ISSN: 2047-1025



TRANSNATIONAL ENVIRONMENTAL LAW



Transnational Environmental Law

EDITORS-IN-CHIEF

Thijs Etty, Amsterdam University College and VU University Amsterdam, The Netherlands Veerle Heyvaert, London School of Economics and Political Science, United Kingdom

EDITORS

Cinnamon Carlarne, Ohio State University, USA
Bruce Huber, University of Notre Dame, USA
Jacqueline Peel, University of Melbourne, Australia
Josephine van Zeben, Wageningen University, The Netherlands

BOOK REVIEW EDITOR

Melissa Powers, Lewis & Clark Law School, USA

Assistant Editors

Leslie-Anne Duvic-Paoli, King's College London, UK
Geetanjali Ganguly, London School of Economics and Political Science, UK
Anna Huggins, Queensland University of Technology, Australia
Sroyon Mukherjee, WB National University of Juridical Sciences, India
Alexia Staker, Barrister – Victorian Bar, Australia
Aaron Wu, SOAS, University of London, UK

Advisory Board

Natasha Affolder

University of British Columbia, Canada

Daniel Bodansky

Arizona State University, USA

Jutta Brunnée

University of Toronto, Canada

Geert Van Calster

K.U. Leuven and DLA Piper, Belgium

Ed Couzens

University of Sydney, Australia

Daniel C. Esty

Yale University, USA

Daniel Farber

University of California - Berkeley, USA

Jessica Green

University of Toronto, Canada

Neil Gunningham

Australian National University, Australia

Sébastien Jodoin

McGill University, Canada

Louis Kotzé

North West University, South Africa

Douglas A. Kysar

Yale University, USA

Maria Lee

University College London, UK

Iolene Lin

National University of Singapore, Singapore

Robert V. Percival

University of Maryland, USA

Lavanya Rajamani

St Peter's College, Oxford, UK

Leonie Reins

Tilburg University, The Netherlands

Benjamin J. Richardson

University of Tasmania, Australia

Joanne Scott

European University Institute, Italy

Gregory Shaffer

University of California - Irvine, USA

Ioana Setzer

London School of Economics and Political

Science, UK

Katie Sykes

Thompson Rivers University, Canada

Ionathan Verschuuren

Tilburg University, The Netherlands

Wang Xi

Kunming University and Shanghai Jiao Tong

University, China

Tseming Yang

Santa Clara University, USA

STATEMENT OF AIMS

Transnational Environmental Law (TEL) is a peer-reviewed journal for the study of environmental law and governance beyond the state. It approaches legal and regulatory developments with an interest in the contribution of non-state actors and an awareness of the multi-level governance context in which contemporary environmental law unfolds.

TEL offers a forum for rigorous analysis and discussion of the impacts of globalization on complex environmental risks and norms. It welcomes scholarship that enriches our understanding of contemporary environmental law through comparative and cutting-edge interdisciplinary analysis. TEL's scope is broadly conceived in terms of disciplinary focus: its pages are open to scholarly contributions covering a wide range of environmental issues, including climate change, biodiversity, emerging technologies, industrial pollution and waste management. TEL also promotes the exploration of the evolving dynamics between environmental law and other legal disciplines (including but not limited to trade and competition law, financial law and human rights).

TEL strives for a new generation of environmental scholarship that will bridge geographical boundaries, scholarly styles and generations. TEL encourages the integration of theoretical and practical legal perspectives on current environmental issues, and aims to deliver scholarship of high salience to academics and practitioners alike

salience to academics and practitioners alike. https://doi.org/10.1017/S2047102521000236 Published online by Cambridge University Press

TRANSNATIONAL ENVIRONMENTAL LAW

VOLUME 10 ISSUE 2 JULY 2021

Contents

	EDITORIAL
197–204	Energy Transition in a Transnational World Thijs Etty and Veerle Heyvaert, Editors-in-Chief Cinnamon Carlarne, Bruce Huber, Jacqueline Peel and Josephine van Zeben, Editors
	SYMPOSIUM: THE LAW OF ENERGY TRANSITION IN FEDERAL SYSTEMS
205–210	Symposium Foreword: The Law of Energy Transition in Federal Systems Johannes Saurer and Jonas Monast
211–235	The Australian Energy Transition as a Federalism Challenge: (Un)cooperative Energy Federalism? Anne Kallies
237–261	A Just Energy Transition and Functional Federalism: The Case of South Africa <i>Tracy-Lynn Field</i>
263–291	Federalism and Mitigating Climate Change: The Merits of Flexibility, Experimentalism, and Dissonance <i>Johannes Reich</i>
293–320	Renewable Energy Federalism in Germany and the United States Johannes Saurer and Jonas Monast
321–337	Of Markets and Subsidies: Counter-intuitive Trends for Clean Energy Policy in the European Union and the United States Felix Mormann
339–363	Energy Transition in the European Union and its Member States: Interpreting Federal Competence Allocation in the Light of the Paris Agreement <i>Michael Fehling</i>
	CASE COMMENT
365–382	Environmental Protection Meets Security of Electricity Supply Case C-411/17, Inter-Environnement Wallonie ASBL and Bond Beter Leefmilieu Vlaanderen ASBL v. Conseil des ministres, Court of Justice of the European Union Ilina Cenevska

BOOK REVIEWS

383–385	The New Climate Activism: NGO Authority and Participation in Climate Change Governance, by Jen Iris Allan Reviewed by Harro van Asselt
386–389	Human Rights and the Environment: Legality, Indivisibility, Dignity and Geography, by James R. May and Erin Daly Reviewed by Evelyn Li Wang