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EDITORIAL

Introducing Transnational Environmental Law

1. TRANSNATIONAL ENVIRONMENTAL LAW: THE FIELD

'It was the best of times, it was the worst of times'.

Charles Dickens, *A Tale of Two Cities* (1859)

Dickens' famous words have been pressed into service for countless opening statements, but that does not diminish their power in conveying the paradox of contemporary environmental law. Enhanced understanding of the massive scale and potentially devastating socio-economic impacts of environmental risks has significantly strengthened people's appreciation of the importance of environmental law and policy. Environmental protection no longer dwells at the fringes of domestic political activity but has transformed into a central governmental mission. International environmental summits are widely publicized and reported in print and broadcast media across the globe. Domestic and international legal developments are matched, perhaps even outstripped, by an explosion of environmental law and regulation beyond the state, whether fostered by professional associations, intergovernmental bodies, civil society organizations, or transboundary dispute settlement bodies. In judicial circles, we witness a growing awareness of the seriousness of environmental infractions and a commensurate willingness to unleash the full force of law on environmental offenders. Environmental law practice – not that long ago still broadly considered a niche area best suited to 'boutique' law firms – has migrated into the mainstream, becoming part of the bread-and-butter service package offered by most legal practices. Environmental law now features on the academic curriculum of every major law school, and specialized courses as well as graduate programmes on hot topics such as climate change, energy law and the environment, and, indeed, transnational environmental law, are mushrooming worldwide. By any of these measures, environmental law looks in ruddy good health.

Yet, it is equally compelling to describe the current state of environmental law in far less rose-tinted terms. Environmental law and policy may feature prominently on the political menu, but it does not necessarily follow that the political preoccupation is to support and further environmental law. Whether it comes in the guise of a concern for competitiveness, a call for regulatory impact assessment, the pursuit of a 'Better Regulation' agenda or, even, a new twist on the interpretation of

sustainable development,¹ governments display an acute awareness of the costs associated with environmental law and regulation, and an equally pronounced desire to cut these costs. Needless to add, this desire burns all the more brightly in a period of recession and high economic uncertainty. Here, we even encounter a paradox within a paradox, since environmental policy, and the legal measures supporting it, are simultaneously denounced as a luxury we cannot afford in times of crisis and heralded as a way to innovate ourselves out of economic stagnation towards ‘green growth’.²

Questions arise not only regarding the desirability of a robust programme of environmental law and regulation, but also about law’s innate capacity as a mechanism for environmental protection. Law’s prowess as a stabilizing force operating within clearly defined jurisdictional boundaries is well established, but its credentials as an engine for global social change are much shakier. Yet, it is change rather than stability that contemporary environmental law must aspire to, since complex and systemic environmental threats such as climate change and biodiversity depletion are not caused by behaviour that deviates from the norm, but are the logical consequence of how our society, its industry and its economy are organized. Moreover, to achieve this extraordinarily ambitious agenda, law should ideally operate at a global level, where its links to legitimacy and authority are most contested. From this perspective, the rapid growth of law beyond the state, of soft law and various modes of self-regulation could be interpreted not as signposts of law’s ever-expanding dominium, but instead as evidence of the failure of ‘real law’ to govern complex global problems.

How, then, does transnational environmental law help us to navigate through these ‘best of times’ and ‘worst of times’? It does not conjure into existence a new, previously unknown layer of jurisdiction that is untrammelled by either the geographical limitations of national/regional law or the legitimacy and authority deficits of international/global law. Nor does it gather and reconfigure legal principles and practices around a new substantive theme, as is currently happening in the field of climate change law. It does, however, offer a powerful new mode of understanding and engaging with environmental law. More than a domain, the concept of transnational environmental law embodies an *approach* to legal studies and practice.

