

ENVIRONMENTAL EDUCATION: MOVING ENVIRONMENTAL LAW FROM MARGINALITY TO MAINSTREAM*

Abstract

Environmental education is one aspect of ensuring environmental sustainability. An important part of environmental education is the mainstreaming of environment-related courses into school curricula, with the aim of developing students' skills so that they can effectively enact change towards sustainability. The mainstreaming of environmental law into legal education curricula, and into tertiary education curricula in general, is one way to achieve this aim. However, in legal education, environmental law has not been granted suitable recognition as an important course worthy of inclusion in the mainstream of legal education. This paper argues that in view of the growing global environmental problems, environmental illiteracy, and the continuing widespread apathy toward environmental concerns—especially in the Global South—it is crucial to integrate environmental law into the curricula of legal and tertiary education. Specifically, it recommends that bodies responsible for the design and development of tertiary education curricula should make environmental law a required course at the undergraduate level for law students and some science students, so as to equip graduates with the appropriate skills and expertise to make and apply laws in support of environmental protection.

Keywords: Environmental education, Environmental law, Sustainable development, Curriculum.

1. Introduction

Sir David Attenborough, a zoologist and natural history broadcaster who recently won the United Nations Environmental Program (UNEP) Champion of the Earth Lifetime Achievement Award, has stated, 'Few people will protect the natural world if they don't first love and understand it, and television was a way of helping them to do so.'¹ His statement paints a clear picture of the role and function of environmental education, which seeks to develop people who are aware of and concerned about the environment and its associated problems, and who have the knowledge, skills, attitudes, motivations, and commitment to work individually and collectively towards solving current problems and preventing new ones.² The UN's Education for Sustainable Development (ESD) agenda pushed environmental education into a broader agenda of sustainability, so that its concerns encompassed the well-being of all three realms of sustainability: environment, society, and economy.³ This form of environmental education was given legal status in a 2002 UN resolution and became the subject of a decade-long activity and awareness-raising programme, led by the UN Educational, Scientific and Cultural Organisation (UNESCO).⁴ The resolution recognised that education is an indispensable element in efforts to achieve sustainable development. The aim of the ESD Decade was to integrate the principles of sustainable development into all aspects of education and learning, in the hope of 'encourag[ing] changes in behaviour that will create a more sustainable future in terms of environmental integrity, economic viability, and a just society for present and future generations.'⁵ This recognition of the role of education was manifested in Attenborough's statement, which emphasises the need to make people environmentally aware and inspire them to change their behaviour. He contends justifiably that little environmental protection will take place if not preceded by proper environmental education. Consequently, to sustain the international environmental rule of law and ensure behavioural change

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¹ UNEP, 'UN Recognizes Broadcaster Attenborough with Lifetime Achievement Award', 21 April 2022, <<https://www.unep.org/news-and-stories/story/un-recognizes-broadcaster-attenborough-lifetime-achievement-award>> accessed 30 April 2022.

² UNESCO-UNEP Belgrade Charter, 1976, <<https://naaee.org/sites/default/files/153391eb.pdf>> accessed 20 May 2022. The roots of the environmental education movement can be traced to the United Kingdom through organisations that brought together educators and conservationists engaged in rural and field studies. See J. Palmer, 'Environmental Education in the Twenty-First Century' [1998] 4–5, quoted in J. Holder, 'Identifying Points of Contact and Engagement Between Legal and Environmental Education' [2013] (40)(4) *Journal of Law and Society*; 548.

³ Holder (n 2) 549.

⁴ Holder (n 2). The United Nations declared the years from 2005 to 2014 as a Decade of Education for Sustainable Development.

⁵ UNESCO, 'United Nations Decade of Education for Sustainable Development: International Implementation Scheme' [2005] 6, cited in J. Holder, 'Doing the Sustainable Development Dance: Tracing a Critical Route from the Education for Sustainable Development Movement to Environmental Justice in Legal Education' [2012] (65) *Current Legal Problems*; 149.

that can effectively address climate change and other environmental problems, environmental education is imperative.

