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## Biological Diversity, Conservation, and the Law

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## Biological Diversity, Conservation, and the Law

## Book Notes

DE KLEMM, CYRILLE, *BIOLOGICAL DIVERSITY, CONSERVATION, AND THE LAW*; IUCN, Gland, Switzerland (1993); (\$17.00) ISBN 2-8317-0192-9; 292 pp. (pbk).

*Biological Diversity, Conservation, and the Law* is a comprehensive analysis of evolving international environmental regulation, from a historical perspective toward the purpose of identifying future legislative trends aimed at protecting the environment. This book analyzes two dominant conservation policies, attempting to address both and draw from each the most effective way to protect biological diversity.

Part I examines past and present species-based environmental legislation. Such laws traditionally focus on the individual species without considering the ecosystems in which they live. Even though this is the most prevalent form of conservation legislation today, there are many problems with this approach. First, it is limited to narrowly defined categories of species. For instance, very few treaties protect plants, and the animals that are protected are either already endangered or are game and marine animals protected from over-exploitation. This approach leads to many legislative gaps that expose non-protected species to possible extinction. Second, jurisdictional conflicts have plagued past attempts at species-based protection. Many migratory and marine animals are neither claimed as natural resources by any country nor protected by any country's domestic laws. For these species, international conventions are needed, but are beneficial only when all participating countries conscientiously enforce these treaties against other states. Finally, species-based legislation is flawed by the prejudice of only protecting species beneficial or convenient to humanity, while failing to protect species for the sake of biological diversity in and of itself. This is illustrated by the constant conflict between environmental legislation and the promotion of economic interests, a conflict which is consistently settled in favor of moneyed interest.

The first section of this book also analyzes the procedure of categorizing and listing endangered species and its effect on environmental legislation. Most national and international conventions use positive lists, which are amended when an animal or plant species is determined to need protection. This process is inefficient and causes time gaps when the list is not amended fast enough to protect newly endangered species. By utilizing negative lists, which simply list the

animals that are not protected, it is possible to make a shorter list that, in cases where new species are discovered or formed by taxonomic reclassification, will protect endangered animals automatically.

Part II of Biological Diversity demonstrates the emerging legal trends in protecting the environment. Rather than placing the emphasis on species conservation, the author asserts the need for an ecosystem-based approach that preserves the habitat as well as the endangered species living within it. This new emphasis represents the change in the perceived danger to the environment over the last one hundred years. Many species today are not threatened by over-hunting and exploitation but rather by the destruction of habitats, such as the rain forests of Brazil and the Florida Everglades. Emphasis needs to be placed on area-based and activity-based planning instruments. This is illustrated in the new Convention on Biological Diversity, which seeks to identify and regulate activities that destroy biological diversity in specific ecosystems. The Convention's approach, so long as it is adopted by participating national legislatures, will be the most beneficial conservation method for the future. By combining both species-based and ecosystem-based protection, it is not only possible to protect already endangered species but also to prevent other species from joining this already crowded list.

In conclusion, the author also explores ways of enforcing environmental legislation through public and private liability; e.g., the duty of developed countries to assist developing countries in complying with international regulations and the need for active support and cooperation from all people and countries to abide by these national and international laws. This book indicates the strengths and weaknesses of past attempts at regulation and illustrates new strategies and procedures to continue the protection of biological diversity into the future.

*Thomas Muther*

WORLD BANK, WORLD DEVELOPMENT REPORT 1994: INFRASTRUCTURE FOR DEVELOPMENT, Oxford University Press, New York (1994); (\$37.95); ISBN 0-19-520991-5; 244 pp. (pbk.)

All too often the conveniences of everyday life in the United States are taken for granted by those who have access to them. During the past fifteen years, developing countries have invested several billions of their national output every year on developing new infrastructure and services, such as clean water and telephone lines, but there remains a large population that has not felt the effect of these changes. Inefficiency and waste in both investments and services, fail to respond effectively to user demand.