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14th Postgraduate Research Symposium on Environmental Law

Wednesday, 24th April 2024

Moot Court Room, School of Law, UCC

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Postgraduate Research Symposium in Environmental Law

Wednesday, 24th April 2024

Moot Court Room, School of Law, University College Cork

9:20 am Opening Remarks

Environmental Rights, Reparation and Redress I

9:30 am Ms Liesl Muller, Ph.D. Researcher, Youth Climate Justice Project, University College Cork [online]:
What Emerges from South African Climate Change Cases Involving Youth Which Develops International Child Rights Law?

9:50 am Ms Emily Murray, Ph.D. Researcher, Youth Climate Justice Project, University College Cork:
Transforming International Human Rights Law through Youth Climate Activism: A Children's Rights-Based Approach to a Healthier Planet through the Right to a Clean, Healthy and Sustainable Environment.

10:10 am Mr Calum MacLaren, Ph.D. Researcher, UCD Sutherland School of Law, University College Dublin:
Civil Liability Climate Litigation and Corporate Accountability: Towards a Corporate Duty to Mitigate Climate Change?

10:30 am Ms Mengyu Cui, Ph.D. Researcher, Newcastle University:
Retroactive or Retrospective: When does Part IIA of the UK Environmental Protection Act (P2A) Impose Liability for Past Polluting Activities?

Marine Environmental Governance

10:50 am Ms Mélanie Vairon, Ph.D. Researcher, Faculté de Droit, Université Jean Moulin Lyon 3:
Creeping Marine Jurisdiction in a Context of Ecological Emergency.

11:10 am Ms Hanna Nsugbe, Ph.D. Researcher, School of International Relations and Politics, Liverpool John Moores University [online]:
Maritime Memorialisation as Justification for Environmental Disturbance? Examining the Application of Sovereign Immunity to Sunken Warships in Micronesian Waters.

11:30 am Tea / Coffee

Frontiers of Climate Law and Policy

11:50 am Ms Jeanne Magnetti, Ph.D. Researcher, School of Law and Government, Dublin City University:
Overcoming Barriers to Procedural Justice in the Irish Carbon Tax.

12: 10 pm Mr Firdavs Kabilov, PhD Researcher and Tutor in Law, School of Law and Criminology, Maynooth University:
Climate Change Risks in Infrastructure Public-Private Partnerships: Legal Implications.

12:30 pm Ms Charalampia Mikropoulou, Ph.D. Researcher, Faculté de Droit et de Science Politique, Aix Marseille University [online]:
Refining Climate Legislation: Unravelling the Concept of Loss and Damage – Assessing the Efficacy of the Funding Mechanism in Addressing Climate Risks.

12: 50 pm Ms Millie Prosser, Ph.D. Researcher, University of East Anglia:
Towards a Bespoke Climate Litigation Impact Framework: Lessons from Human Rights Scholarship.

1:10 pm Lunch

Biodiversity and Nature Conservation Law

2:00 pm Ms Rashauna Adams-Matthew, LLM (*Environmental & Natural Resources Law*) Candidate, School of Law, University College Cork:
Ecological Restoration and Economic Development: The Challenge for Small Island Developing States.

2:20 pm Ms Alessia Palladino, University of Modena and Reggio Emilia & Postgraduate Erasmus Exchange Student, School of Law and Criminology, Maynooth University:
Nature as a Beneficiary of Rights.

2:40 pm Mr Julián Suárez, Ph.D. Researcher, School of Law, University College Cork; Assistant Lecturer Technical University of the Shannon:
Could Nature's Right to Restoration Really Ensure an Effective Legal Framework for Reversing Water Ecosystem Degradation and Improving its Ecological Integrity within European Jurisdictions?

3:00 pm Ms Adrianna Suska-Zalewska, Ph.D. Researcher, Faculty of Law, University of Gdańsk [online]:
Rights of Nature as a Remedy for Degradation of the Environment - Motivations and Purposes.

3:20 pm Ms Julie Elizabeth Boyd, Ph.D. Reseacher, School of Law, Liverpool John Moores University:
Bringing The Sacred Back Into Nature: A Proposal To Re-Evaluate Our Relationship With The Environment.

3:40 Tea / Coffee

Environmental Rights, Reparation and Redress II

4:00 pm Ms Loeva Georges, LL.M. Graduate, Leiden University; Legal Officer, Wildlife Justice Commission, Netherlands [online]:
An Analysis of Alternative Approaches to Environmental Reparation beyond the State Responsibility Framework.

4:20 pm Ms Hao Wu, Ph.D. Researcher, Dundee Law School, University of Dundee:
Strengthening Environmental Public Interest Litigation in China: A Path Towards Sustainable Development.

4:40 pm Ms Candice Maharaj, PhD Researcher, UCD Sutherland School of Law, University College Dublin:
Too Much, Too Little, or Just Enough: Carving Out a Space for the Right to a Healthy Environment in the Irish Constitution.

Sustainability and Circular Economy Governance

5:00 pm Ms Alessia Depietri, Ph.D. Researcher in Administrative Law, University of Parma:
Green Public Procurement – An Environmental Policy Tool with Strengths and Weaknesses: The Example of the Italian Experience.

5:20 pm Ms Giulia Petrachi, Ph.D. Researcher, Faculty of Law, University of Oslo:
Unravelling the Dynamics of Food Waste Reduction at Corporate Level.

5:40 pm Ms Aleksandra Czarnik, Ph.D. Researcher, School of Law and Criminology, Maynooth University:
Much Ado About Poo: Whether European Union Law Supports a Circular Economy Approach to the Use of Human Waste as Fertiliser.

6:00 pm Close

Abstracts

Ms Liesl Muller, Youth Climate Justice Project, University College Cork:

What Emerges from South African Climate Change Cases Involving Youth Which Develops International Child Rights Law?

