

## Book reviews

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### ***Non-Compliance Procedures and Mechanisms and the Effectiveness of International Environmental Agreements***

Edited by Tullio Treves, Laura Pineschi, Attila Tanzi, Cesare Pitea, Chiara Ragni and Francesca Romanin Jacur

The Hague: T.M.C. Asser Press, 2009, 586 pp.,  
ISBN 978-90-6704-273-4, hb \$US170.

How could the main political protagonists in the global scene—independent nation states—be induced to comply with their international obligations? This has always been a trite question in international law. In the absence of a global sovereign that could enforce its decisions through the traditional coercive mechanisms of nation states, international law needs to exercise a high degree of institutional imagination to promote effective action towards compliance. Were the general topic not challenging enough, compliance with international *environmental* obligations adds fuel to the fire. Increasingly complex environmental threats to the “global commons” (climate change, the depletion of the ozone layer, and marine and air pollution, to name a few) transcend political borders and cannot be minimally tackled but by a coherent collective approach. In these cases, the failure of one state to comply with its obligations does not only affect a limited number of states—it affects all of them. The international community as a whole has a genuine interest in straightening out the problem. The non-compliance procedures, built into various Multilateral Environmental Agreements, are seen as the lynchpin of this international enterprise to deal with compliance with environmental obligations.

*Non-Compliance Procedures*, a collective effort by twenty-four scholars, is an insightful book, providing the reader with a pragmatic initiation into these rather new mechanisms of enforcement. It starts by examining the non-compliance procedures as a general category that stands on its own as an important building block of any treaty-making—in an attempt to promote, as the authors contend, a “fresh look” at bigger theoretical puzzles concerning the matter (p. 570). The book is divided into six sections. Section I describes the non-compliance procedures developed under universal and regional treaties, by reading into them a common structure and set of issues. Section II also describes the practice of certain non-compliance mechanisms, but this time through the eyes of experts who work with them. After these descriptive parts, Sections III and VI are explanatory: they seek to elucidate and compare the different solutions adopted by each regime when faced with comparable problems. Finally, Sections IV

and V place non-compliance procedures in the context of international law and European Union law.

The shift from the individual concrete cases to the more abstract level of analysis (Sections III and VI) yields a benchmark to compare how each regime navigated through basic institutional questions, relating to: (i) the mandate of the compliance body (political or legal assessment of compliance); (ii) the composition of the compliance body (independent experts or representatives of governments; geographical representation); (iii) the relationship with the political body of the regime (dependent or independent); (iv) the triggering of the mechanism and the participation of non-state actors; and (v) the availability of procedural guarantees. From these institutional options, it is possible to see how the non-compliance mechanisms under consideration tread a fine line between the political—which is understood as the desire of state parties to environmental treaties to retain control over processes and outcomes (p. 8)—and the legal. The general intent of the mechanism is plain: to bring non-complying states into the path of compliance (p. 569). The question that necessarily follows, then, is how to achieve that target: should it be through stressing the political or the legal features of the mechanism? Knowing that the appeal of the compliance mechanisms traditionally lies in their facilitative and non-confrontational solutions to compliance, the book makes the case for the importance of adopting more legalistic tools to improve effectiveness of non-compliance mechanisms, although it does not overlook the nuances of some regimes which may challenge parts of such a conclusion (p. 574). As Treves says, “The specificities of non-compliance systems, in particular the priority to be given to the general interest to a return to compliance of the non-complying Party, must not be put aside; but neither must the legacy of the centuries-old tradition of due process” (p. 518).

In this sense, the book suggests that non-compliance procedures will be more effective if: the compliance bodies have a certain degree of independence from the governing bodies of the regimes; the same compliance bodies, instead of being composed of state representatives, are staffed with legal and technical experts; the compliance assessments can be done independently and objectively; the mechanism is triggered by state parties, other than the state concerned; the procedure allows for the participation of non-state actors; and procedural guarantees are available (see chapters 20 and 32). Though the book does not explicitly rank treaties by the design of their compliance mechanism, the mechanisms of the Kyoto Protocol and the Aarhus Convention are mentioned as examples of procedures containing many progressive features (p. 578).

