Can Earth jurisprudence put the brakes on unsustainable consumption?

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Overview

- The short answer is: on its own? No
- But it can play a part
- Part 1 - consumption in a culture without limits
- Part 2 – limitations in our current legal system regarding management of consumption
- Part 3 – earth jurisprudence and sustainable consumption
- Conclusions and further work
So what’s the problem with consumption?
Consumption of material resources

“Humankind has consumed more natural resources since 1950 than in all previous human history”

(Durning, How Much is Enough, 1992)

1960 – 2010
* World population grew by a factor of 2.2
* Consumption expenditures tripled per person globally
  (Worldwatch Institute, 2010)
* Australian consumption grew 152% (ABS)
60 billion tonnes of resources are now extracted annually – 50% more than 30 years ago.

Equivalent of 112 Empire State Buildings extracted from the earth every day.

In 2008 alone, people around the world purchased

- 68 million vehicles
- 85 million refrigerators
- 297 million computers
- 1.2 billion mobile phones

Worldwatch Institute, 2010 State of the World, Transforming Cultures
One outcome - waste

- 2001 Australia had 4th highest levels of waste to landfill in the world
  - 690kg per person, per year
  - (US/Israel first: 730kg, c/f NZ 400kg, Canada 350kg)

- 2004 we threw away more than $5.2 billion worth of unconsumed food and drink

Hamilton, Growth Fetish
International recognition of problem

- 1992 Rio Declaration
  - 178 countries recognised ‘unsustainable patterns of consumption and production’ as contributing to environmental degradation
- 2002 UN World Summit on Sustainable Development → Marrakech Process created (2004-12)
  - Created international, regional and national working groups, task forces, research projects
- National SCP strategies
  - (Australia doesn’t have one)
Natural environment continues to deteriorate – why?

Lots of ‘action’ but no reduction in consumption or environmental degradation

In 2005, a report compiled by over 2000 scientists from ninety-five countries concluded that:

60% of global ecosystem services were "being degraded or used unsustainably" including fresh water, fisheries, air and water purification and the regulation of natural hazards and pests.

(Millennium Ecosystem Assessment, 2005)
Three responses to consumption

Business as usual
(Growth is good)
Three responses to consumption

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(Growth is good)

Switching
(We can have it all)
Three responses to consumption

- Business as usual
  (Growth is good)
- Switching
  (We can have it all)
- Reduction

That which we do not speak of
Three responses to consumption

Mainstream ‘economic growth’ paradigm
‘Empire’ model, economics as religion
Governments, corporations

Business as usual
(Growth is good)

Switching
(We can have it all)

That which GOVERNMENT AND CORPORATIONS do not speak of

NGO’s
Academics
Activists
Reduction
Economic – Consumer capitalism

Social/cultural (consumer culture)

Legal, Political & Institutional

Barriers

Ideological
“Of course nobody needs one, that’s why I called you advertising people in.”
Economic –
Consumer capitalism
Corporate dominance

Social/cultural
(consumer culture)

Legal, Political & Institutional

Ideological

Barriers
“Well, well, would you look at that. Fire. Talk about living beyond your means.”
Barriers

- Economic – Consumer capitalism
- Corporate dominance
- Social/cultural (consumer culture)
- Legal, Political & Institutional
- Ideological
Can law and regulation play a role in reducing consumption?

‘Too blunt an instrument’?

Law as culture - “Magic Mirror”

Other cultures, ‘lore’ set limits
Law has set limits in our culture in the past ...

- Kysar and Vandenberg remind us that in WW2, rationing & conservation was directly promoted by western governments.

Artist: Weimer Pursell, 1943
2. Limitations in our current legal system

- A lack of overarching framework for addressing demand
- A lack of common understanding of the problem, or the solution
- Most existing laws regulate patterns, not volume
- The few examples of legal regimes that aim to reduce consumption of natural resources are limited in their operation
Lack of framework for addressing demand
A lack of common understanding of the problem or solution
Many existing laws govern patterns, not volume
Laws setting limits on consumption are rare

- Examples?
- Quotas for recreational and commercial fishing
- Water restrictions (urban water); markets/quotas for irrigation
- Bans, taxes on plastic bags, plastic bottles
Normative proposals for regulating consumption

- Scale (Herman Daly)
  - Understanding carrying capacity
  - Setting total limits
  - Creating systems to enable complex industrial societies to live within these limits
- Introducing values to production and consumption
  - Values exist in other fields of environmental law and policy – eg wildlife management (Harsch)
  - Completely absent in consumer products (on environmental grounds)
- Reversing the onus of proof (Joseph Guth)
Regulating for Anthropocentrism - why turbo charged cars but not hummers?

