

Briefing 2021-2022

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 government departments (in the UK and abroad), international organisations (including the United Nations, law firms and corporations).

Tom Burke is a visiting professor at the Centre. He is co-founder and Chair of the environmental think tank E3G, chair of the China Dialogue Trust and Patron of UKELA. 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 and the rule of law.



Lord Carnwath is an Honorary Professor and Distinguished Judicial Visitor in UCL Faculty of Laws and in the Centre. Lord Carnwath retired from the UK Supreme Court in 2020. He is widely admired for his expertise and engagement in planning and environmental law, and pursues his interest in climate change and law from his position in the Centre.

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. She has a long-standing interest in the ways in which law shapes environmental decision-making in the EU and the UK, and has published widely on decision-making in areas from GMOs, to chemicals, to wind farms, to housing. Her current research focuses on the law's institutionalisation of participation in environmental decision-making by NGOs and broader publics.

Dr Feja Lesniewska is a Research Fellow on circular economy law, policy, regulation and standards, currently with a focus on mineral-based construction materials such as cement and concrete within the UK. The three-year project is part of a UKRI Institute for Circular Economy Research (NICER) programme. Feja's research publications reflect her interdisciplinary approach to law and the environment having collaborated with not only lawyers but also engineers, computer scientists, political ecologists and international relations scholars.



Dr Allison Lindner is an interdisciplinary legal scholar who draws on economics, sociology and law to investigate questions related to environmental law. She is particularly interested in sustainable development, waste law and the informal economy. She convenes the [Waste Law Reading Group](#), composed of early career researchers based at UK and EU universities. She is current Co-Chair of the Early Career Research Network of the UCL Collaborative Social Science Domain and is a Member of the Education for Sustainable Development Working Group. Allison has recently been awarded the Fellowship of the Higher Education Academy (FHEA).

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. He is a non-executive Board member of the Office for Environmental Protection.

Dr Gracia Marín-Durán became co-director of the Centre in 2022. She 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 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 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 Joanne Scott's main areas of expertise are EU 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 Head of Department and Professor of European Law at the European University Institute in Florence. 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 European Research Council-funded research focuses on the politics and governance of climate change-related loss and damage at the international and national level. She also studies the role of human rights principles in climate change governance and the phenomenon of climate change litigation.



Professor Steven Vaughan's work spans various fields: environmental law, corporate governance/CSR, and lawyers' ethics and regulation. In each area, he is interested in regulatory complexity and the frequent mismatch between 'law in books' and 'law in action'. Steven's environmental work covers climate change, chemicals regulation, contaminated land, nuisance, legal education, and the use of soft law as a means of governance. Steven was formerly co-director of the UCL Centre for Law and the Environment.

Ned Westaway is an honorary member of the Centre, and a barrister at Francis Taylor Building, where he specialises in environmental planning and highways law. Ned is the current Chair of the United Kingdom Environmental Law Association. In 2021-2022 he has appeared in the Supreme Court, the Court of Appeal and the High Court, as well as in numerous hearings and planning inquiries. Ned is on the Attorney General's A Panel of London counsel. He was part of the counsel team in the judicial review of the Government's Net Zero Strategy, and also acted for the Government resisting a claim on human rights and climate change (*R (Plan B Earth) v Prime Minister* [2021] EWHC 3469 (Admin)). Recent work includes acting for the Environment Agency in a case concerning the transshipment of hazardous waste for treatment in Norway (*R (New Earth Solutions (West) Ltd) v Environment Agency* [2022] EWHC 1883 (Admin)).