Section IV situates non-compliance procedures within international law, and discusses their place in relation to the law of treaties (chapter 26), the law of state responsibility (chapter 27), and the settlement of disputes (chapter 28). A general category in this context must eventually be analysed in the light of the tradition of international law. The chapters, then, deal with crucial questions such as: What is the legal basis for the creation of non-compliance mechanisms? What is the legal nature of compliance bodies’ decisions? Are they binding on states? What is the relationship between non-compliance procedures and the international regime of state responsibility? What are the advantages of non-compliance procedures compared with traditional methods of settling a dispute?

Interestingly enough, and in conformity with the common pattern in the book, the conclusions are invariably attached to the practices and nuances of each regime, as it would be illusory to adopt a one-fits-all theory (p. 467).

*Non-Compliance Procedures*, in short, has important merits. The main one is that it looks at non-compliance procedures through an original prism, without taking for granted any of the theoretical expectations assumed in the literature, and fully considering the increasing empirical and comparative data about institutional performance produced in the last decade, when many of these mechanisms entered into force. It repays reading not only for the tentative, even if sometimes under-elaborated, answers it provides, but above all for raising critical questions that the international law community still needs to tackle.

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***Corporate Strategies and the Clean Development Mechanism:  
Developing-Country Financing for Developed-Country Commitments?***

Edited by Søren E. Lütken and Axel Michaelowa

Cheltenham: Edward Elgar, 2008, 173 pp.,  
ISBN 978-1-84720-928-3, £55.00.

This work provides a thoughtful and well-considered analysis of the emergence of the Clean Development Mechanism, its current status, and ways in which it may evolve.

The authors' discussion on the negotiations of the CDM during the pre-Kyoto negotiations provides perhaps the clearest analysis to date of why the CDM is shaped the way it is. The authors usefully trace the evolution of the CDM from its earliest promotion following the Berlin Mandate in 1995 through its final endorsement in the Marrakesh Accords. The authors provide a discerning explanation of the key thematic and policy issues on the table to highlight how these concepts impacted upon the design and structure of the CDM. Most impressively, the authors demonstrate how the development of the concept of the CDM paralleled the overall shaping of the global international climate frameworks, from the establishment of the UNFCCC to the Kyoto Protocol and the Accords through to the Bali decisions in 2007.

As impressive as the background sections are, those on how the CDM has developed—particularly around the nature of unilateral CDM projects in which developing countries commence action alone without developed-country partners—and how this links up with the current negotiations on a future climate deal are even more insightful. The authors do a superb job of considering the various issues, such as the need to ensure that projects deliver additional abate-

ment and are genuinely consistent with sustainable development around the CDM in the context of the past and future of the carbon market.

The above is not to say that there can be no quibbling about this fine work. There are two main concerns: the title; and an innate bias that colours much of the analysis.

The main title, *Corporate Strategies and the Clean Development Mechanism*, would lead the unsuspecting buyer or library borrower to a false impression. She might reasonably expect that the work would focus on how corporations think and use the CDM to meet their commercial needs. In fact, none of the book's research addresses what happens in corporate boardrooms or how corporate executives consider using the CDM in meeting their regulatory commitments or driving their public relations. There is little discussion or analysis in the book of how companies in developed countries think about and use the CDM, except for four pages on the European power sector in the context of the European Union's emissions trading system.

There is a little more detail about companies in developing countries—but this is more focused on the structure of unilateral CDM projects in India and China and treats companies more as agents rather than as drivers of CDM projects. The authors make an exclusively top-down assessment of how the CDM is used. If they had also included a bottom-up focus with input from research on how companies view the CDM—particularly energy-intensive multinational companies whose footprint straddles both developing and developed countries—this work would have more thoroughly canvassed the use of the CDM, would be closer to the description contained in the title, and would have provided the reader with an even greater understanding of the role and uses of the CDM.

The second issue appears only intermittently and relates to the innate sympathy the authors have with the European Union's views on the CDM and how the future international climate change regime should be shaped. There are sensible reasons why the authors concentrate on Europe: with the US not participating in the carbon market, the focus on the role of the CDM in developed countries generally—though not exclusively—rests on Europe. Additionally, the implementation of the EU's emission trading scheme, requiring companies to meet reduced emission levels, is undoubtedly the world's primary driver for the certified emission reduction units the CDM produces.

