



Planetary Health, Planetary/Earth System Boundaries and Justice

Gauthier Martens – 2 June 2025

Contents



Planetary Health



Planetary / Earth System Boundaries



Planetary Jurisdiction

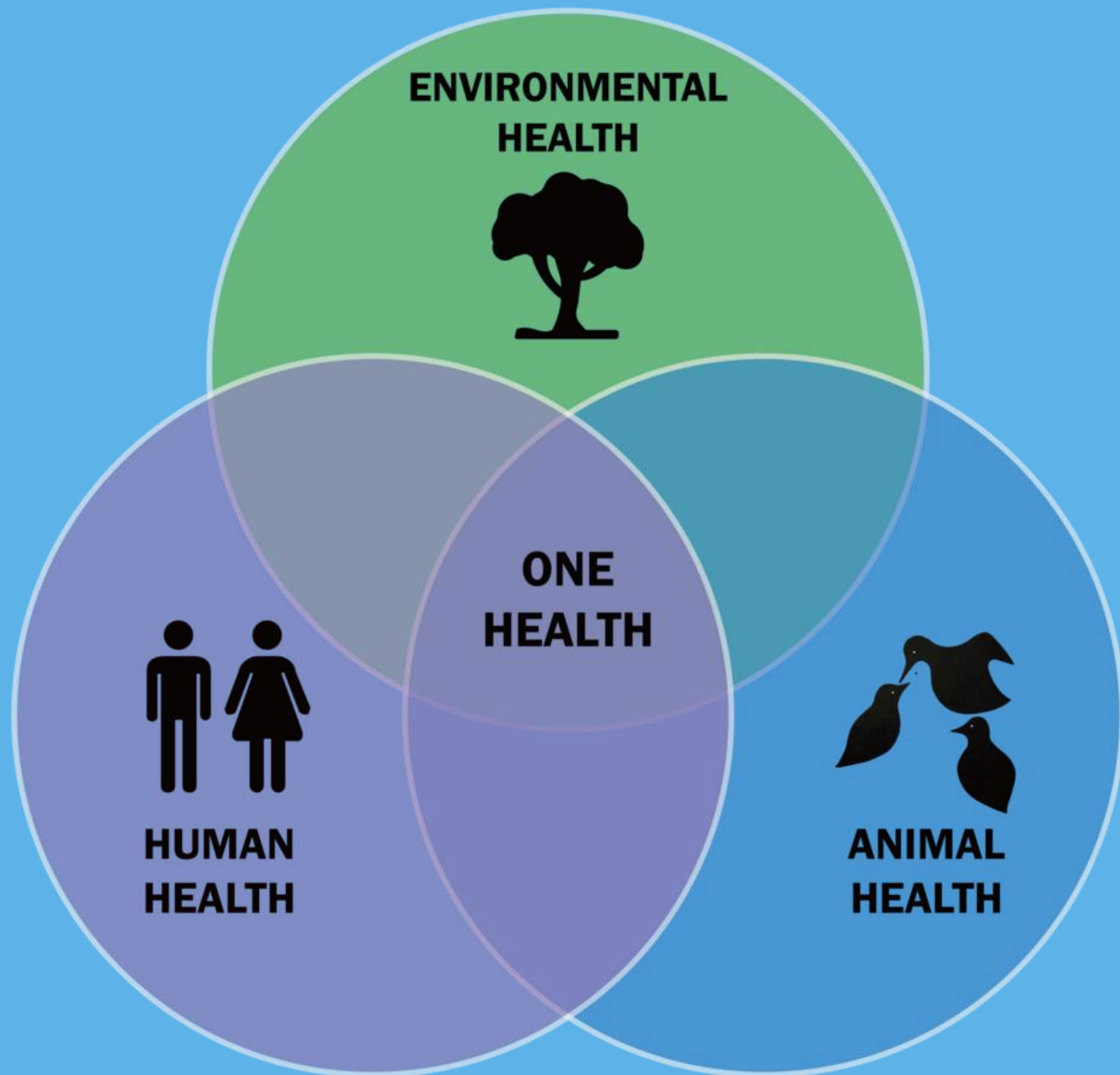


Planetary / Earth System Justice

Planetary Health

The Planetary Health Notion

- “Planetary health sets the ambitious task of understanding the **dynamic and systemic relationships** between global environmental changes, their effects on natural systems, and how changes to natural systems affect human health and wellbeing at **multiple scales** [...] [b]y emphasising interconnections between human health and environmental changes and **enabling holistic thinking about overlapping challenges and integrated solutions** for present and future generations.”
- Identifying and implementing interventions to protect planetary health requires a **systems-based understanding of their interconnections and feedbacks**. Planetary health can be operationalised by the explicit identification of multiple **benefits and trade-offs** for human health and natural systems of decisions affecting environmental change, consistent with the SDGs.
 - Montira J Pongsiri *et al.*, ‘Planetary Health: From Concept to Decisive Action’ (2019) 3 *The Lancet Planetary Health* e402 and e404.



