

The Congesting of Multilateral Environment Agreements (MEAs), Towered a Legal Taxonomy of Overlapping Norms Within and Without Institution Mandate

Ali Sadik Thajb,¹ 

¹Lecturer, College of Law, Thi-Qar University

ali-sadiq2023@utq.edu.iq

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***Corresponding author:**

Ali Sadik Thajb¹

ali-sadiq2023@utq.edu.iq

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Abstract

Without a primary authority or international institution, the body of environmental regimes and institutions have extended with reduction and individually way to operate. despite a few debates on the legal overlap on certain subject matter within the body of international law, no study has offered legal criteria or method that helps to diagnosis the source of legal conflicts in the body of environmental law. This research and in order to illustrate the type of overlap, offer an assessment to understand how this overlap established between environmental instruments and defined that both states and international institutions are the sole source of legal conflict within environmental body. These findings would facilitate the identification of obstacles that hamper the resolution of the problem and finding of practical solution embodied in managing the legal conflict. This study can help policy-makers in improving the performance of environmental legal instruments by implementing the text to eschew any contradictions within the Multilateral Environment Agreements MEAs during the negotiation phase. Therefore, this study and its findings to focus on filling in the gaps in the environmental legal system regarding the situation of congested rules. This can be approached by adopting the basis and criteria of overlap offered by this study and modeling them to face the wide separation of the environmental fields. Then, this research would offer a legal method to approach a synergies and recommendation for such overlap on congested MEAs.

Key words: Congesting, legal overlap, Taxonomy Legal conflict, Institutional overlap, criteria of MEAs

Introduction

Multilateral Environment Agreements (MEAs) have been agreed upon to tackle environmental degradation, but their macro-structure basically remain unchanged. The congestion of MEAs is consonant with Rakhyun and Mackey observation and opinion that during the period the international environmental law was not developed systematically, the MEAs has become a disjointed set of separate international institutions and agreements. This process apparently

matches the classic definition of fragmentation, from the days of the industrial revolution, human activities have radically changed the world's environmental conditions. Jakob studied how the use of human resource has been increased rapidly in the last few hundred years as a function of population, wealth and technology.

F Zelli, H Van Asselt contended that the fragmentation of international environmental cannot be avoided, in their response to the challenge of environmental degradation, he said that the international community has established agreements and institutions to tackle the issues. As a result of their efforts, there are now more than seven hundred MEAs. The growth of the number of environmental rules has created an overlap between the rules and institutions. This has led to the understanding that international environment law is messy and complex not just because there is a proliferation of entities or legal instruments, but also because the implications are many because there are so many rules. That also leads to overlap and contradictions within the body of environmental law.

This phenomenon reflected on the national level of MEAs members, The way when one rule under a certain environmental agreement frustrates another rule under another environmental agreement still exist in, whether these rules impose rights or obligations. It highlights the isolation and disconnect between the regimes and institutions for it particularly resonates with international environmental law; a complex regulatory field that consists of multiple regimes and institutions that gives rise to overlapping and, at times, conflicting legal and policy mandates.

So it is necessary to study the mechanism of contradictory to approach a certain criteria. First, this research will investigate on the types and method when the promises to regulate the state's obligations under an environmental treaty may clash with a constraint imposed by a regulation of another environmental agreement. Then, this research would profound on the criteria of institutional overlap as the second part. This paper will discuss the finding to come up with necessary recommendations.

Types and Samples of Legal contradiction

The fragmented international environmental law has resulted in the overlap and conflation of its instruments and rules. In this part, this research will identify peculiar criteria in order to distinguish between numerous types of legal conflicts. It will mostly apply in this theory the samples of the "United Nations beyond the state? Interactions of intergovernmental treaty secretariats in global environmental governance" by Philipp, in sake to exemplify the characteristics of each category of conflict by defining and illustrate core types of regime conflicts that this research differentiates by their manifestation and directness. Thus, separate a latent (tacit) kind of legal conflicts from what should call manifest (explicit) types of legal conflicts. This distinction will also be useful analytically for evaluating hypotheses about the effect of MEAs overlap.