However, these explanations are insufficient for the consideration of the carbon market post-2012. Any analysis of an effective future climate system is premised on US engagement, as well as the requirement for developing countries to participate more fully in emission-reduction activities than has occurred during the Kyoto Protocol's first commitment period. Their involvement must shape the style, tone, and content of a future climate change treaty, as well as the role of the CDM. Yet the book's account of the rationale for developing a climate treaty, as well as of the basis and key components of the negotiations, contains the echoes of interventions made by dozens of European negotiators in the UNFCCC since at least 2005. This observation is not to imply that the analysis is flawed—only that the authors' views align well with those of the EU,

and that readers of this work should keep this bias in mind as they consider the evidence and arguments that are being placed before them.

Despite these quibbles, *Corporate Strategies and the Clean Development Mechanism* is a timely and carefully crafted work. It deserves to be read by anyone interested in the past or possible futures for the CDM, and how it may link with a future international climate change regime.

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### ***Climate Change and Forests: Emerging Policy and Market Opportunities***

Edited by Charlotte Streck, Robert O'Sullivan, Toby Janson-Smith and Richard Tarasofsky

London: Chatham House/Washington: Brookings Institution Press, 2008, xiii + 346 pp., ISBN 978-0-815-78192-9, £37.99.

Forests are necessary to tackle climate change. They “are the world’s most important terrestrial storehouses of carbon” (Streck, p. 4), containing fifty per cent more CO<sub>2</sub> than the global atmosphere. Deforestation and forest degradation account for twenty per cent of anthropogenic GHG emissions. The current UNFCCC framework, including the Kyoto Protocol, allows for LULUCF activities in very limited circumstances. At present, the principal tool to enhance action in developing countries, the Clean Development Mechanism, permits only afforestation and reforestation (AR) projects, leaving outside the scope of the UNFCCC regime the pivotal challenge of reducing deforestation and forest degradation. The inclusion of these last two activities has engaged multilateral climate negotiations since 2005, when a proposal by Costa Rica and Papua New Guinea called for a REDD mechanism. The Copenhagen Accord, with its under-specified call for the “immediate establishment of a mechanism including REDD plus”, does little to speed up the deployment of REDD. As a result, the current status of forests’ contribution to combating climate change is foggy.

The volume under review coherently organizes policies and market opportunities involving forestry activities and proposals for their further development. It offers an almost comprehensive view of the current legal, economic, and scientific issues, both in the field of regulatory and voluntary carbon markets. The book is divided into four parts. In the introductory part, following an exhaustive overview by the editors, the chapter by Portela et al. proposes a market-based mechanism for forest conservation as a corrective to a current market failure—namely, that the ecosystem services that forests offer (biodiversity, avoided desertification, conservation of habitats for endangered species, etc.) need not, presently, be taken into account by land owners.

The second part of the book (“The International Arena”) focuses on the current international regime on forestry and climate change as provided by the Kyoto Protocol. After a historical chapter by Trines, Ebeling’s contribution critically assesses the challenges of creating real emission reductions from LULUCF for carbon-offset markets. The most demanding of these challenges is that of non-permanence of CO<sub>2</sub> in the biomass of the forests, which can be caused by destructive events (such as fire, disease, unauthorized clearance, and storms). The author, however, finds these to be correctly assessed under the rules of CDM for AR projects. Further, Fehse’s chapter analyses the synergies between the UNFCCC and the other Rio conventions (specifically, the CBD and the anti-desertification convention), arguing that market mechanisms should take account also of non-carbon services delivered by forestry activities.

Part III (“Practical Experiences”) comprises a series of contributions by practitioners in the field of AR projects under the CDM. The arguments considered range from practical issues that project developers encounter in designing AR projects (Locatelli, Pedroni, and Salinas), to the economic attractiveness of forestry CERs (Lecocq and Couture), and detailed insights into AR carbon contracts (Miller, Wilder, and Knight).

Part IV (“Avoided Deforestation and the Post-Kyoto agenda”) is the core of the book, containing policy proposals for a post-Kyoto REDD mechanism. In the opening chapter, O’Sullivan proposes solutions for the most controversial elements of REDD: baseline-setting and monitoring carbon saved from avoided deforestation, as well as non-permanence. Estrada Porrua explores the particular importance of a REDD mechanism in order to get developing states in South America involved in emission commitments. A detailed article on an accounting modality for avoided deforestation and degradation is then proposed (Mollicone et al.), while Schwartzman and Moutinho recall the concept of compensated reductions, originating in a proposal at COP 9, and suggest the creation of special tradable units to reward developing countries for reducing deforestation. This part concludes with a comprehensive proposal (Streck et al.) for a “nested approach”: a prompt start-up of REDD in which sub-national and individual projects would be directly credited or funded at the international level, whilst host countries build capacity for the deployment of national REDD programmes.

