Global Environmental Law

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Abstract
Globalization is profoundly changing environmental law. As a consequence, environmental legal scholarship and the teaching of environmental law are changing as well. This article shows that these changes, in general, have to be evaluated as promising and exciting.

Keywords
environmental legal scholarship; teaching environmental law; globalization; self-regulation

I am writing this contribution while attending a conference for environmental law professors from around the world in Baltimore, entitled ‘Global Environmental Law at a Crossroad’. While this fact does not deliver a whole lot of empirical proof, it is at least an indication that the ‘global’ is very much present in the work of environmental law scholarship. Why is that so?

To make that clear, I am afraid I have to start by conveying some bad news. We have run against the limits of environmental law. Environmental law, in its traditional sense of domestic law instruments - mainly command-and-control and financial instruments, applied by public authorities to improve and protect the natural environment, partly orchestrated, or at least influenced by international and regional law - works pretty well with regard to localised or regional environmental issues, but does not seem to be effective in addressing the global environmental problems that we face today. Global climate change, the global loss of biodiversity and the pollution and over-harvesting of the oceans are environmental problems of

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an alarming magnitude. There is no doubt about the existence of these environmental problems, and even no disagreement about the fact that they indeed are very serious.

At the international level, all of these issues were already recognised more than 20 years ago (with such conventions as the 1992 UN Framework Convention on Climate Change, the 1992 Convention on Biological Diversity and the 1982 UN Convention on the Law of the Sea). Unfortunately, now, there are no signs of improvement whatsoever. On the contrary, loss of biodiversity is increasing at an alarming rate and global greenhouse gas emissions have risen by 36% between 1992 and 2008.2

The reasons for the ineffectiveness of environmental law in addressing these global issues are manifold and diverse. There are the more legal issues, such as fragmentation of the law. International biodiversity law, for example, not only has been codified in the Convention on Biological Diversity, but also in such conventions as the Ramsar Convention (on wetlands), the Convention on Migratory Species, the European Wildlife Convention, the World Heritage Convention, the Convention on Trade in Endangered Species, and more. Command-and-control instruments, in general, have their limitations, as they require much government intervention and monitoring which, in times of a call for deregulation and a smaller public service, is not available. Much of the legal wording in these conventions is very weak, leaving plenty of room for manoeuvre for states at the domestic level. This indicates, probably, the main reason for the ineffectiveness of international environmental law: a lack of political will to really do something about global environmental problems. The examples are well-known.

Eventhough, since the drafting of the Kyoto Protocol to the UN Framework Convention on Climate Change in 2007, everybody knew that the Protocol would expire in 2012, the international community was not able to come up with a successor. During a Conference of the Parties in Durban in 2011, it was only agreed that there should be new rules in place as of 2020. The Rio+20 conference on sustainable development and the green economy that took place in 2012 in Rio de Janeiro, with more than 100 world leaders and many more government delegates from nearly all countries in the world present,

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