Latent Conflict

Latent conflicts are the incompatibility of laws they are not manifest in a conflictual behaviour and conduct by actors directly predictable. Based on the general concept of conflicts between regimes, latent conflict can be defined as: “a functional instrumental overlap amongst international regimes taking form of a significant contradiction of rules, but without being manifesting these to a contradicting behaviour of actors.” Latent conflicts being under consideration by scholars through a time, particularly those of international law. Latent conflicts are usually exist prior to most cases of what additional below will be recognize as manifest conflicts. Hence, it should come as no surprise that for the type of latent conflicts discussed, a number of examples will be provided that are quite common in the context of the preceding topics.

The most important cases of dispute are those between, on the one hand, the trade provisions of the MEAs and, on the other, General Agreement on Tariffs and Trade GATT laws. In 1996, about 20 MEAs have been reported by the WTO Committee on Trade and Environment (CTE). Of these MEAs, three in nominated and authorize procedures that clearly breach or violet GATT rules by so-called TREMs (trade related environmental measures), they are, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Montreal Protocol (also other protocols and annexes to the Vienna Convention for the Protection of the Ozone Layer) and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. All three regimes collide with GATT “by banning the import of numerous substances on the basis of the status of the country of origin (e. g. states that are not members to the MEA, member to the MEA that fall into particular categories, and member not in obedience with the MEA).” Notwithstanding these overlap, so far, there has never been a World Trade Organization WTO challenges to a trade-related measure entitled to by an MEA. This rather surprising sign justifies the classification of these incompatibilities as only “latent conflicts”.

Explicit Conflict

Contrasting to latent conflicts, manifest conflicts are not or do not only appears between laws but have embodied in the way of conflict or behavioural discrepancies between actors. Consequently, could be define a manifest conflict as: “a functional overlap within international regimes manifested in clashes between actors that referring to thus regimes.”

The word denoting left open, when in a regime’s life-cycle (i.e. through negotiations in the post of access into force), where (i.e. within regime entities or before tribunals of third parties) also, utmost of all, in which situation or why (i.e. because of its initiatives for regime alteration or because of their submission or submission with conflicting rules) There may be conflicts between some actors. Moreover, the term does not indicate who the actors (for example, states or institutions) are. This need for an explain of further distinctive standards that will present

below.

At this point, a primary distinction must be made in light of another aspect, namely the amount to which manifest conflicts are preceded by latent conflicts, i.e. the extent to which they are tied to an open incompatibility and contradiction of regime laws

Materials and Methods

In this part, this research present certain other criteria in order to supplement and modify the typology of legal conflict among regimes within international environmental law offered up to this point. These further criteria probably can be classified into couple of groups: first group of overlap of the environment regimes that were involved in a normative conflict i. e. their functional, sharing subject matter. The other group encompass properties of the overlap of environment regimes which are involved in institutional conflict e. g. conflict mandates or jurisdiction and conflict place/arena.

This research proposes a taxonomy of legal conflicts within the body of environmental law basing on the idea of the main actors in international community that are able to create such universal environment instruments which they are states and international institutions. So, when it comes to recognize which actors mainly involve into manifest regime conflicts, the answers so far point at bureaucracies (specially organs, secretariats, specialized committees, and working groups) and states. This part will differentiate between legal overlap among institutions and those legal overlap among states, which is an analytical division, since in reality, such congesting can include both kinds of actors to a certain extent.

Normative Overlap Without Institutions Mandate.

Most of the normative overlap was without incident and, possibly, mostly benign. However, functionally, the coherence of an international legal framework may be challenged by isolated normative systems and improvements. They also raise the risk of contradictions with the international environmental law standards applied to the same act or omission, and between the various subject areas and principles of which such legal standards are committed.

Classification of Norms Conflict

A legal overlap of obligations entails a conflict of values . It is a fundamental principle of legal reasoning that norms can be classified as prescriptive (inducing an obligation to do something), prohibitive (imposing an obligation to refrain from doing something), permissive (granting permission to do something), or exemptive (granting permission not to do something). This taxonomy is critical for distinguishing environmental from non-environmental norms and for classifying disagreements within environmental norms. The primary distinction is between norms that impose obligations (positive or negative) and norms that confer rights (again, positive or negative). In the first situation, a state is compelled to behave in a particular way (either by fulfilling a positive duty of action or by exercising a negative duty of restraint); in

the second instance, the state retains the discretion to exercise or not to exercise a right. However, it must be exercised in order for the right to be defined as right. The restrictions on the exercising of a right could be inherited, i.e. related to the existence of the subject that owns the right or contingent to legal limitations (freedom of speech is contingent on limitations imposed by hate speech legislation for example). Finally, the State maintains the inherent right to conduct, as mentioned in the Lotus principle, in the absence of any norms awarding a right, either positive or negative, or imposing a duty.

