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Reviewed by : Zainab Lokhandwala, Birsha Ohdedar & Peter Tweedley, SOAS, University of London

BOOK REVIEW

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Andreas Philippopoulos-Mihalopoulos and Victoria Brooks, eds., *Research Methods in Environmental Law: A Handbook* (Edward Elgar 2017)

Environmental law scholarship has grown and evolved in many diverse directions over the last three decades. Nevertheless, academic writing on environmental law methodology specifically is still scarce.[1] This often leaves us as researchers navigating our own path, borrowing from other subject areas and avoiding too much discussion on the subject. Some have pointed out that the lack of engagement with methodology by environmental law researchers has left the field being perceived as 'immature' and stunting its growth at a critical time.[2] In this context, Philippopoulos-Mihalopoulos and Brooks's edited volume *Research Methods in Environmental Law: A Handbook* is a warmly welcome addition.

The book is divided into four sections, with 22 chapters in total. The chapters can be read individually, or within the broader context of each section. Environmental law is at its core an inter-disciplinary area of scholarship and this book is inter-disciplinary in nature engaging with political theory, sociology, philosophy, geography and several other disciplines. Its subject matter can be dense at times and the editors point out in the introduction that the idea of the book is to present radically different viewpoints, which may appear "alien, difficult of even cumbersome" but that we should "persevere" and "press on" (page xviii). Accordingly, the book is aimed largely at graduate students and researchers, rather than undergraduate students or practising lawyers.

Part 1: Materiality

The first section of the book considers the 'materiality' of law, which draws upon the rich emerging body of literature in the social sciences and humanities on new materialism.[3] Chapter 1, written by Grear, sets the scene, through a discussion of Cartesian dualism, the split between body and mind (and nature and society). Grear dissects "the subject" of environmental law which she argues is meant to be a "disembodied" and "rational" being (page 3). But, in fact, Grear contends that a body has been "smuggled in", being a highly particularised "white, heterosexual, masculine, able bodied, and temporally frozen" one (page 9). The embeddedness of this subject in environmental law is critiqued through Fineman's feminist analysis of the 'vulnerable subject', and how environmental law's subject and how this produces system injustices.[4] Grear's argument is to move towards a new materialist methodology of environmental law, that reconsiders the ontology and 'centre' of environmental law. The discussion on new materialism and ontology is a theme for the other chapters in the first section and beyond.

Lange in Chapter 2 provides an excellent discussion of different ways we can think of 'nature-society' interactions in environmental law. Lange's chapter is particularly useful for those researchers who are looking for ways to incorporate spatial methodologies from geography into environmental law research. Her concrete examples are particularly helpful in understanding these different ways. One of the ways is Actor-Network Theory (ANT), which again has developed a lot of interest inside and outside of legal scholarship, including in relation to question of the environment.[5] Cloatre in Chapter 4 explores this in

1 Some exceptions include: Ole W Pedersen, 'The Limits of Interdisciplinarity and the Practice of Environmental Law Scholarship' (2014) 26 Journal of Environmental Law 423; Dave Owen and Caroline Noblet, 'Interdisciplinary Research and Environmental Law' (2015) 41 Ecology Law Quarterly 887; Louise Kotzé, 'Reflections on the Future of Environmental Law Scholarship and Methodology in the Anthropocene' in Ole Pedersen (ed), *Perspectives on Environmental Law Scholarship* (OUP 2018) 140; Elizabeth Fisher, Bettina Lange and Eloise Scotford, 'Maturity and Methodology: Starting a Debate about Environmental Law Scholarship' (2009) 21(2) Journal of Environmental Law 213.

2 Fisher, Lange and Scotford (n 1).

3 Susan Yi Sencindiver, 'New Materialism' <http://www.oxfordbibliographies.com/display/id/obo-9780190221911-0016>.

4 Martha Fineman, *The Autonomy Myth: A Theory of Dependency* (The New Press 2003).

5 Bruno Latour, *We Have Never Been Modern* (Harvard University Press 1993); Noel Castree and Tom MacMillan, 'Dissolving Dualisms: Actor-Networks and the Reimagination of Nature' [2001] Social Nature: Theory, Practice and Politics 208; Ryan Holifield, 'Actor-Network Theory as a Critical Approach to Environmental Justice/ : A Case against Synthesis with Urban Political Ecology' (2009) 41 Antipode 637.

further depth, through her case study of bioprospecting. There is much utility in the ANT approach in environmental law scholarship, particularly in providing an analytical lens to examining the multiple processes that intertwine to co-produce socio-ecological issues.

