**TYL In Focus: Environmental Law**

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**Could You Already Be Practicing Environmental Law?**

*By Ashley Harvey*

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Environmental law is expansive and has considerable interplay with many different disciplines and practice areas, and most lawyers will come across environmental law issues at some point in their practice. There is perhaps no other area of law that uses an attorney’s educational background, work experience, and interests more than environment law. It is often an attractive field for new lawyers because it allows them to bring all of their professional and interdisciplinary skills to the table.
Environmental attorneys are employed across the spectrum including government agencies, nonprofits, and the private sector. The field has seen substantial growth over the years, and this trend will only continue. To meet the demand of clients, firms and small practices have increasingly established environmental law departments, which typically use a cross-disciplinary approach with other specialty practice groups within the firm.

Legislation, regulatory issues, and permitting are not the only items on the list for what an environmental lawyer’s workload can look like. An environmental lawyer works on cases that one may not typically associate with the field such as business torts litigation, criminal prosecution, public health and safety, and real estate transactions. An area that has been positively impacted by environmental law is that of human rights. The concept of international environmental human rights is not a new or novel one; however, it’s still developing and becoming a more publicized topic. Environmental and human rights lawyers and organizations often work together to bolster each other up the steep ladder of international attention, political structure, and governmental enforcement.

New lawyers may already have more experience relevant to environmental law than they realize. Many environmental attorneys have undergraduate degrees in engineering, business, and the sciences. Attorneys with background experience in these areas understand how the law affects business decisions and other professions, and this understanding of interplay between professions is a benefit to the environmental lawyer. In particular, land use law, often described as straddling law and politics, is a practice area where interests and professions collide. Land use lawyers are not just helping their clients get the necessary approvals for a project—their work also requires business management and proficient interpersonal skills.

Environmental law is not static—a new attorney who started his or her career in say, litigation, and is thinking of transitioning to another area should also consider the benefits of an environmental law focus. There are plenty of opportunities for to gain trial experience in toxic torts, land use, remediation, and real estate transactions.

Having working knowledge of environmental law and how it converges with your current practice area can make the difference in whether you secure a favorable outcome for your client. For example, environmental issues show up in many commercial real estate transactions. Working together, environmental and real estate attorneys incorporate environmental issues into the transaction. It can often be the case where the real estate attorney, who may lack a solid understanding of the environmental implications, does not consult with an environmental attorney. Potential risks down the line are great not only for the client, but also for the real estate attorney who does not carry environmental malpractice insurance. For these reasons, all lawyers need to be able to identify when a matter requires deeper analysis of environmental law implications or consulting an environmental lawyer.

The view that environmental law is polarizing is changing. Given its comprehensive nature and interplay with almost every other practice area, it’s likely the young lawyer is already working on a matter that involves aspects of environmental law. It’s an area where diverse interests, experience, and education can come together to craft an interesting and comprehensive career.

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Litigating Environmental Issues Outside of Conventional Environmental Law

By Lauren Kurtz

Lauren Kurtz is the executive director of the Climate Science Legal Defense Fund.

Environmental law is typically thought of as statutory regulation and related common law doctrines—but the notions of what constitutes environmental law are shifting. As the environmental landscape has become more complicated and more contentious, so too has the legal one. One Nature journal article has described the increasingly combative legal and political scene over climate science as an emerging “street fight.”

In particular, a new legal tactic has emerged: legal actions made directly against climate scientists. Unfortunately, self-styled “climate skeptics” have harnessed the legal system to go after scientists with whom they disagree. Ideologically motivated groups, seeking to bypass legitimate scientific debate, have instead resorted to records litigation, tort suits, and other legal battles.

