

AGORA

# Itamar Mann, lifeboats and climate politics: An introduction

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## Abstract

This introduction to the Agora outlines the issues raised by and arguments in Itamar Mann's article, 'From survival cannibalism to climate politics: Rethinking *Regina vs Dudley and Stephens*', and the four commentaries thereon.

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What is the normative status of and the relationship between law and custom? What forms of legal or political practice are most likely to achieve climate justice generally or ocean justice in particular? Which facts are relevant to each form of justice, and how should theorists incorporate those facts into their work? These broad questions will be familiar to regular readers of Global Constitutionalism. Indeed, questions concerning ocean governance were the subject of an earlier Agora in Volume 13, Issue 1. No single work is likely to provide a decisive answer to each question. However, Itamar Mann's University of Southampton Centre for Global Constitutionalism Annual Lecture – which he delivered in an event co-hosted by the Southampton Marine and Maritime Institute (SMMI) – provides interesting insights into aspects of each question. The result, 'From survival cannibalism to climate politics: Rethinking *Regina vs Dudley and Stephens*', is the subject of this Agora.

We trust that any interested reader will examine Mann's full text, but a brief summary helps situate the Agora. Mann's article brings together work in history, law and society, political theory, and climate politics to offer a new reading of a canonical case in British criminal law, *Regina v. Dudley and Stephens* (1884) 14 QBD 273. Mann then goes on to examine the reading's implications for contemporary climate politics. *Dudley and Stephens* is most often cited for the holding that necessity is not a defense for homicide. The defendants in that case admitted killing and consuming a sickly 'cabin boy' to survive after the wreck of their ship, the *Mignonette*. Mann draws on the work of A.W. Brian Simpson and Cătălin Avramescu to argue that (a) the legal holding at that case ignored important maritime customs that would have at least excused the defendants from censure and (b) appeals to those and similar customs offer a bottom-up model of normativity that can and should inform modern climate politics. Mann notes that maritime custom of the era

permitted killing and consuming individuals in lifeboat scenarios (subject to procedural safeguards). He further notes that the survivors were accordingly surprised to be arrested for the killing, let alone convicted, and that members of maritime communities supported the defendants. Mann then goes on to argue that *Dudley and Stephens* exemplifies a defeat for customary norms at the hands of a state legal machinery based in theoretical posits far from the lived – classed and environmentally-situated – experiences of those subject to it.

Mann further argues that *Dudley and Stephens* exemplifies a general need for a less abstract approach to climate politics, particularly in maritime contexts but also more broadly. He compares three lifeboat metaphors to ground this claim. Mann first identifies two major metaphors from Cold War-era political and environmental thought that remain influential today. A providential metaphor, exemplified in work by Buckminster Fuller, treats Earth itself as a lifeboat: we are all on a single planet and must sustain it if we are to survive. A catastrophic metaphor, exemplified in work by Garrett Hardin, instead suggests that scarcity requires that each state serve as a lifeboat for its constituents: states must enact protectionist policies to secure adequate resources for their members. Mann then argues that both metaphors share a common grounding in high-level theory – in this case, natural law theory – that is insufficiently attentive to material realities. His proposed ‘commonist lifeboat’ instead builds on the customs ignored by the court in *Dudley and Stephens*, suggesting that climate politics should be developed from the bottom up. Just as maritime customs structured the actions of those on the Mignonette, contemporary customs structure how we act in ongoing climate crises and should structure our political response.

The commentaries by four Southampton-based scholars – each of which builds on texts delivered at the Annual Lecture Symposium – pick up on different aspects of Mann’s article. David Owen first situates Mann’s article in a broader context of anti-idealization-based political theory exemplified by Onora O’Neill’s classic critique of John Rawls. Owen then argues that the classic lifeboat metaphors had particular visions of their implications for global governance. He further argues that the commonist lifeboat should be understood as a theory of global governance committed to civic citizenship and polycentricity.

Antje Scharenberg next draws on her own ethnographic work on ‘radical vessels’ to underline Mann’s comment that lifeboat metaphors are not ‘merely’ metaphors. She appears to take the call to attend to the context of normative decisions even further than Mann, suggesting that the material reality of seafaring vessels itself structures political decisions. Material reality highlights when and how vessels can be sites for political resistance or oppression. This is meant to support Mann’s general argumentative strategy, but arguably also raises difficult questions about whether circumstances on ships generalize to other contexts.

Chris Armstrong’s commentary then more broadly focuses on the aptness of lifeboat metaphors, offering multiple reasons to question their utility and, indeed, to worry that they can lead analyses away from pressing political issues. Armstrong suggests that many lifeboat-based analyses are insufficiently attentive to the facts of real-world politics. Interestingly, Armstrong notes that O’Neill’s critique of Rawls itself relied on questionable assumptions about scarcity. While Armstrong does not write off the utility of lifeboat metaphors in all cases or directly attack Mann’s use of the metaphor, Armstrong suggests that such metaphors can generally obscure the realities of climate crises and that even Mann’s analysis may be insufficiently attentive to the role of animals in a just ecological condition.

Finally, Ainhoa Campàs Velasco challenges Mann’s appeal to the importance of custom in *Dudley and Stephens*. Rather than reading *Dudley and Stephens* as an unjust

imposition of hegemonic state authority over local custom, she reads it as a clear expression of the importance of life and a precursor to later acknowledgments that human rights, including the right to life, exist at sea as well as on land. Human rights norms should govern any lifeboat, metaphorical or otherwise, even if one shares many of Mann's concerns.

The collection of work here offers some paths forward on each of the overarching questions above that were raised by Mann's article and are key to the journal mandate. We sincerely hope that you enjoy the Agora. Thanks for support are due not only to the current editors and staff of Global Constitutionalism but also to former Editor (and Centre for Global Constitutionalism Co-Director) Jonathan Havercroft and the leadership and staff at SMMI, especially Damon Teagle, for supporting the Agora and the event that preceded it.