In the final chapter of the first section, Philippopoulos-Mihalopoulos argues that environmental law, more broadly, needs to reconsider its theoretical and methodological assumptions, particularly in light of the language of the Anthropocene and the collapsing of social and natural boundaries (Chapter 6). His idea of a 'critical environmental law' in many ways serves as an overall theme for the book, which tries to reconsider many of the fundamental assumptions of environmental law. These and the other chapters in the first section are helpful for environmental law researchers who are trying to critically reflect and analyse the interactions.

Part 2: Spatiality and Jurisdiction

Part 2 comprises contributions on spatiality and jurisdiction and their role in environmental law research methods. Bartel's chapter on 'Place-Thinking' is a valuable contribution to the emerging field of legal geography (Chapter 7). It shows through an Australian case study on biodiversity protection how environmental law can draw from geography's already well-developed concepts of material and spatial heterogeneity. In Chapter 8, Holder and McGillivray argue that environmental issues should be articulated as 'environmental injustices' for greater fidelity to context and place. Here too, the authors provide an example through the use of collective case studies in capturing the place-specific everyday knowledge on the ground.

Natarajan's expertise on Third World Approaches to International Law (TWAIL) is reflected in Chapter 9, where she explores the relevance of TWAIL for environmental law research. There is a need for the global South to develop its own unique post-colonial and critical legal approaches to break through the traditional environmental law paradigms of the global North. Here, several themes such as the politics of knowledge, reactive North-versus-South debates and TWAIL as a tool/method rather than a movement have been commented upon. Moving from the Global South to comparative global perspectives, Venter and Kotzé in Chapter 10 analyses the transnational emergence of environmental constitutionalist ideas across jurisdictions and evaluate the normative implications of their emergence. Usually discussion on constitutional environmental law has been limited to environmental rights, however the authors expand the scope of environmental constitutionalism to also include constitutional values such as the rule of law, separation of powers and constitutional supremacy to show how these can also be read through an environmental law lens.

In the last chapter of this section, Gillespie tries to develop human rights based approaches that acknowledge 'place' and 'location' such that the nexus between people as right-holders with their geographical context remains unbroken (Chapter 11). Gillespie uses the example of top-down conservation programmes in Cambodia, which lack geographically sound and appropriate tools that can add a geo-legal angle to the research narrative. While the use of flexible methods, practical tweaks and changes in methodology to study spatial realms is explained, the use of only conservation related examples as regulatory regimes over people/places raises the question as to the applicability of this method outside the domain of conservation.

Part 3 Ecology, Economics and Political Activism

Part 3 of the book describes itself as dealing with "established ways of thinking about environmental law but presented through new or not yet established methodologies" (page xix). As the book progresses, the chapters in many ways become more experimental, stretching the boundaries of methodology and environmental law.

In Chapter 12, Morrow sets out the principles of an eco-feminist methodological approach to environmental law, and its application to the current environmental legal scholarship and policy. Morrow follows an intersectional and transversal approach situating gender as one of multiple societal factors that contribute to one's appreciation of the environment including areas such as culture, politics and law as well as a myriad of other social structures.

Despite its reputation for chaos and unpredictability, anarchism as a legal methodology, as articulated by

Burdon and Martel in Chapter 13, is less destructive than its name might suggest. The chapter provides an explanation of anarchism's applicability to legal research within environmental law and in particular it provides a counter argument to what Burdon and Martel see as a neo-liberal dominance within environmental legal research. The chapter provides a three-part critique of liberal environmental law before elucidating its anarchist theory. It is explicitly political, personal and subjective. It is also without a teleological endgame. There is no future reality that is the method's users are trying to create, other than that which is collectively and fluidly decided. The chapters by Morrow on eco-feminism and by Burdon and Martel on anarchism will have a particular appeal to researchers looking at activism and grassroots fieldwork.

Kotsakis, in Chapter 14, is concerned with the modern bias against theory, seen by Kotsakis as self-indulgent or overcomplicated, elevating poorly thought out scholarship. The chapter addresses what Kotsakis sees as a trend of positivism and scientific approaches within environmental law. He highlights ways in which critical theory can be used to bridge a gap between theory and action within environmental legal research and address this epistemological debate. Kotsakis' sentiment is well founded, that both positivists and theorists often unhelpfully sneer at each other. There is a responsibility on both types of researchers to meaningfully contribute to the 'toolbox' of environmental thought.

