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Editors' Note

Law and the Amazon

The Amazon basin spans nine countries and 6.5 million square kilometers, holds nearly one-fifth of the world's fresh water, and houses a biological and cultural diversity without parallel. More than 33 million people live in this territory, including hundreds of traditional communities and over 280 Indigenous Nations. It is also a legal palimpsest: layer upon layer of normative orders—Indigenous epistemologies predating colonial contact, imperial regulations, republican constitutions, and the emergent grammar of nature's rights—have been inscribed, erased, and superimposed upon it. The Amazon is also a site of acute political conflict with profound legal dimensions: deforestation and illegal land occupation remain structurally linked to biodiversity loss, forced labor, and systematic violations of Indigenous rights. Yet ultimately the Amazon symbolizes hope: it stirs the imagination and opens a gateway to ancestral and emerging forms of knowledge.

How can science take up the gauntlet? A few weeks ago, the President of the Max Planck Society, Patrick Cramer, began a speech on "The State of our Science"[1] by referring to his visit to the Atacama Desert's astronomical centers. Across the Andes and the Amazon, and with the aim of creating alliances and research units, his words resonate with us: "We find joy in unlocking the secrets of the world". Latin America is a privileged gateway to the secrets of galaxies and life on Earth, and has long inspired the Max Planck Society's commitment. This is evidenced by the 75-year-long Max Planck-INPA (Instituto Nacional de Pesquisas da Amazônia) partnership, whose ATTO—Amazon Tall Tower Observatory—is a cornerstone of global climate science. But Cramer's statement goes further: "Science is a pillar of reason, freedom, and democracy." As legal scholars, these words resonate with our research subjects and those of the various projects of the Max Planck Law Network in the region.[2] In this spirit, we propose to advance knowledge of law and the Amazon, revealing its secrets, narratives, and new modes of thinking, and putting science at the service of a better world.

This special issue of *Latin American Legal Studies* takes a step in that direction. It asks whether the Amazon can provide a center of gravity for rethinking law in the region: its sources, its subjects, and its possible futures. The question extends beyond legal dogmatics. At a moment when the Amazon approaches ecological tipping points, when Indigenous Peoples assert legal subjectivities that unsettle mainstream Eurocentric jurisprudence, and when the crises of climate, democracy, and economy converge with unprecedented intensity, the need for new legal imaginaries has become urgent. The nine contributions assembled here engage with this conjuncture. They do not purport to offer a unified theory. What they offer is a constellation of ethnographic, comparative, institutional, and theoretical approaches that together sketch a provisional cartography of law and the Amazon, attuned to the urgencies of the present and possibly the future.

How should legal academia respond to this conjuncture? In October 2024, over forty scholars from Latin America, Australia, the United States, Europe, and Asia gathered in Freiburg, Germany, to address this question at the inaugural conference of "Law and the Amazon:

[1] CRAMER (2026).

[2] To mention some examples: At the Max Planck Institute for Comparative Public Law and International Law, Armin von Bogdandy leads the project Ius Constitutionale Commune in Latin America (ICCAL). At the Max Planck Institute for Legal History and Legal Theory, Thomas Duve leads several research initiatives on Latin America, including the Historical Dictionary of Canon Law in Hispanic America and the Philippines (16th–18th centuries) and the project The Cambridge History of Latin American Law in Global Perspective. At the Max Planck Institute for Innovation and Competition, Josef Drexl leads the project "Data Governance in Emerging Economies to Achieve the SDGs," which focuses on Brazil, among other countries.

Challenges for a Sustainable Future," convened by the Max Planck Law Forum Latin America[3]. The Forum brings together researchers from across the legal field—from legal theory to tax law—united by cross-cutting concerns: the possibilities and limits of a distinctly Latin American legal thought; the structures of power under which knowledge about the region is produced; and the relevance of regional epistemologies amid the erosion of once-hegemonic paradigms. The "Law and the Amazon" initiative crystallizes these concerns into a sustained inquiry: *what is law, and what might it become, in and for, within and from the Amazon?*

I. WHY THE AMAZON?

The Amazon functions here as a symbolic and methodological point of entry whose ecological, political, and cosmological density allows us to articulate questions extensible to other territorial configurations across the continent and beyond. The rainforests and rivers of the Amazon basin symbolize both the heart of Latin America and its planetary connectivity. They also constitute a territory where the problems afflicting the continent and the world converge with singular intensity: climate change, land conflicts, the rights of Indigenous Peoples, environmental degradation, extractive violence, and the transformation of rural and urban life. Placing the Amazon at the center of debate enables engagement with these questions not as discrete policy issues, but as facets of a deeper juridical problematic.

