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EDITORIAL

Salvaging Environmental Law

1. Introduction

Transnational legal scholarship is fuelled by the observation that 'conventional' law, whether domestic or international, is often inadequate for its objectives.[1] Although some transnational initiatives merely supplement effective legal regimes, others emerge to remedy serious institutional shortcomings or to establish governance where none would otherwise exist. In certain of these instances, transnational law is more like a life raft, offering what may be the only remaining alternative to a sinking ship.

Is environmental law a sinking ship? The articles contained in this issue of *Transnational Environmental Law* (*TEL*) touch on the usual variety of subfields and specialties, but they have in common a sober outlook on the conventional environmental enactments and instruments within their purview. Whether those instruments remain seaworthy is, of course, a matter for debate, and the authors offer some sharp and incisive takes, but the project of *TEL* is, as always, a constructive one, even when the project takes the form of salvage, rather than refinement. The articles in this issue come in three sets. The first set examines the Rights of Nature, a movement very much animated by a thoroughgoing critique of existing environmental instruments. The second set focuses on international climate law – an area which, though undoubtedly vital, can claim few successes in the battle against greenhouse gas emissions. The final articles explore resource governance issues in specific contexts.

2. The Rights of Nature

A premise of the Rights of Nature (RoN) movement is that contemporary environmental law is too enmeshed in systems of environmental harm to move beyond them. In his article, 'The Illusion of Harmony: Power, Politics, and Distributive Implications of Rights of Nature',[2] Matthias Petel credits the RoN movement with the idea that '[m]ainstream environmental law is deeply anthropocentric and, therefore, inherently unable to achieve sustainability as it reproduces the very logic responsible for ecological collapse'.[3] Beyond this shared recognition, however, there are significant differences in the ideological contexts within which the RoN movements have taken root. In some instances, proponents take inspiration from Indigenous approaches; elsewhere, the movement reflects shared objectives with advocates for environmental justice; and,

1 V. Heyvaert & T.F.M. Etty, 'Introducing Transnational Environmental Law' (2012) 1(1) *Transnational Environmental Law*, pp. 1–11.
2 M. Petel, 'The Illusion of Harmony: Power, Politics, and Distributive Implications of Rights of Nature' (2024) 13(1) *Transnational Environmental Law*, pp. 12–34.
3 Ibid., p. 13.

finally, the RoN movement has found some favour even in the very belly of the beast – in the wealthy West – amidst a worldview that Petel labels 'green colonialism'.[4] The content and implementation of rights of nature remain human constructions, of course, so Petel's inquiry focuses on how, within a given ideological climate, such rights may alter power and distributional dynamics between human communities. This move sets Petel apart from other scholars whose principal focus is the evolving relationship between human and nature.

So how might RoN shape power relations under, say, green colonialism? Interestingly, Petel argues that it 'could further exacerbate the marginalization of disenfranchised communities'[5] by elevating nature's rights without regard for human harm. Petel's example here comes from Bangladesh, where 'the recognition of the legal personhood of Bangladeshi rivers by the country's Supreme Court put poor communities at risk of eviction'.[6] Bangladesh is perhaps far from the nerve centre of green colonialism, but Petel's broader point is that RoN may enable wealthy or privileged parties to protect local environmental amenities at the expense of other social groups. In other words, nature's rights within this context are vulnerable to 'elite capture'.[7] Ironically, Petel sees a complementary logic at work in the environmental justice context: here, the worry is not capture by elites but rejection by non-elites, who often feel compelled to support 'the intensification of extractive industries in the region because of the lack of viable economic alternatives'.[8] Even where rights of nature are situated in the context of indigeneity, Petel expresses worry that linking Indigenous self-determination to the willingness to serve as stewards of nature could put pressure on Indigenous communities to 'essentialize their relationship with nature'[9] and to 'conform to Western stereotypes of "primitive" societies'[10] in order to '"earn" the power to represent nature and enforce its rights'.[11]

Petel's account implies that granting rights to nature, in any context, may not remake social relations or align with broader social goals – indeed, the reader is left to ponder whether the 'logic responsible for ecological collapse' is replicated even in the RoN discourse. All this makes for a rather sobering backdrop for the next article, 'Rights of Nature on the Island of Ireland: Origins, Drivers, and Implications for Future Rights of Nature Movements'.[12] Authors Rachel Killean, Jérémie Gilbert and Peter Doran conduct a qualitative, empirical study of the emergence of RoN in Ireland, where several local councils, in both Northern Ireland and the Irish Republic, have

