

INTERNATIONAL LAW AND POSTHUMAN THEORY

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BECOMING COMMON – ECOLOGICAL RESISTANCE, REFUSAL, REPARATION

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Introduction

In this chapter, I focus on the *lago bullicante* – literally the ‘lake that boils and gets agitated’ – in the Prenestino neighborhood of Rome, Italy. It is a case set in the ‘local’, yet its particular subjective, spatial and temporal dynamics inform modalities of collective action that are common to practices of ecological resistance, refusal and reparation across different jurisdictions and geographies.

Three reasons make the *lago bullicante* stand out for me when thinking about posthumanist approaches to (international) law against the backdrop of ecological concerns. First, the collective action – as I will elaborate next – was triggered by water that sprung from the underground due to illegal human activities. In this case, water was the driving force that ordered the political and legal actions that have since emerged, together with the vegetations and animals that live from and with it. The *lago bullicante* – also known as the ‘insurgent lake’ – is therefore a striking example of a collective action enacted from continuously evolving human–nonhuman relations, organized out of and in terms of the agency of water and its generative force across the soils, plants and animal species it sustains. Second, and by way of consequence, these political and legal actions speak directly to the theme of posthumanism, as they are neither confined to nor address merely a collective composed of active human subjects that represent or speak on behalf of passive nonhuman objects. Rather, the action is ignited by a more-than- and less-than-human collective that displaces at once the human in relation to the nonhuman, but also the individual in relation to the collective. Finally, and consequently, these political and legal actions are embedded in practices

of what I call ‘posthumanist commoning’. This is a practice that is part of a longer lineage of collective actions around the commons – *beni comuni* – in Italy, itself embedded within a context of global rise of commoning movements (Gear and Bollier 2020; Weston and Bollier 2013). This practice of commoning, which bears transversal and transnational dimensions through alliances built within a network of resisting collectives across different jurisdictions and geographies, is notably different from the ‘commons’ that have played a central (and perhaps reinvigorated) role today in international legal and governmental discourses committed to better protect, manage and control ‘common pool resources’ (Ostrom 2008) from ecological degradations (Jones *et al* 2023). In this chapter, I argue that it is *after* the human, *after* the individual, *after* the commons and, perhaps, even *after* the state, that relevant insights for a posthumanist theory for international law are fully revealed.

Using the example of the *lago bullicante*, the overall aim of this chapter is to reflect on the modalities of posthumanist collectives that act beyond or without the liberal ‘human’ subject, showing how their transversal and transnational collective actions can help refuse and reconfigure given categories of international law such as property, the subject and the common good. The objective is to let the case of the *lago bullicante* in Rome inform posthumanist approaches to international law, and reveal important limitations that critical posthuman theory entails when rethinking *international law*.

The chapter is divided in three sections. The first section introduces the case of the ‘insurgent lake’ in Rome as a practice of ecological resistance. The second reflects on the non-, more- and in-human features of the collective action at hand, and how it gives rise to an ecological refusal of the ‘human’ as a meaningful category of thought and of practice. The third and final section engages with ‘posthumanist commoning’ as a transnational mode of ecological reparation. My use of ‘posthumanist’ can here be understood as aligned with the ‘posthuman’ that is ‘generated by the intersecting critiques of humanism and of anthropocentrism’ (Braidotti 2019: 34). Whereas Braidotti and other feminist scholars like Jones (2023) and Arvidsson (2023a, 2023b) use the term ‘posthuman’ to refer to this dual and simultaneous move of *de*-humanism and *de*-anthropocentrism (Jones and Arvidsson 2023), I prefer the notion of ‘posthumanism’ to clearly emphasize the refusal and rejection of other invocations of a post/trans/meta-human that rely on modernist aspirations to improve the human as such. Moving beyond the liberal category of the ‘human’, I conclude by exploring how these posthumanist modalities of transversal and transnational ecological resistance, refusal and reparation speak to international law. To this end, I draw out the conceptual and material tools that a critical posthumanist theory can offer when (re)thinking collective action against the backdrop of ecological collapse, while also pointing out important blind spots and limitations, especially in relation to international legal forms and actions.

The Ecological Resistance of the ‘Insurgent Lake’ of Rome

More than a hundred years have passed since the chemical-textile company *Società Generale Italiana della Viscosa* opened its doors to 2500 workers – of whom 60 percent were women – in the area of Prenestino, Rome, in 1922. The plant, which produced artificial silk, used highly toxic carbon disulfide to manufacture rayon (Tola 2019: 195). The artificial silk factory was built on a swamp, on top of the paleo-ditch of *Acqua Bullicante* where a groundwater stream known as *Fosso della Marranella* runs (Procesi *et al* 2022: 6). One hundred years later, this area of east Rome has developed into a densely populated, highly urbanized and gentrifying neighborhood, which counts the lowest number of green areas in the city (Battisti *et al* 2017: 180). Water played a major role in this process, by both enabling this particular development and disenabling others. Indeed, the *Viscosa* factory established itself on the site of the *Aqua Bullicante* in 1922 as the presence of the subterranean aquifer enabled it to use water essential for the production of artificial silk (Fiocca 2022: 54). Yet, it is this same aquifer that, in 1992, prevented the planned construction on the site of what was supposed to become the largest shopping mall of its time in Rome. ‘Matterphorically’ – denoting here the articulation of meaning in relation to matter (Gandorfer and Ayub 2021) – the water resisted against the construction on site of the planned mall.

