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ELISA MORGERA & JONA RAZZAQUE, EDS., *BIODIVERSITY AND
NATURE PROTECTION LAW*
(ELGAR ENCYCLOPEDIA OF ENVIRONMENTAL LAW VOLUME III)

Reviewed by : David Takacs, University of California Hastings College of the Law & IELRC

BOOK REVIEW



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Elisa Morgera & Jona Razzaque, eds., *Biodiversity and Nature Protection Law* (Elgar Encyclopedia of Environmental Law Volume III)

While activists and lawyers (rightfully) obsess about climate change, they pay less attention to a twinned crisis, the degradation and despoliation of biodiversity, the ultimate source of all human health and well-being.

This excellent volume covers the broad territory of international biodiversity law.

The 'Introduction' specifies that this volume 'examines how and to what extent international law has addressed the key concerns presently facing biodiversity conservation, made recourse to conventional and/or market-based approaches to biodiversity conservation and sustainable use, tackled cross-cutting issues, and considered direct as well as indirect changes to socioeconomic conditions'. That is quite a task the editors have set! It is a difficult subject to organize and some of the chapters have overlapping content, which is appropriate, given an ecological worldview where everything is intertwined with everything else, and given how protean the idea of 'biodiversity' is in the first place.

The volume aims both to review and buttress areas where scholarship already exists in biodiversity law (e.g. on 'traditional knowledge' and 'invasive species') as well as to fill in gaps, which are under-theorized (e.g. 'island biodiversity' 'procedural rights' in decision-making, and 'indigenous and community conserved areas'). Each chapter concludes with an agenda for further legal research (a gold mine for international environmental legal scholars looking for their next research project!). The volume also aspires to help situate biodiversity law in the broader area of international law: How do international legal principles become reflected in laws regulating biodiversity conservation, and how do the needs of biodiversity challenge or expand more general international legal principles?

The editors are particularly interested in exploring greater symbiosis between international human rights law and international biodiversity law while looking at how differential power dynamics (often unfairly) shape laws meant to conserve biodiversity. In his analysis of the Convention on Biological Diversity (CBD),

Andreas Kotsakis ('The historical roots of the North-South dynamic in biodiversity conservation and its imprint on the Convention on Biological Diversity') argues that, '[q]uite simply, the North proposed and the South reacted', resulting in a treaty regime that conceived biodiversity as a set of atomized resources to be exploited by the biotech industry – to the detriment of both biodiversity and the Southern communities that depend upon it. Holly C. Jonas ('Indigenous peoples' and community conserved territories and areas (ICCAs): Evolution in international biodiversity law') looks at how such community conserved areas can effectively sustain both nature and culture, particularly by tearing down the walls between those ideas that formal law sometimes erects. Nicole Schabus ('Traditional knowledge') connects the dots between these chapters, showing how the CBD both advances legal protections and financial rewards for 'traditional knowledge' while sometimes falling short of the most robust interpretations for 'Free Prior and Informed Consent' of those who would borrow/steal traditional knowledge or take biological resources that are in indigenous control.

The right to participate in areas of environmental decision making that affect one's life and community is an emerging principle at the nexus of international human rights and environmental law. According to Victoria Jenkins ('Gender and the Convention on Biological Diversity'), the disparate impact on women from biodiversity loss and the marginalized lip service given to women's roles in biodiversity conservation suggest that 'gender mainstreaming' of decision-making and participation must become the rule, not the aspirational exception in biodiversity law. Similarly, Lalanath de Silva ('Public participation in biodiversity conservation') notes that a robust legal scholarship exists in public participation in Environmental Impact Assessment generally, but little exists in how to fulfill participation rights when law and policy is implemented to conserve biodiversity. However, the author does not address a central conundrum: How does law balance conserving biodiversity and rights to participate in environmental decision-making when communities who do participate oppose the particularly conservation measures?

Concluding remarks by Jona Razzaque highlight some of the challenges confronting international biodiversity

law: How to harmonize local, state, national, and international biodiversity governance where goals may sometimes be at cross-purposes? How to find solutions that satisfy the desires of both Northern and Southern nations? How to recognize, control, and incorporate non-State actors who wish to exploit and/or conserve biodiversity? How can law effectively address the current and foretold impacts of climate change and the needs of impoverished citizens while still sustaining the biodiversity resource base that sustains us all?

While this volume cannot answer those questions, it provides much fodder for scholars and activists who work for a sustainable future for human and nonhuman communities.

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