News from the Centre

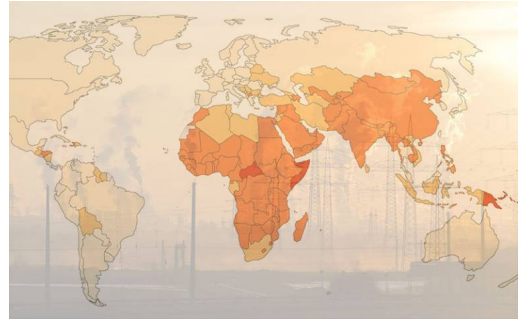
We are delighted to have appointed **Ruth Chambers** as honorary Professor of Practice. Ruth is Senior Fellow with Green Alliance, an environmental think tank. She has been a crucial part of Greener UK, a coalition of major environmental groups (hosted by Green Alliance), which was at the heart of the environmental community's response to Brexit. Greener UK, and Ruth, continue to play a key role in the community's work on the implementation of the Environment Act 2021. She was awarded an OBE in 2022 for her services to the environment. Her profound expertise and experience in parliamentary and government affairs will be invaluable to our research and our students.

And we are delighted to welcome **Justice Nicola Pain** as a Visiting Academic in autumn 2022. Nicola was appointed a judge of the Land and Environment Court of New South Wales in 2002. Early in her career she was director of the Environmental Defenders Office, a public interest community legal centre based in NSW Australia which specialises in using law to protect the environment. Nicola also worked in environmental law and policy in senior positions in NSW and Australian government departments. She is adjunct professor and chair of the Australian Centre for Climate and Environmental Law Advisory Board at the University of Sydney Law School. She has presented and published numerous papers for a wide range of audiences in Australia and overseas on environmental law and related topics.



We enjoyed some wonderful events in 2021-22 as we slowly re-accustomed ourselves to meeting in person. For our seventh **Annual Lecture** in October 2021, **Professor Elen Stokes** from the University of Cardiff, spoke wonderfully on *Ministries for the Future in Environmental Law*. Kim Stanley Robinson's science fiction novel *The Ministry for the Future* envisions a new UN agency charged with advocating for future generations. The lecture examined recent efforts to institutionalise future-oriented practices, powers and responsibilities worldwide, before focusing on initiatives in the UK – such as the pioneering work of Wales's independent Future Generations Commissioner.

We are excited about the **2022 Annual Lecture**, *Race, Law and the Air We Breathe* by Dr Nadine El-Enany of Birkbeck School of Law, 6pm on Wednesday 16 November. Nadine will examine the racialised effects of air pollution and argue that the state's failure to limit the harmful, often fatal, consequences of air pollution amount to racial state violence. Drawing on the literature on racialised custodial deaths and families' struggles for justice for their loved ones, Nadine questions whether the law can be relied on to account for racialised deaths pursuant to air pollution. Nadine will examine modes of resistance to such violence and ask whether it is possible to locate justice for victims of racial state violence and their families beyond the legal system. In person and live-stream – more information and sign up [here](#).



The Centre held a **major conference** on *Climate Change and the Rule of Law* on 31 March-1 April 2022. A range of speakers examined the relationships between the rule of law in multiple dimensions and from multiple perspectives. We published a series of thought-provoking blogs in the run-up to the conference, which remain [available to read online](#). A special 'Climate Change and the Rule of Law' issue of the Faculty's SSRN Research Paper Series was published in August 2022, featuring six papers from the conference, including Steven's paper on 'Climate Change and the Rule of Law(yers)' and Eloise's paper on 'The Disappointment of Climate Change Legislation: Investigating Tensions with the Rule of Law'. The papers can be read [here](#).

Allison is producing a documentary on informal waste workers and sustainable development law in South Africa. She travelled to Johannesburg in June 2022 to film interviews with informal waste workers and other key stakeholders, and held a screening of the rough cut for participants at Bekezela Village, Newtown, Johannesburg. The film, which is currently in post-production, communicates her research in a medium that is accessible to a wide, global audience including waste pickers, policy-makers, academics and students. The documentary, which received funding from the UCL Faculty of Laws Research Environment and Impact Fund, will be screened by the Centre in Term 2, including a Q&A with the Film Directors.

