

Editorial

## REFLECTING THE TIMES

*The Amsterdam Law Forum Editorial Board*

To use the words that were said by one of the speakers, Jan van de Venis, at this year's ALF Annual Seminar, this Summer Issue is a 'reflection of our times'.

The publication of the 2017 Summer Issue marks the completion the current Editorial Board's work during the academic year 2016-2017. Throughout the past few months, Amsterdam Law Forum has seen, this edition included, the publication of three editions on various issues of an international and transnational legal nature. With the Spring Issue, ALF has also reintroduced the commentary section, in which editors and board members review academic events and discussions that they attended during the second period of the academic year. It has been a pleasure and honour for ALF to receive submissions from authors who have published in this legal journal in previous issues and to publish articles penned by both established academics and professionals working in these fields, as well as by young upcoming professionals. All authors have contributed to the interesting, challenging and ever-evolving discussion on how law functions in theory and in practice, and have helped expand the interdisciplinary understanding of international legal affairs. We are very grateful to all of the authors who have published with us this past academic year for their contributions.

We would like to specifically thank all of the contributors for this themed issue, as well as the speakers at our annual seminar who delivered interesting presentations as well as enlightening discussions. We would also like to give a big thank you to our student editors who have assisted us as a board in receiving, reviewing and revising articles over the past academic year, and we wish them all best of luck in your future academic endeavours.

With the 2017 Amsterdam Law Forum Seminar on 'The Environment and International Law' which united twelve excellent speakers from various fields of studies and practice, it was decided to dedicate the 2017 Summer Edition to compliment the seminar. We believe this theme reflects issues that are increasingly pressing and which require more attention and immediate action if we wish to leave a legacy and earth that would benefit future generations. It is at this time in which numerous reports indicate that human negligence, human greed, human ignorance and apathy led to the proliferation of this harm. At the same time, it is also nowadays that individuals become increasingly aware of their own footprint, and of the changes that they have the power and determination to make; as citizens of our own countries and of this increasingly globalised world, we have not only obligations,

but also rights that are to be respected. They, us and generations to come have the right to a healthy and sustainable environment. All seven publications included in this special edition reflect on these issues, just as both of the expert panels and one student panel reflected on these and similar topics during the conference. A reading of the commentary article that ends this Summer Issue reflects the depth of the issues discussed during the conference, and offers additional details for better comprehension.

The opening piece of this 2017 Summer Issue is a scientific article by Michael Addaney, Elsabe Boshoff and Bamisaye Olutola. Their joint work, titled 'Climate Change and the Human Rights Nexus in Africa' discusses the consequences of climate change, when combined with other socio-economic factors, on vulnerable population. Their study explores the international framework concerning the protection of the human rights of people severely affected by climate change in order to determine to what extent it actually and adequately protects these rights. Drawn on examples from Sub-Saharan Africa and countries involved in armed conflict, the authors argue that African governments have responsibilities to protect fundamental human rights in the context of climate change. The authors conclude by offering recommendations on how human rights can be more effectively protected in the era of climate change.

Audrey Crasson – who also spoke at the 2017 ALF Conference on the possibility of prosecuting environmental crimes as acts of genocide and crimes against humanity under the Rome Statute – analyses these issues in her article 'The Case of Chevron in Ecuador: The Need for an International Crime against the Environment'. She discusses the necessity for the establishment of an established legal definition of international environmental crimes, by using the environmental and health consequences of Chevron's oil activity in Ecuador and the subsequent legal battle as an example of the imbalances that exist between multinational corporations (MNCs), states, and individuals regarding access to justice and remedies.

The third article included in this edition is by Saloni Malhotra and is entitled 'The International Crime that Could Have Been but Never Was: An English School Perspective on the Ecocide Law.' The author applies English School theory in order to explain the failure of efforts to establish ecocide as the fifth core international crime in the Rome Statute. She argues that while there is an emerging norm of environmental responsibility in international politics, the way this norm has been codified into laws has been influenced by two, arguably 'stronger' norms: the market and human rights.

The last and fourth scientific article belongs to former Vrije Universiteit graduate Vanessa Schwegler. Similar to the previous piece, the focus of this work is also on the crime of ecocide. This article looks into the widespread destruction of the natural environment, or ecocide, by corporations, and explores if and how these corporations could be held accountable under international law. She concludes her article by arguing why ecocide should be adopted as an international crime.

