

# LEGAL INFORMATION FOR ENVIRONMENTAL GROUPS





# CONTENTS

- ▶ **Civil Disobedience** ..... **3**
  - The Elements of Civil Disobedience ..... 3
  - The Object of Civil Disobedience ..... 5
  - What Civil Disobedience is Not? ..... 5
  - The Legal Consequences / The Response of the Legal System ..... 6
    - Criminal Punishment of Civil Disobedience ..... 7
    - An Explanation of Criminal Code Offences ..... 7
    - Private Law Remedies, Anti-Protest Injunctions ..... 9
    - The Court's Contempt Power ..... 10
  
- ▶ **Property Law** ..... **12**
  - The concept of property ownership ..... 12
  - The kinds of property ..... 12
  - The rights of property owners ..... 12
  - Restrictions imposed on property ownership ..... 12
  
- ▶ **Endangered Species** ..... **13**
  - Legislation ..... 13
  - Species at Risk Act, Canada ..... 14
  - Quick Guide ..... 15
  
- ▶ **International Law** ..... **16**
  - Enforcement Mechanisms Under International Law ..... 16
    - ICJ ..... 16
    - Ad Hoc International Tribunals ..... 16
    - Domestic Courts ..... 16
  - Types of International Law ..... 17
    - Treaties ..... 17
    - Custom ..... 17
    - Soft Law ..... 18
  
- ▶ **Credits** ..... **19**



# CIVIL DISOBEDIENCE

## The Elements of Civil Disobedience:

### (1) Protest

The act of civil disobedience is not an act undertaken for the sake of private gain. The acts of civil disobedience are registered at the expense of considerable effort and inconvenience on the part of the civil disobedient. This is the act of sacrifice, because the civil disobedient invariably takes himself to be acting against some form of injustice that he finds intolerable.

#### **Civil Disobedience:**

An act of social or political protest, deliberately unlawful, generally non-violent, conscientiously and publicly performed.

### (2) Deliberately unlawful

The act of civil disobedience should necessarily incorporate some willful infraction of the law. The violation of some law may take two forms:

- (1) Doing something the law forbids (e.g., disturbing the peace by continual shouting); or
- (2) Refusing to do something the law commands (e.g., deliberately failing to register for the military draft).

### (3) Non-violent

The vast majority of civil disobedient protests are carefully and thoughtfully nonviolent and peaceful. Partly this is because the disobedients themselves abhor violence. Partly their meticulous nonviolence is a tactical requirement of their enterprise. Violence is inflammatory. Inevitably a violent protest will result in the focusing of public attention on the fact and extent of the injury done rather than upon the reason for the protest or the need to eliminate its causes.

### (4) Conscientiously

The civil disobedient does act conscientiously. Having weighed the several conflicting component obligations in the context, he concludes that he must disobey as he does, or know himself to be a hypocrite. Hypocrisy he cannot stomach. So he breaks the law, knowingly.

#### **Civil Disobedience is:**

- ▶ A nonviolent means of protesting or of attempting to achieve political or social goals.
- ▶ A refusal to obey laws, pay taxes etc.
- ▶ Acts not undertaken for one's personal gain but to achieve a public good.



(5) **Publicly performed**

An act of civil disobedience is a public act. The action is carried out in the open. The protester is seeking to demonstrate publicly his conviction that gross injustice is being done.

## The Object of Civil Disobedience

To appeal to the public and to bring about a change in the law or in policy of some governmental body or private corporate body which seem to the civil disobedient to be wrong or immoral.

### *The Goals of Civil Disobedience*

To appeal to the public

To cause change in:

- A law
- A government or corporate policy

## What Civil Disobedience Is Not?

### *What Activities Are Not Civil Disobedience?*

- ▶ Parades
- ▶ Assemblies
- ▶ Marches
- ▶ Picket Lines
- ▶ Other public demonstrations that abide by the law

Because civil disobedience **necessarily involves some deliberate infraction of the particular law**, all parades, assemblies, marches, picket lines, and other public demonstrations that abide by the law are **not civil disobedience**. For that reason most protests, however vehement or unusual, are not civil disobedience and would be improperly classified as such.