Publications (reports, articles and books) on environmental law and governance by members of the Centre made a substantial contribution to the **Faculty's REF2021 submission**. In addition, **Maria**, **Richard** and **Eloise** provided one of the Faculty's REF 2021 Impact Case Studies, '[Driving Generational Transformation of UK Environmental Law](#)' on the Centre's work on post-Brexit English environmental governance. As a member of the Law Panel of the Research Excellence Framework, **Jane** spent much of the year reading and assessing environmental and other work from academics around the country (but not from UCL). The Panel was encouraged by the growing strength of work on environmental issues in the legal academy as a whole. This strength was highlighted by the REF Sub-Panel [report](#) which sought to capture trends in legal scholarship: 'Many outputs were problem-focused, responding to the multiple challenges posed by economic, social, and political volatility, climate and ecological emergency, and rapid technological change'; 'a significant proportion of outputs addressed issues of climate change and environmental governance with a strong tendency to relate these issues to human rights'.



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 2021-22. (Information on this specialist LLM programme can be found [here](#)). We also have a thriving final year undergraduate environmental law module. Maria offered a climate change case study to our new undergraduate students as part of her design of induction to the Faculty. Jane has developed a new *Animal Justice* course for our undergraduates, the first of its type in the country, which will be delivered in 2022-23.



Beyond our own students, **Jane** (with Rob Amos, Priscila Carvalho and Silvia Cesa-Bianchi) was awarded a UCL Grand Challenges / Sustainable Development Goals Special Initiative grant to conduct research on sustainability in universities. As part of this project, the [Living Sustainability: Connecting People, Places and Learning](#) conference was held in close partnership with students and the Students Union. The team has received associated funding to conduct impact workshops (with civil society organisations) to ensure that learning about SDGs in Higher Education is disseminated widely. Building on this work, Jane has continued to help develop Education for Sustainable Development approaches in UCL, including being appointed Chair of the ESD Steering Group.

Extra-curricular events for our students included a talk on carbon markets and carbon trading from Edward Bratton, Co-Portfolio Manager at Carbon Cap Management LLP. We also held two sessions on land use and environmental law, exploring various issues in English planning law, as well as broader global issues around forests, with presentations from Ned, Gracia, Feja and Maria. We had a lovely conversation about Diane Cooke, *The New Wilderness* in our Climate Book Club.

In September 2021, Sonam Gordhan successfully upgraded to Phd status for her doctoral project on the institutional foundations of climate litigation. In October 2022, whilst finalising her doctoral studies, Sonam starts a new post as Departmental Lecturer in the Faculty of Law, University of Oxford. We are very proud of her successes to date and wish her all the very best in Oxford.

Some selected highlights from our publications.

Ned published the 6th edition of Sweet & Maxwell's *Highway Law* (co-authored with Stephen Sauvain QC and Ruth Stockley) and is a regular contributor of expert legal comment to ENDS. **Lisa** has continued to publish work based on her research on climate change loss and damage including articles in *Global Environmental Politics* and *Climate Policy*. Her co-authored paper (with one of our LLM alumni, Michai Robertson, and with Elisa Callirai) won the *Environmental Politics Best Article Prize 2021* for 'The Knowledge Politics of Climate Change Loss and Damage Across Scales of Governance' in *Environmental Politics*.

Eloise published her inaugural lecture, 'Legislation and the Stress of Environmental Problems' in the 2021 volume of *Current Legal Problems* (available open access [here](#)); she also published a chapter on 'Environmental Principles and the Construction of a New Body of Legal Reasoning' in a collection edited by Elizabeth Fisher and Brian Preston, *An Environmental Court in Action: Function, Doctrine and Process*, marking the 40th anniversary of the specialist New South Wales Land and Environment Court. **Gracia** and **Joanne** published a timely academic assessment of the EU's proposed legislation to regulate trade in forest-risk commodities in the *Journal of Environmental Law*. The article is available open access [here](#). Joanne also published (with Alessandro Petti), 'International Agreements in the EU Legal Order: International Fruit' in *EU External Relations Law: The Cases in Context*, edited by G Butler and R Wessel.



