

UCL Centre for Law and the Environment

Briefing, 2015-16

UCL's Centre for Law and Environment was established to provide a focal point for the Faculty's outstanding expertise and academic strength in the field of the environment and the law. The main goals of the Centre are to advance research and teaching and explore the role of law in meeting contemporary environmental and energy challenges.

The academic members of the Centre pursue a broad range of interests. **Dr Danae Azaria** is a general public international lawyer with a particular interest in international law on energy and natural resources, as well as the law of treaties, the law of international responsibility, and the settlement of



international disputes. **Professor Jane Holder's** research focuses on regulatory mechanisms for environmental protection, particularly environmental assessment and its use as a means to assess whether the negative environmental impacts of policies are borne disproportionately by certain sectors of the population. **Professor Maria Lee** is Director of the Centre, and her research interests are in environmental decision making in the EU and the UK, the governance of risk (particularly in respect of emerging technologies), and the role of tort in environmental governance. **Professor Richard Macrory QC (Hon)** is former and founding Director of the Centre. His research interests include carbon capture and storage, and the enforcement of environmental law. **Dr Ben Milligan's** research focuses on law and sustainable development, governance of natural assets and governance of oceans and coasts. **Professor Philippe Sands QC** has a long-standing interest in public international law, the settlement of international disputes (including arbitration), and environmental and natural resources law. **Professor Joanne Scott's** main areas of expertise are European Union Law and WTO Law. She has

published extensively on law and new modes of governance, environmental law and policy and on the intersections between different sub-national, national and international legal orders.

And finally, we are very sorry to have lost **Chiara Armeni** to a lectureship at the University of Sussex this year – we are grateful for her seven years of hard work and talent, and wish her all the best.



The Centre for Law and the Environment's visiting and honorary members work bring a wealth of expertise and experience to the Centre. **Tom Burke** is co-founder and Chair of the environmental think tank E3G and is chair

of the China Dialogue Trust. He was the Executive Director of FoE in the seventies, ran the Green Alliance in the eighties, was a Special Advisor three Secretaries of State for the Environment in the nineties and worked for Rio Tinto and BP over the turn of the century. **Ian Havercroft** is a Senior Advisor to the Global Carbon Capture and Storage Institute, where he is responsible for identifying, clarifying and advising on key legal and regulatory related issues applicable to CCS. Prior to joining the Institute, he was Senior Research Fellow in the Centre, where he was lead researcher for the Carbon Capture Legal Programme.

Martin Hession is policy lead on international carbon markets and carbon accounting at the European Commission in the Climate Directorate, and is former Chair of the Executive Board of the Clean Development Mechanisms. He took a major role in negotiating what became Article 6 of the Paris Agreement in December 2015, and is now beginning to negotiate its implementation, as well as leading on and dealing with a range of initiatives on carbon pricing internationally. **Ludwig Krämer** was head of the Legal Unit of DG Environment, European Commission between 1987 and 1994, and then moved to head the Waste Management Unit. In 2001 Dr Kramer became head of the

unit on Environmental Governance, retiring from the Commission in 2004. He is currently a Senior Counsel to ClientEarth and a board member of the Advisory Board of Justice and Environment. **Ray Purdy** is co-founder of Air and Space Evidence, and worked in the Centre as a Senior Research Fellow until 2014. He has recently been examining issues including regional and local climate adaptation in the EU, transposition of the Energy Efficiency Directive, and environmental governance structures in Northern Ireland, for a number of government, EU and civil society organisations.

Professor Catherine Redgwell is Chichele Professor of Public International Law at the University of Oxford, having been professor of public international law at UCL until 2014. She recently became co-Director of a five-year interdisciplinary project on sustainable oceans governance funded by



the Oxford Martin School. She has published a number of papers on international energy law in transition in 2016, as well as contributing a chapter on intra-and inter-generational equity to *The Oxford Handbook of Climate Change Law* (OUP, 2016) and co-editing and contributing a major chapter on international energy law to the third edition of *Energy Law in Europe* (OUP).

Jonathan Robinson was until summer 2016 Executive Director of Resources and Legal Services at the Environment Agency, and has now moved to an exciting new post as Deputy Chief Parliamentary Counsel in New Zealand. **Justine Thornton QC** is a practicing barrister at 39 Essex Chambers. We are delighted to announce that she was appointed Queen's Counsel in February 2016. A particular feature of her practice is group actions. Over the last couple of years she has appeared in the longest environmental trial to date in the UK, arising from environmental damage in South America, and the biggest environmental settlement to date (£55 million), arising from an oil spill in Nigeria.

