



Essential Readings in Environmental Law
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WOMEN AND INTERNATIONAL ENVIRONMENTAL LAW

Linda A. Malone, William and Mary Law School, and **Kang He**, J.D. candidate at William and Mary Law School, United States

OVERVIEW OF KEY SCHOLARSHIPS

Normative Concepts of Ecofeminism and Environmental Justice

1. Kaswan, A., "Commentary, Defining the Movement: Parallels Between Feminism and Environmentalism" (2003) 9 Cardozo Women's L.J. 455.
2. Rochette, A., "Stop the Rape of the World: An Ecofeminist Critique of Sustainable Development" (2002) 51 U.N.B. L.J. 145.
3. Perkins Spyke, N., "The Land Use - Environmental Law Distinction: A Geo-Feminist Critique" (2002), 13 Duke Envtl. L. & Pol'y F. 55.
4. Joyner, C. and G. E. Little, "It's Not Nice to Fool Mother Nature! The Mystique of Feminist Approaches to International Environmental Law" (1996) 14 B.U. Int'l L.J. 223.
5. Verchick, R.M., "In a Greener Voice: Feminist Theory and Environmental Justice" (1996) 19 Harv. Women's L.J. 23.
6. Simon, A. E., "Whose Move? Breaking the Stalemate in Feminist and Environmental Activism" (1992) 2 UCLA Women's L.J. 145.

Population, Reproductive Health, and Sustainable Development

7. Sloboda, M., "Books Received, Dangerous Intersections: Feminist Perspectives on Population, Environment, and Development" (2000) 15 Berkeley Women's L.J. 351.
8. Spahn, E., "Feeling Grounded: A Gendered View of Population Control" (1997) 27 Envtl. L. 1295.
9. Kennedy, C., "Cairo, Beijing, and the Global Environmental Crisis: The Continuing International Dialogue on Population Stabilization and Sustainable Development" (1996), 8 Geo. Int'l Envtl. L. Rev. 451.
10. Misra, G. *et al.*, "Poor Reproductive Health and Environmental Degradation: Outcomes of Women's Low Status in India" (1995) 6 Colo. J. Int'l Envtl. L. & Pol'y 273.

Specific Contents of Gender Justice and Equality

11. Castaneda, I., C. Aguilar and A. Rand, "Measurement and Reporting: Important Elements of Gender Mainstreaming in Environmental Policies" (2013) 22 Cornell J.L. & Pub. Pol'y 667.
12. Noguchi, L., and S. Ali, "Women, Decision Making and Sustainability: Exploring the Experience of the Badi Foundation in Rural China" (2011) 22 Hastings Women's L.J. 295.
13. Coleman, F., "Pan-African Strategies for Environmental Preservation: Why Women's Rights Are the Missing Link" (2008) 23 Berkeley J. Gender L. & Just. 181.
14. Krupp, S., "Environmental Hazards: Assessing the Risk to Women" (2000) 12 Fordham Env'tl. L.J. 111.

Background

In the introduction to the 1997 book, *Ecofeminism: Women, Culture, Nature*, **K. Warren** notes the publication in the preceding decade of several sources on "ecological feminism". **K. Warren** notes that this book is the first to undertake a multidisciplinary perspective on topics of ecofeminist scholarship. Even so, the book does not include a single piece of legal scholarship on the topic. The significance of this omission in 1997 is exemplifying how little legal scholarship, interdisciplinary or otherwise, there was or is of a normative-challenging nature on women and international environmental law. The six articles listed below on normative concepts of ecofeminism and environmental justice are essential readings and virtually the only readings making this connection to evaluate the relevance, pro or con, of feminist legal theory to issues of international environmental law generally. The most recent of the pieces, the short commentary by **A. Kaswan** in 2003, is included because it quite explicitly makes the connection between environmental justice and feminist theory in relation to environmental law, but only in relation to U.S. environmental law, not international environmental law. The **N. Spyke's** article is similarly limited to U.S. domestic law, yet valuable for its self-styled radical approach to the distinction between environmental and land use regulation reflecting the male-female dualism of Western thought. The essay by **E.A Simon** mentions, but only briefly, the international dimensions of feminist and ecological activism.

