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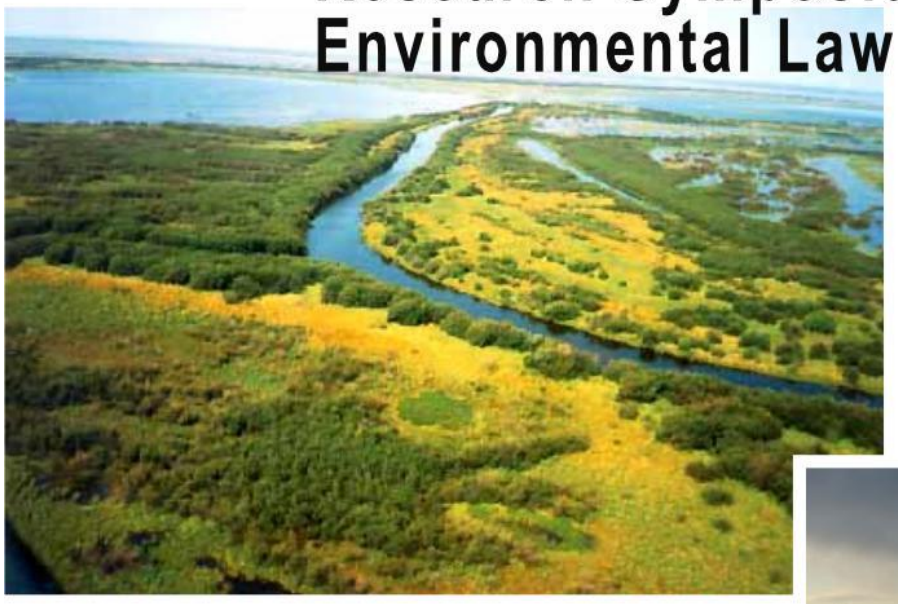
School of Law

7th Annual Postgraduate Research Symposium on Environmental Law



Wednesday, 22 April 2015

Moot Court Room
Áras na Laoi
University College Cork

Postgraduate Research Symposium on Environmental Law

Schedule of Talks

10:45 a.m. - 11:00 a.m. Dr. Owen McIntyre, Director of Research, School of Law, University College Cork
Welcome and Introductory Remarks

11:00 a.m. – 1:00 p.m. Designing Effective Environmental Regulatory Frameworks

Laurie O'Keefe, School of Law, University College Cork / Sea Fisheries Protection Agency: *Criminal Enforcement of Sea-Fisheries Law: A Legislative Overview*

Kevin O'Leary, School of Law, University College Cork / Cork County Council: *The Criminal Enforcement of Waste Management Law in Ireland: A Critical Analysis*

John McNally, School of Law, University College Cork: *Access to Information on the Environment and Commercial Sensitivity: The Experience so Far!*

Mícheál Callaghan, LL.M. Candidate, School of Law, Queen's University Belfast: *Regulatory and Policy Challenges to a Sustainable Food Economy in Northern Ireland*

2:00 p.m. – 4:00 p.m. Comparative Approaches in Environmental Law Research

Rosella Calicchio, Doctoral School, Università Cattolica del Sacro Cuore, Piacenza: *The Environmental Integration and Polluter Pays Principles: Fiscal Implications for Environmental Protection*

Sean Whittaker, School of Law, University College Cork: *Reviewing Refusals to Disclose Environmental Information in England and the United States: In Search of New Approaches*

Pedithep Youyuenyong, School of Law, De Montfort University, Leicester: *Hard Law and Soft Law Interactions in U.S. Light Pollution Regulation*

Irene Bullmer, School of Law, University College Dublin: *Climate Change Adaptation Governance in the German Agricultural Sector – A Socio-Legal Systems Theoretical Investigation*