Part V (“National Systems and Voluntary Carbon Offsets”) concludes the work by analysing both national policies to combat climate change and the “state of the art” of forestry projects in the voluntary carbon market. Emissions trading schemes that include accounting for forest sinks in Australia and New Zealand are described (by Gould, Miller, and Wilder). The two final articles (respectively Hamilton, Bayon, and Hawn, and Meizlish and Brand) concern practical aspects of project development in the voluntary carbon market, with a particular focus on the various carbon standards.

*Climate Change and Forests* is an excellent work. It offers a panoramic survey of current international regulation for forestry in the climate change regime together with the challenges that policy makers face in the design of a post-Kyoto agreement. A very positive feature of this volume is that it examines a range of forestry-project case studies, amplifying the theoretical arguments of

the chapters in concrete ways and demonstrating the practical solutions that project developers have successfully deployed, especially in the context of cooperation with local communities.

There are some shortcomings. REDD is a mechanism in constant development, and this fact might date the final part of the book quickly, especially as it does not take into account global initiatives such as UN-REDD and the World Bank's Forest Carbon Partnership Facility. Nor does it afford discussion of fora for international negotiations outside the UNFCCC process, such as the G8, the G20, and regional and bilateral areas of action (e.g. the COMIFAC). Oddly, crucial and complex legal linkages between the UNFCCC and the CBD treaty bodies are scarcely explored. The only article touching on this relationship advocates the creation of a market mechanism for the bioservices offered by forests. This is another shortcoming of the book—the “market-based” approach is adopted as the only solution to mobilize action in forestry and climate change. Alternative options are scarcely taken into account. Other schemes would consist, for instance, of avoided deforestation through imposed restrictions on land owners by host states in exchange for direct international funding (command-and-control regulation), or a hybrid solution where offsets from REDD projects are combined with supplemental mitigation targets which would not otherwise have occurred under a pure market approach.

Nevertheless, *Climate Change and Forests* certainly adds valuable insights to the existing literature. It is a work aimed not only at legal scholars, but at practitioners, investors, and policy makers, and will likely make a lasting contribution to the legal study of forestry activities as a means to fight global warming.

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### ***The Sword and the Scales: The United States and International Courts and Tribunals***

Edited by Cesare P.R. Romano

Cambridge: Cambridge University Press, 2009, 460 pp. (incl. index),  
ISBN 978-0-521-72871-3, \$US36.99.

The United States' relationship to international courts and tribunals matters. United States' participation in and enthusiasm for international adjudicative bodies increases the world's chances for peaceful dispute resolution in international relations, elevates the rule of law over brute power, and promotes justice and accountability for atrocities. This volume brings together top American legal scholars to discuss the United States' historical and evolving relationship to many of the world's most important international courts and tribunals. Although the volume's focus is not on climate change or environmental law, those interested in the establishment or use of international dispute resolution mechanisms to address climate change and other international environmental

concerns would benefit from perusing its pages. When is the United States most likely to buy in to a particular dispute resolution regime? When does it hesitate or refuse to engage? When does it seek to undermine international judicial institutions?

The volume might well be divided into four parts. The first part provides background on the United States' relationship to international courts and tribunals generally. Former State Department Legal Adviser John Bellinger III describes the George W. Bush administration's pragmatic approach to international courts: they are tools for advancing shared interests, and the costs and benefits of participation should be assessed on a case-by-case basis. Steven Kull's and Clay Ramsay's empirical research shatters some stereotypes about the American public's unwillingness to subject itself to adjudication by international courts, while Mary Ellen O'Connell depicts pre-World War I American Christians' fervent support for international arbitration as an alternative to war.

The next set of chapters focuses on the United States' relationship to courts and quasi-adjudicative bodies interpreting traditional public international law, and international criminal and human rights law. Among its highlights are Sean Murphy's chapter on antinomies in United States' attitudes toward the International Court of Justice, which describes tensions that echo throughout the volume, such as realism versus institutionalism, and American exceptionalism versus belief in the sovereign equality of states and the rule of law. Both John Cerone and Tara Melish emphasize the United States' preference for the subsidiarity principle in international criminal and human rights adjudication.