Misuse of Open Records Laws

The most common legal attack on climate science has been through using—or, more accurately, misusing—open records laws, which allow citizens to request copies of government documents. Under the rationale that these laws apply to publicly funded scientists (e.g., government or public university researchers), massive open records requests have been made for scientists’ entire files, including personal emails. In contrast to the vast majority of legitimate open records requests, this subset of extremely invasive requests has been described by the Union of Concerned Scientists as “harassment” designed to “curb the ability of researchers to pursue their work, chill their speech, and discourage them from tackling contentious topics.” Scientists have been subjected to huge time and financial drains to address open records requests seeking scores of otherwise private documents.

One example is Dr. Michael Mann, a Penn State climate scientist. In 2011, Dr. Mann received open records requests for nearly all emails and other documents written or received throughout his six years of previous employment at the University of Virginia. (The group seeking these emails, the American Tradition Institute, has been described as “a free-market think tank that wants the public to believe human-caused global warming is a scientific fraud,” and its tactics include “filing nuisance suits to disrupt important academic research.”) Dr. Mann and UVA released some documents and litigated to withhold others protected under Virginia law. The Virginia Supreme Court ultimately agreed in 2014 that the state’s open records protections included safeguarding research and academic “free thought and expression.”

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A virtually identical case is currently underway in Arizona by the same group, since renamed E&E Legal, which has openly admitted it wants to comb for information it could use to embarrass researchers. The trial court ruled in March that the University of Arizona properly protected scientists’ private files, but only after tremendous time was spent by U of A and the two scientists targeted. E&E Legal has since appealed this case. There have also been similar disputes over the files of climate scientists in New York, DC, Texas, and Illinois.

**Tort Battles**

Other skirmishes include tort lawsuits this year against climate blogger and computer scientist Dr. John Mashey. The lawsuits were filed in retaliation for Dr. Mashey’s work to uncover academic misconduct by several authors of a Tea Party-commissioned Congressional report, which attempted to disprove scientific evidence of climate change. Dr. Mashey exposed plagiarism, falsifications, and errors in the report, as well as funding misuse by the authors; two of the authors then sued Dr. Mashey, claiming that he caused them to be fired from their academic positions and thus, incredibly, he committed “tortious interference with contract” and “conspiracy.” The lawsuits were ultimately withdrawn without explanation, but not before costing Dr. Mashey tens of thousands in legal bills (which, perhaps, was part of the goal).

Another tort claim at play is defamation. For example, last year, threats of a defamation suit prompted the journal Frontiers in Psychology to retract a peer-reviewed paper linking those who reject the scientific consensus on climate change with “conspiracist ideation.” The retraction stated that the journal had no “issues with the academic and ethical aspects of the study . . . but the legal context is insufficiently clear.” The journal was widely criticized by the scientific community for “tossing authors under a bus.”

This proliferation of legal attacks on climate scientists is troubling to say the least, and it looks likely to only increase. But it also shows that conventional notions of environmental law do not always apply in today’s world. Attorneys of all fields can and do work on cases involving environmental issues, and in fact, legal expertise outside of traditional environmental law is an increasingly valuable skill in this developing street fight.

**Is Increased Renewable Energy Development the Answer to Reducing Carbon Emissions?**

By Van P. Hilderbrand Jr., Jeffrey M. Karp, and Morgan M. Gerard

*Van P. Hilderbrand Jr., Jeffrey M. Karp, and Morgan M. Gerard are members of Sullivan & Worcester LLP’s Environmental, Energy, and Natural Resources practice group.*
As the dust settles amidst the hoopla and angst surrounding the Environmental Protection Agency’s (US EPA) final promulgation of President Obama’s Clean Power Plan (the final Plan), a theme has emerged—renewables are expected to be a major energy source. From proposal in 2014 to US EPA’s final rule in August 2015, the share of renewables in the agency’s forecast of the US power sector in 2030 jumped from 22 to 28 percent. Concomitantly, the final Plan further highlights the anticipated strong presence of renewable energy resources in the states’ future energy mix as a means to meet their respective targets to reduce carbon emissions from power plants.

The question now arises whether enough renewable energy resources can be built by two key dates under the final Plan, 2022 and 2030. The answer depends on whether investors will have adequate incentives and financing mechanisms to prime the pump and generate the requisite megawatts of renewable energy to help meet the final Plan’s emission reduction targets.