However, there are different ways to engage in environmental education. Sir Attenborough's chosen method is the media. The method discussed in this paper is the integration of environmental education into tertiary school curricula, especially through a course on environmental law. Our emphasis is on tertiary schools, since higher education is regarded as the 'cradle of several professions whose roles, collectively, shape our world.'⁶ Environmental law is a highly strategic aspect of environmental education, yet it is widely regarded as a less important subject than other law courses. This paper argues for the mainstreaming of the environmental law course into tertiary education curricula, so that it can fulfil its critical role in addressing global environmental issues. Of course, environmental education should be integrated at all levels, from primary to adult education, but that discussion is beyond the scope of this paper. Section 2 of the paper discusses indicators that reveal the marginal status of environmental law. Section 3 considers why environmental law needs to be moved from this marginal status to a prominent position in tertiary education curricula, while section 4 recommends strategies required to mainstream environmental law. Section 5 provides a brief conclusion.

2. Some Indicators of Environmental Law's Marginality

The perception of environmental law as a marginal subject finds credence in certain indicators, although this marginal status may be more prevalent in some countries and institutions than in others. As Fowler et al. stated, 'Marginality suggests that a subject sits at the fringes of the discipline of law, is inconsequential, and is seen as a luxury rather than an essential component of a good legal education.'⁷ This statement fits how environmental law is treated in legal education in some parts of the world. For instance, some environmental law lecturers in the UK have expressed a desire for their course to gain greater disciplinary identity and academic status,⁸ while others wondered whether universities should make environmental law a required course instead of an elective.⁹ A look at other legal education curricula reveals a similarly limited focus on environmental education. In Thailand, the curriculum concentrates on what are commonly known as the four pillars of law: civil, criminal, civil procedure and criminal procedure.¹⁰ In some other countries, only courses that are procedural or commercial in nature are compulsory. In the Nigerian curriculum, a mix of the two curricula is evident.¹¹ In the UK, many of the required credits in law school must come from what regulators of the legal profession call the 'foundation of legal knowledge' or the 'core' courses.¹² In this structure, environmental law is not regarded as a foundational subject. Specifically, the requirement is that law courses must represent at least 240 credits in a 360- or 480-credit degree, and of those 240, at least 180 must be on foundational subjects such as criminal law or the law of the European Union. However, a survey showed that most UK law schools go further by making at least 220 credits of foundation subjects compulsory.¹³ Inevitably, this huge allocation of credits to foundational subjects leaves little space for optional courses, and Vaughan et al. believe that this practice 'may put pressure on the students to choose the options that they think will serve them best long term.'¹⁴ What appears to serve the students best in the long term can be gleaned from another survey result, which suggests that students choose courses that will enhance their future employability prospects—and that environmental law is not one of those courses, since British lawyers generally do not perceive the subject as important in practice.¹⁵

⁶ N. Graham, 'This Is Not a Thing: Land, Sustainability and Legal Education' [2014] (26) *Journal of Environmental Law*; 416.

⁷ R. Fowler et al., 'From 'Marginality' to 'Mainstream': The Evolution of Teaching and Learning in Environmental Law', in Amanda Kennedy et al. (eds), *Teaching and Learning in Environmental Law: Pedagogy, Methodology and Best Practice* (Edward Elgar, 2021), 8.

⁸ S. Bell et al., 'UKCLE Subject Survey: Environmental Law' [2003] 8 cited in Holder (n 2) 560.

⁹ Graham (n 6) 412–413; S. Vaughan et al., 'Of Density and Decline: State of the Nation Reflections on the Teaching of Environmental Law in the UK', UCL Working Paper Series [2019] 19.

¹⁰ C. Sitdhiwej and R. Fowler, 'Teaching Environmental Law in Thailand', in Kennedy et al. (n 7) 276.

¹¹ Compulsory courses at the undergraduate level differ depending on the university but some or all of the following courses are commonly made compulsory: law of contract, commercial law, criminal law, company law, and civil and criminal procedure.

