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Human Rights and the Environment: Legality, Indivisibility, Dignity and Geography,
edited by James R. May & Erin Daly
Edward Elgar, 2019, 616 pp, £215 hb, £172 ebk
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Human rights and the environment are intertwined and interdependent.¹ As Ken Siro-Wiwa declared, ‘[t]he environment is man’s first right. Without a clean environment, man cannot exist to claim other rights, be they political, social, or economic’.² However, the application of the human rights framework to protect the environment is never straightforward.³ James May and Erin Daly’s edited collection, *Human Rights and the Environment: Legality, Indivisibility, Dignity and Geography*,⁴ offers an authoritative guide to the complex relationship between human rights and the environment. The book features several contributions from a diverse group of experts in international law, human rights law, environmental constitutionalism, and environmental law, among other specializations. Thanks to these contributions, *Human Rights and the Environment* provides an excellent compilation of human rights and the environment scholarship.

The book is organized around four overarching themes: legality, indivisibility, dignity, and geography. The first three establish the legal frameworks for integrating human rights and the environment (‘legality’), make the case that human rights and the environment are inseparable (‘indivisibility’), and demonstrate that environmental protection is essential for the preservation of human dignity, a foundational component of human rights (‘dignity’). The last theme, ‘geography’, offers place-based examples of how human rights and the environment intersect. While this thematic separation is at times a useful way of organizing the book’s 44 chapters, the divisions between the themes are not always clear-cut and some of the ideas within the chapters seem redundant. Even so, the book provides a thorough and thoughtful examination of human rights and the environment.

¹ A. Boyle, ‘Human Rights and the Environment: Where Next?’ (2012) 23(3) *European Journal of International Law*, pp. 613–42.

² See L. Westra, ‘Development and Environmental Racism: The Case of Ken Saro-Wiwa and the Ogoni’ (1998) 6(1) *Race, Gender and Class*, pp. 152–62, at 155 (quoting K. Saro-Wiwa, Right Livelihood Award acceptance speech, Stockholm (Sweden), 9 Dec. 1994).

³ It is argued that there are five ways to frame human rights in the context of environmental protection: (i) the use of existing human rights to advance environmental claims; (ii) the expansion of existing human rights to better address environmental harm, namely, the ‘greening’ of existing human rights law; (iii) the recognition of an independent right to a healthy environment; (iv) advocacy for new rights for the environment itself, commonly referred to as rights of nature; and (v) the duties and responsibilities to uphold environmental human rights; see details in S.R. Rajan, K. Davies & C. Iorns Magallanes, ‘Identifying Legal Claims to Human Rights and the Environment’, in J.R. May & E. Daly (eds), *Human Rights and the Environment: Legality, Indivisibility, Dignity and Geography* (Edward Elgar, 2018), pp. 183–97.

⁴ The book is part of the multi-volume *Elgar Encyclopedia of Environmental Law* (Edward Elgar).

The first part of the book is focused on the theme of ‘legality’ – the set of laws that either do or could provide a legal foundation for ensuring the integration of human rights and environmental protection. The first two chapters are particularly engaging. Chapter 1 argues that an environmental rule of law – ‘a set of environmental governance mechanisms, principles, and practices that hold all entities equally accountable to publicly promulgated, equally enforced, and independently adjudicated laws’ (p. 13) – is necessary for advancing a variety of human rights related to the environment. In Chapter 2, John Knox, the first Special Rapporteur for Human Rights and the Environment in the United Nations Human Rights Council, provides insight into the human rights obligations relating to the enjoyment of a healthy environment. After examining the interdependence between human rights and environmental protection, Knox calls for explicit recognition of a distinct human right to a healthy environment. Subsequent chapters then examine how this could be achieved, whether through the adoption of a third international covenant on the right to the environment (Chapter 3), or by exploring new frontiers in environmental constitutionalism (Chapters 4–6). The remaining chapters in the first part (Chapters 7–11) focus on implementation, highlighting how the implementation gap between law on paper and law in practice must be addressed to ensure environmental human rights. While laws, institutions, and courts are the essential components of an environmental rule of law, these chapters ably show that the protection of human rights and the environment depends on many other factors, such as political intent, expertise, training, funding, and other resources.⁵ As a whole, this first part of the book offers a cohesive and in-depth analysis of the tools and challenges of designing and implementing legal regimes to protect human rights and the environment.

The second part of the book (‘indivisibility’) argues that human rights and environmental protection are inseparable and should be treated as such under the law. After an introductory chapter by Daly and May – which argues that ‘environmental rights are indivisible with many human rights’ (p. 181), including rights to life, dignity, health, and family – most of the other chapters seek to prove the ‘indivisibility’ theme by exploring the mutually reinforcing relationship between human rights and the environment (Chapters 13–18 and 22–23), particularly in the context of climate change. As arguably one of the greatest threats to our generation,⁶ climate change is addressed across several chapters and from different perspectives, which include the corresponding obligations on governments and private actors to protect human rights (Chapter 14), the plight of displaced people (Chapter 15), the implication of mitigation strategies on the right to food (Chapter 16), and the gender dynamics of climate change (Chapter 17). These climate-focused chapters describe the adverse impacts of climate change on the enjoyment of human rights and illustrate the indivisibility between environmental issues and human rights. This part also includes a handful of chapters (Chapters 19–

⁵ D.R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (University of British Columbia Press, 2012).