[4] Ibid., pp. 17, 19 (citing Guillaume Blanc's use of this term to describe land expropriation for the sake of ecological conservation: G. Blanc, *L'invention du colonialisme vert: Pour en finir avec le mythe de l'Eden Africain* (Flammarion, 2020)).
[5] Petel, n. 2 above, p. 19.
[6] Ibid., p. 19.
[7] Ibid., p. 21.
[8] Ibid., p. 25.
[9] Ibid., p. 28.
[10] Ibid., p. 31.
[11] Ibid., p. 32.
[12] R. Killean, J. Gilbert & P. Doran, 'Rights of Nature on the Island of Ireland: Origins, Drivers, and Implications for Future Rights of Nature Movements' (2024) 13(1) *Transnational Environmental Law*, pp. 35–60.

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endorsed the rights of nature in recent years. The authors interviewed over a dozen subjects involved in this development to learn about their motivations and to analyze the drivers of the RoN movement on the island of Ireland.

As Petel might have predicted, much of the councils' motivation was frustration with the status quo – not frustration merely at the limited ambit of existing environmental law, but a rising sense that environmental law itself, as presently structured, was simply not delivering what it promised. 'The only thing that environmental regulations regulate are environmentalists', noted a councillor interviewed for the article.[13] In Northern Ireland, in particular, Killean, Gilbert and Doran discovered a prevailing sense among their subjects that 'existing environmental governance was failing them'.[14] Confronted with profound shortcomings in legal implementation, enforcement, transparency, and accountability, these individuals received ideas and encouragement from international advocates, who urged them to challenge the regnant approaches to environmental governance.[15]

There can be no doubt that the RoN movement has attracted international advocates, explicitly dedicated to transplanting their ideas in any fertile context; but what makes a polity or locale suitable for incubation? Killean and her co-authors posit that local features – aspects of Ireland's history, language, and culture – were notably conducive to the RoN campaign. Brehon law, for example, used widely in Ireland until its conquest by England was completed in the mid-17th century, contained aspects especially resonant with the RoN.[16] Local connections of this sort helped to persuade Irish advocates that the logic and language of nature's rights could be useful in their efforts; such points of connection no doubt facilitate the establishment of 'nodes' which, in bottom-up fashion, may foster additional translation to yet other cultures and geographies.[17]

However, nodes alone, without a more complete viral spread of the broader normative or legal structures in which they operate, may be insufficient to bring about meaningful change. Killean, Gilbert and Doran bookend their study with reminders that the motions adopted by local councils have no binding effect because, ultimately, they will require central approval. 'There is therefore', they conclude, 'a contradiction at the heart of the local treatment of Rights of Nature as a drive for "system change" when, in fact, even local initiatives will require change at the centre'.[18] Nonetheless, the hope remains that such rights can 'challenge fundamental principles', and such hope 'has persisted despite the limited legal success' of the broader movement.[19]

[13] Ibid., p. 41.
[14] Ibid., p. 51. See also C. Brennan, M. Dobbs & V. Gravey, 'Out of the Frying Pan, into the Fire? Environmental Governance Vulnerabilities in Post-Brexit Northern Ireland' (2019) 2(2) *Environmental Law Review*, pp. 84–110; C. Brennan, R. Purdy & P. Hjerp, 'Political, Economic and Environmental Crisis in Northern Ireland: The True Cost of Environmental Governance Failures and Opportunities for Reform' (2017) 68(2) *Northern Ireland Legal Quarterly*, pp. 123–57.
[15] Killean, Gilbert & Doran, n. 12 above, pp. 41–5.
[16] Ibid., pp. 46–7.
[17] Ibid., p. 43.
[18] Ibid., p. 57.
[19] Ibid., p. 54.