MEAs norms emanate from their different objectives, goals, implementation and ecological process, can be uttered as commitments of behaviour or as rights granting norms. As an instance of the initial kind, prescriptive rules, most standards of treatment norms create positive duties on states members. For example, Article 8(j) of the Convention of Biological Diversity CBD requires the parties to do three things:

“respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity;”

“promote their wider application with the approval and involvement of the holders;” and

“encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”

As an illustration of prohibitive norms, the majority of performance standards prevent the imposition of the requirements specified in Article 27.3 (b) of Trade-Related Aspects of Intellectual Property Rights TRIPS allows members to exclude from patentability the following: plants and animals other than micro-organisms; and

essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.

An example of exemptive norms, allowing the states members of CITES to exercise its right in Article XIV.2 which allow to take any measures that suite their ambitious and trade plans.

“The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields”.

Implication of Normative Conflict, How Legal norms Conflicting?

As mentioned in previous sections, the normative conflict between environment regimes represent a deeper legal conflict, not about just a different of goals, obligations and objectives, but about the values which those legal rules and instruments are existed for. Thus, overlap are namely the result of (1) an inappropriate understanding of the certainty of those values, (2) the connection among them, or the manner they are stated and interpreted in legal practice.

For the first form of these hypothesis, it can be called "valuable values". In the situation in which two of values appear to be in odds, then the conflict is obvious because only single one of those values is a real, actual or valuable and the another is not. If only one of them is a value, then the obvious contradict dissolves because the suitable course of act is to track the legal norm that supports the valuable is value. For instance, the case that mentioned above which consider as latent, the conflicts between the trade rules of MEAs on the one hand and GATT rules related to environment measures on the other hand, would dissolve if in this case admit that only environmental protection consider value and environment measures that involved in trade has not. In this case, those principles stipulated in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Montreal Protocol and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal will prevail on GATT by exclusion the import of various substances on the basis of the status of the country of origin.

According to a second form of hypothesis, which should term it "hierarchical values," an appropriate understand of the relationship among the two values can simply explain the conflict. Satisfactory logic would illustrate that there is no actual undetermined as to which one is more valuable. Such a suitable example fills in this form is the conflict in case when India, Pakistan, Malaysia, and Thailand have confronted the US banning on hunting or fishing shrimp with no turtle excluder devices (TEDs) before the WTO. The United States argued that shrimp came from some countries that do not take necessary precautions and activities to safeguard scarce animals such as turtles under a number of multilateral environmental agreements. The WTO Appellate Body declared that the United States could limit trade for environmental motives to protect health of human, plant life and endangered species. The Appellate Body claimed: " We have not agreed that appropriate steps to protect endangered species, such as sea turtles, should not be introduced by independent nations that are member of the". Clearly, one may argue that trade restrictions are detrimental to environmental conservation. Furthermore, it may be argued that modifying the property regimes by which public fisheries and ecosystems are maintained is a more operative legal measure to preserve endangered species.

However, the fact of normative conflict is remain week and able to vary to a different form. Because there may be cases that contain a single of the values in conflict which not valuable or hierarchal such as the case study will illustrate in next chapter. There are various ways of achieving value by law for any moral value, some of which are better than others. There is also an element of contingency in the relationship between values and law.

Summing up, the myth of normative conflict is the idea that the values itself are in probable conflict, whether latent or manifest, in the later was direct or indirect. In certain situations, the legal norms or the legal framework in which the dispute occurs can alter and the overlap can

be resolved. Yet normative conflicts cannot be completely avoided, in reality, it is bound to render friction to impose various principles into the law with various implementations. For this reason, many experts understand that overlap do not represent a legal anomaly. The congesting study in fact argues that regulatory overlap are endemic in international and international law, particularly environmental law.

Moreover, the above discussion shows that a legal overlap existed in the previous examples represent a pure colliding within MEAs that operate in the absence of institutions. Despite of existing a small organ within those environmental regimes, but their function minored and exclusive to arrangement of states members interests. Hence, this research proposing to subject a legal solutions and techniques to overcome such a legal conflict as will explain later.

