

Resisting Regulation in the Context of Sustainability

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Which Characteristics of Property Law Can Prevent Reform Measures in Favour of Sustainability?

- Absolute and abstract conceptions of rights viewed separately from the social, political or environmental context.
- Resistance to substantial changes to rules which are grounded on social or environmental considerations.





A View from Norway

- Rivers are subject to private ownership in Norway.
- Industrialisation and urbanisation at the beginning of the 20th century lead to introduction of legislation to control changing the course of rivers.
- Is this in conflict with the constitution of Norway which requires compensation for expropriation?



A View from the US

- Regulations in Pennsylvania were passed which prohibited coal mining in a way that caused subsidence of any structure used as human habitation.
- Was this in conflict with the constitution of the US which requires compensation for expropriation?



Conclusions



- Property law is an important but often ignored aspect of the governance of our natural resources.
- There are tendencies of property law which can inhibit regulatory measures in favour of sustainability.
- Attention needs to be given to these tendencies, otherwise legitimate and justified reforms will be frustrated.
- Of particular significance, is the weight and priority given to property in the constitutional legal order.