### *The importance of non-violence:*

- ▶ When protest is violent, attention is focused on the violence rather than the issue being protested.



## The Legal Consequences of Civil Disobedience - The Response of the Legal System:

One who deliberately breaks the law should be punished for that conduct. The civil disobedient deliberately breaks a law he knows applies to him, and he is no exception to the rule. He is properly subject to the normal punishment for the offense he commits.

*There are 3 ways of law enforcement in civil disobedience available in the legal system:*

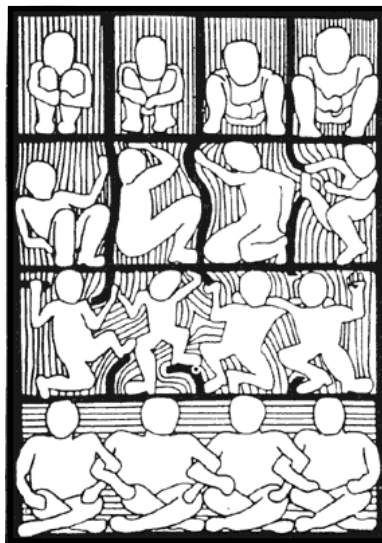
**(1) THE USE OF CRIMINAL CODE OFFENCES RELEVANT TO CIVIL DISOBEDIENCE;**

**(2) REMEDIES IN PRIVATE LAW - ANTI-PROTEST INJUNCTIONS;**

Civil and criminal remedies exist side by side in part because they fulfill different purposes: the criminal uses punitive sanctions to protect the public interest while private law actions redress private wrongs.

A private party's interest is not to punish but to achieve the objective for which the injunction was granted.

**(3) THE COURT'S CONTEMPT POWER.**



### Legal Consequences of Civil Disobedience

Regardless of the reasons why you break a law you are still subject to the penalties for doing so.

**3 ways the authorities can respond:**

1. By charging *you* for violating the Criminal Code
2. By obtaining a court order that prohibits your activities.
3. By charging you with contempt of court should you violate the court order.

# 1. CRIMINAL PUNISHMENT OF CIVIL DISOBEDIENCE

**There is no identifiable crime called "civil disobedience", rather when you break a law as a form of civil disobedience you can be charged for breaking that law.**

- ▶ It is some element in the criminal law that the civil disobedient disobeys.
- ▶ By definition, the civil disobedient commits some crime.
- ▶ The civil disobedient may be guilty of an infraction of some Criminal Code offenses such as:
  - Unlawful Assembly* - s. 63 of the Criminal Code
  - Disobeying Order of Court* - s. 127 of the Criminal Code
  - Mischief* - s. 430 of the Criminal Code

## The explanation to the Criminal Code offences:

### Unlawful Assembly - s. 63 of the Criminal Code

#### Section 63 sets out what constitutes an unlawful assembly:

- (1) Three or more persons must be involved, and that they assemble in a way, or behave in such a way after assembling that causes others in the neighborhood to be afraid that the assembly will either disturb the peace tumultuously or provoke others to do so.
- (2) Tumultuous means chaotic, disorderly, clamorous or uproarious.
- (3) It must be shown that the assembly has gathered together *with the intention to carry out a common purpose*, and that the fears of those in the area of the assembly are based on reasonable grounds.
  - ▶ **The punishment for the offense:** A fine of not more than two thousand dollars or imprisonment for six months or both.

### Disobeying Order of Court - s. 127 of the Criminal Code

#### Section 127 creates the following indictable offense:

*Disobeying a lawful order prescribing a specific conduct made by a court of justice either criminal or civil in nature* or by other person or body established by legislation to give orders.

- ▶ **The punishment for the offense:** Two years imprisonment.

