

# ENVIRONMENTAL LAW

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## ARTICLES

Energy Law and the Low-Income Household ..... 721

*Uma Outka*

Recent policy attention to high energy bills in low-income households highlights an issue that has long been marginalized in energy law. Energy burden affects millions of low-income households in the United States and contributes to home energy insecurity—experiencing or being at risk of utility disconnection. High energy burden disproportionately affects Black, Latino, and Native households.

Concern over energy burden may be new to many in policy circles, but energy insecurity in low-income households is neither a new issue nor a new policy quandary. Indeed, the longest-standing federal mechanism for preserving energy access, the Low-Income Home Energy Assistance Program (LIHEAP), recently marked its 40-year anniversary, a celebrated milestone for the critical program.

Yet home energy insecurity persists, with implications for health, education, economic stability, and safety in too many households. Only a few short years ago, the Trump White House proposed budgets eliminating LIHEAP—a sober reminder of the precarity of any program dependent on annual congressional appropriations in a polarized political environment. LIHEAP serves a vital purpose and must be ardently protected. At the same time, the persistence of energy insecurity demands broader structural accountability within energy law.

A closer look at the relationship between energy law and the low-income household helps to explain the persistence of home energy insecurity. Considering this relationship historically shows that energy insecurity has been sidelined within energy law regimes by a theoretical and practical framing of low-income energy policy as poverty law, rather than as a core concern for energy law. However understandable administratively, this alignment has isolated energy insecurity as a consideration in energy law reform.

This intertwined history presents compelling reasons to reconceive of low-income energy policy as energy law, not to displace the critical assistance provided by anti-poverty programs, but rather to reinforce it. This conceptual reorientation matters in the energy sector's current transitional moment for two key reasons. First, it opens a pathway for ensuring that substantive reforms underway at the federal and state levels structurally incorporate the needs of low-

income households in energy law regimes. Second, it increases accountability for alleviating energy insecurity within energy law institutions.

Reimagining International Environmental Law .....783  
*Anxhela Mile, Railla Puno, & Alexandra Horn*

The piecemeal creation and formation of international environmental law (IEL) dates to the 1972 United Nations Conference on the Human Environment in Stockholm and continues today. In 2018, the UN Secretary-General recognized that there is “[n]o single overarching normative framework that sets out what might be characterized as the rules and principles of general application in [IEL],” and further identified existing gaps in IEL that hinder its implementation. This Article builds upon the Secretary-General’s report, canvasses where IEL currently stands, and elaborates on crucial ways IEL can be reimagined in the future. Pathways by which IEL can be enforced and strengthened with regard to future issues such as space law and geo-engineering are explored. The Article also discusses the growing focus on human rights in the IEL context, as well as how IEL reaches beyond national jurisdictions on issues concerning plastic pollution and biodiversity. It is imperative that IEL develop a more holistic, integrated approach centered on sustainable development in order to meet the increasing challenges brought by the triple planetary crisis.

Climate Change in Legal Scholarship: The First Generation (1958–1980)  
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*Andrew Wolman*

Climate change has come to dominate contemporary environmental law scholarship, with an established set of themes, debates, and problematics that pervade the academic literature. But this was not always the case: when the prospects of climate change first emerged into the public discourse, it was a new issue that fit in uncertainly with existing research programmes. Was greenhouse gas emission a pollution problem, an energy issue, a potential tort, or something altogether different? What, if anything, was the academic and policy relevancy of a phenomenon that was, at the time, widely considered to be uncertain in effect and long-term in nature? How, in short, should climate change be framed? In this Article, I examine the responses of scholars through a systematic analysis of the legal academic literature engaging with climate change prior to 1980. My research shows a budding awareness of climate change in the period of 1958–1980, emerging from academics and practitioners alike, which tends to position climate change in three distinct frames: as a type of inadvertent weather/climate modification; as a form of environmental pollution or degradation; and (in particular during the late 1970s) as an energy policy factor. However, during this period, climate change was never the focal point of legal scholarship, was rarely positioned as a problem to be solved, and was largely ignored by environmental law professors.

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