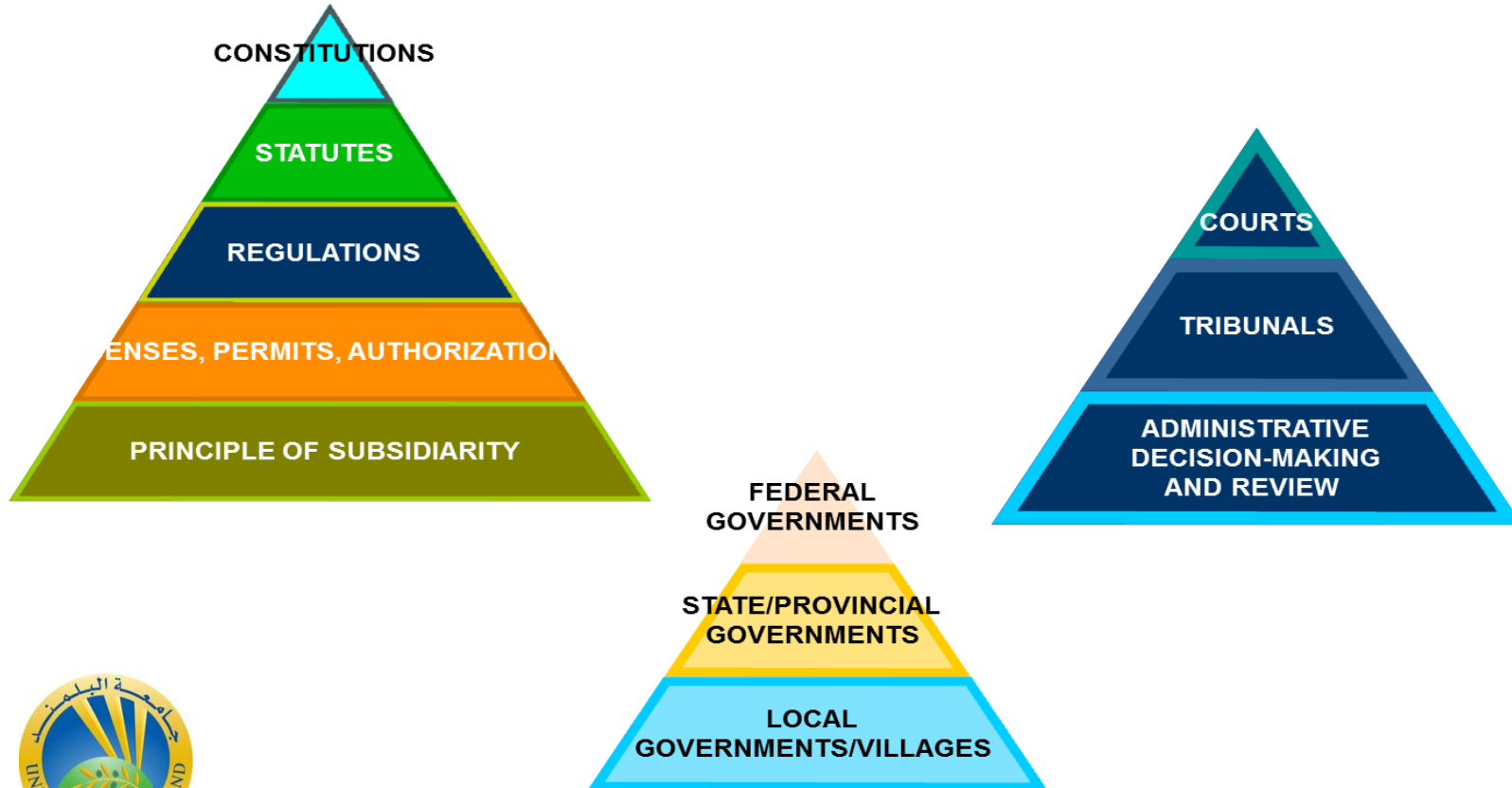
**CULTURAL
HERITAGE
LAW**

**NATURAL
RESOURCES
MANAGEMENT
LAW**





LEGAL HIERARCHIES IN THE ENVIRONMENTAL CONTEXT





ENVIRONMENTAL LAW AT THE INTERNATIONAL LEVEL

Types of international law, generally:

Multi-lateral
Agreements
(MEAs)

Decisions by
International
Tribunals

Customary
international law

Generally addresses State-to-State obligations





CONSTITUTIONAL RIGHTS AND OBLIGATIONS

- Right to life
- Right to clean and healthy environment
- Right to development and property rights
- Obligation to protect environment





QUESTIONS REGARDING IMPACT OF INTERNATIONAL LAW AT THE NATIONAL LEVEL

- Has international law been incorporated into national law?
- If so, is it enforceable in a practical sense?
- What law prevails in the event the incorporated international law is in conflict with another provision of national law?
- If the international concept or principle is not binding, does it nonetheless serve as a source of persuasive authority?

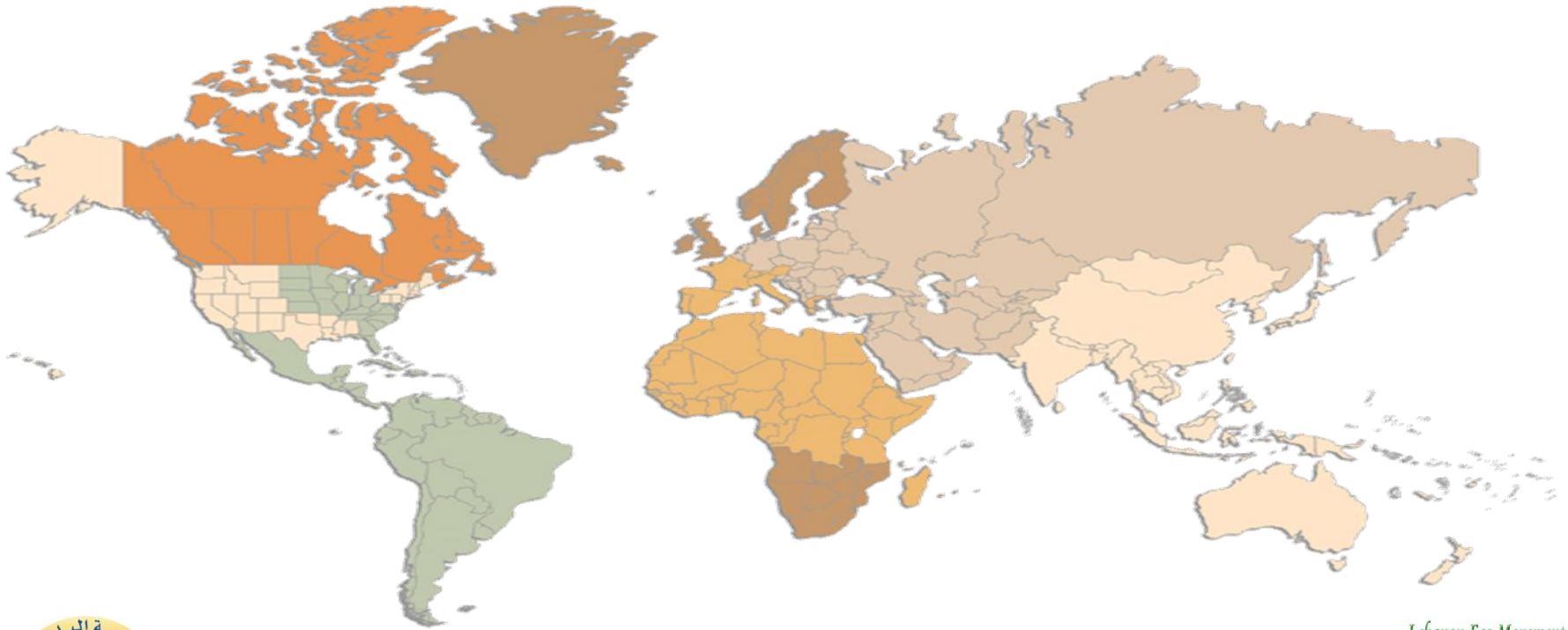




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SOME KEY MULTI-LATERAL ENVIRONMENTAL AGREEMENTS





Rotterdam

- 1998 ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE





Stockholm

- 2001 STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS (POPs)





