

IX Interdisciplinary Seminar on Climate, Energy and Sustainability

Friday, 9th September 2022, 09:30 – 12:00 CEST

PROGRAMME

Time	Programme
From 09:20	<u>In-person:</u> Welcoming of speakers and participants <u>Online:</u> Zoom room opens
09:30 – 09:40	Welcome and Introduction to the IX Interdisciplinary Seminar on Climate, Energy and Sustainability <i>Assistant Prof. Alessandro Monti</i> , Centre for International Law and Governance (CILG), Faculty of Law, University of Copenhagen
09:40 – 10:40	<u>Session 1:</u> Energy Transition and Climate Litigation <u>Chair:</u> Johanna Sophie Bürkert , PhD Candidate, Centre for International Law and Governance (CILG), Faculty of Law, University of Copenhagen <ol style="list-style-type: none"> Larissa Jane Houston, PhD Candidate, University of Graz, <i>Energy Access and the links to sustainability in International Law</i> Joachim Peter Tilsted, PhD Candidate, Environmental and Energy System Studies, Lund University, <i>Building the future with fossils: Critically examining sustainability narratives in the petrochemical industry</i> Paula Moreno-Cervera, Bachelor Graduate, IE University, <i>Strategic rights-based climate litigation in Europe: closing the climate accountability gap between national action and international climate obligations</i>
10:40 – 10:50	<i>Coffee Break</i>
10:50 – 11:50	<u>Session 2:</u> Climate Change and Oceans

	<p>Chair: <i>Ana Stella Ebbersmeyer</i>, PhD Candidate, Centre for International Law and Governance (CILG), Faculty of Law, University of Copenhagen</p> <ol style="list-style-type: none"> 1. Ke Song, PhD Candidate, University of Edinburgh, <i>The Meetings of State Parties of Law of the Sea Convention as the Voice Mechanism?</i> 2. Nikolaos Karampatzos, PhD Candidate, National & Kapodistrian University of Athens, <i>Climate Change Litigation Under The 1982 United Nations Convention On The Law Of The Sea</i> 3. Fan Gao, MSc, Centre for High North Logistics, Nord University, <i>What Drives Shipowners' Decision to Adopt Energy Saving Technologies (ESTs) for Ship Retrofitting?</i>
11:50 – 12:00	<p><u>Concluding Remarks</u></p> <p><i>Associate Prof. Emmanuel Raju</i>, Copenhagen Center for Disaster Research (COPE), Department of Public Health, University of Copenhagen</p> <p><i>Assistant Prof. Alessandro Monti</i>, Centre for International Law and Governance (CILG), Faculty of Law, University of Copenhagen</p>

ABSTRACTS:

Energy Access and the links to sustainability in International Law

Larissa Jane Houston, PhD Candidate, University of Graz

In 2021, the United Nations launched the High-Level Dialogue on Energy announcing 2021 as the ‘Year for Energy Action’, prompting states to addressing energy concerns.¹ Since then there have been major developments in the energy sector at international and national levels. However, prior to this was the analysis of universal energy access within the sustainable development goals, specifically SDG 7. SDG provides a broad perspective on universal energy access which can be achieved through a number of selected and broad reaching developmental projects and missions. This paper seeks to comparatively analyse how universal energy access has been promoted since the establishment of SDG 7 and how this has developed international understandings of energy access in relation to sustainability. Based on this, there will then be an analysis of just energy transitions and how energy transitions incorporate both sustainability and energy access goals.

Building the future with fossils: Critically examining sustainability narratives in the petrochemical industry

Joachim Peter Tilsted, PhD Candidate, Environmental and Energy System Studies, Lund University

As part of the fossil-based energy order and as key actors in multiple and intersecting ecological crises, firms in the petrochemical industry are faced with increasing pressures to transform. In this seminar, I hope to present some of the ongoing research from my PhD thesis, which explores the political economy of decarbonisation in the petrochemical industry. Specifically, I want to illustrate how petrochemical incumbents, which are related to yet distinct from upstream fossil fuel incumbents, navigate change pressures. Drawing insights from inter alia neo-Gramscian political economy, I explore tensions and contradictions that the industry faces when confronted with calls for a just transition. Building on that and drawing on ongoing work, I identify and explore commonly invoked transition-related narratives in the petrochemical sector, analysing climate and sustainability communications from industry majors. I argue that the set of strategic narratives that I identify portray the petrochemical industry as key to a successful transition and fend off criticisms by reducing them to misunderstandings. This works to reduce pressure for deep mitigation cuts while repositioning the industry as part of the solution. If time allows, I relate to the rhetoric of fossil fuel extractors. Despite relying on fossil feedstock and being solidly placed in the fossil economy, the discursive strategies of petrochemical majors differ in key aspects. The presentation illustrates the work of downstream actors to legitimize the existing energy order.

¹ “Virtual Launch of the High-level Dialogue on Energy 2021 Process: A Year of Energy Action,” United Nations High-level Dialogue on Energy 2021, United Nations, <https://www.un.org/en/hlde-2021/page/events-launch-HLDE2021>. Accessed: 13 October 2021.

Strategic rights-based climate litigation in Europe: closing the climate accountability gap between national action and international climate obligations

Paula Moreno-Cervera, Bachelor Graduate, IE University

Despite climate change is becoming more threatening, there is a large emissions gap between states' pledges at the international level and their actions. Disappointment with these states' efforts to limit climate change, which are insufficient as evidenced by a wide scientific consensus, has led civil society to ask for accountability through legal action. In Europe, these strategic cases have relied on human rights arguments to translate international climate agreements into specific mitigation obligations for states.