The third grouping of chapters centers on the adjudication of claims involving international economic law, such as the World Trade Organization's Dispute Settlement Body and dispute resolution mechanisms under Chapters 11, 19, and 20 of the North American Free Trade Agreement. Jeffrey Dunoff's chapter is particularly powerful in dispelling the myth that United States support for judicialized dispute resolution in the trade context should be assumed. Rather, the uneven history of United States enthusiasm for trade courts suggests that political and economic interests drive institutional support.

Cesare Romano concludes the volume with a strongly worded normative critique of the United States' approach to international courts. He characterizes the United States' attitude to international courts as "exceedingly shortsighted and contextual, vitiated by a lack of sophisticated understanding of crucial differences between courts, or at least genera of courts, and of what international courts are for and about, what they can and cannot do for this country." Although he proposes a number of constructive ways in which the United States can improve its approach to assessing participation in specific adjudicative bodies, the chapter ends on a political note, making explicit reference to "change the world can believe in," a play on President Obama's campaign slogan.

The George W. Bush administration's tumultuous relationship with international institutions clearly frames the volume. It begins with that administration's position on international courts. It

ends with Romano's critique of its approach. Cerone remarks that President Obama's approach to international criminal courts is likely to differ significantly from his predecessor's. These statements simultaneously highlight the evolving nature of the United States' relationship to international courts and the inherent limitations of any publication. It can all change, and may already have done so, in some contexts, after going to print. For example, although the United States has not joined the International Criminal Court, the Obama administration actively participated in proceedings at the recent ICC review conference in Kampala, Uganda.

The volume as a whole provides numerous insights into the United States' relationship to specific international courts. Perhaps the underlying message to be drawn from the volume is that the relationship of the United States to these bodies is inherently contextual. Yet themes and tensions emerge and recur throughout the volume. For example, several chapters discuss the United States' role in establishing, funding, and staffing various international courts, even courts it did not join. The human rights and international criminal courts chapters discuss the United States' preference for local resolution of disputes. The United States seeks to limit adjudicative bodies' jurisdiction and even to undermine their influence when they are perceived to threaten United States' interests and values. A thorough and explicit comparative analysis across courts and subsets of courts would tie together the numerous and varied chapters in the volume and provide an opportunity to elucidate differences. For example, how does the United States approach to assessing its support for trade courts differ from human rights bodies? What factors does it weigh and how? Such an analysis could provide a framework for better understanding the United States' relationship to international courts.

Both the sword and the scales are powerful tools available to the United States, provided that its policymakers understand their respective costs and benefits. This volume is an important step in furthering such knowledge, and it is essential reading for students of international courts and United States foreign relations law, as well as policymakers who hope to strengthen (or weaken) international adjudication in any area of the law, including climate law.

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### ***Fairness in International Climate Change Law and Policy***

By Friedrich Soltau

Cambridge: Cambridge University Press, 2009, 304 pp.,  
ISBN 978-0-521-11108-9, £55.

Ethics and values often end up sidelined by the political, economic, and highly technical considerations that tend to dominate current intergovernmental negotiations on climate change. Soltau

advocates instead for a serious engagement with the ethical and moral dimensions of climate change, and specifically the systematic use of fairness as a key approach in overcoming obstacles to progress in international climate change policy and law.

Soltau persuasively argues that fairness is a useful tool by which to obtain the needed trade-offs in negotiations by helping to frame the discussion and reach solutions in widely acceptable and possibly more creative terms, transcending significant divergences in power, wealth, and bargaining skills among the parties involved. While the author decides against providing a *definition* of fairness, he proposes a series of principles that contribute to explain how fairness and climate change are linked. To this end, he points to questions of ensuring equality of opportunity among states to benefit from the absorptive capacity of the biosphere, according priority to the poorest and most vulnerable states (to the point of recognizing the right to emit at least the amount of greenhouse gas associated with the services needed to secure basic human needs), determining equitable shares of emissions for the future, and taking due account of available mitigation and adaptation capacity.

