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AND ENVIRONMENTAL LAW**

Reviewed by : Birsha Ohdedar, PhD Candidate, SOAS, University of London

BOOK REVIEW



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Bridget M. Hutter, *Risk, Resilience, Inequality and Environmental Law*

The environmental and developmental challenges of this century are often framed in the terms of risk, resilience, and inequality. For those interested in environmental, and understanding of these concepts, their interactions with environmental law and with each other are vital. With an increasing appreciation of inter-disciplinary approaches necessary for environmental law to grapple with issues of climate change, biodiversity loss, and the Anthropocene, *Risk, Resilience, Inequality and Environmental Law* is a timely edited volume comprising of nine chapters from authors with a background in sociology, law, political studies and governance, as well as an introductory and concluding chapter from the editor Bridget Hutter.

The book provides a balanced mix of conceptual discussion and empirical examples from jurisdictions such as China, Peru, and the UK. It also covers different areas of law such as climate change law, sustainable development, and biodiversity law. There are strong discussions of the problems to date, as well as pathways forward, providing both serious alarm at the gravity of our socio-ecological crisis and measured optimism that there are choices that could provide a different way forward.

The broad framework, which the title points to, means that a number of different themes are touched upon. Hutter has sensibly organised the chapters into three parts: Resilience, Inequality and Governance. The cross-cutting nature of the issues does mean that there is a necessity for chapters to overlap in content at times. The multi-disciplinary authorship also means that different approaches are taken through the book. On the one hand, this illustrates the diversity and contestation in definitions and approaches; on the other hand it means the book at times does not have the flow it could have. For example, some of the chapters in the last part of the book on Governance seem to be blind to the critical discussion on resilience and inequality in earlier parts of the book and how that could relate to governance schemes. The rest of this review is organised around each 'element' of the book's title to provide an overall picture.

RISK

Since Ulrich Beck's *Risk Society*¹ thesis more than two decades ago there has been a large amount of interest in the concept of environmental and social risk. The governing of risk is essentially seen as a function of mainstream environmental law. As Hutter points out in the introductory chapter of this book, we are faced today with multiple, complex and interconnected risks. Dean Curran (in Chapter 4) provides an insightful piece on the unequal and inequitable distribution of risk, which builds on Beck's work as well as Curran's own previous work, to argue that the current legal system is "organised irresponsibility" that sees the original producers of risk escape culpability. Other authors also touch on different aspects of environmental risk, such as Pederson (Chapter 3) who points out the differences of risk perceptions across society, stratified by race and class. For Pederson, public participation is a way to reconcile these perceptions towards democratically sustainable ends. However, he warns against technocratic participation, which can reinforce existing power structures.

RESILIENCE

Resilience is a vastly contested concept that has its origins in the physical sciences. As Hutter outlines in her introduction, the concept has difficulties in transferring between disciplines. The concept has of course taken hold in the last 15 years, particularly in climate change adaptation literature. The contested nature of the concept means that throughout the book different authors treat resilience in different ways. Hutter, in the introductory chapter, advocates resilience as "an approach" or a "perspective". McDonald in Chapter 2, who states that we should be looking at "resilience thinking", uses a similar definition. These authors provide a number of principles that should guide such approaches. However, these remain in many ways all-encompassing, something Hutter also points to in the final chapter where she states that "resilience strategies are still largely ideational but the aspirations remain vague".

1 Ulrich Beck, *Risk Society: Towards a New Modernity* (Sage 1992).

Resilience has also been critiqued for being apolitical. In Chapter 6, Satterwaithe looking at urban populations argues that there has not been enough of a focus on “people politics and power” as well as the distribution of power within resilience literature. Curran (in Chapter 4) points out that resilience does not adequately account for the moral value of individuals. Curran points out that “resilience as a concept [is] aimed at collective groups and systems” and thus, while policy makers and researchers take an interest in systems resilience, they can overlook distributional impacts of resilience (at pg 72). Curran and Satterwaithe’s critiques of resilience are in line with strong critiques that have developed to resilience, particular from political ecology perspectives that have argued that resilience approaches overlook how relationships between people, based on power, mediate how socio-environmental change is experienced.²