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3. International Climate Law

The next set of articles in this issue focuses on the design and implementation of international climate law. The gaps and shortcomings of this body of law are well known, and the research presented here interrogates the efficacy of the climate regime in the light of these shortcomings. In her article 'Carbon Leakage and International Climate Change Law', Alice Pirlot examines the critical matter of carbon leakage.[20] Readers of *TEL* will know that leakage is a perennial concern associated with emissions reduction policies, as shifting emissions beyond a policy's coverage may well be less costly than abating emissions or purchasing emissions credits.[21] Pirlot presses the matter several steps further, contesting the common claim that 'in the absence of an international agreement that fully harmonizes mitigation policies, carbon leakage constitutes an environmental problem and needs to be mitigated'.[22]

Pirlot's insight is that carbon leakage is both an environmental problem and an economic problem. Conflation of the two has led to unhelpful imprecision in debates about, in particular, the Paris Agreement[23] and the propriety of carbon border adjustment mechanisms (CBAMs). Pirlot begins by distinguishing between climate change mitigation systems that are open or closed (closed systems establish global emissions ceilings) and homogeneous or heterogeneous (homogeneous systems 'require countries to adopt mitigation strategies that lead to equivalent emissions reduction efforts or uniform mitigation policies').[24] Closed systems, while able to contain the environmental risks of leakage, may nonetheless allow the economic risks to persist – especially to the extent that participants in heterogeneous systems distrust the integrity of the system. Moving from theory to reality, Pirlot worries that CBAMs could be regarded by other states as attempts to force a transition towards homogeneity, which then 'could weaken the consensus reached at the international level and lead countries to withdraw from the existing climate change regime'.[25] By contrast, when states use exemptions, free allowances, and direct subsidies to address leakage, no such external pressure arises.

A further concern about the structure and efficacy of emissions reduction policy has to do with the economic harmonization of discrete carbon reduction and removal efforts. For example, many have puzzled over the compatibility of carbon dioxide removal (CDR) technologies with the European Union (EU) Emissions Trading System (ETS). Lukas Schuett's article, 'Permanence and Liability: Legal Considerations on the

[20] A. Pirlot, 'Carbon Leakage and International Climate Change Law' (2024) 13(1) *Transnational Environmental Law*, pp. 61–86.

[21] See, e.g., D. Farber, 'Climate Policy and the United States System of Divided Powers: Dealing with Carbon Leakage and Regulatory Linkage' (2014) 3(1) *Transnational Environmental Law*, pp. 31–55; J. Peel, L. Godden & R.J. Kennan, 'Climate Change Law in an Era of Multi-Level Governance' (2012) 1(2) *Transnational Environmental Law*, pp. 245–80; C. Arup & H. Zhang, 'Lessons from Regulating Carbon Offset Markets' (2015) 4(1) *Transnational Environmental Law*, pp. 69–100; L. Rubini & I. Jegou, 'Who'll Stop the Rain? Allocating Emissions Allowances for Free: Environmental Policy, Economics, and WTO Subsidy Law' (2012) 1(2) *Transnational Environmental Law*, pp. 325–54.

[22] Pirlot, n. 20 above, p. 85.

[23] Paris (France), 12 Dec. 2015, in force 4 Nov. 2016, available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

[24] Ibid., p. 64.

[25] Ibid., p. 81.

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Integration of Carbon Dioxide Removal into the EU Emissions Trading System', takes up the question of whether the ETS marketplace could provide CDR technologies with a 'necessary financial boost'.[26] Integration poses several policy concerns. CDR technologies vary in terms of the permanence of the carbon sink, but market integration would require carbon assets to be broadly fungible to promote market liquidity. Moreover, without some sort of liability mechanism for carbon 'reversal events', the integrity of the ETS could erode.

Schuett's article examines several different approaches to these concerns: the Kyoto Protocol's Clean Development Mechanism (CDM),[27] which treated carbon removal credits (CRCs) as temporary; voluntary carbon markets, which employ bespoke contracts of varying duration; and tonne-year accounting, which grants permanent credits on a post hoc basis after a predetermined time of successful carbon storage.[28] The analysis yields a number of compelling insights. We learn, for example, that 'most voluntary carbon schemes do not reward temporary carbon storage if it is reversed intentionally before the end of the contract period'.[29] This 'all-or-nothing approach', though intuitively appealing, could 'deter the deployment of CDR projects at the forefront'.[30] Schuett concludes that environmental integrity requires that 'only CRCs issued for permanent CDR technologies should be integrated into the EU ETS', and that '[t]he project operator's liability should transfer to the Member State under certain conditions to encourage CDR investments by making liability risks more predictable and insurable'.[31]