A Right to a Healthy Environment?

- “Although there is disagreement on its exact formulation, the right to a healthy environment could be understood to mean in trite terms the right to an ecologically **balanced**, **sustainable**, healthy, **clean**, or **satisfactory** environment that **permits healthy living** for human (and **sometimes non-human**) entities on Earth.”
- “The closest that any binding international environmental instrument has come to explicitly recognizing a right to a healthy environment is the **Aarhus Convention** on access to information, public participation in decision-making, and access to justice in Environmental Matters of 1998 [which] recognizes in its **preamble** ‘that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations’.”
 - Louis J Kotzé, ‘In Search of a Right to a Healthy Environment in International Law: Jus Cogens Norms’ in John H Knox and Ramin Pejan (eds), *The Human Right to a Healthy Environment* (Cambridge University Press 2018) 136 and 140.

The State of the Environment

- “Nature across most of the globe has now been **significantly altered by multiple human drivers**, with the great majority of indicators of ecosystems and biodiversity showing **rapid decline**.”
 - IPBES, The Global Assessment Report on Biodiversity and Ecosystem Services: Summary for Policymakers (Sandra Díaz and others (eds), IPBES Secretariat 2019) 11
- “Global greenhouse gas emissions have **continued to increase**, with **unequal historical and ongoing contributions** arising from unsustainable energy use, land use and land-use change, lifestyles and **patterns of consumption and production across regions**, between and within countries, and among individuals.”
 - IPCC, Climate Change 2023: Synthesis Report. (Core Writing Team, Hoesung Lee and José Romero (eds), IPCC 2023) 4

A State of “Polycrisis”

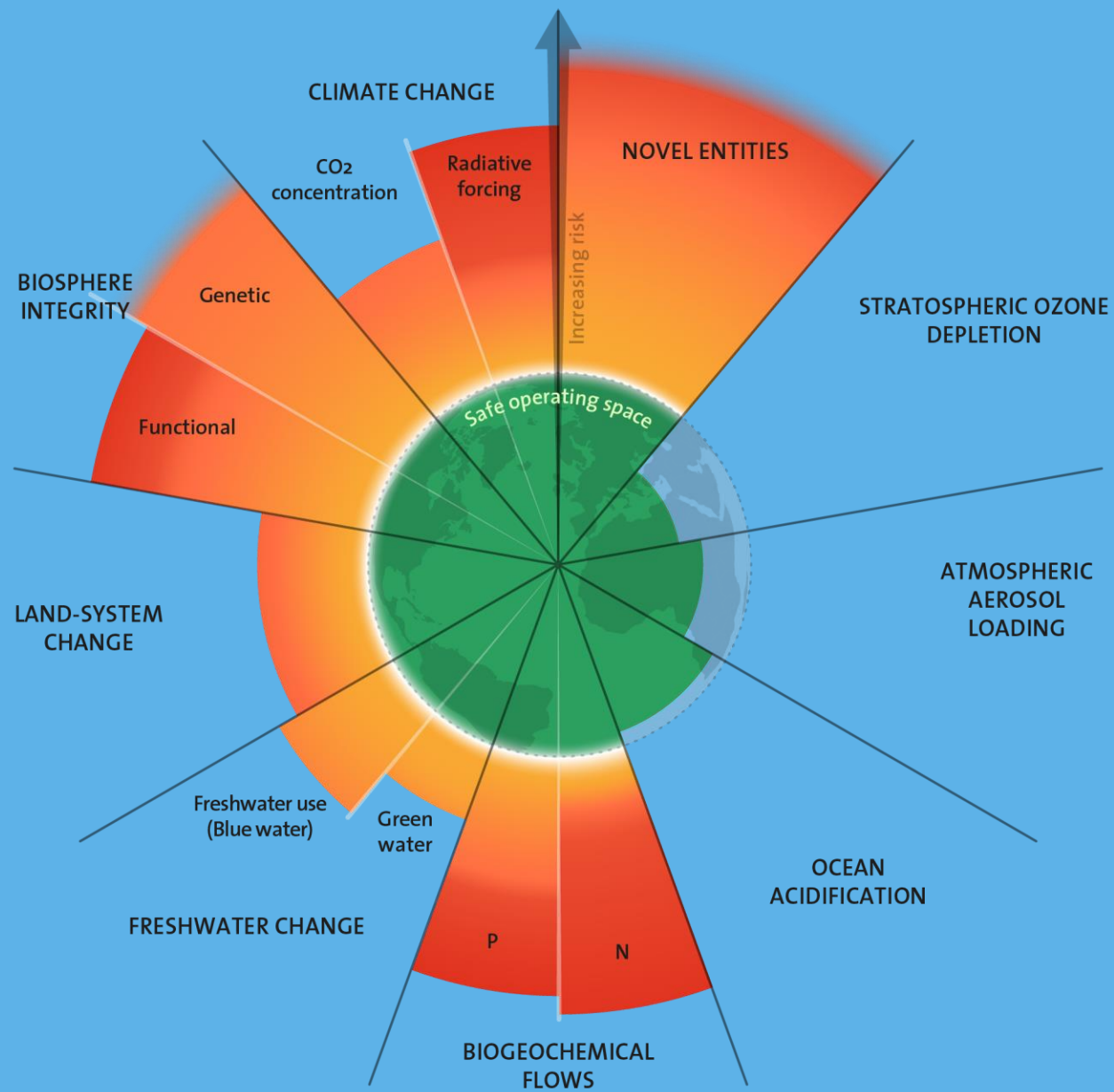
- “[I]l y a **inter-rétro-actions** entre les différents problèmes, les différentes crises, les différentes menaces. Ainsi en est-il pour les problèmes de santé, de démographie, d’environnement, de mode de vie, de civilisation, de développement. [...] Plus largement, la **crise de l’antroposphère** et la **crise de la biosphère** se renvoient l’une à l’autre, comme se renvoient l’une à l’autre les crises du passé, du présent, du futur.”

