

## Book Review

Albert Breton, Giorgio Brosio, Silvana Dalmazzone, Giovanna Garrone, eds.  
*Governing the Environment: Salient Institutional Issues*  
Cheltenham, UK; Northampton, MA: Edward Elgar, 2009

Reviewed by Howard A. Doughty

Kenneth Burke was arguably the finest literary critic of his time. He was, however, more than that. In *Attitudes toward History* (1937), he proved himself something of a prophet as well. “Among the sciences,” he said, “there is a little fellow named Ecology, and in time we shall pay him more attention.” Now is the time.

In 1962, Rachel Carson began to prove him right, gaining notoriety for *Silent Spring*. In 1968, Paul Ehrlich revived the Malthusian theme of too many people, too little food in *The Population Bomb*. That was followed in 1972 by Donella H. and Dennis L. Meadows’ *The Limits to Growth* and thereafter came a wealth of books, articles, pamphlets, speeches and conferences (notably the United Nations Conference on Environment and Development in Rio de Janeiro in 1992). For a while, saving the planet became a fashionable cause, sometimes at the pinnacle of public opinion pollsters’ “top ten lists” of political concerns.

An energy crisis in 1973 that led to empty fuel tanks at service stations caused a brief panic throughout North America, but did not seriously influence the subsequent spectacular sales of expensive SUVs. Nonetheless, a sense of the environmental effects of modern technology and the human cravings they stimulated led some schools to include conservation in children’s science curricula. Excessive product packaging prompted angry letters to the editors of local newspapers. Endangered species from whales to spotted owls won the hearts of sensitive urban dwellers. The reduction, reuse and recycling of household materials became *de rigueur* among respectable middle-class progressives (even if some municipalities wound up dumping carefully sorted glass, paper and organic matter into the same old landfill sites. The wanton disregard for safety standards in the disposal of toxic chemicals and the dangers associated with nuclear power generation and, more importantly, nuclear waste disposal were given due attention, even provoking an occasional Hollywood movie – *The China Syndrome* (Jane Fonda, 1979), *Silkwood* (Meryl Streep, 1983) and *Erin Brockovitch* (Julia Roberts, 2000), come quickly to mind. Something less than a transformation change in human habits was evident; but, at least environmental concern translated into something more substantial than a campaign against littering in public parks.

All of this pales, however, in comparison to the global discussion of climate change and, more specifically, global warming. Now, attention is focused. Significant action, however, remains to be seen.

Still, despite Al Gore's combined triumphs of an Academy Award and a Nobel Prize, the prospects for comprehensive global action in defence of the planet or, at least, optimal human enjoyment of it, seem even more precarious than when our species, apart from an occasional William Blake taking notice of "dark satanic mills" mucking up the landscape of the midlands of England, took no heed of the possibility that human "progress" was harmful to the good health of the biosphere – ultimately including humanity itself.

Currently, the failure of nations to meet the requirements of the Kyoto Protocol of 1997 and the failure of the Copenhagen Treaty of 2009 to produce clear climate goals and enforceable restraints on CO<sup>2</sup> emissions highly the fundamental conflicts of interest and understanding on the part of some of the world's most powerful state actors.

Meanwhile, right-wing media outlets and others are cheering on those who claim that climate change is a monstrous hoax perpetrated by a bizarre conspiracy of intellectuals and socialists who despise the Western world. Climate change deniers are further emboldened by so-called "climategate," which boils down to the theft of some imprudent e-mails among a few scientists, and an embarrassing false alarm sounded by the International Panel on Climate Change to the effect that the ice atop the Himalayas is melting more rapidly than its own data supports. Such events are boost the fortune of "populists," especially in North America, who are quite convinced that every call for innovation for a new energy economy and every demand for environmental regulation of the old petroleum-based economy is evidence of an international conspiracy to destroy their jobs and their entire way of life.

In this context of suspicion and mutual antagonism, the recent deliberations in Copenhagen symbolize the human dilemma. On the one hand, they have been dutifully labeled "successful" by congenial optimists, patient incrementalists and political factions for whom any serious, compulsory and enforceable restrictions of the behaviour of global polluters were unacceptable. The Canadian government, for example, contentedly affirmed that all of Canada's goals had been achieved; environmental groups, in the alternative, awarded Canada the Colossal Fossil "award" for being the most relentlessly obstructionist participant in the process and the most unyielding obstacle to a meaningful agreement. On the other hand, people who hold firmly to the view that climate change is a real ecological catastrophe and that human activity is a major factor in contributing to an unlivable planet have already dismissed the Copenhagen Treaty as incompetent, ineffective and, for some, worse than no agreement at all.

Standing back from the debate, a calm assessment of the current situation might include the recognition that neither Kyoto nor the Copenhagen achieved much material progress toward ecological sanity, but may also suggest that we should rethink the value high profile and largely symbolic environmental summits. Bringing national leaders together for what amounts – barring last minute melodramatics – to the ritual enactment of bargains that have already been struck by "faceless bureaucrats" may not be in the interest of the planet, or even the participating politicians.

