

DP IB Environmental Systems & Societies (ESS): HL



Your notes

9.1 Introduction to Environmental Law

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Definition & Purpose of Environmental Law

Basics of Law

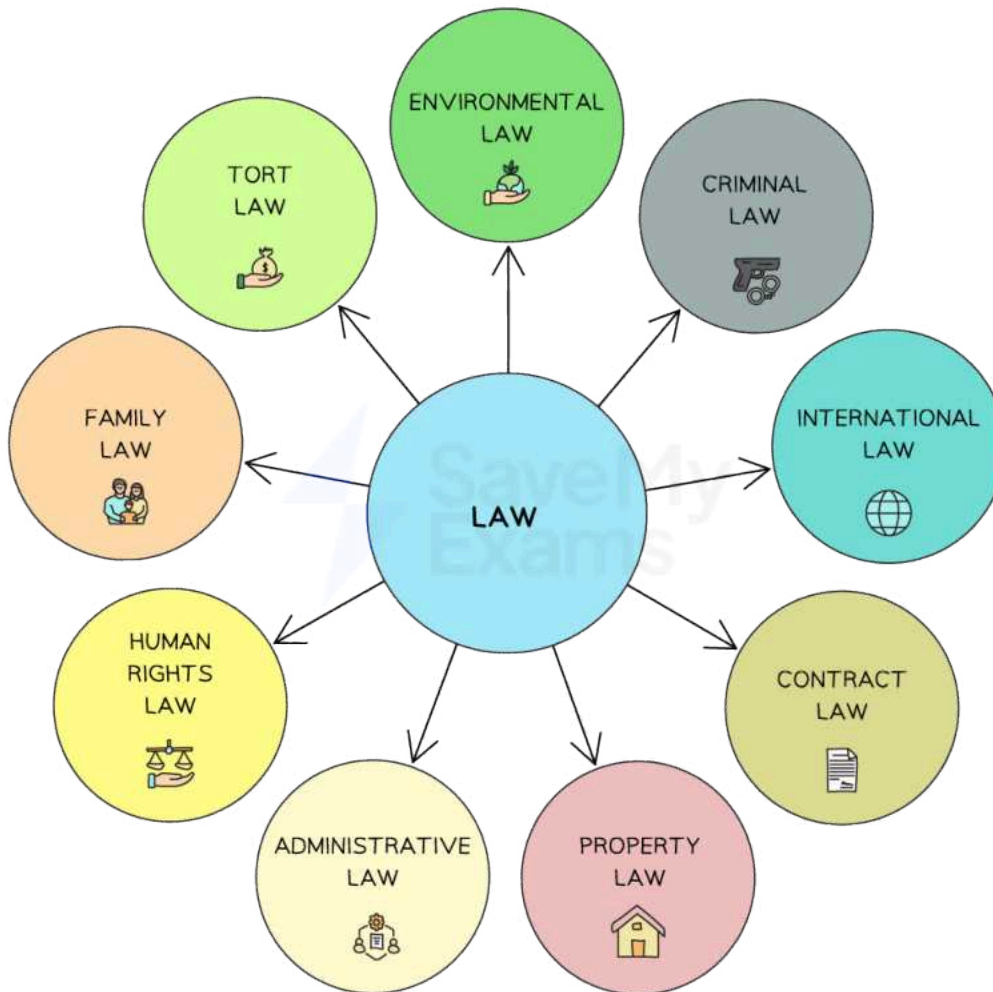
- Laws are **fundamental rules** that regulate and govern **human behaviour** within a society
 - For example, traffic laws regulate how drivers should behave on the roads to ensure safety and order
- Laws are established and **enforced** by social or governmental authority to maintain order and protect rights
 - For example, laws prohibiting theft ensure the protection of individuals' property rights and contribute to the overall safety and security of the community
 - Law enforcement agencies, such as the police, are authorised by the government to enforce these laws, investigating theft cases and apprehending offenders to uphold the rule of law and safeguard citizens' rights

Purpose and function of laws

- Laws serve multiple purposes, including governing human conduct, resolving conflicts, and promoting justice
 - They provide a framework for **social order**, ensuring stability and predictability in society
 - Laws also act as a deterrent against **undesirable behaviours** by imposing penalties for violations (i.e. when people break the law)



