

Environmentalism Inc.

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Date : August 1, 2019

Sarah E. Light, [The Law of the Corporation as Environment Law](#), 71 *Stan. L. Rev.* 137 (2019).

Climate change and its implications are among the most debated and pressing issues of our time. The effects of climate change are felt throughout the country and the world. Raging wildfires, rising oceans, overflowing rivers, devastating storms, crippling drought, and other weather phenomena have directly disrupted vast populations, nation-states, ecosystems, and businesses across the globe. Policymakers, executives, scientists, lawyers, and activists have long discussed and debated how best to confront these and other challenges of the environment.

In her recent article, *The Law of the Corporation as Environment Law*, Professor [Sarah Light](#) makes a valuable contribution to these discussions and debates by arguing for a more expansive view of environmental law:

In light of the significant impact that firms can have on the environment (often, though not always, when they are organized as publicly traded corporations), this Article argues that the law governing the corporation throughout its life cycle—corporate law, securities regulation, antitrust law, and bankruptcy law—should be understood as a fundamental part of environmental law.

(P. 140.) The article highlights the insight and purchase that could be derived from seeking to understand the broader corpus of business law as part of environmental law. For instance, the article suggests that such a broader, unified understanding could bring about an integration and harmonization of the five key ways in which policymakers can impact firm environmental decisions: mandates, incentives, safe harbors, disincentives, and prohibitions. Furthermore, the article notes that thinking about business law broadly as part of environmental law can leverage the tools, powers, and influence of businesses to solve some longstanding issues that environmental law has thus far failed to adequately address on its own. Businesses and business law in many instances can better marshal market-oriented tools and policies to help confront the challenges of the environment where environmental activists and traditional environmental law have faltered and fallen short.

Professor Cristie Ford's prior JOTWELL review of the article [here](#) viewed it as a valuable "reframing exercise that generates new practical strategies" for the urgent problems of climate change that cannot wait for the recalcitrant, restrained processes of political policymaking. Professor Ford's review also noted that financial institutions can play a particularly powerful role in using business law and business tools to impact environmental law and policy because of the existential importance of finance in the lives of businesses.

Whether this leveraging of the means of business law for the ends of environmental law is an appropriate shift in legal understanding is subject to legitimate debate, but the power and influence of such a shift is clearer and less debatable. Through numerous decisions related to matters like supply chains, energy, manufacturing, procurement, transportation, and social responsibility, businesses decisions directly impact the environment. Furthermore, businesses wield enormous resources and influence in shifting and shaping public opinion and public policy. Businesses and their executives have significant access to elected officials, government regulators, and thought leaders across government and society throughout the world. By using the legal tools offered by corporate law, securities regulation, antitrust law, and bankruptcy law, business leaders can amplify their power and influence on environmental issues.

In an era where many large public-facing corporations see themselves as more than merely amoral engines of profits, revenues, goods, and services, Professor Light's article has particular resonance. Many of today's businesses and business leaders see themselves and their enterprises as vehicles for producing social good and social change. This is evidenced in part by the normalization of corporate social responsibility among large businesses, as Professor Ford also noted in her prior review, and the emergence of corporate social activism on a wide-range of important social issues, including those connected to the environment among many businesses of all sizes. Professor Light's article provides a way by which businesses, executives, and other corporate stakeholders interested in environmentalism can effectuate legal, policy, and social change with legal and non-legal tools readily available to them in boardrooms, courtrooms, and beyond. Working for the cause of environmentalism no longer means just working for the government or an environmental advocacy group, rather it can also mean working for and with large corporations on environmental issues. Today, environmentalism is no longer an either/or proposition between government and advocacy organizations on the one hand and private enterprise on the other hand, rather it is a both/and proposition that reflects the possibility of thoughtful combined, collective efforts.

The rising implications and impact of climate change and the environment will present serious questions and challenges for political and business leaders in the coming years. Even more so than now, environmental issues will become business issues and business issues will become environmental issues. Thus, as Professor Light points out, "[t]he law of the corporation is environmental law[;]" and vice versa (P. 137.) Together, business law and environmental law may form a powerful double-helix of influence and policymaking that could hold the code to solving existential, persisting, and vexing environmental problems. Whether this fruitful fusion of environmental law and business law comes to pass, remains to be seen. And whether the complex contemporary crucible of business, politics, and activism helps or hinders this fusion also remains unclear. Nevertheless, what is clear is that as we confront anew the pressing problems of climate change and the environment, Professor Light's article offers us a valuable conceptual pathway towards possibly better and more workable solutions.

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Cite as: Tom C.W. Lin, *Environmentalism Inc.*, JOTWELL (August 1, 2019) (reviewing Sarah E. Light, *The Law of the Corporation as Environment Law*, 71 *Stan. L. Rev.* 137 (2019)), <https://corp.jotwell.com/environmentalism-inc/>.