Institutional Conflict

In the creation of environmental legal instruments, international environmental institutions play a peerless role. So, in sake to further the criteria of legal conflicts that exist in the environmental body, this research proposes to approach the diverse situations of institutional conflict. The analytical approach count on theoretical contributions from the field of institutionalism, more precisely, institutions and implementation literatures and studies. institutions are often defined as "an entities created by implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given issue area." The term 'implementation' refers to the level of international implementation at which more international agreements on protocols and procedures of enforcement and the operation of legal rules are involved. This is a main concern when dealing with interlinkages between institutions in term of approaching the criteria of institutional conflict.

Institutional Interlinkage

Institutional overlap and the principle of linkage have arisen as a solution to the problem of addressing global issues in a chaos world that run through poor and disjointed international institutions. The principle of Linkage for Thomas, et al, it can help in managing with this governance defects in regimes by releasing buried synergies among thus regimes, so establishing more active governance structures. Institutions function and Linkage on a various of stages and may appear as an outcome of a designed governance strategy or as a result of ecological, sociological or functional interdependence.

Assuring that one of the most inclusive approaches at grappling with institutional connections, the describing the concepts of embedded, nested, clustered, and overlapping in situations. This part is mostly concerned with the fourth linkage kind of overlapping institutions. According to this, overlap occurs when one regime or institution's functional scope extends beyond the functional scope of another. Unlike the other three, this fourth type of connection may take into account an externality, resulting from unplanned and unexpected consequences of choices. But this description presented was a bit general, it offered a perspective at highest level when every

institution are eventually linked by the fact that they operating within the world of public international law.

Moreover, there are two dimensions in which institutional conflict can be researched in detail. First, there may be an excessive number of sub items within a certain issue area, allowing for many sets of functional overlap between two contrasting regimes and institutions, such as Human Rights Law., Trade Law and Environmental Law, this shall be excluding from the thesis area. These items may have a wide range of economic, environmental, and social consequences. Second, there may be multiple regime conflicts concurrent with the first, all of which are inside the same issue area and regime. The later represent such a complex situation that need to conclude in comprehensive survey.

The second dimension might be described as functional, dynamic or, more specific overlapping. This occurs when the regime's functional concerns or subject matter are linked or overlap in "bio-geophysical or socioeconomic terms" and, whilst they might criss-cross with each other on a de facto base, there may be minimum intentional intersect among them. The functional linkage may be suitably describing the present relationship between the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and 1995 United Nations Fish Stocks Agreement (UNFSA). When the latter provides in Article 7(2) impose management procedures for straddling fish stocks and highly migratory fish stocks for the high sea, and that conflict with UNCLOS regulatory, this the case when Article 297(3)(a) offers that the "coastal state shall not be obliged to accept the submission to binding dispute settlement procedures of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone (EEZ) or their exercise." Of course, functional linkage or the symmetry of overlaps among regimes and institutions would repeatedly deliver the origin for further, deliberate interaction.

Criteria of Institutional Conflict

To address the numerous instances of institutional conflict, it shall distinguish between the norms established by an institution and the explicitly stated rules to which states members of that institution may be bound. Norms denote to the overall policy objectives and principles of the institution that incline to take a legitimacy among participating member actors to this institution. The explicit rules provide specified regulations for state conduct, at implementation phase. such identification among norms and rules is made mainly to grab the dynamics of environmental institutions contradiction and conflict. The normative effect of institutions is likely to be obvious from the initial phases of regime creation. while explicit rules typically emerge later in the regime formation process.

Currently, many MEAs incline to be establish as institutions, where, within well-nested protocols, more precise policy-oriented rules are defined next. According to the same memo, a conflict situation is not inevitably static. As negotiation parties become aware of the tensions

produced by divergent standards or convention, this may give rise to constructive negotiations and efforts to produce logical taxonomy. So, this research amount on a criterion to distinguish the institutional overlap that suite the congesting of environmental institutions. Hence to determine the suitable taxonomy that fit with the concept of legal institutional conflict.