In June 2022, Hart published an annotated guide and analysis of the Environment Act 2021 written by **Richard** and Christopher Badger, barrister. The Environment Act is the first major piece of national environmental legislation since the UK left the European Union, and in terms of scope and ambition arguably the most significant new environmental law since the Climate Change Act 2008. **Maria** published, with former Centre colleague Dr Chiara Armeni, 'Participation in a Time of Climate Crisis' in the 2021 volume of the *Journal of Law and Society*, defending the inclusion of the wider public in climate decision-making; and, with Professor Carolyn Abbot, building on [their earlier work](#) on the ways in which environmental NGOs use legal expertise, 'Legal Expertise, Environmental Groups and Brexit: Beyond the Limits' in *Law, Legal Expertise and EU Policy Making*, edited by Emilia Korkeo-aho and Paivi Leino.

Ruth has published a number of blogs on pressing environmental matters, and they can be found [here](#). **Danae** has published 'Trade Countermeasures in response to Breaches of International Law Outside the WTO' in the 2022 volume of the *International and Comparative Law Quarterly* and a 'Commentary to Article 2 of the WTO Dispute Settlement Understanding' in the Max Planck Commentaries on World Trade Law, edited by R Wolfrum and P-T Stoll.

In addition to, and as part of, our teaching and writing, members of the Centre have a number of **different projects and appointments**.

Danae and Gracia have both been included by the European Commission in the *List of Candidates Suitable for Appointment as Arbitrators and Trade and Sustainable Development Experts* in disputes between the EU and third countries under trade agreements. Danae also acts as expert for UNCITRAL on the UNCITRAL consultations about the investment system reform. She is *co-Rapporteur of the International Law Association (ILA) Committee on Submarine Cables and Pipelines* and has co-authored two scientific Reports that have been adopted by the Committee and the ILA (2021 and 2022 respectively), available [here](#). Danae has built the research team of the State Silence project, created the project's [website](#), and has been developing her research on the legal significance of State Silence in international law, including environmental law. As part of this research, in December 2021, she hosted a workshop on *State Silence Across International Law* at UCL considering how the silence of States has been relied on for developing different areas of international law.



Jane has helped to re-establish and develop a partnership with the Environmental Law Foundation, so that the Faculty of Laws is now a part of the ELF-University clinic network, see [here](#). This partnership provides a legal practice expertise and focal point for policy research on, with attendant opportunities for students and colleagues.



Feja recently completed a three-month secondment with the Environment Agency working to identify challenges and opportunities within existing regulations, especially waste and environmental permitting for industrial operators, to advance the circular economy. In 2021, **Richard** became a non-executive board member of the Office for Environmental Protection (OEP), a new public body set up post-Brexit to provide independent advice on environmental policy and law, and hold government and other public bodies to account for their environmental legal duties. In June 2022, the OEP used its legal enforcement powers for the first time to launch a Statutory Investigation into

the legal roles of the Department of Environment, Food and Rural Affairs, OfWat, and the Environment Agency concerning combined sewerage overflows.



In 2021, **Gracia** was appointed as one of the twelve members of the Trade and Agriculture Commission, an independent expert body advising the UK Secretary of State for International Trade on the negotiations of free trade agreements (FTAs) and their implications for domestic agricultural and environmental legislation. In this capacity, she has contributed to the drafting of advisory reports on the UK-Australia and UK-New Zealand FTAs, which will inform the UK's ratification process of these agreements

Following up from her research project with UNEP, [Regulating Air Quality: the first Global Assessment of Air Pollution Legislation](#), in 2022 **Eloise** has been leading a follow up UNEP publication, a *Global Guide on Ambient Air Quality Legislation*. Stakeholders from international organisations and countries around the world contributed to an expert workshop for the Guide in March 2021. In her capacity as co-chair (with Professor Colin Reid, Dundee) of [UK Environmental Law Association's Governance and Devolution Group](#), Eloise has led the preparation of written evidence and consultation responses relating to post-Brexit environmental law, on topics ranging from the future of retained EU law and proposed new environmental UK common frameworks, to new environmental targets in England and environmental law aspects of the UK-Australia Free Trade Agreement.