Policies addressing carbon leakage and carbon storage rely essentially on quantification – on the availability of reliable data that corresponds to the real-world phenomena targeted by the policy. In her article 'Measuring It, Managing It, Fixing It? Data and Rights in Transnational and Local Climate Change Governance', Laura Mai confronts head-on the philosophical and social problems associated with the 'datafication' of climate change governance.[32] Her thesis is worth quoting in full:

> [D]ata itself has been emerging as a central *means* of climate change governance. Rather than merely supporting or being the outputs of governance processes, data, in a very real sense, does governing work: it constitutes and restructures relations between actors, creates and sustains novel forms of power and authority, disrupts existing modes of claiming legitimacy, and ultimately purports to render the climate governable.[33]

These claims are as consequential as they are provocative, and Mai's article in totality presents a forceful case for their veracity.

[26] L. Schuett, 'Permanence and Liability: Legal Considerations on the Integration of Carbon Dioxide Removal into the EU Emissions Trading System' (2024) 13(1) *Transnational Environmental Law*, pp. 87–110, at 88.

[27] Kyoto Protocol to the United Nations Framework Convention on Climate Change, Kyoto (Japan), 11 Dec. 1997, in force 16 Feb. 2005, Art. 12, available at: http://unfccc.int/resource/docs/convkp/kpeng.pdf.

[28] Schuett, n. 26 above, p. 90.

[29] Ibid., p. 103.

[30] Ibid., 103.

[31] Ibid., p. 110.

[32] L. Mai, 'Measuring It, Managing It, Fixing It? Data and Rights in Transnational and Local Climate Change Governance Law' (2024) 13(1) *Transnational Environmental Law*, pp. 111–33.

[33] Ibid., p. 112.

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Using a case study of the Global Covenant of Mayors (GCoM), Mai begins by asking what 'datafied' climate governance prioritizes and what it ignores. Consumers of large-scale climate data might seldom pause to consider how that data is generated; Mai's respondents describe the very practical frustrations of trying to produce data required by the GCoM programmes. Their accounts 'bring to the fore the very quotidian and practical limits of local capacity, the struggles to make data relevant and useful in place, and the exclusionary effects of standardized measuring and reporting requirements'.[34] Mai then turns to ask whether a human rights-based approach could usefully complement data-driven measures. She argues that such approaches would put at 'centre stage the interests, needs, capacities, and concerns of affected communities'.[35] In this way, governance methods could be made more thoroughly responsive to specific local needs. More provocatively, her scepticism about data as the medium between the local and the centre leads Mai to postulate that the climate law emperor may have no clothes: 'the very notion of "governance" may no longer be adequate to describe what it is that data and rights can do in relation to climate crisis'.[36]

In expressing an almost existential doubt, Mai echoes the frustrations of countless climate advocates over the years who, like Sisyphus himself, laboured in seeming futility for loss and damage payments from industrialized super-emitters to climate-vulnerable countries. Their efforts finally bore at least some fruit, for the first time, at the 27th meeting of the Conference of the Parties (COP27) of the United Nations Framework Convention on Climate Change (UNFCCC)[37] in Egypt in 2022.[38] Patrick Toussaint's article, 'Loss and Damage, Climate Victims, and International Climate Law: Looking Back, Looking Forward', offers a critical assessment of the agreement concluded at COP27.[39] The agreement established that the parties would create new funding arrangements to assist vulnerable developing countries in addressing loss and damage and, specifically, create a fund to support the most vulnerable countries already incurring loss and damage.[40] Indeed, on 30 November 2023, the first day of COP28 in the United Arab Emirates, the UNFCCC parties reached agreement on such a fund – though, as Toussaint predicted, without reference to some of the most contentious aspects, which include compensation, liability, reparations, admission of wrongdoing or historic responsibility.[41]

[34] Ibid., p. 120.
[35] Ibid., p. 127.
[36] Ibid., p. 133.
[37] New York, NY (United States), 9 May 1992, in force 21 Mar. 1994, available at: https://unfccc.int.
[38] UNFCCC, Decision 2/CP.27, 'Funding Arrangements for Responding to Loss and Damage Associated with the Adverse Effects of Climate Change, including a Focus on Addressing Loss and Damage', 17 Mar. 2023, UN Doc. FCCC/CP/2022/10/Add.1, available at: https://unfccc.int/sites/default/files/resource/cp2022_10a01_adv.pdf.
[39] P. Toussaint, 'Loss and Damage, Climate Victims, and International Climate Law: Looking Back, Looking Forward' (2024) 13(1) *Transnational Environmental Law*, pp. 134–59.
[40] Ibid., p. 139.
[41] UNFCCC, Decision -/CP.28 -/CMA.5, 'Operationalization of the New Funding Arrangements, including a Fund, for Responding to Loss and Damage referred to in Paragraphs 2–3 of Decisions 2/CP.27 and