The *Viscosa* factory operated from 1923 until 1954. Of the 15 hectares of property, half were built for the workers’ housing and other service facilities. A small pine forest was also planted on the site. When the factory closed in 1954, the area was abandoned, leaving time and space for fauna and flora to reappropriate the site. In 1968, to protect the landscape features of the pine forest, the hill area was expropriated by the municipality (*Decreto Ministeriale del 23 marzo 1968 ex L. 1497/1939 per preservare le “bellezze naturali”*) based on an Italian law adopted in 1939 for the ‘Protection of Natural Beauty’ (*Legge 29 giugno 1939, n. 1497 “Protezione delle bellezze naturali”*) and established as a public garden (Vecchiotti 2019: 107). In 1969, the industrial plant and surrounding land were purchased first by the *SNIA Viscosa* company and later, in 1990, by the *Società Pinciana* (commonly referred to as the Ex-SNIA company). The objective of the Ex-SNIA’ purchase was to convert the former factory into Rome’s largest shopping mall. The project, however, was immediately opposed by the local community, which sought to protect one of the rare public gardens in the city (Engel 2022). The protection of the pine forest as a public garden by local activists testifies that protests and mobilizations existed on-site already before the emergence of the *lago bullicante*, which this chapter builds on. When in 1992, the Ex-SNIA company started

digging the ground with a falsified permit to illegally build the parking lot of the planned shopping mall, it inadvertently hit the aquifer of *Acqua Bullicante*, thereby creating a leakage of water that proved impossible to divert to sewers. The construction site and its nearby area were soon flooded, giving rise to a 1-hectare by 5-meter deep lake. The *Lago Ex-SNIA* – later renamed *lago bullicante* – emerged from the underground, and with it a collective came into being to fight for the maintenance of the lake and its ecosystem.

At first, an unorganized form of civic resistance took hold of the site and its newly constituted lake. In 1993, the CSOA Ex-SNIA (which stands for *Centro Sociale Occupato Autogestito*) occupied and self-managed the remaining industrial building to prevent the Ex-SNIA company from pursuing its illegal construction plans. It took years before the abruptly interrupted excavation pit filled with water, drowning debris and construction materials, finally turned into an ecosystem (Tola 2019: 208). Once the water level stabilized, fauna and flora slowly accustomed, turning the site into one of the few green areas of the Prenestino neighborhood just below the pine garden (Battisti *et al* 2017: 180; see Figures 9.1 and 9.2). In 1997, the Italian Ministry of Cultural and Environmental Goods eventually recognized this green area as a site of cultural and environmental interest (*Decreto del Ministero dei Beni Culturali ed Ambientali*) and inaugurated the public park *Parco Prenestino* – later renamed *Parco delle Energie* – of approximately 6.5 hectares (Vecchiotti 2019: 110; see also Figure 9.2).



FIGURE 9.1 The *lago bullicante*, Rome © Pierre Kattar 2021.



FIGURE 9.2 An overview plan of the *lago bulicante* © Francesco Pasta 2020.

For the next close to ten years, however, the site would remain closed to the public (Ex-SNIA Archive).¹ According to Italian law, when the state expropriates a private property ‘for the common good’, that property must be effectively used for such purpose within ten years, or the prior owner can reclaim it. The inaction from the part of the state to open the site to the public constituted a real threat for the site and its ecosystem, as the former owner of the Ex-SNIA company would regain its private property rights over the land, which now included the *lago bulicante*. Massive public protests were therefore held over the years to pressure the municipality to intervene on the site. Days before the ten-year deadline in 2007, the municipality sent workers to ‘open a breach’ (the *breccia di Portonaccio*) in the factory’s perimetral brick wall, finally creating a public access gate to the park (Pasta 2020).

1 The Forum Parco delle Energie established an important archive to collect documents found in the abandoned factory and sustain a process of remembrance about the struggles of the site. On the history and role of this archive and its political project of remembrance that weaves together the past of the factory and the present of the lake, both industrial and natural history, see (Tola 2019).

Following years of resistance against real estate speculation and plans to construct a residential complex in the area, the *Parco delle Energie* was finally recognized as a public park opened to everyone, the communal management of which was granted to the *Forum Parco delle Energie* in 2008. In 2011, a meeting space for the collective was inaugurated (*La Casa del Parco*). It consists of a polyfunctional indoor and outdoor space (Vecchiotti 2019: 112). Ever since then, the Forum has been fighting for the lake to be recognized as a ‘natural monument’ (*monumento naturale*). Under Italian law, ‘natural monuments’ are areas characterized by a ‘natural’ feature, such as a rich biodiversity, that is particularly emphasized due to its specific aesthetic quality that grants them a high ‘cultural’ and symbolic significance (*Legge quadro 394 del 6 dicembre 1991*).² In Italy, the state delegates the protection and selection of protected areas – including ‘natural monuments’ – to the regions. On 30 June 2020, the Lazio region finally recognized the *lago bullicante* as *monumento naturale* (*Decreto del Presidente della Regione Lazio n. T00108 (B.U.R. 2/7/2020 n. 83)*). At the time of writing, in 2023, the area is thus divided into three sectors: the public *Parco delle Energie*, the state-owned *lago bullicante* recognized as a ‘natural monument’, and the privately owned ruins of the Ex-SNIA factory (see Figure 9.2).

