Review of Cathrin Zengerling, *Greening International Jurisprudence*

Environmental issues come in different shapes and sizes. Some are better dealt with locally: keeping a river free, e.g., or protecting a public park. Other problems are not like this. People worldwide stand to lose from climate change, air and water pollution, or the loss of the ozone layer; and the causes of the problems are just as widespread. So we need global environmental law and global institutions. These form the topic of Cathrin Zengerling's impressive and fascinating study. *Greening International Jurisprudence* gives a detailed account of the patchwork of regional and global environmental law, including bilateral and multilateral treaties, human rights law, standards in investment agreements and customary law. Zengerling points out flaws both in the legal doctrines and in the institutions which enforce them. A running theme in her criticisms is the limited space given to environmental NGOs. She also lays out positive proposals for improvement: most importantly, more room for NGOs and the creation of a World Environmental Court.

The heart of Zengerling's book is an account of a huge range of regional and international legal institutions which have environmental issues in their remit. As well as obvious ones like the Aarhus Convention, the Kyoto Protocol and the International Tribunal for the Law of the Sea, the book covers (among others) human rights courts, the OECD National Contact Points, the International Court of Justice, the WTO and arbitration under investment treaties. Some of these come in for heavy criticism. The International Centre for the Settlement of Investment Disputes is where private investors sue states under investment agreements. As Zengerling shows, its record on environmental issues is appalling: again and again, the ICSID treats public-interest legislation as expropriation. It also lacks democratic legitimacy and its proceedings are not public: perhaps it „should not deal at all with cases that involve public interests" (279). Other bodies, like the ICJ and ITLOS, could do better if they applied more substantive environmental law and allowed NGOs to take part as amici curiae. Zengerling finds that the Aarhus Convention Compliance Committee is „the most advanced international quasi-judicial institution" (149): independent, transparent, accessible to NGOs and effective in securing compliance, it is a model of what international environmental law could be, and it ought to grow into a global convention.

Throughout the book Zengerling argues for a bigger role for NGOs in international environmental law: they should be able to act as parties (starting compliance procedures) and as friends of the court. This will help with enforcement, since states tend not to bring cases; it will help with transparency, as NGOs can demand reasons and report on proceedings; and it will make the law more democratic by giving a voice to environmental interests and to the „global demos". (But is it right for unelected NGOs to have this power? Zengerling says: „NGOs do not have to prove any legitimacy" (37) as they do not want to be judges or legislators, merely plaintiffs. But the line between making the law and just enforcing it is not always so clear. And note that international NGOs are mostly based in developed countries (39).) Zengerling's major idea is a World Environmental Court which would consistently apply international environmental law (treaty-based and customary), making the law better enforced and more coherent. The WEC would be open to NGOs and individuals as well as states. Zengerling's proposal builds convincingly on her analysis of the workings (and failings) of the present international legal system. But the conflicting interests apparent in the system may also obstruct our attempts to fix it. Zengerling's clear and principled discussion is a guide for future reforms: the question now is whether we can agree to carry them out.