Lisa spoke to the All Party Parliamentary Climate Change Group after COP26 about progress on climate change loss and damage. She sits on the Sustainable Futures Grants Committee of the Joseph Rowntree Charitable Trust. Lisa led a project commissioned by the Equality and Human Rights Commission about the equality and human rights impacts of climate change. **Steven** has given expert advice to The Law Society on its Climate Change Ethical Guidance Project.

Steven, Joanne, Eloise, Richard and Maria are all members of the editorial committee of the *Journal of Environmental Law*. **Danae** is Book Reviews Editor of the *British Yearbook of International Law*. **Maria** is a member of the advisory board of the *Transnational Journal of Environmental Law* and of the editorial committee of *Current Legal Problems*.

Members of the Centre have had multiple speaking engagements in 2021-22, and we are all looking forward to **Steven's inaugural lecture** 'The Unethical Environmental Lawyer', on 13 October 2022, at the Faculty, sign up [here](#).

Many of us – Steven, Eloise, Allison, Feja, Maria, Robert, Tom – spoke at and chaired sessions in the Centre's Climate Change and the Rule of Law conference, as did Jonathan Church, Sonam Gordhan and Monserrat Madariaga Gómez de Cuenca, our PhD students who were also members of the organising committee with Steven, Eloise and Maria.



Philippe has continued his work on ecocide, and among many speaking engagements, this year he spoke at the Ecocide Seminar hosted by the Swedish Bar Association in Stockholm and at *Equilibrium!* at the Serpentine Pavilion in London. **Gracia** has spoken about the enforceability of the 'trade and sustainable development' chapters in EU FTAs at a joint NUS-QMUL conference, about the EU's proposed carbon border adjustment mechanism and its compatibility with the UNFCCC regime and WTO law at a roundtable discussion organised by the World Trade Institute (Bern), and about the new WTO agreement to discipline subsidies that contribute to unsustainable fishing at an international symposium on 'The Global Economy, the SDGs and the Law'.

Allison was invited to deliver a talk on theme of ‘Economic Lives of Law’ at the Law and Society Association 7th Global Meeting in Lisbon as part of the International Law and Politics Collaborative Research Network. Her talk, ‘Policymaking for sustainable development: a case study from the waste management economy of South Africa’, used a case study of a national waste tyre recycling programme to discuss the challenges and solutions to policy design for sustainable development for all waste management economy stakeholders.

Ruth spoke on environmental governance at the UKELA annual conference ([here](#)), and at the UCL constitution unit on the ‘Brexit Freedoms’ Bill and Retained EU ([here](#)). **Robert** has spoken remotely on climate change and environmental law at a number of conferences around the world, including a seminar on Judicial Responses to Climate Change, hosted by the Supreme People’s Court of China; and was keynote speaker on Climate Change and the Courts at the IBA Annual Conference in London in April 2022.



Danae delivered the keynote speech ([here](#)) at the 2022 Joint Workshop of the United Nations and the Academic Council on the United Nations System (ACUNS), ‘Ascribing a Voice to Silent States: Reflections on (Differentiated) Legislative Responsibility’. She proposed two models for taking into account the different economic capacities of States within the thresholds of acquiescence for developing international law. It is inspired by the concept of ‘common but differentiated responsibility’ in the field of international environmental law and is based on research for her forthcoming monograph on State Silence in International Law.