Ultimately, the *lago bullicante* emerged from a series of ‘unplanned stochastic events’: from the illegal development of a construction site to the inadvertent leakage of an aquifer, thereby turning an abandoned and degraded industrial site into an ecosystem worthy of conservation with ‘about 300 plant species, 11 plant communities, 3 EU priority habitats, 62 bird species including 3 taxa of conservation concern at continental scale’ (Battisti *et al* 2017: 179). As Battisti *et al* observed: ‘[t]he case of ex SNIA Viscosa is a serendipitous example of unintended restoration where no financial resources have been used’ (ibid: 183). While it is arguably the general absence of humans that enabled this wild urban restoration process of ecological reparation, the latter was only possible due to the presence of particular humans engaged to defend this ecosystem. The spark that ignited the collective action was the accidental hitting of the water vein – the paleo-ditch of *Acqua Bullicante* and the groundwater stream known as *Fosso della Marranella* – but only the slowness of urban city development and transformation in Rome, the decades of inaction by the Roman municipality and the relentless resistance against further urban developing plans by the local community, allowed the lake to transform into a flourishing ecosystem (Pasta 2020). The continuous

2 According to the glossary of the European Environment Agency, a ‘natural monument’ is a ‘natural/cultural feature which is of outstanding or unique value because of its inherent rarity, representative of aesthetic qualities or cultural significance’, at www.eea.europa.eu/help/glossary/eea-glossary/natural-monument.

transformations that the site underwent, most recently by being recognized as a ‘natural monument’ – a hybrid, both human and nonhuman, natural and cultural, Anthropocene-like legal creature – resulted from the tireless resistance of a collective ready to *act with* the lake. It is to this collective and its actions I now turn.

An Ecological Refusal of the ‘Human’ – Becoming More- and Less-Than-Human

This second section reflects on the dynamics of collective action that the *lago bullicante* illuminates. The collective that today cares for the site, the lake and its ecosystem did not exist prior to the appearance of water over ground. While immediate protests took place to re-act against the construction plans of the shopping mall before 1992, it was the sudden creation of the flooded area that led to an ongoing mobilization to care for the maintenance and protection of the site. The collective that acts today, in other words, emerged from and through those humans and nonhumans who were interpellated by the sudden spring of water from the underground. It is, as such, the intra-actions between humans and nonhumans with differential, asymmetrical yet mutually constitutive agencies that enacted this ecosystem, the existence of which cannot be disentangled from the humans and nonhumans that constitute and hold it together. This ecosystem, as a *relata*, emerged from relations between humans and nonhumans. As Barad puts it indeed: ‘relata do not pre-exist relations’ (Barad 2007: 33). *Relata*, in other words, have no individual, exclusive or separate agency prior to the relations that constitute them. This, of course, is not to say that the inhabitants of the area and the underground water of the aquifer had no agency prior to the digging of the latter in 1992, but that following the enactment of the lake, its becoming was contingent upon the entangled agencies of the humans and nonhumans who mutually constitute its being. The power of the water, in this case, can neither be disentangled from the illegal digging exerted by the Ex-SNIA company against the land, nor can it be disentangled from the mobilization of the inhabitants of the Prenestino area of Rome, who cared for its maintenance as well as all the species – whether the plants, vegetations, insects or animals, but also the concrete skeleton of the factory that is still engulfed in the water – and who today form part of the restored ecosystem.

Each action taken by the collective, and each new legal form that the site and its ecosystem were transformed into – from a private property, later partly expropriated into a public garden, and the lake now recognized as a ‘natural monument’, hosting three EU priority habitats as special areas of conservation in danger of disappearing (Battisti *et al* 2017: 179) – were thus enactments of differentiated/entangled agencies between humans and nonhumans with ‘boundary-making practices that produce “objects” and “subjects” and

other differences out of, and in terms of, a changing relationality’ (Barad 2007: 93). These differences matter since an entangled agency does not mean that everything is connected to everything or that everything becomes one. Instead, each action both joins and disjoins those within and without the collective that acts, without ‘producing (absolute) separation’ (Barad 2019: 265). The differential degree of agencies and the differences between humans and nonhumans they produce are therefore key when it comes to understanding the collective action at stake. As Ferreira da Silva puts it, it is a process of ‘differentiation without separability’ (Ferreira da Silva 2016: 64–5). Equally important here are the ‘boundary-making practices [of differentiated/entangled agencies] that produce “objects” and “subjects”’, where the inverted commas serve to highlight a departure or rupture from traditional understandings of both objects and subjects. Indeed, throughout modernity and especially within Western epistemological frameworks, objects and subjects were defined as opposing poles within a dichotomy and seen as mutually exclusive. While the category of the subject was crafted on the basis of an ideal-type figure of a free, self-possessed and autonomous White human being, in contrast, objects referred to what could be owned, appropriated and exploited – not only nonhuman animals, plants, minerals and land, but also inhuman chattel slaves, Native and Aboriginal peoples (Wynter 1975: 10–11). Such dehumanized objects were amenable to human subjects’ control and deprived of their own agency or power to act. When revisiting these categories, the point is then not to get rid of the distinction between subjects and objects but to rethink their intra-relations and emergence as ‘subjects’ and ‘objects’, where one comes into being as such only and always in its relation to the other. A reconfiguration of subjects and objects through such a prism inevitably leads to a displacement and a refusal of conventional liberal understandings of ‘subjects’ and ‘objects’.

