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Book Review

INTERNATIONAL ENVIRONMENTAL LAW IN A NUTSHELL. By Lakshman D. Guruswamy* and Brent R. Hendricks,** St. Paul, MN; West, 1997 (forthcoming). Pp. 436.

Barbara K. Bucholtz***

International Environmental Law in a Nutshell will be a welcome addition to the libraries of members of the bar and the academy. For the scholar or practitioner involved with international environmental issues, it will serve as a useful reference book. For the student or lay reader, it offers an excellent panorama of the field. As the corpus of international environmental law (IEL) expands and the scholarly attempts to keep apace proliferate, this comprehensive volume is notable for its accessible, yet rigorous, treatment of the subject.

One reason for the book's coherence is the manner in which it frames the juridical space occupied by IEL. Its analysis is divided into two parts. Part I maps the contours of the legal regimes that constitute IEL: its sources, its formative documents, and the legal mechanisms through which it is implemented. Part II is organized around the major environmental problems confronting the international community: those of a global dimension¹ and those that pertain to specific regions, loci, or media.² The book concludes

* Other scholarly books by Prof. Guruswamy include: LAKSHMAN D. GURUSWAMY, *LEGAL CONTROL OF LAND BASED SEA POLLUTION* (1982); LAKSHMAN D. GURUSWAMY, ET AL., *INTERNATIONAL ENVIRONMENTAL LAW AND WORLD ORDER* (1993); LAKSHMAN D. GURUSWAMY, *PROTECTION OF GLOBAL BIODIVERSITY: CONVERGING INTERDISCIPLINARY STRATEGIES* (forthcoming 1997).

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1. Chapters Four through Seven respectively discuss the global issues of population, biodiversity, climate change, and ozone depletion.

2. These issues are described as "multilateral." They include Antarctica (Chapter Eight), toxic and hazardous substances (Chapter Nine), land-based pollution (Chapter 10), vessel-based pollution (Chapter 11), dumping (Chapter 12), conservation of marine living resources (Chapter 13), transboundary air pollution (Chapter 14), transboundary water pollution (Chapter 15), desertification (Chapter 16), and nuclear damage (Chapter 17).

with a prognosis for these problems and an assessment of the capacity of IEL to manage them. Finally, it appends a useful description of major governmental and nongovernmental environmental organizations.

The text achieves its real effectiveness in the actual discussion of discrete environmental problems covered in Part II. Weaving together what Professor Guruswamy has previously called the "expanding matrix"³ of IEL with the historical, political, scientific, and technological milieu in which IEL is developing, the text creates a sense of perspective on this unfolding human and bio-physical drama.

For example, in Chapter 4, the text addresses the contentious issue of population growth. The authors document the problem by discussing relevant statistical profiles⁴ and specific dynamics⁵ as well as the political ramifications⁶ that combine with the roiling theological debate⁷ to confound the issue. This method of analysis reveals the consensus-building difficulties that attend any attempt to ameliorate the population growth problem through IEL mechanisms. The organizational structure that frames the discussion of Chapter Four—highlighting the complexity of the population growth issue and the confluence of historical, political, biological, and technological forces that drive it—is mirrored in subsequent chapters dealing with other environmental problems.⁸

3. Lakshman D. Guruswamy, *Integrated Environmental Control: The Expanding Matrix*, 22 ENVTL. L. 77 (1992).

4. The earth's population is currently increasing at the rate of approximately 90 million people per year and is pessimistically projected to reach 12.5 billion by the year 2050. Most (85%) of the increase occurs in poorer, developing nations. See LAKSHMAN D. GURUSWAMY & BRENT R. HENDRICKS, *INTERNATIONAL ENVIRONMENTAL LAW IN A NUTSHELL* 69–70 (1997).

5. The use of irrigation, chemical pesticides, and fertilizers has increased agricultural production to meet the needs of an expanding population, but they have also "contributed to the depletion of arable land suitable for cultivation." *Id.* at 72. "The use of harmful pesticides and fertilizers has also poisoned soil and water resources while vermin have become resistant to chemical pesticides." *Id.* at 73.