This may sound like an exceedingly modest offering, but that impression would be mistaken. Considering that, whatever our disagreements, environmental lawyers are universally aware of the dearth of (supposed) silver bullets to solve today’s complex, transboundary and transgenerational environmental challenges, a new way of understanding environmental law and regulation brings more to the table than any

¹ See, e.g., R. Stewart, ‘Environmental Regulation and International Competitiveness’ (1992) 102(8) *Yale Law Journal*, pp. 2039–106; C. Kirkpatrick & D. Parker (eds.), *Regulatory Impact Assessment: Towards Better Regulation?* (Edward Elgar, 2007); the European Commission’s approach to Better Regulation set out at: http://ec.europa.eu/governance/better_regulation/index_en.htm; and the 2011 UK Government’s interpretation of sustainable development in the context of the Draft National Planning Policy Framework (July 2011), available at: <http://www.communities.gov.uk/publications/planningandbuilding/draftframework>.

² E.g., M. Skou Andersen & I. Massa, ‘Ecological Modernization: Origins, Dilemmas and Future Directions’ (2000) 2(4) *Journal of Environmental Policy & Planning*, pp. 337–45; C. Azar & S. Schneider, ‘Are the Economic Costs of Stabilising the Atmosphere Prohibitive?’ (2002) 42(1/2) *Ecological Economics*, pp. 73–80.

discrete set of new instruments or even principles ever could. In the following paragraphs, we map out what we consider to be some of the key sensibilities and assumptions that inspire transnational environmental legal inquiries.

Transnational environmental law is interested in the manner in which and the extent to which environmental law responds to the global nature of most of today's environmental problems. In this pursuit, it shares an affinity with global environmental law, which explores the globalization of environmental legal principles and norms,³ typically in response to the globalization of environmental risks. One important dimension of this research focuses on the scope and desirability of environmental constitutionalization. In two contributions featured in this issue of *Transnational Environmental Law*, Douglas Kysar and Louis Kotzé take up the cause of global environmental constitutionalism. Kysar offers global environmental constitutionalism as an opportunity to reframe the debate on environmental decision-making and to break out of the constraints imposed by an ethos in which narrow readings of cost-benefit considerations and welfare maximization dominate.⁴ Kotzé's contribution, too, gives a positive, though critical, assessment of environmental constitutionalization.⁵ He maps the genealogy of global environmental constitutionalism via the twin growth of (national) environmental constitutionalism and global constitutionalism, identifying areas where global environmental constitutionalism is both more than and different from the sum of its parts. He goes on to illustrate the links between constitutionalism and global environmental governance, and discusses the necessary preconditions for global environmental constitutionalism to flourish. Interestingly, one pivotal precondition is the existence of robust national constitutional traditions. This illustrates an important point about both global and transnational environmental law, in that they operate on assumptions of cooperation and multilevel interchange rather than displacement.

Although it does not overlook the 'national' in 'transnational', transnational environmental law does, of course, have a special interest in the myriad sources of law that do not emanate from the state. European Union (EU) law is arguably the best-known example of environmental law 'beyond the state', given the vital role that non-state (supranational) institutions such as the European Parliament, the European Commission and the European Courts play in its creation. Several of the contributions in this issue, including the articles by Robert Lee,⁶ Elizabeth Fisher⁷ and Ludwig Krämer,⁸ address EU legal developments. EU environmental law is bound to become a recurrent source of

³ T. Yang & R. Percival, 'The Emergence of Global Environmental Law', ExpressO, 15 Sept. 2008, available at: http://works.bepress.com/tseming_yang/1.

⁴ D.A. Kysar, 'Global Environmental Constitutionalism: Getting There from Here' (2012) 1(1) *Transnational Environmental Law*, pp. 83–94.

⁵ L.J. Kotzé, 'Arguing Global Environmental Constitutionalism' (2012) 1(1) *Transnational Environmental Law*, pp. 199–233.

⁶ R.G. Lee, 'Look at Mother Nature on the Run in the 21st Century: Responsibility, Research and Innovation' (2012) 1(1) *Transnational Environmental Law*, pp. 105–117.

⁷ E. Fisher, 'The Rise of Transnational Environmental Law and the Expertise of Environmental Lawyers' (2012) 1(1) *Transnational Environmental Law*, pp. 43–52.

