

## EDITORIAL

# *A Celebration of the Fifth Anniversary of Transnational Environmental Law*

It gives us tremendous pleasure to introduce the Fifth Anniversary Issue of *Transnational Environmental Law (TEL)*. To mark the occasion, last year the *TEL* Editorial Board launched a competition for innovative scholarship on the theme of common but differentiated responsibilities (CBDRs) in the era of transnational law. It was hotly contested: over 25 abstracts were submitted which, after careful selection and full peer review, resulted in the eight top quality articles that make up this very special issue.

Each of the eight anniversary issue articles makes a strong contribution to the burgeoning field of transnational environmental law. A competition, however, obviously needs a winner. We are delighted to announce that the *Transnational Environmental Law* Fifth Anniversary Prize winners are Sébastien Jodoin and Sarah Mason-Case with their article ‘What Difference Does CBRD Make? A Socio-Legal Analysis of the Role of Differentiation in the Transnational Legal Process for REDD+’.<sup>1</sup> We extend them our warmest congratulations. As winners of the competition, Dr Jodoin and Ms Mason-Case have been invited to deliver the *TEL* Fifth Anniversary Public Lecture, which will take place in Cambridge (United Kingdom) in February 2017. We refer our readers to the *TEL* website at [http://journals.cambridge.org/jid\\_TEL](http://journals.cambridge.org/jid_TEL) for further details of the time and venue.

Reviewing and choosing between eight diverse and compelling scholarly contributions is no easy task. The *TEL* Editorial Board is therefore extremely grateful to Professor Jacqueline Peel for her willingness to adjudicate the competition. As one of the world’s leading scholars in international and transnational environmental law, and an experienced *TEL* author herself, we could not have wished for a scholar more suited to the task. Her decision was reached based on an assessment of anonymized versions of the articles. Immediately following this brief Editorial is a Foreword by Professor Peel, in which she frames the CBRD theme in the rapidly evolving context of transnational climate change law, discusses the contribution of each anniversary article to the theme, and conveys the reasons for

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<sup>1</sup> S. Jodoin & S. Mason-Case, ‘What Difference Does CBRD Make? A Socio-Legal Analysis of the Role of Differentiation in the Transnational Legal Process for REDD+’ (2016) 5(2) *Transnational Environmental Law*, pp. 255–84.

selecting ‘What Difference Does CBDR Make?’ as the winner among eight worthy candidates.

The five years since the launch of *TEL* have been an eventful time for environmental law and policy. To name but a few highlights, we have witnessed the adoption of the Sustainable Development Goals (SDGs)<sup>2</sup> and, of course, the long-awaited Paris Agreement.<sup>3</sup> There has been a gratifying rise in interest in the protection of marine ecology and of the Arctic region,<sup>4</sup> two globally important fields that all too often were treated as ‘niche’ by policy makers and commentators alike. Moreover, some of the most dynamic developments in environmental law have taken place in the courtroom. The International Court of Justice (ICJ) *Whaling in the Antarctic* decision<sup>5</sup> showed a new level of judicial maturity when it comes to dealing with scientific evidence in environmental litigation.<sup>6</sup> In the first decade of its existence, the National Green Tribunal in India has been prodigiously productive and serves as a global example of both the strengths and the challenges represented by specialized courts.<sup>7</sup> Meanwhile, in the much discussed *Urgenda* decision,<sup>8</sup> a District Court in The Hague (the Netherlands) relied on a combination of Dutch civil law and the reflexive qualities of international and European Union (EU) environmental law to determine that Dutch climate change mitigation targets for 2020 were insufficiently ambitious and unlawful.<sup>9</sup>

As the body of transnational environmental law grows, so do the environmental challenges confronting the global community. Whereas the first decade of the 21<sup>st</sup> century gave us a sharp reminder of the fragility of environmental commitment in times of economic uncertainty, the past five years have demonstrated the deeply disruptive impact of political instability. Whether triggered by referendum (as in the case of ‘Brexit’ Britain), propelled by impeachment (in Brazil) or inflicted by civil war (in Syria and wider Middle Eastern regions), political unrest bodes ill for environmental governance. With disheartening predictability, it strips the state of both its capacity and its willingness to pursue a proactive, long-term beneficial

<sup>2</sup> Available online at: <https://sustainabledevelopment.un.org>.

<sup>3</sup> Paris (France), 13 Dec. 2015, not yet in force (UNFCCC Secretariat, Report of the Conference of the Parties on its Twenty-First Session, Addendum, UN Doc. FCCC/CP/2015/10/Add.1, 29 Jan. 2016).