Basel

- 1989 BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL





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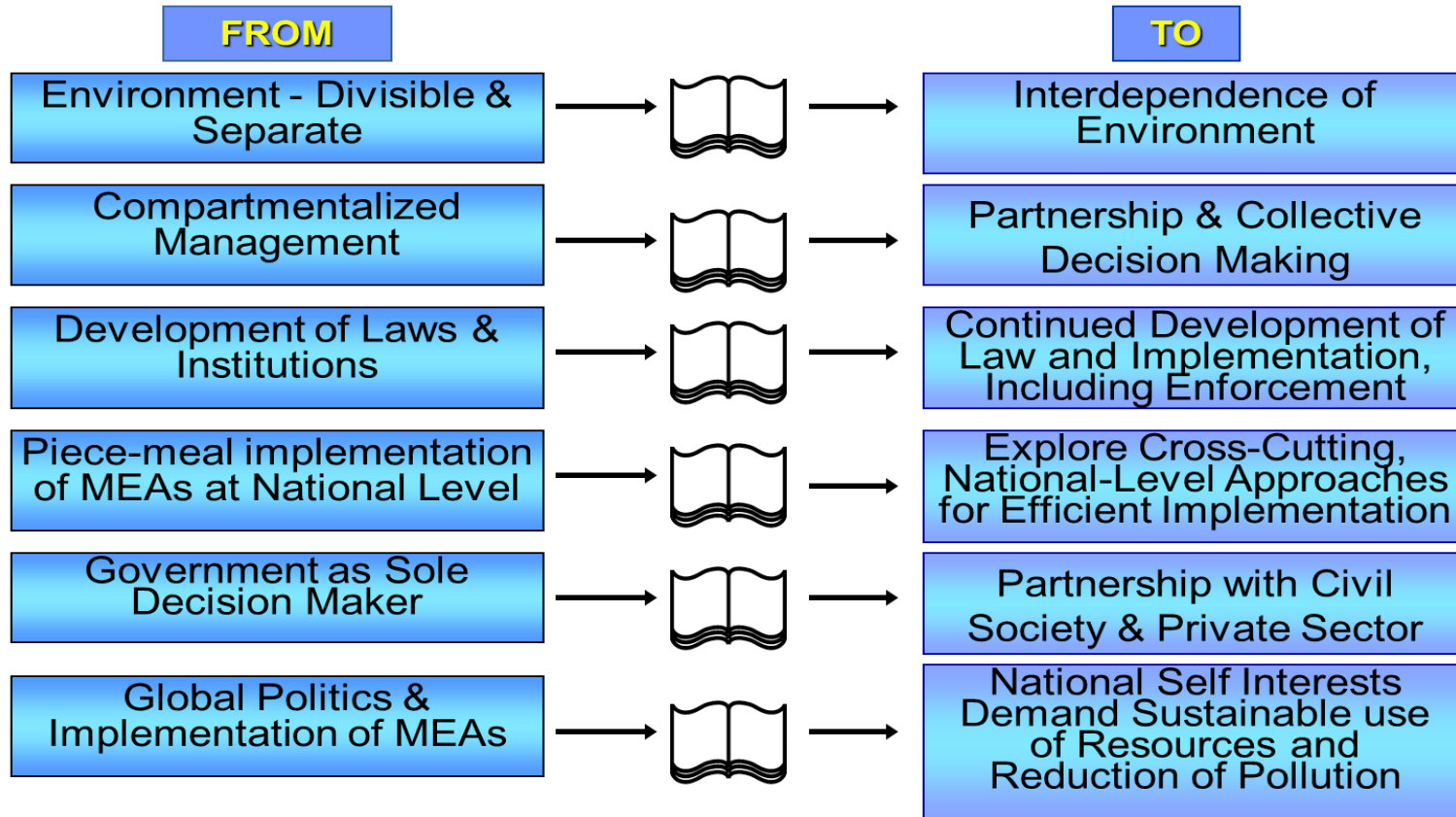
THE ROAD TO SUSTAINABLE DEVELOPMENT AS A COMMON CONCERN

- Experience within States
- The 1972 Stockholm Declaration
- The 1992 Rio Declaration
- The 2002 Johannesburg World Summit on Sustainable Development





Rio- Achieving a Mind-Shift





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JOHANNESBURG SUMMIT

- Recognized the 3 components of sustainable development: economic development, social development and environmental protection
- Good governance at the national level as a primary delivery vehicle for sustainable development





SELECTED CONCEPTS FROM THE RIO DECLARATION





Principle of Environmental law

Information

Participation

Sustainable development

Loi 216/93

Prevention

Precaution

Pollution pays principle

Loi 444/2002





PREVENTION

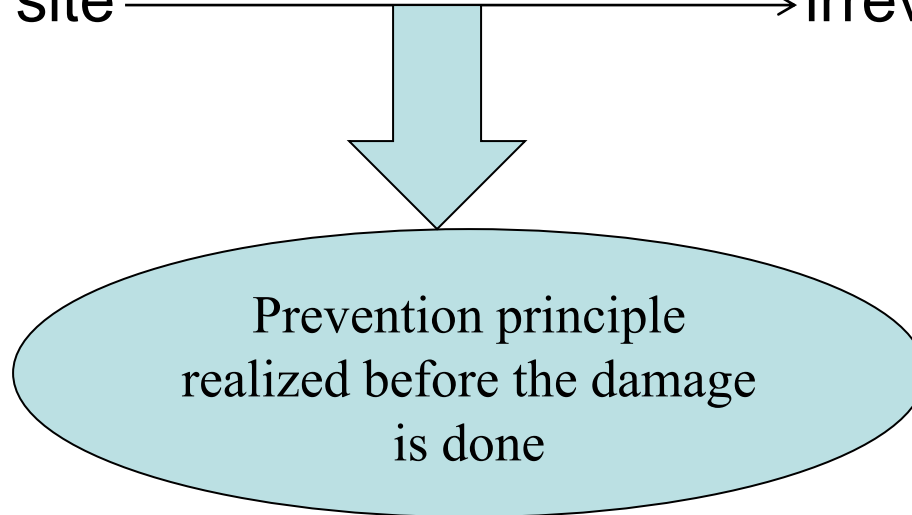
- Concept encouraging the prevention of damage to the environment and to reduce, limit or control activities which might cause or risk such damage
- Take action at an early stage, and if possible, before damage occurs





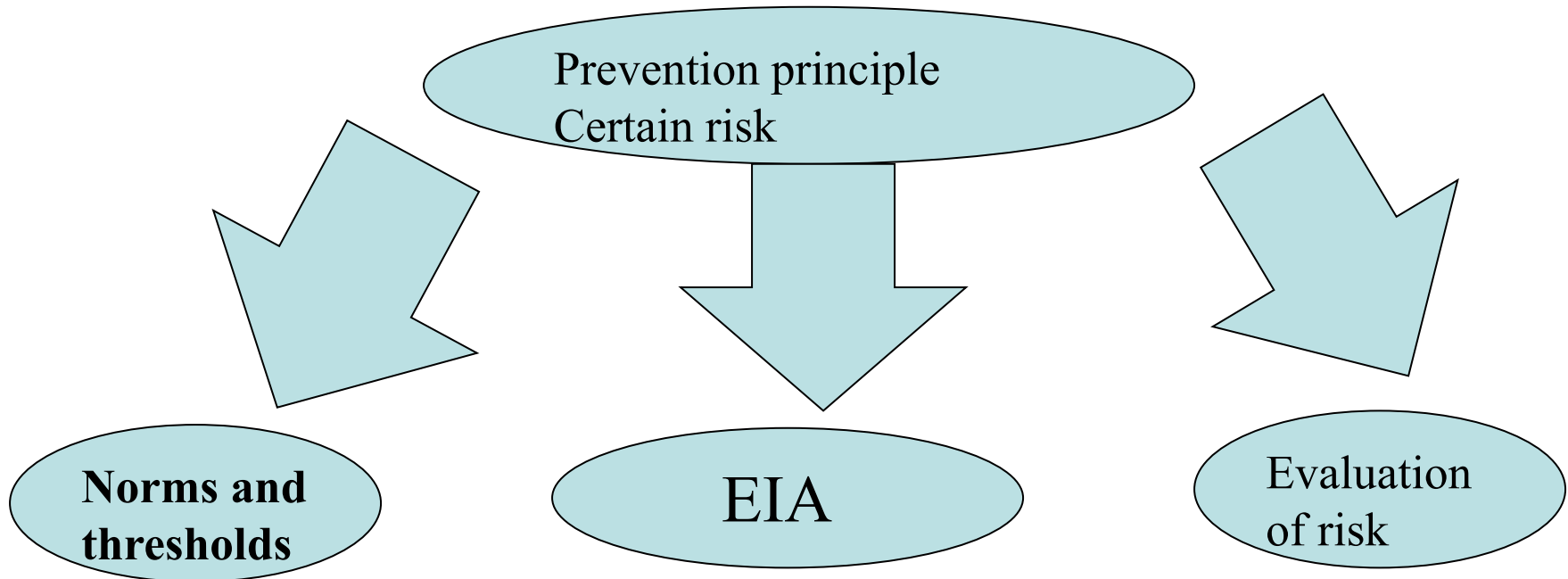
Scheme for prevention principle

- Initial site → irreversible damage





Tools for the application of Prevention principle





Threshold of emission and reception

Threshold of emission (industry)