That leaves only the three articles by **C. Joyner** and **G. Little**, **R.M. Verchick**, and **A. Rochette**. These authors identify the Fourth Women's Conference in Beijing in 1995 as an "intellectual crossroads" for women, the environment, and international law, in that the feminist perspective on international law had not existed during the last world conference on women in Nairobi in 1985 and only been in existence for a short while before the Beijing conference. The authors date the beginning of this perspective to the landmark article in 1991 of **H. Charlesworth**, **C. Chinkin**, and **S. Wright** on feminist approaches to international law. **C. Joyner** and **G. Little** noted with foresight note that the feminist critique of international environmental law involves skepticism about traditional state sovereignty and sustainable development. In seeking to expand

the debate on feminist perspectives of international law in the environmental context, they recommend adoption of a “community security” paradigm and “epistemic community” paradigm. The authors, however, express their own skepticism that feminist perspectives will provide practical possibilities for reform rather than mere theoretical probabilities. Ironically, **R.M. Verchick**’s article, also published in 1996, explores how women activists have played a critical role in energizing the environmental justice movement and influenced its goals, suggesting a practical link between feminist theory and environmental justice. The three male authors of these two articles (who are, to use Mari Matsuda’s term, “theoretical co-conspirators”) are the last word in the essential normative readings until **A. Rochette**’s article in 2002, anticipating the *2002 World Summit on Sustainable Development* in Johannesburg. She contends that sustainable development is a concept doomed to fail, because it does not adequately address how women and the poor are disproportionately affected by environmental degradation, and because it reflects the androcentric view of human as separate and above nature.

There is a resounding silence in legal scholarship in the past decade on feminist reformulation of international environmental law generally. As a result, many of the remaining readings are by social scientists, often in relation to specific issue or state studies. Feminist legal theory in international environmental law (as distinct from various human rights issues) is partially concentrated on population and reproductive health in relation to sustainable development. The most significant concentration of feminist scholarship in international environmental law is, however, by social scientists on the correlation between climate change and environmental justice (See *Essential Readings on Women, Climate Justice and International Environmental Law*).

In 1996, **C. Joyner** and **G.Little** noted that international environmental law was an area to which feminist legal scholars “have not yet devoted considerable conceptual attention.” **R. M. Verchick** remarked that to his knowledge that same year “no law review article has formally explored environmental justice within the context of feminist theory.” The surprising and disappointing outcome of this research study has been the extent to which these characterizations still hold true. Hopefully a consequence of this project will be energization and encouragement of legal literature on advancing international environmental law, theoretically and practically, from a feminist perspective.

Normative Concepts of Ecofeminism and Environmental Justice

1. In *Commentary, Defining the Movement: Parallels Between Feminism and Environmentalism* **A. Kaswan** comments on the lack of inclusivity within the environmental movement, arguing that environmentalists need to dig deeper within minority communities in order to further broaden and deepen the movement and increase its capacity to solve the problems it purports to address. Her consideration focuses on minorities within minorities – that women of color are especially suspect to being ignored

– and declares it a necessary step to listen to a wide range of voices in order to understand the full dimension behind the movement.

2. Taking an ecofeminist perspective, **A. Rochette** argues in *Stop the Rape of the World: An Ecofeminist Critique of Sustainable Development* that certain androcentric assumptions underlying sustainable development will impede it from leading to a healthy future for the planet and its inhabitants. This article posits that the main flaw of sustainable development lies in its failure to challenge the fundamental assumptions of the dominant development model that it seeks to replace, as well as its dependence on the global market economy. Furthermore, it argues that the concept of sustainable development does not sufficiently address the marginalization of the poor and especially women in developing countries, where women continue to be disproportionately affected by environmental degradation, yet are largely excluded from the process of sustainable development. Finally, this article concludes that sustainable development is based on the androcentric view of humans as separate and above nature, a view that has led to the overexploitation of nature.
3. Offering what some may label a “radical” approach to environmental critique, **N. Spyke** combines, in her article titled *The Land Use - Environmental Law Distinction: A Geo-Feminist Critique*, the principles of feminism and geography to offer a geo-feminist critique on the distinction between land use and environmental regulation. Land use law is characteristically masculine because of its primary focus on land development. On the other hand, environmental law is characteristically feminine because of its purpose desire to protect and preserve. By taking a geo-feminist approach, which emphasizes the importance of place and nature, this article calls for an end to the distinction between land use and environmental issues and the emergence of a decision-making system that takes into account contextualized balancing of environmental, social, and economic needs.
4. The overall aim of **C. Joyner** and **E. Little**’s article, titled *It’s Not Nice to Fool Mother Nature! The Mystique of Feminist Approaches to International Environmental Law*, is to help render antiquated the suggestion that international law has thus far been resistant to feminist analysis. The authors present two core questions, which they argue strike hard at the combined plights of women and the environment: How might international law be used to induce state governments and transnational enterprises to refrain from actions that adversely impact upon both women and the natural environment? In the same vein, what can be done to persuade male-controlled governments that the quality of the natural environment is closely connected to the quality of life for women in society? This study focuses on the ramifications stemming from these queries. This article first examines feminist jurisprudential thinking in order to provide a theoretical framework for analyzing existing international environmental law. It also surveys aspects of