The book is organized into seven chapters, counting the introduction and conclusion. Chapter 2 provides an accessible overview of climate change science, in which fairness-related points are made both as a criticism of the possible discrimination implicit in the reliance on peer-reviewed literature by the Intergovernmental Panel on Climate Change—which might exclude those with limited access to relevant publishing outlets irrespective of the quality of their research—as well as an appreciation for the attention increasingly paid by the IPCC to the economic and social dimensions of climate change. In Chapter 3, Soltau carries out a preliminary legal analysis of the international climate change regime, mostly presenting incremental developments and discussing missed opportunities in the succession of meetings of the parties to the UNFCCC and Kyoto Protocol, and highlighting specific references to fairness in the resulting legal and policy documents. It is only in Chapter 4, midway through the book, that Soltau discusses in greater detail the theoretical aspects of fairness, providing a clearer understanding of the concept central to his analysis. The remaining chapters systematically discuss fairness principles in relation to the principle of common but differentiated responsibility, technology transfer, and climate financing (Chapter 5), as well as the main proposals for future climate policy (Chapter 6).

The monograph is certainly remarkable in offering an accessible examination of the international climate change regime. However, presenting the regime through a COP-by-COP account might be considered less valuable than offering an overview of the international framework as a whole, as it has resulted from the meetings preceding the Copenhagen conference of December 2009. Furthermore, it would have been more interesting for the reader to encounter the theoretical discussion of fairness earlier in the book; and it might even have allowed the author to produce a more profound fairness-focused history of international climate change law, underpinned by systematic and detailed assessment of the role of fairness in the development of the various tools that were experimented with and refined at the international level.

As to the substantive scope of the book, it should be noted that Soltau has explicitly chosen to concentrate his attention on mitigation, so that fairness in adaptation is not addressed in detail. In addition, the monograph only addresses in passing the question of reducing emissions from deforestation and forest degradation. Both of these substantive areas certainly involve a wide array of fairness issues, and the reader is left wondering how the framework of analysis proposed by Soltau applies to these topics, which are currently under negotiation.

Soltau concludes that fairness demands strengthening the Kyoto-style emission reduction commitments for developed countries and allowing flexibility in efforts to begin slowing the rate of emissions growth in developing countries. While this may not be the most innovative observation in the book, the main benefit of the analysis proposed by Soltau is that it makes a compelling case for paying serious attention to technology transfer and financing, two hitherto “underdeveloped” and “inadequate” aspects of the climate regime from a fairness perspective.

Fairness, therefore—and with it, a fully fledged, sound, and workable framework for technology transfer and financing—are identified by the author as the foundation for a “real sense of community” that is needed to develop and agree upon a participatory, effective, and just post-2012 international regime, and for long-term follow-up action.

Overall, Soltau provides a well-written account of the international climate-change regime that could well serve as an introductory text for the growing number of postgraduate courses on climate change law and policy. The book may also be a useful source for general environmental law experts who find themselves in need of a refresher in the basics of, and recent developments in, climate change law as a way of better understanding instances in which climate change is impacting upon other areas of environmental law and governance. The monograph may also be of interest to legal philosophers, as it persuasively makes the case for climate change as an ideal case study to advance debates on fairness and justice in a pragmatic way.

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### ***Regulation, Enforcement and Governance in Environmental Law***

Edited by Richard Macrory

Oxford and Oregon, USA: Hart Publishing, 2010, 765 pp. (incl. index),  
ISBN 978-1-84946-035-4, pb £30 (US\$60).

This is an excellent and stimulating collection of works from a noted leader in environmental law. Among his many achievements, Professor Richard Macrory is Director of the Centre for Law and the Environment at University College London and an Honorary Queen’s Counsel, and

in the United Kingdom he is known for his landmark 2006 Cabinet Office study, “Regulatory Justice—Making Sanctions Effective”.

Most of the material included in this collection (twenty-six chapters comprising over 700 pages) has been published before, but the key appeal and contribution of this work is that it pulls together different types of publication, all of which are important to environmental law. There are academic articles addressing national, regional, and global challenges, as well as policy briefings, public lectures given around the world, the text of the Cabinet Office report, a review of the environmental impact of constitutional reforms put in place by the Labour Government elected in 1997, a piece on possible environmental regulation in Northern Ireland (which stimulated recommendations that there be a new environmental tribunal for Northern Ireland), and the outputs of work funded by the European Commission. In all these different forms, Macrory shines as an excellent communicator with a strong command of the subject and a deep desire to convey its importance. For those of us in academic institutions, it is also a reminder of what our research “impact” could look like!