4:15 p.m. – 6:15 p.m. Contemporary Issues in International Environmental Law

Celia Le Lièvre, LL.M. Candidate, School of Law, University of Aberdeen: *Addressing Conflicts between Offshore Renewable Energy and Navigation in International Law: The Role of Marine Spatial Planning*

Yuchen Guo, School of Law, University of Hull: *What Blocks the Fulfilment of the Aarhus Convention?*

Juan Carlos Sanchez, IHP-HELP (UNESCO) Centre for Water Law, Policy and Science, University of Dundee: *Transboundary Waters and Ecosystems: Opportunities for Improved Cooperative Governance*

Wei-Chung Lin, School of Law, University of Nottingham: Implementing Multilateral Environmental Obligations in Project Finance: *A Comparative Study of the World Bank Inspection Panel and the IFC/MIGA Compliance Advisor Ombudsman*

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Criminal Enforcement of Sea-Fisheries Law: A Legislative Overview

Laurie O'Keeffe, LL.M. (Research) Candidate, Faculty of Law, University College Cork

A number of Irish judges have commented on the highly complex and technical nature of fisheries legislation. Sea-fisheries law comprises of a suite of both EU and national legislation, including numerous statutory instruments. Enforcement of sea-fisheries law is heavily reliant on criminal sanctions. In most Member States, administrative authorities are empowered to impose administrative sanctions for violations of sea-fisheries law. However some Member States, including Ireland treat infringements of sea-fisheries law as criminal offences which must proceed through the criminal system. Treating breaches of sea-fisheries law as criminal offences is in practice more costly and time consuming than the use of administrative sanctions due to the higher burden of proof and lengthy time delays associated with the criminal system. This presentation will give a brief introduction to the work of the Sea Fisheries Protection Authority, which is the body charged with enforcement of sea-fisheries law. It will then examine the most important pieces of national legislation and EU regulations in the context of criminal enforcement of sea-fisheries law. In particular, the proportionality of penalties set out in the legislation will be considered with reference to their effectiveness and impact on compliance.

The Criminal Enforcement of Waste Management Law in Ireland: A Critical Analysis

Kevin O'Leary, School of Law, University College Cork / Cork County Council

This presentation considers the effectiveness of the criminal enforcement of the Waste Management Act 1996 in the Irish District Courts. It measures the effectiveness of criminal sanctions currently available against the polluter pays principle and the prevention principle. In this context, it examines a number of key factors, including the strict liability nature of the offences, the attitudes and perceptions of environmental officers, solicitors and judges, and sentencing. The outcome of a survey of environmental officers and prosecuting solicitors on their perceptions on the effectiveness of the waste management criminal justice system is considered. The presentation will conclude that (a) when measured against the polluter pays principle, the criminal enforcement of the Waste Management Act 1996 is effective in the case of waste licence holders, but less so in the case of offenders who do not hold waste licences; and (b) the criminal enforcement of the Act is less effective when measured against the prevention principle. The presentation will also conclude that ultimately, this is an area requiring further research.

Access to Information on the Environment and Commercial Sensitivity: The Experience so Far

John McNally, Ph.D. Candidate, School of Law, University College Cork

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was adopted in 1998. Since then it has been integrated into Irish law, initially, in 2007 through regulations implementing the 2003 EU Directive and then was finally ratified by Ireland as an individual party on 20th June 2012. This paper will examine how requests dealing with commercially sensitive information were dealt with and whether the AIE regime treats such information any differently than the long established Freedom of Information regulatory framework. Additionally the paper will touch on public bodies that were considered to be covered by the AIE regulations even where they resisted this inclusion.

