

Topic Summary

Constitution Day: The Environment and our Posterity

Debates concerning the Constitution of the United States have been prevalent for hundreds of years, but the issues at hand seldom remain constant. While judicial rulings have charted course for the outcomes of many of our nation's most prominent concerns, one debate in particular has become increasingly heated, and many believe that the time to find a solution is now. That issue is climate change, and it is a particularly compelling issue because its effects could have wide-reaching consequences for the nation's prosperity and the well-being of American citizens.

The Constitution of the United States notes in the preamble a concern for promoting the general welfare for ourselves and our posterity. The National Oceanic and Atmospheric Association recently confirmed that 2016 was the planet's hottest year on record, along with the highest concentration of atmospheric greenhouse gases, the highest sea-surface temperatures on record, and the highest global sea level. In a world where the health of the environment threatens not only our welfare, but the welfare of generations to come, environmental protection is of vital importance.

The changes our planet is enduring are unfolding rapidly and far surpassing what scientists once predicted, but some look to the Constitution for answers as to the role the United States government should play to ensure that this country is sustained. In fact, the founding document has already been used by our courts to establish several significant legal precedents concerning the environment. The Commerce Clause affirms the right of the government to pass environmental regulation, as it gives Congress the authority "To regulate Commerce with foreign Nations, and among the several states, and with the Indian Tribes." This clause was used to pass many federal statutes, including the Clean Air Act, the Clean Water Act and the Endangered Species Act.

However, the question remains as to what kind of action is appropriate for both the environment and the economy. Do some statutes to protect the environment cause undue harm to the economy? Does the harm done to our environment have a greater economic impact than the statutes passed to protect it? How far can our government go, and how far should they go, to regulate industries' impact on the environment? Many have also raised concerns about environmental justice, which proposes that some segments of the population are particularly susceptible to the consequences of environmental warming, such as those in poor and underdeveloped communities, who are more prone to developing asthma and other health conditions as a result of poor living conditions. How does the Constitution address these concerns, and how will it play a role in this developing debate?

Timothy M. Mulvaney
Moderator

Background: Timothy Mulvaney is a Professor of Law at Texas A&M School of Law. Prior to his career in academia, Mulvaney did research in environmental law at the University of Mississippi's School of Law in association with NOAA's Sea Grant Program. Among his interests are environmental and takings law, particularly in relation to land protection in the context of changing climate. He has served as Chair of the Association of American Law Schools Section

on Property Law, been on the Board of Editors of the Environmental Law Prof Blog, and is the recipient of several awards for his teaching excellence.

Content role: As moderator for the program “The Environment and our Prosperity”, Professor Timothy Mulvaney will draw from years of experience in environmental and takings law to ground the panel discussion in a Constitutional context. He will introduce speakers and provide some information about their background, and ensure that they speak within their time frame. Mulvaney will also inquire panelists about specific portions of the Constitution that have led some to consider whether the founding document could play a role in constructing environmental protection or regulatory laws and establish whether or not the document has already been used to set precedents for today’s environmental law. During the final minutes of the program, Mulvaney will take questions from our audience and direct them to the appropriate panelists for a response.

Dr. Wendy Jepson Panelist

Content Role: As a panelist for the program, “The Environment and our Posterity”, Dr. Jepson will draw from her background in political ecology and environmental governance to present on the current state of environmental policy in the United States. She will ground the topic in scientific data relating to climate change and explain the political processes that are involved in environmental policy-making and the role the Constitution plays in this process. Dr. Jepson will examine how those policies affect the citizens of this country and how the environmental justice movement has come to believe that the founding document can play a role in safeguarding American communities from the consequences of environmental change.

Background: “Dr. Wendy Jepson is a Professor of Geography at Texas A&M University where she has been on faculty since receiving her Ph.D. in Geography from UCLA in 2003. Her research addresses contemporary debates in political ecology, human-environment interactions, and environmental governance. Her previous research documented and explained the complex economic and political processes that caused agricultural expansion and land-cover change in the Brazilian Cerrado, the world’s most biodiverse tropical savanna. She also conducted a study, funded by NextEra Energy, on the rise of new energy systems and local communities in West Texas. Her current long-term project examines environmental justice, water security, and water resources in low-income communities in the US and Brazil. As a Fulbright Scholar (2016-2017) and a recipient of National Science Foundation grant, Dr. Jepson will examine urban water provisioning systems and household water security in Northeast Brazil. Dr. Jepson has published 23 journal articles and book chapters, edited one book, and serves on editorial boards, including The Annals of the Association of American Geographers.

Description

The Constitution of the United States notes in the preamble a concern for promoting the general welfare for ourselves and our posterity. In a world where the health of the environment threatens not only our welfare, but the welfare of generations to come, environmental protection is of vital importance. The Commerce Clause also affirms the right of the government to pass environmental regulation, as it gives congress the authority “To regulate Commerce with foreign Nations, and among the several states, and with the Indian Tribes.” This clause was used to

pass many federal statutes, including the Clean Air Act, the Clean Water Act, and the Endangered Species Act. However, the question remains as to what kind of action is appropriate for both the environment and the economy. Do some statutes to protect the environment cause undue harm to the economy? Does the harm done to our environment have a greater economic impact than the statutes passed to protect it? How far can our government go, and how far should they go, to regulate industries' impact on the environment? Join the MSC Wiley Lecture Series on Wednesday, September 20th in (insert location here) at 7 p.m. to hear a panel of noted experts explore these questions. The event is free and open to the public.