

Agnès Michelot (ed.), *Équité et environnement. Quel(s) modèle(s) de justice environnementale?* Brussels: Larcier, 2012. Pp. 480. €75. ISBN: 9782804451660.

This book (in French except for the short English contribution by Laura Westra) collects the papers that were presented at the Annual Conference of the French Society for Environmental Law in December 2010. The contributions aim at answering a set of three questions: what is the content of environmental justice as a concept? Is environmental justice endorsed by positive law? What are the perspectives of environmental justice?

The first part addresses the issue of equity as the source of environmental justice; the second part is devoted to the instruments of environmental justice, and particularly focuses on those instruments that address equity concerns. In the third part the focus lies on the actors of environmental justice and the relationship between environmental governance and equity. This part directly addresses the relationship between equity and legal norms. More particularly, the five contributions in this part cover the issues of legal norms' coordination, evaluation, validity, and decision-making processes. The fourth and last part questions the realizability of environmental justice at the international level. Because of *de facto* inequalities, the international society is *a priori* an ideal field to question, apply, and identify perspectives for environmental justice.

As with any collection of conference papers (and despite the guarantee of quality offered by the French Society for Environmental Law) one may wonder about the added value of such a book. Indeed, there exists already a wealth of literature that covers issues of environmental justice, equity, and related concepts (for example, responsibilities towards future generations and sustainable development). However, this book clearly adds to this literature. More specifically, it appears to be of interest for four main reasons.

First, this book illustrates that French-speaking scholars take part in further developing doctrines originating in Anglo-Saxon environmental law. Accordingly, the book is a good illustration of the 'transposition' and exploration in continental law and doctrine of Anglo-Saxon ideas. This transposition is directly discussed in some contributions (see, e.g., Marie-Ange Moreau, at 165). As the author points out, transposition creates difficulties and unveils new paths at the same time.

Indeed, the second main added value of the book is to operate as a 'cross-fertilization' between French and Anglo-Saxon doctrines. In this respect, the benefits of the continental doctrine relate to two aspects. On the one hand, several authors refer to the 'ecological public order' (*ordre public écologique*). The ecological public order has recently been extensively explored and studied in French-speaking doctrine.¹ As defined in the volume under review, *ordre public écologique* 'expresses the fundamental values granted to the human environment and to the individual and collective relationships that can flow from these values' (at 112). Several authors attempt to bridge the concepts of ecological public order and environmental justice-equity and point to the added value of the former for environmental justice and equity in terms of conceptual construction and implementation (see, e.g., Jean-Marie Breton, at 111). Breton argues that the ecological public order could be a tool to balance conflicting (environmental, social, economic, spatial, and time related) interests.

On the other hand, almost all authors mention the human rights dimension of the reflection on and the implementation of environmental justice and equity. It is suggested by several authors that as yet no strong emphasis has been put on the human rights dimension of environmental justice and equity because of the origin of the concept (in the US and the field of minorities – discrimination) limiting the full range of human rights to be brought into play. The authors not only elaborate on the theory of human rights in the context of environmental

¹ See, for example, Nadia Belaïdi, 2008. *La lutte contre les atteintes globales à l'environnement: vers un ordre public écologique?*, Bruylant, Bruxelles, 2008.

justice and equity, but also on the implementation of environmental justice and equity through human rights mechanisms (e.g., the ‘standstill effect’ that forbids any lowering of human rights standards: see Prof. Michel Prieur, at 71).

The third asset of the book is its interdisciplinary approach applied to distinct branches of law. Some contributions are situated within specific disciplines, such as philosophy, theory of law, positive law, while others apply several disciplinary approaches concomitantly. The contribution by Sandrine Maljean-Dubois (at 335) is particularly illustrative of the constructive interplay between theory of law and positive law. After addressing the concept of equity in legal theory she pinpoints equity in international climate law, and particularly the various negotiations of the international climate regime. In addition, the contributions do not limit their field of research to environmental law strictly speaking. Indeed, several authors explore themes including tax issues, the cultural and social aspects of environmental justice, international economic law, and international labour standards. Most of the contributions illustrate their arguments with reference to international law (and, to a lesser extent, EU law). In this respect, one might regret that the Nagoya Protocol on Access and Benefit Sharing is not discussed at greater length in the contributions (the content of the Protocol being treated in detail in only three contributions).

The fourth and last benefit of the book is that it may secure a higher rank for environmental justice on the French academic research agenda. The chapters in this volume demonstrate that it is possible to conduct scientific research in the field by combining legal theory and positive law approaches, thereby overcoming the traditional opposition between the members of one or the other school.