⁸ L. Krämer, 'Transnational Access to Environmental Information' (2012) 1(1) *Transnational Environmental Law*, pp. 95–104.

inspiration in the life of this journal, both as a transnational legal regime on its own terms and as a comparator for others. In her reflections on the environmental role of the Association of South East Asian Nations (ASEAN), Koh Kheng-Lian uses the EU as a counterpoint to highlight the relative limitations that ASEAN must negotiate as a budding transnational environmental actor.⁹ ASEAN is one of several regional organizations that are gradually assuming more prominent environmental responsibilities. Following and discussing their evolution will be one of *Transnational Environmental Law*'s important missions for the years to come. Moreover, regional organizations such as the EU are but one of a plethora of non-state actors whose contributions to the field of transnational environmental law invite examination. Others, ranging from the various bodies operating under the auspices of international treaties (such as conference of the parties meetings, strings of working groups, financial mechanisms, implementation and executive boards) to global trade associations, to small town non-governmental organizations (NGOs) adept at devising and promoting the uptake of environmental standards across national boundaries, equally clamour for consideration. The prominence of private actors as entities with some claim to legal and regulatory authority, particularly, blurs the classical distinction between the public and private sphere and fosters the emergence of new ways of mapping environmental legal activity.

As non-state actors become ever more closely associated with the environmental legislative and regulatory enterprise, the conventional boundaries erode between the 'legal' and the 'illegal', the 'rule-bound' and the 'free'. The legal landscape, it appears, is not a binary world of black-and-white divides, but houses a plurality of quasi-legal instruments such as soft law, codes of conduct, and self-regulating agreements that defy straightforward categorization. The realization of this quasi-legal hinterland complicates one of law's traditional functions of classification and selection, but at the same time propels new research into the boundaries and justifications of legal authority. By studying the dynamics between evolving understandings of 'law', 'regulation' and 'governance', as they relate to issues of environmental protection, transnational environmental law can elucidate their distinctiveness and significance in a non-binary, polychrome world. This, too, is part of this journal's mission.

It is clear from the preceding paragraphs that non-state law and private governance will receive plenty of attention in the pages of *Transnational Environmental Law*. But we believe it would be a mistake to restrict our remit to either the actions of non-state actors or the legal responses that explicitly address the global nature of environmental risks. As an approach to law, the transnational legal perspective also has enormous potential to further the study of traditional (and in the first place national) law. Firstly, we should remember that there is no such thing as 'pristine', mono-jurisdictional environmental law. Law is the product of a rich combination of local, regional and transboundary communications and pressures; even the most isolationist state cannot help but be influenced by legal developments beyond its own borders. This goes all the more for disciplines such as environmental law, which have

⁹ K.-L. Koh, 'Transboundary and Global Environmental Issues: The Role of ASEAN' (2012) 1(1) *Transnational Environmental Law*, pp. 6–82.

subject matters that simply do not recognize national boundaries. Elizabeth Fisher's contribution to this issue serves as both a compelling illustration of the inherently polycentric and multicultural qualities of environmental law and as an urgent plea for the development of a new scholarly methodology to foster our capacity of engaging with these attributes within legal analysis and critique.¹⁰ Fisher emphasizes a professional need to cross the bridge from interest to expertise in transnational environmental law, and points to this journal as an ideal forum to stage this transition. The scholarly importance of this project is evident, but transnational environmental law is also very much part of life outside the ivory tower of academia. Tseming Yang's reflections on the emerging practice of global environmental law show the profound impact of law and normativity beyond the state on the domestic legal order, even within a jurisdiction that is famously protective of its autonomy and wary of external legal authority.¹¹ Yang's text depicts a United States (US) legal system that is very much open to non-national influences, even to the extent of directly incorporating environmental treaty provisions in domestic law. In a similar vein, in the United Kingdom (UK) environmental law has adopted a 'conveyor belt' approach to the regulation of environmental pollution, whereby EU-adopted standards are hooked onto a national regulatory framework and delivered, without further processing, to their intended audience of UK industrial installations.