**Larger Role Expected for Renewables**
US EPA contemplates that renewable energy will play a prominent role in the evolving US power sector. The draft rule estimated that by 2030, 22 percent of the country’s electricity would be generated by renewable resources. In the final Plan, US EPA estimates the share of renewables at 28 percent. According to the agency, this increase is a function of market forces and a continued decline in energy prices. It also is in line with the final Plan’s deeper cuts to emissions overall. The final Plan targets a 32 percent decline in carbon dioxide emissions from 2005 levels by 2030, whereas the proposed rule had a 30 percent reduction goal. Nonetheless, whether sufficient renewable energy resources are developed to help meet the final Plan’s emission reduction targets depends on whether sufficient incentives exist and risks can be adequately minimized. Potential investors dislike uncertainty, especially when it involves committing large amounts of funding to development projects over a lengthy time horizon.

**Additional Incentives for Renewables**
The final Plan seeks to incentivize the deployment of renewable energy through early renewable procurement under US EPA’s Clean Energy Incentive Program, which makes available additional allowances or emission credits for investments in zero-emitting wind or solar power projects during 2020 and 2021. Other incentives may be provided by the US Department of Energy (DOE).

**Coordinating Role with the Department of Energy**
President Obama recently announced a coordinating role for the DOE in connection with the final Plan. The DOE’s Loan Programs Office will make available up to one billion dollars in loan guarantees to support commercial-scale distributed energy projects, such as rooftop solar with storage and smart grid technology. Expanded funding also is available through DOE’s Advanced Research Projects Agency–Energy (ARPA-E), which has awarded $24 million for eleven high-performance solar photovoltaic power projects.

**Uncertainty Remains Regarding Renewables Development**
The final Plan provides a level of regulatory clarity, but the path forward remains uncertain in light of looming legal battles regarding whether the Plan oversteps US EPA’s authority under the Clean Air Act and political divisiveness in Congress. It also is unknown whether the next US President will support the rule or try to dismantle the Plan.
These uncertainties, coupled with concern over the future of the investment tax credit and other favorable tax legislation, may lead to substantial implementation delays, or even complete eradication or substantial revision of the final Plan. Even if the final Plan withstands challenge, nonetheless, some states may be unable to meet their emission reduction targets if adequate renewable energy financing mechanisms have not developed by 2018, the Plan’s implementation date. Understandably, potential investors may be leery about committing substantial funds to renewable energy projects unless or until the likely outcome of legal challenges to the final Plan can be better assessed, and regulatory and political risks more accurately calculated.

While renewable energy resources seem to be a favored approach under the final Plan, a comprehensive strategy that effectively facilitates the financing of such projects is essential to achieve the final Plan’s emission reduction targets.

**UN Sustainable Development Goal Six: Clean Water and Sanitation for All**

**By Alexandra Campbell-Ferrari**

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On September 25, 2015, the U.N. General Assembly approved the Sustainable Development Goals (SDGs), seventeen goals and 169 targets created to help countries focus their political agendas around priorities that will contribute to building thriving, healthy, stable nations. The SDGs succeed the Millennium Development Goals (MDGs), a set of eight broader goals. Water and Sanitation Are a Priority

The SDGs represent an important shift from the MDGs. Under the MDGS, one of the targets identified for achieving the goal of Environmental Sustainability was halving the proportion of the population without access to safe drinking water and basic sanitation by 2015. The SDGs prioritize the role of water and sanitation to development by making Goal Six the availability and sustainable management of water and sanitation for all. To achieve this goal, countries will need to improve access to sanitation and hygiene, improve water quality, apply integrated water resources management and ecosystem-based protections, and build international cooperation.
The benefits of guaranteeing access to water and sanitation will be greater than ensuring that people's basic needs are met. Achieving Goal Six will contribute to the achievement and advancement of many of the other goals, such as gender inequality, ending poverty, good health and well-being, economic growth, and reduced inequalities. In fact, many of the other goals’ success hinges on water.