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The bulk of Toussaint's article compares the recent debates and outcomes with a similar proposal, which he refers to as 'the birthing moment of loss and damage under the climate regime'[42] – namely, a proposal for an international insurance pool proposed to the Intergovernmental Negotiating Committee (INC) by the Alliance of Small Island States (AOSIS) in 1991.[43] Toussaint employs the comparison to 'take stock of how far the international community has come in addressing loss and damage'.[44] The comparison yields a number of fruitful and generative insights – some encouraging, some illuminating, some unnerving. Toussaint concludes:

> At a broader level, the analysis reveals how normative and legal arguments by climate-vulnerable countries for liability, compensation, and for more meaningful engagement with loss and damage were suppressed during the INC meetings, a practice which continued under the subsequent 30 years of climate negotiations under the UNFCCC. Three decades on, the key demand of climate victims, for industrialized states to bear liability for loss and damage, remains off the table.[45]

Indeed, Toussaint urges that the lessons of the past 30 years make certain that the fund 'will be insufficient … Moreover, it would be very likely to be framed as a matter of greater capacity, international solidarity, charity, and humanitarian relief rather than moral responsibility born out of a history of colonialism and excessive resource exploitation'.[46]

4. Resource Governance

The final two articles in this issue take up issues of resource-specific governance. In 'Adapting Hydropower to European Union Water Law: Flexible Governance versus Legal Effectiveness in Sweden and Finland',[47] Suvi-Tuuli Puharinen, Antti Belinskij and Niko Soininen provide a case study of the EU Water Framework Directive (WFD), as applied in Finland and Sweden.[48] The study examines how those two Nordic Member States, ordinarily 'model students in the implementation of EU law',

2/CMA.4', 17 Mar. 2023, UN Doc. FCCC/CP/2022/10/Add.1', 13 Dec. 2023, advance unedited version, available at: https://unfccc.int/documents/636558.

42 Ibid., p. 136.

43 Vanuatu, on behalf of the Alliance of Small Island States (AOSIS), 'Insurance Mechanism', in Intergovernmental Negotiating Committee, 'Negotiation of a Framework Convention on Climate Change: Elements related to Mechanisms, Vanuatu: Draft Annex relating to Article 23 (Insurance) for Inclusion in the Revised Single Text on Elements relating to Mechanisms (A/AC.237/WG.II/Misc.13) submitted by the Co-Chairmen of Working Group II)', 17 Dec. 1991, UN Doc. A/AC.237/WG.II/CRP.8, available at: https://unfccc.int/resource/docs/a/wg2crp08.pdf.

44 Toussaint, n. 39 above, p. 141.

45 Ibid., p. 158.

46 Ibid., p. 158.

47 S.-T. Puharinen, A. Belinskij & N. Soininen, 'Adapting Hydropower to European Union Water Law: Flexible Governance versus Legal Effectiveness in Sweden and Finland' (2024) 13(1) *Transnational Environmental Law*, pp. 160–89.

48 Directive 2000/60/EC establishing a Framework for Community Action in the Field of Water Policy [2000] OJ L 327/1.

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have given effect to the WFD in the light of the fact that both states had 'incorporated a strong permanence for hydropower permits'[49] that shielded such permits from the types of revision that the Directive could require. Although it was initially unclear how exactly the WFD would apply to existing permittees, a 2015 decision of the Court of Justice of the European Union (CJEU) confirmed, among other things, that hydropower permitting decisions would indeed now be required to incorporate the EU's water management objectives.[50]