Just as we need to know about non-state law in order to obtain a full picture of how national law works, so does the local level enrich our study of the law that lies beyond. Trying to understand international environmental law purely through a detailed study of, say, the Convention on Biological Diversity (CBD)¹² and its supporting documents is a little like trying to understand football by poring over the FIFA rulebook.¹³ The rules are important, but they are not the game. What matters is transnational environmental law's engagement with multilevel governance. This implies, in the first place, an interest in exploring law-in-action, in looking at both the adoption of norms in the sphere of high-level politics and their impact on the daily grind of decision-making. Moreover, we increasingly experience that, in a multilevel context, normative hierarchy falls short both as an explanation of how laws interact and as a mechanism to impose order. 'Pluralistic' may be a better way to describe the relation between legal regimes under multilevel governance, but this term does not tell us much about *how* they interact; how a 'host' legal system interprets, shapes and contributes to the meaning of an 'external' norm; how environmental decision-makers frame and resolve competing claims to legal primacy. Transnational environmental

¹⁰ N. 7 above.

¹¹ T. Yang, 'The Emerging Practice of Global Environmental Law' (2012) 1(1) *Transnational Environmental Law*, pp. 5–65.

¹² Rio de Janeiro (Brazil), 5 June 1992, in force 29 Dec. 1993, available at: <http://www.cbd.int/convention/text>.

¹³ Fédération Internationale de Football Association (FIFA), *Laws of the Game: 2011/2012* (FIFA, 2011), available at: http://www.fifa.com/mm/document/affederation/generic/81/42/36/laws_of_the_game_2011_12_en.pdf.

law has a major contribution to make through thoughtful examination of precisely these forms of legal interaction.

Moreover, our understanding of legal regimes in a multilevel governance context must encompass more than the constellations that make up the national, regional and international legal order. As enhanced non-state actor involvement erodes the boundaries between public and private law, the interactions between public and private spheres become just as important. Peter Sand's contribution to this issue charts the evolution of transnational environmental law through four case studies.¹⁴ The analysis bears out his contention that none of the reviewed cases are easily classified as public or private legal claims; (international) private norms played as significant a part in shaping the legal methodology for conflict resolution as public norms.

Transnational environmental law, it transpires, is not a singular, neatly delineated concept but refers to a set of interconnected – and rapidly evolving – ideas. Yet, one unifying message clearly rises from its various fields of investigation: transnational environmental lawyers are innately curious about boundaries and view them as an invitation to explore rather than an order to retreat. This goes not only for the conventional borders between national and non-state law, 'public' and 'private', norm and application, but also for the boundaries that separate environmental law from other disciplines in law and social sciences. A great deal of cutting-edge research currently takes place at the crossroads between environmental law and other disciplines such as trade, competition, financial law, human rights, public policy, economics, and so on. It is a testament to the emancipation of environmental law that it now has a sufficiently assured sense of identity to engage confidently with other disciplines, without automatically assuming the role of 'irritant' to be overridden, neutralized, or at best accommodated within the dominant discipline. As a result, the interdisciplinary perspective is both informing and being reformed by transnational environmental law.

In sum, transnational environmental law directs our gaze towards the frontiers of law and research. This engagement with points of transition makes it particularly attractive in an age where both the expectations for and pressures on environmental law intensify. Transnational environmental legal research improves our understanding of what happens to law in a multilevel governance context; it builds vital knowledge about authority and contestability in a complex world. Its focus on non-state actors fosters an essential debate about the scope for private action in the public interest, and the extent to which law should facilitate or regulate this development. Both insights can help to maximize the impact of the legal tools at our disposal, so that whatever political willingness we drum up towards pursuing environmental protection goals is, at the very least, not lost in translation. Its commitment to comparative research bolsters opportunities for cross-regime learning. Its interdisciplinary perspective serves as an urgent reminder that environmental protection is one in a wealth of public interest goals, that law is one in a range of instruments to be summoned towards this goal, and

¹⁴ P.H. Sand, 'The Evolution of Transnational Environmental Law: Four Cases in Historical Perspective' (2012) 1(1) *Transnational Environmental Law*, pp. 183–98.

that thoughtful, productive analysis should bear these facts in mind when critiquing legal developments and formulating responses.