This problematic has been explored, over the past three decades, through several scholarly traditions that inform our inquiry. The literature on legal pluralism has demonstrated that state law is but one normative order among many, and often not the most consequential for those living at the margins of national jurisdictions. Studies of Andean and Amazonian constitutionalism have traced the constitutional recognition of nature's rights and *buen vivir* in Ecuador and Bolivia, while interrogating the gaps between textual inscription and institutional transformation. Critical scholarship on environmental governance has mapped the forces driving deforestation and the conditions under which conservation policies succeed or fail. And the work of Indigenous intellectuals such as Ailton Krenak and Davi Kopenawa has challenged Western legal thought to reckon with cosmologies in which rivers, forests, and spirits are not objects of regulation but subjects with whom relations must be negotiated. What distinguishes our framing is the attempt to hold together these registers—doctrinal and ethnographic, institutional and speculative, critical and propositional—within a shared space of inquiry.

II. THE AMAZON AS LEGAL PALIMPSEST

A theoretical framework for law and the Amazon must recognize that law in the region predates nation-states and their jurisdictions. Before borders, there were rivers, tributaries, and flying rivers; toucans crossing the sky and migratory catfish traversing the basin from the Andean foothills—none recognizing the lines that maps would later trace upon them. Indigenous Peoples governed their territories through normative systems, increasingly recognized as *Derecho Propio* or Indigenous *Own Law*, long before colonial administration. These systems persist, transformed but unextinguished, in tension with state legal orders that have alternately ignored, suppressed, and partially recognized them.

The very name "Amazon" encodes a history of naming and appropriation. What colonial chroniclers called the "discovery" of the great river was, for those already inhabiting its banks, no discovery at all. To name was also to claim. The adjudication of the Amazon by nation-states has been contested not only through treaties and demarcations, but through images and myths. In 1960, the painter Oswaldo Guayasamín was commissioned to portray "The Discovery of the Amazon River." His canvas, while rendering river, serpent, and vegetation, glorifies conquest and

[3] For further information on the conference, see https://law.mpg.de/initiatives/forum-latin-america/. The authors are also grateful to Linus Ensel and Roberto Ramos Obando for their key role in co-organizing the conference and helping make it a success. We further thank Maria Clara de Pádua Carvalho for her assistance with the final editing of this volume.

reveals an anthropocentric gaze bound to exploitation. The history of dispossession in and of the forest intertwines with the construction of "the wild" and of the female body as territory. The myth of the Amazons, warrior women of Greek legend transposed onto South American geography, resurfaces today in figures of women resisting extractivism and as urban imaginaries of alterity, power, and defiance.

The Amazon has been imagined as a homogeneous conglomerate: exoticized, missionized, rendered muse of exuberance and theater of extermination. The myth of El Dorado, the colonial notion of "Oriente," the idea of wastelands or *bonanzas*—all have wrought profound transformations upon the territory and the bodies inhabiting it. In the name of civilization, the more-than-human was demonized; in the name of progress, legal frameworks were imposed that disregarded Indigenous Law and the cosmologies sustaining life in the forest.

The term "Amazon" refers to at least four distinct dimensions: the river system rising in the Andes and emptying into the Atlantic; the broader ecosystem comprising flora, fauna, and other beings—the rainforest, the animals, the spirits; the geographic region spanning parts of nine countries; and the administrative units officially named "Amazonas" within national jurisdictions. These layers overlap but are not equivalent. The Amazon is simultaneously river, forest, region, jurisdiction, and myth.[4]

To speak of law and the Amazon is, then, a first attempt to gather what the Amazon of Rights Project calls a "legal Amazongraphy": the legal graftings,[5] normative pluralities, and jurisdictional entanglements constituting this space. But it is also a route of itineraries, journeys, and transformations; of shared ancestralities, like those of the Kichwa People of Sarayaku in the Ecuadorian Amazon, whose territorial memory interweaves with the Marañón in Peru. Each People navigates heterogeneous processes within state demarcations that fail to reflect the fluidity of their territorialities. At these margins, they implement hard-won rights and create their own legal *mingas*[6]—collective legal making—in a space where rivers travel as vapor, catfish cross without passports, and beings like the *yakurunas* traverse not only watersheds but legal regimes, extractive interests, and cosmological disputes.