**Guaranteeing Success of the SDGs and Goal Six**

It is no small feat to get 193 nations to agree to a set of development goals and associated targets developed to direct the implementation of those goals. However, much of the difficult work lies ahead. What are the indicators that will be developed to demonstrate countries’ attainment of these goals, and how do you ensure that the advancements are permanent?

One way to prompt immediate change and development is to focus on Goal Six. Clean drinking water is a basic need and fundamental to our survival and well-being. Clean drinking water means fewer deaths, fewer water-borne diseases, fewer absences from school, and a health ecosystem that will generate cleaner air, land, and food. Furthermore, building the necessary infrastructure to have clean drinking water available within a city brings about direct benefits for the female population who no longer must spend their days walking miles to collect drinking water, which takes them out of school and puts them in danger. Additionally, water infrastructure protects communities from extreme weather events (e.g., droughts and floods) by creating reservoirs that can reserve water for droughts and control too much rain from inundating a city. Sanitation is an important part of guaranteeing clean water and healthier people. Fecal matter is dangerous, and when it’s mixed with surface waters that aren’t treated, it presents a risk to human and environmental health. These are just a few examples of how achieving Goal Six will bring about the advancement of other goals.

It is equally as important that the advancements are long-lasting. Ensuring that the achievement of Goal Six will be permanent is both a question of infrastructure and technology, and good law. Infrastructure that captures, conveys, and treats water will be necessary to bring water to communities, especially those farther from surface or groundwater resources. This infrastructure will also carry away dirty water to treatment plants to be discharged back into surface waters. Technology will protect communities’ rights and ecosystem health by monitoring water quality and water consumption. Good law will support the building, operating, and maintenance of that infrastructure. It will establish clearly defined and transparent rights, and clear, enforceable standards that must be met by users.

Establishing a strong body of water laws, policies, and plans will be fundamental to ensuring that achievements are lasting. To protect access to clean water, and to establish and enforce the environmental standards (e.g., water quality standards, established ecological flows) necessary to provide clean water and sustain the supporting ecosystem, some countries may be required to develop water laws and policies for the first time. Other countries’ laws will require varying degrees of modifications. In developing these laws, it will be important that leaders actively seek out community participation in order to demonstrate transparency in the legal process and engender investment in the success of these laws. Because of the importance of agriculture, manufacturing, and energy production to development, countries should also consider the fulfillment of these other needs in the context of how natural resources are allocated and used within the ecosystem. These interconnections between natural resource manage-
ment and energy, agriculture, and manufacturing should be reflected in the laws, policies, and plans adopted. Considering and regulating energy and water in ways that incentivize reduced use of natural resources and energy will bring about a more efficient and secure economy, and the achievement of other SDGs. Finally, these laws should include mechanisms whereby plans and policies must be reviewed periodically to keep up with technological innovations.

**Unique Opportunities for New Attorneys**

Our world presents tremendous opportunities for new attorneys to think about law and policy on a more global scale. Laws and policies are living doctrines that should be periodically reviewed, and the jurisprudence of other countries may have unique insight or perspective to offer. New attorneys should examine international law and the domestic laws of other countries as they conduct their practice. While these laws may not be applicable in many instances, lawyers can learn from and be influenced by these other perspectives. So be sure to ask yourself, how do these SDGs change your practice or interpretation of US laws and policies?

**Ninth Circuit Rulings yield changes to Endangered Species Act rules and policies**

**R. Todd Silliman and Stefanie Warren**

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Note: This article was reprinted from Trends, which is a benefit of membership in the American Bar Association Section of Environment, Energy, and Resources.