Regulatory and Policy Challenges to a Sustainable Food Economy in Northern Ireland

Mícheál Callaghan, LL.M. Candidate, School of Law, Queen's University Belfast

This will be the focus of my LLM Dissertation. In my research I will be looking at the current challenges to a sustainable food economy in Northern Ireland, and regulatory and policy measures that can be taken to boost this sector. In discussing the 'sustainable food economy' I will focus my attention on sustainable farmer / producer food co - operatives and Community Supported Agriculture Schemes (CSA), of which where are none in Northern Ireland. In particular, I will use the emerging framework of the collaborative economy / commons transition as a benchmark against which to measure the current state of the sustainable food economy and imagine what it could look like with the correct measures taken. In particular I will analyse how the challenges of access to land, property and capital can be overcome. Recent policy and legislative interventions of the Peer to Peer (P2P) Foundation and the Sustainable Economy Law Centre, in California, will be considered and examined with a view to how they could inform legislative and policy reform in Northern Ireland. I will draw on best case examples from elsewhere including Great Britain, the Republic of Ireland and the United States. I will also examine existing mechanisms, including the transfer of assets from public to private / third - sector organisations via Asset Transfers, and how these can be leveraged in such a way to provide benefit to new sustainable food enterprises. As the bulk of my research is yet to be completed, my presentation will focus on the rationale for this study, highlighting the grounds that exist for a sustainable food economy in Northern Ireland. I will highlight the developments of the commons transition paradigm, and how this paradigm could be put into practice to give a boost to the sustainable food economy in Northern Ireland.

The Environmental Integration and Polluter Pays Principles: Fiscal Implications for Environmental Protection

Rossella Calicchio, Ph.D. Candidate, Faculty of Law, Università Cattolica del Sacro Cuore (Italy)

The green taxes increasing relevance in the EU environmental protection policy- connected to a greater awareness of command and control flaws- provides some points for reflection from a legal perspective on the relation between the new economic tools and the European environmental protection principles. Integration principle and polluter pays principle are particularly important, among the principles enshrined in the article 191.2 TFUE for green taxes legal implications analysis.

According to the integration principle an effective environmental protection need a global approach. For this reason environmental protection objectives (art 191 TFUE) should be taken into consideration in developing each European policy sector.

Consequently integration principle allowing a mutual interaction between environmental and the internal market policies whose limits and operating conditions are specified by the polluter pays principle which states that whoever is responsible for damage to the environment should bear the cost associated with it. In this way is possible internalize external cost into real cost which reflect not just the private costs but also the social costs promoting environmental friendly behavior.

This presentation explores two aspects of these two principles: if in theory they should work as legal basis and guide line for the EU fiscal instruments legislation and enforcement on the other side the fiscal instruments placed in the global EU legal frame may also give arise to relevant questions and potential contradictions.

National Courts can elaborate different interpretations of these principles which could create disharmonic implementation of the fiscal tool, or which may affect other EU general principles implementation.

Reviewing Refusals to Disclose Environmental Information in England and the United States: In Search of New Approaches

Sean Whittaker, Ph.D. Candidate / Irish Research Council Government of Ireland Scholar, School of Law, University College Cork

The right to access environmental information is a vital element in promoting informed decision-making and participation in environmental matters. This has been recognised in international instruments such as the Convention on *Access to Information, Public Participation in Decision-Making Matters and Access to Justice in Environmental Matters* (the Aarhus Convention, 1998). However, in order to fully guarantee the right at the national level, States must implement review procedures to allow requesters to challenge public authority decisions with a view to enforcing the right to access environmental information. While the importance of effective review procedures has long been recognised, the form that these procedures take varies between jurisdictions due to sharp differences in national legal and administrative systems. This can be seen in the distinctive review procedures utilised in England, a State which is obliged to comply with the obligations enshrined in the Aarhus Convention, and in the United States (US), which is not a signatory to the Convention and has subsumed the right to access environmental information into its general Freedom of Information regime.

The paper will examine the review procedures available to those who request access to environmental information from English public authorities and US federal agencies. It will assess whether these procedures meet the standards set by the Aarhus Convention in terms of ensuring that requestors have effective access to justice to enforce the right to access environmental information. The paper argues that the review procedures available in England and the US are not fully in line with Aarhus requirements. The paper sets out suggested reforms to each jurisdiction's review procedures, sourced from the Aarhus Convention and the comparator jurisdiction. Finally, the paper considers the likelihood of the proposed reforms being adopted successfully.