¹² Vaughan et al. (n 9) 18.

¹³ S. Vaughan and N. Evans, '(S)hallow Foundations: Problematizing the 'Core' of the Law Degree' [2018], UCL Working Paper Series, cited in Vaughan et al. (n 9) 18.

¹⁴ Vaughan et al (n 9).

¹⁵ Vaughan et al (n 9) 17. The survey administrators, however, acknowledged that this reason alone does not account for the low student interest in environmental law.

This fact will likely resonate with other environmental law scholars outside the UK as well; it certainly does with me. Many students have expressed this concern to me in the course of their teaching career. They wondered what they could do with knowledge of environmental law, as they saw no job prospects in the field upon graduation. Most of them want to pursue a career path in areas they consider profitable, such as commercial practice, corporate practice, or tax law. In the course of discussions with practising lawyers, the author similarly found that most of them do not consider environmental law as an important subject. Furthermore, Vaughan et al. stated that when practising lawyers in the UK are asked to name the subjects they view as most important to practice, environmental law does not appear.¹⁶ Other indicators of marginality identified by Fisher et al. and Vaughan et al. are the decline in environmental law scholarship, the disconnection of environmental law from mainstream legal scholarship,¹⁷ a decline in environmental law teaching, and static course enrolment numbers, attributable to the low student interest in environmental law.¹⁸ Although these indicators could be peculiar to the British situation, as Fowler et al. acknowledged, one would expect similar if not more pronounced tendencies in settings where other issues seem more pressing than environmental protection. Anecdotal evidence and personal observations suggest that Nigeria and Thailand, the countries referenced above, fall into this category.¹⁹ This pattern is in contrast to developments in the United States and most parts of Europe, where environmental law has established a stronger presence in legal education.²⁰

3. Why Mainstream Environmental Law?

If environmental law is currently marginalised in many parts of the world, why should it be mainstreamed? We propose the following reasons why environmental law should be upgraded from a marginal status to the core of legal education:

(a) Environmental law is an important vehicle for environmental education. It has a transformative value in fostering environmental awareness.²¹

(b) The increasing severity of climate change and other environmental problems on a global scale is alarming and requires drastic action by stakeholders around the world. Nations need a large number of well-trained environmental law experts with the ability to address emerging issues and challenges.

(c) From point (a) above, we can glean that environmental law plays an indispensable role in addressing environmental problems. Environmental law undergirds almost every solution proposed for contemporary environmental problems. For example, Thuy stated the following reasons why environmental law is important in our response to climate change: (1) it is an effective tool to prevent and limit the risk of aggravating existing damage; (2) it guides the community in terms of proper responsibility and environmentally friendly behaviour; (3) it requires countries to adjust their awareness of environmental protection in general and their responses to climate change in particular; and (4) it assists organisations and individuals in developing a thorough understanding and application of appropriate methods of exploiting natural resources with minimal environmental impact.²²

(d) Some national and international legal frameworks require the integration of environmental education into all aspects of learning. Various policies and laws require governments, environmental agencies and education bodies to integrate environmental education into the curriculum at all levels. At the international level, as noted above, UNESCO led a decade-long awareness-raising programme, the ESD Decade, with the goal of integrating sustainable development principles, values and practices into all aspects of education and learning.²³ UNESCO's

¹⁶ LETR, 'Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales' [2013] 34, cited in Vaughan et al. (n 9) 20.

¹⁷ E. Fisher et al., 'Maturity and Methodology: Starting a Debate about Environmental Law Scholarship' [2009] (21)(2) *Journal of Environmental Law*; 213–250.

¹⁸ Vaughan et al (n 9).

¹⁹ Sitdhiwej and Fowler (n 10) 276.

²⁰ Fowler et al. (n 7) 10.

²¹ Holder (n 2) 562.

²² Vu Thi Duyen Thuy, 'Responding to Climate Change and the Role of Environmental Law' [2021] (8)(3) *European Journal of Economics, Law and Politics*; 1–9, 2.

