

Editorial

Extra-Border Spaces and Frontiers of Law

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With this new issue of *Novum Jus*, our readers receive a collection of articles by authors from diverse regions of the globe, presenting a wide range of concerns and approaches. On this occasion, we open our journal to academic colleagues from Indonesia, who share their reflections on the conceptual boundaries and points of contact between state law and customary law in various post-colonial contexts. Another article from the same geographical origin explores the potential of using encrypted technologies for regulating the management of high seas fisheries. Yet another Indonesian contribution examines aspects related to outer space governance. From a European vantage point, a Spanish colleague contributes to the debate on “climate change litigation,” from which a body of environmental law and transnational legal practices is beginning to emerge, aimed at encouraging the mitigation of the effects of this global change with the cooperation of governments and large corporations, an issue that directly touches on a crucial goal: environmental sustainability². Latin American authors, in turn, engage in discussions on the meaningful significance of human rights and criminal social control from plural cultural perspectives and worldviews, as opposed to perspectives that seek to legitimize the assumptions underpinning sociocultural domination processes rooted in the colonial past.

A close reading of the rich diversity of contributions in this issue reveals some shared concerns related to the role of territoriality as the foundational principle of modern law. Without such a foundation, the law loses the two basic conditions that support its institutional reproduction: 1) the effectiveness of regulatory action by political and socioeconomic institutions, and 2) the legitimacy of the bodies through which the political regime operates. The lack of immediacy and certainty

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² Germán Silva-García & Diana Marcela Bonilla Uyaban, “La sostenibilidad en el análisis criminológico. El caso de la minería carbonífera en Boyacá”, *Via Inveniendi et Iudicandi* 18, no. 2, (2023): 270-292.

in the institutional control of activities on the high seas or in the colonization of outer space may lead to the widespread disregard of legal norms intended to govern what happens in such spaces, undermining the spatial reach of the law that the respective political regime seeks to project. Furthermore, in spaces such as the oceans and outer space, there is a clear absence of a well-defined political community that subscribes to the social contract through which the legitimacy of the political regime governing those spaces is sustained³.

Ocean pollution, the increasing concentration of atmospheric carbon, and space debris are global-scale issues with potentially long-lasting harmful consequences that may persist across generations, imposing high costs on those yet to be born⁴. The fact that these problems are located in areas without fixed borders or rooted political communities to legitimize collective decisions on the distribution of responsibilities for assuming the intergenerational costs necessary to deal with these issues, is an unfavorable condition for the continuity of the integrated and sustained responses to contain and reduce the scope of these global consequences.⁵ This discrepancy between the timescale of the consequences of global-scale problems and that of regulatory responses is one of the major challenges faced by modern legal systems, as clearly illustrated by the recent difficulties in complying with international agreements on the reduction of global carbon emissions into the atmosphere.

At the same time, extra-border spaces are sites where various epistemological frontiers intersect, offering multiple perspectives on these spaces based on different forms of knowledge and wisdom, including scientific knowledge, ancestral knowledge, and social, economic, political, and cultural practices rooted in diverse worldviews concerning the significance and use of such spaces, which remain largely unappropriated within modern legal systems.

In such contexts, governance models based on political representation regulated through democratic mechanisms, which seek to balance values such as the protection

³ For a proposed typology to characterize different models of political regimes, see Bernardo Pérez-Salazar, “El régimen político y el control de la conflictividad social en Colombia”, *Cultura Latinoamericana* 39, no. 1 (2024): 194-213.

⁴ Jairo Becerra, Paula Pérez, & Laura Duarte, “Borders in Airspace and Outer Space”, in *Frontiers—Law, Theory and Cases* (Cham: Springer Nature 2023), 71-87.

⁵ Ekaterina Anstygina & Bernardo Pérez-Salazar, “Maritime Territorialization and Governance: Geopolitical and Legal Issues Concerning Delimitation of Extended Continental Shelves in the Caribbean Sea and the Arctic Ocean”, in *Frontiers—Law, Theory and Cases* (Cham: Springer Nature, 2023): 33-69.

of fundamental rights, due process, and legal certainty, can result in regulatory frameworks bound by disproportionately burdensome commitments and management processes, often resistant to the implementation of innovative, integrated solutions driven primarily by technical and financial efficiency. Among authoritarian governments that are gradually taking hold in a growing number of national political communities worldwide, a reaction to what is perceived as regulatory overreach is beginning to emerge—often expressed through attacks on basic civil and political rights, such as protection against arbitrary persecution—particularly within public institutions. The imposition of despotic and arbitrary hierarchical orders that privilege technical and financial efficiency above all other social values—blatantly divorced from the legitimacy mechanisms of public institutions and even due process—may be one of many possible outcomes of the authoritarian currents surfacing in today's world. In the face of this scenario, academia offers the antidote of research that reaffirms the relevance of fundamental and human rights⁶.

Borderless spaces represent new governance challenges for the legal systems grounded in modern law. Contemporary law must constantly negotiate its own limits in order to maintain its relevance and legitimacy. The limitations imposed by the territorial nature of modern law represent opportunities to fundamentally rethink the spatiality of law. In this regard, oceans and outer space serve as laboratories for the emergence of new governance models for extra-border spaces, where plural spatial logics are configured and intertwined. Understanding these dynamics and developing both conceptual and practical frameworks to navigate them is one of the most significant challenges for contemporary legal thought, especially from Latin American perspectives seeking to craft responses to global issues grounded in their own experiences and epistemologies⁷.

⁶ Luis Felipe Dávila, "Conflicto y gobernabilidad local: análisis para el corregimiento de Altavista, Medellín", *Revista Lasallista de Investigación* 10, no. 1 (2013): 128–138. César A. Castillo Dussán, Paula A. Barreto Cifuentes, & Fernanda Navas-Camargo, "Políticas públicas para los derechos y para la paz", *Opción* 35, no. 25 (2019): 282–326. Pablo Elías González-Monguí & Jorge Enrique Carvajal Martínez, "Política de gobierno como generador del conflicto: criminalidad, seguridad y percepción de inseguridad en las ciudades de Bogotá, Medellín y Cali 2020-2021", *Via Inveniendi et Iudicandi* 18, no. 1 (2023): 94–116. Germán Silva-García & Pamela Tinoco Ordóñez, "La justicia restaurativa. Un parangón entre la justicia penal y la transicional", *Araucaria* 26, no. 57 (2024): 483–504.

⁷ Óscar Alexis Agudelo Giraldo & Jorge Enrique León Molina, "Una devaluación del mito eurocéntrico sobre la universalidad de los derechos humanos: la sospecha latinoamericana", *Revista Científica General José María Córdova* 21, no. 44 (2023): 987–1004; Germán Silva-García & Bernardo Pérez-Salazar, "Evaluación de la investigación jurídica publicada en libros e impacto en la educación superior colombiana", *Revista de Pedagogía Universitaria y Didáctica del Derecho*, (2023): 101–120; Germán Silva-García, Angélica Vizcaino Solano, & Bernardo Pérez-Salazar, "The Debate Concerning Deviance and Divergence. A New Theoretical Proposal", *Oñati Socio-Legal Series* 14, no. 2 (2024): 505–529; Germán Silva-García & Bernardo Pérez-Salazar, "International

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