- Edgar Morin & Anne Brigitte Kern, *Terre-Patrie* (Seuil 1993) 109

- “[M]ultiple crises happening simultaneously, **feedback loops** where crises interact in (un)foreseeable ways, **amplification and acceleration** of crises when they intersect, an unboundedness where crises are **not confined to a single time and space**, emerging and **layering of multiple causes and effects**, the breakdown of shared meaning and cross-purposes.”

- David Henig & Daniel M. Knight, “Polycrisis: Prompts for an emerging worldview” (2023) 39 *Anthropology Today* 3

Planetary / Earth System Boundaries

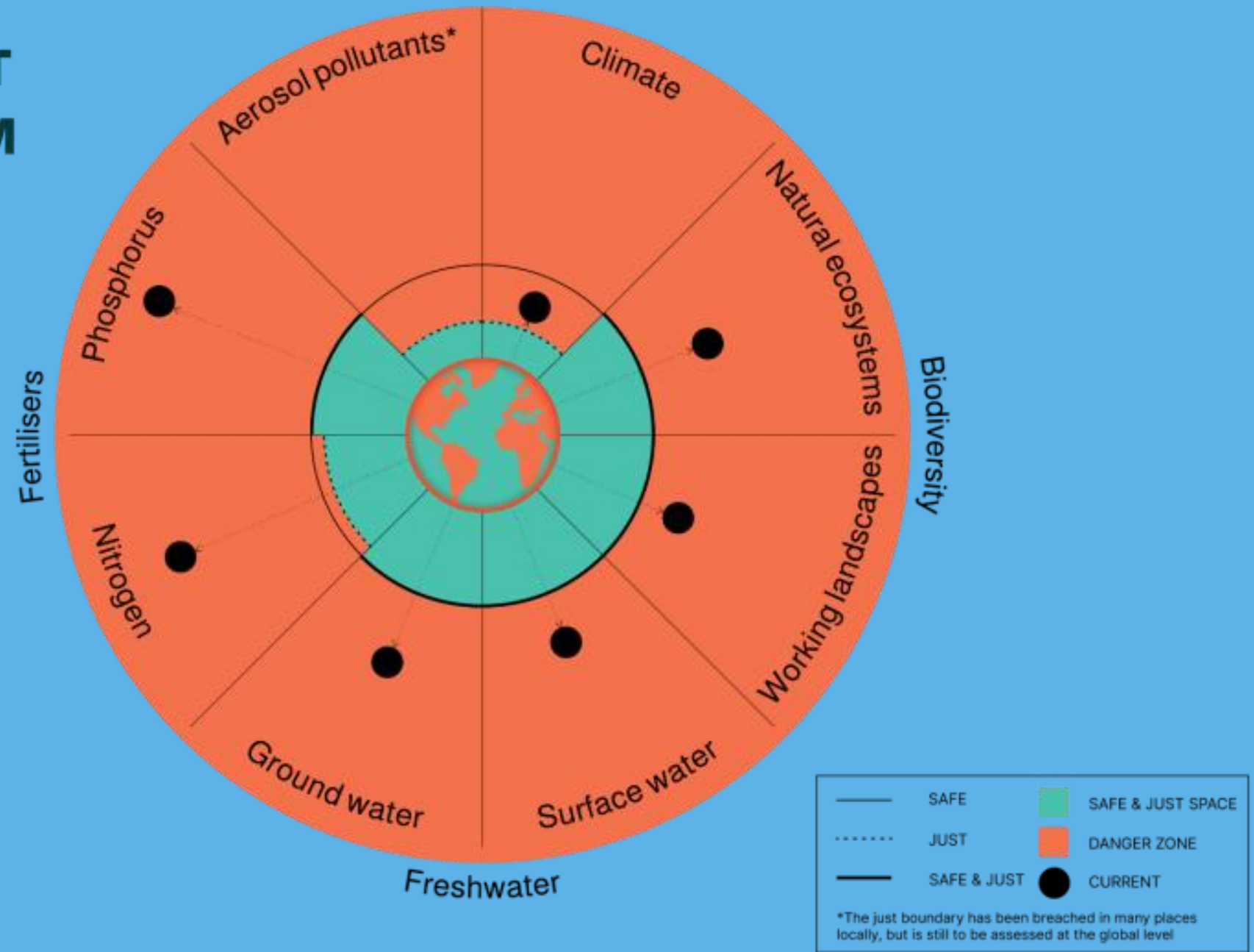


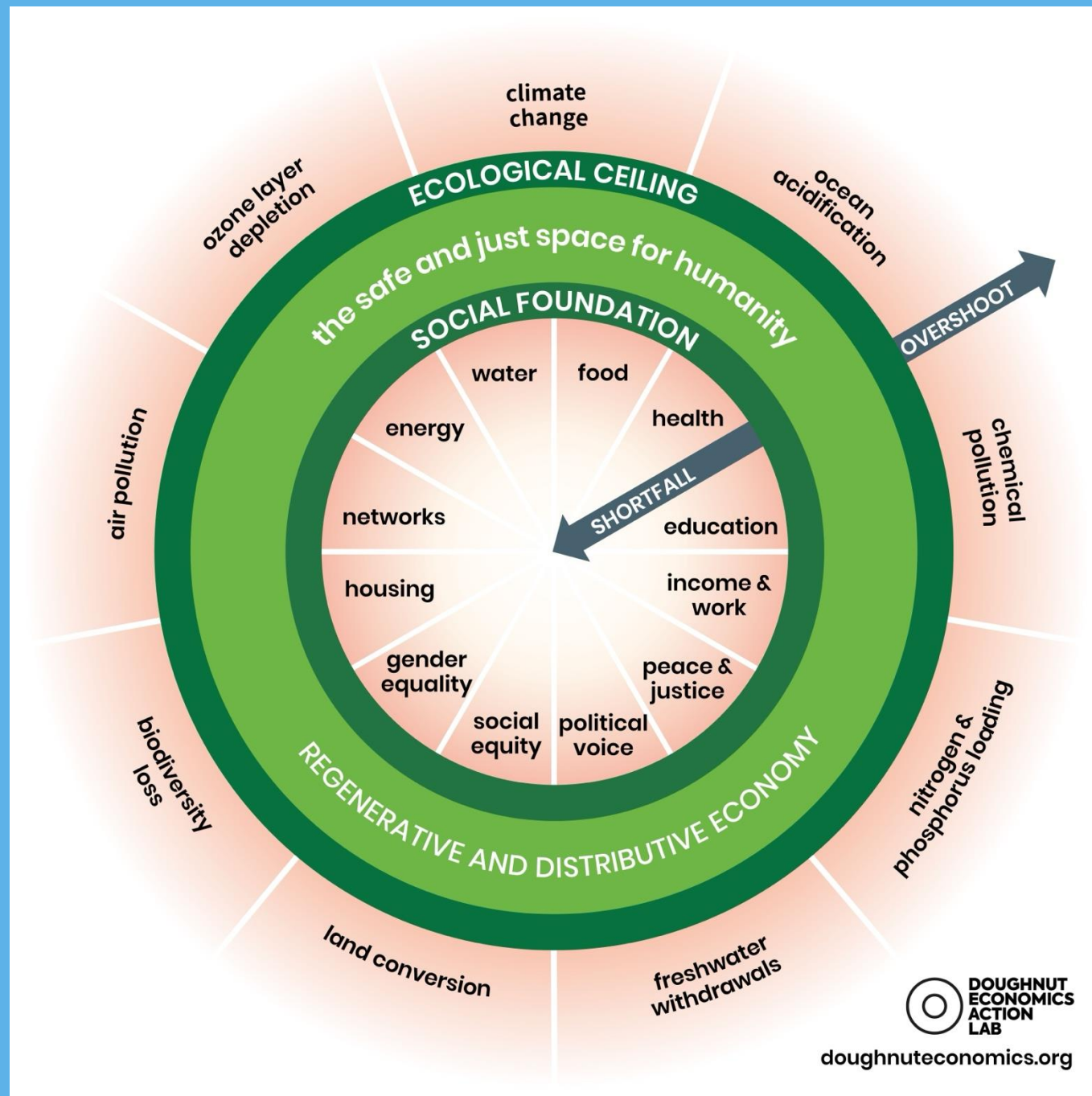
Some Characteristics of the PB Framework