Hard Law and Soft Law Interactions in U.S. Light Pollution Regulation

Pedithep Youyuenyong, Ph.D. Candidate, School of Law, De Montfort University
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Light pollution is excessive, misdirected, or intrusive artificial light. It is the emission caused by non-environmentally friendly or inappropriate artificial light. Light in the wrong place at the wrong time can impact the natural lengths of the day and night. The conflicting demands of the need for outdoor lighting and the dark-sky environment interests are increasingly associated with environmental and human health problems related to the day-night circadian rhythm cycle or the 24 hour light-dark cycle, and the emission of excessive or obtrusive lights at night can cause disturbance to nocturnal habitats and nocturnal biodiversity at night. While light pollution is emitted from several different types of outdoor light sources (e.g. security lights, street

lights, floodlights, advertising and display lighting, and public light premises and any associated public service facilities), preserving the relationship of the U.S. residents to their unique dark-sky environment through protection of human health and dark-sky environment interests has been regulated through soft law. The key examples of non-legally binding instruments in U.S. national and municipal jurisdictions are the Model Lighting Ordinance (MLO) as well as the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) for Sustainable Sites Credit 8 regarding light pollution reduction. We particularly examine the influence of professional astronomical and illuminating engineering bodies within U.S. national jurisdiction on standard-setting in municipal light pollution laws. Standard-setting in the context of this paper shall mean all activities leading to control the non-environmentally friendly impacts of excessive and careless outdoor lighting usage while preserving, protecting, and enhancing the lawful outdoor light use and enjoyment of any and all property at night. The role of professional astronomical and illuminating engineering bodies' soft law in the development of new regulatory light pollution requirements is likely to rise in importance, especially in U.S. municipal light pollution awareness, in which individual municipalities prioritise the promotion of dark-sky environment and the energy conservation over the protection of unique public environmental interests.

Climate Change Adaptation Governance in the German Agricultural Sector – A Socio-Legal Systems Theoretical Investigation

Irene Bullmer, Ph.D. Candidate, UCD Sutherland School of Law and UCD Earth Institute, University College Dublin

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Interviewer: *'Which stakeholders have spear-headed developments in relation to climate change adaptation in the German agricultural sector?'*

German scientist 1: *'Science has certainly initiated the process. However, **industry** has taken it seriously and implemented it -- a multitude of different actors absorbed it.'*

Climate change adaptation is a local matter because climate change impacts vary locally. As a result it makes sense to consider at the very least at a national level how societies treat this local matter. Additionally, it is for the agricultural sector the economic system (i.e. agriculturalists, food industry, etc.) which needs to adapt because impacts will affect things like growing seasons and exposure to extreme events. Given that the economic system will need to adapt, it would be easiest for adaptation to climate change in the agricultural sector if the economic system was to self-steer the process. Nevertheless, easiest does not imply fastest or most effective or most successful. But easiest to implement can imply economic benefits as it may mean that steering and implementing adaptation requires less action within the political and administrative systems.

One of the main interests of this empirical paper is to analyse to which extent differences in communication and differences between sub-systems lead to difficulties in communication which may act as a barrier to climate change adaptation in the agricultural sector. To investigate this question I consider four different sub-systems of society: law, politics, administration, and science. Thereby I omit two other (presumably relevant ones in this paper), namely, the media and the economy. The study is based on autopoietic empiricism, which is a combination of empiricism and systems theory as theoretical backing. Socio-legal systems theory is a grand theory which is based on the idea that *'modern societies tend to develop specialized institutional 'spheres' that use different 'languages' and 'codes' to address everyday problems and events that human actors in society perceive and discuss when making concrete legal, political, or economic decisions'* (Orts 2001: 160). The paper concludes that there are indeed differences in communication which have the potential of hindering adaptation.