Indeed, rethinking collective action through differential yet entangled agency between humans and nonhumans disrupts therefore an absolute separation between subjects and objects within the collective that acts. The collective is inherently of a *more-than*-‘human’ nature, since it displaces at once the modern centering of the ‘human subject’ as sole agent of (legal and political) action, and re-centers the ‘nonhuman other’ into the frame of analysis and of action (Tschakert 2020). This is evident in the case of the *lago bullicante*, where the human collective acts not for but with nonhumans, and its composition and agency change on the basis of the evolution of its state of (well-)being. But the collective can also be of a *less-than*-‘human’ nature. The displacement of the ‘human subject’ in Indigenous, Black and decolonial works, as well as by feminist activists engaged in refusing the patriarchal figure of the White ‘Man’ against which being ‘Human’ is positioned (Odysseos 2023; Jackson 2020; Weheliye 2014; Wynter 2003), have recovered the notion of the ‘inhuman’ to attend to the blurring in Blackness between dehumanized

humans and nonhumans. Historically, the liberal understanding of the ‘human’ subject originally placed Black beings outside of this category, and into that of nonhuman objects as chattel slaves (Walcott 2021: 16). In addition to this ‘thingification’, Black humans objectified as nonhumans were also bestialized as abject animals – as *sub*-humans and hence ‘*in*-human’ (Jackson 2020: 18; Bennett 2020). As Wynter noted: ‘[t]he indigenous, the unchosen, was to be transformed from the human subject of his own culture into the inhuman object of the European culture’ (Wynter 1975: 10). While the category of the ‘inhuman’ is today used in different ways by different authors – with Barad, for example, using it to refer to ‘the indeterminate non/being non/becoming of mattering and not mattering . . . which holds open the space of the liveliness of indeterminacies that bleed through the cuts and inhabit the between of particular entanglements’ (Barad 2012: 222) – I use it here to refer to the simultaneous dehumanization of the human (the human turned into nonhuman) and the structural subjugation of the nonhuman (the nonhuman turned into the inhuman) (Yusoff 2021: 667). The ‘inhuman’, then, refers to being both *sub*- and *supra*-human *at once* – not as being more *or* less human but ‘more *and* less’ than human (Harney and Moten 2021: 140).

For Yusoff, speaking of the ‘inhuman’ is therefore a way to ‘understand Blackness as a historically constituted and intentionally enacted deformation in the formation of subjectivity, a deformation that presses an inhuman categorization and the inhuman earth into intimacy’ (Yusoff 2019: 11). ‘In the forced alliances with the inhuman’, Yusoff contends, ‘a different mode of subjective relation is forged, where Blackness is a name for nonnormative subjectivity’ (ibid: 28). This understanding of an inhuman ‘nonnormative subjectivity’ desediments the Whiteness of being (a human subject), which remains posited as the norm against which all other modes of being and becoming are measured. While scholars like Margaret Davies are working to pluralize ‘normativities’ by recognizing those of nonhumans, thereby de-centering the normativity of humans and reckoning with ‘the existence of multiple normative worlds’ (Davies 2022: 21),³ ‘inhuman normativities’ is doing something else or rather something more. In addition to breaking with the sole attention granted to the normative subjectivity of the ‘human’ and reckoning with nonhuman normativities – thereby advancing a form of *more-than-human* normativity – it also breaks with a ‘human’ normativity as such by refusing to think with the ideal-type figure of the ‘Human’ and foreground the lived experience and potentiality of the ‘inhuman’ instead – thereby advancing a form of *less-than-human* normativity. To paraphrase

3 For Davies, this demands to ‘position law and normativity in general as ontologically prior to the designation of subjects and objects: everything becomes subject and object within plural normative relationships’ (Davies 2022: 1).

Yusoff, then, the ‘inhuman’ enacts ‘a refusal of the white overburden of [being human] that has secreted its excess into every pore of the Earth’ (Yusoff 2019: 108). If working with the ‘inhuman’ simultaneously engages a way of being more- and less-than-‘human’, this dual refusal of the ‘human’ and its normativity – including its normative mode of legally ordering the world as we know it – transpires as essential to de-humanize normativity and re-humanize it otherwise.