Instead, serious work on common environmental policies and procedures may eventually be no more than the cumulative result of a number of limited local initiatives that built momentum despite being somewhat uncoordinated, inconsistent and messy. What's more, even if the world were to experience some sort of major metaphysical shake-up and, through an unpredictable epiphany, come to its senses about the absolute primacy of environmental sustainability, the translation of good intentions into good policy, and good policy into good plans and good plans into good results will demand immense public sector work by people with or without public faces.

In any case, whether from the bottom up or the top down, the governance of the Earth in a manner that sustains human life at an optimal level will require instruments of policy development, implementation and enforcement. In the absence of appropriate institutional mechanisms to apply principles for environmental sustainability on a truly global basis, any inspirational announcements will be no more than "sounding brass and a tinkling cymbal." Helping to sort out the practical problems associated with instigating and executing international agreements on any and all environmental issues is the project undertaken by editors Albert Breton, Giorgio Brosio, Sivana Dalsmazzone and Giovanna Garrone.

*Governing the Environment* is one in a list of ten (to date) books in publisher Edward Elgar's series on Environmental Economics. Earlier volumes treated specific issues such as the economic valuation of river systems, oil and gas industry depletion and the effects of climate change on agriculture as well as more general topics. The contributions to *Governing the Environment* often start with similar specifics, but work toward more general considerations. They build connections rather than assuming overriding maxims and deducing particular applications from them..

Devils, as we are frequently reminded, find comfortable lodging in details. Few more compelling instances can be found in contract law, and few legal domains are more commodiously detailed than those involving international trade, finance and environmental agreements. Few also produce more cumbersome predicaments than those associated with global arbitration of disputes among nations with conflicting interests, especially when both economic costs and questions of national sovereignty are in play. These are precisely the sorts of matters that must be addressed and resolved if environmental concerns are to be properly addressed and if "governing the environment" (or, rather, governing human beings as we exercise our "dominion" over the environment) is to become a practical reality. Building an innovative institutional framework within which to exercise governance is perhaps the greatest challenge for anyone wishing and willing to bring about tonic change.

To this end, each chapter in *Governing the Environment* offers help in comprehending what can and should be done using the tools that are available. The book proceeds from work already accomplished in a previous volume *Environmental Governance and Decentralization* (2007) edited by the same quartet and based in the Department of Economics at the University of Torino. That collection examined the distribution of powers, institutional arrangements and policy development and institutional procedures

in sixteen countries in the EU and around the world. This volume follows up with the study of particular policy issues, but it can also stand alone and on its own merits.

In something of the same spirit as expressed by those who are unimpressed by grand global schemes, the contributors recognize that there is a substantial case to be made for decentralization of authority and practical planning and administration. Uniform and universal templates for policy making are, of necessity, too broad to permit ready application to particular places and circumstances. While minimum standards may be possible, there is a great danger that a “one-size-fits-all” strategy will fail to take into account heterogeneous conditions and will impose inefficiencies of its own when uniform standards are applied indiscriminately. As well, the unavoidable absence of precision in general rules tends to ignore or obscure the intricate array of interconnections that our more refined understanding of ecological complexity increasingly reveals. Breton and his associates affirm that an almost infinitely complicated ecology requires an almost equally complex or, at the least, flexible and sensitive set of responses from mere time-buying palliatives to authentic restorative measures.

*Governing the Environment* is composed of an introductory essay and nine substantial chapters ranging over a wide variety of issues, all related to the daunting task of making, enforcing and adjudicating rules about our deepest desires: prosperity in an aggressively competitive world economy and survival on an apparently threatened planet.

The contributors are not limited to balancing competing and sometimes incompatible national agendas. Elinor Ostrom, for example, provides an insightful assessment of the contributions that local communities can make to environmental problem-solving. She is fully aware that environmental solutions are the result of working through “collective-action problems.” She also knows that the size and scope of both the problems and their appropriate solutions vary widely. In some cases federal governmental systems will go a long way toward providing the most effective mechanisms for good governance, but she emphasizes the potential role of smaller units than, for example Swiss cantons or even American states. Even individual citizens or small communities not only can, but must be allowed to apply their intimate knowledge and creative imagination to “producing public goods and common-pool resources.” Emphasizing “design principles” over “blueprints,” she makes a strong case for both the efficacy and the efficiency of alternatives to centralized and overarching authority.

As well as questions of scale, a persistently difficult issue of authority revolves around the question of basic economic domain. In the era of administrative “reform,” the Reaganite mantra prevailed. The former United States president mocked the very idea of governance by saying that the nine most terrifying words in the English language are “I’m from the government and I’m here to help.” Not much has changed in the ideological conflict between those seeking to expand the already dominant private sector and those eager to maintain a more even balance with the public sector not merely with reference to a mixed economy but in other domains as well. The increasing preference for entrepreneurship in the public sphere and the replacement of the word “citizen” with

terms such as “customer,” “client” or “consumer” of public services is symbolic in the shift.

