

Editorial

This issue appears at a time when the international regime's flagship law, the Kyoto Protocol, has taken a battering that's left it leaking and rudderless. The framework law to which it is appended seems by contrast to have been little affected by the new (or is it old?) dissonance, except of course in its now doubtful assumption that the global problem will be solved by all the states working together. That apart, the framework's fundamental administrative ambition—to compile information on emissions, policies, scientific knowledge, and physical impacts—has become normalized. It's not much; and with climate law fragmented where it does exist, and seemingly (by the end of 2009) having exhausted its early evolutionary momentum, we are challenged to see what we have and to imagine what we want. Meanwhile, the study of climate law, as a new interest, is finding its feet, as some of the articles in this issue demonstrate. There is an evident concern in the first two pieces with “definitional quandaries” (Osofsky's term) and how to see and classify the new objects in the field (especially where they are connected with courts and tribunals); and, further along in the issue, with what to expect of legal actions that may yet materialize, and with an underscoring of the fact that entrenched interests can be just as creative and successful in climate-related litigation as reformers occasionally have been. Dissociated from court work, climate law can quickly lose its definition. To students of international law that's nothing remarkable. Partial regulatory systems have been put in place (agriculture and forestry are still too hard; adaptation finance a mere promise) whose implications are only now being worked out (the CDM) and whose continuation is decided in fits and starts or is known to be uncertain (CCS). Matters are no tidier at the EU level. Even conceptualizing country-level events, as one of our book reviewers in this issue has eloquently done elsewhere for the Australian scene (Jacqueline Peel, *Climate Change Law: The Emergence of a New Legal Discipline*, 32 Melb. U. L. Rev. 922, 2008) is difficult to pull off well, for at that level so much of the change has been left to chance or good luck. There's also the inescapable interdisciplinarity of climate-change studies which adds challenge to the writing, but much pleasure to the reading, and which this journal's pages will always welcome. Against this background, one editorial presumption is that pretty much everything that happens under the UNFCCC or against it has a legal angle; to be distinguished, of course, from the extrasolar quality of “legally binding”, which is not always necessary for actual regulation. Oberthür and Lefeber describe the delicate balance they and their colleagues must strike in the operation of the Kyoto Protocol's compliance system. Here we have

not just a dispatch from the front lines; it's an experience that only a handful of people have had, and fewer still could write about as carefully and revealingly as these two authors. There is a kind of progress, they and several others in this issue maintain, albeit cautiously. That is of interest to all of us who admire the science and expect the corrective regulation logically to follow and who pore through the UN's latest emission-account compilations and COP proceedings etc. for signs that we are turning the corner. No! retort Røgeberg, Andresen, and Holtmark towards the back of the issue: progress has been mostly illusory and there is little chance that we will find a way out of this, law or no law. The journal's aim, nonetheless, is to bring you the best essays on climate law, governance, and related ideas and experiences. The journal will be as much for non-lawyers as for lawyers; it will debate the contours of the field but also report from the field; we will print investigative and theoretical and in-between pieces of any length by writers based inside or outside the academy. We will insist on clarity and accuracy and engagement with a general audience. Thank you for reading us. Please consider writing for us. And please remember that it is impossible—to borrow the words of Harold Ross—for a journal fully to establish its character in one number.