South African jurisprudence has played a significant role in the development of both domestic and international human rights law. The country's progressive constitution, as well as the groundbreaking judgements by its Constitutional Court, have often stretched the content and meaning of rights beyond what was traditionally on offer. This has been particularly true for child rights since the advent of the UN Convention on the Rights of the Child. Not only has it fortified and expanded individual rights, but it has also woven a child rights perspective and approach into other areas of law and life. In 2004 a judge normalised the independent legal representation of children in civil matters by ruling that she has the right to her own, separate lawyer in her parents' divorce matter. There is no doubt that children have standing to bring their own cases before the judiciary. Their participation has secured progressive jurisprudence. It is indeed the direct participation of individual, and groups of, children who pushed the limits of what is possible in law with the help of ally lawyers who support their cause and facilitate their court journey.

In recent years children and youth have pioneered a global movement on climate change. Not only have they managed to protest on a massive scale and influence decision makers, but they have also brought court cases against governments. This insistence on rights by youth, unprompted by adults, is causing a disruption to business as usual in child rights. Children are not waiting for adults to give them their rights. They decide what they want and assert their right to have them. This phenomenon is what Daly calls "post-paternalism", which she defines as "grassroots action from children, on a global scale, rather than well-meaning adults 'giving' children their rights."

South African courts have previously considered cases related to climate change, as well as children's participation in government decision making processes. Now, new cases are pending before them, and they are child and youth *led*. These cases take an exciting new approach to CRC rights. Arguments include children's rights arguments, which are made by children, and the judgments are changing interpretations of rights. So, how are South African court cases contributing to the development of child rights law towards post paternalism? I will present my take on South Africa's jurisprudential contribution to the transformation of child rights law to date, and analyse cases which are pushing the limits of international child rights law, and contributing to a shift towards post-paternalism. I will focus on several cases, including the most recent, ongoing #CancelCoal case brought by the youth led African Climate Alliance.

Ms Emily Murray, Youth Climate Justice Project, University College Cork:

Transforming International Human Rights Law through Youth Climate Activism: A Children's Rights-Based Approach to a Healthier Planet through the Right to a Clean, Healthy and Sustainable Environment.

It is no secret that the health of the natural environment—the air, the water, the soil, the plants, the animals—is degrading at an unprecedented rate due to the overconsumption of natural

resources and burning of fossil fuels, among other human-related activities. In recent years, the climate justice movement has brought attention to this and the ways in which environmental degradation disproportionately affects different communities around the world—especially children. Children and young people have been at the forefront of this movement, from protesting in the streets to litigating in the courtroom, using their rights to be heard and to participate (among others), as outlined in the United Nations Convention on the Rights of the Child (CRC or the Convention). In particular, children and youth climate activism has drawn attention to the interconnectedness between human rights and the environment and the imperative of the right to a clean, healthy and sustainable environment.
The CRC is one of the few instruments in international law that makes the explicit connection between the environment and human rights, particularly under Article 24, *The Right to the Highest Attainable Standard of Health,* placing an obligation on State parties to consider "the dangers and risks of environmental pollution" in relation to children's health. This narrow focus on pollution does not encompass the plethora of climate-related issues impacting children's health nor the life-altering consequences that growing up in an unhealthy environment can have on a child's physical, cognitive, psychosocial, emotional and spiritual development. Due to their unique physiologies, higher baseline metabolism, different behaviours and diets and rapidly developing bodies, children and their health is extremely dependent on and inextricably connected to the environment.
The threat that climate change poses on children's health further compounds the realization of other rights, situating the right to health at the center of the children's rights and environmental crises. It can even be argued that the right to a healthy environment is a mere extension of the right to health—a perspective that could help dictate the urgency of protecting the environment from further harm and degradation. By taking a children's rights-based approach to interpret the right to a clean, healthy and sustainable environment, through General Comment No. 26, climate cases and participatory fieldwork, this PhD project will demonstrate the undeniable relationship between environmental and human health and the ways in which children and young people are orienting international law towards better health for people *and* the planet. As this PhD is in its infancy, there are still many avenues to be explored to ensure this study takes a unique approach to interpreting the right to a clean, healthy and sustainable environment and what this means for children's rights and the environment.

Mr Calum MacLaren, UCD Sutherland School of Law, University College Dublin:

Civil Liability Climate Litigation and Corporate Accountability: Towards a Corporate Duty to Mitigate Climate Change?

Despite accounting for the vast majority of climate change causing emissions, corporations remain largely resistant to legal liability for the damage they have wrought on the environment. Free of any distinct duty to mitigate climate damage, and largely governed voluntary-based enforcement mechanisms such as 'Corporate Social Responsibility' , private companies have successfully shirked legal accountability for their high-emitting activities. The corporate accountability movement seeks to hold these high-emitting companies legally accountable for their activities, and in so doing, provide a remedy for those most affected by their behaviour. Corporate accountability itself covers a broad spectrum of ideas, including discrete aims to hold wrongdoers to account, foster deterrence and compensate victims for damage suffered.
Civil liability has historically furnished individuals with the power to litigate damage suffered to them and develop norms that discourages the behaviour in question. The ability of tortious litigation to both disgorge companies of their ill-gotten gains and provide litigants with

compensatory remedies makes it a seemingly ideal fit for the regime of corporate accountability. This becomes more difficult in the context of climate litigation, where traditional accountability hurdles are pushed to their limits and courts are forced to either limit relief given to victims or
This article analyses the nascent wave of case law, primarily in Europe, that has begun to tackle this issue. Preliminary analysis reveals that courts across Europe are reticent to create precedent-setting judgments in holistic climate cases; however, judgments in some atomistic cases indicate a willingness to ascribe stricter duties on non-state actors than has traditionally been observed. This has been achieved with the increased influence of European and international soft-law alongside a greater willingness to reshape traditional tort law mechanisms in light of the reality of the climate crisis.

Ms Mengyu Cui, Newcastle University:

Retroactive or Retrospective: When does Part IIA of the UK Environmental Protection Act (P2A) Impose Liability for Past Polluting Activities?

