

Preliminary draft

Shawkat Alam, Sumudu Atapattu, Carmen G. Gonzalez, and Jona Razzaque, eds., *International Environmental Law and the Global South*. New York: Cambridge University Press, 2015; ISBN 978-1-107-05569-8; \$155.00; 631 pp.

This edited volume promotes diverse perspectives on international environmental law focusing on the global North-South divide. It is an imposing compilation of twenty-nine full-length chapters by some of the most renowned scholars in the field, including pioneers of a Southern perspective on international environmental law. The diverse background of the contributors adds to the value of the volume.

The book is organized in five parts. The first looks at the history of the North-South divide in international environmental law. The second treats “selected” issues of international environmental law. The third part investigates the interrelations between trade, investment, and the vague concept of “sustainable development”. The fourth part questions the concepts of “environmental justice” and discusses the vulnerability of particular groups. The final part explores challenges lying ahead. As it is often the case in such volumes, a few contributions, while interesting in themselves, tend to address the Global South as something of an after-thought. Most chapters, however, tackle the challenge in interesting ways, providing multiple perspectives on some of the most urgent issues facing international environmental law today.

A debate that threads its way through the volume concerns itself with what the Global South actually is and how it could be relevant to international environmental law. A few chapters suggest the existence of a rather clear-cut dichotomy between Northern colonialist, industrial, wealthy, and geopolitically powerful states, on the one hand, and Southern colonized, agricultural, poor, and dominated countries, on the other. Other contributions develop a more nuanced analysis, recognizing the existence of states in intermediary categories, such as emerging economies.¹ Yet other chapters, instead of distinguishing Northern and Southern states (and those in between), recognize that “many Southern countries are complicit”² in the exploitation and plunder by Northern States, or develop a “South within the North” idea,³ e.g. by approaching Indigenous communities as the Southern (i.e. subaltern) part of a North-South divide.⁴ For these authors, the North-South divide appears through the evolving “influence of asymmetric power and economic inequality”⁵ at all scales of governance. Thus, in some contributions, the “Global South” seems simply to refer to global inequalities,⁶ for

¹ For instance, Rowena Maguire and Xiaoyi Jiang, “Emerging Powerful Southern Voices: Role of BASIC Nations in Shaping Climate Change Mitigation Commitments” 214; Koh Kheng-Lian and Nicholas A. Robinson, “South-South Cooperation: Foundations for Sustainable Development” 553.

² Chidi Oguamanam, “Sustainable Development in the Era of Bioenergy and Agricultural Land Grab” 237 at 250.

³ Sara L. Seck, “Transnational Corporations and Extractive Industries” 380 at 395.

⁴ Elizabeth Ann Kronk Warner, “South of South: Examining the International Climate Regime from an Indigenous Perspective” 451.

⁵ M. Rafiqul Islam, “History of the North-South Divide in International Law: Colonial Discourses, Sovereignty, and Self-Determination” 23 at 23.

⁶ Ruth Gordon, “Unsustainable Development” 50; Louis J. Kotzé, “Human Rights, the Environment, and the Global South” 171 at 172.

instance between the funders and the populations affected by international development projects,⁷ or between the civil-society organizations which are able to participate actively in international processes and those which lack the necessary resources.⁸ Accordingly, having started out as a geographical concept, the “Global South” becomes an allegory for “the ‘Other Third’”.⁹

It is no surprise that these different conceptions of what “South” and “North” are lead to different perspectives on the North-South divide. For some authors, the North-South divide creates an opposition between states which define most of the international norms in their own interests and those which are not often unable even to invoke existing norms to defend their rights. Atapattu and Gonzalez thus note that “the global environmental agenda has often been dominated by the priorities and concerns of affluent countries”.¹⁰ Likewise, Maxine Burkett’s chapter contends that the absence of an international legal remedy for climate change

lays bare the fact that in the face of one of the most poignant instances of grave injustice—the loss of one’s land, livelihood, culture, and ancestors as a result of unabated emissions by others—our legal systems at the international, national, and subnational levels are unable to effect a swift, definitive, and just resolution for the victims.¹¹

For other contributors, the North-South divide is mainly a social and economic cleavage between capital and labour, in “a system that abounds in inequality and is dominated by global capital and multinational corporations”.¹² Some, with greater optimism, note that the global South could be a source of inspiration for the global North.¹³ In this spirit, Louis Kotzé develops a thorough doctrinal analysis of the case-law of the Supreme Court of South Africa to demonstrate that the global South can also be “a site of innovation with respect to the human rights-environment interface”.¹⁴

This volume raises many questions that need further study. These questions are essential, because, as Atapattu and Gonzalez note, “legal and policy frameworks that do not adequately reflect the interests of the global South have no chance of succeeding”.¹⁵ Anyone interested in international environmental law should be interested in its (geo)political dimensions and will find plenty of food for thought in this volume.

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⁷ Shalanda H. Baker, “Project Finance and Sustainable Development in the Global South” 338.

⁸ Lalanath de Silva, “Public Participation in International Negotiation and Compliance” 572.

⁹ Lakshman Guruswamy, “The Contours of Energy Justice” 529 at 529.

¹⁰ Sumudu Atapattu and Carmen G. Gonzalez, “The North-South Divide in International Environmental Law: Framing the Issues” 1, at 1.

¹¹ Maxine Burkett, “A Justice Paradox: Climate Change, Small Island Development States, and the Absence of International Legal Remedy” 433 at 434.

¹² Ruth Gordon, “Unsustainable Development” 50, at 70.

¹³ Sumudu Atapattu, “The Significance of International Environmental Law Principles in Reinforcing or Dismantling the North-South Debate” 74 at 77.

¹⁴ Louis J. Kotzé, *supra* note 6, at 189.

¹⁵ Atapattu & Gonzalez, *supra* note 10, at 20.