Cares about transmitting agent possibilities to be controlled

Threshold of reception (Sea)

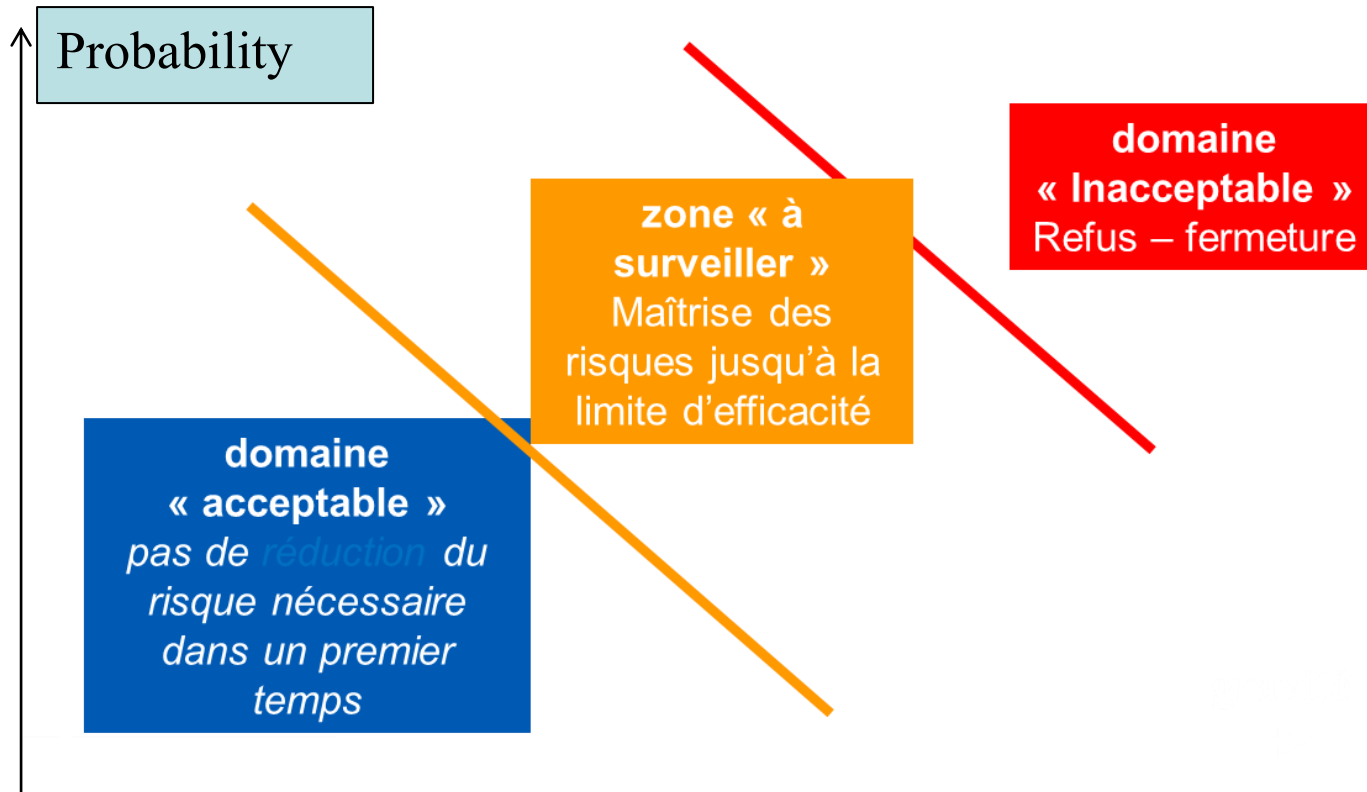
Cares about absorbing capacities of the receiving area to be protected.

Media quality





Main Risk Acceptability Principles Acceptability according to couple Probability - Gravity



gravity





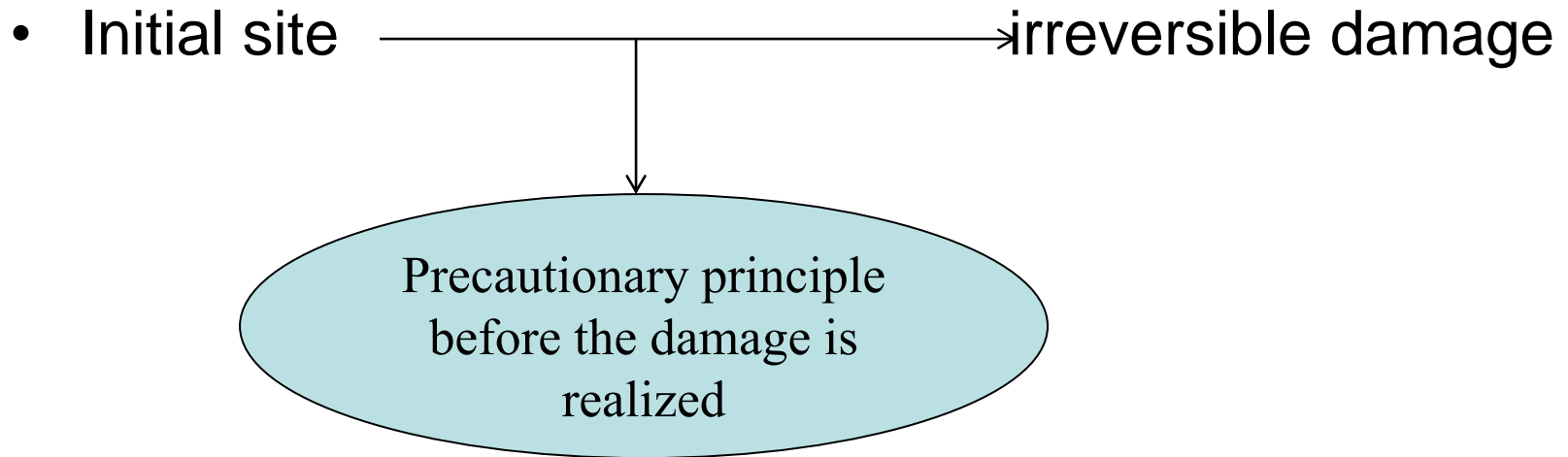
PRECAUTION

The precautionary approach aims to provide guidance in the development and application of environmental law where there is scientific uncertainty.



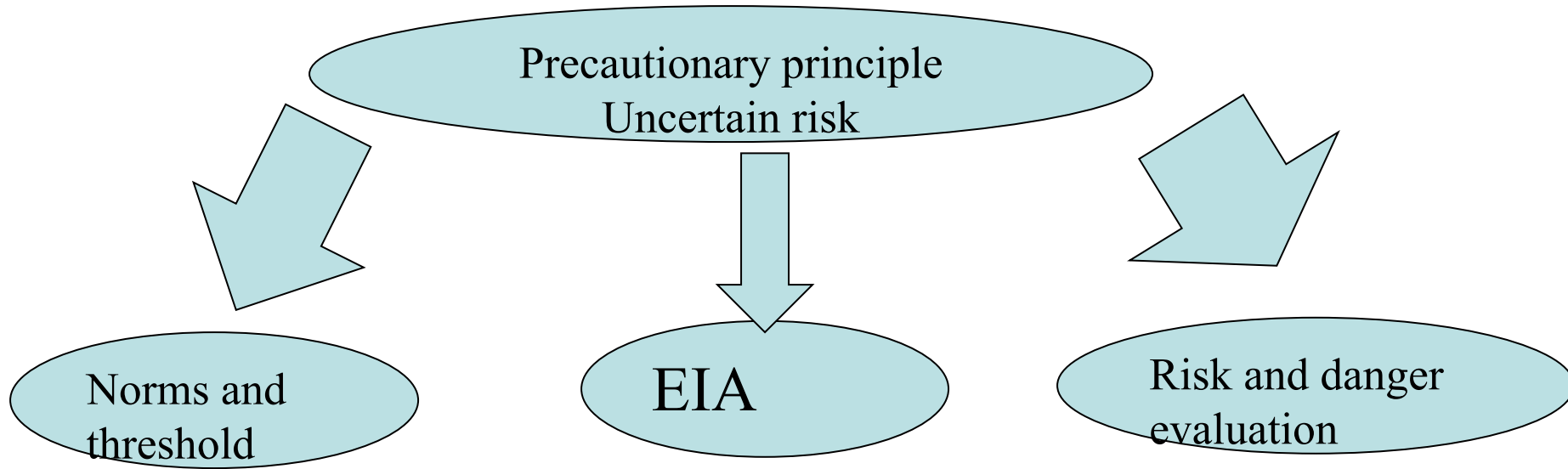


Scheme for precautionary principle





Tools for the application of Precautionary principle





ENVIRONMENTAL IMPACT ASSESSMENT

- Principle 17 Rio Declaration calls for all countries to use EIA in decisions on development
- The level of assessment depends on the potential for environmental harm
- Courts interpret and apply legislation on EIA