Thinking transnationally can be very liberating because it invites us to venture beyond long-established, perhaps stifling, conventions about what constitutes law and how to study it, into a less structured environment. It is also empowering, since it offers lawyers a way to assert the relevance of their expertise in areas formerly beyond their grasp. These are attributes to be cherished; transnational environmental law may be out of the earliest stages of infancy, but it is still very much in the process of finding itself, and that requires some intrepidity and an adventurous spirit. In a still emerging field, there is little to be gained from being exclusive and doctrinal, and much more from welcoming a plurality of opinions and creating a critical mass of ideas to fuel further debate. Importantly, however, it should be a *self-critical* mass. With freedom comes responsibility. Here, this means responsibility to take seriously concerns about transnational environmental law's potential to encroach upon national sovereignty. It means we need to think critically about the consequences of labelling a growing range of pronouncements, declarations and practices as 'law'; of imbuing agreements between groups of private individuals with regulatory quality. To quote Arturo Escobar: 'the act of naming a new reality is never innocent'.¹⁵ The contribution by Greg Shaffer and Dan Bodansky to this issue offers a fine example of enthusiasm tempered by caution.¹⁶ Their work highlights the migratory character of transnational environmental law, and its potential to overcome the cumbersomeness of international environmental law. This potential is cast both as a benefit and a risk: a benefit because it can speed up effective norm diffusion without getting bogged down in consent-based decision-making leading to either the adoption of lowest common denominator standards or paralysis, and a risk because it might result in a form of norm diffusion that is unilateral, self-serving and divisive. Seeing the two as valuable but imperfect alternatives, Shaffer and Bodansky explore the ways in which transnational and international environmental law can curb each other's vicissitudes and harness each other's virtues.

2. TRANSNATIONAL ENVIRONMENTAL LAW: THE JOURNAL

The mission of *Transnational Environmental Law* (TEL) is to be a leading voice in the burgeoning field of transnational environmental studies. Environmental law scholarship has matured in leaps and bounds over the past 30 to 40 years. It has witnessed the establishment of a number of highly respected journals in the field, which continue to play a vital role in stimulating and advancing our thoughts on environmental law and its role in society. We believe that TEL can and will make a seminal contribution to this already rich body of work by opening up critical, new perspectives on legal research

¹⁵ A. Escobar, 'Whose Knowledge, Whose Nature? Biodiversity, Conservation, and the Political Ecology of Social Movement' (1998) 5(1) *Journal of Political Ecology*, pp. 53–82, at 55.

¹⁶ G. Shaffer & D. Bodansky, 'Transnationalism, Unilateralism and International Law' (2012) 1(1) *Transnational Environmental Law*, pp. 31–41.

and by extending legal exploration across and beyond the conventional disciplinary, geographical, and generational boundaries. By offering a much-needed dedicated home to transnational environmental law scholarship, and a global forum for this rapidly growing intellectual community, *TEL* will aim to facilitate the maturation of the emerging discourse of transnational environmental law. Unlike other journals, therefore, *TEL*'s focus will specifically include the study of environmental law and governance beyond the state. It will approach legal and regulatory developments with an interest in the contribution of non-state actors and an awareness of the multilevel governance context in which contemporary environmental law unfolds. *TEL*'s core objectives are to foster innovative and groundbreaking scholarship that engages with environmental law from a transnational perspective; to strengthen the lines of communication and encourage cross-fertilization between environmental scholarly traditions from different disciplines and geographical regions, including but not limited to the US, Europe and Asia; and to support promising young talent.