The collection is split into six parts: “Regulatory Reform”, “Institutional Reform and Change”, “The Dynamics of Environmental Law”, “The Courts and the Environment”, “Europe and the Environment”, and “Supra-National Enforcement of Environmental Law”. The structure clarifies Macrory’s key themes in relation to regulation, enforcement, and governance. The discussion of supranational enforcement and the European perspective means that this collection is likely to be of significant interest beyond the UK. Readers familiar with Macrory’s work should also find this collection of value. He provides an introduction to each part which sets out background information about when the pieces were first written and goes on to provide details of subsequent developments.

Some key features of this collection can be gleaned from the chapter “Reforming Regulatory Sanctions”, which summarizes the recommendations made in Macrory’s Cabinet Office report and notes its acceptance by the UK Government in July 2007. This piece provides the reader with a strong understanding of the need for the inquiry and the challenges encountered when conducting it. It is written in an academic manner, with discussion of relevant scholarly literature and detailed footnotes. This is in contrast to the report, which follows in a separate chapter. The report is written with the aim of persuading a government to action (which it achieved), rather than scholars to thought (which it also achieved). This is a revealing example of the quality of Macrory’s writing and the different challenges faced by communicators in environmental law.

The chapter entitled “Modernising Environmental Justice: Regulation and the Role of an Environmental Tribunal” was written in 2003 jointly with Michael Woods, and was commissioned by the UK Department of the Environment, Food and Rural Affairs. Macrory states of this work that it “deliberately avoided an overly academic approach, and was written in a style that would be accessible to Ministers and civil servants”. At the time, there were a range of different appeals systems in place to address planning and environmental issues. Macrory and Woods

recommended a single appeals body to deal with civil matters, with criminal matters remaining within the criminal courts. They considered that a new environmental court was not, however, required. Macrory provides the fascinating context that this report's proposal "did not sit well with the aspirations of those looking for a more radical institutional change" (p. 186), and that a second study was commissioned, which did end up calling for a specialist environmental court. Macrory notes that this divergence of views in fact enabled the UK government to do nothing.

Part III, "The Dynamics of Environmental Law", reviews the different themes and principles—such as European law, privatization, access to justice, criminal law, responsibility, and issue-specific legislation—which have formed part of the changing face of environmental law. The chapter "Environmental Standards, Legitimacy and Social Justice" is a revised version of a lecture given in 1998 at the University of Capetown; it discusses environmental standards and the contributions of policy, science, ethics, and anthropology. The need for a broad approach in relation to the parameters of environmental law is confirmed in the chapter "Technology and Environmental Law Enforcement", which looks widely at the impact of technology—such as satellite images—and considers privacy, data protection, and human rights.

Part IV, "The Courts and the Environment" summarizes key environmental decisions of the European Court of Justice, the House of Lords, and the (UK) Court of Appeal and High Court. Macrory notes in his introduction to this part that "it will remain the responsibility of the judiciary in the ordinary courts to grapple with the range, novelty and complexity of legal questions that are consistently raised in cases concerning the environment" (p. 440).

Rights and participation are common themes throughout Part V, "Europe and the Environment". The chapter titled "The Amsterdam Treaty: An Environmental Perspective", from 1999, focuses on the new role of sustainable development and integration into (what was then) Community environmental law. Macrory's introduction notes that these principles are now found in article 37 of the European Union Charter.

In the introduction to Part VI, "Supra-National Enforcement of Environmental Law", Macrory notes that "the Achilles heel of many international environmental treaties used to be the lack of attention given to enforcement" (p. 711), and proceeds to consider the more complex procedures in the Montreal and Kyoto Protocols. The final chapter is from 1992, entitled "The Enforcement of Community Environmental Law: Some Critical Issues". With impressive foresight, this piece concluded that strong political will was required for states "to implement Community environmental policies, and this in turn demands both the dynamic participation of citizens and amenity groups, and an active recognition by national courts and authorities of their own role in giving effect to Community obligations. Until this occurs, the gap between the law in theory and in practice can be expected to remain intact" (p. 753).

In summary, this collection is many good things: a readable and full introduction to the issues which can and should be part of the environmental law conversation; deep analysis of interest

to scholars; pieces of immediate use to practitioners and policymakers; and, from a practical perspective, it comes with a good index. I will leave the final words to Sir Robert Carnworth, who wrote the foreword: “The material in this collection will stand not only as a record of remarkable achievement, but as an inspiration for innovative thinking for the future” (p. 4).

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