Part 2A (P2A) of the Environmental Protection Act 1990 is the primary legal framework for addressing contaminated land problems in England and Wales. P2A divides responsibility for contaminated land between the polluter, who caused or knowingly permitted the contamination, and the landowner or occupier if the polluter cannot be found after a reasonable inquiry. It is widely accepted that P2A regime is retrospective, meaning it can impose liability for past polluting activities.
However, it is unclear when P2A imposes liability on polluters, which is important for determining whether liability can be transferred to successors when the transfer pre-dated the enactment of P2A, given many original polluters have changed identity or transferred ownership before the introduction of P2A. There are two possible scenarios for the retrospective effect: (1) P2A created liability for the original polluter at the time when the land was polluted, which means that P2A applied from a time before its enactment; (2) P2A imposed liability for past polluting activities subsequent to its enactment, which means that P2A operates for the future but affects the consequences of past polluting events.
This presentation introduces the distinction between 'retroactivity' and 'retrospectivity' in a narrow sense to explain the two scenarios. By applying these effects to contaminated land cases and comparing them, the presentation argues that P2A imposes retrospective liability. This is supported by precedents and the balance between environmental restoration and fairness.

Ms Mélanie Vairon, Faculté de Droit, Université Jean Moulin Lyon 3:

Creeping Marine Jurisdiction in a Context of Ecological Emergency.

Sea creeping jurisdiction initially appeared in the second half of the XX century, with the Truman Proclamation (1945) on the Continent Shelf, giving to the United States Government “jurisdiction and control” over “the natural resources of the subsoil and seabed of the continental shelf beneath the high seas”. The creeping jurisdiction is therefore defined by the expansion of regional and functional jurisdiction of coastal States beyond the limit of territorial

sea.[1] The process has taken different forms over the last decades: the nationalization of the Coastal States with the creation of the exclusive economic zone and the continental shelf including the possibility to extend it, erected by the UNCLOS in 1982, or simultaneously, with the regional fisheries organisations, within the role to conserve a kind of fish resources in a pre-defined space including in high sea.

For half a century now, the process of creeping jurisdiction includes an environmental aspect, whose we observe the premises with the general obligation of preservation and protection of marine biodiversity established by article 192 of UNCLOS, then enhanced by the Biological Diversity Convention (1992), and its article 8 about the obligation to create marine protected areas. The combination of those two Conventions constitutes implicitly a legal framework for creeping jurisdiction in order to protect the environment. Despite this, it occurs that the States still struggle to fulfil their obligation, as shown by many scientific reports, including the IPBES report (2019), according to which "[g]oals for conserving and sustainably using nature and achieving sustainability cannot be met by current trajectories, and goals for 2030 and beyond may only be achieved through transformative changes across economic, social, political and technological factors"[2].

In accordance with this, private actors are gradually getting involved both in decision-making processes and in implementing the law. As a major actor – but not the only one in this movement – the environmental NGOs generate a form of privatisation of sea creeping jurisdiction, due to the increase of their influence in making decisions, supplementing, or even usurping, the State competence, creating a real *« crise de la stratégie et du savoir-faire publics »*[3] (translation: crisis in public strategy and public sector expertise).

Through different and singular case studies, we aim to gather and identify systemic tools and agreement frames, which eventually contribute to creating, *de facto*, a method that develops a form of creeping jurisdiction privatisation. From this demonstration, we identify recurring issues leading to questioning the role and original exclusive competence of the State on the Sea face to the increase of private actors in a context of ecological emergency. Two angles will be picked out: the adaptation and the relevance of the International Law of the Sea regarding the environmental crisis (what is the future of the principle of sea freedom, or of the sectorial approach of the Sea Law which is weakened by the ecosystemic approach), and the international order that States are used to be placed in a central position and to have the monopole of the law creation.

This presentation aims to define and identify first, then to demonstrate the relevance of the renewal of creeping jurisdiction which tends to become a new paradigm in international law, inspired by the theory of transnational law. This will enable us to examine the effects of the studied phenomenon on international law.

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[1] (N.) ESTERS, « Impacts of language: Creeping Jurisdiction and its Challenges to the Equal Implementation of the Law of the Sea Convention », *King's College London*.

[2] IPBES *et al.*, « The global assessment report on Biodiversity and ecosystem services summary for policymakers », 2019 p. 14.

[3] (Y.) GIRON, (V.) CASTEL et (S.) LELONG, « Géopolitique de la mer. Puissance publiques et privées », *Diploweb.com : La revue géopolitique*, 2016.

Ms Hanna Nsugbe, **School of International Relations and Politics, Liverpool John Moores University:**

Maritime Memorialisation as Justification for Environmental Disturbance? Examining the Application of Sovereign Immunity to Sunken Warships in Micronesian Waters.

Sovereign immunity is a doctrine enshrined within international law, deriving from the notion that all States are inherently equal and therefore no State can interfere with the property of another. The United Nations Convention on the Law of the Sea (UNCLOS) currently governs its application to State owned ships, stipulating as and when exemptions may apply. The convention itself, however, is ambiguous and does not clarify its position where a ship has sunk. This ambiguity presents a significant challenge to the protection of the marine environment where sunken warships have begun to erode and cause damage to marine life. This paper explores the application of the doctrine to sunken warships and the current challenges this presents to the preservation of the marine environment. The Federated States of Micronesia will be presented as a case study and the legal challenges that it has faced in seeking removal of the vessels from its waters. Examining the existing arguments, the paper will address whether the current UNCLOS treatment of the doctrine is sufficient, whether the doctrine should continue to apply to sunken warships and whether the argued historical and cultural relevance of some of these ships is adequate justification for their retention of immunity.

Ms Jeanne Magnetti, School of Law and Government, Dublin City University:

Overcoming Barriers to Procedural Justice in the Irish Carbon Tax.