Rulings of the U.S. Court of Appeals for the Ninth Circuit have resulted in recent changes to federal Endangered Species Act (ESA) regulations and policy. These changes concern the listing of threatened and endangered species and the conditions under which the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) will authorize incidental take of ESA-listed species.
Defining “a Significant Portion of Its Range”
The first recent change concerns the ESA’s definition of a term impacting FWS’s and NMFS’s methodology for deciding whether a species should be listed under the ESA. The ESA defines a species as “endangered” or “threatened” according to whether the species is endangered or threatened, respectively, “throughout all or a significant portion of its range.” 16 U.S.C. § 1532(6), (20). FWS and NMFS finalized their policy last year that seeks to provide greater clarity on how they will define and apply the phrase “significant portion of its range” (SPR). 79 Fed. Reg. 37,578 (July 1, 2014); see also 76 Fed. Reg. 76,987 (Dec. 9, 2011) (draft policy). The policy clarifies that FWS and NMFS will first analyze whether a species is threatened or endangered throughout “all” of its range. If it is not, FWS and NMFS will then consider whether that species is endangered or threatened in an SPR. If it is, then all individuals of the species, not only those found in the SPR, are to be protected. The agencies reasoned that this interpretation is necessary to give independent, “operational meaning” to the words “all” and “significant portion of its range” within the SPR phrase. The policy change grew out of the decision in Defenders of Wildlife v. Norton, 258 F.3d 1136, 1141 (2001). In Defenders of Wildlife, the Ninth Circuit reversed the Secretary of the Interior’s decision not to designate a species for failure to consider the species’ viability in an SPR.

The policy also revises the definition of “significant” for purposes of determining whether a portion of a species’ range qualifies as an SPR. The new test for “significant” is whether, without the members in the given portion of the range, the species is endangered or threatened, or likely to become in danger of extinction in the foreseeable future. This is a lower bar than the Department of the Interior Office of the Solicitor had proposed in 2007 in what the agencies label the “clarification interpretation.” That interpretation was at issue in Defenders of Wildlife. According to FWS and NMFS, the clarification interpretation rendered the SPR phrase redundant. FWS and NMFS reason that the prior interpretation would consider a portion of a species’ range “significant” only if without the individuals in that portion the entire species was imperiled. The agencies maintain that this is merely another way of saying that the species is imperiled throughout its range. FWS and NMFS clarified that they will determine whether a portion of a species’ range is significant based on principles of conservation biology. To determine if a portion of a species’ range is significant, FWS or NMFS would ask whether, without that portion, the representation, redundancy, or resiliency of the species—or the four similar metrics used more commonly by NMFS—would be so impaired that the species’ vulnerability to threats would be increased to the point that the overall species would be in danger of extinction. If so, the portion is significant. 76 Fed. Reg. at 76,994.

The new policy is years in the making and follows a process through which the agencies received approximately 42,000 comments. Some in the regulated community have voiced concerns about a more expansive policy leading to more listings. No reported federal court decision has yet addressed the new policy.

Changes to Rules for Incidental Take Statements
FWS and NMFS also recently published a final rule clarifying in several respects the instances under which the agencies will issue an incidental take statement (ITS) and the conditions that they may impose in an ITS. See 80 Fed. Reg. 26,832 (May 11, 2015). Under the ESA, action agencies such as the U.S. Forest Service or Bureau of Land Management consult formally or informally with FWS or NMFS.
In formal consultation, FWS or NMFS issues what is known as a biological opinion analyzing the effects of an agency’s action on a listed species. An ITS is an element of a biological opinion. Its purpose is to allow “take” of a listed species where the take is incidental to, and not the purpose of, the federal agency action and will not jeopardize the continued existence of the species or adversely modify its critical habitat. The regulations previously stated that an ITS was appropriate to address situations where take “may occur.” The new rule restricts this further to situations where “take is reasonably certain to occur.”

Under the rule, ITSs will not be issued in conjunction with section 7 consultations of “framework programmatic actions” that themselves will not cause take. An example of a “framework programmatic action” is the U.S. Army Corps of Engineers’ issuance of nationwide permits under section 404 of the Clean Water Act. The rule clarifies that the appropriate time for an ITS to be issued is when the agency prepares to undertake a particular action pursuant to the programmatic framework that is reasonably certain to result in take.