- Evaluates and quantifies the extent of anthropogenic pressures on the global environment
- Serves as a sound scientific basis for the determination of necessary transformation in the way humanity inhabits the world
- Defines a “Safe operating space” according to the precautionary principle
- Processes can be distinguished according to their scale: some are global while others have rather regional operating levels



SAFE AND JUST EARTH SYSTEM BOUNDARIES





The Planetary v. The Global

- “**The Planetary** for **Latour** is not about developing concerns in relation to ‘the whole’, but rather the idea of the planetary ‘**bursts the bubble**’ of the **Globe**, it breaks apart the idea that ‘the planet’, or human/non-human relations ‘on’ it, can really be captured as a ‘whole’.”

- Milja Kurki, “Planetary Justice reconsidered” (2024)
33 *Environmental Politics* 1189

- Issue of fit: How to navigate the degradation of a complex Earth system with political and legal institutions and instruments that remain overwhelmingly national or, at best, inter-national?
- The PB framework is not designed to be downscaled

Planetary Jurisdiction

Definition of Planetary Jurisdiction

“The legal competence to create (**prescriptive jurisdiction**), apply (**adjudicative jurisdiction**) and **enforce legal rules** limiting negative human impacts **on earth system components** sustaining life on earth, including the atmosphere and the biosphere.”

- Andreas Buser, ‘Exercising Planetary Jurisdiction: On the Legality and Legitimacy of Unilaterally Mitigating Planetary Ecological Footprints’ (2025) 35 *European Journal of International Law* 901

Regulation 2023/1115 – Ambit and Objectives (1/2)

Article 1(1) – Subject matter and scope

*“This Regulation lays down rules regarding the **placing and making available on the Union market** as well as the **export** from the Union of **relevant products** (and) **relevant commodities** (...) with a view to:*

- (a) Minimising the Union’s contribution to deforestation and forest degradation worldwide, and thereby contributing to a **reduction in global deforestation**;*
- (b) Reducing the Union’s contribution to **greenhouse gas emissions** and **global biodiversity loss**.”*

Regulation 2023/1115 – Ambit and Objectives (2/2)

Article 3 – Prohibition

Relevant commodities and relevant products shall not be placed or made available on the market or exported, unless the following conditions are fulfilled:

- (a) They are **deforestation-free**;
- (b) They have been produced in accordance with the **relevant legislation of the country of production**; and
- (c) They are covered by a **due diligence statement**.

Imposition of EU Rules through the *Brussels Effect*

- Besides for cattle and wood, the EU plays a negligible role in the production of the commodities targeted by the EU Deforestation Regulation → It mainly targets third countries
- The **Brussels Effect** is “*the Europeanization of many aspects of global commerce due to the EU’s ability to promulgate regulations that become entrenched in the legal frameworks of developed and developing markets*”.
- One of the objective the Regulation is to induce a reduction in global deforestation and forest degradation.



Planetary / Earth System Justice

A Definition of Planetary Justice

“The notion of ‘planetary justice’ is for our purposes preferable [to ‘socio-ecological justice’] because it denotes justice that **relates to the Earth system as a whole (rather than to local or regional systems)**. Thus climate justice and biodiversity justice—along with hitherto unexplored ideas such as nitrogen and phosphorus justice—could all be seen as **facets of planetary justice**. [...] [T]hree ways in which the scope of planetary justice needs to reach beyond Holocene thinking: by **escaping state-centric accounts** of justice; in **extending justice to future generations**; and through **encompassing justice for non-humans**.”

- John S. Dryzek & Jonathan Pickering, *The Politics of the Anthropocene* (Oxford University Press 2018) 67-68

The Essentials of Planetary Justice

“[1] Viewing **humanity’s relationship with the Earth system as central** to planetary justice, rather than keeping justice in splendid isolation from the Earth system, as many Holocene accounts (such as that of Rawls) were wont to do; [2] Thinking about how to **detach the practical pursuit of justice from unending economic growth**; [3] Expanding justice beyond the confines of state boundaries; [4] Extending justice to **non-humans, future generations, and the Earth system** in its entirety; [5] Joining **individualist and collectivist approaches to responsibility** for minimizing and remedying damage to the Earth system, while recognizing that in the end, individualist approaches must yield to the need for collective action; [6] Safeguarding a **capacity for people to contest** what justice should mean under a changing Earth system’ ”

- John S. Dryzek & Jonathan Pickering, *The Politics of the Anthropocene* (Oxford University Press 2018) 80

A Definition of Earth System Justice

“An **equitable sharing** of nature’s **benefits**, **risks** and related **responsibilities** among all people in the world, within safe and just Earth system boundaries to provide **universal life support**.”