²³ UNESCO cited in Holder (n 5) 149.

current program, Education for Sustainable Development 2030,²⁴ identifies ESD as a key element of quality education, based on UN Sustainable Development Goal (SDG) 4, which aims to ensure inclusivity and quality education and to promote lifelong learning opportunities for all. Target 4.7 of SDG 4 requires nations to ‘ensure that all learners acquire the knowledge and skills needed to promote sustainable development ... through education for sustainable development and sustainable lifestyles’ by the year 2030. Babalola and Olawuyi observed that the instruments recognise the importance of environmental education initiatives in the form of courses, programmes and activities designed to promote understanding, knowledge and awareness of environmental issues.²⁵ Environmental law courses are one way to fulfil the mandate of these instruments. At the national level, many laws highlight the importance of integrating environmental themes subjects into educational curricula. For instance, Article 7 of Qatar’s Environmental Protection Law, Law No. 30 of 2002, mandates all authorities responsible for education to include environmental awareness in all levels of education. In Nigeria, section 26(1) of the Climate Change Act of 2021 requires the Secretariat of the National Council, with the approval of the National Council on Climate Change, to advise ministries, departments and agencies responsible for regulating educational curricula in Nigeria on the integration of climate change into the various disciplines and subjects across all educational levels. The language used in this legislation expresses necessity and urgency. It leaves no room for alternatives or options and instead describes a task that must be accomplished. Sub-section 2 encourages the Secretariat to support research and projects that relate to the formulation and development of educational curricula and programs for the adaptation and mitigation of climate change. This provision is no surprise given the considerable extent of environmental problems facing Nigeria. That language of urgency gives the impetus for the mainstreaming of environmental law.

(e) Mainstreaming environmental law into the school curricula will help to foster and inspire future environmental professionals. Some of today’s students will eventually be environmental educators, heads of environmental agencies, ministers of the environment, environmental activists, judges or lawyers. Robust background knowledge of environmental law will help them prepare for and fulfil these roles.

(f) High levels of environmental illiteracy and apathy exist in some regions, especially in the Global South, where many people are concerned with their daily subsistence and pay little attention to environmental problems or to learning how to make informed decisions on environmental issues. Even where some environmental knowledge exists, apathy is a frequent problem. Mainstreaming environmental law can jump-start people’s interest in addressing environmental problems, beginning with the students who will enrol in the course at the tertiary level. Hopefully, a proper understanding of the course content by these students may lead them to influence acquaintances to be more environmentally aware. Of course, students at the tertiary level should have been experiencing environmental education since primary school, so an environmental law course should expand and build on their prior learning.

4. Strategies for Mainstreaming Environmental Law

Based on the foregoing, we propose the following strategies for mainstreaming environmental law:

(a) For the LLB curriculum, environmental law should be made a compulsory course. This may seem to be a radical suggestion, but it is quite achievable. It is especially important to make the course compulsory in developing countries or ones where environmental issues are not prominent on the national agenda. This will serve as a starting point in placing environmental matters on the front burner of national discourse. In addition, making environmental law compulsory will equip law graduates with the necessary skills for effective law-making, policy-making and practical application in environmental matters. It is time to fully integrate environmental education into the legal education curriculum. Fowler et al. aptly captured the essence of this shift, stating that ‘the conception of what represents the core elements of a legal education should not remain static and should reflect contemporary concerns and challenges for human society.’²⁶ Since environmental issues raise major concerns and present pressing challenges for our society, legal education must address these issues so that law graduates have the relevant knowledge to make the needed impact on their society. Such countries as China, India,

²⁴ The 2030 Agenda was adopted at the World Education Forum in Incheon, Republic of Korea in 2015 before the SDGs were formally adopted by the United Nations General Assembly in September 2015.

²⁵ A. Babalola and D.S. Olawuyi, ‘Advancing Environmental Education for Sustainable Development in Higher Education in Nigeria: Current Challenges and Future Directions’ [2021] (13) *Sustainability*; 1.

