



Briefing: 2018-19

The UCL Centre for Law and the Environment provides a focal point for UCL's outstanding expertise and academic strength in the field of law and the environment. The academic members of the Centre pursue a broad range of interests.

Dr Danae Azaria is a public international lawyer with a particular interest in international law on energy and natural resources, as well as the law of treaties, State responsibility, and international dispute settlement. She is a qualified attorney and collaborates as an academic advisor with numerous governmental departments (in the UK and abroad), international organisations (including the United Nations, and as a member of the Legal Advisory Task Force of the Energy Charter Secretariat), law firms and corporations.



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 co-director of the Centre, and her research interests are in environmental decision making in the EU and the UK. She is currently working on the ways in which environmental NGOs use law and legal expertise in their work, using the environmental implications of Brexit as a case study. She is also working on the construction of

reasons in planning law, and has a long standing interest in the ways in which tort interacts with environmental governance.

Professor Richard Macrory QC (Hon) is former and founding director of the Centre, and emeritus professor. His research interests include carbon capture and storage, and the enforcement of environmental law.

Dr Gracia Marín-Durán is an international economic lawyer, with a particular interest in the interface between international trade law and international environmental law, as well as in the EU's actions to shape the trade-environment nexus at various levels of governance.



Professor Eloise Scotford researches in the areas of comparative environmental law, climate change law and governance, air quality control, waste regulation, and the intersection between environmental problems and broader legal frameworks. She has a particular research interest in environmental legislation and environmental principles.

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. Joanne is a Professor of European Law at the European University Institute in Florence, and has taken special leave from UCL for a period to pursue that role. She remains closely connected with the Centre.

Professor Lisa Vanhala is a political scientist with expertise in global environmental politics

and socio-legal studies. Her current research focuses on the politics and governance of climate change-related loss and damage at the international and national level; the role of human rights principles in climate change governance; and the phenomenon of climate change litigation.

Professor Steven Vaughan is co-Director of the Centre. His research spans various fields: environmental law, lawyers' ethics and regulation, legal education, diversity, and corporate governance. In each area, he is interested in regulatory complexity and the frequent mismatch between 'law in books' and 'law in action'. From 1 October 2019, Steven is Professor in the Faculty of Laws.



The Centre for Law and the Environment's visiting and honorary members 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 Friends of the Earth in the seventies, ran the Green Alliance in the eighties, was a Special Advisor to three Secretaries of State for the Environment in the nineties, and worked for Rio Tinto and BP over the turn of the century. He is currently focused on the relationship between environmental protection, the rule of law, and Brexit. Climate policy failure will undermine the rule of law everywhere but climate policy success cannot be achieved without a firm commitment to the rule of law. This has led Tom to conclude there needs to be a more articulated conversation between the legal and environmental professions. Dr 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, Ludwig 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.



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, and co-director of an interdisciplinary project on sustainable oceans governance funded by the Oxford Martin School. Ned Westaway is a barrister at Francis Taylor Building, where he specialises in planning and environmental law. He frequently

appears in public inquiries and examination proceedings, as well as before the senior courts. Cases of note in 2019 include the examination of the proposed new tunnel for the A303 at Stonehenge, a challenge to the Oxford-Cambridge Expressway on strategic environmental assessment grounds (in the High Court) and an important case on whether land held by a local education authority can be registered as a village green (in the Supreme Court).

The Hon Mrs Justine Thornton DBE QC has been appointed to the High Court of England and

Wales. In recognition of her new role she has stepped down from her position in the Centre, but will continue her engagement with the faculty at UCL as a Distinguished Judicial Visitor.

News from the Centre

For our fourth Annual Lecture in October 2018 Dr Lisa Vanhala presented a paper 'Is Legal Mobilization for the Birds? How and Why Environmental Nongovernmental Organizations Use (and Don't Use) the Law in the United Kingdom, France, Finland, and Italy'. This paper can be read in volume 51 of Comparative Political Studies. The fifth lecture will be given by Professor Chris Hilson on 'The Role of Narrative in Environmental Law: Tales of Nature and the Nature of Tales' 'on 29 October 2019 at 6pm in Bentham House. The event is free to attend but registration is required, via this link: <https://www.ucl.ac.uk/laws/events/2019/oct/role-narrative-environmental-law-tales-nature-and-nature-tales>



The Centre hosted three prestigious events, co-convened with external partners, in 2018-19. The annual Journal of Environmental Law workshop in November 2018 addressed the theme of 'Environmental Law in the Academy'. Off the back of this workshop Eloise and Steven wrote about the relationship between environmental law and the 'core' subjects of legal education, and Maria wrote about 'public service' and environmental law academics. The pieces can all be found on the OUP blog at <https://blog.oup.com/2018/10/environmental-law-core-legal-learning/> and <https://blog.oup.com/2018/11/serving-the-public-academic/>. Eloise organised a one-day conference, hosted by the Centre, in conjunction with UKELA, WWF, and ClientEarth exploring 'A First Response to the Environment Bill: The New Body, the Courts, and the Future of UK Environmental Law' in January 2019. She also convened the Avosetta Meeting on EU Air Quality Law in May 2019. In May, the Centre also hosted the launch of the two new volumes of [Halsbury's Laws](#) Environmental Law, edited by Richard Macrory QC. The launch was accompanied by a high level conference looking at future challenges in environmental law.