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POLLUTER PAYS

- Internalization of environmental costs
- As between the general public and the polluting enterprise, the polluter should pay for the consequences of its pollution





Scheme of polluter payer

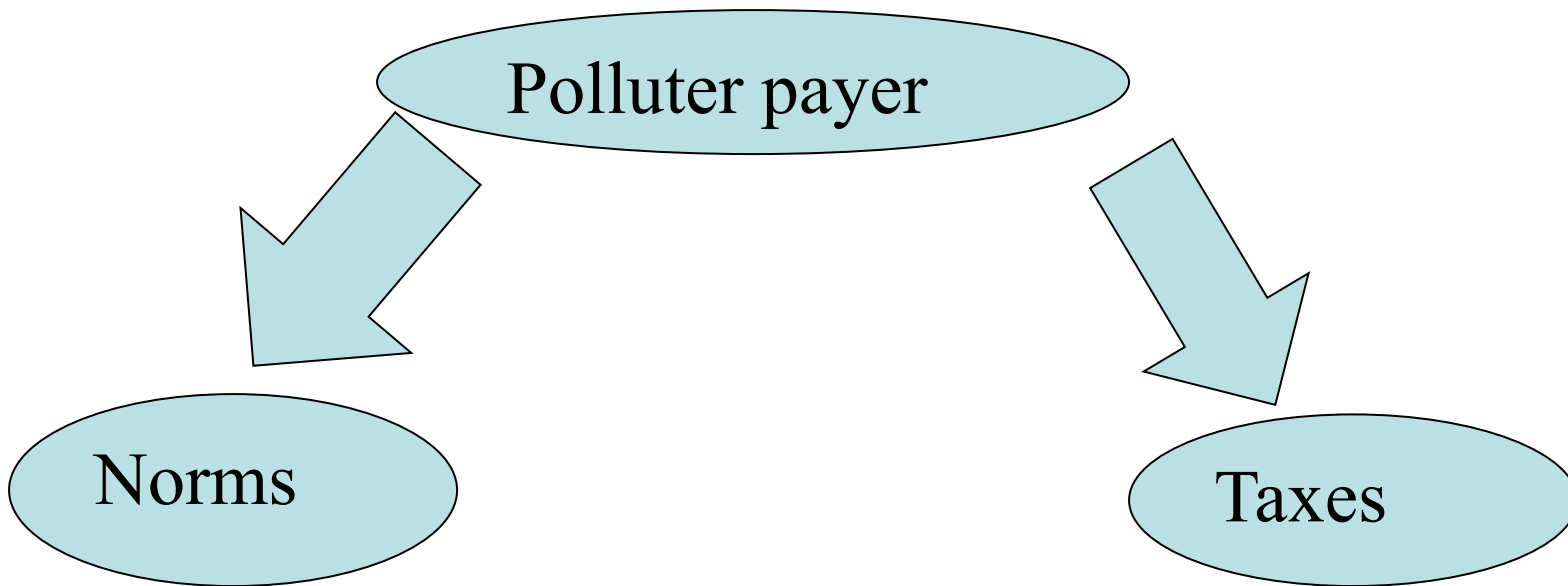
Initial site → irreversible Damage

Application of
polluter payer after
the damage is done





Tools for polluter payer application





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Objectives of polluter payer principle

- Reparations of the damages
- Change of the behavior





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ACCESS TO JUSTICE, PUBLIC PARTICIPATION AND INFORMATION

- In the wake of the Rio Declaration, the world has seen a shift in the direction of greater public access to environmental information and to the courts.





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INTERGENERATIONAL EQUITY

- “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”





ACCESS AND BENEFIT SHARING OF NATURAL RESOURCES FOR INDIGENOUS COMMUNITIES

- At the international and national levels, there has been increased recognition of the special needs by Indigenous and other local communities for access to benefits of the natural resources on which they rely for their livelihood and existence





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The Framework Act on Environmental Protection (No. 444 of 29/7/2002)

- This law sets out the general legal framework for the implementation of the national policy of environmental protection in order to prevent any kind of pollution and promote the principles of sustainable development.





Barriers to the development and enforcement of environmental laws in Lebanon

- Prerogatives and/ or no overlap between Ministries;
- Need complementary powers and responsibilities between different ministries – this is difficult to effect
- Policy priorities are to solve the economic deficit and on reconstruction after the war; thus, the environment is second on the list and the role of the Ministry of Environment remains a coordinating role





Barriers to the development and enforcement of environmental laws in Lebanon

- Need to raise the level of environmental awareness
- Limited expertise of public and private sectors in the development and application of environmental law
- Lack of decrees of application (EIE, NCFE)
- The application of sanctions requires awareness and an awakening of the administrations concerned





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Founder principle of environmental law:
Sustainable development





LEGAL ASPECTS OF SUSTAINABLE DEVELOPMENT

- Concepts of “environment” and “sustainable development” and their implications for law making
- Law as an instrument for promoting sustainable development
 - International law
 - National law
- New approaches and future areas of focus
- Special situation of developing countries- principle of common but differentiated responsibility.





SUSTAINABLE DEVELOPMENT - GOALS

- **IMPROVING THE QUALITY OF LIFE**
- **INTRA-GENERATIONAL EQUITY**
- **INTER-GENERATIONAL EQUITY**
- **CONSERVING THE EARTH'S VITALITY AND CARRYING CAPACITY**
- **INTERNALISATION OF ENVIRONMENTAL COSTS**
- **MAINTAINING CULTURAL AND SOCIAL FRAMEWORK**
- **HARMONIZATION OF GLOBAL AND NATIONAL ENVIRONMENT AND DEVELOPMENT GOALS**



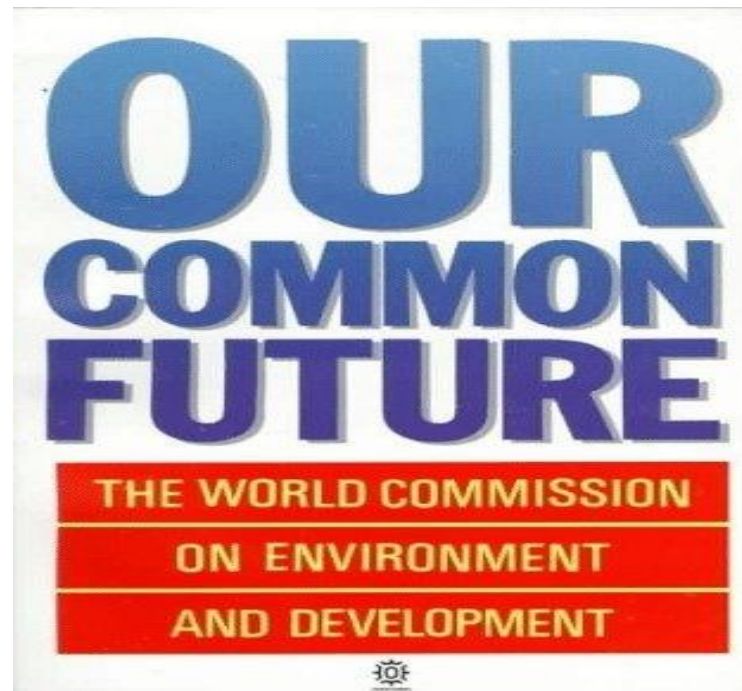


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WHAT IS "SUSTAINABLE DEVELOPMENT"

