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Environmental governance in Asia

Transboundary Environmental Governance in Asia: Practice and Prospects with the UNECE Agreements By Simon Marsden & Elizabeth Brandon Cheltenham: Edward Elgar Publishing, 2015. 384 pp. Hardcover \$212.00
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Transboundary environmental governance is a well-known term in Western countries and a much-needed concern of the Asian states, but these states are lagging far behind in the timely understanding of this scholarship. Therefore, exploring and highlighting pertinent concerns in this area is a call of the day. To address this situation, Simon Marsden and Elizabeth Brandon picked the timely issue and presented the whole scenario in their book, *Transboundary Environmental Governance in Asia: Practice and Prospects with the UNECE Agreements*. The authors of this book (Simon Marsden and Elizabeth Brandon) recently have published two separate books, respectively: *Transboundary Environmental Governance: Inland, Coastal and Marine Perspectives* (2012) and *Global Approaches to Site Contamination Law* (2013). Therefore, the present collaboration of writing a new book was an idea of shared interests in the subject of transboundary environmental governance with a special focus on the various agreements of the United Nations Economic Commission for Europe (UNECE). This came due to their common interest in building and developing this academic piece based on the global governance and environmental regimes coupled with the regional (environmental) law. The whole discussion is mainly based on the public-participation treaties and the Environmental Impact Assessment (EIA), and the combination as well as relationships between these two agreements. Since most of the UNECE Member States are located in Europe, Europe is more focused on in the study. However, strong references have been made from the Asian region as well. For example, states that are typically located on the joint borders of Asia and Europe, such as Russia and Turkey, since they are the Asian as well as European states at the same time, are also included in the UNECE's Eurasian dimensions.

The practical implication of this study is based on the fact that compliance and implementations are the weakest elements of the environmental laws (whether domestically, regionally, or internationally). The comparative analysis was inspired by the practices such as that most of such agreements include the provisions concerning the non-compliance procedures as well the periodic reporting or implementation issues either in the discussion and decisions of the conferences or meetings of the parties or the texts of the treaties. Central Asia is considered as the case-study demonstrating the combined effects of these agreements based on the theory that they could potentially highlight the

various applicable challenges that can be taken as a case since they are emerging from the rapidly developing region of the former Soviet Union.

The non-UNECE Asian states have shown an interest in the water as well as EIA Conventions in 2013–14, which shows that these agreements should be given broader considerations aimed at the significant potential as adhered to by the non-UNECE Asian states. The Asian states have shown their interest in the various agreements—the critical deliberations suggest forming and strengthening such agreements, including an acute need for transboundary environmental governance concerning industrial incidents and air pollution, water agreements, public participation, the EIA, and Strategic Environmental Assessment (SEA).

Transboundary Environmental Governance in Asia is a publication from Edward Elgar Publishing Limited, which is an entirely appropriate publication that professes a specialization in innovative research on the (transboundary) environmental scholarships in modern Asia. This book comprises three main parts, which are further categorized into nine substantive chapters in total. Chapter One introduces the readers to the prime justification for this book as shedding light on the “transitional or transboundary environmental law” (p. 3). This involves unpacking some puzzles by presenting an in-depth overview (pp. 3–5), objectives, research questions, and the approach concerning transboundary environmental governance in Asia (pp. 6–15). It also enlightens the role of the UNECE (pp. 15–9), followed by implementation and compliance (pp. 19–22).

A brief synopsis of this book is as follows. As mentioned above, the common framework for Chapters Three to Seven describes the standing, relationship, organizations, and institutions in an introductory segment before entering into the historical context, legal development, and the objectives and other aspects being examined. The most important procedural provisions are the evaluation of the practice and the examination of perspectives in Asia and the world. The conclusions of each of these chapters are further analyzed and summarized in Chapter Eight with the conclusion of Chapter Two, which concerns other regimes and institutions—with particular attention on key issues in Asia. As pointed out, the implementation and compliance of the individual agreements are studied comprehensively in Chapter Eight, since this is the part of Asia where, apart from the Caucasus, the most agreements have been used.

Chapter Two deals with regimes and institutions, and intends to differentiate UNECE from other organizations and its environment-related contracts from other similar agreements. There are four types of institutions identified in this section. First, the global UN institutions, including the United Nations Environmental Program (UNEP), United Nations Development Program (UNDP), Global Environment Facility (GEF), World Health Organization (WHO), and International Court of Justice (ICJ). Second, there are other regional Commissions of the UN that are active in Asia; these include the United Nations Economic and Social Commission for Western Asia (UNESCWA) and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). Third, there are International Financial Institutions (IFIs); Multilateral Development Banks (MDBs), in particular the World Bank (WB, which is also part of the UN system); the Asian Development Bank (ADB); and the European Bank for Reconstruction and Development (EBRD). Lastly, there are specialized environmental organizations that operate globally or regionally, particularly the International Union for Conservation of Nature (IUCN). The multilateral regimes, as identified in this book, comprise a number of Conventions on protection, ozone protection, climate change, and waste, which are also applicable in Asia. Besides, subregional regimes comprise those which are based on treaties in Central, Southeast, Southwest, and North-East Asia.