If this twofold reconfiguration might register more as an academic endeavor than a legal and political strategy, the collective actions with and for the *lago bullicante* show traces of such processes. While the *more-than-human* dimension is evident, the *less-than-human* one may not be apparent at first sight. This might not come as a surprise, since many forms of ecological resistance practiced in Europe today have been denounced for articulating their struggles in anti-capitalist rather than broader anti-colonial terms. As Gay noted in relation to the ZAD (*zone à défendre*) of Notre-Dame-des-Landes in France – whose struggle echoes that of the *lago bullicante* in Rome – these ecological movements are often practiced as ‘white utopias’ with no reckoning with the White privileges of the human activists involved (Gay 2020). Siva, from the British Black and People of Colour collective *Land in Our Names* (LION), also stressed the need to reckon with the interconnectedness between ecological repair, healing and concrete reparations for damages done to people and nonhumans through colonialism and extractivism while emphasizing the centrality of racism to these enterprises and their persistent inheritances in the present (Siva 2023: 161).

As it stands, many European ecological resistance struggles keep falling short of embedding their insurgencies into a ‘decolonial ecology’ that bridges the divide between environmentalism and decolonization (Ferdinand 2022). Yet, a ‘decolonial ecology’ is imperative to challenge the ‘double fracture’ of modernity – an environmental fracture on the one hand, driven by a technocratic and capitalist mode of inhabiting the earth leading to its ecological devastation, and a colonial fracture on the other hand, instilled by Western colonialism and imperialism that resulted in racial slavery and the annihilation of Native, Indigenous and Aboriginal modes of inhabiting the earth otherwise (ibid: 1). In a similar vein, in this volume Hohmann and Schwöbel-Patel caution against new materialist theories and practices that are decoupled from broader historical materialist traditions that bring to the fore the racial foundations of the global capitalist order (Hohmann and Schwöbel-Patel 2023).⁴

4 As Arvidsson cautions as well, however: ‘the “new” of new materialism is not a reference to a materialism that is “new” in relation to historical materialism or Marxism . . . the case is rather that new materialism(s) primarily builds on matter and materiality such as it has been

But the less-than-‘human’ is not limited to a displacement of the ‘human’ through the ‘inhuman’. Indeed, central to the figure of the liberal ‘human’ being displaced lies also an ideal of humanist individualism – of a self-possessed, free and autonomous mode of being ‘human’. The sociality that is performed in works that recover the ‘inhuman’, instead, rejects the individual in favor of the collective. At the heart of this in- or less-than-human understanding lies therefore also a process of de-individualization. The collective agency does not lie with a bundle of preexisting individually constituted agents, but with the collective that emerges from its intra-relating human and nonhuman constituents. Relata, as noted above, do not preexist relations. Drawing on Berlant’s reworking of individuality, it is a ‘nonsovereign relationality’ that is ‘the foundational quality of being in common’ – ‘a genre carved from within dynamics of relation rather than a state prior to it or distinct from it’ (Berlant 2016: 394). It is this understanding of the less-than-‘human’ as necessarily collective or common – as a process of becoming common – that one can retrieve in practices of ecological resistance that refuse the liberal, individualistic, ‘human’ figure. As argued earlier – with Gay, Siva and Ferdinand – not every form of de-individualized becoming common inherently reflects an inhuman nonnormative subjectivity (or Black sociality), but traces of a de-individualized sociality necessarily underpin any relationally composed practice of commoning. As Harney and Moten note, this ‘rejection of interpersonal [or interindividual] relations, and therefore of the person as an independent, strategic agent’ marks the difference between ‘common life’ – or a life shared in common – and ‘undercommon living’ (Harney and Moten 2021: 122; see also Harney and Moten 2013). It is in the undercommons that ‘the condition of possibility of becoming-common’ lies, or perhaps more precisely ‘of being-in-(the)-commons’ (Moten 2018: 24), where the only mode of being is becoming.⁵ Returning to the case of the *lago bullicante* in Rome in the next and final section, it is in this more- and less-than-‘human’ ecological practice of resistance and refusal that we find a case of ‘posthumanist commoning’. This practice of ‘posthumanist commoning’ speaks to both the *more-than-human* by centering nonhuman water, vegetation and all animals affected, and the *less-than-human* by recovering

considered in physics . . . philosophy of science, and philosophy broadly conceived . . . [in] the Spinozian philosophical tradition, especially as popularized and interpreted by Gilles Deleuze and Felix Guattari’. As such: ‘[t]he materialism in relation to which “new” materialism is new is thus not historical materialism or Marxism, but the much broader and “older” field of physics and the philosophical question of matter as it is considered in e.g., Aristotle, Spinoza, Nietzsche, Freud and not the least by the said Deleuze and Guattari’ (Arvidsson 2023b).

5 This ‘being-in-the-common(s)’ resonates also with Jean-Luc Nancy’s understanding of ‘being-in-common’ as a ‘being-with’, whereby ‘[t]he meaning of being is not common’, and hence ‘existence is only in being partitioned and shared’. Against this backdrop, ‘the question should be the community of being, and not the being of community. Or if you prefer: the community of existence, and not the essence of community’ (Nancy 1991: 1–2, 4–5).

the inhuman, collective and anti-liberal understanding of the practice of commoning.