III. Orienting Questions

Three questions orient the contributions to this issue—posed not as riddles to be solved, but as fields of tension to be explored.

First: who are the subjects of law in the Amazon? The classical answer—human persons and, derivatively, legal entities such as corporations and states—has been unsettled by constitutional and jurisprudential developments recognizing nature, rivers, and forests as rights-bearing entities. But the question runs deeper. What forms of legal subjectivity are available to those who refuse the terms of juridical legibility, like the Tagaeri Taromenane in voluntary isolation? What becomes of "representation" when the represented cannot or will not speak in the idiom of courts? And how should law reckon with the more-than-human entities such as entities of the vegetal and animal world, or spirits, ancestors, ecosystems—that some Indigenous cosmologies or Own Law recognize as *persons*?

Second: what is the relationship between law's violence and law's promise? Law has been a vector of dispossession: the legal frameworks of colonization, the titling regimes that converted communal lands into alienable property, the environmental regulations honored more in breach than in observance. Yet law has also been a terrain of struggle and, occasionally, of victory. The

[4] On this framework, see the Amazon Rights Project. For a report synthesising an attempt to trace historical cycles in the Amazon, the formation of nation states and historical legal contexts, as well as the presence of the Amazon in nation state legal systems for Colombia, Ecuador, Peru and Brazil, in the form of artistic normative cartographies (Amazongraphy/ies), see: https://amazoniarights.com/news/amazongraphies

[5] We are adopting legal graftings from, ROMAN BORGES (2023, p. 63)

[6] For the term of *legal minga* refer to YAUCÉN REMACHE & GARCÍA RUALES (2025).

question is not whether law is "good" or "bad," but how it operates as a site of contestation, and under what conditions it can be turned toward emancipatory ends.

Third: what would it mean to "reforest the imagination" in legal terms? This beautiful invitation of inquiry comes from Ailton Krenak, who has called for modes of thought capable of escaping the monocultures—cognitive and ecological—that characterize contemporary Western civilization. If the imagination can be deforested, reduced to a single crop of instrumental reason, it can also be reforested.

IV. THE CONTRIBUTIONS

The articles engage these questions from multiple vantage points, moving across scales and methods. Together, they do not resolve the tensions identified; they inhabit them.

Julia Schwaab, Natalí Cáceres, and Rafael Yumbo examine free, prior, and informed consultation in Ecuador's Yasuní National Park, interrogating the paradox embedded in a nationwide referendum on Indigenous territories. While the 2023 popular vote mandated the cessation of oil extraction—a mandate the current government has yet to implement—the authors probe who holds legitimate authority over these lands. Their title, "The Unconsulted Consultation," captures the tension between national democratic procedures and the self-determination of communities inhabiting the territory since before its designation as a protected area. Drawing on Rafael Yumbo's experience as a former Kichwa leader, the article documents how Amazonian Peoples have developed their own protocols for prior consultation. The Sarayaku People's understanding of consent in their Own Law as including the Living Forest or *Kawsak Sacha* itself—a legal *minga* challenging anthropocentric premises—offers a particularly generative example. Genuine autonomy, the case reveals, requires not participation in externally designed processes, but Indigenous leadership and decision making over juridical frameworks themselves.

Nina Kolowratnik asks how a People in voluntary isolation can be represented before an international tribunal. Her legal ethnography of *Tagaeri and Taromenane v. Ecuador* before the Inter-American Court traces how coexistence manifests through cyclical movements synchronized with the forest's rhythms, mobile occupation of shifting places, footprints along traveled paths, and encounters with neighboring Peoples. The Tagaeri Taromenane, who have chosen to remain apart from dominant society, present a limit case for legal systems premised on voice, presence, and articulated claims. These forms of *cosmovivencia* or cosmoliving, as the Andean Kitu Kara People would describe, persist as expressions of self-determination within an extractive context. The case calls for a jurisprudence capable of recognizing presence without voice and movement without testimony, expanding the conceptual repertoire of human rights law from within the Amazonian legal map.