Sharon Turner is Executive Director of Governance and Law at the European Climate Foundation, the largest re-granting foundation on climate change in Europe. Sharon leads the strategy setting process for the Foundation, in collaboration with colleagues across the organisation and key external partners, in so far as it relates to legal and litigation interventions. Recently she has been working on the ECF's post Paris strategy to ensure credible implementation of the Paris Agreement in Europe through strengthened EU governance and strategic litigation to remove barriers and blockers. **Ned Westaway** is a barrister at Francis Taylor Buidling, where he specialises in a range of issues associated with planning and environmental law. He frequently appears in public inquiries and examination proceedings, as well as before the senior courts, most recently in CPRE Kent's successful appeal before the Court of Appeal against a large residential development in an Area of Outstanding Natural Beauty outside Dover. **Farhana Yamin** is the Climate Adviser to the President of the Marshall Islands and is also Founder and CEO of Track 0, a global NGO undertaking research to help phase out greenhouse gas emissions to net zero by mid-century. She has provided legal advice to small island states on the climate negotiations since 1991. Her current research focuses on climate litigation, climate justice and loss and damage.

We are very grateful to **Chris Clarke**, who has decided to step down from his appointment as honorary Senior Research Associate, for his support over thirteen years. We wish him all the best.

News from the centre

Our first **Annual Lecture**, convened by Chiara Armeni in 2015, was a great success – Professor Liz Fisher spoke on *Environmental Law in the Glasshouse: A Decade of the Environmental Information Regulations 2004 and What It Tells Us About Environmental Law*. Professor Yvonne Rydin continued the good



work with the 2016 Annual Lecture on *Local Publics and Offshore Wind Farms: Constructing Evidence in Nationally Significant Infrastructure Planning*.

Amongst many other things, Centre members have been working on climate-related themes, on governance and regulatory issues – and we have been busy, of course, on Brexit, in the run up to the referendum and over the summer. Richard Macrory has been invited to join the Brexit Task Force recently established by the UK Environmental Law Association, and has published in ENDS Report a piece on the implications of international environmental conventions in the light of Brexit. Joanne Scott and Maria Lee are both members of an inter-disciplinary group of academics and policy analysts *The UK Referendum and the UK Environment* - Joanne contributed the 'environmental law' chapter to the 'Expert Review', <http://environmenteuref.blogspot.co.uk/>. Maria gave evidence to the Environmental Audit Committee's inquiry *Assessment of EU/UK environmental policy*, <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmenvaud/537/53702.htm>, and has blogged on Brexit and environmental governance for the *Journal of Environmental Law*, http://www.oxfordjournals.org/our_journals/envlaw/jel-blog-articles.html.



Our students and teaching are at the heart of the Centre. Jane Holder teaches a thriving undergraduate environmental law course. Jane and her LLB students attended a two-day study retreat at the Sustainability Centre, Hampshire in 2016. The outdoor learning environment encouraged reflection on valuing nature and

measuring loss, together with their legal mediation. Jane has also convened and run for the first time a two week summer school on Global Environmental Justice as part of UCL's Global Citizenship Programme. This is an interdisciplinary course for first years from all departments in UCL, and the teaching team included LLM and PhD environmental law students from Laws past and present.

We all contribute to our LLM in environmental law and policy, which continues to work with happy, committed and talented students from all over the world. In 2016-17, we are running the following courses: Environmental



Governance and Regulation; Trade Linkages in the Law of the World Trade Organisation; International Environmental Law; Law and Policy of Climate Change; Corporations, Global Business and Environmental Protection; Regulation and Tort; International Energy Law, EU Energy Law, and Introduction to the Law of the Sea'. Our students also write an 'independent research essay' on a topic of their choice, which is submitted in September. In February 2017, we shall be holding a *Policy and Practice Away Day* for our students. We have also invited any interested students to form a student-directed Brexit working group, to 'watch' the area.

Two of our PhD students have successfully defended their PhD this year. Dr Christopher Anderson's thesis is a comparative study of administrative law and risk regulation in the European Union and the United States. Dr Kim Bower worked on 'Building disappointment: the potential and limitations of tort liability for energy efficiency problems in domestic buildings'.



