



1995

International Environmental Law and World Order (book review)

John G. Sprankling

University of the Pacific, jsprankling@pacific.edu

Follow this and additional works at: <https://scholarlycommons.pacific.edu/facultyarticles>



Part of the [Law Commons](#)

Recommended Citation

John G. Sprankling, Book Review, 8 *Transnat'l LAW*. 119 (1995).

This Book Review is brought to you for free and open access by the McGeorge School of Law Faculty Scholarship at Scholarly Commons. It has been accepted for inclusion in McGeorge School of Law Scholarly Articles by an authorized administrator of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

International Environmental Law and World Order

BY LAKSHMAN D. GURUSWAMY, SIR GEOFFREY W.R. PALMER AND BURNS H. WESTON, West Publishing Company, 1994.

Reviewed by John G. Sprankling*

The relationship between humans and the global environment has become one of the dominant themes of international law. Modern problems such as acid rain, ozone depletion, marine oil spills, toxic pollution, desertification, deforestation, and environmental warfare do not respect national borders. International environmental law will be one of the major practice areas for transnational attorneys in the twenty-first century.

The prominence of international environmental law is comparatively new. Just over twenty years ago, it was not generally seen as a discrete legal subject. More than any other single event, the 1972 United Nations Conference on the Human Environment in Stockholm symbolized the birth of international environmental law.¹ In the aftermath of the Stockholm Conference, principles formerly viewed as unrelated fragments of international law concerning the environment were increasingly considered as joint components of an inchoate framework.² Conventions, protocols, treaties, resolutions, and other international agreements on environmental protection proliferated in the ensuing years, adding legal flesh to this early skeleton. Two decades after the Stockholm Conference, world attention focused on the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, resulting in a Declaration³ which further expanded the superstructure of international environmental law.

The content of legal education typically lags behind the changing needs of legal practice. Unsurprisingly, law schools worldwide were slow to appreciate the emergence of international environmental law as a subject. Although many law schools now offer a course in the subject,⁴ quality course materials are scant.

* Associate Professor of Law, McGeorge School of Law, University of the Pacific. B.A. 1972, University of California, Santa Barbara; J.D. 1976, University of California, Berkeley; J.S.M. 1984, Stanford University.

1. Acknowledging "the need for a common outlook and common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment," the Declaration emanating from the Stockholm Conference set forth 26 broad principles to link international law with environmental protection. Stockholm Declaration of the United Nations Conference on the Human Environment, June 16, 1972, U.N. Doc. A/CONF.48/14 (1972), 11 I.L.M. 1416 (1972).

2. See, e.g., INTERNATIONAL ENVIRONMENTAL LAW (Ludwik A. Teclaff & Albert E. Utton eds., 1974) (expressly recognizing international environmental law as a subject).

3. Rio Declaration on Environment and Development, June 13, 1992, U.N. Doc. A/CONF.151/26 (1992), 31 I.L.M. 874 (1992).

4. For example, a 1993 survey of 76 law schools in the United States revealed that 24 schools offered a course in international environmental law, while 12 schools were considering adding such a course in the future. ASSOCIATION OF AMERICAN LAW SCHOOLS, REPORT OF THE SECTION ON ENVIRONMENTAL LAW SURVEY COMMITTEE 2-4 (1993).

International Environmental Law and World Order promises to be the first major course book on international environmental law in the United States. Although intended for use in domestic law schools, its innovative format may facilitate its use by law schools in other countries. Moreover, it may provide an effective vehicle for transnational practitioners interested in learning the subject through private study. The 1199 page text represents a partial marriage of two traditional styles of legal instruction: the case focus of U.S. law schools and the doctrinal focus of law schools in civil law nations.

At one level, the book is problem-oriented, reflecting the affinity of domestic legal educators for fact-based instruction. After an introductory section which provides a general foundation in international law, it poses nineteen detailed, hypothetical problems in international environmental law. One problem, for example, explores whether a multinational corporation violated international law by disposing of European hazardous waste in a South Pacific nation. Another problem examines whether a petroleum company may explore for oil and gas in Antarctica. A third problem concerns whether a European nation's ban on timber imports from states which fail to meet its domestic forest protection standards violates the General Agreement on Tariffs and Trade. Other problems involve topics such as transnational groundwater pollution between two Western Hemispheric nations, ozone depletion caused by emissions from industrial sources in a South American country, driftnet fishing in the South Pacific, and transborder toxic pollution between two sub-Saharan African nations. Taken as a whole, the nineteen problems expose the reader to a broad variety of environmental dilemmas involving the global atmosphere, hydrosphere, lithosphere, and biosphere.