Maria Francesca Cavalcanti offers a comparative analysis of how Bolivia and Ecuador have constitutionalized ecocentric principles. Combining doctrinal analysis with systematic examination of primary sources, she traces how traditional cultures and nature's rights have been inscribed into constitutional texts. A central finding concerns the limited role Indigenous legal reasoning has played in jurisprudential elaboration. Courts invoke constitutional provisions without sustained engagement with the epistemologies ostensibly grounding them—a "short-circuit" in which constitutions absorb Indigenous ontologies without transforming legal argumentation. Yet these tensions admit plural readings; alternative frameworks like "Living Forest Constitutionalism" propose different articulations between Indigenous thought and constitutional form.[7] The gap between recognition and engagement signals an unfinished project

[7] (forth) García Ruales, Jenny. *Living Forest Constitutionalism: Corazonando Amazonian Jurisprudence*. Living Forest Constitutionalism is a theory that emerged from long-term ethnographic research with the Kichwa Indigenous People of Sarayaku. This posthuman and Indigenous approach to constitutionalism presupposes the fragmentation of law as a defining characteristic of legal life in the Amazon, encompassing People's Own Law, Living Forest (*Kawsak*

demanding deeper dialogue between doctrine and the knowledge systems it purports to incorporate.

Carolina Bejarano approaches the Amazon Basin not as a bounded object of environmental regulation, but as a planetary legal site through which the structural limits of modern international law become visible. The basin's ecological interdependence, its transboundary dynamics, and its long history of Indigenous territorial governance expose deep frictions between ecological processes and the jurisdictional, epistemic, and normative assumptions structuring international legal ordering. The article identifies three interrelated tensions: the mismatch between ecological interdependence and jurisdictional fragmentation; the marginalization of Indigenous legal orders within state-centered frameworks; and the persistence of anthropocentric reasoning that conceives nature primarily as an object of regulation. In response, Bejarano advances three analytical proposals: conceiving jurisdiction as relational and ecologically situated; embracing epistemic pluralism as a condition for legal reasoning in the Anthropocene; and understanding ecological processes as sources of normative orientation that inform legal judgment without displacing human-made law. The Amazon, in this framing, functions as a condensed expression of planetary dynamics confronting international law—challenges structurally embedded rather than geographically confined.

Deo Campos Dutra and Guilherme Roman Borges open a methodological debate by interrogating possibilities for rethinking law in the Global South against what they term juridical "self-Orientalism": the practice of recognizing the superiority of values from the Western Global North. Concepts of "epistemic injustice" and "pluriversality" enable their argument that "comparative legal grafting" constitutes the matrix of what they term "Brazilian ethnojuricide." The suppression of domestic legal experiences from Indigenous, Black, *caiçara*, and riverine matrices is characterized not as transplantation but as grafting: imposition operating through annihilation rather than replacement. The current legal system cannot be understood without excavating this originary violence. Domestic legal *de-comparativism* is proposed for placing "unofficial law" in dialogue with "official law," reconstituting the former as resistance. Their work invites debate on redefining legal methodologies from the perspective of Latin America and the Global South.

Carolina Stange Moulin investigates the institutional machinery behind the eighty-percent reduction in Brazilian Amazon deforestation between 2004 and 2014—widely regarded as the largest contribution any single country has made to climate mitigation. Drawing on forty-four interviews, she reconstructs the genesis of what she terms the "doctrine of deterrence" within Ibama, Brazil's federal environmental enforcement agency. A new cohort of civil servants—recruited through competitive examinations, possessing higher education, lacking allegiance to landed elites—supplied the intellectual labor for institutional reinvention. Inspired by a reading of Clausewitz, the doctrine concentrated organizational energy on high-visibility targets and immediate decapitalization of offenders. The analysis demonstrates that the dramatic reduction was policy-driven, not price-driven, and that state capacity, when insulated from elite capture, can achieve outcomes once considered unattainable. The article closes by tracing the political backlash that followed.

Artur Sgambatti Monteiro and Anne-Katrin Broocks examine the state of Acre's Environmental Services Incentive System (SISA) and its ISA Carbon Program, the first subnational jurisdictional REDD+ framework and a model for integrating conservation with Indigenous participation. They analyze how ISA Carbon reflects convergence between Acrean Indigenous worldviews and Western climate mitigation approaches, attending to benefit-sharing adaptations and engagement with the LEAF Coalition. Drawing on poststructuralist political ecology, Monteiro and Broocks

Sacha) Law, State Law, and instruments of international law. This fragmentation also refers to the intersemiotic and material dimensions through which law is expressed and enacted in the Amazon.

situate SISA within critiques of market-based conservation: oversimplification of socio-ecological systems, failure to address root causes of the climate crisis, and offsetting logic permitting continued harmful practices. Yet SISA's achievements—its stock-flow methodology, governance structures incorporating civil society—are also recognized. Acre's experience reveals both promise and peril: jurisdictional REDD+ can enhance participation and redistribute resources into community-designed policies, yet operates within paradigms viewing forests as economic assets, risking green colonial relations.