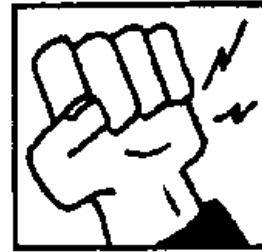
### *A protestor is breaking the law when:*

- ▶ You are doing something the law says you can't
- ▶ You are not doing something the law says you must



**The protesters may be charged for the offense of Disobeying Order of Court in two distinct situations:**

- (1) When the group of protesters violates an order of court absolutely prohibiting an engagement in protest activities; or
- (2) When the group of protesters violates the conditions specified in order of court that stipulates the manner in which the protest activities should be maintained in order to create a protest-free comfort zone around the site of protest activity.



**Mischief - s. 430(1) (c), (d) of the Criminal Code**

**Section 430(1) (c), (d) sets out what conduct constitutes a mischief in relation to property:**

- (1) s. 430(1) (c) - willful obstruction, interruption or interference with the lawful use, enjoyment or operation of property;
- (2) s. 430(1) (d) - willful obstruction, interruption or interference with any person in the lawful use, enjoyment or operation of property.

▶ **The punishment for the offense:** An imprisonment for the term not exceeding two years or a fine of not more than two thousand dollars or imprisonment for six months or both.

**The conduct that constitutes mischief under s. 430(1) (c):**

**Ontario Jurisdiction:**

A person who was a part of a labor dispute forms part of a human barricade so as to block access to the premises, in violation of an injunction limiting the number of picketers, was found guilty of the offense though he neither said nor did anything other than stand shoulder to shoulder with other persons.



**NB Jurisdiction:**

The province of NB amended the application of the *Social Services and Education Tax Act* that made aboriginal residents on reserves liable for the sales tax on certain purchases which had previously been tax free. As a protest, the group of aboriginals erected road blocks on certain highways that were within the boundaries of various aboriginal reserves.

At trial, a group of aboriginals were convicted of mischief.

The trial judge recognized a blockade of a highway in general use as a particular mode of civil disobedience (a protest against the Act) stating:

*"This wishes to make it very clear to all, that any mode or manner of civil disobedience which results in a violation of the **Criminal Code** is an offense against the law of the land, and renders any party willfully contributing to its commission liable to punishment."*

The trial judge also stated that the fact that the aboriginals of NB have valid arguments against the amendment of the Act does not constitute an excuse to the offense committed.



## 2. PRIVATE LAW REMEDIES - ANTI-PROTEST INJUNCTIONS

British Columbia Jurisdiction - "Injunction against John Doe, Jane Doe and Persons Unknown":

This technique was used by forestry companies in the British Columbia jurisdiction. The companies obtained an order grounded on its property rights restraining protesters from engaging in various activities, including anti-logging and anti-environmentalist blockades, picketing, blocking roads, bridges and railways in order to enforce logging rights. The companies sought a relief in the civil court because the law enforcement agencies took no action to combat hundreds of protesters blockading a logging site.

The court granted an order against unnamed protesters to bind a public of protesters at large. The court also authorized the police to arrest and detain persons breaching the terms of the order although their names were not specified in order.

The power of the court to grant "John Doe Injunctions" was attacked on the appeal to the Supreme Court of Canada.

**The Supreme Court of Canada approved the practice stating:**

*"The mere fact the conduct may be characterized a criminal does not deprive a person whose private rights are affected from seeking relief in the civil courts. More specifically, where criminal conduct affects property rights, the person so affected may invoke the equitable jurisdiction of the court to obtain an injunction prohibiting the conduct. Thus the fact that the conduct of blocking the roads can be characterized as criminal does not deprive the BC Supreme Court of the right to grant an injunction against potential offenders in a civil action. Courts have jurisdiction to make orders binding on persons who are not parties to the action. Such orders are enforceable on the long-standing principle that persons who are not parties to the action, but who violate an order of the court, may be found guilty of contempt for interfering with justice."*

### *What you should know about court orders:*

- ▶ The public must be informed of its existence and be given a chance to comply.
- ▶ You do not need to be named specifically for the court order to apply to you.
- ▶ The court order cannot be too broad or worded unfairly.

**The Supreme Court determined three requirements the order should meet to have a power:**

- (1) Since members of the public can be held in contempt for having disobeyed an injunction, they must first be apprised of the existence and terms of the order and be given an opportunity to comply;
- (2) It is also desirable that the order's terms speak of the duty of non-parties to respect it;
- (3) It is necessary that the orders be carefully worded and constrained to ensure that they are fair and not unduly broad.

