

Teaching Environmental Law: Sustainable Environmental Law for Sustainable Development

By:

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Environmental Law

The need to preserve the environment and the effective and urgent implementation of a sustainable development model, is a concern of our present society and thus reflected in the law.

The environment is a complex interacting system. Natural resources, human resources transforming those natural resources into cultural ones, and the waste generated by this transformation are permanently interacting and conditioning each other.

We know that the law is a useful tool to limit and monitor rational behavior. In that sense, there has been an evolution of the law in the consideration of the environment: from the regulation of each natural resource - air, water, forests, animal species, soil, mineral deposits... - towards a comprehensive and dynamic regulation of the environment as a system.

Environmental Law is a complex body of conventions, treaties, laws and rules that regulates the interaction of human kind and nature. Environmental rules operate on human activities with the purpose of minimizing impacts on the environment in order to ensure ecological equilibrium and preserve human health in a general context that seeks sustainable development.

These preliminary remarks are meant to ask ourselves this question:

Can Environmental Law help us to achieve Sustainable Development?

The answer is that it will, only if environmental law is also sustainable. So we say that the regulations should be sustainable.

A rule is sustainable when it is well founded, considering that it can and must be complied with. Rules are sustainable when they are coherent and harmonized with other rules on the matter, when they are current or can be updated. In order to be sustainable, rules must be clear and based on reality.

An environmental rule is consistent when it is in line with the context, and when its mandate is flexible enough so as to enable necessary adjustments arising from the interactions of the actors involved in the issues it covers.

Another important aspect to take into account is that environmental regulation should be consistent with economic opportunities for society, the private sector and the State, so that each may fulfill their respective roles relating to compliance.

Let us note that the rule is not enough to change the human behavior it seeks to regulate, and also that a complex body of too many rules does not guarantee effectiveness. It is also essential to have informed, educated and committed people.

Environmental regulation has to be thought as a process that legitimizes both the needs and the roles of the subjects involved in the process it rules, and on the other hand, it has to clearly set up the steps, instruments and mechanisms to be implemented and carried out in order to reach the very purpose of the rule. And its objective must be understood in a holistic and comprehensive framework which identifies the goals, the actions to achieve those goals, and the measurable results.

Environmental rules should be coordinated with the authorities who have responsibilities related to the mandate they establish, in concert with the private sector and should certainly also include input from society.

But ... unfortunately, environmental regulations sometimes reflect objectives of the legislator or those involved in drafting the text of the rule. And in many cases, passing the rule is the only purpose taken into account without assessing the impact that the rule may have on the reality it attempts to regulate. Those who have in their hands the responsibility of drafting environmental rules must face the essential challenging responsibility to provide them with all the attributes to be effective tools to achieve sustainable development.

We may so conclude that only Sustainable Environmental Law will allow us to achieve this much desired development that guarantees the satisfaction of present needs without compromising those of future generations.

Teaching Environmental Sustainable Law

Students of law schools become lawyers. Lawyers become legislators, judges, private practitioners, public administrators, policy makers, educators, researchers ...

As regards the environment, we need these lawyers to be very well informed and formed, aware of real problems and most of all committed. They need to be creative and willing to find solutions, working together with the assistance of other disciplines in order to find good and durable solutions or, what is even better: to prevent and avoid consequences.

So we need special different lawyers working ahead of time, not waiting for bad things to happen and damage to occur, because it will then be too late.

What I am trying to say is that we must not be afraid to adequate the way of teaching law at law schools when we are teaching environmental law.

The changes must be focused on:

- generating special and personal interest in the issue based on reality,
- reviewing problems: the daily and local ones and those global that affect beyond the place they occur
- understanding the need of working with other disciplines

- knowing that environmental problems have extended consequences- “pollution moves” is not a myth
- analyzing case studies in the context of real disputes
- modeling possible cases and planning preventive solutions
- strengthening the importance of research
- identifying roles and preventive measures for the next steps in their career, as legislators, judges, public administrators, policy makers, private practitioners, educators

In order to set forth the changes, I propose:

- ✓ Debates on daily environmental news: brief introduction with current facts by the teacher and active participation of the students in the discussion of the issue. Students are encouraged to play different roles and apply the regulation. If the regulation has already been analyzed in previous classes students should know it; if not, it will be introduced by the teacher
- ✓ Simulation of cases: the cases may be brought by the teacher or the teacher may ask the students to prepare a case based on research. Students should be capable of understanding and evaluating the consequences that could have been avoided. Students should be able to design planning strategies in order to prevent future similar situations
- ✓ Comparative analysis of jurisprudence: different pronouncements in the same issues, identifying evolution and effectiveness of decisions
- ✓ Comparative analysis of international treaties in different environmental issues trying to enhance the effectiveness of each one by relating them
- ✓ Participation of specialists of other disciplines: key topics developed from another perspective. The teacher should bring to the students the relationship between the discipline introduced and the rules to apply in different situations
- ✓ Environmental Law Clinics
- ✓ Environmental Law Moot Court Competitions

Conclusion

Some issues I would like to highlight:

- Environmental law should be taught as a complex body that operates on human activities with the purpose of minimizing impacts on the environment, in order to ensure ecological equilibrium and preserve human health in a general context that seeks sustainable development.
- Environmental law is Interdisciplinary

- The teaching of environmental law needs to be thought from a comprehensive perspective that will ensure its application in all areas of legal activity, both public and private.
- Students of environmental law have to learn not only the current law but also understand the causes and consequences of environmental problems as well, in order to evaluate and analyze different alternatives to avoid damage.
- Environmental lawyers need to be problem solvers, need to anticipate the problems, need to avoid litigation, need to prevent, and need to work on strategic planning.
- We must always bear in mind that, regarding environmental issues, when we are faced with litigation, it is too late because damage has already occurred.