Type I of institutional conflict shows the overlap between dissimilar norms, and agreed or settled rules in term of implementation, but in different subject-matters. More clearly, this kind of overlap create a legal conflict on phase of institutional negotiations and before interrering into force. An instance of this typology is the case study of United States-Shrimp that mentioned earlier. In the depth of this case there is a conflict between norms of international institution, and similarities between rules that created to implement legal norms adopted by same institutions. The institution namely are WTO and environmental institutions that protect the integrity of ecosystems, natural resources, animal and plant life, and human health such as UNFSA.

Thought WTO is established for trade purposes, but it operates in way to envisaged environmental damage, for that WTO adopt environmental measures to avoid any environmental degradation. On the one hand, the WTO reinforcing trade liberalization as a way to economic growth. Open trade would give more guarantees for developing countries to the huge markets. Trade is sponsored by the WTO as a means to provide well employment prospects, to grant to underdeveloped and developing countries a chance of access to education and medicine, and to increase the values of living and enhance overall human well-being. Sikina asserted that MEAs maintain the integrity of natural resources, ecosystems, animal and plant life, and human health. So, numerous MEAs with trade measures have multiple objectives, to all of which trade measures might not be matched.

The institutional overlap in type II describes the overlap between institutions with both differ norms and rules, regarding to the several different issue-area. This may be expected to depict the situation with the maximum opportunity for conflict. The situation may arise when multilateral agreements, such as two agreements target the trade and environment, contradict within a single-issue area. This is a situation of the relationship between Basel Convention 1992 on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal that adopted by UN, and GATT principles that adopted by WTO. Both treaties belong and refer to different objectives and different rules in application. The free trade principles applied by GATT lead to many jeopardies due to the unsuitable handling have been the impact to human health by leakage of toxins into ground water, the atmosphere, or the soil etc. Basel Convention impose a complete ban on trade in hazardous waste among member parties to the Convention and non-parties and it specifically gives right of any party to exclude the import, export of hazardous waste.

In type III of institutional overlap, institutions face an overlap situation with compatible or

agreed norms and different or diverse rules in application. This situation exists when an institution has been created on a compatible basis of goals and objectives, but ultimately their explicit rules are divergent in application. Examples are the relationship between conservation treaties such as UNCLOS and some resource management treaties, such as the whaling regime under which the International Whaling Commission IWC 1949 operates. When the IWC was established, the whale has been seen as an economic resource by the organization. The main reason for protection imposed by this convention was to secure a stable and long-term income for the whaling industry. This overall policy objective, as stated in the preamble to the International Convention for the Regulation of Whaling ICRW. Recently, IWC regulations have been importantly changed to reflect due to the international pressure represented by UNCLOS under Article 56. Later, a much higher focus by IWC on pure conservation instead of economic purposes. Against this typology, the institutional overlap suited to the third type. It represents a legal conflict of mandates within environmental issues that aim to protect the ecosystem and lifecycle in various matters.

Results and Discussion

This research investigated how and when the congested instruments of the MEAs overlap on any particular subject matter. It was shown that when two regimes overlap in their objectives, approaches, principles and norms it may, to a certain extent, be possible that they will exert an influence on each other's performance as a whole.

Generally, they proposed a logical classification that is suitable for the situation of the congested environmental body by taking the position that the main central entities can legislate and create environmental rules. In the review of the basics of fragmentation of general international law, it is clear that both the (states and institutions) are the main international personalities. Thus, the norms are created mainly between the states and international institutions, and what this means is that there is no universal legislature or administration with comprehensive mandates except the states and institutions.

It is clear that the phenomenon of congesting of MEAs threatens the harmony, coherence, and liability and in the end how leading to the inevitable outcome i.e. conflict. Generally, the inference to the main actors in international law helps to build a basic categorization for the environmental legal system when it comes to the issue of fragmentation and consequently conflict. Usually, the process of enacting laws and its applications are exercised by the states and institutions. However, in theory the environmental legal norms are divided into functional norms and institutional norms.

Against this introduction, the categorization adopted in this research can help to diagnose the existing conflict within an environmental body. The norms that emanate from the states to

regulate environmental issues are without institutional mandates and they are usually described according to the activities or functional activities that they have to undergo, and it is all made possible by the states wills and consents. The norms are described by this research as changeable norms and it is all because of the numerous interests of the member states of each specific convention. The aforesaid norms also are classified based on the terms of its creation and application by the states themselves. For the norms that emanate through an institutional source, they are organized from the phase of creation to the phase of application by the institution acting on behalf of the member states.