### 3. THE COURT'S CONTEMPT POWER



**A deliberate and conscientious disobedience of a court order restraining a protest activities amounts to the act of civil disobedience on the ground that the act incorporates a willful infraction of law.**



**The legal outcomes of failure to respect "Joe Doe Injunctions" and other lawful court orders restraining the protest activities:**

- (1) Criminal liability under s. 127 of the Criminal Code for disobeying the order of court;
- (2) Liability for civil or criminal contempt of court -

The courts have a common law power to punish for disobedience of a court order.

A court's contempt power rests on the power of the court to uphold its dignity and process. The rule of law is at the heart of our society; without it there can be neither peace, nor order nor good government.

**The common law offense of contempt of court can be divided into two categories of civil and criminal contempt:**

**(1) Civil contempt of a court -**

The act which constitutes civil contempt of court is the act of disobeying a court order.

A civil contempt is one where the dispute is entirely between private parties which does not threaten the proper administration of justice.

**To establish civil contempt the following elements should be proven:**

- (1) The disobedient knew that the order existed and understood its nature and substance;
- (2) The disobedient intentionally or recklessly acted contrary to the specific order and the possibility that the act would be disobedient must have been foreseen and ignored.

**(2) Criminal contempt of a court -**



Criminal contempt contains all the elements of civil contempt.

In addition, the act of disobedience must have been undertaken in a public way; and the deliberate or reckless act of disobedience must have been undertaken with an intention that such a public act of disobedience would tend to depreciate the authority of the courts, or, alternatively, with foresight that it might do so and indifference to whether it did so or not.

A criminal contempt is one where, because of the nature of the conduct in question, the issues transcend the interests of the parties, and the public has an interest in ensuring the proper administration of justice.

In general, criminal contempt can be described as conduct likely to obstruct the administration of justice or to bring discredit onto the administration of justice.

To establish criminal contempt, the Crown must prove beyond a reasonable doubt that:

- (1) The accused knew the order existed and understood its nature and substance;
- (2) The accused defied or disobeyed a court order in a public way, with intent knowledge or recklessness as to the fact that the public disobedience will tend to depreciate the authority of the court.

**Because protest activity depends in part on publicity to be effective, almost any breach of an anti-protest order will be susceptible to the criminal as opposed to the civil, contempt power of the court.**

Penalties for the two forms of contempt differ in purpose and severity:

- ▶ Civil contempt - the power is used coercively to oblige one party to submit to a court order issued for the benefit of another.
- ▶ Civil contempt sanctions - are primarily of a punitive and deterrent character used to punish an action judged harmful to the dignity of the judicial process.

Defense of necessity as an answer to breaching a court order:

- ▶ British Columbia jurisdiction:

The protesters were environmentalists who had disobeyed court orders in order to disrupt logging operations. They contended that they were compelled to disobey insofar as the logging was causing irreparably grave damage

The court rejected the defense of necessity on two grounds:

- (1) Absent urgent of serious harm, one was obliged to take alternative measures to breaking the law. None of the protesters did apply to set aside or vary the court orders;
- (2) The protesters could not invoke the defense of necessity to avoid a peril that is lawfully authorized by the law.



# PROPERTY LAW

## **The Rights of Property Owners against The Common Good**

### The concept of property ownership:

The ownership is a sole and despotic dominion which one individual claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.

### The kinds of property:

There are two categories of property:

- (1) **Real property** - Rights in relation to land;
- (2) **Personal property** - Rights in relation to things other than land.

### The rights of property owners:

The owner of a property has a collection of rights (over real or personal property) enforceable against others such as:

- ▶ the right to possess and control;
- ▶ the right to alter or destroy;
- ▶ the right to use, exploit and manage;
- ▶ the right to enjoy the fruits (the income and capital);
- ▶ the right to prevent others from using it;
- ▶ the right to transfer rights during the life and on death;

**Restrictions imposed on property ownership:** The rights of property owner are not unlimited and despite the fact that Anglo-Canadian case law has traditionally recognized, as a fundamental freedom, the right of the individual to the exclusive enjoyment of property and the right not to be deprived thereof, there are certain limitations imposed on the property ownership.