This thesis aims to assess whether strategic rights-based climate litigation has the potential to contribute to closing the gap between international climate commitments and state action. On the one hand, based on literature and twelve semi-structured interviews with litigation actors, it indicates that these legal actions can pressure governments. On the other hand, an analysis of the human rights reasoning of several climate cases at the domestic and European Court of Human Rights' (ECtHR) levels shows that, despite facing standing or admissibility challenges, rights-based strategic litigation has prospects to help closing states' climate accountability gap. Furthermore, findings also suggest that the future potential litigation in Europe depends largely on the ECtHR's position on climate change. Therefore, further research should explore legal developments at the Council of Europe and ECtHR to determine whether human rights can compel states to abide by its international climate obligations.

The Meetings of State Parties of Law of the Sea Convention as the Voice Mechanism?

Ke Song, PhD Candidate, University of Edinburgh

Recent case law under UNCLOS dispute settlement procedures reveals the 'mixed disputes' dilemma, which opens the gateway for adjudicating disputes that beyond interpretation and application of UNCLOS, namely those concerning territorial sovereignty, immunities, and human rights issues. Such a jurisprudential dilemma is arguably associated with the overreaching jurisdictional boundary of UNCLOS dispute settlement procedures. This analysis responds to the broader institutional implications of the 'mixed disputes' dilemma, which has been little explored in literature. In particular, it is argued that the 'mixed disputes' dilemma has implicated judicial activism and judicial overreach, calling for stronger influences of State parties on judicial discourses of UNCLOS dispute settlement procedures. It crafts proposals that orchestrate competing interpretative powers between States parties and UNCLOS dispute settlement procedures. In this regard, the sociological frameworks of judicial activism and voice mechanism can better encapsulate the institutional dynamics. This analysis suggests proactive use of the Meetings of State

Parties to UNCLOS (SPLOS) as the voice mechanism to bridge the chronic gap between judicial outcomes and client preferences of UNCLOS State Parties. It argues that the SPLOS should ideally function as the institutional platform through which UNCLOS dispute settlement procedures can anticipate the landscape of acceptability of their jurisprudence. In this term, the SPLOS serves as the voice mechanism where State parties can ‘signal’ their perceived correct line of jurisprudence. Meanwhile, this analysis also recognises political hurdles for extending the function of Meetings of State Parties as the voice mechanism, identifies the risks of impairing judicial independence, and proposes several institutional designs that reconcile judicial independence and accountability. Despite its soundness in theoretical analysis, the successful activation of the SPLOS as the voice mechanism ultimately depends on the support of the State parties.

Climate Change Litigation under the 1982 United Nations Convention on the Law of the Sea

Nikolaos Karampatzos, PhD Candidate, National & Kapodistrian University of Athens,

The human-induced climate change has caused adverse impacts on the oceans which themselves play a prominent role as sinks of CO₂. Specifically, ocean warming, ocean acidification and deoxygenation already pose severe risks to marine species and ecosystems and to the marine environment as a whole. When UNCLOS was negotiated (during 1970s), climate change was not included in the international agenda in order to be included as a special chapter in the Convention. However, UNCLOS is a ‘living instrument’, which shall be interpreted and applied in a flexible and adaptable manner in light of emerging challenges with purpose to serve a valuable role over time. Through its expansive interpretation, Part XII of the Convention can therefore respond to changing conditions. This is particularly important for small-island and low-lying states since they are the most vulnerable and less capable of dealing with climate change. Although UNCLOS provides a comprehensive mechanism for an effective compulsory dispute settlement, the multiplicity of responsible states, together with the long-term nature of harmful outcomes caused by the emission of greenhouse gases (slow-onset events) create factual and legal complexities for potential plaintiffs to bring a claim in front of a court or tribunal and establish a causal link. Consequently, various alternatives are under discussion. In terms of a climate change case, the prospect of a collective claim against a group of high-emitting States could be a step forward for the establishment of liability. In addition, a thorough insight of the linkages between the Convention and other relevant treaties and international customary law rules could contribute to form the legal bases for satisfactory claims. Ultimately, the only realistic option currently related to international adjudication over climate change are advisory opinions where both ICJ and ITLOS are capable of providing legal clarity and authoritative guidance.

What Drives Shipowners' Decision to Adopt Energy Saving Technologies (ESTs) for Ship Retrofitting?

Fan Gao, MSc, Centre for High North Logistics, Nord University

There is an urgent need for energy efficiency improvement and emission reduction in the global shipping industry. The diffusion of ship energy-saving technologies (ESTs) on existing ships could be a critical solution. Retrofitting ships with ESTs means less fuel consumption and harmful emissions. However, the reluctance of shipowners' adoption has become a barrier. This study aims to investigate the drivers of the adoption of ship energy-saving technologies (ESTs) for ship retrofitting from the perspective of shipowners. Based on the Theory of Planned Behavior framework, an online survey was developed and distributed to shipowners adopting ESTs globally. A quantitative analysis of the survey data was carried out to examine the relationships between potential driving factors and shipowners' intention to adopt ESTs for ship retrofitting. Furthermore, a statistical analysis of the database of the World Fleet Register was conducted to identify key ship conditions that could facilitate shipowners to adopt ESTs. The findings indicate that EEXI compliance, competitors' adoption, and financial resources are three main drivers for shipowners to retrofit ships with ESTs. In addition, other driving factors found include better CII results, fuel cost reduction, clients' requirements, and right ship conditions. Concerning right ship conditions, the results indicate that small ship age and the match with specific ESTs have a positive relationship with shipowners' adoption of ESTs. The study is especially relevant to policymakers and businesses aiming to accelerate the diffusion of green technologies and improve energy efficiency in the global maritime sector.