These are, admittedly, grand objectives – that pose the question of how we plan to accomplish these goals in practice. In answer to this legitimate query, as editors we believe that *TEL* will set its bar at the highest level in the following ways:

- By having an editorial board and advisory board that are second to none in expertise, experience, recognition, and enthusiasm. *TEL*'s editorial and advisory board membership is highly geographically diverse and represents scholars and environmental professionals at different stages of their career;
- By offering a rigorous, efficient and intellectually rewarding process of peer review and feedback to all contributors of either full-length articles or commentaries.¹⁷ Every manuscript first passes through an internal review by the editorial board, to assess whether it meets essential standards of originality, thoroughness, and compatibility with the *TEL*'s mission. Submissions that are declined at this stage receive a clear explanation and constructive feedback indicating the additional or alternative steps that should be taken to move the submission on to the external review stage, or suggesting alternative venues for publication. This type of feedback is proving to be particularly helpful for early career authors. Submissions that successfully pass the internal quick-scan are put through rigorous double-blind external peer review;
- Through careful selection of external peer reviewers. We look for established and relevant expertise and, as a rule, pair submissions with (at least) two reviewers from different jurisdictions to gauge the submission's transnational resonance. Reviewers are provided with detailed guidance on the bases that a thorough review should cover, with reference to *TEL*'s specific scope and mission. We strongly encourage extensive and constructive feedback, to be passed on to the authors;

¹⁷ Articles will generally span between 8,000 and 11,000 words in length, and commentaries between 3,000 and 6,000 words, though exceptions will be considered for contributions that merit more extensive treatment.

- By a strong commitment to an exceptionally quick and efficient turn-around: we strive to complete the full peer review process in six weeks;
- By offering timely publication: *TEL*'s commitment to cutting-edge scholarship on contemporary developments is reflected not only in the quick turn-around from submission to editorial decision based on peer review. All accepted contributions are published online, in advance of print publication, as soon as they are approved in final, typeset form;
- By fostering innovative synergies between various scholarly styles and traditions, offering comparative perspectives and interdisciplinary analysis, integrating both theoretical and practical legal commentary on current environmental issues;
- By offering a truly global platform for a rich variety of voices and perspectives, irrespective of the locale, professional rank or affiliation of the author. Submissions from younger scholars, as well as authors working in developing and newly developed countries, are therefore warmly encouraged;
- By mapping important emerging themes and trends in our editorials and in occasional themed issues. For example, *TEL*'s second issue will focus on the latest developments in climate change law and governance, tackling emerging challenges such as climate change and coastal adaptation; decarbonization and the trade-environment nexus; and the impact of REDD+¹⁸ on property rights in developing countries; and
- By offering critical book reviews and selected overviews of important new scholarship, in all future issues of *TEL*.

We believe that these are crucial tools with which to equip an innovative, professional and forward-looking journal. But, of course, the real energy, the fire in the engine of *Transnational Environmental Law*, comes from a rich flow of stimulating contributions and a broad and engaged readership – it comes from *you*.

It has been a great privilege for us during this fledgling year to witness the enthusiasm with which our initiative was greeted in the environmental legal community and beyond. Support has come from many corners: academic, professional, and personal. Moreover, in the true spirit of the journal's scope and mission, expressions of interest and support have come from literally all corners of the world. We are very thankful to all the individuals and organizations who have written about or have advertised *TEL* in the past year.

Most of all, we owe a tremendous debt of gratitude to our external reviewers, who have been wonderfully generous with their time and expertise in offering thorough, demanding and constructive reviews, as well as to the first generation of *TEL* authors, who have placed their faith in this new endeavour and entrusted us with their work. We hope and trust that their pioneering publications will serve as an inspiration to all, and as a call to many to join the debate.

¹⁸ Reducing Emissions from Deforestation and Forest Degradation (REDD) plus nature conservation, sustainable forest management and the enhancement of carbon in forests in developing countries.

3. TRANSNATIONAL ENVIRONMENTAL LAW: THE FIRST ISSUE

This first issue of *TEL* contains three editorials, eleven invited articles, a peer-reviewed article and a peer-reviewed commentary. In future releases, *TEL* will follow the more familiar pattern of a single editorial, followed by peer-reviewed articles, peer-reviewed commentaries and case notes, and book reviews. In the launch issue, however, we wanted to seize the opportunity to showcase our Editorial Board and start off *TEL* with a bang.

