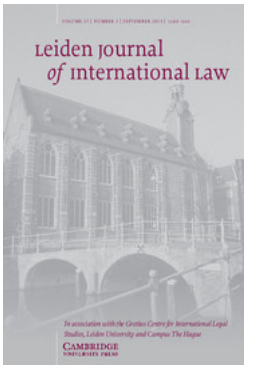

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INTERNATIONAL LEGAL THEORY SYMPOSIUM: LOCATING NATURE

Locating Nature: Making and Unmaking International Law: Introduction

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Environmental harm is of increasing concern to peoples and states all over the world, whether in relation to ensuring access to healthy air, water, food, and sustainable livelihoods, or coping with the diversity of challenges posed by changing climates and ecologies. While international lawyers have focused on crafting solutions to environmental problems, less attention is paid to the disciplinary role in fostering harmful and unsustainable behavioural patterns. Environmental issues are usually relegated to the specialized field of international environmental law. This project explores instead the role of nature in the general discipline, arguing that the natural environment is a determinative factor in shaping international law, and that assumptions about nature lie at the heart of disciplinary concepts such as sovereignty, development, economy, property, and human rights.

Natarajan and Khoday elaborate on this argument by examining the genesis and evolution of the international environmental law specialization with a view to identifying consequences for the broader discipline. They argue that international law's inability to stem serious ecological harm is due to an impoverished understanding and construction of the notion of 'the environment' within the discipline. Nature is understood in ways that not only obfuscate and normalize sources of environmental harm, but that circumscribe the disciplinary ability to provide imaginative and effective solutions.

Among other things, Natarajan and Khoday consider the proliferation of particular forms of environmental governance and 'environmentality', resulting in the creation and recreation of subjects, objects, and relationships. The process of environmentality is illustrated in McCreary and Lamb's exploration of two case studies in South-East Asia and Canada that trace from the bottom-up the effects of natural resource governance for locales and for the sovereign, thus recounting the political

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ecology of sovereignty. Comparative analyses reveal how processes of resource exploitation and social exclusion have been at the core of the genealogy of sovereignty. Sovereignty is understood as a living process with potential to be re-articulated from below, with sovereignty's relationship to the natural environment being contested in local encounters around the world.

McCreary and Lamb, as geographers, assess the use of maps as technologies for solidifying and mobilizing claims. Mickelson's analysis reflects on law as a map – a tool of governmentality and environmentality – that enables representation in analogous ways to cartography. She considers what is added and what is lost through doctrines of title to territory such as *res nullius*, *res communis* and the common heritage of mankind, and the corresponding assertions of jurisdiction. Like maps, law can assert stillness and knowledge over things that are dynamic and enigmatic, whether the evolving course of rivers that nourished life and shaped culture and meaning over millennia, or the womb of the ocean from which human life emerged.

International lawyers tend to see nature in very particular ways. Porras locates nature in the founding disciplinary works of Vitoria, Gentili, Grotius, and Vattel, observing that the material world becomes visible primarily through the lens of commerce. Rivers and oceans only exist in these works because they contain fish and allow for commercial navigation. In an age of exploration and empire-building, commerce was idealized as a universal beneficence. Assumptions about natural or God-given abundance and scarcity fuelled a veneration of commerce in a manner that allowed disengagement with the actualities of commercial exploitation and brutality. These themes resonate within the contemporary discipline, with nature existing only in so far as we are able to commodify it, and its value dependent on the potential for ownership,

All the authors share an intuition that understanding and unpacking disciplinary assumptions about nature will help us think our way out of destructive development patterns. To this end, all the articles elucidate three interrelated themes. First, that the relationship between international law and the natural environment is consequential and should be better understood. Nature is fundamental to shaping international law, and international law has in turn played an important role in shaping the natural environment. Second, the natural and the social are connected in complicated ways. Control of the natural environment is related to the allocation of resources and thus environmental concerns are inextricably intertwined with problems of poverty, inequality, and underdevelopment. Third, addressing environmental concerns entails going beyond an instrumental understanding of nature. The authors do not offer a definition of nature, focusing instead on how law discerns the natural environment. Environmental law scholarship, international and domestic, has a tendency to focus on the sustainable use and fair sharing of natural resources. However, nature is more than an economic resource and the natural environment is of more than utilitarian value. Dominant paradigms make it difficult to foreground other types of value, and this project endeavours to identify and dismantle disciplinary barriers to alternative understandings of nature that may inspire more sustainable ways of being in the world.