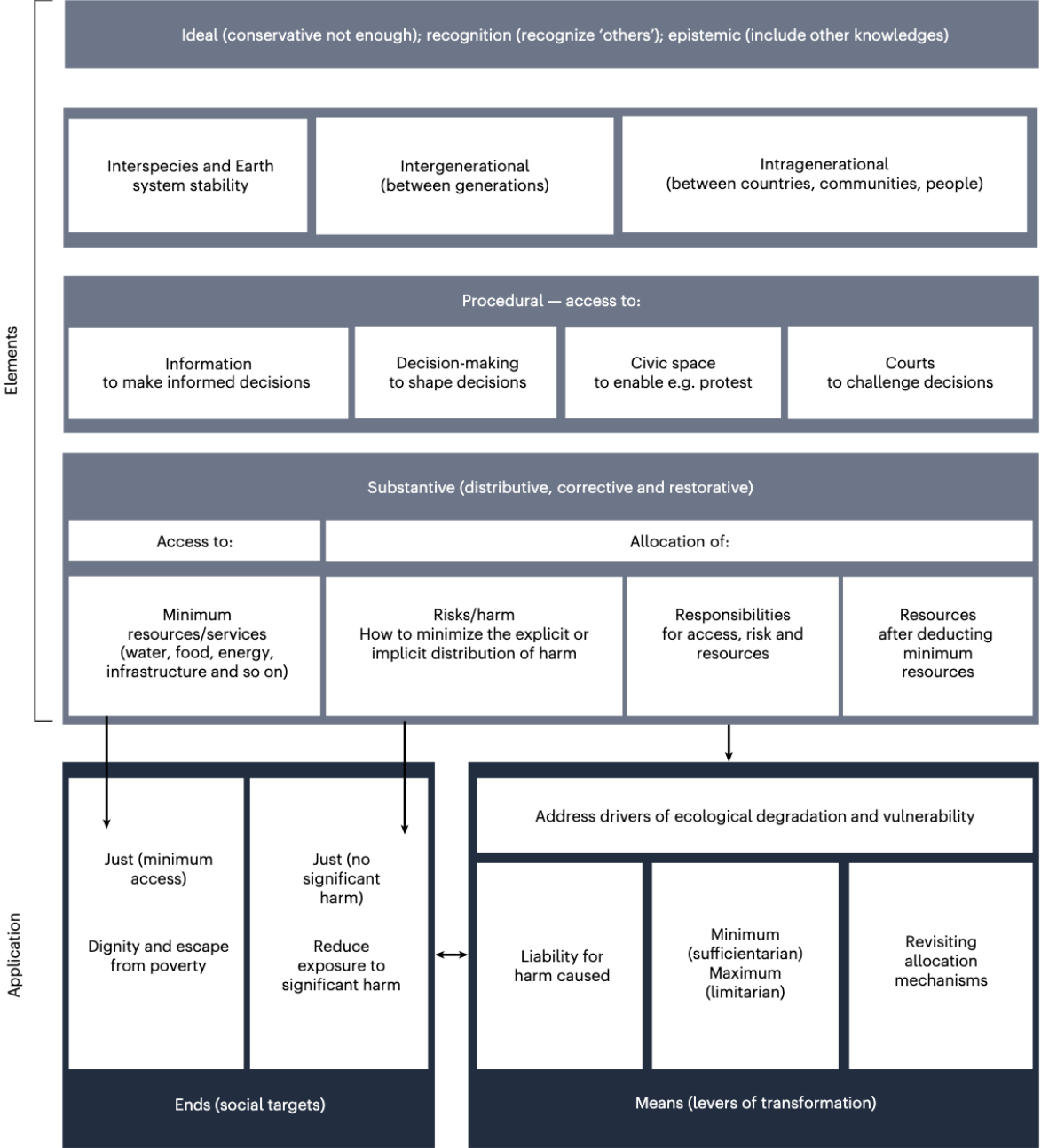
- Joyeeta Gupta *et al.*, ‘Earth system justice needed to identify and live within Earth system boundaries’ (2023) 6 *Nature Sustainability* 632

The Essentials of Earth System Justice

“[M]eeting **basic needs** requires massive changes to the existing allocation of resources, risks and responsibilities worldwide [...]. Access cannot be met without reallocation because (a) historic allocation systems have created the poor and vulnerable; (b) allocation systems based on pricing of scarce resources and markets for buying and selling these resources lead to rising prices making resources unaffordable for the poor [...]; (c) allocation systems **based on externalizing the environment** [...] end up with **further dispossessing the poor through pollution**; (d) aid and philanthropic organizations that aim to address access issues often inadvertently or deliberately keep the unjust allocation system intact [...]; and (e) **procedural justice** which aims at incorporation or equality of opportunity may miss the point: it **needs to allow room for recognition and epistemic justice** as well as **providing greater opportunity** to the poor [...].”

