

Editorial

On 26 September 2023, the Advanced Research School in Law and Jurisprudence (Ars Iuris Vienna) and the University of Vienna Law Review (VLR) co-hosted the 1st Ars Iuris Legal Potentials Conference, titled “Challenges of the Anthropocene”. We aimed to provide young legal scholars, who dedicate their work to this important subject, a platform to present the results of their research. Further, our goal was to set up a forum for inter- and intradisciplinary exchange; especially when it comes to dealing with current and future “Challenges of the Anthropocene”, international cooperation across various academic (sub)disciplines is essential and networking is thus crucial to global problem-solving.

This special issue of the University of Vienna Law Review proudly presents our brilliant speakers’ contributions. In doing so, it constitutes a tangible result of this conference, allowing the authors to present their research findings to an even broader public and to contribute to the international dialogue on “Challenges of the Anthropocene” in an enduring manner.

The five papers that are featured in this special issue engage with a wide range of topics, encompassing, inter alia, decolonial thought, forecasting models (and their impact), international law, legal philosophy, and criminal law. Despite this heterogeneity in content, these articles all share some common traits, namely their topicality as well as their high degree of innovation.

First, Cornelia Tscheppe [“River of Life - A Case Study” (1-37)] discusses the concept of Rights of Nature (RoN). In her analysis, she focuses on the threat that RoN could pose to indigenous communities if utilized to serve Western conceptions of sustainable development. She further investigates how indigenous communities, in turn, try to redefine the concept of RoN.

Second, Hannah Grandits [“Discretion in International Environmental Law” (38-67)] offers fundamental considerations regarding the role of discretion in environmental law from a public international law perspective. This article centres around the concept of “behavioural effectiveness”. It shows how discretion in implementing and interpreting international treaties may both strengthen and weaken the role and effectiveness of environmental law.

Third, Annemarie Hofer [“Forecasting Models and Value-Based Decisions: Weak Evidence, Strong Perceptions?” (68-93)] presents research on Environmental Impact Assessments - an obligatory procedure that assesses environmental concerns related

to planned projects. She demonstrates the importance and potential downfalls of forecasting models within Environmental Impact Assessments and provides a case study of a hydroelectric powerplant to underpin her findings.

Fourth, Carina Karnicar [“Climate Change and Migration: Climate Change Induced Migration in International Law and the Human Right to a Sustainable Environment” (94-122)] addresses climate change induced migration in international law and explains why the label “climate refugee” is not yet an accurate one. The paper examines the possibilities of approaching climate migration from an alternative perspective, going beyond existing legal instruments.

Finally, Ellen Hagedorn and Lorenz Handstanger [“Civily Disobedient or Legally Justified? Reflecting on AG Flensburg’s Recognition of a Climate Necessity Defence (123-153)"] discuss a recent decision to acquit an activist of criminal trespass. They explore whether the Court was right to invoke climate change to substantiate a necessity defence. Moreover, they ask whether the activist’s form of protest fits the conditions for legitimate lawbreaking in liberal theories of civil disobedience. They show how climate change requires a rethinking of key categories of law and legitimacy and point to a tension between climate protection and the rule of law.

We are grateful to everyone who helped this pilot project come to fruition! Above all, we would like to thank Vice Dean Professor Franz-Stefan Meissel, Editor in Chief of the Vienna Law Review and Director and Speaker of Ars Iuris Vienna for providing us with both the opportunity to indulge in this endeavour and guidance throughout. We are especially delighted that there will be a second Ars Iuris Legal Potentials Conference in September 2024, promising to establish this project as a regular event in the academic calendar.

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