We contacted many of the global leaders in environmental legal scholarship and asked them to share with us their thoughts on the future of transnational environmental law, guided only by the very broad question of what they considered to be the biggest challenge for environmental law in the coming decade. Their response was overwhelmingly enthusiastic and resulted in eleven exciting contributions that illustrate both the richness of the field of transnational environmental law and the intensity of the challenges it confronts. The invited articles by Gregory Shaffer and Daniel Bodansky,¹⁹ Elizabeth Fisher,²⁰ Koh Kheng-Lian,²¹ and Tseming Yang,²² which we discussed earlier in this editorial, reflect on the general conceptual as well as the practical challenges that transnational environmental law faces as a growing discipline and an emerging mode of governance. The next group of contributions by Douglas Kysar,²³ Ludwig Krämer,²⁴ and Robert Lee,²⁵ discussed further in the editorial by Cinnamon Carlarne and Daniel Farber, explore a variety of mechanisms through which environmental law can seek to realize its objectives, namely constitutionalization, procedural rights, and technology regulation. The editorial by Jolene Lin and Joanne Scott reviews the third group of invited articles, which map out the key substantive fields in which environmental law will develop and – hopefully – flourish in the next ten years. Neil Gunningham makes the case for the field of environmental and energy law;²⁶ Charlotte Streck tackles the behemoth of global climate change;²⁷ Edith Brown Weiss identifies access to water as a rapidly growing pressure point in transnational environmental law;²⁸ and Alexander Gillespie discusses future directions in biodiversity law.²⁹

¹⁹ N. 16 above.

²⁰ N. 7 above.

²¹ N. 9 above.

²² N. 11 above.

²³ N. 4 above.

²⁴ N. 8 above.

²⁵ N. 6 above.

²⁶ N. Gunningham, 'Confronting the Challenge of Energy Governance' (2012) 1(1) *Transnational Environmental Law*, pp. 119–35.

²⁷ C. Streck, 'Innovativeness and Paralysis in International Climate Policy' (2012) 1(1) *Transnational Environmental Law*, pp. 137–52.

²⁸ E. Brown Weiss, 'The Coming Water Crisis: A Common Concern of Humankind' (2012) 1(1) *Transnational Environmental Law*, pp. 153–68.

²⁹ A. Gillespie, 'Science, Values and People: The Three Factors that Will Define the Next Generation of International Conservation Agreements' (2012) 1(1) *Transnational Environmental Law*, pp. 169–82.

The final two sections offer a full-length article on global environmental constitutionalism, written by Louis Kotzé,³⁰ and a commentary on the evolution of transnational environmental law from the hand of Peter Sand.³¹ The quintessentially transnational themes of both pieces, as well as their exploratory spirit and forward-looking nature, make them a wonderful fit for *TEL*'s inaugural issue. The quality of the work exemplifies the high standards that *TEL* reviewers maintain. These articles will undoubtedly encourage many authors to follow their lead and contribute to future issues.

Before turning to the very first batch of *TEL* scholarship, we are delighted to give the floor to the *TEL* Editorial Board, which gathers the talents of Cinnamon Carlarne, Daniel Farber, Jolene Lin and Joanne Scott. In addition to discussing several of the invited articles, their editorials reflect further on the meaning of transnational environmental law and its awesome potential to enrich legal scholarship and practice. We are very grateful that they have joined us in our endeavour to make *TEL* the leading platform for this important new conversation.

Finally, we would like to convey our warmest thanks to the Advisory Board members for their unwavering support and commitment. We are also sincerely thankful to Cambridge University Press, and in particular the *TEL* team of Rebecca O'Rourke, Kirsten Purcell, Jim Ansell, Kathy Stanford and Elizabeth McElwain, for their trust in our venture and their daily assistance. We are confident that this is the beginning of a long and fruitful collaboration.

Veerle Heyvaert and Thijs Etty
Editors-in-Chief

³⁰ N. 5 above.

³¹ N. 14 above.