- Joyeeta Gupta & Courtney Vegelin, 'Inclusive Development, Leaving No One behind, Justice and the Sustainable Development Goals' (2023) 23 *International Environmental Agreements* 118-119

Earth system justice



A Justice Framework that Can Be Refined 1: Building (Ecological) Capabilities (1/2)

- **Capability Approach** = “[A]n attempt to build a coherent framework of a realization-focused assessment approach to human well-being, freedom and equality [through concern] not with the characterization and implementation of the optimal allocation of resources, but with the **identification of the channels through which the suboptimal allocation of resources can be improved upon** without violating the freedom and dignity of individuals.”
 - Kotaro Suzumura, ‘The Capability Approach to Well-Being and Freedom from the Viewpoint of Welfare Economics and Social Choice Theory’ in E. Chiappero-Martinetti, S. Osmani and M. Qizilbash (eds), *The Cambridge Handbook of the Capability Approach* (Cambridge University Press 2020) 121
- “There is a strong case [...] for replacing [...] transcendental institutionalism [...] by focusing questions of justice, first, on **assessment of social realizations**, that is, on what actually happens (rather than merely on the appraisal of institutions and arrangements); and second, on **comparative issues of enhancement of justice** (rather than trying to identify perfectly just arrangements).”
 - Amartya Sen, *The Idea of Justice* (Penguin 2010) 410

A Justice Framework that Can Be Refined 1: Building (Ecological) Capabilities (2/2)

- **Sustainable Ecological capacity** = “being able to live one’s life in the context of **ecological conditions that can provide environmental resources and services that enable** the current generation’s range of **capabilities**; to have these conditions **now and in the future** [...], it is necessary for the exercise of other capabilities, but the ecological conditions that constitute the capability are a component of individual opportunity.”
 - Breena Holland, ‘Justice and the Environment in Nussbaum’s “Capabilities Approach”: Why Sustainable Ecological Capacity Is a Meta-Capability’ [2008] 61 *Political Research Quarterly* 319
- Focus on **ecosystem integrity**, i.e. not only the protection of their current condition but the **securing of their varied future capabilities**, “dignity is an inappropriate concept to apply beyond human beings, but a conception of integrity accomplishes for nonhumans what dignity does for human beings”.
 - David Schlosberg, ‘Ecological Justice for the Anthropocene’ in Marcel Wissenburg and David Schlosberg (eds), *Political Animals and Animal Politics* (Palgrave Macmillan UK 2014) 88

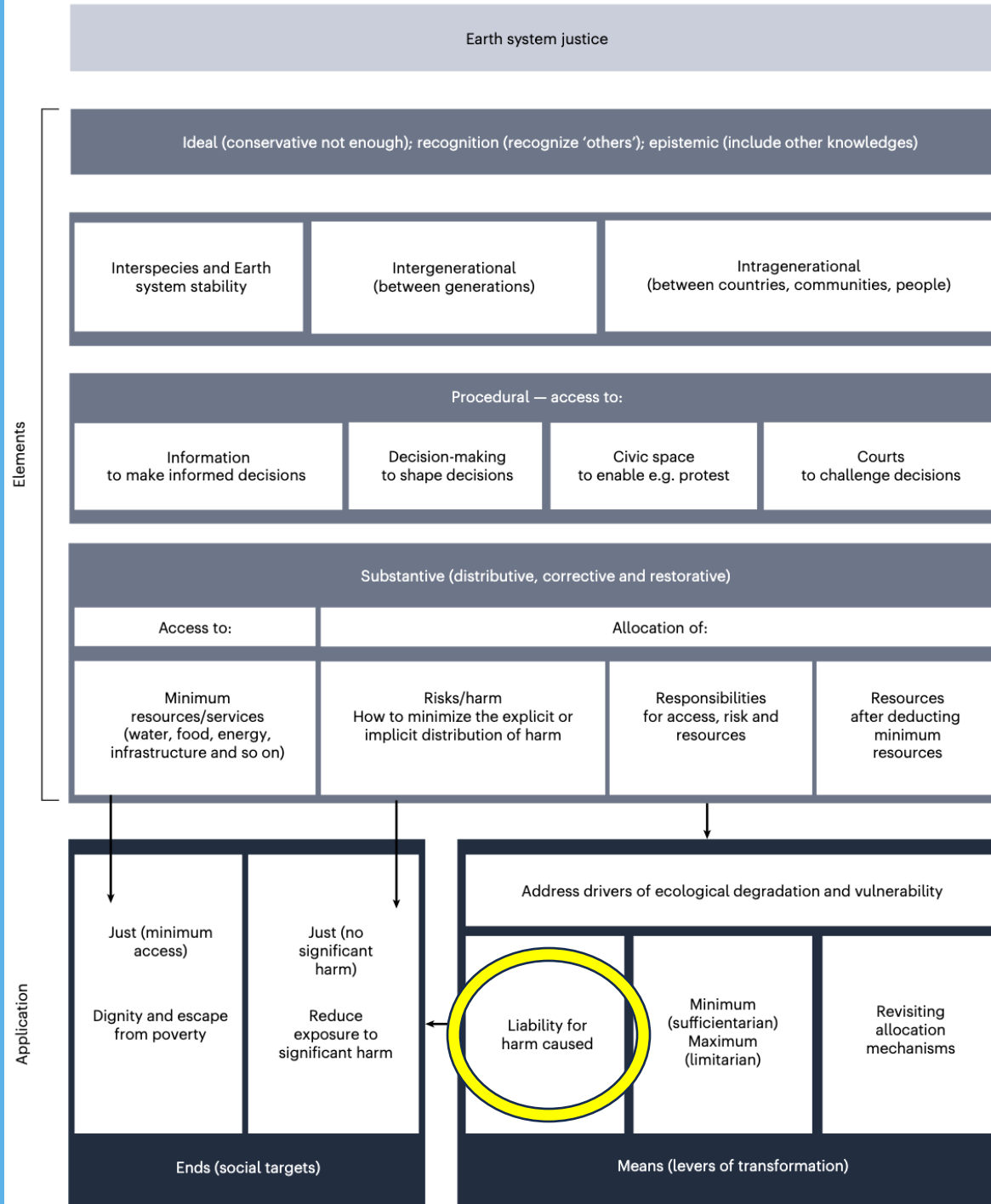
A Justice Framework that Can Be Refined 2: The Concentric Circle Theory

