



COPE
Copenhagen Center for Disaster Research



ENERGYCROSSROADS
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XIV Interdisciplinary Seminar on Climate, Energy and Sustainability

Oceans Special Edition

25 April 2024

9.00 - 11.30 CEST

Room 7A.0.16 - Faculty of Law, University of Copenhagen

PROGRAMME

Time	Programme
9.00 - 9.15	<u>In person:</u> welcoming of speakers and participants (breakfast is served) <u>Online:</u> ZOOM room opens
9.15 - 9.45	Welcome and Introduction Associate Professor Beatriz Martinez Romera , Centre for Climate Change Law and Governance (CLIMA), Faculty of Law; Co-Director of Copenhagen Center for Disaster Research (COPE), University of Copenhagen Postdoc Vonintsoa Rafaly , Department of Political Science, University of Copenhagen; Copenhagen Ocean Hub <i>Ocean Infrastructures: A research project to rethink global ocean politics</i>
9.40 - 10.30	Session 1 Chair: PhD Fellow Johanna Bürkert , Centre for Climate Change Law and Governance (CLIMA), Faculty of Law, University of Copenhagen <ol style="list-style-type: none">Josephine Gillingwater, The Inns of Court College of Advocacy <i>The Sociocultural Impacts of Deep Seabed Mining at the International Seabed Authority</i>Carolina Vitale, NOVA School of Law, Lisbon <i>The BBNJ Treaty and Marine Protected Areas: establishing conservation practices in the High Seas</i>

	<p>3. Marjolaine Wolf, University of Konstanz <i>Public Administration in Natural Disaster Management: A Case Analysis of the Ahr Valley Flooding 2021</i></p> <p>4. Marie Uy, Geneva Graduate Institute <i>Acknowledging the Marine Environment of the South China Sea: The Consideration of Adopting an Agreement to Disagree and an Ecosystem-Based Approach in Resolving the South China Sea Disputes</i></p>
10.30 - 11.20	<p>Session 2</p> <p>Chair: Assistant Professor Linnéa Nordlander, Centre for Climate Change Law and Governance (CLIMA), Faculty of Law, University of Copenhagen</p> <p>5. Jason Wilson, Advanced Migration Studies, University of Copenhagen <i>Governance Obstacles to the Strategic Resettlement of U.S. Coastal Communities threatened by Sea Level Rise: A Case Study of Monroe County, Florida, U.S.</i></p> <p>6. (Joel) Ong Jie Hao, Ocean Law and Policy, Centre for International Law (NUS) <i>Developments, Barriers, Prospects of Mitigating Shipping's Impact on Climate Change at the IMO: A Diachronic Approach</i></p> <p>7. Dosol Nissi Lee, Centre for Advanced Migration Studies (AMIS), University of Copenhagen <i>Moving Lands: (Reverberating) Futures of Human Migration in Asia</i></p> <p>8. Vivien Reh, University of Eastern Finland, Law School <i>The International Legal Framework Applicable to Bilge Dumping and How it Could Be Improved</i></p>
11.20 - 11.30	<p>Concluding Remarks</p> <p>Associate Professor Beatriz Martinez Romera, Centre for Climate Change Law and Governance (CLIMA), Faculty of Law; Co-Director of Copenhagen Center for Disaster Research (COPE), University of Copenhagen</p>

ABSTRACTS

Josephine Gillingwater, The Inns of Court College of Advocacy

The Sociocultural Impacts of Deep Seabed Mining at the International Seabed Authority

A growing number of States, non-governmental organisations and business enterprises are advocating for a moratorium on deep seabed mining, driven largely by the uncertain and detrimental environmental impacts of this emerging industry. Complementing these environmental concerns, this article argues that the social and cultural impacts of deep seabed mining present another significant, yet frequently overlooked, justification for supporting an immediate global halt of these activities. It contends that this halt should remain until the international legal framework for deep seabed mining is revised to effectively recognise and safeguard the social and cultural benefits that coastal communities and Indigenous peoples across the Pacific Small Island Developing States derive from the deep seabed.

Despite the spatial distance between the deep seabed and coastal communities, the interconnectedness of the ocean as an ecosystem means that the mismanagement of the deep seabed can impact human well-being, livelihoods and cultures. This paper focuses on the international legal framework for deep seabed mining in areas beyond national jurisdiction. It analyses the draft regulations for the exploitation of mineral resources prepared by the International Seabed Authority, including the obligation to conduct an environmental impact assessment contained therein. It explores whether the obligation to conduct an environmental impact assessment is a potential avenue for addressing the social and cultural impacts of deep seabed mining. Further, public participation, as a component of an environmental impact assessment, could promote more inclusive governance through the participation of coastal communities and Indigenous Peoples. To ensure the sustainable management of the deep seabed, the international legal framework for deep seabed mining must recognise the interests and rights of coastal communities and Indigenous peoples.