In 2017, the Irish Citizens' Assembly recommended Ireland's carbon tax be increased and used as a tool to help Ireland meets its emissions reduction targets. Since 2019, the carbon tax has been used a tool for emissions reductions and the tax is designed to reach to €100 t/Co2 by 2030. The carbon tax remains a controversial tool due to its regressive impacts and claims that it exacerbates energy poverty. A case study was developed of the Irish carbon tax to determine how different stakeholder groups advocate for their rights and interests in the design of the tax and expenditure of tax revenues. Eighteen semi-structured interviews were conducted for the study with participants who are involved in the design and implementation of the tax. The study finds that the technical nature of the tax and limited resources of civil society organisations constitute a barrier to participation for members of the public and vulnerable stakeholder groups who may be negatively impacted by rising fuel prices. Recommendations to improve procedural justice in the Irish carbon tax include capacity building for civil society organisations and local authorities, the introduction of equity-based measures in impact assessments of programmes funded by carbon tax revenues, and improved public communication about the nature and design of the carbon tax.

Mr Firdavs Kabilov, School of Law and Criminology, Maynooth University:

Climate Change Risks in Infrastructure Public-Private Partnerships: Legal Implications.

The upcoming presentation will delve into a key chapter from my ongoing PhD research titled 'Mainstreaming Climate Change in Public-Private Partnerships: Path to Sustainability through Project Finance.'

Public-Private Partnerships (PPPs) play a pivotal role in addressing the challenges posed by climate change and promoting the greening of infrastructure. In the context of climate action, PPPs provide a collaborative framework that enables central governments, private entities, and local municipalities to pool resources and expertise. It is widely believed that by fostering innovation and sustainable practices, PPPs can facilitate the development and implementation of eco-friendly infrastructure projects. These partnerships contribute significantly to reducing carbon footprints, enhancing energy efficiency, and incorporating resilient designs that mitigate the impacts of climate change. Furthermore, PPPs promote the adoption of green technologies, renewable energy sources, and environmentally conscious construction practices, aligning infrastructure development with global sustainability goals. The collaborative nature of PPPs ensures a holistic and integrated approach to building climate-resilient infrastructure that not only addresses the immediate needs of communities but also safeguards the environment for future generations.

Part 1 of the presentation offers an overview of PPPs, illuminating their core aspects, historical context, and key contractual structures. PPPs are intricate transactional structures involving numerous parties such as engineering and construction subcontractors, lenders, insurance companies, and others. At the centre of this transactional web is the project company, often referred as Special Purpose Vehicle (SPV), a dedicated legal entity exclusively designed for the implementation and management of a particular infrastructure project. It facilitates project financing, allowing for a focused assessment of financial viability by investors and lenders. Additionally, the SPV ensures a limited liability framework, ring-fencing risks and protecting the private sector partners involved in the PPP.

Part 2 of the presentation highlights a legal framework for discussing climate change-related risks, encompassing the stages of public procurement and contract renegotiation in PPP implementation. Climate risks pose a significant challenge in infrastructure PPPs. It involves potential impacts from extreme weather, evolving regulations, and changing environmental conditions. Proper risk assessment and integrating climate resilience measures are crucial for the long-term success and sustainability of PPP infrastructure projects in the face of climate-related uncertainties. The discussion evolves around risk allocation concept in PPPs, procurement and contract negotiation nuances considering the EU public procurement provisions, force majeure clauses (to the extent they are suitable), and the fundamental objectives of PPPs. Furthermore, relevant cases from EU and non-EU jurisdictions will be discussed.

Part 3 of the presentation engages with the ongoing legal and policy debates within the EU surrounding the concept of ‘climate resilient infrastructure’ and ‘climate PPPs’.

Ms Charalampia Mikropoulou, Aix Marseille University:

Refining Climate Legislation: Unravelling the Concept of Loss and Damage – Assessing the Efficacy of the Funding Mechanism in Addressing Climate Risks.

Within the realm of climate legislation, a pivotal aspect demanding attention is the concept of "loss and damage." While initially formulated by the UNFCCC, the significance of this notion was underscored by Article 8 of the Paris Agreement. A thorough examination of these two legislative texts reveals a definition of paramount importance. It is imperative to distinguish "loss and damage" from other pertinent yet distinct concepts such as adaptation and mitigation. Articulating these three terms is a compelling endeavor, and it can be approached in two ways: firstly, by discerning the differences between them, and secondly, by exploring the interconnections among these notions while recognizing the specific placement of "loss and damage." Notably, "loss and damage" occupies a position subsequent to adaptation and mitigation, encompassing scenarios that surpass phenomena requiring adaptation and mitigation strategies. Consequently, elucidating phenomena necessitating the adoption of a "loss and damage" strategy is essential, including their categorization into economic and non-economic losses.
Having delved into the definition of the "loss and damage" concept, the second part of this contribution focuses on a nuanced examination of the tool gradually evolving to articulate the practical implications of the strategy against "loss and damage." This involves a comprehensive analysis of the steps leading to the establishment of a funding mechanism. The chronological organization of different COP sessions is crucial in understanding the evolution of this mechanism. Notably, funding arrangements were deliberated during COP27, and its full operationalization was subsequently decided at COP28. A thorough exploration of the contributions made by various COP sessions to the creation and operationalization of the funding mechanism provides a comprehensive perspective on the evolving landscape of strategies addressing loss and damage in the context of climate legislation.
In addition to exploring the practical aspects of the "loss and damage" notion and examining various associated phenomena, this discussion aims to elucidate its theoretical potential contribution. The situations encompassed by the concerns regarding the creation of loss and damage are inherently unpredictable. Consequently, a significant level of risk is inherent in these scenarios, although this risk is not explicitly articulated in the treaties. The landscape of climate legislation is notably characterized by the unpredictable nature encapsulated in the concept of risk. This prompts a fundamental question: is the strategy employed to address loss and damage a direct response to the overarching notion of risk, and do the phenomena it addresses have a tangible connection with the concept of risk as defined within the framework of climate legislation?

Ms Millie Prosser, Ph.D. Researcher, University of East Anglia:

Towards a Bespoke Climate Litigation Impact Framework: Lessons from Human Rights Scholarship.

