

UNEP GLOBAL JUDGES PROGRAMME

APPLICATION OF ENVIRONMENTAL LAW BY NATIONAL
COURTS AND TRIBUNALS

PRESENTATION 9

REMEDIES IN ENVIRONMENTAL CASES

OUTLINE OF PRESENTATION

- CONTEXT FOR REMEDIES

- PURPOSE OF REMEDIES

- BASIS OF REMEDIES

- TYPES OF REMEDIES

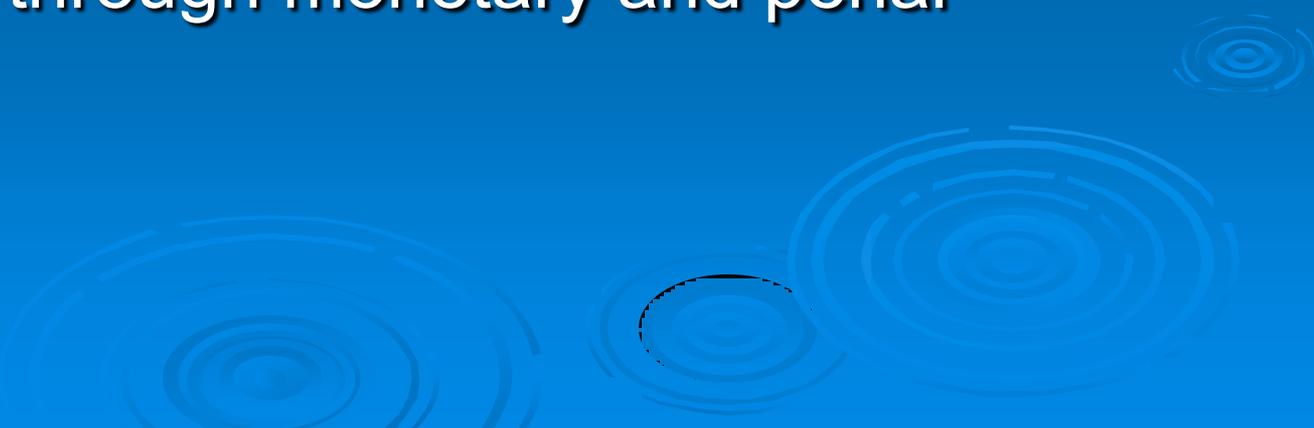
- JUDICIAL OVERSIGHT

- CONCLUSIONS

SUSTAINABILITY CONCEPTS RELEVANT TO REMEDIES

- Sustainability: Confluence of concerns regarding economic growth, social progress, and environmental protection
 - Common questions for a Judge
 - Should an enterprise be allowed to begin or continue operations?
 - What are the social/environmental costs of remedy choice?
 - How should available environmental capital be deployed?
- Polluter Pays Principle
- Prevention Principle

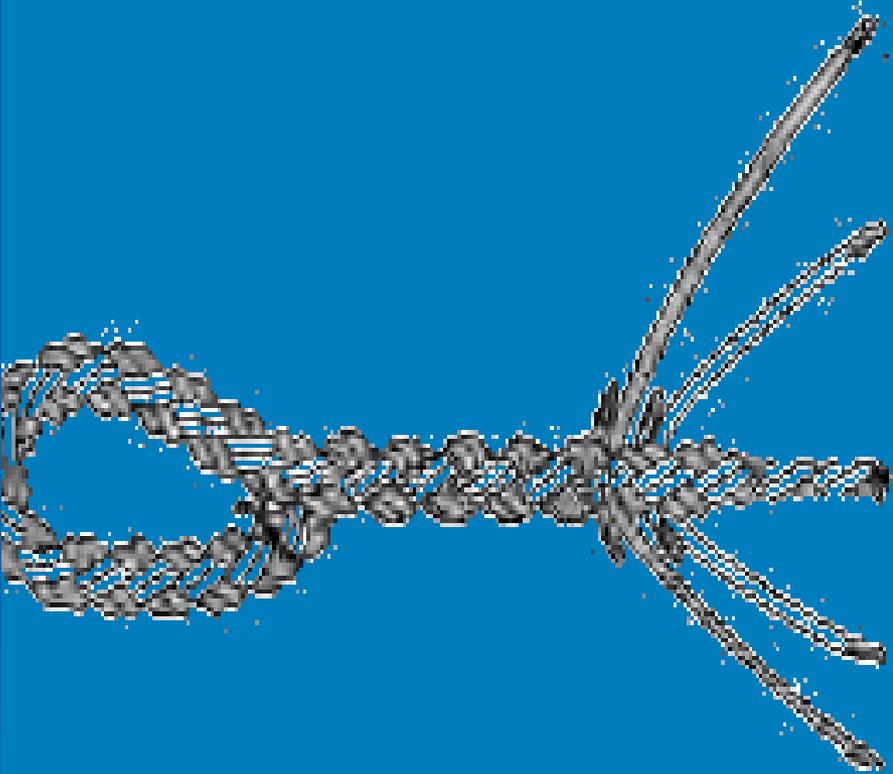
ASSUMPTIONS IN DISCUSSING REMEDIES

- The legal and factual means to establish liability are present
 - Courts have either statutory authority or inherent equitable power to fashion judgments
 - Courts have coercive power to enforce judgments through monetary and penal sanctions
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CASE MANAGEMENT CONSIDERATIONS

- Remedy issues can be complex
- Technical assistance/expertise commonly required
- Bifurcation may be advisable
- Court supervision of remedies is often necessary
- Continuing jurisdiction and docket management issues

PURPOSE OF REMEDIES

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- ENVIRONMENTAL RESTORATION
 - REDRESS THOSE AFFECTED
 - IMPLEMENT LEGISLATION
 - REINFORCE THE RULE OF LAW
 - PROMOTE SUSTAINABLE DEVELOPMENT

BASIS OF THE REMEDIES



CONSTITUTIONAL VIOLATIONS AND ENVIRONMENTAL LAW

- Constitutional mandates are typically expressed generally and without remedial guidance.
- Remedies for constitutional violations may require judicial discretion and creativity.

预览已结束，完整报告链接和二维码如下：

https://www.yunbaogao.cn/report/index/report?reportId=5_13851