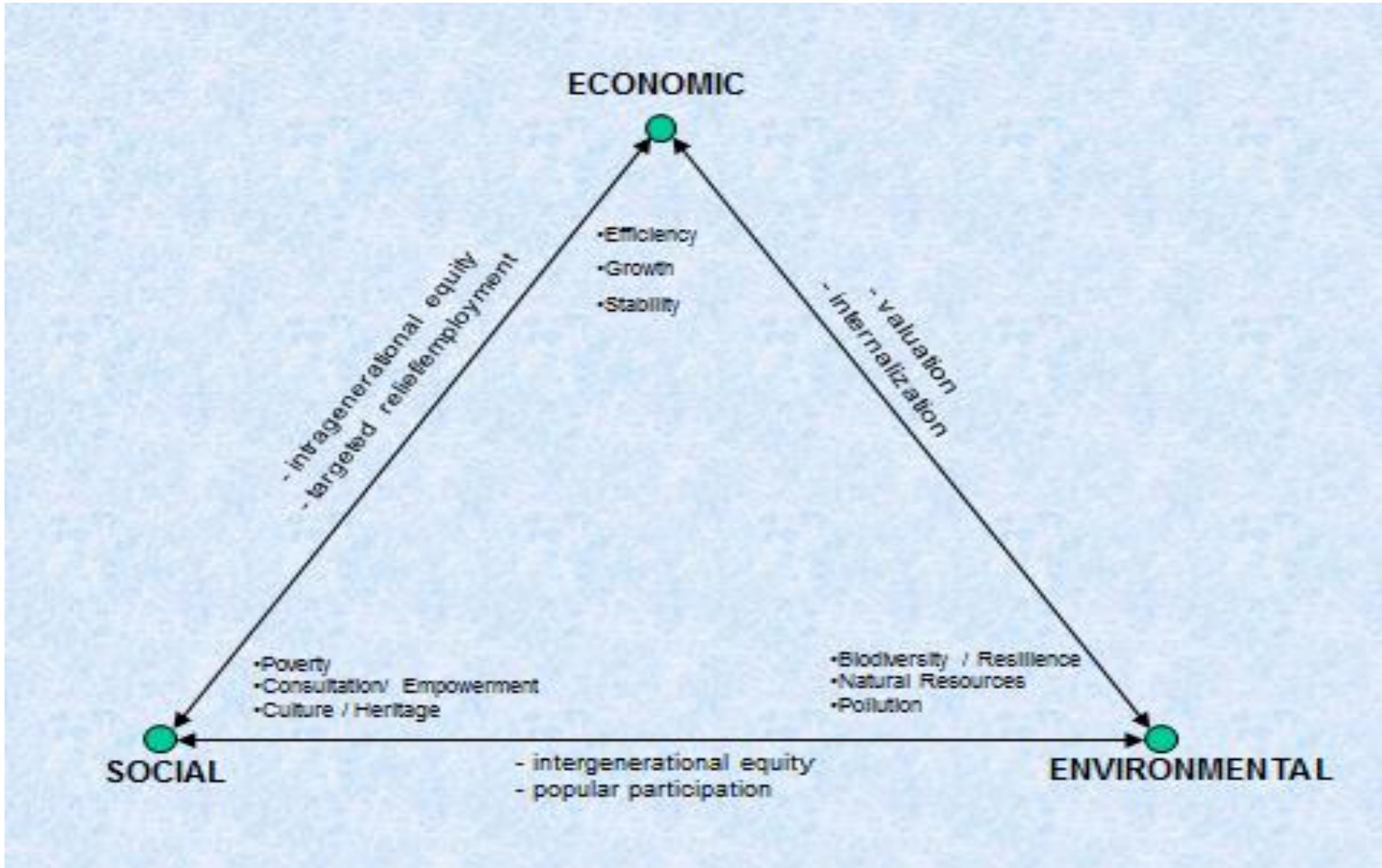
"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs"





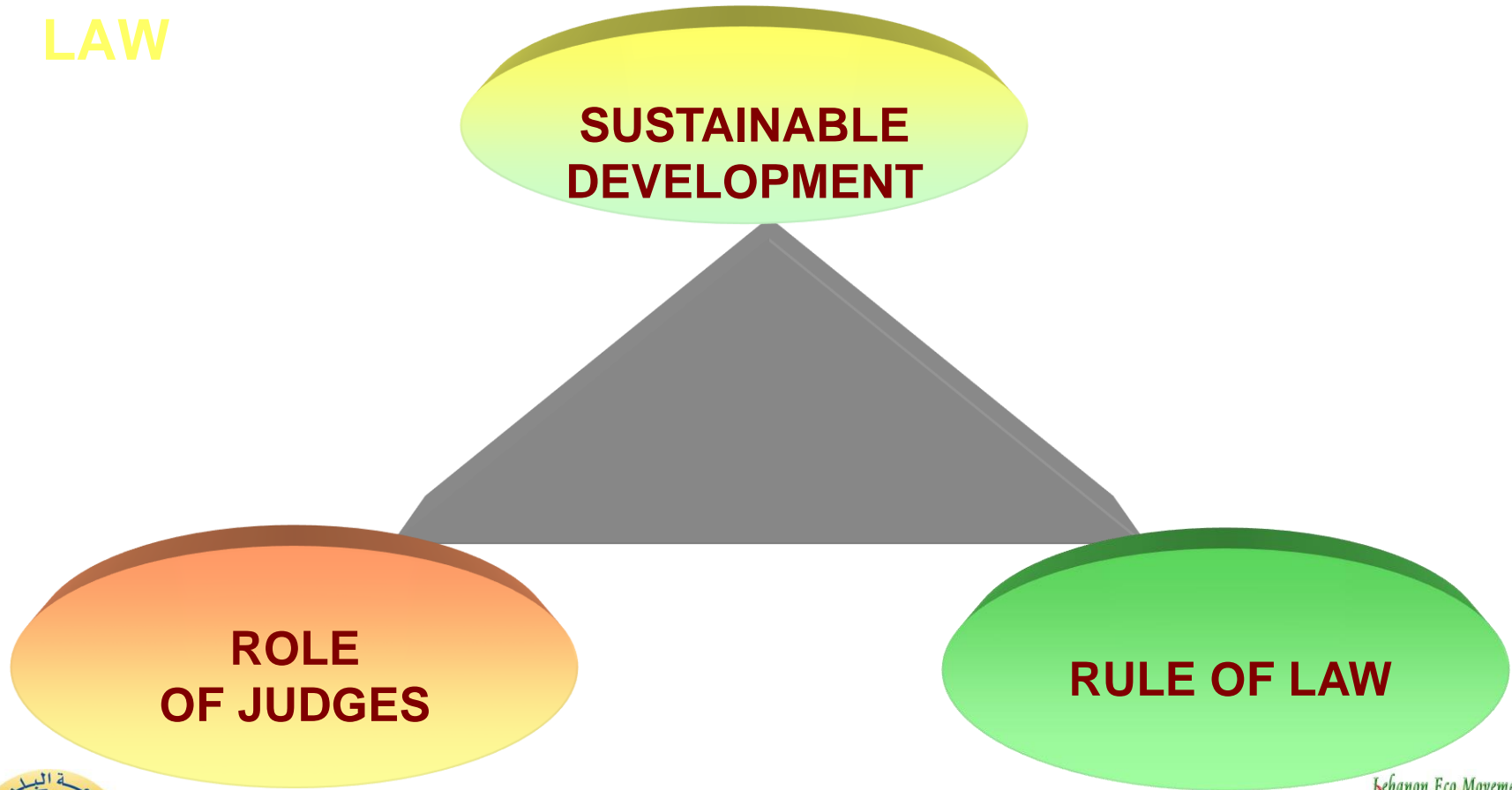
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SUSTAINABLE DEVELOPMENT AND THE RULE OF LAW





FUNDAMENTALS OF SUSTAINABLE DEVELOPMENT

- **INTRA-GENERATIONAL EQUITY-IMPROVING THE QUALITY OF LIFE**
- **INTER-GENERATIONAL EQUITY – MEETING THE NEEDS OF THE PRESENT WITHOUT COMPROMISING THE ABILITY TO MEET THOSE OF THE FUTURE**
- **COMMON BUT DIFFERENTIATED RESPONSIBILITY**
- **CONSERVING THE EARTH’S VITALITY AND CARRYING CAPACITY**
- **EQUILIBRIUM BETWEEN DEVELOPMENTAL AND ENVIRONMENTAL CONCERNS**
- **COUNTRY-SPECIFIC INCREMENTAL PROGRESS TOWARDS SUSTAINABLE DEVELOPMENT**





SUSTAINABLE DEVELOPMENT – GLOBAL EQUILIBRIUM

- AT LOW LEVELS OF DEVELOPMENT – ENVIRONMENTAL DEGRADATION LIMITED TO IMPACTS OF SUBSISTENCE ECONOMIC ACTIVITY

- AS ECONOMIC DEVELOPMENT ACCELERATES-
 - RATES OF RESOURCE DEPLETION EXCEED RATES OF RESOURCE REGENERATION
 - WASTE GENERATION INCREASES IN QUANTITY AND TOXICITY