‘Posthumanist Commoning’ as Ecological Reparation

In Italy, the practice of posthumanist commoning can be viewed as pertaining to a longer lineage that traces back to autonomist movements committed to occupy and de-commodify social centers in the 1960s and 1970s, driven by principles of self-management and self-organization by the collective (Ghelfi 2023; Gray 2017; Montagna 2006). Such collective actions were primarily situated in urban settings and centered on social struggles (Paolini 2020). As noted by Nelson and Braun, the disengagement of the Italian *Autonomia* movement from environmental politics was ‘undeniably conditioned by the political context of the 1970s’, where ‘in contrast to environmental movements elsewhere in Europe, for the Italian Greens “ecologism was born *against* the class struggles of the 1970s”’ (Nelson and Braun 2017: 230, quoting Virno 1996: 253). The progressive intersectional convergence of the social and ecological struggles brought about alliances between social and ecological commoning. While keeping a distinction between ‘social commons’ (such as culture, knowledge or digital information) that do not operate under a logic of scarcity, and ‘natural commons’ (such as forests, rivers or the atmosphere) that do operate under a logic of scarcity, Hardt and Negri famously called for a general ‘ecology of the common’ (Hardt and Negri 2009: 139, 171).

The 2011 water referendum that overturned the privatization of water supplies in Italy (Mattei 2012) enabled a broadening of the understanding of ‘common goods’ (*beni comuni*) not as ‘common pool resources’ but as ecological relations that ensure and sustain livable conditions (Capra and Mattei 2015). The commons, here, are then best described as an activity or as a practice – as a verb, rather than as a noun (Linebaugh 2009: 279). Replacing the noun ‘commons’ with the verb ‘commoning’ serves ‘to denote the continuous making and remaking of the commons through shared practice’, where the commons is not a static community that exists *a priori* or a society to come *a posteriori* but something that is only ever constituted through acting and doing in common (Bresnihan 2015: 96).

Relations, rather than *relata*. *Becoming*, rather than *being*. *Commoning*, rather than the commons. The ongoing and unfolding nature of the collective action also implies that the dynamics of inclusion and exclusion depend on how an entity relates to and actively participates in the commoning practice, rather than seeing the ‘commons’ as ‘being a discrete right vested in a person’ (Bresnihan 2015: 97). Such ‘resistant acts of ecological reparation’ (Papadopoulos *et al* 2023) resemble what Papadopoulos coined as ‘more-than-social movements’ for ecological repair that create ‘alterontological’ forms of living (Ghelfi and Papadopoulos 2021, 2022; Ghelfi *et al* 2021). This

emphasis on the more-than-social coincides with a posthumanist approach, as it rethinks social relations beyond human collectives and brings nonhumans and their agency to the foreground.

Much has already been written about commoning and posthumanism (Weber 2018). Thinking with the notions of more-and less-than-‘human’ collective action that I elaborated on earlier – where both nonhuman and inhuman normativities enter the frame of analysis – what I wish to bring to the attention of the reader are not only the reconfigured subjectivities at stake but also the specific spatio-temporal dynamics of posthumanist commoning. Indeed, if the example of the *lago bullicante* has shown how the collective that acts is not merely composed of ‘human’ subjects, little has so far been said about the spatiality and temporality of this collective that acts. These spatio-temporal dynamics will serve as important markers when turning to the (international) legal implications of posthumanist commoning in the conclusion.

The spatiality of the actions of the posthumanist commoning practice around the *lago bullicante* reaches both under and over ground, from the aquifer to the soil and its living ecology. The materiality of the space is both liquid and solid, from the water to the concrete infrastructure of the abandoned factory and all the vegetation and animals that today inhabit this space. The infrastructure is here ‘no longer an effect but a cause’ for the living, both human and nonhuman (Barua 2021: 1468). What is more, the space is delineated into different sites, the protection of which is secured through distinct legal forms – the privately owned ruins of the Ex-SNIA factory, which cannot be destroyed due to their industrial archaeological relevance; the state-owned lake recognized as a ‘natural monument’ (*demanio*); and the public park overseen by the collective *Forum Parco delle Energie*. Fundamentally, however, the spatiality of the collective that acts is not bounded by or to these local sites. Indeed, the ecological practice of posthumanist commoning reaches beyond the area of Prenestino, beyond the city of Rome, and beyond the state of Italy. On 17 September 2022, a transnational action took place with another posthumanist collective acting with an artificial/natural lake, located in Forest, Brussels, Belgium. Similar to the *lago bullicante*, the Belgian *marais Wiels* emerged in 2007 from the construction site of the former Wielemans-Ceuppens brewery abandoned in 1980, where there, too, an aquifer was accidentally pierced (Ranzato 2023; Bousenna 2022). On the day of the ‘twinning’ of the two anthropogenic lakes-turned-biodiversity-rich-ecosystems in the heart of urban metropolises, it was declared that ‘[t]his twinning symbolizes the new European struggle for a livable and regenerative city for all, humans and nonhumans’ (MaraisWiels 2022).⁶ Indeed, such transnational collaborative ecological actions can help strategize for further establishments and maintenance of experimental socio-ecological

6 The original text, in French, reads as follows: *Ce jumelage symbolise la lutte nouvelle européenne pour une ville vivable et régénérative pour tous et toutes, humains et non-humains.* (My translation).

regenerations through practices of posthumanist commoning (Papadopoulos 2018). The question of maintenance is key, here, since the violence and attacks faced by many of such collectives often leads to their dismantling.

