

Video Transcript

The Protection of the Environment – Gleider Hernández

Welcome to my mini-lecture on Chapter 19 which concerns the international law relating to the environment, or international environmental law (IEL).

This legal regime, although the protection of the environment has been part of human history for—I mean, it is part of faiths, it is part of human history, and the conservation of the local environment has always been something that human beings have thought about. It is only in the last centuries and, in fact, really, in the last decades, that a concerted effort and an awareness is emerged of the global environment as a resource that needs to be protected, either for its own sake, or because it allows for human habitation. That's a more anthropocentric view.

Now, within that we should remember that the environment itself is a difficult concept to define. I mean, some conventions try to have a stab at it and the best that we can do is to suggest that it includes all natural resources, both biotic (living), and abiotic (non-living), such as the air, water, soil, fauna and flora, and the interaction between all of them. But also property that can form part of the cultural heritage or characteristic aspects of the landscapes, so the geomorphology and the geography of a place. All of these together can encompass the environment and as such I think a holistic understanding of this area of thought is extremely important.

Now, international environmental law has not evolved in a fully systematic way. There are no comprehensive obligations to protect the environment. Instead it's been dealt with in an issue-specific way. Over time, issues have emerged on which states have decided that action needs to be taken. So in the 1980s, for example, one of the most important areas was the protection of the ozone layer. And in this decade, the second decade of the 21st century, one of the foremost considerations in our mind is the prevention of climate change, and so most initiatives are focused on climate change and the prevention of climate change, for example, the 2015 Paris agreement.

Now, what happens when you've got this iterative, issue-specific approach is that, although you don't have a systematic, comprehensive view, you have a great variety of activities taking place on the regional, bilateral, local, and multilateral plane, all of which interact with one another in a very fruitful and

experimenting way. So you've got innovative compliance paradigms, innovative enforcement mechanisms. There's a lot of experimentation in this area that in due course can lead to a greater role for law. But, at the same time, enforcement is tricky. There's not only a problem with enforcement but also the wider issue with compliance. States have often proven to be trying to balance environmental considerations with other considerations, such as national security, or economic concerns: in particular economic development. And so we've seen the principle of sustainable development, which tries to balance economic development and environmental protection, and often has leaned in favour of economic development over everything.

So we've got issues that affect the entire field and also specific areas that have not fully been resolved, and all of these are addressed in the chapter which serves as an introduction to the field as a whole. And as well, the chapter seeks to introduce students to the various regimes that exist in relation to marine pollution, to air pollution, to the protection of waterways, to land pollution. There are certain regimes that seek to protect against certain chemicals and certain pollutants in particular, such as persistent organic pollutants.

But all that can be done in many respects is to give the reader a survey of how these have emerged, how they interact with one another, and how international environmental law functions as part of wider public international law. At its best, I think that it's a forum for experimentation that will hopefully yield effective ways to protect the environment, but at its worst it might be seen as a scattershot, unsystematic, non-thought-out approach that is very limited in its efficacy and that ultimately might destroy one of our most precious resources, which is the planet that we live on.

Thank you.