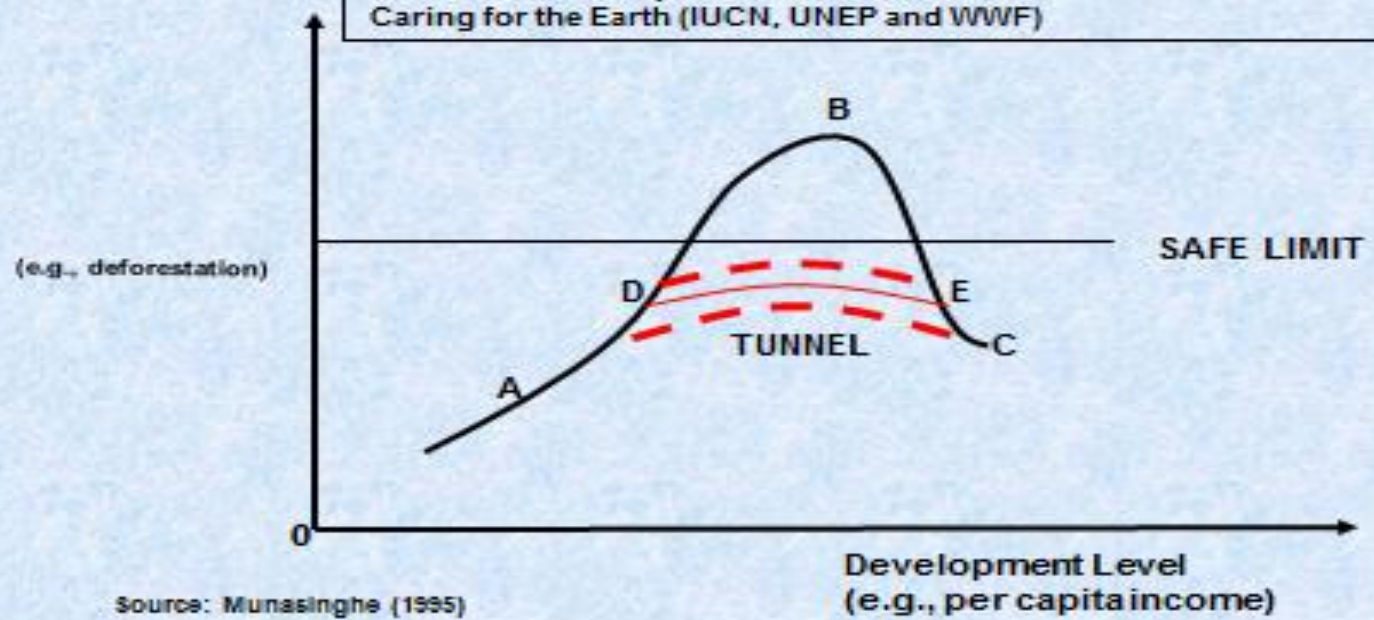
- AT HIGHER LEVELS OF DEVELOPMENT-LEVELLING OFF AND DECLINE IN ENVIRONMENTAL DEGRADATION, BROUGHT ABOUT BY:
 - INFORMATION-INTENSIVE INDUSTRIES AND SERVICES
 - INCREASED ENVIRONMENTAL AWARENESS
 - ENFORCEMENT OF ENVIRONMENTAL REGULATIONS
 - BETTER TECHNOLOGY
 - HIGHER ENVIRONMENTAL EXPENDITURE





Tunneling through the Environmental Kuznets Curve using Sustainable Strategies

ENVIRONMENTAL KUZNETS CURVE-
"In lower income countries faster economic growth is needed, for long enough to secure satisfactory standards of living to finance investment in both human development and environmental conservation"
Caring for the Earth (IUCN, UNEP and WWF)





FUNCTION OF LAW

- TRANSLATION OF POLICIES INTO ACTION
- CERTAINTY
- CONSISTENCY
- INSTITUTIONAL ARRANGEMENTS
- PROCEDURES
- FINANCES
- DISPUTE RESOLUTION
- IMPLEMENTATION OF INTERNATIONAL AGREEMENTS
- JUDICIAL REVIEW AND INTERPRETATION





ROLE OF LAW IN PROMOTING THE GOALS OF SUSTAINABLE DEVELOPMENT

– EVOLUTION

- CHARTER OF THE UNITED NATIONS
- STOCKHOLM DECLARATION
- BRUNDTLAND REPORT
- RIO DECLARATION

– PRINCIPLE 1- ENTITLED TO HEALTHY & PRODUCTIVE ENVIRONMENT

– PRINCIPLE 3- RIGHT TO DEVELOPMENT

– PRINCIPLE 7 - COMMON BUT DIFFERENTIATED RESPONSIBILITY





Rio Declaration (cont'd)

- ***PRINCIPLE 10-*** **ACCESS TO INFORMATION AND PUBLIC PARTICIPATION**
- **LAW AS INSTRUMENT FOR PROMOTING SUSTAINABLE DEVELOPMENT**
- ***PRINCIPLE 11-*** **ENVIRONMENTAL LEGISLATION**
- ***PRINCIPLE 13-*** **INTERNATIONAL LAW**
- ***PRINCIPLE 15-*** **PRECAUTIONARY APPROACH**
- ***PRINCIPLE 17-*** **EIA**
- ***PRINCIPLE 24-*** **INTERNATIONAL LAW**
- ***PRINCIPLE 27-*** **INTERNATIONAL LAW IN THE FIELD OF SUSTAINABLE DEVELOPMENT**





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INTERNATIONAL ENVIRONMENTAL LAW

– CONVENTIONS

- Global
- Regional
- Bi-lateral

– CUSTOM:

– GENERAL PRINCIPLES OF LAW-





NATIONAL ENVIRONMENTAL LAW

- ***REGULATORY SCHEMES***
 - ORGANIC ENVIRONMENTAL LEGISLATION
 - SECTORAL LEGISLATION
 - COMMON LAW
 - CASE LAW
- ***COMPLIANCE AND ENFORCEMENT***
 - CONSTRAINTS
 - OPPORTUNITIES





EMERGING LEGAL NORMS, PRINCIPLES AND CONCEPTS

- ***THREE LEVELS***
 - INSTITUTIONAL
 - PROCEDURAL
 - SUBSTANTIVE

- ***NORMS/PRINCIPLES/CONCEPTS***
 - .COMMON CONCERN OF MANKIND
 - COMMON BUT DIFFERENTIATED RESPONSIBILITY
 - GLOBAL PARTNERSHIP
 - PRECAUTIONARY APPROACH
 - INCENTIVE APPROACHES TO RESOURCE MANAGEMENT AND POLLUTION CONTROL





NEW APPROACHES

- ***PARTNERSHIP***
 - INTERNATIONAL LEVEL- GLOBALIZATION
 - NATIONAL LEVEL - MULTI-STAKEHOLDER PARTICIPATION
- ***ENVIRONMENT- HOLISTIC/ ECOSYSTEMIC***
- ***SCIENTIFIC UNCERTAINTY NO BARRIER FOR ACTION***
- ***INTERNATIONAL LAW MAKING- FRAMEWORK/PROTOCOLS***
- ***COMPLIANCE AND ENFORCEMENT- MORE DEMANDING/NEW MECHANISMS***
- ***GREATER RELIANCE ON SOFT-LAW***
- ***RECOGNITION OF REGIONALISM***





NEW APPROACHES (cont'd)

- ***RECOGNITION OF MULTIPLE LINKAGES-***
 - HUMAN RIGHTS
 - REFUGEES
 - RESETTLEMENT
 - POPULATION
 - POVERTY
 - CONSUMPTION
- ***EMPHASIS ON PREVENTION RATHER THAN SETTLEMENT/RESTITUTION***
- ***EMPHASIS ON PUBLIC PARTICIPATION/AWARENESS AND EDUCATION***



INCENTIVE-BASED COMPLIANCE RATHER THAN COMMAND-AND-CONTROL





NEW AREAS OF FOCUS

- ***ENVIRONMENT AND INTERNATIONAL CRIME***
- ***ENVIRONMENT AND TRADE***
- ***BROADER RANGE OF INSTRUMENTS INCLUDING ECONOMIC INSTRUMENTS***
- ***COMMON BUT DIFFERENTIATED RESPONSIBILITY***
 - IMPLEMENTATION BY DEVELOPING COUNTRIES' CONDITIONAL ON IMPLEMENTATION BY DEVELOPED COUNTRIES
 - TRANSFER OF TECHNOLOGY
 - NEW AND ADDITIONAL RESOURCES





NEW AREAS OF FOCUS (cont'd)

- ***GLOBALIZATION***
- ***COMPLIANCE AND ENFORCEMENT***
- ***PARTNERSHIP***
- ***CHANGING ATTITUDES- CONSUMPTION AND PRODUCTION***
- ***VOLUNTARY MEASURES***
- ***ENVIRONMENTAL AUDIT***
- ***ENVIRONMENT, FOREIGN INVESTMENT AND PRIVATIZATION***





COMMON BUT DIFFERENTIATED RESPONSIBILITIES: Special Situation Of Developing Countries

- ***UN CHARTER-***

- ***OBJECTIVES:***

- INTERNATIONAL PEACE AND SECURITY
- FRIENDLY-RELATIONS AMONG NATIONS
- INTERNATIONAL COOPERATION IN SOLVING PROBLEMS, RESPECT FOR HUMAN RIGHTS AND NON-DISCRIMINATION
- CENTRE FOR HARMONIZING INTERNATIONAL ACCUSATIONS





COMMON BUT DIFFERENTIATED RESPONSIBILITIES:

(cont'd)