Finally, the temporality and politics of time of such practices of posthumanist commoning can therefore best be described as imminent, fragile and continuously ongoing. As established earlier, these collectives did not exist as such prior to their actions but emerged through them. Whereas a spark can ignite action – in this case, the water springing from the underground – ecological reparation, as a slowly unfolding event, takes time. Whereas the temporality of ecological (re)generations is slow, the temporality of the collective that acts must be fast yet steady at once. Fast to act, steady to organize. A steady organizing is key to secure resistance – a resistance against anthropogenic ecological harms through an ecological refusal of anthropocentric, individualistic and exploitative modes of relating to nonhumans. This is the time of resistance. Time is resistance. Time as resistance. The ecological reparation must attend to the nonhumans and their temporalities of (re)generation, and to the humans in all their differential intra-relating – those present to act with the posthumanist commoning practice, and those acting against. The dismantling of infrastructures of resistance – as recently observed with the agreement from the part of the French state not to build the airport in Nantes, thereby enforcing the dismantling of the occupying ZAD – testify to the temporal conflicts or conflicts of time that resistant acts of ecological reparation can face, being forced into an end, while ‘commoning’ as an activity, a verb, a doing, is always ongoing and unfolding. What is, then, the end of posthumanist commoning? In the form of a conclusion, let me draw some possible answers to this question by reflecting on the end(s) of posthumanist commoning in relation to international law.

Conclusion

What would it mean, and what would it imply, for international law/yers to think with posthumanist commoning? Which insights can be drawn from posthumanist commoning – as practices of ecological resistance, refusal and reparation – for international law, and how can the case of the *lago bullicante* be helpful in this endeavor? Many scholars already pointed out the problematic nature of ‘environmental’ protection in international law, rooted in neo/colonial understandings of ‘nature’ as a resource amenable to economic exploitation, the externalities of which must be regulated (Natarajan and Khoday 2014; Natarajan and Dehm 2022; Petersmann 2022: 17–55; Jones 2023: 110–27). Many also linked this problem to the principle of state sovereignty when it comes to regulating environmental pollution, as well as the lack of enforcement of international environmental laws due to jurisdictional constraints. These constraints entail standing and admissibility issues before supra-national judicial mechanisms, as well as issues related to

extra-territorial state responsibility (Petersmann 2021). Much has also been written about the need to rethink the notion(s) of ‘property’ and ‘possession’ – especially in relation to ‘land’ and ‘territory’ – as the kernels of (international) law (Davies 2012; Porras 2014; Mattei *et al* 2019; Cotula 2021). These questions are all directly related to what counts or what registers as the ‘common good’ or the ‘public interest’ in international law (Petersmann 2022: 113–29), with issues such as the protection of the ‘environment’, access to ‘land’ and the use of ‘natural resources’ all being paramount in such debates. Discussions about the protection of the ‘commons’ have therefore come to the forefront to (re)configure what counts as such, by expanding or rethinking doctrines of ‘common heritage’, ‘common concern’ or the ‘global commons’ (Brunnée 2007; Ranganathan 2016; Feichtner and Ranganathan 2019). In recent years, attention for the ‘commons’ particularly increased in relation to ecological concerns. It is against the backdrop of this resurgence of the ‘commons’ that the related yet distinct practice of ‘commoning’ developed.

As I argued in this chapter, however, the complexities of ‘commoning’ and the challenges that these practices pose to law cut deeper. As Gutwirth and Stengers put it:

[A]n embracing of the commons by jurists is not a small challenge, since it requires them to reconsider nothing less than the ‘rule of law’. If the law is yielded by the process of commoning, if it has become a commons, its ‘role’ has obviously taken over from its ‘rule’. Thinking the ‘role of law’ for the commons is a difficult test for jurists.

(Gutwirth and Stengers 2016: 11)

If the ‘role’ of law needs to be reconfigured in relations to practices of ‘commoning’ – or put the other way around, if practices of ‘commoning’ necessarily reconfigure the ‘role’ of law, since the certainty of its ‘rule’ is challenged by the imminent, ongoing and continuously emerging nature of the activity – this reconfiguration presents additional challenges when it comes to *international* law. Indeed, practice of ‘commoning’ applied to ecological concerns reconfigure at once the subjectivity, spatiality and temporality of international law.