Eduardo Saad-Diniz and Giulia Gianecchini contribute to criminal law scholarship with an analysis centered on environmental degradation and victimization theory. Examining Autazes municipality in Amazonas state, they trace how the convergence of socio-environmental harm, criminal practices, and human rights violations intensifies adverse climate effects. The authors identify *hypervictimization*—discrimination and continuous social isolation of marginalized people as acts of power—and *hyper-hotspots*, epicenters where multiple forms of victimization converge. The framework connects individual suffering to structural dynamics of environmental injustice, demonstrating how criminal practices produce cascading effects extending from local communities to planetary systems. Identifying hyper-hotspots enables targeted interventions addressing the structural conditions enabling both human rights violations and environmental degradation.

João Victor Gianecchini investigates the convergence between contemporary servitude and environmental destruction, positioning these as mutually reinforcing sources of victimization. Through secondary data analysis drawing on the Comissão Pastoral da Terra and Instituto Igarapé, he demonstrates how debt bondage has facilitated illegal deforestation, ranching, and mining. Historical analysis traces modern slavery's roots to the military dictatorship's colonization campaign; the phenomenon persists today within organized criminal networks. The "modern slavery–environmental degradation nexus" positions labor exploitation as a central mechanism of environmental injustice. Effective responses require coupling labor governance with environmental justice and centering the agency of those most affected.

V. Toward a Forestanía

The contributions do not converge on a single thesis. They traverse consultation and silence, constitutional recognition and juridical absorption, enforcement and resistance, carbon markets and cosmovisions, criminal law categories and modern slavery. They move between scales—from the intimacy of footprints on forest paths to planetary circuits of climate finance—and between temporalities, from the originary violence of colonial grafting to the urgent present of tipping points.

What emerges is a shared orientation. Each contribution takes seriously the proposition that thinking *law from and with the Amazon* requires unsettling inherited categories: of legal subjectivity (who or what can bear rights?), of jurisdiction (whose law governs where rivers cross borders?), of representation (how are the voiceless made present?), of harm (where does victimization end?). The Amazon functions not merely as a case study but as a limit experience—a site where law's assumptions are pushed to their breaking point and, perhaps, reconfigured.

We return, in closing, to the questions with which we began. Who are the subjects of law in the Amazon? The articles suggest an answer that is less definition than provocation: legal subjectivity here is multiple, contested, and in-the-making. It includes human persons, but also peoples who refuse legibility, forests or rivers that consent or withhold, and relations between humans and more-than-humans that do not map onto inherited categories. The task is not to fix these subjectivities in doctrine, but to remain attentive to their emergence and transformation.

What is the relationship between law's violence and law's promise? The contributions trace both: the violence of legal grafting, ethnojuricide, hypervictimization, and the nexus between servitude and environmental destruction; but also the promise glimpsed in enforcement doctrines that

work, in constitutional openings to ecocentrism, in legal *mingas* that prefigure other ways of organizing collective life. Law is neither savior nor villain. It is a terrain of struggle whose contours are shaped by the forces that contest it.

What would it mean to reforest the imagination, or more precisely, the legal imagination? Here we can only gesture toward an answer. Krenak's call is not a program but an invitation—to cultivate modes of thought that escape the monocultures of instrumental reason, to allow other species of ideas to take root. In juridical terms, this might mean a *forestanía*: forms of citizenship and legal belonging rooted in the forest, taking the entanglement of human and more-than-human worlds as a starting point rather than an exception. What such a *forestanía* would look like in practice—in constitutions, in jurisprudence, in the daily work of enforcement, practices, and resistance—remains to be elaborated. These articles offer fragments, not blueprints.

Law and the Amazon are also the memories of grandmothers and grandfathers. In the gatherings we have convened, we sought to converge from distinct enunciations, taking up the challenge of thinking beyond the academy. Our ambition was never to arrive at definitive answers, but to open a space for conversation in which urgent themes could be brought to the table. We claim only to have pushed our *canoa* off from the riverbank. The *Amazonas* has guided our inquiry; navigating its currents from here depends on those who take up the paddle.

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