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Types of law

Sources of law

- Laws can originate from various sources, including legislation, common law, administrative regulations, and international treaties
 - **Legislation** refers to laws enacted by a legislative body, such as a parliament or congress
 - **Common law** derives from judicial decisions and precedent established through court rulings
 - **Administrative regulations** are rules and regulations created by administrative agencies to implement laws



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- For example, the Environmental Protection Agency (EPA) in the United States is an administrative agency tasked with implementing and enforcing environmental laws and regulations
- **International treaties** are agreements between sovereign states governing interactions **between nations**
 - For example, the Paris Agreement was an international treaty signed in 2015 that aims to combat climate change by limiting global warming to well below 2 °C above pre-industrial levels

Enforcement of laws

- Law enforcement agencies are responsible for upholding and enforcing laws within a jurisdiction
 - Enforcement mechanisms may include police, courts, and correctional systems (e.g. prisons or jails)
 - Penalties for violating laws can range from **fines** and **community service** to **imprisonment**, depending on the **severity** of the offence

Consequences of absence of law

- Without laws, societies would descend into chaos and anarchy, with individuals free to act as they please **without consequences**
 - Lack of legal framework undermines social order, leading to conflict, violence, and oppression
 - The absence of law threatens people's fundamental rights and freedoms, leaving individuals vulnerable to exploitation and injustice
 - An example of this can be seen in failed states like Somalia, where the absence of a functioning legal system has led to widespread lawlessness and violence

Rule of law

- The rule of law is the principle that asserts that everyone is subject to the law, including government officials
- Key concepts underpinning the rule of law include:
 - **Equality:** All individuals are equal before the law, regardless of status, wealth, or power
 - **Fairness:** Legal processes and decisions should be impartial and unbiased, ensuring fair treatment for all
 - **Liberty:** Laws should protect individual liberties and freedoms, limiting government intrusion into personal affairs
 - **Justice:** The legal system should strive to achieve justice by providing remedies for wrongs and ensuring accountability for violations



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Introduction to Environmental Law

Definition of environmental law

- Environmental law includes the legal principles, regulations, and treaties governing the interaction between human activity and the environment
 - It focuses on **regulating human behaviour to minimise negative impacts on natural resources and ecosystems**, promoting sustainability and environmental protection
 - It provides a framework for **balancing economic development with environmental preservation**, safeguarding the well-being of current and future generations

Scope of environmental law

- Environmental law covers various aspects of human-environment interactions, including (but not limited to) the following:

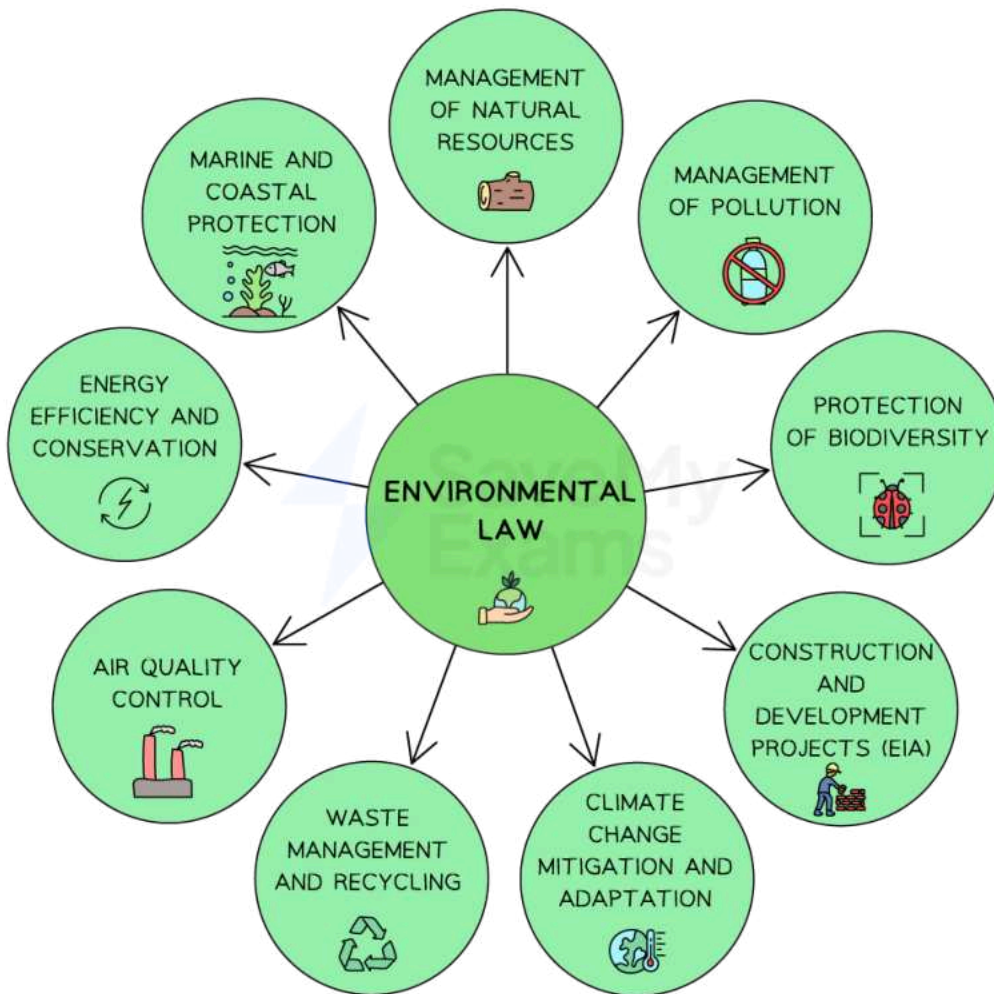
Main Aspects Covered by Environmental Law