⁶ United Nations Framework Convention on Climate Change (UNFCCC), New York, NY (US), 9 May 1992, in force 21 Mar. 1994, available at: <https://unfccc.int>.

21) which suggest that the indivisible relationship between human rights and the environment is not always amicable or synergistic. For example, Chapters 19 and 20 offer conflict-based accounts of how the advancement of environmental protection could threaten property rights. Collectively, the chapters in this part illustrate how the inextricable nature of human rights and the environment requires careful balancing and consideration.

The third part of the book argues that dignity plays a key role in advancing the right to a healthy environment. Many of the chapters in this part equate dignity with environmental justice. Daly and May begin by demonstrating that the right to live with dignity could be affected by environmental degradation and the right to dignity can promote environmental justice (Chapter 24). The chapters that follow then focus on specific environment-related rights – including the rights to water (Chapter 25), landscape (Chapter 26), and energy (Chapter 27) – and on specific groups of particularly vulnerable people, such as children (Chapter 29) and Indigenous populations (Chapters 30–34). Dayna Nadine Scott's exploration in Chapter 34 is notable in that it critiques the use of rights-based language for promoting Indigenous environmental justice. Scott argues that the rights-based framing of environmental justice tends to focus on discrete types of environmental harm, which, together with the procedural, logistical and resource barriers to achieving environmental justice, may frustrate the attempts of Canadian Indigenous peoples to protect their rights. In a book that generally argues for the adoption of human rights to address environmental concerns, a chapter questioning the appropriateness of the 'rights' approach is particularly valuable. Indeed, the volume arguably would have benefited from additional critical reflections on the human rights approach to the environment in a wider context not limited to Indigenous communities.

In the last part, the 'geography' theme examines the relationship between human rights and the environment in particular locations across the world, including Europe (Chapter 35), Inter-America (Chapter 36), the Middle East and North Africa (Chapter 37), small island developing states (Chapter 38), as well as specific national territories like Sri Lanka (Chapter 39), Bangladesh (Chapter 40), Jordan (Chapter 41), countries in central Africa (Chapter 42), Kenya (Chapter 43), and New Zealand (Chapter 44). While the 'geography' theme adds context to the book, many of the chapters overlap to some extent with other chapters focused on the other themes. For example, Ole Pedersen's analysis of environmental jurisprudence in the European Court of Human Rights (Chapter 35) decries the lack of solid doctrinal foundations notwithstanding the Court's efforts to balance the present-day realities of environmental harm with adherence to the enshrined core human rights, echoing the rule of law topic covered in the first part of the book under the 'legality' theme. Another example is Catherine Iorns Magallanes' investigation of environmental rights protection of Indigenous people (Māori) in New Zealand (Chapter 44), which (as the editors themselves note, p. 8) encompasses all four themes. Similarly, while the implications of climate change on human rights, including the plight of displaced people (Chapter 15), are mostly organized under the 'indivisibility' theme, climate change displacement of people in Bangladesh (Chapter 40) is included in 'geography'. Although

this part adds particular place-based details, much of the content overlaps with the materials in other parts of the book.

Some similar repetitions between chapters within the other three parts suggest that the division between the themes may be not as clear-cut as the editors expected. For example, while chapters framed under the ‘indivisibility’ theme advance a normative claim that human rights and the environment are inseparable, such inseparability also provides the fundamental basis for addressing environmental issues via a human rights approach,⁷ which the book treats as a ‘legality’ issue. Similarly, the line between dignity and indivisibility is quite grey. The structure at times leaves readers wondering how exactly the chapters are supposed to reinforce each other between the themes. In addition, the book may have had more of an impact if it had fewer chapters. While each individual chapter delivers well-argued information, the repetition between the chapters and themes slightly undermines the overall strength of the volume. Less may have been more here.

These editorial issues aside, the substance of the collection is as excellent as other works produced by May and Daly regarding the development of environmental rights and environmental constitutionalism as a field of study.⁸ *Human Rights and the Environment* addresses many cutting-edge issues regarding the multifaceted relationship between human rights and the environment, including different approaches for using human rights for environmental protection. The book is an excellent resource for anyone interested in environmental law (including climate change law), human rights law, and constitutional law, and is highly recommended for everyone working on the relationship between human rights and the environment.

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⁷ J.H. Knox & R. Pejan, ‘Introduction’, in J.H. Knox & R. Pejan (eds), *The Human Right to a Healthy Environment* (Cambridge University Press, 2018), pp. 1–16.

⁸ See J.R. May & E. Daly, *Global Environmental Constitutionalism* (Cambridge University Press, 2014); J.R. May & E. Daly, *Implementing Environmental Constitutionalism: Current Global Challenges* (Cambridge University Press, 2018); J.R. May & E. Daly, *Environmental Constitutionalism: A Research Compendium* (Edward Elgar, 2016); J.R. May & E. Daly, ‘Vindicating Fundamental Environmental Rights: Judicial Acceptance of Constitutionally Entrenched Environmental Rights’ (2009) 11 *Oregon Review of International Law*, pp. 365–438; E. Daly & J.R. May, ‘Bridging Constitutional Dignity and Environmental Rights Jurisprudence’ (2016) 7(2) *Journal of Human Rights and the Environment*, pp. 218–42.