– **LINKAGES TO SUSTAINABLE DEVELOPMENT**

- CONDITIONS OF STABILITY AND WELL-BEING NECESSARY FOR PEACEFUL RELATIONS
- PROMOTE HIGHER STANDARDS OF LIVING, FULL EMPLOYMENT, AND CONDITIONS OF ECONOMIC AND SOCIAL PROGRESS AND DEVELOPMENT
- INTERNATIONAL PEACE AND SECURITY REQUIRES STABLE SOCIO-ECONOMIC DEVELOPMENT
- NEW DEVELOPMENT PARADIGM: MEET NEEDS OF PRESENT GENERATION WITHOUT COMPROMISING DEVELOPMENT OF FUTURE GENERATIONS
- STABLE SOCIO-ECONOMIC DEVELOPMENT REQUIRES DEVELOPMENT THAT IS SUSTAINABLE



PEACE, DEVELOPMENT AND ENVIRONMENTAL PROTECTION ARE INTERDEPENDENT AND INDIVISIBLE





COMMON BUT DIFFERENTIATED RESPONSIBILITIES:

(cont'd)

- **RIO DECLARATION**

- PRINCIPLE 5- POVERTY ERADICATION AND DECREASE DISPARITIES IN STANDARDS OF LIVING TO BETTER MEET THE NEEDS OF THE MAJORITY OF THE PEOPLE OF THE WORLD
- PRINCIPLE 6- SPECIAL SITUATION OF DEVELOPING COUNTRIES
- PRINCIPLE 7- COMMON BUT DIFFERENTIATED RESPONSIBILITIES
- PRINCIPLE 11- ENVIRONMENTAL STANDARDS

- **CONVENTIONS**

- BASEL CONVENTION
- MONTREAL PROTOCOL
- BIODIVERSITY CONVENTION
- CLIMATE CHANGE CONVENTION AND KYOTO PROTOCOL
- DESERTIFICATION CONVENTION
- PIC CONVENTION
- POPs: NEGOTIATING TEXT OF CONVENTION





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COMMON BUT DIFFERENTIATED RESPONSIBILITIES:

(cont'd)

- **ISSUES**

- PARTNERSHIP PRINCIPLE
- POLLUTER PAYS PRINCIPLE
- CONDITIONAL IMPLEMENTATION
- TRANSFER OF TECHNOLOGY
- NEW AND ADDITIONAL FINANCIAL RESOURCES





RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

- Ppl. 1. Entitled to a healthy environment
- Ppl. 2. Sovereign rights over natural resources/Maxim Sic utere tuo et alienum non laedas
- Ppl. 3. Inter-generational equity
- Ppl. 4. Integration of environment and development
- Ppl. 5. Poverty
- Ppl. 6. Special situation of developing countries
- Ppl 7. Global Partnership
- Ppl 8. Production and Consumption
- Ppl 9. Capacity Building and transfer to Technology
- Ppl 10. Access to Information
- Ppl 11. Country-specific legislation
- Ppl 12. International trade-avoid unilateral action





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RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

- Ppl 13. Liability/compensation for victims
- Ppl 14. Transfer of environmentally damaging activities and substances
- Ppl 15. Precautionary approach
- Ppl 16. International of Environmental costs
- Ppl 17. EIA
- Ppl 18. Emergencies – Notification
- Ppl 19. Transboundary effects
- Ppl 20. Role of Women
- Ppl 21. Role of youth
- Ppl 22. Indigenous people
- Ppl 23. People under oppression
- Ppl 24. Warfare
- Ppl 25. Peace/development and environment
- Ppl 26. Peaceful settlement of disputes
- Ppl 27. Further development of international law in the field of sustainable development





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Environmental Impact Assessment: Policy, Law and Practice





OUTLINE

- Background
- Environmental Impact Assessment
- Some Historical Perspectives of EIA
- Policy Initiatives
- EIA Legislation
- The Place of Case Law in EIA
- Some Elements and Practices
- Strategic Environmental Assessment





Environmental Impact Assessment

- What is Environmental Impact Assessment (EIA)?
 - Assessment of the potential impacts (negative and positive) that a project or an activity could have on the environment
- EIA as a planning tool
 - To plan for manufacturing, industrial, residential, infrastructure, etc so as to avoid or manage any adverse effects to the environment
- EIA as a management tool
 - To effectively manage the potential impacts of development and human activities on the environment





Some Historical Perspectives of EIA

- EIA evolved systematically from the general principles of environmental management.
- From Stockholm (1972) to Rio (1992):
 - Principles 2, 4 & 12 of Stockholm Declarations prescribes careful planning of economic development and incorporating environmental safeguards into national development planning
 - Principle 17 of the Rio Declaration on Environment and Development provides thus:

“Environmental Impact Assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a component national authority”.





EIA Policy Initiatives

- Development of national environmental laws and policies institutionalised EIA policy.
- EIA introduced a systematic preventive approach in environmental management.
- EIA policy implemented by governments, multilateral agencies such as the World Bank, Asian Development Bank, African Development Bank, etc.
- EIA and Environmental Auditing as twin policies.
- Public participation in EIA process.
- Citizens right to know about any project or activity likely to have adverse effect on the environment before such project or activity commences





EIA Legislation (1)

- Approach to EIA Legislation differ from country to country:
 - Some countries included the provisions on EIA in their framework environmental laws
 - Some countries have specific legislation on EIA
 - Some countries have provisions on EIA in the framework environmental law and still enact specific EIA legislation (Acts, Regulations, Guidelines, etc.)





EIA Legislation (2)

- Some elements in EIA legislation:
 - Making EIA mandatory for selected developmental projects
 - List of projects or activities requiring EIA
 - Setting of guidelines and procedures for conducting EIA
 - Establishing or designating institutional arrangements for EIA's approval, issuing of licence or permit
 - Decision making, review processes & appeals
 - Sanctions in the event of non-compliance with EIA Laws and regulations





Some Elements and Practices (1)

- EIA regulations, guidelines and procedures prescribe specific requirements and approaches for carrying out EIA in each sector of the economy.
- Sectors that are sometimes addressed specifically due to their peculiarities include the oil and gas, mining, manufacturing, agriculture, construction, etc.





Some Elements and Practices (2)

- Scoping for extent of EIA to be undertaken
- Sourcing of baseline data and ground truthing
- Conducting EIA and preparation of EIA reports
- Internal review of EIA reports by regulatory body
- Public participation (public hearing, public review of EIA reports and stakeholders consultation)
- Analysis of the reports for compliance with EIA regulations, guidelines and standards





Some Elements and Practices (3)

- Design of Impacts and Mitigation Profile of the project. The profile will specify and address:
 - Residual impacts
 - Mitigate-able impacts and non-mitigate-able impacts
- Implementation Plan for Mitigating Measures
- Environmental Monitoring Systems (EMS)
- Environmental Auditing (EA)
- Decommissioning plan
- Approval, issuing of EIA permit, licence or Environmental Impact Statement (EIS)





Strategic Environmental Assessment (SEA) (1)

- Strategic Environmental Assessment (SEA) is a process whereby strategic policies, plans and programmes are assessed with a view to identifying their environmental consequences before they are adopted for implementation
- Sometimes, the environmental consequences of policies and programmes may not be very glaring. But if SEA is carried out, such consequences might be identified.





Strategic Environmental Assessment (2)

- Policies on taxation, loans and certain micro-economic policies are capable of having consequences on production and consumption patterns, wastes generation, etc.
- Environmental authorities, technical experts and the general public can give their opinion and all results are integrated and taken into account in the course of the planning or policy formulation process.





EIA and Environmental Auditing

- Environmental Auditing is carried out after commissioning of a project or activity to determine the level of pollution or damage to the environment by comparing the baseline data vis a vis the changes in the environmental media as a result of the project or activity
- EIA has a strong link with environmental audit
- Post-impact monitoring is very crucial to the success of EIA process
- Where no EIA was conducted before commissioning of a project, environmental audit can be used to determine the adverse impacts and mitigating measures
- Environmental auditing is both a legal requirement and an internal or self-monitoring tool to assist industries or the regulated community in compliance with environmental standards and regulations





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Responsibilities

- Private Petitioner
- State represented by the ministries : Responsible for checking content (background and form) before declaring that the file is complete and the application for authorization is admissible





Steps of Environmental impact assessment

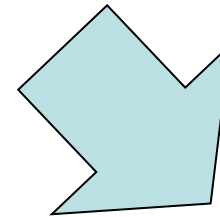
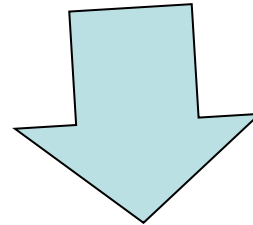
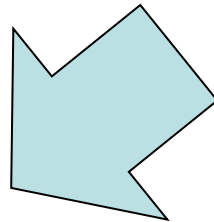
- The impact study is conducted according to **seven sequences**
 1. Involving the public in planning decisions
 2. Carry out a preliminary framing to identify the environmental issues
 3. Define planning parties and variants
 4. Analyze the initial state of the site and its environment
 5. Evaluate the effects of the project on the environment
 6. Remove, reduce or compensate for adverse effects
 7. Monitor the effects after completion





Sequence 1: Involving the public in planning decisions

Tools



Public
debate

Preliminary
consultation

Public
survey





Sequence 2 : preliminary framing to identify the environmental issues

- defining the study area on a judiciously chosen territory
- Define the main environmental issues
- select the components of the environment to be studied
- Provide elements for the specifications of the impact assessment





Sequence 3 : Define planning parties and variants

- In order to draw up a project, the contracting authority usually considers several planning parties, then different variants of the selected party and takes into account technical, economic and environmental differences.
- The environmental assessment, which consists of assessing the environmental effects of each party and then of each variant, and comparing them, gives them equal opportunities to refer to environmental parameters in order to evolve their project.