The research pointed out that from the viewpoint of legal congesting, it is important if a conflict can be assorted as a normative conflict or an institutional one. A true conflict, in the legal concept, will give rise to a diversity of legal problems, but the main actors of environmental regime are still the sole source that can influence the mechanism of conflict

Practically, this research aimed to differentiate between the two standards of the legal fragmentation and conflict in the body of environmental law, and the main finding are as fellow:

For those legal instruments that are run by state actors directly and without institution mandate, the overlap in the sharing of subject matter has existed in the operations of those regimes starting from its creation, operation until its implementation. This was observed in several given example.

For those environmental legal instruments that operates within an institutional mandate, they described that those conventions on environmental issues have rigid and fixed objectives. What this means is, that those institutions are dealing with predetermined constant or unchanging objectives and as such the overlapping of certain subject-matters will occur during the creation and implementation phases only and not operation.

Consequently, the legal instruments that are run by state actors directly and without institution mandate will continue to develop as long as the states can make direct decisions through their contribution in the decision-making process in conferences and other bodies that administer those conventions. As a result, the ambiguity and divergence will continue to expand as long as those legal activities intersect due to the multiplicity of interests.

Unlike the overlapping between the environmental legal instruments that operates within an institutional mandate, the states have limited authority because restrictions on their authority was put in place when the institutions were created. Hence, those organs are the only one which have impact on the decision regarding environmental issues. This makes it difficult to make changes in the post-creation period and the overlap, if any, is smaller, clear-cut and can be seen during creation and implementation phase

Conclusion

This research makes the following recommendations to the body of knowledge.

1. Regarding the first method of managing conflict through legal techniques (avoiding and resolving conflicts) stipulated in VLCT1969, the study showed their weakness and obstacles in addressing legal overlapping within MEAs. The research hereby, recommends various additional techniques to make them adequate. (1) revising how states decide which contradictions are worthy of attention; (2) taking a proactive approach to treaty drafting in order to avoid potential conflicts; (3) using purposivist interpretation more frequently; (4) using assurance in an expanded and more formalized manner; (5) institutionalizing safeguards against treaty conflicts, particularly for institutional one; (6) incorporating better background rules for instances where safeguards and other techniques are not effective; and (7) refining the processes states use to build the international legal system. These techniques require negotiators to think of the international environmental legal system as a web of related agreements that can affect one another. Consequently, not only will these techniques prevent conflicts, but it will also have the salutary effect of spurring international lawyers, and policy makers, who profess to be working within an international environmental legal system, to more carefully consider the shape and operation of that system as a whole.
2. With regard to the second method of conflict management (coordination and cooperation), such method has been mandated for conference of parties COPs, Secretariats and other entities created by MEAs, whether those operating within and without institutional mandate. Here, this research recommends the existence of such method and initiatives in proactive steps instead of creating them after conflict manifestation. This could be achieved if different MEAs have certain areas overlapping in regulations however, it necessitates the establishment of a second-order institution or entity in advance that can coordinate the overlap.
3. Taken together, these methods and techniques do not constitute a simple solution to the overlap caused by MEAs's congesting. Due to these limitations, this research recommends that it is better, however, to focus on minimizing the effects of a treaty overlap, rather than covering it over with a formalistic solution that does not address the underlying problems. Thus, there are two basic requirements for an effective response to treaty conflicts: (1) default rules that give better predictability as to which treaty would be enforceable in the case of conflict; and (2) standard procedures for treaty negotiators and drafters to maximize the probability of avoiding conflicts. If international lawyers and policy maker wish to claim that international environmental law functions as a coherent system, they must treat it as such. Fostering the habits and procedures that build coherence-from how clauses are drafted to the underlying rules governing state practice with respect to treaties-is of primary importance.

This assessment of legal overlap within the international environmental law debate was

needed, firstly, to reinforce the direction of this research with regards to its objectives of examining the contradictions caused by the congested of MEAs legal instruments. The large number of environmental instruments is one of the main features of the international environmental law's development and the aforementioned law's huge expansion over the last thirty years has drawn attention to the various tensions among the various norms of the environmental regimes. The notion of overlap that raised and discussed in this research emphasized the incoherence and contradictions that exist with the establishment of MEAs as a result of environmental fragmentation. It also emphasized the inevitable normative and institutional legal conflict.