<sup>4</sup> See, e.g., B. Baker & B. Yeager, ‘Coordinated Ocean Stewardship in the Arctic: Needs, Challenges and Possible Models for an Arctic Coordinating Agreement’ (2015) 4(2) *Transnational Environmental Law*, pp. 359–94.

<sup>5</sup> *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, 31 Mar. 2014, available at: <http://www.icj-cij.org/docket/files/148/18136.pdf>.

<sup>6</sup> C. Payne, ‘ICJ Halts Antarctic Whaling – Japan Starts Again’ (2015) 4(1) *Transnational Environmental Law*, pp. 181–94.

<sup>7</sup> G.N. Gill, ‘Environmental Justice in India: The National Green Tribunal and Expert Members’ (2016) 5(1) *Transnational Environmental Law*, pp. 175–205.

<sup>8</sup> *Stichting Urgenda v. Government of the Netherlands (Ministry of Infrastructure and the Environment)*, ECLI:NL:RBDHA:2015:7145, Rechtbank Den Haag, C/09/456689/HA ZA 13-1396 (*Urgenda*).

<sup>9</sup> J. van Zeben, ‘Establishing a Governmental Duty of Care for Climate Change Mitigation: Will *Urgenda* Turn the Tide?’ (2015) 4(2) *Transnational Environmental Law*, pp. 339–57; P. Galvão Ferreira, ‘“Common But Differentiated Responsibilities” in the National Courts: Lessons from *Urgenda v. The Netherlands*’ (2016) 5(2) *Transnational Environmental Law*, pp. 329–51.

environmental agenda. In such conditions, it is more than ever imperative to explore the scope for law and policy beyond the state, and to think critically and creatively about the potential to harness the contributions of non-state actors in the public interest. It is more than ever necessary to think transnationally.

As *TEL* Editors, it is our privilege to facilitate this vital conversation. We are very grateful to our contributing authors, to all *TEL* reviewers and advisory board members, to our robust team of Assistant Editors, our Book Reviewers, and our extensive support network at Cambridge University Press, including Rebecca O'Rourke, Jim Ansell, Andrea Williams and, last but not least, Elizabeth McElwain. We thank them for their unfailing commitment towards the realization of *TEL*'s mission to advance new ideas on the contribution of law to environmental governance in a global context.

*TEL*'s success in its first five years of publication is a testament to the vibrancy and dedication of our scholarly community. In this period, *TEL* has consolidated its reputation as a journal of global standing that offers rigorous peer review and constructive support to its contributors from submission to publication. Within four years of its launch, *TEL* obtained an impact factor in the Reuters Thomson Journal Citation Reports index and the SCOPUS Global Law Journal Ranking. The past year has seen *TEL* surge in the rankings and it now occupies the third position among top environmental law journals worldwide.

Good ratings are of course gratifying, but arguably the real measure of success is the growing number and the high quality of submissions. To accommodate our increasing output, *TEL* will transition to a production schedule of three issues per year from 2017 onwards. Of course, we will also continue to publish articles online in FirstView, so that *TEL* readers can retain the most up-to-date access to new scholarship. In this context, we would like to draw attention to two *TEL* authors who arguably have been slight victims of *TEL*'s success. Given the strong response to the call for papers for the Fifth Anniversary *TEL* Prize, it has become necessary to move to the next issue of *TEL* two articles which were submitted before the competition pieces. These are the contributions by Yonghee Yoon on 'The Impacts and Implications of CERCLA on the Soil Environmental Conservation Act of the Republic of Korea',<sup>10</sup> and Martin Hedemann-Robinson on 'Environmental Inspections and the EU: Securing an Effective Role for a Supranational Union Legal Framework'.<sup>11</sup> To compensate for the longer wait before their release in hard copy, the articles have been made available with open access, free of charge, in FirstView on *TEL*'s website (<https://www.cambridge.org/core/journals/transnational-environmental-law/firstview>) and we warmly recommend both pieces to our readers.

<sup>10</sup> Y. Yoon, 'The Impacts and Implications of CERCLA on the Soil Environmental Conservation Act of the Republic of Korea' (2015) *Transnational Environmental Law*, pp. 1–19. doi: 10.1017/S2047102515000266.

<sup>11</sup> M. Hedemann-Robinson, 'Environmental Inspections and the EU: Securing an Effective Role for a Supranational Union Legal Framework' (2016) *Transnational Environmental Law*, pp. 1–28. doi: 10.1017/S2047102515000291.

Finally, we thank the *TEL* readers for their continued interest and support. We look forward to the next five years.

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