So, it is refreshing to read Marcia Valiante’s discussion of privatization and environmental governance. Noting the highly polarized nature of the debate about when, where, why and whether to privatize, Valiante concentrates on case studies of water services and forest certification. She begins with a sensible argument about definition. The public-private polarity is not an electrical on-off switch. Indeed, she suggests that such thinking exists mainly because proponents feel the need to ground their arguments in simplistic assumptions such as private sector efficiency versus public sector equity. Reality is more complicated. The nature and function of non-governmental organizations remains a sometimes hazy work-in-progress, the often ambiguous and always variable notion of public-private partnerships continues to float fluidly between the extremes and the curious introduction of exercises in voluntary resource stewardship by NGOs and industry associations is only now receiving attention.

Both water privatization and forest certification mainly affect developing nations. The reaction and assessment of both is contested. Although the standard economic arguments for the privatization of a major public utility (increased efficiency, elimination of government corruption and cronyism) are raised, it does not help that the push has come mainly from the World Bank and the International Monetary Fund as a condition for debt relief. Thus, rising prices mean high profits from the multinational enterprises that commonly assume ownership and the prices are paid by the poor at the tap. As for forest certification, there is a sensible argument that many underdeveloped countries simply do not have the governmental capacity to manage important natural resources. So, a plausible case can be made for industry self-regulation as a protection against unfettered exploitation with the inevitable ecological consequence of deforestation.

Valiante’s balanced assessment of both initiatives is helpful, at least insofar as it makes the case for privatization on pragmatic grounds credible in some cases, though it neither establishes it as a persuasive alternative to the concept that water (like education, health care and judicial due process) are universal human rights and not commodities for sale to the highest bidder, nor does it relieve governments of the obligation to husband natural resources rather than to turn this duty over to those who have a material interest in private profit and, at best, a secondary interest in corporate social responsibility.

Executive and legislative powers are obviously important in the generation of public policy. The sometimes neglected judiciary is the last issue among many that the editors of *Governing the Environment* has chosen to deal. Combining comparative law and economic analysis, Jason Scott Johnston and Michael G. Faure present an engaging, informative and challenging discussion of the judicial role in environmental governance in the United States and the EU.

In both domains, the key concept is the authority and power that the courts have to regulate cross-border environmental issues. Despite the trend in the USA toward centralization of control in Washington from the rise of the imperial presidency in the

1950s and 1960s to Dick Cheney's "unitary executive" theory and his musings about unlimited executive power, the tradition of the rights of the sovereign states impose at least informal limits on the trend toward centralization. In keeping with the decentralist theme in the book, Johnston and Faure explain the importance of refraining from concentrating decision making in a single authoritative body. The regulation of interstate commerce and refer approvingly to recent US Supreme Court decisions that reverse what they see as the 1940-1995 in which the US federal government was given *carte blanche*, in their opinion, to impose whatever environmental protections they deemed warranted upon any of the united states. Moreover, they add, "US federal courts rarely if ever said that any set of activities were beyond the constitutional limits of federal regulative authority." Now, they say, "the Supreme Court has taken a new look at its jurisprudence on the authority of Congress to regulate interstate commerce, and has decided that there are after all some limits on Congressional commerce clause power.

Likewise, in the EU, the residual concerns over national sovereignty play a part in the argument to keep environmental regulation decentralized. That said, Johnston and Faure point out that, the overriding goal of the EU is economic integration. So, member states are not permitted to impose "a blanket restriction on or prohibit the importation of various products on the ground that they are polluting." More recently, however, the European Court of Justice has begun to balance the primary initial rationale for the EU with what is surely the greater long-term issue. So, while still placing "important weight on the overall treaty goal of freeing the European market from trade restrictions," it is now giving "weight to the interest of the Member States and perhaps the Community as a whole, in having Member States take responsibility for their own pollution." This is not the way I would phrase the matter, but it at least indicates that the EU seems poised to sacrifice the opportunity to buy cheaper goods in exchange for a cleaner environment. If such prices result from the imposition of higher environmental standards produced by Member States, then perhaps paradoxically, decentralization can lead to higher standards throughout the community.

Throughout the book, economics and ecology, concentration and devolution of power and, not far beneath the surface, fundamental differences on questions of political philosophy are at issue; but so are immediate, pragmatic and sometimes quite technical problems in need of focused solutions.

Whatever one's underlying beliefs and programmatic prescriptions, this is an excellent and thought-provoking examination of the sort of complexities that are lost in ideological exchanges of slogans. Anyone who reads it seriously from any side will find their assumptions and attitudes challenged and will be called upon to come up with thoughtful responses that may involve fresh, innovative thinking. Their minds might not be changed, but their arguments will have to be sharpened.

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