The paper has four main sections. The first section treats climate change adaptation law and policy in Germany. The second section considers agricultural law relevant to the environment and climate change in particular. The third section briefly explains the approach I use to analyse interviews, a combination of socio-legal systems theory and empiricism, called autopoietic empiricism. The fourth section gives the interview results before final remarks conclude the paper.

Keywords: adaptation to climate change, socio-legal systems theory, Germany, environmental law and policy

Addressing Conflicts between Offshore Renewable Energy and Navigation in International Law: The Role of Marine Spatial Planning

Celia Le Lièvre, LL.M. Candidate, School of Law, University of Aberdeen:

The paper analyses, from an international law perspective, the conflicts arising between the navigation rights and the recent expansion of Offshore Renewable Energy Facilities (OREF). The development of large scale offshore farms in the European seas significantly increases the risk of interference with shipping routes. This is especially so in already congested marine areas such as the Dutch part of the North Sea where collisions may engender massive environmental hazards. Although the Law of the Sea provides a robust legal framework for conflicts avoidance at sea, legal uncertainties remain on the extent to which Coastal States can regulate the exercise of the public right of navigation to deploy and protect offshore renewable energy installations in waters subject to jurisdiction. In particular a question arises under the regime of the territorial sea about the

right of the Coastal State to suspend the innocent passage of foreign vessels to accommodate offshore farms. Likewise, the scope of the Coastal State's power to impose restrictions on the freedom of navigation within the safety zones established in the Exclusive Economic Zone is not clearly defined in the Law of the Sea Convention (LOSC). The objective of the present paper is to address these legal deficits. First, the paper aims to provide a brief overview of the potential physical conflicts between Offshore Renewables and Shipping. Then it will go in depth in the norms of international law to analyse how offshore renewable energy may interact with the rights of foreign ships to enjoy the innocent passage and the freedom of navigation. On this aspect, the process of moving shipping routes will be investigated. Finally, the paper will conclude by a more technical reflection on the role that Marine Spatial Planning can play to identify and address conflicts of coexistence between navigation rights and the deployment of OREF. This will be demonstrated with references to the Scottish Marine Planning Process for Offshore Wind.

What Blocks the Fulfilment of the Aarhus Convention?

Yuchen Guo, Ph.D. Candidate, School of Law, University of Hull

The Aarhus Convention is considered to be the most detailed and far-reaching international development in public participation to date. Most research focuses on the Convention's implementation by individual States or at the EU level. However, little attention is paid to the overall implementation across States Parties. Therefore, researches have not identified common obstacles or problems across all States Parties in the implementation of the Convention at the present stage.

This paper examines weaknesses in the provisions with regard to the access to information and justice under this Convention. Furthermore, some cases from Compliance Committee and 37 National Implementation Reports in 2014 are examined to identify any obstacles or problems that State Parties have met in their implementation of the Convention. The paper will conclude that clear, transparent and consistent frameworks for public information, participation and justice on environmental issues have not realised among State Parties. This may largely be due to the vague provisions under the Convention, incomplete enforcement mechanism and insufficient resources to support implementation.

Transboundary Waters and Ecosystems: Opportunities for Improved Cooperative Governance

Juan Carlos Sanchez, Ph.D. Candidate, IHP-HELP Centre for Water Law, Policy and Science (under the auspices of UNESCO), University of Dundee

Regulation of transboundary river basins[1] should be a major concern in the context of sustainable development.[2] Transboundary river basins host over 40% of the world's population, account for almost half of the world's surface and provide 60% of the global freshwater flow.[3] From a national perspective, 148 countries have part of their territory within one or more river basin, 39 countries have more than 90% of their territory within one or more transboundary river basin and 21 lie entirely within one or more of these watersheds.[4] Within transboundary river basins populations from 'both sides of the river' share goods and services that account for the incomes and livelihoods of hundreds of millions of people.