The limitations may be divided into three main categories:

#### (1) **Public law restrictions -**

Are imposed on all owners of a particular kind of property either for the benefit of society as a whole or in the interests of certain sections of society: *For example:*

- ▶▶ Legislation controlling the exploitation of natural resources such as mining laws;
- ▶▶ Soil conservation measures;                      ▶▶ Environmental protection;
- ▶▶ Marketing regulations;                              ▶▶ Planning laws.

#### (2) **Restrictions imposed in the interests of neighbor relations -**

The law of nuisance: In the sphere of neighbor relations the term "nuisance" includes a conduct or situation (such as a loud noise or foul odor) whereby a neighbor's health, well-being or comfort, in the occupation of his land is interfered (with annoyances, as well as causation of actual damage to a neighbor). The law of nuisance imposes a duty to prevent harm to the neighbor and prohibits using property in a harmful way.

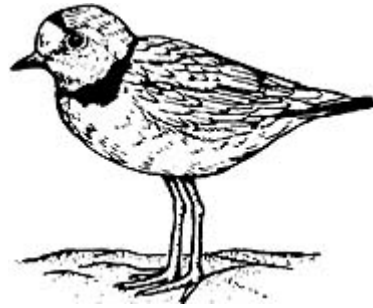
#### (3) **Individual restrictions -**

Are imposed in a particular case by reason of every personal obligation in terms of which an owner undertakes to deal or not to deal with his property in a particular manner restricts the owner in the exercise of his dominion or by reason of a right to or in respect of a property which happens to be vested in a particular person other than the owner.

# ENDANGERED SPECIES

## LEGISLATION

There are two pieces of legislation on endangered species that affect or will affect private land owners in New Brunswick: the *Endangered Species Act* of New Brunswick and the federal *Species at Risk Act*.



### ***Endangered Species Act, New Brunswick***

*Came into force on April 30 1996.*

**s.3** Subject to section 4, no person shall

- (a) possess a member or any part of a member of an endangered species or regionally endangered species,
- (b) wilfully or knowingly kill, injure, disturb or interfere with a member or any part of a member of an endangered species or regionally endangered species,
- (c) wilfully or knowingly attempt to kill, injure, disturb or interfere with a member or any part of a member of an endangered species or regionally endangered species,
- (d) wilfully or knowingly destroy, disturb or interfere with the nest, nest shelter or den of a member of an endangered species of fauna or regionally endangered species of fauna,
- (e) wilfully or knowingly attempt to destroy, disturb or interfere with the nest, nest shelter or den of a member of an endangered species of fauna or regionally endangered species of fauna,
- (f) wilfully or knowingly destroy, disturb or interfere with the critical habitat of a member of an endangered species or regionally endangered species, or
- (g) wilfully or knowingly attempt to destroy, disturb or interfere with the critical habitat of a member of an endangered species or regionally endangered species.

**s.4** Makes no explicit exception for private property owners.

### ***Property owner rights***

A property owner has certain rights that are enforceable against all others



## ***Species at Risk Act, Canada***

The Act received Royal Assent on December 12 2002, and came into force in March of 2003. Also referred to as *An Act Respecting the Protection of Wildlife Species at Risk in Canada*.



Whereas the *Endangered Species Act* applies only within New Brunswick, the *Species at Risk Act* is a federal statute and will apply to all of Canada.

Sections 10.1-13 of the Act provide for "stewardship" plans whereby a competent minister, after consultation with the Canadian Endangered Species Conservation Council, would create incentives and other measures to support voluntary stewardship actions (including the protection of the species' critical habitat) taken by any government in Canada, organization or person.

Sections 32-33 generally prohibit any person from killing, harming, harassing, capturing or taking an individual of a wildlife species that is listed as an endangered, threatened or extirpated species, and also from damaging or destroying its residence.