In terms of subjectivity, there is not only a move away from the liberal figure of the ‘human subject’ that one can observe in transversal practices of posthumanist commoning – with a broadening of the frame of analysis and of action from ‘humans’ to more- *and* less-than-‘humans’ – but also a displacement of the state as key interlocutor. The heterogeneity of participants in posthumanist collective actions is further complicated by the diverging and at times conflicting terms of their commitments (Bulle 2022: 48). For some, the goal might be to better implement or to reform the (international)

legal order and its key doctrines – by overcoming, for example, divides between private and public property, or by advocating for a recognition of ‘rights’ granted to particular ecosystems. For others, the goal might instead be to break free from the (international) legal order and from the state more generally, thereby embedding the struggles into an abolitionist and anarchist approach. As exemplified with the *lago bullicante*, such approaches are also organized supra-nationally, where the nation-state loses its primordial anchor as geographical legal *order*, and practices of *ordering* (which are not necessarily ‘legal’ as such, since both the state and hence the law lose their relevance) emerge through forms of collaboration, cooperation and solidarity across more-than-social movements. And not the least, as the ‘boiling’ and ‘agitated’ *lago bullicante* shows, both order and ordering can emerge through ‘insurgent’ water, waterflows and related element agents agnostic to national, international and transnational jurisdictions. But the diverging and conflicting sensitivities and commitments of practices of posthumanist commoning will also determine the nature and form of the collective actions at stake. While reformist approaches to (international) law or the legal order might engage with the state and the law as such to demand an inclusion and recognition of the collective and its actions – as instantiated with the *lago bullicante* by the municipal expropriation of private property to establish a public garden, and the recent recognition of the lake as a ‘natural monument’ by the region – anarchist approaches to law and abolitionist practices of posthumanist commoning can enact refusals and rejections of the legal order that rest on occupying, (re)ordering and inhabiting a site otherwise, not with but against the law. While reformist approaches to the legal order can attract and cultivate sporadic collective actions of support and calls for change on a site, practices of posthumanist commoning, as forms of (legal) (re)ordering, demand enduring enactments of alternative living. As aptly put by Berlant: commoning transpires here as an act ‘not to possess but to be possessed, to submit to being dispossessed of property in the self’ (Berlant 2016: 400).

In terms of spatiality too, the transversal practices of posthumanist commoning enable to shift attention from a register of protection of the environment to a terrestrialization of the living (Petersmann 2023a). Important insights apply here to international law, especially its relation to and understanding of territoriality. Practices of posthumanist commoning displace the territoriality of struggles for a *terrestrializing* of (geo)politics. Such a *terrestrializing* can help attending to and engaging with ‘critical zones’ where the adjective ‘critical’ itself gets a new meaning; instead of trying to indicate a distance from the situations that require judgment, it points to the effort of gaining a critical proximity with the situations that we have to live in (Latour and Weibel 2020: 9). In contrast to territoriality, terrestrial perspectives ‘modify the very definition of the land on which politics take place’, and require

‘another placement for science, another definition of law and sovereignty, another understanding of how entities overlap’ (ibid: 8, 227). The living ecology of the terrestrial space – from the subterranean to the atmosphere – shifts the focus of analysis and of action by trans-forming and queering boundaries and binaries: territorial versus extra-territorial concerns, private versus public property, humans versus non-/in-humans, state versus non-state (legal) orders.

Finally, in terms of temporality, practices of posthumanist commoning are also relevant to (re)think the time(s) and temporality of international law. Much has already been written about the limitations of the *ex post* nature of environmental protection before courts, and the weak implementation of international laws that seek to protect the environment *ex ante* (Hilson 2019; Dehm 2022). The increasing invocation of granting ‘rights’ to nonhumans – whether animals or broader ecosystems – will face the same challenges due to the contradictory temporalities of law (Petersmann 2023a). In contrast, practices of posthumanist commoning enact forms of ecological resistance, refusal and reparation with distinct – and at times also conflicting – temporalities of action, from sporadic interventions to enduring occupations. In this chapter, and following posthuman feminist scholar Emily Jones, I tried to reckon with the tensions and paradoxes that emerge when thinking with and against international law, by ‘noting that, through working within the system and seeking to improve it, one risks legitimizing the system itself’ (Jones 2023: 155). In trying to navigate these complexities and complicities, I found inspiration in practices of posthumanist commoning that reveal emancipatory modes of ecological resistance, refusal and reparation that experiment with forms of cooperation (Harcourt 2023) and co-existence beyond, beneath or against a state’s (re)actions for the living.

To conclude, if practices of posthumanist commoning gain their meaning and relevance *after* the human, *after* the individual, *after* the commons and, arguably, also *after* the state, this ‘after’ must not be misunderstood as implying an abandonment of human and state-based duties and responsibilities, but as a necessity to re-collectivize them otherwise. What is at stake here are distinct ways of thinking and acting in relation to such duties and responsibilities by broadening the analytical lens to include non- and in-human interests and agencies (with all their differential vulnerabilities and asymmetrical power imbalances) to enact forms of ecological resistance, refusal and reparation that can account for them (Petersmann 2023b). As such, the situated example of the *lago bullicante* served to reflect upon and attend to the polysemic nature of this ‘after’ – not as an absolute overcoming of the ‘human’, the ‘individual’ or the ‘state’ legal order, but as their radical reconfigurations in favor of the more- and less-than-‘human’, the collective and the (legal) ordering. It is here that novel modalities of ‘becoming common’ – inspired by and unfolding from Indigenous, Native and Black practices of

survival and fugitive socialities – can shed light on the imperative to revisit and refuse liberal categories of international law that keep organizing, structuring and maintaining enduring socio-ecological catastrophes.

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