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CISDL
Centre for International
Sustainable Development Law

Climate Legislation Webinar Series

Webinar 2: Law and governance approaches within the ocean-climate nexus

Summary report

On 17 September 2020, the Inter-Parliamentary Union (IPU), the Centre for International Sustainable Development Law (CISDL) and the United Nations Framework Convention on Climate Change (UNFCCC) hosted its second virtual webinar on climate legislation. The webinar focused on law and governance approaches within the ocean-climate nexus, and shared best practices in law-making and the creation of institutional arrangements geared towards addressing climate change in the context of ocean governance. The webinar's three expert instructors outlined key ideas and engaged in a dialogue with webinar participants. By opening up such conversations, the webinar helped to build capacity on climate legislation and strengthen implementation of the Paris Agreement, as well as promote knowledge-sharing on key topics surrounding the ocean-climate nexus. Nearly 200 participants, including parliamentarians, government officials, academics and legal professionals took part in the webinar.

In introducing the webinar, Prof. Marie-Claire Cordonier Segger¹ provided an overview of the webinar. Mirroring the structure of the first webinar, the instructors' presentations progressed from ideas on international law and approaches within the ocean-climate nexus to more specific examples of good practices at both domestic and international levels from which lessons can be drawn. The concluding discussion explored more in-depth national legal implementation and domestic experiences. Prof. Cordonier Segger also emphasized the importance of considering how law and science interacted in the implementation of the Paris Agreement, particularly in relation to oceans.

Ms. Hafida Lahiouel² emphasized the UNFCCC's role in its work on the ocean-climate nexus with a number of organizations. Ms. Lahiouel also highlighted the unique position of the ocean as a point of convergence of various laws, and the complex web of legislation that addressed climate-nexus issues. They included, among other, coastal management, trade, fisheries and transportation. The Intergovernmental Panel on Climate Change (IPCC) was cited as a pivotal entity, in particular its 2019 report which gave a projection of intensified climate change impact on oceans, coastal areas and ecosystems. The 2019 IPCC report provided the scientific

¹ Senior Director, Centre for International Sustainable Development Law; professor of law, University of Waterloo; affiliated fellow, University of Cambridge.

² Director, Legal Affairs, and Principal Legal Adviser, UNFCCC Secretariat.



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grounding for the development of policy work within the UNFCCC framework, echoing Prof. Cordonier Segger's remark on the interlinkages between climate and ocean science, and legislation. It was pointed out that the UNFCCC and the Paris Agreement contained clear references to management, conservation and enhancement of the oceans, including Decision 1/CP.16 which acknowledged the impact of extreme weather events.³ Ms. Lahiouel explored ocean-related issues, noting that over 70 per cent of Nationally Determined Contributions (NDCs) dealt with those issues, particularly with regards to coastal and marine ecosystems. In addition to National Adaptation Plans (NAPs), there was a significant body of domestic level work on international concerns regarding oceans. In conclusion, Ms. Lahiouel emphasized the need for continued focus on those issues ahead of COP26 in Glasgow.

In her presentation Prof. Alexandra R. Harrington⁴ further developed the integral relationship between the UNFCCC system for ocean and coastal management and other international systems, including the Sustainable Development Goals (SDGs) and the UN Convention on the Law of the Sea (UNCLOS). She pointed out that SDG 13 was a fundamental nexus when discussing and understanding ocean and climate change, emphasizing that it designated the UNFCCC system as the primary international and intergovernmental system for negotiating a global response. Furthermore, in the context of SDG 14 on life below water, Prof. Harrington underlined the need for a synonymous consideration of land and sea when working on governance since terrestrial resources and land-based activities frequently negatively impacted oceans. It was noted that the UNCLOS regime was established in the 1980s to officially oblige States to protect and preserve the marine environment, especially fragile ecosystems, and ensure that State Parties considered both their own national territories and the international sea.