Unfortunately, poorly managed resources – product of weak or inexistent governance arrangements – has led to depleted and polluted freshwater supplies in many regions of the world; hampering sustainable development in these territories. As a response, legal agreements have been the tool of preference for framing cooperation reacting against unsustainable development, unilateral action and environmental degradation within shared river basins.[5] However, approximately 60% of the world's transboundary river basins still lack an adequate cooperative framework for overcoming potential threats that attempt against good water management; and environmental concerns in existing water treaties are often poorly addressed. In other words, of the existing agreements to frame cooperation between States sharing river basins and their associated ecosystems,[6] only few adopt an 'ecosystems approach'.[7] This approach is characterized as 'a strategy for the integrated management of land, water, and living resources that promotes conservation and

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[1] Transboundary river basins are understood as an area of land drained by a river and its tributaries which is located in the territory of two or more States. Brooks, Kenneth N., Peter F. Folliott, and Joseph A. Magner. *Hydrology and the Management of Watersheds*. John Wiley & Sons, 2012.

[2] Rojas, Grethel Aguilar, and Alejandro Omar Iza. *Gobernanza de aguas compartidas: aspectos jurídicos e institucionales*. No. 58. IUCN, 2009.

[3] http://www.unwater.org/downloads/UNW_TRANSBOUNDARY.pdf

[4] http://www.unwater.org/fileadmin/user_upload/watercooperation2013/doc/Factsheets/transboundary_waters.pdf.

[5] Between the years 805 and 1984, countries signed more than 3600 water-related treaties, many showing great creativity in dealing with this critical resource (Wolf, 1998). Overall, shared interests, human creativity and institutional capacity along a waterway seem to consistently ameliorate water's conflict-inducing characteristics. Furthermore, once cooperative water regimes are established through treaties, they turn out to be impressively resilient over time, even when between otherwise hostile riparians, and even as conflict is waged over other issues. These patterns suggest that the more valuable lesson of international water may be as a resource whose characteristics tend to induce cooperation. Wolf, Aaron T., Shira B. Yoffe, and Mark Giordano. "International waters: Identifying basins at risk." Water policy 5.1 (2003): 29-60.

[6] Over the past ten years, the international community has adopted conventions, declarations, and legal statements concerning the management of international waters, while basin communities have established numerous new basin institutions. Despite these developments, significant vulnerabilities remain. Many international basins still lack any type of joint management structure, and certain fundamental management components are noticeably absent from those that do have them. An understanding of these weaknesses, however, offers an opportunity for both the international and basin communities to better respond to the specific institution-building needs of basin communities and thereby foster broader cooperation over the world's international water resources. Giordano, Meredith A., and Aaron T. Wolf. "Sharing waters: Post-Rio international water management." Natural Resources Forum. Vol. 27. No. 2. Blackwell Publishing Ltd, 2003.

[7] An 'Ecosystems Approach' is understood to be "a strategy for integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way" CBD Guidelines, *supra* n 125, at p 6, para 1, extracted from section A of Decision CBD, Decision V/6, *supra* n 211.

sustainable use in an equitable way'; a conservation paradigm which has its formal origins in the 1992 Convention on Biological Diversity.[8]

Two factors speak in favour of shifting more attention on the relationship between the ecosystem approach and transboundary river basin agreements. Firstly, the ecosystem approach has only relatively and recently influenced the development of general International Law relating to transboundary river basins.[9] Secondly, it is not well understood the causal relationship between healthy ecosystems and different environmental regimes, based on evidence from case studies and well-developed methodologies[10] that allow for a comparison and cross-learning in different contexts (*i.e. different river basins*).[11]

Accordingly, the objective of the ongoing PhD research is to better understand the relationship between legal and institutional arrangements and the key elements that should be in place to foster an 'ecosystem approach' within transboundary river basins. And consequently, the overarching research question that drives the analysis is: what exogenous and endogenous factors influence the capacity of international treaty arrangements to support an ecosystem approach within transboundary river basins?