In recent decades, climate litigation has emerged as a predominantly citizen-led climate governance tool, in over 50 jurisdictions.[4] Yet coherent theoretical and empirical research approaches, accommodating both the direct and indirect effects of climate litigation, remain

[4] Joana Setzer and Catherine Higham, 'Global trends in climate change litigation: 2022 snapshot' (Grantham Research Institute 2022).

underdeveloped.[5] This paper builds on recent literature[6] that highlights how established concepts of litigation impact in human rights and public interest litigation (PIL) scholarship may inform climate litigation impact (CLI) study. I draw on the work of Helen Duffy,[7] Jason Brickhill,[8]and the Open Society Justice Initiative[9] among others to articulate a conceptually clear framework, employing a three-part impact typology – legal, material, and socio-political – to identify the 'what', 'who', 'where', and 'when' of CLI from existing literature to guide empirical research design. I combine climate and human rights litigation scholarship, climate governance literature, and social scientific methods to set out: i) where to look for direct and indirect CLI, ii) ways to evidence CLI, and iii) ways to approach the normative evaluation of CLI. This work will support future empirical research interested in evidencing and evaluating the direct and indirect effects of climate litigation concurrently. Ultimately seeking to enable a more complete understanding of this rapidly evolving governance tool and its effect on our responses to climate change to emerge.

Ms Rashauna Adams-Matthew, School of Law, University College Cork:

Ecological Restoration and Economic Development: The Challenge for Small Island Developing States.

As countries evaluate the progress of meeting global goals under the Paris Agreement and the Sustainable Development Goals (SDG), the issue of ecosystem degradation and biodiversity loss has been highlighted as an undermining factor for achieving developmental goals and keeping global temperature rise below 2°C. Degradation is noted as affecting the well-being of approximately 40% of the world's population,[10] with the worst impacts felt by the most vulnerable including women and girls, members of indigenous and traditional communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons. These impacts are amplified in Small Island Developing States (SIDS) where economically vulnerable markets and geophysical constraints affect their ability to respond to the continued threat of Invasive Alien Species (IAS), the loss of tropical montane cloud forests, the breakdown of sand and sediment budget due to biodiversity loss, the decline of agrobiodiversity and ecosystems functions affecting food and livelihood security as well as overfishing and potential collapse of inshore marine ecosystems.[11]

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[5] Jacqueline Peel and Hari M Osofsky, 'Climate Change Litigation' [2020] Annu Rev Law Soc Sci, 16; Joana Setzer and Lisa C Vanhala, 'Climate change litigation: A review of research on courts and litigants in climate governance' [2019] WIREs Clim Change 10.

[6] Nicola Silbert, 'In search of impact: climate litigation impact through a human rights litigation framework' [2022] JHRE 13.

[7] Helen Duffy, *Strategic Human Rights Litigation: Understanding and Maximising Impact* (1st edn, Bloomsbury Publishing Plc 2018).

[8] Jason Brickhill, 'Strategic Litigation in South Africa: Understanding and Evaluating Impact' (DPhil Thesis, University of Oxford 2021).

[9] See Open Society Justice Initiative's report series 'Strategic Litigation Impacts: Insights from Global Experience' (Open Society Foundations 2018); 'Roma School Desegregation' (Open Society Foundations 2016); 'Equal Access to Quality Education' (Open Society Foundations 2017); 'Indigenous Peoples' Land Rights' (Open Society Foundations 2017); 'Torture in Custody' (Open Society Foundations 2017).

[10] United Nations Environment Programme (UNEP), 'Becoming #GenerationRestoration – Ecosystem Restoration For People, Nature and Climate' (UNEP 2021)

[11] United Nations Environment Programme (UNEP), 'Emerging Issues for Small Island Developing States: Results of the UNEP/UN DESA Foresight Process' (UNEP 2014)

Among the main drivers of ecosystem degradation in recent years, economic growth has been identified as a significant contributor to biodiversity law, with the United Nations Environment Programme (UNEP) noting "the massive economic growth of recent decades at the cost of ecological health."[12] This has raised calls for restructuring the world's economic and social structure, limiting production and consumption patterns, particularly energy usage and investing in green technologies, all of which will hinge on a drastic transformation of society's behaviours and attitudes and will certainly have wider socio-economic impacts.
However, while this is acutely pertinent for environmental remediation and ecological restoration in developed countries, in developing countries, particularly SIDS, limited economic and high debt-to-GDP ratio as well as their special vulnerability to climate change have been the lead deterrents to environmental remediation and ecological restoration as it has resulted in a limited capacity (financial and otherwise) to implement much-needed reforms. While ecosystem restoration has been cited as a means for strengthening SIDS economies, the reality remains that any shock, however brief, to economic growth within SIDS will have devasting socio-economic consequences, and political challenges and further decrease their adaptability to climate change impacts. Further, the identification of some SIDS as middle-income countries despite their unique environmental, social and economic vulnerabilities often creates challenges for accessing concessional financing and official development assistance when needed. The limits to economic growth which is inevitable for meeting global environmental remediation and ecological restoration targets is a significant challenge for SIDS and risks undermining their hard-won gains under the SDGs. This presentation will delve further into the challenge of reconciling actions for environmental remediation and ecological restoration and development targets for SIDS as well as recommendations for addressing these challenges.

Ms Alessia Palladino, University of Modena and Reggio Emilia / Maynooth University:

Nature as a Beneficiary of Rights.