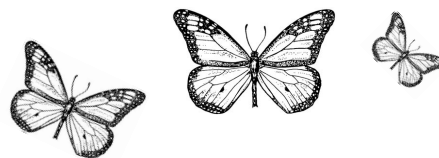
However, these prohibitions apply only to lands that are federal lands unless a) an order is specifically made by the Governor in Council on the recommendation of the Minister, b) the species is an aquatic species or c) the species is a migratory bird protected by the Migratory Birds Convention Act of 1994.

Section 39(3) provides that a landowner or other person directly affected by a recovery strategy for an endangered, threatened or extirpated species must be consulted during the preparation of that strategy.

An affected person may be eligible for fair and reasonable compensation from the Minister for any losses suffered as a result of any "extraordinary impact of the application of" ss. 58, 60 or 61 (which prohibit the destruction of critical habitat under various circumstances).

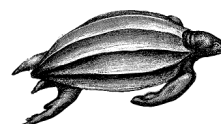
Under s. 62, a competent minister may enter into an agreement to acquire lands or interests in land from any person for the purpose of protecting the critical habitat of any species at risk.

With respect to the management of a species of special concern, s. 66(3) requires that any landowners, lessees, and other person whom the competent minister considers to be directly affected by the plan be consulted during the preparation of the plan.



In conclusion, whereas the provincial endangered species act applies to endangered species regardless of what type of land they are located, the federal act will mostly apply to federal lands unless a specific order is made, or the affected species is aquatic or a migratory bird protected under the Migratory Birds Convention Act of 1994.

From its provisions, the *Species at Risk Act* does not appear to impose great burdens on private land owners upon whose land an endangered species or its habitat is present. However, until the federal Act comes into force and is applied, it is not completely certain how this federal Act will ultimately affect private landowners.



## Legislation Relating to Endangered Species

### 1. Provincial Laws

The *Endangered Species Act*

- came into effect April 30, 1996
- basically states that you cannot possess, injure, damage, or bother in any way an endangered species or its habitat.
- You also cannot attempt to do any of those things.
  - *Endangered Species Act*, s.3 (a)-(g)

### 2. Federal Laws

The *Species at Risk Act*

- came into effect March 24, 2003
- This act provides incentives for groups or individuals to voluntarily take care of endangered species' habitats.
- These incentives can be created by a minister in consultation with the Canadian Endangered Species Conservation Council
  - *Species at Risk Act*, s.10.1-10.13
- This act prohibits any person from possessing, harming or harassing an endangered species or its habitat on federal lands unless:
  1. a special order is made.
  2. the species is an aquatic species
  3. the species is a migratory bird
  - *Species at Risk Act*, s.32-33
- A landowner must be consulted if he will be affected by a endangered species recovery strategy
  - *Species at Risk Act*, s.39(3)
- The landowner so affected may be able to apply for compensation for any losses suffered as a result of the recovery strategy.
  - *Species at Risk Act*, ss 58, 60 or 61
- The government may enter into agreements to acquire land for the purposes of protecting the habitats of any endangered species.
  - *Species at Risk Act*, s.62

# INTERNATIONAL LAW

International law generally applies to activities between states (eg. between Canada and another country) meaning that although Canada may feel obligated to follow international law, it is unclear how that applies at the national, provincial and municipal level.

**International law will never supersede constitutional law.**

## *International Laws:*

- ▶ Apply to activities between countries.
- ▶ Will never surpass federal laws.
- ▶ Compliance with international law is voluntary for each country
- ▶ Compliance is usually obtained through the use of international incentives or disincentives.
- ▶ Can be enforced by litigation in the International Court of Justice, interna-

## Enforcement Mechanisms Under International Law

There is a deficiency in effective enforcement mechanisms which ensure state compliance to these laws. Compliance is usually obtained through the use of international incentives or disincentives. Therefore, international environmental law may be legally binding and yet unenforceable in practice. International environmental law can be enforced by litigation either through the International Court of Justice (ICJ), ad hoc international tribunals, or domestic courts.