²⁶ Fowler et al (n 7) 12.

the Philippines and Indonesia have already made environmental law compulsory for their law students.²⁷ An environmental scholar from Thailand has argued for taking the same step in that country.²⁸

(b) Furthermore, it is proposed that environmental law should be made a required course in environmental science and engineering disciplines²⁹ at the undergraduate level. This suggestion is appropriate because environmental problems are polycentric, interdisciplinary and multidisciplinary. Graham pointed out that environmental science faculties are well-known for developing sustainability expertise at many universities and colleges.³⁰ In Australia, the accrediting body for undergraduate engineering courses has made it a graduation requirement that students must know how to make engineering more environmentally friendly.³¹ In Thailand, environmental law is already a required course in the Department of Environmental Science at Thammasat University.³² Accrediting and professional bodies for science and engineering disciplines and institutions providing tertiary education in these areas should include environmental law in their curriculum as a required non-science course, because this content is vital to the careers of future environmental scientists and engineers. In this way, the students would understand the need to incorporate sustainability into the practice of their profession. Lecturers for the course can be drawn from the faculties of law of the respective institutions, although this would require expanding the staff capacity of environmental law scholars in those institutions.

It is acknowledged that the proposal has implications for each country's Minimum Academic Standard with respect to the number of courses regarded as 'core' or elective courses and the number of credits required to complete a law programme. Consequently, giving specific prescriptions on how to incorporate environmental law into those various curricula is difficult. However, some traditional law subjects such as equity and trust, land law, and commercial law could be unbundled from being stand-alone courses where they are still offered as such and instead subsumed into related courses in order to accommodate environmental law. Moreover, there are many new areas of law, due to contemporary societal developments, so academic regulatory bodies and universities already need to restructure their traditional courses to create space for the emerging ones. In addition, it may be necessary to reduce the number of credit units associated with existing courses at some institutions in order to integrate environmental law as a core course. For instance, in some universities, the number of credit units for core courses is quite high, whereas in others, the number is lower. Nigeria is an example of the former, as the Benchmark Minimum Academic Standard Curriculum (BMAS) for law programmes allots eight credit units to each core course.³³ A reduction in these credit units is certainly required to make room for environmental law on the list. Some other universities have core courses worth three or four credit units each. A reduction of credit requirements may or may not be required, depending on the number of credits required for LLB graduation in those institutions. Therefore, the scope and content of the course should be determined by the respective institutions.

(c) The establishment of environmental law clinics is another desirable strategy. Law clinics have been established in most higher education institutions in both the Global South and the Global North to help students learn about practical aspects of the law. There is a need either for such clinics to create environmental law specializations or, where funding is available, for institutions to establish stand-alone environmental law clinics such as those that exist in the United States (e.g. at Harvard, Georgetown and Tulane Universities). This will provide a practical context for academics teaching environmental law courses, promote learning among students and engender

²⁷ Sitdhiwej and Fowler (n 10) 287.

²⁸ Ibid.

²⁹ This is especially relevant for environmental, mining, marine, metallurgical & materials, petroleum, public health and water resources engineering.

³⁰ Graham (n 6) 411.

³¹ A. Carew and C. Mitchell, 'Teaching Sustainability as a Contested Concept: Capitalising on Variation in Engineering Educators' Conceptions of Environmental, Social and Economic Sustainability' [2008] (16) *Journal of Cleaner Production* 105, 106, cited in Graham (n 6), 416.

³² Sitdhiwej and Fowler (n 26) 282. Most likely, the same practice prevails at other Thai universities, although the authors could not confirm this.