Aspect	Explanation	Example
Management of natural resources	Regulating the extraction, use, and conservation of resources such as forests, minerals, fisheries, and water bodies	The National Forest Management Act in the United States regulates the sustainable management and use of national forests, balancing conservation with timber harvesting and recreational activities
Pollution management	Establishing regulations to control and mitigate pollution of air, soil, and water, in order to protect human health and ecosystems	The Clean Air Act in various countries imposes regulations on emissions from industries and vehicles to improve air quality and reduce the impacts of air pollution on human health and the environment
Biodiversity protection	Implementing measures to conserve and protect endangered species, wildlife habitats, and ecosystems to maintain biodiversity	The Convention on Biological Diversity is an international treaty aimed at conserving biodiversity, promoting sustainable use of biological resources, and ensuring fair and equitable sharing of benefits from genetic resources
Construction and	Requiring Environmental Impact Assessments (EIAs) to evaluate the potential environmental	The European Union's Environmental Impact Assessment Directive requires member states to conduct environmental assessments for



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development projects	effects of major infrastructure projects before approval	major development projects, such as infrastructure construction, to identify and mitigate potential environmental impacts
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Aspects covered by environmental law

- Understanding the fundamental aspects of environmental law is essential for addressing environmental challenges and achieving sustainable development



Case Study



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Dakota Access Pipeline

Overview:

- The Dakota Access Pipeline (DAPL) is an underground pipeline that transports crude oil from North Dakota to Illinois, spanning approximately 1172 miles
- The pipeline's construction and operation have been met with significant controversy, particularly due to its potential environmental and social impacts, including threats to water sources and sacred sites of the Standing Rock Sioux tribe

Environmental concerns:

- **Water contamination:**
 - The proposed pipeline route passes beneath the Missouri River, the primary water source for the Standing Rock Sioux tribe and millions of others downstream
 - A potential oil spill could contaminate the water, posing risks to human health and ecosystems
- **Ecosystem disruption:**
 - Pipeline construction and operation have disrupted local ecosystems, including wetlands and wildlife habitats, leading to biodiversity loss and habitat fragmentation
- **Climate impact:**
 - The extraction and transportation of fossil fuels contributes to greenhouse gas emissions, exacerbating climate change and its associated environmental consequences

Social impacts:

- **Cultural heritage:**
 - The pipeline's route crosses lands considered sacred by the Standing Rock Sioux tribe, threatening culturally significant sites and disrupting traditional practices and ceremonies
- **Health and safety:**
 - Pipeline leaks or spills could have severe health and safety implications for nearby communities, including potential contamination of drinking water sources and exposure to hazardous chemicals
- **Indigenous rights:**
 - The DAPL construction has raised concerns about violations of Indigenous rights, including the right to free, prior, and informed consent regarding projects that affect their lands and resources

