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International Environmental Law

Ulrich Beyerlin and Thilo Marauhn

Oxford: Hart/Beck Publishing 2011; 484pp, s/c £32.00, ISBN 978-1-84113-924-1

Introduction

This book is an excellent introductory text aimed at students and practitioners interested in international environmental law (IEL). It seeks to familiarise the reader with the system of environmental law as a whole and the interaction between different environmental regimes in international environmental law and governance. The authors provide a wide-ranging and structured discussion of theoretical, substantive and procedural aspects of IEL while also demonstrating how the different areas of IEL form a system of international environmental governance that is accessible for students. Unlike seminal texts such as Birnie, Boyle & Redgwell's *International Law and the Environment*¹, this book provides a shorter, introductory account of international environmental law and its development. As such, it will be very useful for those who simply want an introduction to IEL.

Conceptual Approach of the book

International Environmental Law approaches IEL as a multi-dimensional legal system with a number of cross-cutting and inter-related regulatory systems that address very diverse goals. While this is a challenging approach to use in an introductory textbook, this book still manages to describe a complex system of international law in an understandable and accessible manner for students and practitioners alike. The authors primarily rely on treaty regimes as the basis for their chapters in order to discuss the different approaches of these regimes in dealing with environmental problems. By stating the differing obligations of developing and developed countries within a treaty regime, the authors are able to incorporate some discussion on the relationship between 'environment' and 'development' in the conceptual and theoretical aspects of IEL. They have also used examples of this tension in their substantive discussion of IEL as a system of governance attempting to achieve sustainable environmental protection.

Structure/areas

The book comprises of seven different sections covering historical, conceptual, substantive, and procedural aspects of IEL. Later chapters outline the interaction between IEL and other areas of international law. The book concludes with a section that evaluates the current state of IEL and how it may be improved. Structuring the textbook in this way enables the reader to develop an understanding of IEL, starting with the history of the subject and then moving on to the concepts and principles of IEL that have been integrated within the treaties and conventions of IEL, such as the 'no harm' principle, common but differentiated responsibilities, sustainable development and precautionary action.

Once the foundations of IEL have been established, the authors introduce some substantive areas of IEL such as oceans and marine resources, flora fauna and biological diversity, climate change, and waste and hazardous resources. The authors highlight how principles of IEL have been incorporated

¹ Patricia W. Birnie, Alan E. Boyle and Catherine Redgwell, *International Law and the Environment* (3rd edn, Oxford University Press 2009)

into treaty regimes addressing environmental issues. This structure enables students to develop an understanding of the international regulation of environmental issues from a conceptual and historical perspective.

The second part of this book focuses on IEL within a system of governance. This is split into basic principles of international environmental governance which introduces the notion of environmental governance, the actors involved and the types of action that can occur. The second part concentrates on ensuring compliance in environmental treaties, responsibility and liability for environmental harm and dispute settlement. Within the basic principles section, separate chapters introduce environmental treaty making and regime building, customary environmental international law, and environmental 'soft law'. This approach is particularly useful for those who may not have a background in international law as it represents the hierarchy of law and the complexity of IEL which uses a range of these different approaches to law-making. It also demarcates the different approaches to IEL and the benefits and weaknesses of each area. Furthermore, including a section on ensuring compliance in international law highlights the importance of compliance and compliance assistance within environmental treaty regimes and governance, and the difficulties in ensuring that States uphold their obligations. Again, while these issues may not be covered in close detail, the book is able to demonstrate the interrelationships between different areas of IEL and the rest of international law, as well as how international environmental governance and IEL work together to establish a complex system of law.

The authors separate the individual chapters into clear sections that build upon each other in a way which enables students to follow how the system of IEL has developed and how different regimes within an overarching area of IEL work interact. Each chapter starts with a historical survey and commentary on the necessity of international cooperation. Reference to early case law and bilateral treaties provides context for the importance in developing treaty law within this area of IEL. The authors then outline the subsequent treaty framework governing the general area of IEL and make reference to more specific treaties that address or govern specific areas. Throughout the chapters, the authors refer to principles of IEL and how they are integrated into the general framework. For example, the chapter on oceans and marine resources introduces the United Nations Convention on the Sea as the overarching legal framework for oceans and marine resources. The authors separate legal obligations that protect the marine environment from those attempting to conserve and manage marine living resources. In separating the multilateral environmental agreements (MEAs) and specialised treaties, the authors can clearly state and discuss important provisions and obligations in an accessible way for students.

Beyerlin and Marauhn separate international MEAs, regional agreements and 'other instruments' into individual sections within each chapter, making it straightforward to understand the multilevel governance in an area of IEL. For example, the chapter dealing with biodiversity introduces the Biodiversity Convention and subsequent protocols first, and then separates the discussion of relevant case law, customary international law and 'soft law' principles which may apply into separate sections in the chapter. The benefit of this approach is that the reader can clearly differentiate between legally binding obligations on States and obligations which may not be non-

legally binding but have novel mechanisms or approaches towards achieving goals of conservation and sustainable development.²

This book was published in August 2011 and presents the law as of late 2010. Therefore, it provides a very recent and insightful discussion of the current state of IEL and comments on the failure to address the environment as a holistic system. The authors incorporate general issues of environmental governance and law into the discussion of MEA provisions and obligations on States and their effectiveness in achieving their goals. The section on environmental governance is very useful for understanding the relationship between IEL and international relations. This book highlights these current debates for students in a succinct and accessible manner that students can engage with. The references at the end of each chapter are a useful springboard for more in depth commentary and analysis of the issues raised within the chapter. The book's strong focus on 'hard law' such as environmental treaties and case law means that its engagement with more contextual analysis of environmental law and development is somewhat limited. However, it still provides a great deal of insight for an introductory textbook.

This book compares very positively with other books in the field. It is certainly not as comprehensive as Birnie, Boyle & Redgwell's *International Law and the Environment*; however, if we recognise that this is an introductory text book, it distils the important aspects of IEL in a very coherent and focussed way. I believe that the key strength of this book is its systematic way that it addresses each part of IEL and how IEL works as a system of international law. This is particularly beneficial to undergraduate students and masters level students who may not have a basic understanding of international law. In addition, the authors convey a large amount of information concerning key areas of IEL that will be particularly engaging for current students.

Reviewer's Reaction to the Book

My reaction to this book is very positive. It is immediately engaging, clearly written and very accessible and because of this, I was able to pick it up and refer to it immediately in my own work. This is important for an introductory textbook and as such, I think it would be very useful to undergraduates and those who may be taking shorter courses on this subject. This book achieves its objectives of making the reader familiar with the system of IEL as a whole. It not only makes readers aware of the current theory and practice in this field but considers options for improved coordination and integration of MEAs. On the whole this is a very well thought through contribution to the area of IEL.

Beyerlin U and Marauhn T, *International Environmental Law* (Hart 2011)

Birnie PW, Boyle AE and Redgwell C, *International Law and the Environment* (3rd edn, Oxford University Press 2009)

² See for example the discussion of protection of the habitat through treaty and non-binding means *ibid*, pp. 183- 184