Secondly, the examination of the legal overlap within and without the institutional mandates in this research support the argument to adopt the main actors as the standard to identify between the conflict within the rules created by the state's efforts through more projects, avenues and from those settled by the institutions that were acting on behalf of member states. As described earlier, the conventions run by the member states', the operations managed through COPS and ad hoc groups were prone to applying the rules inconsistently. The multiplicity was caused by the evolution of needs and interests of the member states in the MEAs that run without institution mandate. It is unlike the institutions whose operational mechanism has been described as rigid because they follow the rules. This is obviously so when the notion of overlap in this research illustrate that from the viewpoint of international law, it is significant if a overlap can be classified as a normative or institutional one. Real overlap in the legal sense gives rise to a number of liability issues. While some international lawyers' concerns about the fragmentation of international law may have been overblown.

REFERENCES

- Alter, K. J., & Meunier, S. (2009). The politics of international regime complexity. *Perspectives on Politics*, 7(1), 13–24.
- Biermann, F., & Kim, R. E. (2020). Architectures of Earth system governance: Setting the stage. In F. Biermann & R. E. Kim (Eds.), *Architectures of Earth System Governance: Institutional Complexity and Structural Transformation* (pp. 1–34). Cambridge University Press.
- Elferink, A. G. O. (1999). The impact of Article 7(2) of the Fish Stocks Agreement on the formulation of conservation and management measures for straddling and highly migratory fish stocks. *Journal Name*, (Issue), 2. (Add journal name and issue if available).
- Elsässer, J. P. (2023). *United Nations beyond the state? Interactions of intergovernmental treaty secretariats in global environmental governance* (Doctoral dissertation).

Universität Potsdam.

- Hale, T. (2020). Transnational actors and transnational governance in global environmental politics. *Annual Review of Political Science*, 23(1), 203–220.
- Hickmann, T., van Asselt, H., Oberthür, S., Sanderink, L., Widerberg, O., & Zelli, F. (2020). Institutional interlinkages. In F. Biermann & R. E. Kim (Eds.), *Architectures of Earth System Governance: Institutional Complexity and Structural Transformation* (pp. 119–136). Cambridge University Press. <https://doi.org/10.1017/9781108784641.006>
- Ivanova, M. (2021). The untold story of the world's leading environmental institution. (Add publication details if available).
- Jinnah, S. (2010). Overlap management in the World Trade Organization: Secretariat influence on trade-environment politics. *Global Environmental Politics*, 10(2), 54–79.
- Kim, R. E., & Mackey, B. (2014). International environmental law as a complex adaptive system. *International Environmental Agreements: Politics, Law and Economics*, 14(1), 5–24.
- Skovgaard, J. (2017). The devil lies in the definition: Competing approaches to fossil fuel subsidies at the IMF and the OECD. *International Environmental Agreements: Politics, Law and Economics*, 17(3), 341–353.
- Woods, N. (2023). Multilateralism in the twenty-first century. *Global Perspectives*, 4(1), 68310.
- Zelli, F. (2015). Institutional fragmentation. In *Encyclopedia of Global Environmental Governance and Politics* (pp. 469–477). Edward Elgar Publishing
- Convention on Biological Diversity. (n.d.). Text of the convention. Retrieved from <https://www.cbd.int/doc/legal/cbd-en.pdf>
- World Trade Organization. (n.d.). Article 27.3(b) Background information. Retrieved from https://www.wto.org/english/tratop_e/trips_e/art27_3b_background_e.htm
- CITES Secretariat. (n.d.). Convention text. Retrieved from <https://www.cites.org/eng/disc/text.php>
- Basel Convention Secretariat. (n.d.). Basel Convention text. Retrieved from <https://www.basel.int/Portals/4/Basel%20Convention/docs/text/BaselConventionText-e.pdf>
- Library of Congress. (n.d.). Treaties and other international agreements of the United States. Retrieved from <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0248.pdf>
- United Nations. (n.d.). United Nations Convention on the Law of the Sea (UNCLOS). Retrieved from https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf
- Food and Agriculture Organization. (n.d.). FAO legal text. Retrieved from

<http://www.fao.org/3/a-bb037e.pdf>

Cambridge University Press. (2020). DOI reference. Retrieved from
<https://doi.org/10.1017/9781108784641.001>