The second section of the Summer Issue is dedicated to opinion articles, all authored by 2017 Annual Seminar panellists. The first opinion piece is by Sandra Rousseau, an economist who discusses how environmental crimes can be addressed

through economic sanctions. She argues that there is a need to allow enforcing authorities and judges a broad discretion in their decision-making process, due to the complex nature of environmental offences and environmental crimes. In addition, the objective function of the enforcing authority plays a crucial role. Several alternatives have been identified in the literature and in practice, and Sandra Rousseau's article offers an overview into the potential solutions to these challenging issues.

Rousseau's piece is followed by Znar Agha's article 'Always Coca-Cola. Why Environmental Exploitation Should Be Included in the Legal Construction of International Crimes.' Her article seeks to clearly and carefully explore whether the Coca-Cola corporation has committed environmental crimes in India. More specifically, it addresses the question of to what extent Coca-Cola may be held accountable for committing crimes against humanity if their use of water intervenes with international human rights. The author argues that India might be able to hold Coca-Cola accountable for environmental violations on the national level.

The third and last opinion piece of this edition is by Elodie Theobald, a Junior Strategic Partnership Officer at the Justice Wildlife Commission in The Hague. Her article, entitled 'Towards Bridging the Accountability Gap for International Wildlife Trafficking: The Efforts of the Wildlife Justice Commission', discusses the work of the organisation, and in particular the challenges linked to the implementation of the traditional regimes of responsibility in the realm of International Environmental Law. The opinion piece focuses on wildlife trafficking and studies the solution offered by the Non-Compliance Procedure established by the Convention on International Trade in Endangered Species (CITES); the main international instrument addressing wildlife trafficking. Her article argues that and explains how the mechanism set up by the WJC participates in bridging the accountability gap for wildlife trafficking and how their public hearing on wildlife crime was a first of its kind.

The final article included in this Summer Issue is a commentary written by ALF's Associate Chief-in-Editor, Adina-L. Nistor, on the presentations and discussions that took place at this year's ALF Annual Seminar 'The Environment and International Law.' During the seminar, eleven panellists and one key note speaker and moderator discussed current challenges and developments in the fields of (1) environmental crimes/ecocide and (2) climate change and sustainability. The first expert panel included Kirsten Meerschaert (Director of Programs of the Coalition for the International Criminal Court), Mindi Schneider (Assistant Professor of Agrarian, Food and Environmental Studies at the International Institute of Social Studies (ISS) and founding member of the Monsanto Tribunal), Sandra Rousseau (Associate Professor at the Research Center for Economics and Corporate Sustainability (CEDON) of the KULeuven) and Pauline Verheij (Senior Legal Investigator at Wildlife Justice Commission). Given the various professional backgrounds of the panellists, the topic of environmental crimes was approached from an inter-disciplinary perspective. This particular approach marks the slightly new direction for ALF's scope as a legal journal, which – starting fall 2017 – will expand to also welcome submissions of a more social and criminological nature, while maintaining its focus on international and transnational legal issues.

In the Student Pitches panel of the seminar, young academics (current students and recent graduates) gave short presentations that summarised the findings of their master's theses or of research articles, all related to the topic of the seminar. In this panel Audrey Crasson, Znar Agha, Karin Brummelhuis and Elodie Theobald discussed the issue of environmental crimes, but also of super foods and their link to human rights violations, and on the topic of animal agriculture and sustainability.

Finally, the second expert panel of the seminar heard the presentations of Kees Kodde (international project coordinator of the trade campaign of Greenpeace International), Dennis van Berkel (legal counsel for the Urgenda Foundation and co-founder of the Climate Litigation Network) and Jan van de Venis (expert in the area of human rights-based approaches to sustainable development, climate change, water and environmental issues, and lawyer at JustLaw). The three panellists discussed trade agreements and dispute settlements, the outcomes of the Urgenda case, and the link between human rights, sustainability and climate change, as well as exploring what trends can be seen concerning litigation on these topics.

The seminar was moderated by Vrije Universiteit Professor of criminology Wim Huisman, who also delivered the opening key note speech in which he discussed the issue of the environment and international law from a wider and nuanced perspective, with a focus on his own experience and knowledge as a criminologist conducting research in the field of white collar crime.

We truly hope that you enjoy reading this themed issue and that you will feel as inspired as we do to be the part the change we want to see, and explore the different ways in which we can make our world a bit better. Whether you feel inspired to start conducting legal research in this area, or to seek remedies and redress for those who need it the most, we feel this issue could be a great starting point for an exciting new journey towards the future.

Happy reading!

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Isabella Regan – Editor-in-Chief  
Adina Nistor – Associate Chief-in-Editor  
Caitlin Dykes – Senior Editor  
*The ALF board 2017*