### ▶ **International Court of Justice (ICJ)**

The ICJ will only hear cases between states (i.e. international organizations cannot bring cases to the ICJ) and these states must give their explicit consent to the jurisdiction of the ICJ. However, such mutual consent is often unlikely in environmental cases because the state that brings the originating case may have concerns that a counterclaim (a claim for relief asserted against an opposing party after an original claim has been made) will be brought against it because it too has done something detrimental to the environment.

### ▶ **Ad Hoc International Tribunals**

Ad hoc international tribunals are similar to the ICJ in that they will only hear cases between states that have explicitly agreed to using the tribunal. However, these tribunals are more flexible than the ICJ: states can decide who the judges will be, what the procedure will be, and what law will apply.

### ▶ **Domestic Courts**



Domestic courts are theoretically more effective forums for hearing environmental cases because they are able to focus on individuals and corporations, which are the ones who are usually responsible for pollution. However, states require that the court or tribunal in which a case is brought relates to the case. Since many courts apply domestic law rather than international environmental law, this requirement can nullify a case.



## Types of International Law

International law is comprised of treaties, customary international law and "soft law."

### › **Treaties**



Treaties are express agreements entered into by states.

A state only has specific rights and obligations under a treaty if that state has signed and ratified that treaty.

A treaty is deemed to be of no force and effect in Canada until it has been incorporated into law by means of implementing legislation.

For example, under the Convention on International Trade in Endangered Species, certain endangered species cannot be exported or imported. After becoming a party to the treaty, a state must implement laws which apply within that state and which prohibit the export or import of those species.

### ***So what does it mean for a treaty to be "implemented"?***

In some cases, a treaty may be expressly implemented within a domestic (either provincial or federal) statute, with its entire text adopted.

In other cases, a treaty may be implicitly implemented where there is evidence of Parliament's intention to adopt a treaty even without its explicit inclusion:

Evidence may include adoption of many of the provisions of the treaty, or reference to various aspects of the treaty in the definition section of the statute.

### › **Custom**

Customary international law, rather than being borne out of an express agreement, develops out of consistent and widespread state practice.

It may bind a state regardless of whether that state has agreed to it.

Because it is difficult to determine when a custom has "crystallized" from a generally agreed practice to an international law, it is equally as difficult to determine when customary international law has been incorporated into domestic Canadian law.

While the Supreme Court of Canada has not yet stated a clear position on whether or not customary international law is automatically part of domestic law, it has observed that "while principles of customary international law may be recognized and applied in Canadian courts as part of the domestic law, this is true only in so far as those principles do not conflict with domestic law."

## › Soft Law

Soft law may be described as guidelines or rules of conduct that are not formally binding legal norms and thus are not directly enforceable.

### ***Principles***

One of the major ways in which soft law influences Canadian domestic law is by establishing principles that ultimately influence the development of domestic law.

#### ***Precautionary Principle***

An example of this is the Supreme Court of Canada's use of international law's "precautionary principle" in the 2001 case of 114957 *Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)*. There, the court quotes Driedger on the Construction of Statutes: "[T]he legislature is presumed to respect the values and principles enshrined in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. In so far as possible, therefore, interpretations that reflect these values and principles are preferred."

#### ***Sustainable Development***

The UN Conference on Environment and Development (Earth Summit), which took place in Rio de Janeiro in 1992, provided 27 principles regarding sustainable development.

The United Nations Conference on Environment and Development (UNCED) delegates adopted Agenda 21 which has been described as providing "guidelines for national governments to implement the Rio Declaration principles." Therefore, Agenda 21 is a soft law principle available to domestic courts to implement in legislation regarding sustainable development.

#### ***Resolutions and Declarations***

Soft law also includes non-binding rules such as resolutions and declarations of international conferences. An example of such a resolution is "Responsibility and Liability under International Law for Environmental Damage", which was adopted on September 4, 1997 by the Strasbourg Session of the Institute of International Law.

The resolution distinguished between "state responsibility" (where a state must exert sufficient regulatory control over activities within its jurisdiction to meet its international obligations) and "international liability" (where a state as well as other actors, such as oil companies, must compensate or remedy harm regardless of whether or not the harm resulted from the breach of an international obligation, therefore encompassing activities which are in themselves lawful but which end up in a harmful result).



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