

**YVES LE BOUTHILLIER, MIRIAM ALFIE COHEN, JOSE JUAN GONZALEZ
MARQUEZ, ALBERT MUMMA, SUSAN SMITH, EDS: POVERTY ALLEVIATION AND
ENVIRONMENTAL LAW**

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REVIEWED BY JUDITH PRESTON*

Environmental protection, necessary for poverty alleviation, is often seen as an unattainable luxury trumped by survival and the temptation of economic stability promised by investment of transnational corporations and foreign aid. "Poverty Alleviation and Environmental Law" contributes to formulating practical and long-lasting remedies for achieving a balance of prevention and alleviation of poverty with environmental protection. The book is an excellent collection of papers prepared for proceedings of a colloquium organized by the IUCN Academy of Environmental Law from 10-15 November 2008 in Mexico, on the theme of Poverty and the Environment. This book will be an excellent resource for students, academics and other interested persons.

The book is divided into six parts. The first part outlines broad principles linking the intractability of poverty and environmental degradation. Dinah Shelton observes that the ethics of any society can be measured by how it treats its most vulnerable members (p.15). Shelton discusses legal tools to alleviate poverty and address environmental degradation including private law, public regulation, market mechanisms, rights-based approaches found in constitutional protection of quality of life, and protecting human rights through litigation.

Michael Kidd presents a South African case study, based on a series of court decisions, on water entitlement restrictions in an economically challenged town. Kidd highlights the tensions between the constitutional right of access to clean water and the need for conservation of fragile and finite resources. Although the public water restrictions were

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upheld, the judiciary failed to establish legal principles to guide public decision-making where social and environmental outcomes may collide (p.63)

The second part of this book discusses impacts of environmental degradation on indigenous people caused by global factors. Karen Bubna-Litnic discusses the inequity caused by climate change to Aboriginal Australians living in remote communities. The combination of these remote indigenous communities lack of adaptive capacity and government policies can exacerbate the impacts of increased costs caused by reconstruction following natural disasters. Initiatives such as re-forestation, carbon and fire-stick farming are potential income sources for indigenous people and contribute to mitigation of climate change impacts. Participation by indigenous communities such as gathering impact assessment data is proposed for empowering a contribution to the solution.

Sabzwari and Scott confirm the benefits of indigenous involvement in data collection (for example, bio- and environmental) on the cumulative effects of toxic pollution on the health of the Aamjiwnaang First Nation community in Canada. This model has encouraged other less powerful political communities to collect data to effect social change and form the evidentiary basis for constitutional litigation.

Ed Couzens exposes the tensions between traditional Japanese indigenous hunting and fishing rights and the need to preserve marine stocks, especially vulnerable or endangered species. Couzens exposes the hypocrisy and manipulation of many member countries of the International Whaling Commission (IWC). Japanese aboriginal rights to collect and use whale meat are being played out in the context of Japan's desire to have commercial whaling permitted without the need to justify it on research grounds.

The third part of the book emphasizes the need for public engagement in environmental and planning issues to remedy the adverse environmental impacts on low-income/minority communities. Lee Paddock discusses several jurisdictions in the USA that afford opportunities for active environmental justice public engagement in public decision-making. The local, state and federal examples discussed by Paddock demonstrate effective models for developing proper public engagement. A useful checklist for governments to achieve effective public engagement is included.

A Mexican focus on access to information to underscore public engagement is the subject of Carla D. Aceves-Avila's discussion of electronic tools to retrieve reliable and comprehensible environmental data. The Mexican law for access to information on environmental decision-

making is complex and excludes citizens without sufficient technical skills to utilize the data. Recommended improvements include streamlining the organization and distribution of information, ensuring it is current, reliable, understandable, and accessible in indigenous languages.

The fourth part of the book discusses achieving conservation objectives through environmental regulations whilst accommodating the needs of poorer communities. Paul Martin discusses the social justice implications of environmental regulation of resources. Economically efficient approaches to conservation can be skewed towards those with wealth, power and access to technological skills. Martin's study recommends setting clear principles for achieving social justice and equity in regulatory instruments and transparency to assess their effectiveness. His innovative reform proposals include public participation and social impact assessment tools.

Cohen and Juaregui highlight the need for local governance to enter into environmental agreements to bring about significant improvements for the poor. The agreements can result in local influence on federal and provincial policies and support active involvement in decision-making in urban planning policies in Mexico City.

The fifth part of the book discusses the institutions regulating access to environmental justice. Rock and Catherine Pring consider the effectiveness of specialized environmental courts and tribunals in reducing poverty whilst protecting the environment. They conclude that to be effective green courts and tribunals must include accessible location, flexible standing, understandable and affordable procedures and costs, access to reliable expert and legal assistance and ADR options. Albert Mumma's study of housing disputes in Kenya handled by the National Environmental Tribunal underscore the Prings' argument. The Tribunal gave some weight to environmental factors but priority was given to housing for the poor. The Tribunal allows wide standing to challenge planning decisions, procedural rules to encourage quick and cheap resolution of matters and costs orders awarded only in exceptional circumstances.

Finally, the book discusses global issues such as climate change, heritage laws, and controlling social and economic impacts of transnational corporations. Daniel Behn considers the implementation of Clean Development Mechanisms (CDM) projects which attempt to alleviate greenhouse gases and provide sustainable development opportunities for poorer communities in developing countries. The gulf between the theory and practice for CDM projects is apparent when Behn outlines operational deficiencies and institutional

barriers. Those barriers may be overcome by using both a project quota system that limits range of projects to a nation's operational capacity, and financial instruments that encourage CDM projects in countries with less than 10 registered projects.

Stefan Gruber suggests that heritage conservation, particularly cultural heritage, requires a buoyant environmental protection framework. However, economic support, such as alternative incomes streams for local populations, is needed so they can maintain their heritage and be part of the solution. Gruber recommends that international agencies provide funding and skills to protect heritage and decrease poverty. He assesses the effect of poverty on the preservation of the World Heritage Listed Rice Terraces of the Philippine Cordilleras. Farmers who possess the knowledge and skill to maintain Rice Terraces are being forced to leave the area for economic reasons. With younger people also leaving rural areas, knowledge and skills are not passed to future generations.

Susan Lea-Smith considers the economic power and impacts of transnational corporation; three hundred of the largest global corporations hold a quarter of the world's productive assets. Developing countries often accommodate the transnational corporations through lower regulatory standards, and unenforced corporate violations due to perceived economic and social benefits. Despite a number of laws to regulate and compensate for damage caused by adverse corporate behaviour, major problems continue to impact poorer communities. Smith considers the recent Oregon Model for Chartering Sustainable Corporations as a basis for an enforceable international framework to regulate sustainability of corporations.