Implementing Multilateral Environmental Obligations in Project Finance through a Non-Judicial Mechanism? An Analysis of the World Bank Inspection Panel

Wei-Chung Lin, Ph.D. Candidatem School of Law, University of Nottingham

In recent decades, the World Bank has increasingly opened its doors to civil society in order to be more responsive to those who may be affected by its operations. The establishment of the World Bank Inspection Panel is an obvious example in addressing public concerns about social and environmental impacts arising from Bank-financed projects. This citizen-driven mechanism allows those who are affected by projects supported by the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA) to bring claims at the international level. The Inspection Panel has the mandate

[8] Rieu-Clarke, Alistair, and Christopher Spray. "Ecosystem services and international water law: towards a more effective determination and implementation of equity?" PER: Potchefstroomse Elektroniese Regsblad 16.2 (2013): 01-56.

[9] As opposed to the literature focusing on Equitable and Reasonable Utilization and the Obligations Not to cause a Significant Harm. See for example Bourne, Charles B. "Primacy of the Principle of Equitable Utilization in the 1997 Watercourses Convention, The." Can. YB Int'l L. 35 (1997): 215. Or, McCaffrey, Stephen. "The contribution of the UN Convention on the law of the non-navigational uses of international watercourses." International Journal of Global Environmental Issues 1.3 (2001): 250-263. And Wouters, Patricia K. "Assessment of Recent Developments in International Watercourse Law through the Prism of the Substantive Rules Governing Use Allocation, An." Nat. Resources J. 36 (1996): 417.

10 Weiss, Edith Brown, and Harold Karan Jacobson, eds. Engaging countries: strengthening compliance with international environmental accords. MIT press, 2000.

[11] Do international regimes actually matter, and if so, in what way? What can we learn from them and what can we improve? Keohane, Robert O. "The demand for international regimes." International organization 36.02 (1982): 325-355.

to examine whether the decisions made by the IBRD and IDA have complied with the World Bank's safeguard policies.

International legal scholarship has mainly focused upon the role of this kind of complaint and grievance mechanism in enhancing the accountability of multilateral development banks (MDBs) towards the public. However, a particular strength of the Inspection Panel that promotes the implementation of multilateral environmental agreements (MEAs) in project finance has not been explored. This strength relates to the proactive role played by the Panel, as a non-judicial mechanism, in examining the project's compliance with specific MEAs.

If we look at the substantive rules applicable in the Inspection Panel's investigation process, it can be seen that these rules referred to MEAs only in a few occasions. However, it can be seen that in practice, the borrowing governments' environmental treaty obligations have been examined in a manner which were far more extensive than those explicitly stipulated in the Bank's safeguard policies. The extent to which the Inspection Panel, as a non-judicial dispute settlement mechanism, has utilised MEAs to address environmental issues arising from Bank-funded projects, thereby ensuring compliance with environmental obligations by the borrowers in their project finance activities is the issue this paper explores.

After the introduction, the second section of this paper illustrates the institutional aspect of the Inspection Panel. It will describe the Panel's composition, its non-judicial character, and the investigation process. The third section introduces the applicable environment-related Bank policies and procedures in the Inspection Panel. The environmental issues dealt with in these rules include environmental impact assessment, national habitats, physical cultural resources, and forests. This section also evaluates the cross-fertilisation between these Bank safeguard policies and MEAs.

The forth section examines how the Inspection Panel treated MEAs in addressing private complaints in relation to negative environmental repercussions from Bank-financed project activities. This paper fins that several MEAs, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention Concerning the Protection of the World Cultural and Natural Heritage (WHC), the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), and the Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar Convention), have been taken into consideration. Drawing upon the recent practice of the Inspection Panel, this section examines the implications of this development for the implementation of MEA obligations in the context of project finance.