This curtailment of ITSs is the result of court rulings, most notably Arizona Cattle Growers’ Ass’n v. U.S. Fish and Wildlife Service, 273 F.3d 1229 (9th Cir. 2001). In Arizona Cattle Growers, the Ninth Circuit overturned an ITS that was issued without any finding that the listed species even existed in the area that would be affected by the federal action; thus, there was no basis for concluding that take would occur.

The new rule also clarifies when FWS and NMFS may use “surrogates” in ITSs. A surrogate is a measurable impact to a “similarly-affected species or habitat or ecological conditions” that is used when FWS or NMFS is unable to measure an impact to a specific number of individuals of a listed species. The rule provides that a surrogate may be used only when the ITS articulates: (i) the “causal link” between the surrogate and the take, (ii) why impact to a number of individuals of the listed species cannot be specified or monitored, and (iii) a clear trigger for when the acceptable level of anticipated take has occurred and further consultation is necessary. The new rule on surrogates is the result of another ruling of the Ninth Circuit, Oregon Natural Resources Council v. Allen, 476 F.3d 1031 (2007), which invalidated use of a surrogate when there was no finding by the agency that a limit on a specific number of the listed species could not be used and where the trigger for further consultation was vague.

Practitioners would be wise to familiarize themselves with this new policy and rule, which may be at issue in cases within the Ninth Circuit or elsewhere in the coming years.

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Global Environmental Law Practice

John Briggs and Andrew Waite

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The world has become a smaller place. Individuals and businesses, particularly the larger ones, interact with other parts of the world in ways unparalleled a few decades ago.

This globalism has led in recent years to a new kind of legal practice: global or transnational law, comprising common legal principles drawn from national and international regulatory systems. Nowhere is this more necessary and apparent than in the field of environmental law. Environmental lawyers, although nurtured in their home jurisdictions, need at least an acquaintance with the equivalent rules, procedures, and practices in other jurisdictions, as well as familiarity with international environmental law. Global environmental law provides the common currency in which environmental lawyers from different jurisdictions can deal with each other and understand the environmental issues, requirements, and solutions faced by other countries and by the industries and people who work in them.

Three trends have contributed to this development in environmental law. First, there is a realisation that the environment is not just a local or even a national issue. The world is a single environment. What we do in one country affects the environment in other states. This is true not only in the case of greenhouse gas emissions, which alter the global climate in ways we do not yet fully understand. But poor waste management (illegal transfrontier shipment), water pollution, air pollution, export of chemicals, and import of endangered species can all impact adversely the environment in other parts of the world.

Secondly, although there remain marked differences between legal systems around the world, we face common problems. This has led to a convergence in legal approaches to these problems. The diversity of legal cultures has not hindered the process of learning from the experience of other jurisdictions and even the transplantation of regimes. Chinese environmental lawyers responsible for drafting China’s new contaminated land regime consulted their counterparts from many jurisdictions to learn how other systems dealt with this problem before embarking on their task. The US invention of environmental
impact assessment is now widely used around the world. The regulation of chemicals in Canada in the 1990s was taken further by the European Union’s extensive REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation of 2006. Meanwhile in 2003, China introduced regulations requiring registration and toxicity testing of new chemical substances. Similar rules have been adopted in Japan and South Korea.

In parallel with this process of borrowing or transplantation, there has been a significant trend to “upload” the experience of national legal systems into international conventions and agreements and in turn to “download” them into many national regimes.

Thirdly, the power of corporations with a global reach (including banks applying the Equator Principles) has encouraged the adoption of higher and uniform environmental standards around the world. This is not only to avoid the adverse publicity and sometimes litigation resulting from environmental and human exploitation in developing countries whose basic economic needs are not matched by their environmental governance systems. Many large companies have found that it is more efficient to operate according to the same environmental standards irrespective of where their manufacturing plants are located and it may give them a welcome competitive edge if the bar is also raised for their rivals.