'Despite clear legal and institutional similarities between Sweden and Finland', the authors explain, 'their governance approaches in response to the WFD differ markedly'.[51] While Sweden has pursued a systemic, top-down framework, 'the Finnish choice entails a context-specific, ad hoc approach with a bottom-up orientation'.[52] For the authors, this difference, while providing 'a textbook example'[53] of the principle of subsidiarity as articulated in Article 5(3) of the Treaty on European Union,[54] also enabled a productive case study about the tension between the EU preferences for law and adaptability. Sweden's approach, though formally sound, left 'little or no discretion' for 'formulating policies at the regional and local levels or for collaborative initiatives, processes that initially were to be the core of the river basin governance approach of the WFD'.[55] By contrast, Finland's framework 'hardly qualifies as appropriate implementation of the WFD, as it lacks the necessary safeguards to ensure effective and proper fulfilment of its requirements'.[56] Ultimately, the authors conclude, formalistic implementation of the Directive, as required by the CJEU, has 'lost certain crucial characteristics of a governance approach in EU law, including adaptive capacity and policy formulation at the river-basin district level'.[57]

The final article in this issue of *TEL* is Sébastien Jodoin and Kasia Johnson's 'The Intersections of Public Rights and Private Rules: An Analysis of Human Rights in Forestry and Fisheries Certification Standards'.[58] The article addresses the growing intersections of transnational environmental law with human rights, a field that is often held as having the potential to salvage public and private forms of resource governance. Jodoin and Johnson press two questions: 'whether, how, and to what extent do environmental certification schemes address human rights norms and

[49] Puharinen, Belinskij & Soininen, n. 47 above, p. 185.
[50] Case C-461/13, *Bund für Umwelt und Naturschutz Deutschland eV* v. *Bundesrepublik Deutschland*, ECLI:EU:C:2015:433 (*Weser*), paras 43, 50–1.
[51] Puharinen, Belinskij & Soininen, n. 47 above, p. 164.
[52] Ibid., p. 164.
[53] Ibid., p. 162.
[54] Lisbon (Portugal), 13 Dec. 2007, in force 1 Dec. 2009, available at: http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12012M%2FTXT.
[55] Puharinen, Belinskij & Soininen, n. 47 above, p. 185.
[56] Ibid., p. 186.
[57] Ibid., p. 189.
[58] S. Jodoin & K. Johnson, 'The Intersections of Public Rights and Private Rules: An Analysis of Human Rights in Forestry and Fisheries Certification Standards' (2024) 13(1) *Transnational Environmental Law*, pp. 190–222.

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principles in their standards?' and 'how and why do schemes in different sectors of environmental governance differ in their levels of human rights adherence?'.[59]

The answer to the first question is clear; each of the certification standards assessed by the authors 'adhere to at least one substantive human right and at least one procedural human right'.[60] There was, however, variation as to the depth and coverage of these rights. Workers' rights were widely protected while the rights of minorities and women, for example, were less commonly included. The authors note that 'the inclination of these schemes towards procedural conceptions of justice over substantive ones and the focus on participation rather than consent is typical of the broader ways in which human rights and equity issues have been operationalized in environmental law and governance'.[61] But what explains the variation among standards? The article canvasses various explanations and concludes that levels of human rights adherence in certification schemes vary 'in ways that appear to be influenced by the same types of institutional and sectoral variable that scholars have identified as shaping the stringency of environmental standard setting'.[62] In other words, the project of drawing on human rights to 'save' environmental law may prove to be a false promise if it is not accompanied by transformative changes in the underlying political economy of environmental governance.

5. Conclusion

So, is the vessel of environmental law sinking or seaworthy? Whatever one's conclusion, we trust that the scholarship supplied in this issue will contribute to an understanding not only of the rough waters ahead but of the ability of transnational law to provide important ballast for the journey. We remain deeply grateful to our authors, editors, and readers for the patient and thoughtful dialogue that has become a hallmark of this intellectual community.

6. *TEL* Best Article Prize

The first issue of each new volume of *TEL* offers the exciting moment of announcing the winners of the annual *TEL* Best Article Prize for the most innovative and thought-provoking contribution published in *TEL* in the preceding year. The selection of the winning article and two honourable mentions is made by an annually rotating panel of *TEL* Advisory Board members, on the basis of a selection of contributions from each issue nominated by the *TEL* Editorial Board, to which the selection panel can add up to three 'wildcards' for articles they deem worthy of the prize but that were not previously shortlisted by the Editors. We are delighted and most grateful that Natasha Affolder and Louis Kotzé agreed to judge the prize this year.

[59] Ibid., p. 191.
[60] Ibid., p. 203.
[61] Ibid., p. 207.
[62] Ibid., p. 221.

