

Book Reviews

Carlos Fernandez de Casadevante Romani, *La protección del medio ambiente en derecho internacional, derecho comunitario europeo y derecho español*, Servicio de publicaciones del gobierno vasco (1991) 411 pages and an Appendix with sources and documentation. Language: Spanish.

The fight against transfrontier and global pollution of the planet constitutes one of the most flourishing areas of production of international law in recent years. In the author's view, the evolution of international environmental law is characterized by the passage from an interstate, often bilateral dimension – where problems of transboundary pollution are mainly regulated through recourse to international law principles protecting the integrity of territories under the States' jurisdiction or by means of bilateral agreements – to the development of international cooperation, which tackles global environmental pollution affecting endangered species, air and water quality, the safeguard of natural habitats and the protection of seas, the atmosphere and space.

Following pressure by international organizations and an accompanying recognition that some forms of environmental harm have acquired a world-wide dimension, environmental protection has become a matter for public international law. The author maintains that the traditional conflict in the international legal order between the protection of full State sovereignty and international environmental cooperation is gradually diminishing. This is partly due to the progressive adoption of a concept of functional sovereignty, which facilitates the acceptance of international limitations to sovereign rights for reasons of conservation of natural resources and environmental protection. However,

notwithstanding the numerous legislative efforts on a multilateral level, the analysis of transfrontier practice shows that the most effective environmental protection is still achieved through bilateral relations rather than through multilateral systems.

The author, who adopts an interestingly wide approach to the issue, extends the scope of international environmental law to cover cultural heritage – as the prologue by Prof. P.M. Dupuy rightly emphasizes – since the preservation of nature is interrelated with the respect and development of culture as an integral part of the human environment.

The book gives a detailed presentation of the international sources of environmental law. It then discusses how environmental protection is implemented in the international and Community legal orders. The analysis of the international legal order tries to answer a number of questions related to the existence of general State obligations in the field of the environment in current international law; in an interstate dimension, the author asks whether it is possible to affirm the existence of obligations of good neighbourliness regulating transboundary pollution or the use of natural resources. He then seeks to define the nature of such obligations, and to determine whether they merely impose a final result or contain prescriptions. Two main groups of obligations are examined: general obligations of prevention, negotiation, reparation, cooperation on the one hand, and specific obligations of neighbourliness on the other, which are based on the equitable use of natural resources. Finally, 'soft law' is examined, with the purpose of exploring whether it is possible in international law to rank the obligations according to their mandatory or non-mandatory nature. Examination of State obligations is essential in the determination of international State responsibility.

Accordingly, the Author tackles the problem of breach of obligations and State responsibility for environmental damage.

The second part analyses Spanish practice in environmental negotiations, both in a bilateral and in a multilateral context. It presents some thirty multilateral treaties concluded by Spain in the field of the marine environment, transfrontier air pollution, the atmosphere and the global commons, conservation and preservation of natural resources and cultural heritage. On the bilateral level, the author laments the lack of agreements with neighbouring countries on transfrontier cooperation in the environmental sphere, with the exception of the agreement with Portugal on the security of nuclear installations in border areas. Despite this lack however, the most relevant areas of transfrontier environmental cooperation are covered either by international agreements to which both Spain and its neighbours are party, or by Community law, which is presented in a separate section.

Finally, particular focus is placed on the Spanish legal order, which gives constitutional and penal relevance to environmental protection. The aim of this section is twofold: first, to verify how the norms of the international and Community legal orders have been incorporated and integrated in the Spanish legislation and secondly, to explore how these norms interact with the body of constitutional, administrative and penal norms in Spain.

The distinct sources of international environmental law are presented and discussed in the book with remarkable clarity. Detailed information is given on treaty and customary law, State practice, international jurisprudence and doctrine. All the sources referred to in the text are listed in the annex, which furnishes a helpful documentation source for international lawyers involved in environment-related research.

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L. Campiglio, L. Pineschi, D. Siniscalco, T. Treves (eds), *The Environment After Rio. International Law and Economics* on behalf of the Istituto per l'Ambiente, Graham & Trotman/Martinus Nijhoff (1994) 275 pages plus Index.

Following the publication of their informative volumes on the documents adopted at UNCED, the International Environmental and Policy series, directed by Günther Handl, has renewed its interest in the Rio era, focusing now on the interdependence of environmental targets and economic growth in the post-UNCED debate. The topic, which at present occupies an important place in the international environmental debate among economists, policy-makers and international lawyers on the implementation of Agenda 21 and sustainability, was discussed in the Congress 'Environment After Rio' organized by the Istituto per l'Ambiente and Fondazione Enrico Mattei in Courmayeur, in February 1993, whose contributions have been collected and edited in the homonymous book.

The book explores the main political, economic and legal implications of the environmental issues discussed at Rio. Focusing on the crucial and controversial concept of sustainability, three different aspects of the debate are combined. The first part deals with legal and political issues of the negotiation process prior to the Rio Conference, focusing on the objectives and the roles played by respectively, the European Communities, the United States, and developing countries in the negotiation. The second part analyses the documents adopted at Rio and includes comments on the Rio Declaration on Environment and Development, the Declaration of the Protection of Forests, the framework texts on Climate Change and Biological diversity. Finally, the prospective evolution of general principles of international environmental law in the light of the implementation of Agenda 21