Our students and teaching are at the heart of the Centre. Our LLM in environmental law and policy attracted committed and talented students from all over the world in 2018-19. Information on our specialism can be found at <https://www.ucl.ac.uk/laws/llm-environmental-law-and-policy>. We also have a thriving undergraduate environmental law module. In 2017-2018, Steven worked

with his LLB environmental law students on a project about where and how environmental law is taught in England & Wales. This empirical work, written up by Steven and thirteen of his students, will appear in a book sponsored by the IUCN on 'Teaching and Learning in Environmental Law'.

In February 2019 the 'UCL Environmental Lawyers' 'Back to Bentham' conference was a huge success, with current students, staff, and former students from the 1980s, 1990s, 2000s, and 2010s coming together to reflect on and celebrate the enormous contributions of UCL's environmental lawyers to the public, private, and third sectors across the world. Speakers were former students.



Papers were given by those working in different areas of environmental practice, from regulation in the UK and Jamaica, academia, private practice in Brazil and environmental NGOs.

With uncertainty around Brexit showing no signs of ending, Centre members have been heavily involved in advising government, parliamentarians and NGOs. Eloise, Maria, and Richard gave evidence to House of Commons Select Committees during pre-legislative scrutiny of the draft Environment (Principles and Governance) Bill; they are heavily cited in the ensuing report: (<https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/1893/1893.pdf>).

Additionally, Maria is a member of the Greener UK Coalition Brexit Scenarios working group (<http://greeneruk.org/>) and an associate of the Brexit and Environment Network (<https://www.brexitenvironment.co.uk/>), and Richard was the keynote speaker at the UK Environmental Law Association Annual Conference in Sheffield, discussing 'The Office for Environmental Protection – Environmental Fig-Leaf or Game Changer?'



Brexit has been the theme of many publications this year. Maria has written about the proposed Office for Environmental Protection, and on the role of environmental law academics in Brexit, and Eloise and Maria have written together on the environmental principles after Brexit. These publications can be found at https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=869755. Maria's briefing for the UCL European Institute can be found at <https://www.ucl.ac.uk/european-institute/news/2019/mar/next-generation-environmental-law>. Richard has published extensively on the effect of Brexit on environmental law and the shape of the emerging post-Brexit environmental regulations in Environmental Law and Management.



Some further selected highlights from our publications. Philippe has published the 4th edition of Principles of International Environmental Law (with Jacqueline Peel). Eloise published the 2nd edition of the popular Environmental Law: Text, Cases and Materials, with Professor Elizabeth Fisher (Oxon) and Professor Bettina Lange (Oxon). Eloise also contributed a chapter about environmental principles to the Oxford Handbook of Comparative Environmental Law (OUP 2019). Against the backdrop of a huge, activist led increase in attention to climate change, Joanne edited a timely special issue of the journal Climate Law addressing the theme of Human Rights and Climate Change, with Dr Annalisa Savaresi (University of Stirling). Amongst other things, Lisa has published a review of climate change litigation with Dr Joana Setzer (LSE), in the 2019 volume Wiley Interdisciplinary Reviews: Climate Change.

In addition to, and as part of, our teaching and writing, members of the Centre have a number of different projects, appointments and speaking engagements. Steven, Eloise, Richard, and Maria are members of the editorial committee of the Journal of Environmental Law.

Danae has been a Senior Fellow at the “KFG – The International Rule of Law: Rise or Decline?” (2019), and in 2019 commenced a Senior Humboldt Fellowship awarded by the Alexander von Humboldt Foundation (hosted at Humboldt University Berlin). In 2019, she was appointed as a co-Rapporteur of the ILA Committee on Submarine Cables and Pipelines in International Law, and was a consultant of the United Nations (UN) training government officials at the UN international law courses in Latin America and the Caribbean as well as in Asia and the Pacific (law of the sea and the law of treaties).



Maria received a British Academy small grant with Dr Carolyn Abbot (University of Manchester) for their project The Making of the Environment Act 2020: The Role of Law and Legal Expertise in NGO Activism. They are exploring ways in which environmental NGOs use law and legal expertise in their efforts to influence environmental law and policy. Whilst there is a growing literature on the use of litigation by NGOs, their input into the law-making process is underexplored. Gracia is delivering training on the FCO Diplomatic Academy Practitioner Programme in the field of international trade and environmental law. She also spoke about the treatment of green energy subsidies under EU Free Trade Agreements at the bi-annual conference of the Society of International Economic Law (SIEL).

Philippe participated in the arbitration in ICSID Case Arb/14/21, Bear Creek v Peru. His partial dissent is available at <https://www.italaw.com/sites/default/files/case-documents/italaw10107.pdf>. Eloise gave the 2019 Charles Smith Memorial Lecture, hosted by Edinburgh Law School and Brodies LLP, on 'Environmental Principles and UK Environmental Law: Stable Foundations or Minefields?'. Joanne organised a workshop at EUI on Asia and the Global Reach of Environmental Law, with Professor Jolene Lin (National University of Singapore).



In April 2019, Steven spoke at University of Cambridge's Centre for Environment, Energy and Natural Resource Governance, delivering a paper titled, 'When Should and How Should we Care if Judges Care About the Environment?' He also provided training for senior lawyers at the Environment Agency in July 2019; ideas for the training came out of his book, published with Richard Moorhead and Cristina Godinho, on the ethics of in-house lawyers (Hart 2018).

http://blogs.ucl.ac.uk/law-environment/@UCLlaw_env.