This paper will argue that granting Nature rights, is the only way forward to protect the environment. This is achieved through an eco-centric approach, therefore one of the main goals of this paper is explaining why an eco-centric approach is to be preferred to an anthropocentric approach.
In particular, recognising Nature as a rights-holder is a key aspect of overcoming the obstacles posed by the strict requirements for standing before European Courts, specifically the European Court of Justice and the European Court of Human Rights. In particular, it would allow us to overcome the limits posed by the victimhood threshold at article 34 ECHR and the definition of "direct and individual concern" introduced at art 263 TFEU.
The paper will make a comparison with the already existing examples of Nature rights worldwide, with an emphasis on the examples in the United States, Ecuador and New Zealand. Another key point that will be assessed is underlining how the creation of Nature as a new legal entity is not directly and necessarily linked with instances of Indigenous people. While recognising the key role of Indigenous claims in this field, who writes thinks that there is no

[12] United Nations Environment Programme (UNEP), 'Becoming #GenerationRestoration – Ecosystem Restoration For People, Nature and Climate' (UNEP 2021)

strict consequentiality nexus between labelling Nature as a right holder and having a very tight social and cultural connection with Nature (that is usually typical of Indigenous peoples) as this would not be a complete shift in western legal systems. Western legal orders, in fact, already present non-human legal entities that are labelled as holder of rights.
The added value of recognising Nature as a beneficiary of rights is that it includes a paradigm shift in the way western capitalistic societies see the environment in the light of neo liberal economies: from the environment as something owned by human, and therefore protected only when environmental harm led to human harm, to Nature worthy of protection based on its own intrinsic value.

Mr Julián Suárez, School of Law, University College Cork:

Could Nature's Right to Restoration Really Ensure an Effective Legal Framework for Reversing Water Ecosystem Degradation and Improving its Ecological Integrity within European Jurisdictions?

With rights of nature gaining track across domestic jurisdictions around the world, as part of the latest version of rights-based environmental protection, legal scholars in Europe are inquiring about the specific content of the duties upon States and individuals regarding ecosystem restoration as part of nature's entitlements. Several EU countries have considered following Spain's example and adopting similar legislation to Law 19/2022, which granted *inter alia* the eco-theological right to recover from eutrophication to the Mar Menor lagoon. Ongoing constitutional and legislative reform processes –e.g. the one initiated by the Citizens' Assembly on Biodiversity Loss in Ireland– propose to include the duty to adopt, within national legal frameworks, redress measures in favor of degraded ecosystems, in order to re-establish their natural dynamics, resilience and associated ecosystem services.
However, there is uncertainty regarding the specific content of nature's right to restoration. A timid recognition of rights of nature within the 2022 Kunming-Montreal Global Biodiversity Framework (GBF) within the 1992 UN Convention on Biological Diversity, and a failed recognition attempt within EU law via a draft EU Charter for the Fundamental Rights of Nature, have hindered the possibility of providing the said right with positive or negative obligations via international and regional law. Furthermore, there remains the issue of overlap, redundancy and conflict posed by rights of nature regarding existing environmental law. Would there be a need for nature's right to restoration when, for instance, there exists in EU law several biodiversity and ecological integrity restoration duties in the Birds, Habitats and Water Framework Directives –albeit with no targets– and there is a EU Nature Restoration Law, with binding quantitative targets, in the process of being adopted?
This paper would contend that an eco-theological right of nature to restoration, within national European jurisdictions, would add little to nothing in the advancement of the UN Decade of Ecosystem Restoration or the EU Green Deal ambitions. Besides its lack of definition and its proneness to being aspirational or superfluous, it faces the same enforcement issues as existing environmental law. In fact, institutions recognise that restoration efforts go beyond mere compensation for environmental harm: they involve interventions resulting from shared visions, trade-offs, negotiation among conflicting values and interests, and strong and effective multi-sector policy and implementation platforms. To that end, this paper would consider more appropriate, as suggested by legal scholars, to develop a new ecological restoration principle,

aimed at achieving the highest level of recovery possible, separate from damages and compensation measures and with an intergenerational impact component. Moreover, the paper would propose certain general guidelines for States to develop nature-based restoration solutions. These would be (i) Based on a previous strategic ecosystem risk assessment, (ii) Encased within the GBF and existing standards of best practice for ecological restoration, and would (iii) Follow an equitable, participatory, relational and place-based approach to restorative actions.

Ms Adrianna Suska-Zalewska, Faculty of Law, University of Gdańsk:

Rights of Nature as a Remedy for Degradation of the Environment - Motivations and Purposes.

In 2006 Tamaqua Borough in Pennsylvania adopted the first known legal act recognizing the legal personhood of a natural entity. Since then, there have been hundreds of instances of authorities recognizing Rights of Nature (RoN) all over the world. The legal personhood of natural entities is declared usually by governments of various levels or judicial power. In recent years the Rights of Nature movement has also been growing in popularity in Europe resulting for instance in Spain granting rights to Mar Menor lagoon and emergence of initiatives to recognize RoN taken on the island of Ireland. Those actions taken in the last twenty years reveal the emerging paradigm shift in environmental law - shift from treating Nature as an object of law to legally binding recognition of natural entities' personhood.
Nevertheless, the concept of recognising the personhood of Nature is not anything new. The beliefs that Nature is a living being that holds some particular rights and should be treated with appropriate respect are widely known in indigenous cosmologies. As an example, Ecuadorian constitution from 2008 that recognized the legal personhood of Nature, otherwise called Pacha Mama - a goddess revered by Andean cultures. In New Zealand Te Urewera and Te Awa Tupua (Whanganui river) have been granted legal personhood mainly due to the belief that they are Māori ancestors and they are essential for indigenous people to live. Indigenous peoples in the United States and Canada advocate for recognizing Rights of Nature as it is vital for their existence.
Although the objectives of many RoN regulations may be similar as they often aim at ensuring the best environmental protection possible, I believe that there are two main motives to introduce them in legal systems. I make a distinction between the reasons that are dictated by indigenous beliefs and those that arise from the lack of other legal measures to stop environmental degradation. Lastly, I would intend to carry out an evaluation of the role of RoN regulations as a remedy for degradation of the environment but in a sense of adequacy to indigenous worldviews and western legal theory.

Ms Julie Elizabeth Boyd, School of Law, Liverpool John Moores University:

Bringing The Sacred Back Into Nature: A Proposal To Re-Evaluate Our Relationship With The Environment.