INEQUALITY

Hutter (in Chapter 1) points out that inequality is a cross-cutting issue in environmental law and central to transformative resilience approaches. There are deep inequalities between nations, socials groups, individuals, both in terms of contributions and exposures to socio-environmental risk. Part III of the book consists of three chapters (4, 5 and 6) framed specifically around inequality. Curran, in Chapter 4, argues that the organised irresponsibility produced by the law means that we must interrogate relational inequality. Here, his analysis of risk-class looks at the shifts in the distribution of risk over the last few decades to the least-advantages. In Chapter 6, Satterwaithe provides a rich analysis of urban inequality. He makes a number of salient points. For example, he points out how a metric and target based reporting of water access (often used for example to analyse the human right to water) fails to take into account the inequalities on the ground around access to water. He also states that inequality has particular “pernicious effects” of “eroding trust, increasing anxiety, illness, and encouraging excessive consumption”. In this light, he links the discussion of inequality back to resilience, arguing that resilience approaches need to be more

² Marcus Taylor, *The Political Ecology of Climate Change Adaptation: Livelihoods, Agrarian Change and the Conflicts of Development* (Routledge 2014).

cognisant of inequality, in the same way Curran has in the earlier chapter. These chapters are interesting for anyone with an interest in the relationship between environmental change and inequality, political ecology or environmental rights.

Finally, while the chapters in Part III look closely at inequality, it is a point of discussion for other chapters also. For example, in Chapter 10, Johnson, looking at the role of Environmental Courts in China points out that the majority of judgements have not been against large and powerful polluters, but rather against ordinary people. Many other authors in the Global South illustrated these points elsewhere, illustrating how environmental laws are used to harass and suppress the rights of the urban poor, and primarily reinforce urban elite interests.³ While Johnson does not expand on this too much, this his point is important when linking back to the critiques of resilience and risk, articulated in particular by Curran in Chapter 3.

ENVIRONMENTAL LAW

What then is the role for environmental law in relation to risk, resilience and inequality. In chapter 7, Holley and Sofronva argue that resilience requires a new governance approach, which is polycentric, collaborate, deliberative, integrated, multi-level and adaptive. Environmental law’s role is to facilitate these approaches. They take a conservative definition of as “the capability of a system to absorb disturbance and still retain the basic structure” (page 134). Accordingly, by enhancing role for civil society, local governments, and other institutions in information gathering, participation, and ‘environmental governance’ they argue that this will “manage resilience”. The authors use examples mainly from the global North; hence the discussion is somewhat limited in accounting for issues of inequality, power asymmetries, equity, and developmental challenges that is grappled with in some of the earlier chapters.

³ Usha Ramanathan, ‘Illegality and the Urban Poor’ (2006) 41 *Economic & Political Weekly* 3193; Amita Baviskar, ‘The Politics of the City’ [2002] *Seminar* <<http://www.india-seminar.com/2002/516/516%20amita%20baviskar.htm>> accessed 2 April 2018; Balakrishnan Rajagopal, ‘Pro-Human Rights but Anti-Poor? A Critical Evaluation of the Indian Supreme Court from a Social Movement Perspective’ (2007) 8 *Human Rights Review* 157.

Nevertheless, the theme of ‘increasing participation’ is one that appears in a number of chapters as an answer to increasing resilience. In Chapter 9, Wang in an analysis of Chinese environmental governance, also points to efforts to increase deliberation and consultation in China. While on the one hand, as he points out, these are efforts that go in the right direction. On the other hand, the chapter lacks the critical reflections made in earlier chapters, such as by Pederson (in Chapter 3), on the apolitical and problematic nature of technocratic forms of participation that Wang discusses.

Johnson (in Chapter 10) provides a second chapter on China, exploring the tensions between environmental law and an authoritarian political system. He argues that China’s efforts to reduce environmental risk, such as through environmental courts, deliberation between parties, and enhanced local governance needs to be viewed in the context of its overall political goal of maintaining stability. The development of a Chinese model of deliberative environmental democracy is framed in this political-economy context. This is an on-going area of interest for researchers given the shifts that are happening in environmental law and governance in China.

Through the book authors have different views on the role of the law. For example, Ituarte-Lima (in Chapter 5) is optimistic about the role of soft law such as Sustainable Development Goals to strengthen rights and biodiversity protection. Others, such as Pedersen (Chapter 3) are more cautious about the intersections between resilience and law given their very different epistemologies. Hutter draws these together in her final chapter, which provides a necessary recap of the book to draw in the different threads.

CONCLUSION

Risk, Resilience, Inequality and Environmental Law is a enjoyable read for any one interested in environmental law generally. Its multidisciplinary authorship provides the reader with a range of perspectives and approaches that makes it interesting. Tying together these broad concepts and perspectives is a difficult challenge, and as an edited volume, the book can of course be picked up and read on a chapter-by-chapter basis. However, Hutter’s introduction and conclusion chapters are excellent in framing and drawing everything together.

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