6. While wealthy citizens consume more natural resources on a per capita basis, increased populations of citizens in poorer countries tend to deplete all natural resources and can even exhaust nonrenewable ones. *See id.* at 70–71.

7. The Vatican and some Islamic nations have opposed attempts to limit population growth as a part of the Program of Action developed at the 1994 UN International Conference on Population and Development. *See id.* at 79.

8. This structure appears again in Chapter Six's analysis of global climate change. Following a summary rendition of the scientific divide over the global warming phenomenon, the chapter builds upon a consensus view within the scientific community that measures should be taken to diminish atmospheric greenhouse gases. It identifies the destructive consequences that most authorities agree would befall the environment and human populations if an abnormal degree of climate change occurs. *See id.* at 124–29.

The chapter then folds into the "science" of the issue, the complexity of framing an adequate IEL response. That is the impetus for a discussion of the interface between the principles and commitments of the UN Framework Convention on Climate Change

Each chapter in Part II outlines the discrete environmental problem at issue and identifies specific environmental impacts created by it. Each chapter then explores the remedial objectives envisioned by IEL, and, finally, examines the legal responses of the IEL community. Chapter Five, for instance, addresses the biodiversity issue. Beginning with an overview of the three concepts that comprise biodiversity,⁹ the chapter describes the critical role that biodiversity plays in sustaining life on the planet, its “use-value” (economic, ecological, and aesthetic), and its ethical value.¹⁰ Having described the problem, the chapter examines the environmental assaults on biodiversity and their root causes.¹¹ It explains that the remedial objectives of IEL in addressing the biodiversity problem must include a synthesis of IEL’s two “systemic” or foundational principles: (1) meeting the basic needs of the human population—implicating geopolitical issues of equity and justice, and (2) conserving biodiversity through the paradigm of sustainable development. That explanation segues into a discussion of the two meta-issues that impact the development of IEL and recur in the analysis of separate environmental issues in this text: the principle of sustainable development¹² and the North-South split.¹³ The chapter concludes with a discussion of the legal regimes that have been fashioned by the IEL community in response to the biodiversity problem.

on the one hand and the contentious politics of even a facially benign concept like joint implementation on the other. *See id.* at 131–45. The vexing question that joint implementation poses is, in a nutshell, Will it simply exacerbate the marginal status of developing countries both politically and economically?

9. “Biodiversity encompasses three concepts: the genetic diversity within each species, the diversity of species, and the diversity of ecosystems within a region.” *Id.* at 84.

10. *See id.* at 84–86. The ethical value reflects a belief in the intrinsic value of each species: “[e]thical reasons for preserving biodiversity are based, quite simply, on the right of species and ecosystems to exist.” *Id.* at 86.

11. These root causes include “habitat destruction resulting from the expansion of human populations and activities[,] . . . invasion by introduced species, over-exploitation of biological resources, industrial agricultural and forestry, pollution, and potentially, global climate change.” *Id.* at 88.

12. Sustainable development is described by the authors as an IEL strategy designed to resolve the dichotomy between environmental protection and economic development. It views each as desirable and therefore encourages the formulation of national and international policies that “sustain and expand the environmental resource base in a manner that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.” *Id.* at 11.

Mechanisms for implementing the concept were initially explored by the Brundtland Commission, established in 1983 by the UN General Assembly. Sustainable development was a focal issue at the 1992 Earth Summit (UN Conference on Environment and Development) in Rio de Janeiro. The Earth Summit is viewed by some authorities as evincing a commitment to economic development at the expense of environmental protection. *See id.* at 10–14, 100–04, 398–400.