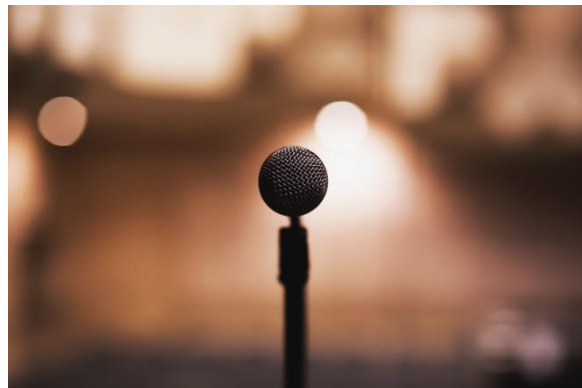
Laws has joined the Environmental Law Foundation's network of pro bono environmental law clinics (other partners are Birmingham Law School, Bristol Law School, Cardiff Law School and University of Law, London). We held the inaugural meeting of the network at UCL

in July, attended by members of the network, environmental and community groups, solicitors and barristers. This year we are involved in advising on Integrated Water Management for the Thames.

Some selected highlights from our publications. Danae Azari's 'State Responsibility and Community Interest in International Energy Law: a European Perspective' is to be published in the *Cambridge Journal of International and Comparative Law*. Maria published 'GMOS in the Internal Market: New Legislation on National Flexibility' (2016) 79 *Modern Law Review* 317. Richard Macrory and Ian Havercroft have been commissioned by Hart Legal to produce a second edition of their 2011 edited book, *Carbon Capture and Storage - Emerging Legal and Regulatory Issues*. Ben Milligan's

'Global Governance of Resources and Implications for Resource Efficiency' appeared in Paul Ekins and Nick Hughes, *Rapid Assessment on the Prospects and Economic Implications of Resource Efficiency* (UNEP International Resources Panel report to the 2016 G7 Summit, 26 May 2016). Joanne published 'Unilateralism, Extraterritoriality and Climate Change' in Dan Farber and Marjan Peeters, *Climate Change Law* (2016, Edward Elgar). And it isn't environmental law, but an honourable mention for Philippe Sand's *East West Street: On the Origins of Genocide and Crimes Against Humanity*, details of the tour at <https://www.laws.ucl.ac.uk/people/philippe-sands/>.

In addition to, and as part of, our teaching and writing, members of the Centre are working on a number of different projects and appointments. Danae was visiting Professor at the University of Geneva over the summer 2016, and is spending her research leave this autumn as Visiting



Fellow at the Lauterpacht Centre for International Law, University of Cambridge. With the help of a small grant from UCL Grand Challenges on Equality and Justice, Jane will be running a two-day Public Inquiry on Environmental Justice in Somers Town, in association with Voluntary Action Camden. Maria is co-investigator (with UCL colleagues in the Bartlett School of Planning, and in Science and Technology Studies) on an ESRC funded project, *Evidence, Publics and Decision-making for Major Wind Infrastructure*, <http://www.ucl.ac.uk/nsips>; her 'Knowledge of landscape in wind energy planning' has won the *Society of Legal Scholars* 2016 Best Paper Prize, and will be published in *Legal Studies*. Ben was a member of an advisory panel to the Government of Myanmar on the implementation of the United Nations System of Environmental-Economic Accounting, and on management of natural capital and ecosystem services. Joanne and Ben are part of an inter-disciplinary EPSRC-funded team investigating the climate change dimensions of shipping.

And some selected highlights from our speaking engagements. Danae gave the Young Legal Scholar's Lecture 2016, *State Responsibility and Community Interest in International Energy Law: a European Perspective*, Lauterpacht Centre for International Law and Centre for European Legal Studies, University of Cambridge (<http://bit.ly/2d9vnTy>). Maria gave

the Brodies' Environmental Law Lecture, *What We Have (Not) Learned: The Governance of GMOs in the EU*, in Edinburgh in November. In June, Richard was invited to speak on the Climate Change Act at the European Environmental Advisory Councils' Brussels Workshop on Energy. Ben was keynote speaker at the Commonwealth Youth Forum session on the blue economy, convened by Prince of Wales's International Sustainability Unit, Commonwealth Heads of Government Meeting, in November 2015. Phillippe's lecture *Climate Change and the Rule of Law* was part of an international conference held in London in September 2015, *Climate Change and the Rule of Law: Adjudicating the Future in International Law*, <http://jel.oxfordjournals.org/>. Maria and Richard also spoke at this conference, on climate change and tort, and the Climate Change Act respectively. Joanne delivered the General Course at the European University Institute's summer Academy of European Law, addressing the theme 'The Global Reach of EU Law' including a case study on environmental law.

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