My area of research is the Rights of Nature with one aspect looking at traditional Sacred Sites in Nature and how they could contribute to a more active and positive attitude to protecting the environment. This paper will look at sacred natural sites viewed through the lens of their importance for nature conservation due to the fact that they may harbour rich biodiversity and ecosystems, which is also linked to the array of human interest within the distinct cultures that care for them and hold them sacred.
In many indigenous cultures both past and current, there is a belief that the environment and nature is instilled with a spirituality giving trees, and bodies of water, such as wells and springs, a sacredness and recognition that the environment had an important and essential place within the world. It has been commented that such places serve to *'fulfil humankind's need to understand, and connect in meaningful ways, to the environment of its origin and to nature'*.[13] Sacred spaces are natural locations where there are woodland areas, ancient groves, springs, lakes or rivers often held in high esteem by the community. How does this translate into the modern world for the purpose of more eco-centric environmental protections?
This paper will look at moves that are being made to grant Rights of Nature to bodies of water such as the River Shannon, in Ireland, and the River Ouse in Sussex, England as well as why some traditional sacred sites such as Wells and Springs should be afforded the same status.
I believe that this is a unique vision of facilitating the potential to support more eco-centric approaches by re-evaluating the human relationship with the natural world, creating a more reciprocal interchange and also enhancing the well-being of both the environment and people may go towards influencing, or even implementing, stronger eco-centric environmental legislation.

Ms Loeva Georges, Leiden University / Wildlife Justice Commission, Netherlands:

An Analysis of Alternative Approaches to Environmental Reparation beyond the State Responsibility Framework.

The present paper examines three alternative approaches to environmental reparation under public international law in an attempt to address the limitations of the state responsibility framework to remedy environmental damage. These approaches diverge from the traditional remedial path of state responsibility in that they do not require to establish the responsibility of a state for the breach of its international obligation to trigger reparation. Instead, they respectively approach environmental reparation from the perspectives of risk allocation, international cooperation, and enforcement of multilateral environmental agreements. By assessing the merits of such approaches to environmental reparation, this paper wishes to add to the discussion that will take place at the 20th *Law and the Environment* Annual Conference at University College Cork, which will explore the various legal remedies available when environmental rights or interests are affected.

In this paper, the author seeks to answer the question of how environmental reparation can be achieved under public international law beyond the traditional remedial avenue provided by the law of state responsibility. To this end, the present paper analyses reparation mechanisms based on different approaches to reparation, including liability regimes, bilateral compensation, international funds, post-war remediation institutions, and non-compliance procedures under multilateral environmental agreements. This analysis reflects on the merits and limitations of

[13] A. Putney, (2005) 'Building Cultural Support for Protected Areas Through Sacred Natural Sites', in McNeely, J. (2005) Friends for Life, IUCN, Gland, Switzerland and Cambridge, p.132

each alternative approach to environmental reparation, in line with the conference's objective of highlighting options for more effective redress of environmental damage.
Some of the mechanisms examined in this paper have found limited applicability in practice, in part due to a lack of political will. However, the present paper argues that these mechanisms have a significant potential to provide effective reparation to the environment. They deserve more attention and development in light of recent developments indicating a renewed interest and sense of urgency for international reparation mechanisms, as demonstrated by the adoption of the European Union's Nature Restoration Regulation and the various lawsuits and advisory proceedings before domestic and international courts and tribunals.

Ms Hao Wu, Dundee Law School, University of Dundee:

Strengthening Environmental Public Interest Litigation in China: A Path Towards Sustainable Development.

Environmental public interest litigation (EPIL) has become an essential but easily overlooked tool in the face of increasingly serious environmental problems affecting nature and human health. That does not exist as a separate tool in ecological law but refers to legal action taken by individuals or groups on behalf of the public or the environment to address environmental problems.
This type of litigation usually involves cases where the damage caused by environmental degradation or pollution goes beyond the interests of individuals and affects the public or the environment itself. They represent the public interest and are usually brought by environmental advocacy groups, non-governmental organizations (NGOs) or concerned citizens who act on behalf of the broader public interest rather than seeking personal gain. Using Nexus thinking, environmental civil public interest litigation is a holistic approach to problem-solving or decision-making that recognizes and integrates the interconnectedness of various factors or elements within a system. It involves considering the relationships and dependencies between different components and identifying that changes or actions in one area have a knock-on effect on other areas. It is closely linked to the UN 17 Sustainable Development Goals (SDGs13-16) and is related to the concept of 'One Health' developed by the World Health Organization.
As one of the world's largest emitters of greenhouse gases, China's environmental policies and legal initiatives are critical to the global response to climate change. China is also one of the most populous countries in the world, and its legal practice and jurisprudence on EPIL may be exemplary for other countries. Since 2012, China has promulgated nearly 2,000 EPIL-related laws, regulations, and judicial interpretations. However, in judicial practice, the number of cases handled, and the subsequent ecological and environmental remediation status is not as optimistic as academic researchers expected. The more fundamental reason appears in the unclear qualification of the main body of the case litigation and the conflict in the design of the trial procedure, which leads to its ineffective play value.
This paper will develop multiple future scenarios through the construction methodology to help policymakers and shareholders cope with the uncertainty and complexity generated by environmental crises, analyses, and assessments. This will lead to the development of a long-term development strategy for China's EPIL institutional framework and improve the current problems of lengthy litigation processes and unclear litigants.
It is hoped that the results of this study will not only be limited to improving the efficiency of EPIL in China but may also have an impact on the international level. Shareholders in other countries are encouraged to strengthen their environmental protection efforts to meet the international community's demand for sustainable development and environmentally friendly

enterprises. NGOs can work with their Chinese counterparts to promote the global eco-protection agenda and share best practices and experiences in international cooperation and exchange. Promote the improvement and refinement of the global environmental governance system and provide value to realising sustainable development and one health goal.