Chapter Three deals with one of the treaties of UNECE, the Convention on public participation, and the related Pollutant Release and Transfer Registers (PRTR) protocols. This is primarily due to the fact that it can be differentiated from other treaties of UNECE through

focusing on a national instead of a transnational context. However, cross-border processes are affected by this contract, which combines human and environmental rights. For instance, it contains more detailed procedures for access to justice in environmental matters, public participation in decision-making, and access to information than any other contract. This is a measure of the extent to which these issues are taken into account in national contexts worldwide and also promotes the participation, application of information, and principles of access to decision-making in international organizations in a broader sense, including those covered in Chapter Two. This protocol pursues the same objective as public access to information, in particular by establishing national pollution inventories from industrial sites and other sources. As an “open” global agreement, any state can join, regardless of whether it is a party to the agreement or not, but whether it is of the same type.

Chapter Four describes the role of the EIA-related Conventions and the SEA-related protocol, which, like the Convention on public participation, operates mainly at the national level, whereas Chapter Three follows the principles of this agreement, which have also been elevated in global institutional contexts, particularly in the recent jurisprudence of the ICJ. The EIA Convention is also being examined by the Convention on public participation, since, traditionally, there has been a handy connection between these two. For example, the prerequisites for public participation under the second pillar of the later contract have been pragmatic in a cross-border context concerning the EIA agreement. Another illustration of the affirm association is that the SEA protocols were originally considered under the EIA agreement as a standard tool for both public participation and the EIA agreement. Without prejudice to the entry-into-force of an amendment and further ratification, the EIA agreement will also become an international treaty. In addition, the SEA protocol is already opened to all UN Member States to join.

Chapter Five refers to the Convention on accidents at work, closely related to the Convention on water, which is the subject of Chapter Six as well. Both were adopted simultaneously in the Finnish capital. The Industrial Accident Agreement is partially debated after the EIA agreement, as it also includes a cross-border EIA procedure that applies to dangerous domestic activities that can have grave cross-border impacts. The consultation and reporting provisions of the Convention on accidents at work require that the country in which the dangerous activity takes place carries out an assessment and provides specific information on the effects for the country concerned, whereas public participation is an integral part of the notification as well as consultation processes. This chapter also consists of a discussion concerning the protocol of civil liability, which entails a substantial number of ratifications before it enters into force. Besides, it is also relevant for the following Chapter Six, as it is a common legal instrument for both water as well as accidents-at-work Conventions.

Chapter Six analyzes the water Convention, which is the second of the two main treaties after the air-pollution Convention, to focus on a particular environmental standard instead of a process (such as EIA Conventions or public participation) or a problem of concerns to be addressed (Convention on accidents at work). The water Convention will soon be available to all Member States of the UN for accession; it comprises the provisions that are applicable for all contracting parties and is appropriately relevant to the riparian parties. There is also a protocol on health and water to the water Convention, which is further analyzed in this chapter. As mentioned above, Chapter Five deals with the protocol concerning civil liability that is one of the common legal instruments with the Convention on accidents at work, which is still in force.

Chapter Seven examines the deep-rooted Convention on air pollution, which contains eight protocols and is among the first UNECE treaties adopted. This agreement establishes a framework for technical, political, and scientific actions at the national levels, and for international co-operation actions aimed at reducing and preventing air pollution. These protocols comprise specific measures and objectives to reduce certain polluting emissions. Currently, the

focus is on helping the states in Central Asia to enforce the main treaty along with its protocols and on the prospect that accession to the agreement could be extended from regional to international in the future. Given the grave and persistent problems of cross-border air pollution in various parts of Asia, it is appropriate to ask whether the air-pollution Convention, together with the protocols, can offer an adequate regime in response.

Chapter Eight summarizes illustrations of implementation and the respect of individual legal instruments in the Central Asian states, which is a part of Asia with the maximum acceptance of the associated treaties as well as protocols. The states in Central Asia are initially seen as an independent geopolitical subregion, where the environmental challenges are well outlined and the specific role of UNECE is appropriately addressed. In this chapter, the different approaches to the EIA, which is also known as “state ecological competence,” is thoroughly explained in order to establish the framework for which the practice with legal agreements has brought particular challenges. Chapter Nine concludes with lessons from the experiences of the Central Asian states for the rest of Asia and the world to answer the related as well as central research questions posed in Chapter One.

Ultimately, it would be fair enough to comment that the overarching strength of this book lies in its incredibly thorough articulation of international environmental reforms to address the various transboundary environmental challenges, which can, in reality, mutate once they are translated into the domestic or regional policy arena. Such a comprehensive and detailed scholarship is a treasured contribution to the literature about transboundary environmental governance, particularly in Asian settings.

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International Law for Freedom

Justice for Some: Law and the Question of Palestine By Noura ERAKAT Stanford: Stanford University Press, 2019. 352 pp. Hardcover \$30.00
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Particularly since the 1967 war, much scholarship on the future of Palestine has been couched in the logic of international law—how it has been disregarded, how it should be employed, and strategies for how to harness it.¹ More contemporarily, that focus has played out as a dismal dismissal of the promise of the universality of international law.² With *Justice for Some*, legal scholar Noura Erakat pushes back on the pessimism of this scholarship by arguing that the lot of Palestine represents not a failure of international law, but a failure

¹ To name a few, Chomsky & Pappé (2015); Khalidi (2020a); Said (1979).

² See Allen (2013); Perugini & Gordon (2015); Shehadeh (1997).