Developed by US legal philosopher Peter S. Wenz in his 1988 book *Environmental Justice*, it consists of 10 underlying theses we summarise in a three-step process:

- 1) In humans, assuming concentric circles around *A* and that *B* has more actual or potential interactions with and is thus situated closer to *A* than *C* does and is, other things being equal, *A* has stronger and/or more numerous obligations to satisfy positive rights and preferences of *B* than those of *C*, with the positive rights of *C* however trumping the preferences of *B* even though the latter is closer to *A*, and negative rights being equal for *B* and *C* as these rights are unaffected by one's closeness to *A*;
- 2) Being situated on further concentric circles from humans, nonhuman animals have only negative rights, which are not absolute and can be overridden by other considerations, except for domesticated animals who also have some positive rights because their dependency results from unilateral human action;
- 3) Non-sentient constituents of the environment have no rights *per se* as they are on even further circles, but humans have an obligation to act in favour of the preservation and continuation of biodiversity-enhancing evolutionary processes.

Our Definition of Planetary/Earth System Justice

A **bounded decisional framework** whereby humans, as an integral part of the Earth System and, therein, of complex and interconnected socioeconomic systems, must **select among a varied range of policies, means, responses**, etc., the ones most **conducive to safeguarding and amelioration of the resilience** of other humans and ecosystems (within and across generations), species and, as much as is considered reasonable by means of **inclusive and democratic deliberation**, individual living organisms; the force and extent of one's obligations towards another component of the Earth system decreasing with **interactional and biological distance** safe for the **baseline guarantees of human and animal rights**.



Regulation 2024/1203 – Objective

Article 1 – Subject matter

“This Directive establishes **minimum rules with regards to the definition of criminal offences and penalties** in order to protect the environment more effectively, as well as with regard to measures to prevent and combat environmental crime and to effectively enforce Union environmental law.”

Regulation 2024/1203 – Ambit

Article 3 – Criminal Offences

“(1) Member States shall ensure that conduct listed in paragraphs 2 and 3 of this Article, where it is intentional, and conduct referred to in paragraph 4 of this Article, where it is carried out with **at least serious negligence**, constitutes a criminal offence where that conduct is unlawful. [...]

(2) Member States shall ensure that the following conduct constitutes a criminal offence where it is unlawful and intentional:

(p) the placing or making available on the Union market or the export from the Union market of relevant commodities or relevant products, **in breach of the prohibition set out in Article 3 of Regulation (EU) 2023/1115**, except where such conduct concerns a negligible quantity”

Regulation 2024/1203 – Jurisdiction

Article 12

“(1) Each Member State shall take the necessary measures to establish its jurisdiction over the criminal offences referred to in Articles 3 and 4 where:

- (a) the offence was committed in whole or in part within its territory; [...]
- (d) the offender is one of its nationals

(2) A Member State shall inform the Commission where it **decides to extend its jurisdiction** to one or more criminal offences [...] which have been **committed outside its territory**, where:

- (a) the offender is a habitual resident in its territory; [...]
- (b) the offence is committed for the benefit of a legal person established in its territory”

Thank you!

gauthier.martens@uclouvain.be



SAINT-LOUIS BRUXELLES