Ms Candice Maharaj, UCD Sutherland School of Law, University College Dublin:

Too Much, Too Little, or Just Enough: Carving Out a Space for the Right to a Healthy Environment in the Irish Constitution.

In the Climate Case Ireland (2020) the Supreme Court held that the right to a healthy environment was either unnecessary if it did not go beyond the existing right to life and right to bodily integrity, or 'impermissibly vague' if it did.[14] The court went on to say that under different circumstances – where the requirement of standing was satisfied – the court would have considered how climate change related measures, or the lack thereof, engage with the rights to life and bodily integrity.
This paper will consider both elements of this statement 1) redundancy and 2) vagueness. It will first assess how a right to a healthy environment may be defined and in so doing compare how the right has been defined/recognised in EU and non-EU jurisdictions. It will discuss this definition in the context of the right to life and the right to bodily autonomy to determine whether it goes beyond the scope of those two existing constitutional rights. It will then tackle the question of whether the right to a healthy environment is 'impermissibly vague' and to what extent a lack of 'clarity' might deter the inclusion of a right into constitutional canon.
This analysis culminates in a choice between two paths forward: the 'greening' of existing constitutional rights (as considered by the Supreme Court) or the inclusion of a separate right to a healthy environment in the Constitution. The paper will conclude with a brief discussion of the merits of each path, and the ultimate necessity of a standalone right to a healthy environment.

Ms Alessia Depietri, University of Parma:

Green Public Procurement – An Environmental Policy Tool with Strengths and Weaknesses: The Example of the Italian Experience.

This paper proposal starts from a general consideration: the path of integration between environment and market has always been a complex challenge. Public power is called to adopt cross-sectorial policies, in the name of sustainable development. Public procurement can be an extremely effective tool, it can offer its contribution to create a new concept of market competition and it can direct industries towards circular production models. In fact, the need for new production models reflects a different conception of market competition. Green Public Procurement has been one of the compasses of this "Copernican Revolution" and its role in terms of industrial leverage continues to remain.
Green Public Procurement requires an analysis on several levels: international, European and national. At the international level the reference is to the 2030 Agenda. At European level, the focus will be on the fundamental role of the European Commission and the Court of Justice of the European Union. At national level, it is useful to briefly analyze the evolution of GPP in the Italian experience. Italy was the first European country to make GPP binding and the

[14] Friends of the Irish Environment v The Government of Ireland (2020) IESC 49 ('Climate Case Ireland') para 8.14.

various reforms on public procurement from 2006 to 2023 are an example of this. The discussion will focus mainly on CAM and on the concept of Product Life Cycle Cost. In a comparative key, we will discuss the current configuration of the GPP in Ireland, taking into consideration the EPA report 2021.
Finally, the criticalities recorded by monitoring data will be reported and possible solutions for a better diffusion of GPP will be advanced.

Ms Giulia Petrachi, Faculty of Law, University of Oslo:

Unravelling the Dynamics of Food Waste Reduction at Corporate Level.

Food waste occurs at every stage of the food supply chain, spanning from agricultural production to household consumption. This pervasive issue exerts adverse effects on natural resources and the environment. Simultaneously, it poses a significant challenge to global food security objectives. Addressing and diminishing food waste not only mitigates environmental impacts but also contributes to minimizing the detrimental effects of agriculture on climate, biodiversity, soils, water bodies, and the atmosphere.
At corporate level, food waste is often driven by factors such as overproduction and excessive stockpiling, as it is more convenient for food producers to overproduce and for food retailers to oversupply than to risk losing profits by underproviding. To advance efforts in reducing food waste, it is necessary to address the issue at its root by comprehending the factors that contribute to its generation as well as those that could facilitate its reduction.
Based on an examination of legal literature and interviews with corporate stakeholders involved in the food supply chain, my research aims to scrutinize existing EU legislation concerning food waste and its mitigation. The objective is to address the following research questions: What are the main drivers for food waste reduction at the corporate level? How are legal drivers succeeding and failing in reducing food waste? To answer these research questions, my research focuses on the case study of Norway and Spain, spotlighting the interaction between EU law and national law in driving food waste reduction as well as internal corporate factors to understand how laws and regulations could help promote a more sustainable supply chain and reduce the environmental impact of inefficient corporate practice.

Ms Aleksandra Czarnik, School of Law and Criminology, Maynooth University:

Much Ado About Poo: Whether European Union Law Supports a Circular Economy Approach to the Use of Human Waste as Fertiliser.

Although human faeces and urine have been utilised historically as fertiliser from the United Kingdom to Japan and China, it has proven a contentious issue in present times. While untreated faecal matter can be a vector for disease such as polio or cholera, faeces and urine treated appropriately can be a valuable source of nutrients necessary for agriculture, some of which are already proving troublesome and environmentally damaging to source, such as phosphorus or nitrogen. As we already have the basis for infrastructure necessary for the processing of waste in the form of sophisticated waste management systems, some of which incinerate and then dispose tons of human waste each year, it appears there is an opportunity to apply the ideas of the circular economy to the processing of human waste. In closing this loop, the EU would act in conformity with the Circular Economy Action Plan. However, in order for human waste to become a source of nutrients, certain legislative barriers must first be overcome, primarily the conceptualisation of human faeces and urine within EU law in reference to fertiliser, and the regulation of human waste itself that is treated for commercial

use as fertiliser, particularly on foodstuffs. The European Union, in responding to the various crises ascribable to the changing climate (and in turn prevailing modes of production, consumption and waste) has adopted the Circular Economy Action Plan. The Action Plan has been subject to much scholarship, particularly in respect of feasibility, chemicals, and plastics. However, nutrients and loops in agriculture appear to have been neglected by the Action plan and subsequent research. This presentation will therefore address two questions: firstly, it will map the EU legislation that is relevant to the regulation of human faeces, urine, and human waste-derived fertilising products. Second, theories of circular economy will be applied to the current legislative landscape to offer a preliminary critical assessment of whether EU law appears to support a circular economy approach to the use of human waste as fertiliser.

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