international environmental policy-making to assess the degree to which gender bias pervades it. Finally, the analysis proposes a number of recommendations that represent a first effort to shore up the conceptual deficiencies of international jurisprudence inhibiting attainment of greater gender equality under international environmental law.

5. Taking on a “one size does not fit all” critique of international environmental law, this article by **R. M. Verchick**, *In a Greener Voice: Feminist Theory and Environmental Justice* focuses on the fact that many of the most visible and effective environmental justice organizations in the country are led and consist mainly of women. The author claims that as a result, the environmental justice movement is also a feminist movement. It explores the ways in which women activities help shape the meaning of environmental justice through grassroots campaigns, discusses the movement’s similarities with the feminist movement, and notes a potential conflict between feminist theory and the multiracial environmental justice movement. Lastly, it suggests that recent developments in ecofeminist theory could help bridge the gap between conflicting subdivisions of the feminist movement.
6. **A. Simon’s** *Whose Move? Breaking the Stalemate in Feminist and Environmental Activism* explores two important phenomena in relationship between feminism and ecology: the fact that current efforts to protect the environment often fail to include the protection of oppressed people as part of the task; and the apparent ambivalence of many feminists, especially feminist lawyers, about engaging in problems of “nature.” It suggests that environmental activism needs more feminism, and that feminists need to find new ways to approach environmental issues. Using subways, lead, and trees as examples to propel the need for a feminist perspective on environmental problems, the author discusses the social demands on motherhood that includes a demand for a truly mythic level of nurturance and protection. The author emphasizes that feminism and the environment are both critical issues in which we need to pay attention to a wide variety of experiences and take action based on an understanding of those experiences. Only after taking this approach can we move forward both to end the oppression of women and to keep the planet alive and healthy for all its inhabitants.

Population, Reproductive Health, and Sustainable Development

7. In *Books Received, Dangerous Intersections: Feminist Perspectives on Population, Environment, and Development*, **M. Sloboda** summarizes a collection of essays that offers “insightful direction for public policy debate regarding the complex problems which contribute to environmental degradation in hopes of redirecting outdated and misguided policies.” Specifically, it tackles the claim that environmental degradation, poverty, and famine are predominantly the result of population growth, a claim that often scapegoats minority women.

