

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

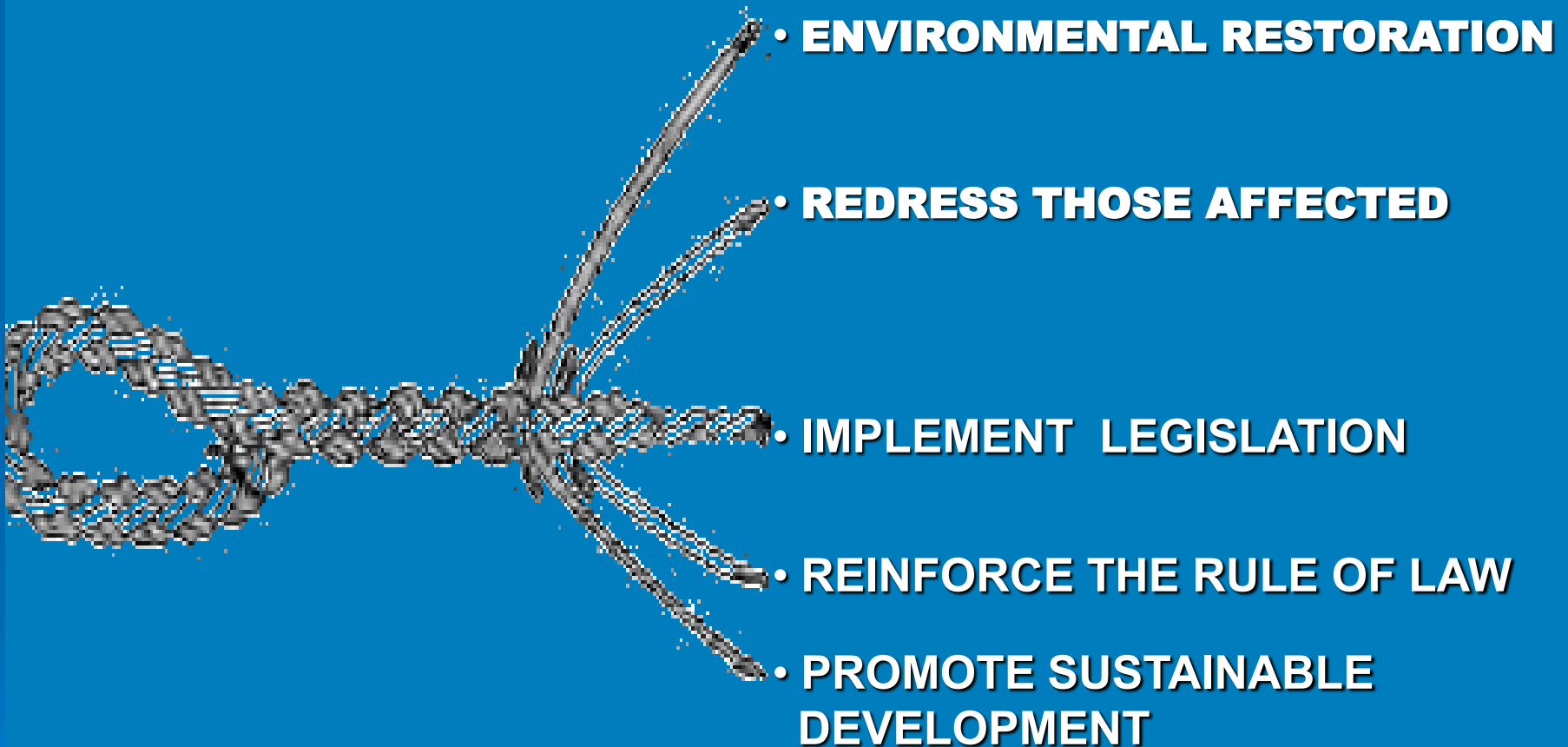
ASSUMPTIONS IN DISCUSSING REMEDIES

- 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

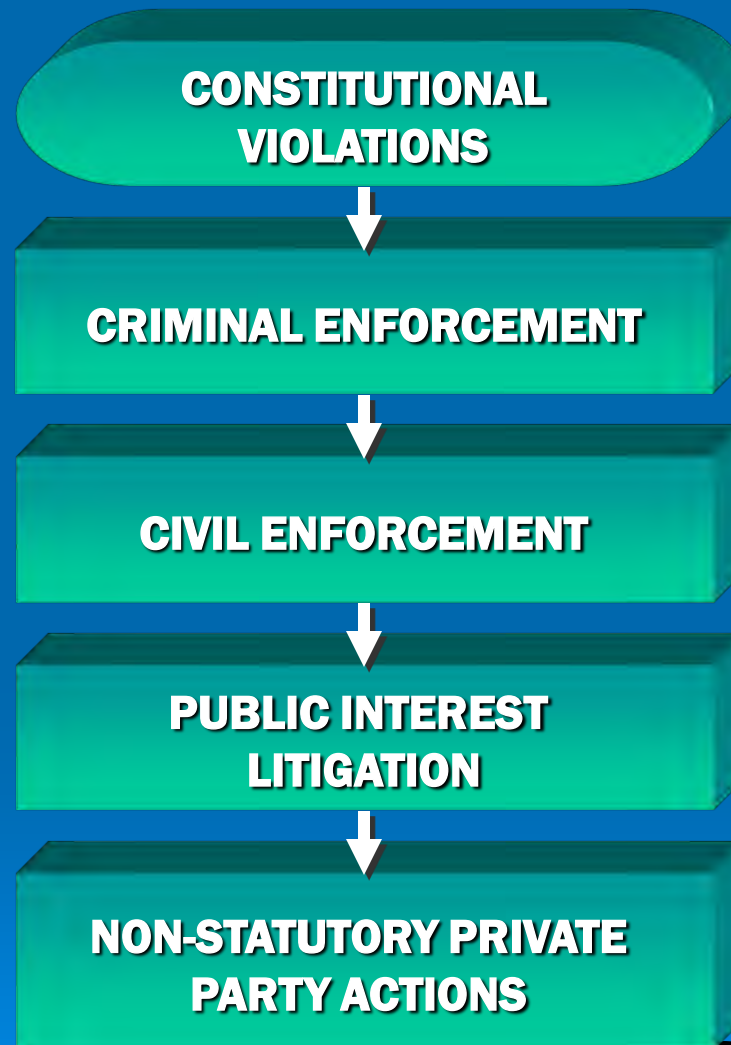
CASE MANAGEMENT CONSIDERATIONS

- 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
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PURPOSE OF REMEDIES



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

