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Common Law Duty To Care and Environmental Protection

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Presentation Outline

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2. Rational for Common Law Duty To care in Environmental Protection
3. The Concept of Duty To care
4. Duty To care Owed to an Individual
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Introduction/Background

- The law as we know it protects entities or individuals that have rights and duties
- The debate as to whether the environment or Natural resources have rights per se is an evolving conversation
- The emergency and evolution of earth Jurisprudence is key to this debate
- “Common Law Duty to care” is an attempt to make environmental rights Justiciable



Rational for Duty To care in Environmental Protection

- Should a the duty to care for the environment be statutory or common law?



The Concept of Duty To care

- One person owes a duty of care not to injure the person or property of another
- Hinged on the Neighbor Principle
“a person should take reasonable care to avoid acts or omissions that s/he can reasonably foresee as likely to cause injury to **the neighbor**” Lord Atkins in [Donoghue v Stevenson](#)
- The common law actions in **trespass**, **nuisance** and **negligence** are, by implication or explicitly, founded on the duty to care.
- However, the common law does not recognize that a duty of care may be owed to the environment *per se*



So How do we Use the duty to care to
protect the Environment?



Duty To care Owed to an Individual

- Avoid causing or contributing to land degradation that causes or may cause damage to the land of another landholder;
- Protect water resources;
- Respect for Riparian Rights on shared resources
- The Rule in Rylands V Fletcher
- Other torts:
 - Nuisance
 - Trespass
 - Negligence



Duty To care Owed to the Environment

➤ Pollution control legislation have introduced a general duty of care owed to the

environment, rather than to individuals, eg:

- Waste Management Regulations
- Ambient Air Quality Regulations and Standards
- Laws on Water protection and Regulation



Conclusion

- The Common Law duty to care helps to identify cause of action in protection of the environment
- Extends the protection accorded to individuals to the environment
- Makes environmental rights justiciable in the absence of protecting legislation





Thank you!