8. In her article, *Feeling Grounded: A Gendered View of Population Control*, **E. Spahn** departs from the view that controlling female fertility is the remedy for the population control problem. Instead, this article advocates for women's reproductive lives and for equality by offering an alternative approach that emphasizes the empowerment of women rather than control over them. Through a creative comparison of China's decision to build the controversial Three Gorges Dam and China's one-child policy, **E. Spahn** argues that controlling female fertility should be abandoned while calling for a more contextual analysis of the factors affecting population control.
9. In this consumption-based critique on environmental regulation, **C. Kennedy's** *Cairo, Beijing, and the Global Environmental Crisis: The Continuing International Dialogue on Population Stabilization and Sustainable Development* tackles the myth that overpopulation is the major cause of the continued deterioration of the global environment. Instead, she attributes the problem to an unsustainable pattern of consumption and production. Her overly optimistic, but necessary, theory on sustainability calls for a model that "meets the needs of present generations without comprising the ability of future generations to meet their own needs." The article then diverges into two sections. The first discusses the correlation between population rates and developed nations that have seen an increase in employment opportunities and access to education for women. The second recognizes that women, especially those in third world nations, still disproportionately fulfill certain domestic roles in society that in some ways is intertwined with the environment. As a result, **C. Kennedy** argues that women deserve and need to be educated in matters of sustainable agricultural practices, land-use policies, soil, water and forest conservation.
10. Arguing the same claim as **C. Kennedy's** article – that over consumption rather than growing populations leads to environmental degradation – **G. Misra et al.** first critique in *Poor Reproductive Health and Environmental Degradation: Outcomes of Women's Low Status in India* the myth that women are at fault for overpopulation. Then, before exploring the correlation between poor reproductive health and environmental degradation, **G. Misra et al.** masterfully explain how sex, at least in India, is viewed as more of a household chore in which the women must act at the behest of men. She argues that many women are not in control of their own reproductive health. In order to bridge the gap between women empowerment and a sustainable environment, this article proposes six remedies: (1) increase women's participation in governmental and nongovernmental political activities; (2) improve women's literacy; (3) increase women's economic participation and acknowledge their economic contributions; (4) acknowledge women as important resources in their communities; (5) conduct further research on the

relationships between status and lack of control; and (6) expand social services that promote reproductive choice and women's health.

Specific Contents of Gender Justice and Equality

11. For a discussion on the advances and barriers in formulating gender-inclusive environmental agendas, **I. Castañeda, C. Aguilar, and A. Rand's** article titled ***Measurement and Reporting: Important Elements of Gender Mainstreaming in Environmental Policies*** is a must read. Recognizing that international agreements, national policies, and other reporting instruments have included mechanisms designed to advance gender equality, environmental protection, and sustainable development, this article argues that their implementation has overall been weak. The authors call for an integrated approach that shapes initiatives that help reduce gender gaps while promoting environmental protection instead of presenting gender and environment as parallel agendas.
12. The first sentence in the article by **L. Noguchi and S. Ali** titled ***Women, Decision Making and Sustainability: Exploring the Experience of the Badi Foundation in Rural China*** says it all: "Empowering women in rural communities to play a substantial role in decision-making processes is essential to sustainable development." After admitting that international conventions have acknowledged the pivotal role women play in sustainable development, **L. Noguchi and S. Ali** slam readers with the reality that these conventions have no binding legal effect on nations. Thus, there is a strong need for women to start a grassroots campaign to fight the imbalance and inequality behind the current male-dominated international environmental law field. It explores why women are uniquely situated to make informed decisions about environmental projects. Then, it proposes that training women to be empowered and enhancing their scientific understanding of the environment are crucial to help them become proactively involved with environmental regulation. In the latter half of the article, the authors praise the Badi Foundation, a non-profit organization with projects in rural China, for providing educational and training opportunities that enable women to more effectively participate in local decision-making.
13. In ***Pan-African Strategies for Environmental Preservation: Why Women's Rights Are the Missing Link***, **F. Coleman** argues that including rural women in the creation of a Pan-African system of environmental rights protection--one that encompasses the entire African region--is crucial to the system's success. Part I of this article advances a proposal for a Pan-African system of environmental rights protection. Part II explores the impact of the region's colonial and post-colonial history on environmental degradation and women's rights. It focuses on the way in which the colonial legacy has created or entrenched barriers to the land rights and participatory rights of many African women, which in turn present obstacles to environmental improvement. Part III presents two case studies of grassroots women's organizations that demonstrate how protecting the human

rights of women and involving them in decision-making can improve environmental conditions. Finally, Part IV of this article suggests that environmental rights may be greatly enhanced by granting rural women increased rights over the land they cultivate and giving them more say in local, national, and regional decision-making processes.

14. **S. Krupp**'s article, *Environmental Hazards: Assessing the Risk to Women*, examines the apparent flaws in risk assessments that lead to inadequate environmental health protection and encourages policy makers to examine the public health implications of risk assessments that fail to consider women. This article attributes those flaws to a failure to consider the social and physical differences between men and women and discusses how those differences lead to different health impacts from environmental pollution. Furthermore, the article critiques a current trend in environmental policy: equating the protection of pregnancies, infants and children with the protection of women. **S. Krupp** argues that women are more than reproductive tools, but active agents of change in the international community.