Sequence 4: Analyze the initial state of the site

- The objective of the analysis is to define, prior to development, the reference state of the site and its environment, which will serve as the basis for the environmental assessment.
- it was necessary to decompose the notion of "environment" into components, constituting a set of interrelated concerns. Ex of components: Fauna and flora, water, soil.





Sequence 5: Evaluate the effects of the project on the environment

It allows the private petitioner to:

- Test comparatively the planning parties and the variants envisaged
- Thoroughly analyze the consequences of the selected project on the environment to ensure that it is globally acceptable.

The analysis should include:

- Direct effects
- Indirect effects
- Temporary effects
- Permanent effects





Sequence 6 : Remove, reduce or compensate for adverse effects

Progressive approach

Remove

Reduce

Compensate





Sequence 7: Monitor the effects after completion

- The environmental impact assessment does not stop at the completion of the impact assessment and the obtaining of authorization to carry out the work.
- It must accompany the project in its implementation phase.
- The purpose of this analysis or monitoring is, in particular, to verify whether the conditions set out in the authorization texts are complied with.





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Submitted or not to an environmental impact study

- Law 444/2002
- Decree 8633/2012
- Annex 1, Annex 2 and annex 3





Objectives of decree 8633/2012

- The purpose of this decree is to determine the mandatory assets to be followed in order to assess the potential environmental effects of any proposed draft policy, plan, program, study, investment or organization for a full Lebanese area
- Or a whole sector of activity with the aim of confirming the suitability of these projects to public health and safety, environmental protection and sustainability of natural resources





Annex 1: Projects requiring an environmental impact assessment report

- Irrigation and drainage
- Domestic Water
- Waste water
- Agriculture and forestry
- Construction of bridges, bridges, railways and tunnels
- Generating and supplying power
- Establishment of airports and ports
- Oil and gas





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Annex 2: Projects requiring a preliminary environmental inspection report

- Irrigation and drainage
- oil and gas
- Tourism and leisure projects
- Farms ranked first and second
- Warehouses or containers of hazardous materials





Annex 3: Environmentally sensitive areas

- Protected areas, natural reserves, natural forests, wetlands, important areas of birds, public parks, natural sites, tourist sites, historic sites, or the sanctuary of rivers, springs or holy places.
- Areas that are home to endangered species of animals and plants
- The swamps
- Sea coasts and streams of rivers and springs





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Law 444/2002 : Law for the protection of Environment





Provisions of the Environmental law 444/2002

- Legal recognition of the main principles currently recognized in environmental law: Articles 3, 4 and 5 of the Code have recognized the following environmental principles:
- The right of everyone to a stable and healthy environment with an obligation to protect the environment and ensure the needs of present generations without compromising the rights of the new generations (Article 3).
- Implementation of all the environmental principles : Prevention, Precaution, polluter pays....(Article 4 and 5)





Institutional organization

Planning for the environment.

- Article 5 §1 required the Minister of the Environment to draw up a basic plan for the protection of the environment on the proposal of the National Environment Council.
- This plan, which is amended every two years, is approved by decree of the Council of Ministers on the proposal of the Minister of the Environment.
- Decree promulgated in 2021





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The National Council of the Environment

- Articles 6 and 7) of the Environment Code provided for the establishment of the Council, its composition and the tasks assigned to it.





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Funding for environmental protection

- Establishment of the National Environment Fund
- Decree not promulgated till now





Establishment of an environmental information management system.

- Article 14 of the Environment Code established the principle of the environmental information management system and its protection under the patronage of the Ministry of the Environment.
- The organization of this system will be carried out by a decree adopted by the Council of Ministers on the proposal of the Minister of the Environment and after consultation with the National Council of the Environment.
- In particular, Article 15 of the Code stipulates that the Ministry of the Environment shall ensure the establishment of the information, consultation and warning mechanisms provided for in the international and regional conventions ratified by Lebanon.
- Decree not promulgated till now "





Incentives measures

are among the tools available to administrations and public institutions to motivate individual citizens or private associations and corporations to support activities and efforts to protect the environment .

Article 20 of the Code, in addition to the possibility granted to the Council of Ministers on the proposal of the Ministers of the Environment and Finance and the ministers concerned to adopt any other economic or financial incentive (Article 20 (3)), provided the following with regard to incentives measures:

- The use of equipment and technologies to prevent, reduce and eliminate all forms of pollution and to recycle, re-use and treat waste may result in tax reductions and tariffs and Tax credits.
- Any person, whether natural or legal, undertaking activities such as research, prevention, conservation or promotion, with a view to promoting environmental protection, may benefit from tax reductions or exemptions under conditions and In accordance with the terms and conditions set out in the decree referred to in section 15 of the Code.





Environmental impact assessment

- Article 21 of the Code stipulates that all concerned persons in the public and private sectors must carry out an environmental impact assessment of projects threatening the environment because of their size, nature and impact or their activities.
- The Minister of the Environment is responsible for reviewing and approving the studies after verification of compliance with environmental safety conditions and the sustainability of natural resources.
- Article 23, for its part, provided that the minutes for the application of Title 4 (Articles 21 to 23) relating to the environmental impact assessment and the determination of the list of projects subject to environmental impact assessment will be determined by a decree issued by the Council of Ministers on the proposal of the Ministers of the Environment and Finance.
- **Finally the decree is promulgated in 2012**





Protection of environmental sectors

- The protection of the atmosphere and the fight against unpleasant odors (Articles 24 to 28)
- Protecting the coastline and the marine environment from pollution (articles 29 to 31)
- Protection of the hydraulic environment against pollution (articles 35 to 37)





Protection of environmental sectors

- Protection of the physical environment and subsoil (articles 38 &39)
- Classified installations and establishments(articles 42and 43)
- Chemicals, hazardous and / or toxic (articles 44&45)
- Noise(article 46)
- Management of natural resources and biodiversity conservation (article 47)
- Natural hazards and disasters (article 50)





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Protection of environmental sectors problems

- Decree of application not promulgated till now





Responsibilities and sanctions

- Those responsible for any damage caused to the environment by work carried out without authorization or without complying with legal and regulatory provisions, in particular those relating to environmental impact assessments, are obliged to take all Measures to eliminate the injury (article 51)
- Every operator of a classified installation or any user of chemical, toxic and / or dangerous substances shall take out insurance against any risk of harm to the environment (article 53)





Penal sanctions

Article 58 provided:

- Prison of one month to one year and a fine of 25 million to 100 million Lebanese pounds is punishable to every person:
- which would carry out a project requiring an EIA without drawing up this study or submitting it to the Ministry of the Environment and the ministries and administrations concerned.
- Who would carry out a project without complying with the requirements of the environmental impact assessment that would have been approved by the Ministry of the Environment and the relevant ministries and administrations.





Penal sanctions

- Article 59 provided that,
- notwithstanding the provisions of Law 64/88 of 12/8/1988, a prison sentence ranging from 1 month to one year and a fine of 2 to 10 million pounds A person who fails to comply with the provisions of the Code and its implementing legislation for the protection of the air, marine environment, water resources, soil and subsoil. The penalties are doubled in the case of recidivism.





CONCLUSIONS

ENVIRONMENT IS NOT A SECTOR BUT A DIMENSION OF EVERY SECTOR

ENVIRONMENTAL LAW IS INHERENTLY TRANSDISCIPLINARY

WHILE THERE ARE COMMONALITIES, ENVIRONMENTAL LAW MUST BE SEEN WITHIN THE BROADER SYSTEM OF LAW OF WHICH IT IS PART

COMPARISONS OF ENVIRONMENTAL OUTCOMES UNDER DIFFERENT LEGAL SYSTEMS CAN BE INSTRUCTIVE

DEPENDING ON THE JURISDICTION, AWARENES OF BOTH NATIONAL AND INTERNATIONAL ENVIRONMENTAL LAW MAY BE IMPORTANT





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Thank you



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