
Contents

<i>Preface</i>	<i>ix</i>
Introduction	1
1. <i>Losing the Forest for the Trees</i>	2
2. <i>50 Years of Failure</i>	3
3. <i>The Subject of Environmental Law</i>	6
4. <i>The Challenge for Environmental Law</i>	9
a) <i>Flawed Design</i>	10
b) <i>Legacy of the European Cosmology</i>	12
c) <i>Environmental Reductionism</i>	13
5. <i>Unravelling the Problem</i>	15
6. <i>Book's Content</i>	17
PART I	
Transforming International Environmental Law	19
1 In Search of Direction	21
1. <i>Rethinking Sustainable Development</i>	21
a) <i>Sustainability: Weak or Strong?</i>	25
b) <i>History of Sustainability</i>	28
c) <i>The Sustainable Development Goals</i>	29
2. <i>Overcoming Anthropocentric Reductionism</i>	34
a) <i>Why Environmental Law Is Not Working</i>	34
b) <i>The Human/Nature Divide</i>	40
c) <i>New Zealand's Steps Towards Ecological Integrity</i>	44
d) <i>From "Tragedy" to Trusteeship of the Commons</i>	46
e) <i>Redefining "Nature"</i>	50

2	The Earth System Approach	52
1.	<i>Living Within Planetary Boundaries</i>	53
2.	<i>Earth System Science</i>	58
a)	<i>Planetary Boundaries and the Safe Operating Space</i>	59
b)	<i>Social Science's Contribution to the Safe Operating Space</i>	61
c)	<i>The Role of Law and Governance</i>	67
3	Dealing With Complexities	71
1.	<i>Social and Ecological Complexities</i>	72
a)	<i>Societal Responses to Increased Levels of Complexity</i>	74
b)	<i>Causal Loops and the World System</i>	76
c)	<i>Human Evolutionary Biology and Psychology</i>	81
d)	<i>Our "Mental Model" of the World</i>	82
2.	<i>Growth and Sustainability</i>	84
	<i>Case Study 1: Population</i>	90
	<i>Case Study 2: Pollution</i>	93
3.	<i>What Have We Learnt?</i>	94
4	Ecological Integrity	99
1.	<i>Systems Thinking</i>	99
a)	<i>The Basics of Systems Thinking</i>	103
b)	<i>Bathtub Dynamics</i>	104
c)	<i>Feedback Loops</i>	105
d)	<i>Resilience</i>	107
2.	<i>Ecological Integrity</i>	109
a)	<i>Presence in International Law</i>	109
b)	<i>Defining the Legal Concept</i>	114
c)	<i>Ecological Integrity as a Grundnorm</i>	116
PART II		
Examining State Sovereignty		129
5	The Concept of State Sovereignty	131
1.	<i>The Evolution of State Sovereignty</i>	131
a)	<i>The Classical Thinkers</i>	131
b)	<i>The Westphalian System</i>	136
c)	<i>The Principle of Non-Interference</i>	137

2.	<i>The Global Context of Sovereignty</i>	141
	a) <i>Territorial Sovereignty and the Anthropocene</i>	142
	b) <i>The UN System of Sovereignty</i>	145
	c) <i>The Political Context of Sovereignty</i>	151
6	Sovereignty and International Environmental Law	154
	1. <i>Introduction</i>	154
	2. <i>The Neorealist Viewpoint</i>	155
	3. <i>The Ecology-Sovereignty Debate</i>	158
	4. <i>Liberal Theory and Neoliberalism</i>	159
	5. <i>Critical Constructivism</i>	162
	a) <i>Identities, Interests and Norms</i>	163
	b) <i>Wendt's Three Cultures of Anarchy</i>	165
	c) <i>Cultural Norms and Civil Society Perspectives</i>	167
	6. <i>International Environmental Law Versus State Sovereignty</i>	170
	a) <i>The No-Harm Rule</i>	171
	b) <i>The Precautionary Principle</i>	175
7	The Duty to Protect	179
	1. <i>The Need to Widen the Frame</i>	180
	a) <i>The Current Conceptual Frame</i>	180
	b) <i>Thinking Beyond the "Sovereignty Rut"</i>	183
	2. <i>Duty to Avoid Harm to Other States</i>	185
	3. <i>An Emerging Environmental Duty</i>	190
	a) <i>Human Rights Instruments</i>	190
	b) <i>Right to a Healthy Environment Under International Law</i>	192
	c) <i>Nationally Recognized Environmental Rights</i>	196
	d) <i>Relevance of "Responsibility to Protect"</i>	201
	4. <i>Widening the Frame of Human Rights</i>	206
	a) <i>Overcoming Anthropocentrism</i>	206
	b) <i>Overcoming the "Othering" of Nature</i>	208
	c) <i>A Duty to Protect the Earth System?</i>	210
	d) <i>From Rights to Responsibilities</i>	214
	PART III	
	Incorporating Earth Trusteeship	215
8	Sovereignty and Trusteeship	217
	1. <i>Introduction</i>	217

2. <i>Fiduciary Duties of the State</i>	217
3. <i>State as a Trustee of Humanity</i>	223
a) <i>Ensuring Minimum Obligations</i>	226
b) <i>Reconciling Sovereignty and Trusteeship</i>	228
c) <i>Three Paradigms of Sovereignty</i>	232
4. <i>Trusteeship Theory and State Sovereignty</i>	234
a) <i>Classic Trusteeship Theory</i>	234
b) <i>The Mandate System and the Theory of Sovereignty</i>	237
5. <i>The Public Trust Doctrine</i>	244
a) <i>Public Trust of Natural Resources</i>	245
b) <i>Application in Common Law Countries</i>	246
c) <i>General Validity</i>	250
6. <i>The Responsibility to Protect</i>	251
a) <i>R2P and Natural Catastrophes</i>	255
b) <i>Greater Platform of R2P</i>	257
9 The State as Earth Trustee	260
1. <i>States as Fiduciaries of Humanity</i>	260
2. <i>Trusteeship of the Earth</i>	265
3. <i>The Democratic Context</i>	273
4. <i>Responsibility for Human Rights and the Earth</i>	277
5. <i>Earth Trusteeship as a Global Concern</i>	280
a) <i>The Democracy Paradox</i>	283
b) <i>The Sovereignty Paradox</i>	286
c) <i>Global Citizenship</i>	288
6. <i>Institutionalizing Earth Trusteeship</i>	290
a) <i>A World Environment Organization (WEO)</i>	291
b) <i>Repurposing the United Nations Trusteeship Council (UNTC)</i>	294
7. <i>Implementing Earth Trusteeship</i>	303
Conclusion	307
<i>Bibliography</i>	312
<i>Index</i>	340