Carolina Vitale, NOVA School of Law, Lisbon

The BBNJ Treaty and Marine Protected Areas: establishing conservation practices in the High Seas

Establishing Marine Protected Areas (also known as MPAs) is an important maritime spatial planning instrument that helps prevent threats to our oceans (most of the threats are caused directly or indirectly by human activity). My presentation is intended to explore the definition and types of MPAs, as well as the rationale behind establishing one. It also explores successful examples of Marine Protected Areas in three different continents: Asia, Europe and South America. The presentation proposes an evaluation of how the European Union is facing the challenge of fulfilling the strategy target of protecting at least 30% of EU land and seas by 2030. In more recent events, it is important to explore as well the new BBNJ Treaty (Biodiversity Beyond National Jurisdiction Treaty). Among a lot of other issues, the BBNJ Treaty sets up a procedure to establish large-scale Marine Protected Areas in the high seas. The BBNJ Agreement can easily be considered a triumph of multilateralism in the context of International

Law of the Seas and Environmental Law. However, the treaty has its flaws and limitations (like any other international agreement) and still awaits the ratification of at least 60 States in order to enter into force. This is a crucial development considering that, if everything goes well, we will have Marine Protected Areas that do not belong to one State only. We are creating new approaches to marine protected areas and facing new challenges.

Marjolaine Wolf, University of Konstanz

Public Administration in Natural Disaster Management: A Case Analysis of the Ahr Valley Flooding 2021

Introduction

Climate-induced natural hazards require communities to prepare for more frequent and intense hazards. Floods necessitate rapid actions by public officials and, most importantly, an early evacuation to secure life. In the Ahr Valley Flood 2021, Germany, the district of Ahrweiler experienced 69 fatalities. Public authorities were critiqued for issuing a delayed and inadequate evacuation order. Drawing on both Public Administration and Disaster Management literature, this study investigates the factors and underlying mechanisms behind the evacuation order to help inform future disaster management practices.

Methods

The study employs a qualitative case study approach and causal process tracing to examine the authorities' decision-making process thoroughly. This process is traced by the reconstructed timeline from July 9-15, 2021, informed by triangulated data from official reports, media, and scientific literature. The analysis categorizes the process through underlying mechanisms: situational mechanisms, action-formation mechanisms, and transformational mechanisms. It further examines possible turning points and missed opportunities that ultimately led to the disastrous outcome.

Results

The analysis identified an interplay of factors that negatively impacted disaster management. The foundation for the subsequent inadequate evacuation order was the lack of planning, risk underestimation by flood hazard maps and authorities, and diffused responsibility. Further, communication failures due to infrastructural deficiencies and information distortion challenged the accurate flow of information. The study identified a photo-op as a missed opportunity to rectify such shortcomings. Finally, stress, cognitive biases, and lack of leadership affected decision-making at critical moments, leading to a delayed evacuation order.

Conclusion

The analysis illustrates a case of failed disaster management by public authorities at the district level. It points to the importance of risk awareness, communication, leadership, and planning on the regional level when faced with an increased risk of extreme weather events.

Marie Uy, Geneva Graduate Institute

Acknowledging the Marine Environment of the South China Sea: The Consideration of Adopting an Agreement to Disagree and an Ecosystem-Based Approach in Resolving the South China Sea Disputes

This research is about the marine environment in the South China Sea. It reflects upon the claims of various states over the sea and how these reduce discussions to issues of economic exploitation. It provides a unique perspective in that it engages with both science and law, seeking to bridge a gap in oceans governance. It is composed for four parts:

- Part I looks at the work of biological scientists and coral reef ecologists. It considers how the sea provides climate regulation, coastline protection, food, raw materials, tourism, and cultural values. And then it considers the effects of neglecting its marine environment: an impending fisheries collapse, the potential extinction of species, and environmental damage from unrelenting land reclamation and military occupation.
- Part II looks at the work of international lawyers. It considers the traditional management of the seas based on the definition of maritime zones under the Law of the Sea Convention. And then it considers the development of oceans governance and the present components of integrated oceans management.
- Part III looks at the South China Sea Arbitration. It considers the incidents highlighted in the case. And then it considers how claims of sovereignty and sovereign rights have overshadowed the state of the marine environment.
- Part IV then considers a science-based legal proposal inspired by the agreement to disagree and ecosystem-based approach adopted under the Antarctic Treaty System. The South China Sea is a large marine ecosystem bordering the Coral Triangle, making it one of the most biodiverse areas in the world. Nevertheless, discussions about it focus on the intergenerational struggle to uphold political claims. The paper ends with a question for the reader: are there still generations to spare to await the resolution of the disputes before action is taken protect the marine environment?

Jason Wilson, Advanced Migration Studies, University of Copenhagen

Governance Obstacles to the Strategic Resettlement of U.S. Coastal Communities threatened by Sea Level Rise: A Case Study of Monroe County, Florida, U.S.