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It is with great pleasure that we announce the winner of the *TEL* Best Article Prize 2023:

Alexander Zahar, 'Agricultural Exceptionalism in the Climate Change Treaties'[63]

The judges motivated their decision by noting that 'this thought-provoking article offers an innovative shift of focus in global climate law and governance discourse onto the oft-neglected agricultural sector and the climate harms this sector causes. Exceptionally well-researched and supported by a systematic and comprehensively detailed analysis, it reveals the qualifications in climate change treaties that appear to exempt the agricultural sector from its mitigation obligations. This contribution is both highly innovative in terms of its focus and its results'.

In addition, the selection panel awarded two honourable mentions:

David Jefferson, Elizabeth Macpherson & Steven Moe, 'Experiments with the Extension of Legal Personality to Ecosystems and Beyond-Human Organisms: Challenges and Opportunities for Company Law'[64]

The judges awarded this article the first honourable mention because 'it exemplifies creativity in legal research and thinking. It extends existing legal scholarship by contemplating the significance of evolving concepts of legal personhood for nature for companies. In so doing, it puts new questions on the table and raises the challenges of reconciling tensions between legal concepts that are simultaneously developing in distinct fields. Methodologically, the article makes innovative use of a thought experiment. It will hopefully encourage future cross-fertilization between environmental law and company law scholarship';

and

J. Michael Angstadt, 'Can Domestic Environmental Courts Implement International Environmental Law? A Framework for Institutional Analysis'[65]

The second honourable mention was awarded because the judges found 'this article stands out for its ambition to add a framework within which the contributions of domestic courts to implementing international environmental law might be better understood. The author tackles the challenging task of framework enunciation with both nuance and sophistication. This article contributes early theory-building that can pave the way for future interdisciplinary work elucidating how domestic law institutions both shape and are shaped by international environmental law'.

[63] A. Zahar, 'Agricultural Exceptionalism in the Climate Change Treaties' (2023) 12(1) *Transnational Environmental Law*, pp. 42–70.

[64] D.J. Jefferson, E. Macpherson & S. Moe, 'Experiments with the Extension of Legal Personality to Ecosystems and Beyond-Human Organisms: Challenges and Opportunities for Company Law' (2023) 12(2) *Transnational Environmental Law*, pp. 343–65.

[65] J.M. Angstadt, 'Can Domestic Environmental Courts Implement International Environmental Law? A Framework for Institutional Analysis' (2023) 12(2) *Transnational Environmental Law*, pp. 318–42.

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The author of the winning article will receive an award of £250 in Cambridge University Press books, and honourable mention authors receive £50 in books. In addition, all three articles will be made permanently freely available to read on Cambridge Core, and each of the authors will receive permanent access to the full journal online archive (all content from volume 13 (2024) onwards is published Open Access).

We heartily congratulate Alexander as this year's prize winner, and David, Elizabeth, Steven, and Mike as the honourable mentions! It is a privilege to have so many excellent contributions to select from each year for the *TEL* Best Article Prize, and we are most grateful to our community of *TEL* scholars, reviewers, readers, and our wonderful editorial team, whose invaluable support enables *TEL* to continue to flourish.

7. *TEL* Editorial Board Announcements

The *TEL* editorial team has seen some changes as we enter the journal's 13th volume. Firstly, it is with great gratitude that we say goodbye to two longstanding *TEL* Editors, Cinnamon Carlarne and Bruce Huber. After having served on *TEL's* Board for respectively 13 and 10 years, the time has come for Cinnamon and Bruce to move on to other endeavours, with which we wish them the very best. It has been a true pleasure and privilege to have worked so closely with Cinnamon and Bruce on making *TEL* the success it is today, and we are comforted by the knowledge that they both will remain close members of the *TEL* family, as they join our Advisory Board.

We are delighted to welcome two stellar new Editors to the team to follow in these formidable footsteps: Sébastien Jodoin (McGill University, Canada) joined in January 2024, after four years on the *TEL* Advisory Board, and Harro van Asselt (Cambridge University, United Kingdom) will join in July 2024. Both have made invaluable contributions to *TEL* for many years, including as recurring authors and reviewers, and we are delighted to solidify their *TEL* connection through Editorial Board membership.

Editors-in-Chief
Thijs Etty
Josephine van Zeben

Editors
Leslie-Anne Duvic-Paoli
Bruce Huber
Sébastien Jodoin
Leonie Reins

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