In Chapter 16, Sand is concerned with translating the complexity of current environmental issues into legal language. It is a linguistic and semantic discussion which emphasises the need to find a method of legal research that addresses communication and the complexity of environmental science within its linguistic framework. The idea is to move away from existing legal normative constructs inherent within traditional forms of private and public regulatory law such as private property, contract and national sovereignty, to come up with a new environment based legal framework with the protection of natural resources as a main point of departure. Sand argues that environmental law is part of the communication about the environment and society, and research on environmental law will consequently have to include communication on the relations between the environment, society and law.

Part 4: More than Human

The final section of the book essentially considers approaches that go beyond the 'anthropocentricism' of environmental law. The section begins with a chapter on the legal status of non-human animals by Mussawir and Otomo (Chapter 18). The chapter presents a dialogue between the two scholars, not from two different philosophical camps; rather they are trying to put forward a method of dialogue and conversation as a research method itself. This way of doing research (which occurs informally in many respects) promotes more explicitly a collaborative, collective method of research that brings out different angles and digressions. Apart from the methodological contribution, reading the dialogue between Otomo, a legal scholar and Mussawir, an ethicist, discussing subjects like animal welfare legislation is stimulating for a reader on its own. In Chapter 19, Braverman presents research into the legal framework around the protection of coral and other sea life, as "multispecies ethnography and Foucauldian bio-politics" (page 458). Baverman identifies that the interspecies nature of coral makes it a useful barometer of environmental legal regulation's effectiveness. The chapter goes beyond existing legal frameworks and looks into emerging legalities of coral conservation through the author's experience in the field. Other chapters in this section consider methods to explore diverse subjects through creative, radical and challenging methods.

Discussion

Overall, the book is a thought-provoking journey of different, often experimental, innovative ideas that stretch the boundaries of environmental law research and scholarship. The volume contributes towards efforts to drive more inter-disciplinary approaches in environmental law, while critically reflecting on theoretical and methodological understandings. The diversity in disciplinary backgrounds of the authors provide a rich array of perspectives. The inter-disciplinary lens of the book is particularly topical. The section on materiality, for example, is very useful for environmental law scholars considering how to incorporate the surge of work on 'nature-society' relations in the humanities and social sciences.

Nevertheless, this book is a challenging read. Some chapters are particularly difficult if one is not well briefed

on the theoretical aspects of the topic beforehand. In that way, the book is less accessible to readers who are unfamiliar with particular topics that have become largely popular in other disciplines (such as new materialism or post-humanism). The book also scarcely engages with the existing scholarship in environmental law and the established methods of environmental law research. For example, socio-legal approaches, including empirical environmental law research;[6] the use of political theory, particularly ideas around justice that have influenced environmental law scholarship;[7] or traditional doctrinal methods in environmental law.[8] While we recognise that it is impossible for any book or edited volume to be comprehensive as the title of the book is 'methods in environmental law', there could have been space for a more focussed engagement with existing

6 For example: Ben Boer and others, *The Mekong: A Socio-Legal Approach to River Basin Development* (Routledge 2016); Bettina Lange and Mark Shepheard, 'Changing Conceptions of Rights to Water? - An Eco-Socio-Legal Perspective' (2014) 26 Journal of Environmental Law 215.

7 For example: Maxine Burkett, 'Climate Reparations' (2009) 10 Melbourne Journal of International Law 1; Upendra Baxi, 'Towards a Climate Change Justice Theory?' (2016) 7(1) Journal of Human Rights and the Environment 7; Klaus Bosselmann, *Earth Governance: Trusteeship of the Global Commons* (Edward Elgar 2015); Laura Westra, *Environmental Justice and the Rights of Indigenous Peoples – International and Domestic Law Perspectives* (Earthscan 2009); Christopher Stone, 'Ethics and International Environmental Law' in Daniel Bodansky, Jutta Brunnée and Ellen Hey (eds), *The Oxford Handbook of International Environmental Law* (OUP 2007) 291-315.

8 For example: Jona Razzaque, *Public Interest Environmental Litigation in India, Pakistan and Bangladesh* (Kluwer 2004); Daniel Bodansky, Jutta Brunée and Lavanya Rajamani, *International Climate Change Law* (OUP 2016).

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