The local governments of coastal communities at-risk of inundation from climate-induced sea level rise are tasked with the difficult responsibility of balancing their legal, fiscal, and administrative obligations while accurately assessing and appropriately responding to this impending hazard. The following is an assessment of the coastal vulnerability, adaptation policy, and adaptive capacity of Monroe County, Florida in the context of sea level rise. The focus of this assessment is the evaluation of the climate adaptation policy of Managed Retreat as a means of reducing the vulnerability of the County. Popular themes within the discourses of environmental migration, climate science, federal disaster relief policy, land-use development, coastal vulnerability, climate adaptation, law, and governance are explored. The results produced are tailored policy recommendations for the County to critically reflect upon, draw inspiration

from, and potentially utilize. The goal of this thesis is to contribute to the existing academic knowledge of mobility as a means of climate adaptation and the discourse of Managed Retreat.

(Joel) Ong Jie Hao, Ocean Law and Policy, Centre for International Law (NUS)

Developments, Barriers, Prospects of Mitigating Shipping's Impact on Climate Change at the IMO: A Diachronic Approach

Shipping is a sector contributing 3% of global emissions. Particularly, international shipping, which is responsible for 80% of the world's trade, is indispensable to the global economy. Yet, its emissions are hard-to-abate as there are no viable substitutes for fuel oils for ocean-going vessels given their long voyages and unpredictable environments at sea. Shipping as a sector is also excluded from the climate change law regime, and the UN specialized body responsible for international shipping (and its emissions) is the International Maritime Organization (IMO). For the past decades, there has been lacklustre progress on climate change mitigation on tackling maritime emissions compared to the rest of the climate change regime. Given this context, a diachronic analysis of the IMO's position on mitigating shipping's impact on climate change from past to present (1997 to 2023) is carried out to provide some insights into future prospects for decarbonisation at the IMO. This presentation examines the origins of the IMO's mandate on greenhouse gases in shipping, and how the IMO responds to increased environmental pressure from the climate change regime and chases technology. In doing so, it attempts to identify the main themes, barriers, and turning points, as well as explain the trajectory of recent major efforts by IMO to lower shipping emissions (such as promoting the development of alternative low or zero-carbon fuels and/or technologies and market-based measures for shipping) and the possible reasons for the newfound consensus to decarbonise in the 21st century. It also explores potential implications of the IMO's recent decarbonisation efforts and identifies gaps which have to be addressed by the IMO going forward.

Dosol Nissi Lee, Centre for Advanced Migration Studies (AMIS), University of Copenhagen

Moving Lands: (Reverberating) Futures of Human Migration in Asia Živa Šuta, Junior Researcher, Faculty of Law, University of Maribor

This research introduces Moving Lands, which encompass floating cities and charlands in Asia. Researching Moving Lands involves investigating planned relocations and/or displacements to land that constantly appears and disappears, whether artificial (e.g., assembly and disassembly) or natural (e.g., surfacing and submerging). By doing so, this research challenges the Exit Revolution as coined by Zolberg. The research is organized into three clusters, each offering different perspectives to understand Moving Lands. In the first cluster, "Islandisation", the research highlights the paradoxes exist in Moving Lands. Concerning floating cities, it focuses on the multivocal legal definitions of an island and the absence of guidelines for floating cities, leading to patchwork of clauses. Regarding charlands, it emphasizes the malfunction of administration and the double exclusion of the charlands. This cluster suggests the New Exit

Revolution, capturing the changing focus of migration management from entry and control to exit and place-making—a trend emerging, not new but reverberating in human history. In the second cluster, "Metabolism", the research proposes the concept of metabolism of moving lands, drawing on architectural philosophy. In this view, moving lands are seen as a functional creation and/or use of land, challenging the dichotomy of water and land; entry and exit; imaginaries of terra firma; and (in)voluntariness of (in)mobilities by appreciating the ephemerality of the land. This cluster also links its observations with the importance of aquapelagos and socio-cultural context, moving away from passive discourse of local adaptation while acknowledging post-sedentarism in critical migration scholarship. Lastly, the third cluster, "Cycle", focuses particularly on charlands, viewing the pattern of displacement of climate 'refugees' affected by the lack of state/international protection and the distress caused by nature-induced risk combined with man-made risks resulting in hybrid disaster.

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Vivien Reh, University of Eastern Finland

The International Legal Framework Applicable to Bilge Dumping and How it Could Be Improved

Despite a globally acknowledged need to bring a halt to the decline in ocean health, as billions of people worldwide are reliant on its functioning and ecosystem services, pollutions of the marine environment is an ongoing and ever-present issue. Most prominently discussed are the issues of plastic pollution and ocean acidification, as well as major oil spills from vessel accidents or drilling platforms. However, one issue, responsible for 70 million to 210 million gallons of waste oil entering the ocean annually yet suffering from chronic lack of public attention, is bilge dumping, the illegal discharge of untreated oily wastewater from commercial vessels. Although this practice has been observed for decades, in the Baltic Sea for example already since 1988, very few cases are actually reported and even less are prosecuted. This presentation covers the ongoing legal investigation into what the existing international maritime law framework applicable to bilge dumping is, and whether it is able to address the issue sufficiently and in a coherent manner. To that end, relevant legal definitions and provisions are first identified and then interpreted and discussed against the backdrop of State responsibility and obligations, as well as questions regarding monitoring and regulation of the practice. The ultimate goal of the work is to identify possible gaps and inconsistencies in the legal framework and present possible ways in which these could be improved.