Role of environmental law and EIAs:

- **Environmental Impact Assessment (EIA):**
 - An EIA is a critical component of the regulatory process for projects like the Dakota Access Pipeline



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- It evaluates the potential environmental, social, and cultural impacts of proposed developments, helping decision-makers assess the project's feasibility and identify mitigation measures
- **Legal framework:**
 - Environmental laws, such as the National Environmental Policy Act (NEPA) in the United States, ensure that environmental impacts are considered and that there is public input in decision-making processes for major projects like the DAPL
- **Public consultation:**
 - EIAs involve consultation with affected communities, including Indigenous groups like the Standing Rock Sioux tribe, to ensure their concerns and perspectives are considered during project planning and decision-making

Conclusion:

- The Dakota Access Pipeline case highlights the intersection of environmental, social, and cultural concerns in infrastructure development projects
- EIAs play a crucial role in assessing and addressing the potential impacts of such projects, ensuring that environmental laws are upheld, and sustainability principles are integrated into decision-making processes
- Effective implementation of environmental law requires a holistic approach that considers not only ecological sustainability but also social sustainability, including the protection of Indigenous rights and cultural heritage



Examiner Tips and Tricks

You don't need to memorise this case study; it just provides you with an example of how environmental law covers various aspects of human-environment interactions. Some cases, like the Dakota Access Pipeline, are **highly complex**, requiring many different **environmental** and **social factors** to be considered.

For your exam, make sure you are familiar with the four main aspects covered by environmental law (see the table) and how these can be applied to different scenarios you might be presented with.



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Environmental Justice & Challenges

Role of Environmental Law

- Environmental justice refers to the **fair distribution** of **environmental benefits** and **responsibilities**, ensuring that all communities, populations, and societies, regardless of socioeconomic status or race, have equal access to a healthy environment (and are all responsible for ensuring this occurs)
 - Environmental laws play a crucial role in addressing environmental **injustices** and promoting sustainability, but they face challenges, including political lobbying and **economic interests**

The importance of environmental laws in addressing environmental justice

- Equitable distribution:**
 - Environmental laws aim to ensure that the benefits of environmental protection are shared equally among all communities, particularly those disproportionately affected by pollution and environmental degradation
- Protection of vulnerable communities:**
 - Environmental laws provide legal mechanisms to protect vulnerable communities, such as low-income neighbourhoods and Indigenous populations, from environmental harms and injustices
- Promotion of sustainability:**
 - By regulating activities that contribute to environmental degradation, such as pollution and resource exploitation, environmental laws support long-term sustainability and the well-being of both present and future generations