- Liberalism accepts state regulatory interference for direct protection of individual wellbeing
  - Seat belts save lives
  - Banning young drivers from turbo-charged cars ‘saves lives’
  - (Why can’t we ban hummers and 4WDs, save carbon and indirectly save lives??)

- Acceptable if the intrusion *supports* rather than takes away from key tenants of human ideology - property, liberalism, minimal government, rule of law (Cotterrell, 1998)

- Lack of value placed on harm to the environment (anthropocentric priorities), means currently not enough ‘justification’ to ‘interfere’ (Cullinan, 2003)
  - Contrast with biocentric worldview, deep ecology, earth jurisprudence
Role of earth jurisprudence?

- My key argument:
- *Earth jurisprudence, with its emphasis on creating human laws that fit within the ‘Great law’ or laws of the natural world, can provide an overarching framework for managing demand that is lacking in our current legal system*
- Can build on and progress existing normative proposals
Earth jurisprudence and sustainable consumption

What elements of Earth jurisprudence are relevant to creating a framework for guiding sustainable consumption?

- ‘The great jurisprudence’, ‘Great law’
- Eco-centrism
- Rights for nature

Limitations imposed on human law by Great Law

* Set by the universe
* Rights of each being limited by the rights of other beings
* Laws must strengthen the earth community, not weaken it
Earth jurisprudence and sustainable consumption

How would elements of earth jurisprudence influence sustainable consumption?
  ◦ Increasing knowledge of the natural world; understanding the ‘higher laws of the universe’
  ◦ Setting limits, imposing duties and obligations
Increasing knowledge of the natural world

- Cultural change to increased focus on understanding our natural ecosystems
  - Thomas Berry suggested all key institutions – education/academic, religious, government - need a focus on deepening understanding and connection to natural world

- Laws and positive ethical constructs (obligations and duties) for constraining human activities

- Carrying capacity, bio-regional limits, cumulative impacts, ‘parameters’ → central
Setting limits

• Cultural change – greater acceptance of limits
  ◦ Social movements – voluntary simplicity, degrowth, slow food, adbusters, Post Growth Institute
  ◦ Law and culture

• New policy frameworks and objectives
  ◦ ‘Steady State’, ‘Degrowth’

• Decision making processes
  ◦ Values, prioritisation of production and consumption
  ◦ Participatory Democracy
  ◦ Innovative community based responses

• Regulating to reduce consumption
  ◦ Laws setting limits
  ◦ Previous examples: urban water, fisheries, plastic bags
Regulating to reduce consumption
Regulating to reduce consumption

- SEQ Water Restrictions 2005-2009
- Water unlimited until 1990’s:
  - No restrictions
  - 90% households unmetered
  - Sprinklers, hoses, pools
  - Estimated use **700 litres** per person per day (Spearitt)
  - Official literature: water use 300 litres per person per day at the beginning of the drought

- Height of drought: TARGET 140
- Permanent target: 200
- Today – consistently UNDER target (150-170)
How do we transition?
Radical transformation v build on what we have

* Set by the universe
* Rights of each being limited by the rights of other beings
* Laws must strengthen the earth community, not weaken it

Limitations imposed on human law by Great Law

Earth Community

‘Flashes’ of wild law

Information

Sectoral cap and trade

Sectoral bans and restrictions

Empire

Stand alone disclosure

Linked to other regs

Commercial fishing

Information

Urban water

Recreational fishing

Plastic bags

Bottled water

Irrigation licenses
Conclusions

- Earth jurisprudence offers a framework for sustainable consumption
- Flashes of wild law – building blocks?
- Law playing a role in the broader web of social change for environmental outcomes
America's all-volunteer deficit spending army

Save our economy!

Join the U.S. Civilian Consumption Corps

*Financed by cheap credit from China

Because we can't afford to stop shopping!