



perspectives

Toward Stability, Resilience and Reconciliation

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Throughout history notable philosophers have championed the concept of reconciliation between varying social, scientific, and political views to resolve disputes and social divisions within societies. Augustine, Aquinas, Copernicus, and Kepler come to mind, as successfully reaching reconciliation between the scientific developments and social policies of their times. These, and other great minds, also worked to reconcile vastly divergent political and social ideas.

It seems the spirit of reconciliation is lacking in how government, the U.S. Environmental Protection Agency, and stakeholders approach policy issues and lawmaking. It has been a long time since we have seen the concept of reconciliation; instead, we watch divergent sides seeking to demonize one another and their ideas, rather than building bridges toward common ground. Such policy action is not conducive to stable and resilient environmental improvement.

While environmental statutes remain the core of environmental stewardship, implementation of those laws (especially in areas of discretion) is dependent on policy. Environmental policy has been increasingly dictated by the stroke of a pen and

an executive order. This trend is not conducive to long-term environmental stewardship because it creates a situation where policy swings like a perpetual pendulum depending on the party in power. Environmental resilience requires some degree of consistency; resilience and stability are inconsistent with the concept of policy moving back and forth until friction slows it down and eventually stops it. Legislation through executive order encourages extreme views and cannot produce reconciliation because an outcome of reconciliation is to reach common ground. The stroke of a pen is entirely one-sided.

An outcome of reconciliation is to identify common ground and work to make divergent ideas compatible with each other. While there are many factors that interfere with reconciliation, perhaps the most damaging is social delegitimization. On a personal or social level, delegitimization is to adopt extreme stereotypes or to diminish or invalidate the beliefs of another. Delegitimization is usually the result of historical actions and hard to abandon. Of concern, it seems to be at the core of environmental conflict. We must take a step back because the ability to render divergent ideas compatible requires a willingness to abandon the delegitimization of those that have views different from our own and recognize value in competing viewpoints. Reconciliation requires listening and an attempt to understand, to compromise even if one cannot adopt wholesale another's view.

Legislating by executive order creates great risk to stakeholders, as well as to stable environmental improvement. The ability to slow or prevent ever-changing policy is unrealistic, and, thus, rather than waiting for policy changes, lawyers must take the lead and champion reconciliation. Lawyers must work together for environmental resilience in the face of ever-changing environmental policy. If we are to see sustained environmental improvement, agency, industry, and nongovernmental organization counsel must themselves seek to achieve reconciliation on broad environmental stewardship and not just with individual projects. If we are to have a chance for permanence, then rather than demonizing the view of another, those in the trenches must use their skills to find mutual consistency.

Great environmental success has come when agencies, industry, and stakeholders have come together to render their divergent views mutually consistent. It is not always easy, and the ability to set aside historical narratives that cause one group to delegitimize the ideas of another requires a skill set founded in risk management, consensus building, and the ability to recognize that there is value in all arguments. The environmental bar has an opportunity and unique ability to bring these skills to bear in fostering reconciliation of our most difficult environmental issues to make global progress, especially since policy makers cannot create stability for us. While it is unlikely that we will see a single twenty-first century Augustine, Aquinas, Copernicus, or Kepler to lead reconciliation of environmental issues, there is a critical role and responsibility of the environmental bar collectively to lead stable environmental improvement. ♻️

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