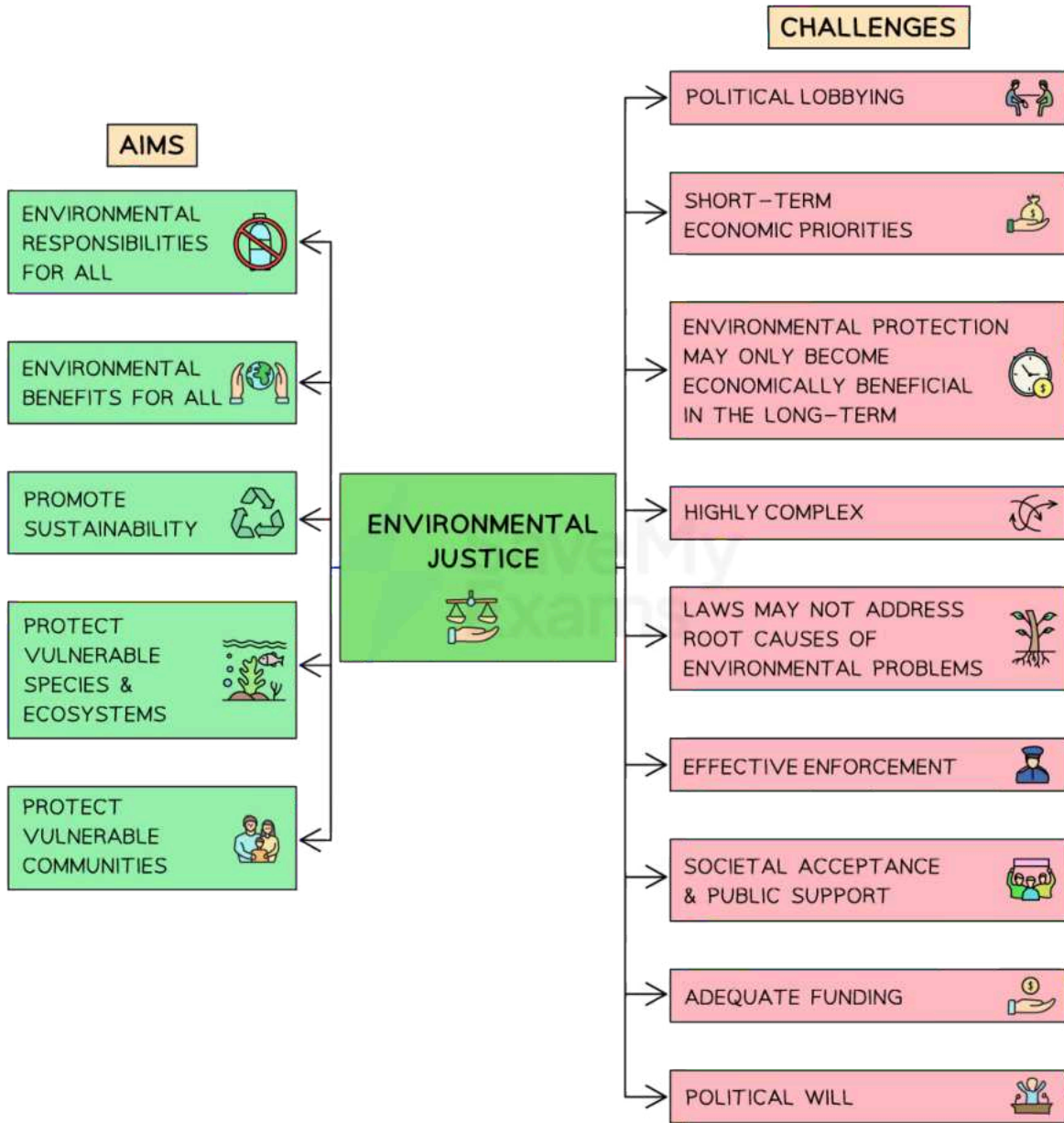
Challenges faced by environmental laws

- Political lobbying:**
 - Economic interests and economically powerful stakeholders often lobby against environmental regulations that may impact their profitability, leading to **resistance** and **delays** in passing environmental laws
- Short-term economic priorities:**
 - Economic systems often prioritise short-term gains over long-term environmental sustainability, making it challenging to enact laws that protect natural resources and promote environmentally ethical behaviour
- Complexity and uncertainty:**



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- Environmental issues are often highly complex and involve many factors, leading to challenges in creating and implementing effective laws that address root causes and prevent unintended consequences



Aims and challenges of environmental law

Examples of lobbying

1. Keystone XL Pipeline:

- The Keystone Pipeline is a system of oil pipelines that transports crude oil from Canada to refineries in the United States
 - A fourth pipeline expansion segment, called the Keystone XL Pipeline, was proposed to increase the capacity for transporting crude oil from Canada to the United States, aiming to meet growing energy demands and reduce dependence on oil imports from other countries
- The Keystone XL Pipeline project faced significant opposition from environmental groups and Indigenous communities in Canada and the United States due to concerns about its potential environmental impacts, including the risk of oil spills and contribution to climate change
- Despite widespread protests and legal challenges, the project received **approval** from the government after years of **lobbying** from the **oil industry**
 - For example, they argued that the project would create jobs and stimulate economic growth
- However:
 - In 2015: the project was temporarily delayed by President Barack Obama
 - In 2017: President Donald Trump took action to permit the pipeline's completion
 - In 2021: President Joe Biden signed an executive order to revoke the permit granted to TC Energy Corporation for the Keystone XL Pipeline
 - In 2021: TC Energy abandoned the project



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The proposed XL extension of the Keystone Pipeline is shown here in green (Phase 4) – this extension project has since been abandoned (Meclee, CC BY-SA 4.0, via Wikimedia Commons)

