



THOUGHT AND DECISION: DIFFERENCES AND OVERLAP IN ENVIRONMENTAL AND LEGAL STUDIES

Robert Nutkins¹

Introduction

This report is an account of the creation and progression of my own way of thinking, having changed from the interdisciplinary science of environmental management to the highly focussed, social science and humanities discipline of law. As such, I am an environmental management student hoping to make myself into a more rounded human being by the study of law, since legal studies are a tool to help me with an unintelligible goal: saving the world.

In September 2022 I started a Masters in Law, having completed a BSc and MSc in Environmental Management and Sustainability. Four years of studying environmental management and sustainability rather takes its toll on one's optimism, particularly in this political, social and actual climate. My decision to study law was made following the submission of my Sustainable Environmental Management MSc Dissertation, 'A Systematic Review of Literature to Assess the Economy's Effects on Human Health and Wellbeing', which highlighted the need for fundamental economic change. Human society currently operates on a premise of efficient allocation of resources. However, my dissertation showed that this is an entirely distinct principle from what is actually needed: the just allocation of resources.

During my undergraduate and postgraduate studies of the environment, several events occurred which gave me grave cause for concern: rain is now officially carcinogenic, microplastics were found in human blood and there's less than thirty years of life left in agricultural topsoil. There have been four UN Conference of the Parties (24, 25, 26 and 27) during this time, and things are still getting worse. My conviction that humanity's trajectory is now utterly fixed on extinction is now absolute and I do not believe there is any coming back from these events. Even so, I am determined to fix as much as I can before the apocalypse

¹ Robert graduated with a First Class BSc (Hons) in Environmental Management and Sustainability, and subsequently received a Distinction in MSc Sustainable Environmental Management at Plymouth University. He is currently studying for the LLM in Law

and deliver some justice along the way.

Environmental Management

My first few weeks of environmental management study were taken up by subjects I had no real interest in: the carbon cycle, evolutionary biology and geology. While they were interesting intellectually, there is a distinction between finding something interesting and having an interest in it. It wasn't until the second semester that the proverbial fire was lit, through the introduction of ecological economics.

The concept of ecological economics was created by an American economist, Herman Daly. It proposes a complete upheaval of the current economic and societal system, through a move from efficient allocation to just allocation. Justice, environmental protection and social wellbeing become the priorities of the economic system, rather than growth and financial gain. I was so taken with Daly's theory that I became determined to be an instrument in the implementation of this economic system. I had decided by the end of my first year that I would do my dissertation on ecological economics.

In my second year, I gained my first experience of legal studies in environmental management, which I built upon in my third year in more specific realms. The most intriguing part of this was the debate around whether the environment has rights, as a person or a company does. My class of environmental science and management students were stunned to even consider this as a debate.

Of course the environment has rights, was our collective response. However, there are few instances of lawyers bringing cases to court on behalf of the environment itself. One can represent the environment by proxy, such as acting for the Crown in a prosecution against environmental crime, but there are very few bespoke cases. If a company, which is a conceptual entity, has rights, how can the environment, the lifeblood of the world (and our economy) not have rights?

Looking back, this was my first proper, conscious analysis of the following:

There is a difference between what is legal and what is right.

Of course, I had considered the nuances of this before in various respects, but never so explicitly and consciously. This led to a very slow but deep analysis over the last few years of how humanity has gone about protecting the environment throughout its history.

I then developed an ancillary interest in environmental legislation, which served me well in the third-year assessment on contaminated land. However, I learned the hard way that the key difference in mindset between environmental management and law is that the former is broadly angry, and the latter is broadly objective. Because of this, I severely misunderstood the purpose of the Environmental Protection Act 1990, and overestimated its scope for correcting the issue of contaminated land in the UK. I thought it was far more about correction and prevention, when it is actually about historic and legacy pollution. I learned, as the marking professor so neatly put it, that “Law is very issue-specific and has a rationale and purpose inextricably linked to that purpose.”

I came up with the analogy of a small island. If you were on a small island, with a few trees, one source of fresh water and a finite amount of space to grow food, you would do everything in your power to preserve the resources that island provided you. Materials, food, water, space, waste absorption. One would not dare risk polluting the water or eroding the topsoil. The fact is that planet Earth is an island. Space is the ocean. We have a defined amount of space and a finite amount of materials. The place one ends up at is, inevitably, anger at the current state of the environment and the people who caused it.

The anger at the extent of contamination, and the latency in (English) law to address environmental protection was discussed throughout the previously mentioned essay, which clouded my understanding of the legal aspects. As another example, the Polluter Pays principle is a commonly used tool in the environmental legal and political sphere, but from an environmental manager’s point of view, it’s ineffective or at least, ineffectively applied. I have no doubt this mindset was influenced by my exposure to ecological economics.

The Move to Law

My foray into law came from an idle curiosity about the justice system, from early morning conversations with my law student flatmate, and from intellectual honing. It wasn’t legal studies that drew me to it, but the skills one gains from the study of law and its application. My flatmate had told me stories of Lord Pannick, how he was known for his ability to synthesise cases efficiently and consider their weaknesses, so that he could better fight their cause in court. This added to my thoughts about rights, justice, legality of the environment, and crucially, the application and enforcement of ecological economics. Fortuitously, all of these areas relate to Plymouth University’s first LLM.

The biggest difference for me was the move from the analysis of factual data to the analysis of arguments put forward in jurisprudence. Environmental management, through the study

of the economy, society and the environment, is about human decisions, whereas law is based on human thought. Although related, they are distinct and the need to understand both underpins the actions required to, as I said at the beginning, save the world.

Conclusion

We are compelled to live in a future where even the rain, a symbol of nourishment and prosperity, has become a slow and silent killer. Everyone, including people interested in the law, needs to be angry about that. As I progress through the LLM, I increasingly believe the law requires more of a balance between objectivity and emotion. Laws are often changed because the system has failed the people, or omitted something which has had adverse consequences, and so new laws are brought in and old ones are repealed. My opinion may change as I learn and experience more in my LLM but for now, I am convinced that what we need most is to understand the importance of values and emotions.