The commonality of legal principles, rules, and regulatory tools and approaches resulting from these influences has created a global environmental law that not only enriches international conferences on comparative environmental law, but provides a platform for practising environmental lawyers to address the problems of their clients who operate around the world.

However, this development does not imply that the rich diversity of legal cultures can safely be ignored. On the contrary, any successful transplantation of a regulatory regime has to ensure compatibility with the local legal system as well as the administrative and physical infrastructures and the enforcement culture. An English environmental lawyer visiting an African country to draft new sewage disposal legislation was shown the existing legislation (drafted by an earlier visiting team), which contained very precise requirements for the construction and maintenance of sewers. In reply to his question, why the existing regulations needed to be changed, he was told that it was impossible to implement the regulations because there were no sewers in that country!

For the same reasons, lawyers who have to advise on environmental issues relating to other jurisdictions need to be aware of the differences between the law in the books and the law in practice. It is necessary to understand the legal system of which the environmental legislation forms part as well as the practices of the enforcement authorities and the approach of the courts. In other words, local knowledge or access to local knowledge is essential.

Two examples will suffice. First, contrary to the position in many jurisdictions, in China polluters carry the burden of proving that they have not caused harm to neighbors. Second, Indian courts have used judicial review to deal with the perceived failure by the regulatory authorities to enforce the law. In the rising tide of public interest litigation courts have effectively taken over the role of those authorities in
particular cases. In doing so, the courts have developed revolutionary procedural innovations, including: (1) transforming letters from aggrieved citizens into petitions for writs, and (2) adopting *suo motu* (on its own initiative) jurisdiction without any request by a litigant.

Some judges in Pakistan have also adopted *suo motu* jurisdiction. One judge, after reading about the disposal of chemical waste off the coast of Balochistan in the mid-1990s, persuaded his judicial colleagues to issue an injunction forbidding the practice. In another case in 2006, the chief justice, after reading letters in a newspaper, issued an order preventing the continuance of a road expansion project.

It is important to keep abreast of these differences as well as the similarities in laws and practices around the world. Some law firms can achieve this through their global reach via local offices in many parts of the world. However, few have expert environmental lawyers in all jurisdictions, so it is necessary to build up a network of experienced lawyers who can be called on for advice when required—lawyers with knowledge of how the law works in practice as well as the black letter law. Some are in private practice, while others work as consultants from an academic base, depending on the maturity of environmental law practice in their particular jurisdictions.

Above all, it is through practical experience of working with foreign lawyers that law firms can build an extensive network of contacts in the field who are among the leading environmental law experts in their respective countries. This enables them to obtain environmental law advice for clients in most countries of the world that is sound, timely, and commercially applicable. In this way they can highlight for clients the different as well as similar national approaches that may affect their businesses. This may be particularly helpful for those who may be reasonably familiar with some jurisdictions but not others.

A good example of how global expertise can be applied directly for the benefit of clients is sharing expertise in environmental law issues associated with oil and gas production, especially given the commonality of issues and the signs of convergence globally in legal approaches to those issues. The same can be said of numerous other matters relating to air emissions, water, carbon, climate change, maritime pollution, and a host of other things.

Apart from advising clients, environmental lawyers have been part of the process of developing global environmental law, by drafting legislation for other states and by arranging and participating in training sessions for judges, government officials, and parliamentarians overseas. Many from developed countries have shared their expertise with lawyers in developing countries and forged connections by participating in international conferences and in international environmental law organisations for which sharing knowledge and capacity building are primary objectives.