2. Paris Agreement Resistance:

- The Paris Agreement (2015) is an international treaty aimed at addressing climate change by reducing greenhouse gas emissions and promoting sustainable development
- However, efforts to implement the agreement face challenges due to political disagreements and **resistance from industries that rely on fossil fuels**

3. National Rifle Association (NRA):

- The NRA is a powerful lobbying group representing gun owners in the United States, advocating for **gun rights** and related issues
- While primarily focused on gun legislation, the NRA's lobbying efforts have extended to environmental policies, particularly those related to hunting and conservation
- The NRA has been accused of lobbying against laws aimed at protecting **endangered species**, such as wolves, and advocating for legislation that would allow hunting in protected areas, potentially threatening vulnerable wildlife populations



Examiner Tips and Tricks

You don't have to learn the specific details of these examples for your exam; you just need to understand that environmental laws can often be difficult to approve due to a complex range of competing political and economic interests.



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Success of Environmental Law

- Environmental law is integrated into the legal frameworks of most countries, but its **effectiveness** varies from country to country
 - Success depends on factors such as enforcement mechanisms, societal acceptance, and the amount of financial resources allocated for environmental protection
- **Effective enforcement:**
 - Strong administrative and legal institutions are essential for enforcing environmental laws
 - This includes regulatory agencies that are responsible for **monitoring compliance**, as well as courts responsible for adjudicating environmental disputes
 - In Germany, for example, the Federal Environment Agency (UBA) is an efficient regulatory agency that oversees environmental protection efforts and enforces regulations to ensure compliance
- **Societal acceptance:**
 - Environmental laws are more likely to succeed when they are widely accepted and **supported by the public**
 - **Education** and awareness campaigns can help with understanding and promote behavioural changes that align with environmental goals
 - For example, the ban on single-use plastic bags and bottles in Rwanda has been widely embraced by the population, leading to significant reductions in plastic waste and pollution
- **Adequate Funding:**
 - Sufficient financial resources are necessary to support the implementation and enforcement of environmental laws, as this can be expensive to do successfully
 - This includes funding for **monitoring** and **enforcement** efforts, as well as investments in research and technology to develop **sustainable solutions**
 - For example, the European Union's LIFE programme provides funding for environmental and climate action projects, supporting initiatives aimed at conservation, pollution reduction, and

sustainable development

- However, budget cuts to environmental agencies and programmes can undermine enforcement efforts and limit the effectiveness of environmental laws (as seen in some regions during economic downturns)

Limitations of environmental law

- The effectiveness of environmental law can be limited by factors such as political will, conflicting interests, and competing priorities
 - Political will plays a particularly **influential role** in the success of environmental law and policy
 - Without strong leadership and commitment from policymakers, efforts to address environmental challenges may be slowed or weakened, leading to inadequate regulation and protection of natural resources
 - While political will can be influenced by public opinion, environmental issues may not always command the same level of public attention as other pressing concerns, such as economic recessions, wars or health crises (e.g. pandemics)
 - Without strong public advocacy and pressure, politicians may not prioritise environmental legislation or enforcement efforts



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Examples of Successful & Unsuccessful Environmental Legislation

Example	Result	Summary
Norway's Renewable Energy Policies	Successful	<p>Norway has implemented comprehensive renewable energy policies, including incentives for renewable energy development and strict emissions standards</p> <p>These policies have led to significant reductions in greenhouse gas emissions and increased reliance on clean energy sources such as hydroelectricity and wind power</p>
Brazil's Deforestation Policies	Unsuccessful	<p>Brazil has struggled to effectively enforce laws aimed at curbing deforestation in the Amazon rainforest</p> <p>Weak enforcement, political pressure from agricultural interests, and insufficient funding have contributed to continued deforestation, threatening biodiversity and exacerbating climate change</p>



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Germany's Waste Management Policies	Successful	<p>Germany has implemented rigorous waste management policies, including recycling programmes and waste-to-energy initiatives</p> <p>These policies have significantly reduced landfill waste and promote resource conservation, contributing to a more sustainable waste management system</p>
Australia's Climate Change Policies	Unsuccessful	<p>Australia has faced challenges in implementing effective climate change policies, including significant political opposition and reliance on fossil fuel industries</p> <p>Weak targets and inadequate investment in renewable energy have hindered efforts to reduce greenhouse gas emissions and address climate change impacts</p>