At another level, however, the source materials provided with the problems fit within the doctrinal focus which characterizes legal education in civil law nations. Most of the book consists of excerpts from treatises, articles, or other scholarly writings, grouped together under each problem by topic. Further, the 1308 page supplement which accompanies the book sets forth the text of 147 conventions, treaties, declarations, resolutions, protocols, decisions, and other documents which constitute the core sources of international environmental law. Instructions accompanying the main text refer the reader to specific source documents in the supplement which relate to each hypothetical problem.

Problem 8-2 illustrates the manner in which these two levels interact. This problem involves a single hull oil tanker owned by SuperMar, Inc., a Delaware corporation registered in the Grain Coast, a West African nation, which runs aground off the coast of Angloboer, a country in southern Africa. The accident releases 84,000 tons of crude oil which injures commercial fish stocks and defaces tourist-attracting scenery. The student is asked to determine whether SuperMar or the Grain Coast has violated international law based on a complex set of facts, and if so, what damages Angloboer may receive from a Special Arbitral Tribunal. Source materials provided to the student include the Conven-

tion on the High Seas,⁵ the Convention on the Territorial Sea and the Contiguous Zone,⁶ the Stockholm Declaration of the United Nations Conference on the Environment,⁷ the International Convention on Civil Liability for Oil Pollution Damage,⁸ the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage,⁹ and the United Nations Convention on the Law of the Sea.¹⁰ In addition, the student is directed to read relevant excerpts from a variety of treatises and other secondary sources, including articles from *Ocean Development and International Law*, the *University of Tasmania Law Review*, the *Journal of Maritime Law and Commerce*, the *International Environmental Reporter*, *Ecology Law Quarterly*, and the *Canadian Year Book of International Law*. Taken together, these materials provide the student with a framework which is more than adequate to grapple with the issues presented by the problem.

Yet to some extent the strengths of the book are also its weaknesses. Although the innovative format partly bridges the gap between the common law and civil law approaches to legal education, it does so at the expense of clarity. Toward the end of challenging the student to resolve the problems, the explanatory notes tend to be fairly short in comparison to the volume of assigned reading materials. Further, the text does not provide a narrative which links these reading materials together in the context of the given problem. As a result, some students—particularly those with no prior grounding in international law—may encounter difficulty in using the book. Diligent, motivated students, on the other hand, will enjoy the novel approach. Ironically, the merits of the book may be best appreciated by a more sophisticated, non-student audience—transnational practitioners interested in expanding their horizons through self study.

Similarly, although in one sense the broad coverage of the book is a virtue, the authors present far more material than most law professors can assign for a standard course—a total of 2507 pages with the supplement. The introductory section—designed to provide an overview of international law and environmental issues in the abstract—is 320 pages alone. If this material is assigned, many classes will be unable to cover more than half of the lengthy hypothetical problems. Conversely, if the introductory section is not assigned, students without

5. Convention on the High Seas, Apr. 29, 1958, 13 U.S.T. 2312, 450 U.N.T.S. 82.

6. Convention on the Territorial Sea and the Contiguous Zone, Apr. 19, 1958, 15 U.S.T. 1606, 516 U.N.T.S. 205.

7. Stockholm Declaration of the United Nations Conference on the Human Environment, June 16, 1972, U.N. Doc. A/CONF.48/14 (1972), 11 I.L.M. 1416 (1972).

8. International Convention on Civil Liability for Oil Pollution Damages, Nov. 29, 1969, 973 U.N.T.S. 3, 9 I.L.M. 45.

9. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, Dec. 18, 1971, 1110 U.N.T.S. 57.

10. United Nations Convention on the Law of the Sea, Dec. 10, 1982, U.N. Doc. A/CONF.62/122, reprinted in 21 I.L.M. 1261 (1982).

prior background in international law may well flounder when confronting the complex problems.

On the whole, the book is a remarkable accomplishment which will help meet the need for quality course materials in international environmental law.