To sum up, this book is definitely of interest to those interested in discovering environmental justice. Indeed, the contributions are clear, reader-friendly, and survey the existing literature (mainly in French, English, and Spanish). The volume will also benefit experts in the field as it goes beyond other publications and puts forward original proposals, grids, and illustrations of positive law.

Individual Contributions

Dinah Shelton, Préface;

Agnès Michelot, Avant-propos;

François Ost, Justice environnementale et ruse de la raison;

Wagdi Sabete, Aspects éthiques de la notion de responsabilité: suis-je responsable d’autrui?;

Émilie Gaillard-Sebilliau, L’équité transgénérationnelle: perspectives de justice pour les générations futures?;

Michel Prieur, De l’urgente nécessité de reconnaître le principe de « non-régression » en droit de l’environnement;

Jean-Marie Breton, De la genèse à la reconnaissance: La justice environnementale entre paradigme d’équité et réception fonctionnelle;

Laura Westra, Environmental Justice: A Complex Global Issue;

Ludwig Krämer, Justice environnementale et équité dans le droit de l’Union européenne;

Marie-Ange Moreau, La justice sociale environnementale: la Nécessité d’un nouveau concept;

Sylvie Caudal, Équité et fiscalité environnementale;

Geneviève Giudicelli-Delage, La place du droit pénal dans la protection de l’environnement. De paradoxes en paradoxes;

Thomas Schellenberger, Le stockage souterrain des déchets et du CO2 peut-il être équitable?;

Alexandra Langlais, Le droit de la biodiversité à l’aune du développement durable ou L’ouverture à de nouvelles formes d’équité environnementale? l’exemple controversé de la compensation écologique;

Nathalie Hervé-Fournereau, La coopération au développement et l'initiative européenne pour l'eau au miroir de l'équité: La solidarité contrastée de L'Union européenne;

Adélie Pomade, Une conception de justice environnementale issue de l'intégration de la Société Civile dans le processus de validation des normes juridiques;

Simon Charbonneau, Justice environnementale et contentieux associatif;

Blandine Rolland, La Responsabilité Sociale de l'Entreprise: renouvellement de la gouvernance environnementale par l'équité?;

Isabelle Michallet, Gouvernance environnementale et égalité des sexes;

Sandrine Maljean-Dubois, Justice et société internationale: l'équité en droit international de l'environnement;

Sophie Lavallée et Kristin Bartenstein, Le principe des responsabilités communes mais différenciées au service du développement durable;

Philippe Billet, L'équité environnementale dans les rapports Nord-Sud: l'exemple des transferts de déchets;

Simon Jolivet, L'équité et la conservation du patrimoine naturel transfrontalier;

Geoffroy Filoche, Les savoirs traditionnels en Guyane. Façade juridique et vices cachés d'un régime de partage équitable de la biodiversité;

Jean-Pierre Beurrier, Rapport de synthèse.

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F. Francioni and N. Ronzitti (eds). ***War by Contract: Human Rights, Humanitarian Law and Private Contractors***. Oxford: Oxford University Press, 2011. Pp. 532. £95. ISBN 9780199604555.

Although the sub-title of the book indicates that the authors are not going to deal with all the legal issues arising in the context of a 'privatization' of warfare, the book, and not only the first chapter by Eugenio Cusumano on the policy prospects of regulating private military and security companies (PMSCs), throws its net wider than the title suggests. And rightly so. The privatization of warfare is a consequence and an element of the post-Cold War triumph of capitalism, and especially its neo-liberal advocates' tendency to privatize and deregulate all and everything. It is not by chance that PMSCs have mushroomed in the heartland of neoliberalism – the USA – faithfully followed by its Anglo-Saxon brethren on this side of the Atlantic. As the book specifies, in 2009 there were approximately 119,706 Department of Defense contractors in Iraq, compared with about 134,571 uniformed personnel (at 13). The authors accept the privatization of various functions of the state, including its 'monopoly of violence', to be almost inevitable. Nevertheless, they call for stronger and tighter regulation of the status and functions of PMSCs and control over their activities. They also show that though often new norms may be needed, in many cases existing laws, and their stricter and sometimes more creative application, may serve the purpose. The book concludes that 'many private military and security companies are operating in a "gray zone", which is not defined at all, or at the very least not clearly defined, by international legal norms' (at 340).

Though private security (not military) companies, whose functions may range from running prisons to acting as bouncers in nightclubs, have a presence in practically all countries, the authors concentrate on the activities of those PMSCs which operate in the most hazardous situations, including the context of armed conflicts, be they of international or non-international