Prof. Harrington highlighted several examples of national good practices which incorporated seas and oceans into legal reform and governance measures. Such were, for example, the 2008 EU Marine Strategy Framework Directive and the Australian Great Barrier Reef Marine Park, which had been established in 1975 but was continually evolving with new research. Dynamic responses to science were a good practice that confirmed the crucial relationship between science and legal reform. Furthermore, the Seychelles Environment Protection Act, which provided for penalties in case of violations, effectively ensured the implementation of its environmental impact requirements, as did the Mexican Fondo de Desastres Naturales (FONDEN), which focused on disasters and ensured rapid responses to those affected by such disasters in coastal communities. Moreover, Prof. Harrington noted that since the outbreak of COVID-19 there had been an increased interest in expanding and initiating new areas of protection for marine and coastal resources, particularly the expansion of Belize's marine research area, and Trinidad and Tobago's new national protective areas systems. Importantly, many of those good practices involved multiple stakeholders. Such broad,

³ FCCC/CP/2010/7/Add.1, Decision 1/CP.16, para 25.

⁴ Research Director, CISDL; 2018-2020 Fulbright Canada Research Chair in Global Governance.



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intertwined network, showed that national laws were not limited to one specific view but were part of the broader climate change system and international governance.

Mr. Ahmed Saleem⁵ discussed the difficulty faced by small island nations in relation to the ocean-climate nexus. He stated that over 80 per cent of the Maldives was less than one metre above sea level which meant that global sea level rise threatened the widespread loss of land and infrastructure essential to the Maldives' economy. As a Small Island Developing State (SIDS), the Maldives did not have the national capital to protect against the fast arriving threat of climate change. In 2020, due to a lack of legal backing, the Maldives failed to meet a climate neutral pledge that had been made by prior governments in 2010. Consequently, there was a need for effective implementation of climate laws and policies both nationally, in the Maldives, and internationally. To ensure the complete implementation of future climate policies, the Maldives issued a Declaration of National Climate Change Emergency to advocate for more significant international climate change reform. The Maldives produced only 0.0035 per cent of global emissions (2011) which was why it called on the compliance and collaboration of international organizations. Given the elevated threat climate change posed to the Maldives, it appealed for an international climate law that would ensure it received international support. Mr. Saleem concluded by suggesting that the global recovery from the COVID-19 pandemic was an opportunity for ambitious climate change action.

The presentations were followed by a virtual question and answer session. Asked if there was an international law to fight plastic pollution in the ocean, Prof. Harrington suggested that, whilst there was no international law focused on plastic pollution, many countries had enacted and were considering measures such as the banning of plastic bags because of their impact on coastal life. Ms. Lahiouel added that, although it was tempting to create legislation to combat all of the individual aspects of ocean pollution, streamlined laws that focused on compliance and implementation had a significant effect. Lastly, Mr. Saleem said that the Maldives' had introduced policies to tackle the importation of plastics and were preparing to ban single use plastics by 2025.

On the question of including indigenous peoples and their rights in the UNFCCC NDC and NAP systems when drafting domestic legislation on ocean protection, Prof. Harrington stated that indigenous voices must be included in national policy making. There were a multitude of tools, frequently at the national level, that allowed for this inclusion. The UNFCCC worked with countries to design laws that respected the rights and needs of vulnerable populations, which was factored into the NDCs.

Asked whether the current maritime zoning laws favoured good management or whether the challenges of climate change would change the law of the sea, Prof. Harrington said that sovereignty was especially important to the regulation of oceans because countries formulated

⁵ Member of the People's Majlis of Maldives (Parliament of Maldives) and Chair of the Parliament Standing Committee on Climate Change and Environment.



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domestic laws to combat climate change within their own sea borders to ensure effective implementation. However, she acknowledged that in the future the international climate law and would most likely be amended, particularly regarding sovereign and non-sovereign waters and the UNCLOS.

On the possible creation of international legal tools to protect small island states, such as the Maldives, Mr. Ahmed Saleem responded that a more nuanced approach should be explored for small island states given the unique set of challenges faced by those countries which differed from larger, non-island states. He noted that Small Island Developing States shared 2 per cent of the climate financing (2015-16) and were consequently disadvantaged when compared to the financing of larger states. He explained that the Maldives' Declaration of National Climate Change Emergency looked to encourage international support to SIDS.

In her concluding remarks, Prof. Cordonier Segger thanked Ms. Lahiouel, Prof. Harrington, and Mr. Saleem for their informative contributions and drew the webinar to a close.

For more information on the organizing partners of this webinar series, please visit:

Inter-Parliamentary Union: <https://www.ipu.org/>

UNFCCC Secretariat: <https://unfccc.int/>

Centre for International Sustainable Development Law: <https://www.cisd.org/>