In conclusion, global environmental law services seem destined to become an increasingly important part of a law firm’s offering in the next few decades.
Guide to Environmental Law Resources at the ABA

Membership and Networking Opportunities

**Young Lawyers Division: Environment, Energy, and Resources Law Committee**
The committee, which is focused on environmental, energy, or natural resources law, consists of trial, regulatory, and transactional lawyers who come together to share valuable knowledge and experiences with other young attorneys. [http://www.americanbar.org/groups/young_lawyers/committees/eeer_law.html](http://www.americanbar.org/groups/young_lawyers/committees/eeer_law.html)

**Section of Environment, Energy and Resources**
The section strives to be the premier forum for environmental, energy, and resources lawyers; a meeting place where they can find the most current and sophisticated analyses of the complicated environmental, energy and resource problems facing the United States and the world and where they can learn, teach and contribute to solving those problems while serving the public interest. [http://www.americanbar.org/groups/environment_energy_resources.html](http://www.americanbar.org/groups/environment_energy_resources.html)

**Business Law Section: Environmental Committee**
The mission of the committee is to assist business lawyers to better understand the complexities of environmental law and to work with them to develop practical, effective, and innovative solutions to environmental issues. [http://apps.americanbar.org/dch/committee.cfm?com=CL400000](http://apps.americanbar.org/dch/committee.cfm?com=CL400000)

**Section of Civil Rights and Social Justice: Environmental Justice Committee**
The committee works to achieve the goal of environmental justice through advocacy and education, and by linking resources to needs. The committee also engages in initiatives directed toward educating law students, providing training to attorneys, and promoting the availability of quality legal services to those with environmental justice issues. [http://apps.americanbar.org/dch/committee.cfm?com=IR506000](http://apps.americanbar.org/dch/committee.cfm?com=IR506000)

**Section of International Law: International Environment Committee**
The committee serves as a forum for the community of private practice, in-house, non-profit, academic and government lawyers practicing or interested in environmental law in an international dimension. It also serves as a resource for the exploration of developments in international environmental law and their implications for the practice of law, diplomacy, scholarship, and legal education. [http://apps.americanbar.org/dch/committee.cfm?com=IC940000](http://apps.americanbar.org/dch/committee.cfm?com=IC940000)
Section of Litigation: Environmental Litigation Committee
The committee is dedicated to helping its members become better environmental litigators. The committee is collegial and friendly committees and its members benefit from the relationships they develop with other lawyers whose practices are focused on environmental matters.
http://apps.americanbar.org/litigation/committees/environmental/about.html

Section of Public Utility, Transportation and Communications Law: Environmental Law
The committee addresses all environmental issues related to transportation, communication, and public utility operations, including gas, electricity and water companies. Relevant environmental laws include the major federal regulatory programs and their state analogues (Clean Air, Clean Water and Solid Waste Acts), CERCLA or Superfund, the Endangered Species Act, and other acts addressing particular industry sector issues, such as the Safe Drinking Water Act. http://apps.americanbar.org/dch/committee.cfm?com=PL255000

Publications

Young Lawyers Division: Environment, Energy, and Resources Law Committee (Newsletter)
http://www.americanbar.org/groups/young_lawyers/committees/eer_law.html

Natural Resources, Environment and Energy (Journal)
The Section of Environment, Energy and Resources’ quarterly magazine of practical, informative articles for practitioners. Section members receive NR&E as a member benefit and they can view past issues archived online. Subscriptions are also available.

http://www.americanbar.org/publications/natural_resources_environment

Trends (Newsletter)
The Section of Environment, Energy and Resources’ bi-monthly electronic newsletter of current developments and section news. Section members receive Trends as a member benefit and they can view past issues archived online.

http://www.americanbar.org/publications/trends

The Year in Review (Annual Review)
The Section of Environment, Energy and Resources’ comprehensive annual summary of judicial decisions, new legislation, and regulatory developments. Section members can access The Year in Review online as a Section benefit. http://www.americanbar.org/publications/year_in_review_home.html

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Environmental Litigation: Law and Strategy (Book)
The book provides expert, practical guidance on the most critical areas in this rapidly-changing area of the law. Environmental litigation requires an impressive range of substantive expertise, and contributors to this volume are drawn from a variety of settings, including academia, government, and private practice. The book examines some of the most critical issues in specialized litigation.