13. The North-South split mirrors the dichotomy between environmental protection and economic development, which the foundational precept of sustainable development

Chapter Nine, covering environmental problems created by toxic and hazardous wastes, is notable for its lucid presentation of the scientific dimensions of those problems.¹⁴ It presents a succinct discussion of why integrated pollution controls, covering the three environmental media of air, land, and water, should be adopted.¹⁵ Also of note in this chapter are examples of how norms and definitions may differ among legal regimes.¹⁶ However, Chapter Eight, examining environmental problems in Antarctica, makes the very different point that national norms and mechanisms can also serve as models for international regimes.¹⁷

The analysis of vessel-based pollution in Chapter Eleven bears review for its systematic explanation of the discrete problems that constitute the flotsam and jetsam of environmental pollution at sea.¹⁸ The remedial objectives section of the chapter identifies methods of ameliorating these pollution problems with some specificity¹⁹ and clarifies the problems that the international community must address in crafting an IEL regulatory regime. It also explains why the legal regime must distinguish between operational pollution and accidental pollution and why IEL will be compelled to deal with the difficulties of state liability versus civil liability for pollution damage.

Chapters Twelve and Thirteen, covering dumping and the conservation of marine living resources, respectively, reveal the effectiveness of a problem-driven, rather than a juridical or treaty-driven, discussion of IEL. In each chapter the prologue to discussion of the treaties and conventions that constitute IEL on each issue is replete with brief but incisive explanations of the science, politics, and technology that underpin the relevant IEL regimes. This structure casts the legal analysis in an interesting and accessible form.

attempts to balance. It symbolizes the difficulties encountered in developing IEL strategies to effect the principle of sustainable development because developing nations view attempts to curtail their economic growth as tantamount to requiring them to pay for the environmental sins of the developed nations at the expense of their own need to build a globally competitive infrastructure. *See id.* at 400–05. And like sustainable development, the North-South split is implicated in the political and technological challenges inherent in several IEL issues. For the discussion of these two perduring issues, *see, e.g., id.* at 76–77 (population), 92–94 (biodiversity), and 140–46 (global climate change).

14. *See id.* at 196–200.

15. *See id.* at 204–11.

16. *See id.* at 190–91.

17. The discussion of environmental impact assessment illustrates this point. *See id.* at 183–84.

18. *See id.* at 241–45.

19. *See id.* at 246–48.

Because air and water pollution problems are ubiquitous, Chapters Fourteen and Fifteen (“Transboundary Air Pollution” and “Transboundary Water Pollution”) face an additional challenge of re-integrating materials on these issues previously discussed in earlier chapters. By cross-referencing the materials at the appropriate points in the two discussions, the chapters make these earlier discussions readily available to the reader.

The strength of this text is its ability to sketch the very complex issues that constitute the IEL scene with clarity. Readers are cautioned, however, that the book is a nutshell, not a treatise. It serves to recapitulate the larger issues of an evolving IEL, and while its references to authority for that purpose are adequate, they are hardly exhaustive. Readers who attempt to use it primarily as a reference resource will be frustrated. Therefore, while its coverage of major legal, economic, scientific, and technological issues is comprehensive, its citation to authority is not.

In sum, this is a useful and user-friendly text. It gives a generally balanced view of disputed issues, but it does not avoid reaching conclusions and making judgments, nor does it eschew hortatory. Although the authors describe their approach as “cautiously optimistic,”²⁰ their viewpoint is unabashedly progressive and pragmatic. That viewpoint is evident in their proactive perspective: they are not reticent in confronting daunting problems and advocating solutions that tip the balance in favor of environmental concerns over economic interests.²¹ Those whose sensibilities are more attuned to the latter may take issue with the authors’ assessments. Nevertheless, readers can be assured of a “good read”: lively, informative, and useful.

20. *Id.* at 397.

21. *See id.* at 401–05. The discussion of the tension created by the conflicting paradigms of free trade and environmental protection concludes that a more impartial tribunal than the Dispute Settlement Body of the World Trade Organization is required to resolve impasses between those disparate goals and recommends that the dispute resolution settlement procedures of the UN Conference on the Law of the Sea be enlisted in that capacity, as it “possesses the substantive law, jurisdiction, and adjudicatory authority necessary for this purpose.” *Id.* at 404.