³³ See National Universities Commission, Benchmark Minimum Academic Standards for Undergraduate Programmes in Nigerian Universities for Law (National Universities Commission 2018). Although a new curriculum known as the Core Curriculum and Minimum Academic Standards (CCMAS) is to be unveiled soon by the National Universities Commission, its implications for the current structure of courses in the country's law faculties is still unknown.

community engagement. This clinical aspect is described as in line with UNESCO's view of best practices in ESD, as it provides a real-life context for learning.³⁴

(d) Capacity building of environmental law scholars through a train-the-trainer (TTT) programme and recruitment of lecturers will be needed to make the steps proposed above feasible. People teaching, researching or consulting in the field of environmental law will need ongoing training due to the evolving and complex nature of the subject. To drive this goal, collaborations between institutions and environmental organisations, institutes and NGOs, with further support from financial institutions, is imperative for the purpose of training and re-training of environmental law teachers.³⁵ Associations of environmental law teachers at both the international and local levels need to be proactive in the organisation of conferences and workshops, especially in the Global South, so as to build a strong community of environmental law scholars for the purpose of exchanging information and ideas. Collaborations of this sort will improve both the participants' teaching skills in environmental law and the output of environmental law scholarship. The need for additional environmental law scholars and experts cannot be overemphasised, particularly with regard to including an environmental law course in the science curriculum. To this end, national tertiary education institutions, faculties of law and legal education bodies need to invest in helping law instructors whose area of interest is public law to develop competence in the field of environmental law. From this pool of law teachers, more teachers with interest in environmental law may likely emerge. Granted, most of these are long-term solutions. Therefore, while efforts to implement these suggestions are in process, those already in the field, including lawyers and judges, need to be trained in applying environmental law appropriately and effectively.³⁶ In a previous publication, this author recommended the establishment of specialised environmental courts to enable judges and lawyers to acquire adequate knowledge and understanding of the peculiarities of environmental issues and apply the laws accordingly.³⁷ Staff members of environmental regulatory and enforcement agencies and other environmental administrators need to be trained as well.

(e) Representatives of governments, businesses and non-governmental organisations (NGOs) should partner with law schools and faculties to enable students to understand the practical implications of the content they are learning. For instance, staff from these organisations can be invited to talk with students about the relevance of the course content to their operations.

5. Conclusion

Environmental education is an important tool in equipping people with the knowledge, skills and understanding necessary to make legal and policy decisions while taking into account the full environmental, social and economic implications of those decisions. The teaching and learning of environmental law at the tertiary level—a cradle for future professionals—is a needed vehicle to promote environmental education. But the marginal status to which environmental law seems to have been consigned has undermined its importance in building adaptive behaviour on environmental issues. Mainstreaming environmental law in the ways suggested in this paper will teach students how to think holistically about any given environmental problem. It will also ensure that law graduates are equipped with an appropriate capacity to apply environmental law, and hopefully, it will encourage more law students to pursue careers in the environmental field. Consequently, environmental educators, legal education bodies, ministries of education and other stakeholders responsible for curriculum design and development at the tertiary level should act now to expedite the integration of environmental law into curricula.

³⁴ Holder (n 2) 564.

³⁵ International environmental bodies such as the International Union for Conservation of Nature (IUCN), the UN Environment Programme and environmental NGOs like the Centre for Democratic and Environmental Rights (CEDER) and Global Rights for Nature (GRN) engage in the education and training of people in the field of environmental law. For instance, IUCN has been delivering a TTT programme for environmental law teachers in 14 Asian countries since 2015, with financial support from the Asian Development Bank. See the Asian Development Bank's web page on the project, <https://www.teachenvirolaw.asia/>, and R.J. Fowler, 'The Role of the IUCN Academy of Environmental Law in Promoting the Teaching of Environmental Law', *IUCNAEL e-journal* [2017] (8), available at <https://www.iucnael.org/en/e-journal/previous-issues/86-journal/issue/640-issue-2017>.

³⁶ The Chief Judge of the Land and Environment Court of New South Wales stated that 'judges need to be educated about and attuned to environmental issues ... they need to be environmentally literate.' Brian Preston, 'Benefits of Judicial Specialisation in Environmental Law: The Land and Environment Court of New South Wales as a Case Study' [2012] (29) *Pace Environmental Law Review*; 396.

³⁷ T. Ogboru, 'Greening' the Judiciary: Is Establishing Environmental Courts and Tribunals an Imperative?' [2020] (6) *NIALS Journal of Environmental Law*; 282–326.