# World Environment Day 2020: A Brief Reflection on International Economic and International Environmental Law From A TWAIL/Global South Perspective

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June 5th is World Environment Day. World Environment Day reminds us not to take nature for granted. Colombia, this year's World Environment Day host in partnership with Germany remind us that:

> "The foods we eat, the air we breathe, the water we drink and the climate that makes our planet habitable all come from nature. Yet, these are exceptional times in which nature is sending us a message: To care for ourselves we must care for nature. It's time to wake up. To take notice. To raise our voices. It's time to build back better for People and

Planet."

The COVID 19 pandemic has turned this year's event into a Global Online Forum. The theme this year is biodiversity. A theme selected because "recent events—from bushfires in Brazil, the United States, and Australia, locust infestations across East Africa, and now a global pandemic—demonstrate the interdependence of humans and the webs of life in which they exist," in a way that makes caring for our biodiversity — both an urgent and existential issue.

In spotlighting biodiversity, we are reminded that our existence on Earth depends on interconnected ecosystems. Wildlife, such as bats, bees, birds, spiders and wasps are responsible for pollination, which is essential for agricultural production. Agricultural products are the sources of our medicines and food. However, human activities, including agricultural production, consumption patterns, deforestation, over-exploitation and pollution, contribute to the loss of biodiversity. One way to contribute to conserving biodiversity is through promoting agricultural production that safeguards the environment. Policymakers in the Global South should resist the pressures to 'unlock their agricultural potential' by focusing mainly on large scale industrial farming that relies on mono-cropping and excessive chemical inputs. Global South countries will benefit from maintaining and investing in sustainable small-scale agroecological farming grounded on traditional practices such as mixed-cropping of farmers varieties that promote *in-situ* conservation of biodiversity.

The attention on biodiversity should also encourage Global South countries to reexamine their implementation of the Convention on Biological Diversity (CBD) and its Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Benefit Sharing Arising from their Utilization (Nagoya Protocol). The CBD and Nagoya affirm States sovereign rights over their biological resources and provide for prior informed consent, disclosure of origin and fair and equitable sharing of the benefits arising from the utilization of genetic resources (Articles 1, 8j, 15, CBD; Articles 5 -7, Nagoya Protocol). Effective national or regional biodiversity laws are crucial to prevent the misappropriation of genetic resources and associated traditional knowledge, especially in the biodiversity-rich Global South. Notable examples of misappropriation or attempted misappropriation of plant genetic resources and associated traditional knowledge from the Global South include intellectual

property rights, particularly patents and trade marks,  sought for Neem, Turmeric and Basmati from India; Teff from Ethiopia;  Rooibos from South Africa; and Quinine from South America.

Furthermore, the environment has been at the center of international economic law from a TWAIL and Global South Perspective from the work of scholars like R.P. Anand, Patricia Kameri-Mbote, Ikechi Mgboeji and Chidi Oguamanam. As Usha Natarajan shows, these international lawyers focused on "on environmental and natural resource issues occurred in the context of their movement to inaugurate a New International Economic Order (NIEO) in the 1960s and 1970s to improve Third World participation in the global economy." Scholars such as Karin Mickelson have since that period traced the colonial legacies of international environmental law and unearthed its partial narratives about non-European peoples damaging and despoiling the environment. She pushed back against environmental accounts that promoted a view of rare habitats and rich biodiversity resources as only worthy of protection because only Western states and environmental groups sought to do so.  The work of scholars like Karin Mickelson and Usha Natarajan arguing against seeing the environment as a site of extraction to achieve development in terms of roads, dams and irrigated farms while ignoring human needs is consistent with the theme of this year's Earth Day.

The linkages between the environment and human needs is widely recognized in the decisions of Africa's international courts. Courts in the Global South have also been very active with climate change litigation. Third World jurists like Justice Christopher Weeramantry's powerful pro-environmental dissenting opinion in the ICJ's 1999 decision, Kasikili/Sedudu Island (Botswana/Namibia) is particularly noteworthy. In Paragraph 117 of his dissent, Justice Christopher Weeramantry argued that, "[t]he future will demand an international law that is sensitive and responsive to the problems of environmental law. The careful integration of the necessary principles of environmental law into the traditional body of international law is an important task awaiting attention. The principles and the duties arising from environmental obligations now superimpose themselves upon such rights arising from State sovereignty as may have been recognized by prior international law in an absolutist form."

We also have a stream of impressive edited books that explore the intersections of international environmental and international economic law from a Global South perspective. On example is International Environmental Law and the Global South, edited by Shawkat Alam Sumudu Atapattu, Carmen G. Gonzalez and Jona Razzaque, Cambridge University Press, 2015. Also out this year is The Cambridge Handbook of Environmental Justice and Sustainable Development, edited by Shawkat Alam Sumudu Atapattu, Carmen G. Gonzalez and Sara L. Seck. There is a growing literature on Third World Approaches to International Environmental Law from scholars such as Usha Natarajan and Antonius Rickson Hippolyte. These TWAIL scholars also trace how international environmental law and general international law are both structured in ways that systemically reinforce ecological harm and what we should do to overcome this.

Another important theme is the connection between climate change, race and migration, a theme that Carmen Gonzalez addressed in her 2020 Wing-Tat Lee Annual Lecture in International Law at the Loyola University of Chicago School of Law. This theme of climate change is having a disproportionate impact on those who contributed least to the problem, including the small island states, least developed countries, indigenous peoples, and the poor is the subject of important scholarship including from Maxine Burkett, Ruth Gordon and Patricia Kameri-Mbote, among others.

Finally, we have seen a surge in climate activism, especially from children and young adults, especially after Greta Thunberg launched the Fridays for Future (FFF) Movement in August 2018. FFF is a global movement that seeks to 'put moral pressure on policymakers, to make them listen to the scientists, and then to take forceful action to limit global warming.' Young climate activists pushing for policy changes in Africa include Elizabeth Wathuti, Founder, Green Generation Initiative, Adenike Oladosu, Initiator, Fridays For Future movement in Nigeria and Vanessa Nakate, Founder, The Rise Up Movement and 1Million Activist Stories.

This is by no means an exhaustive overview of Global South perspectives on the environment. We invite our readers to share more examples of academics and practitioners working on environment related topics. Happy World

Environment Day!

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