



Utrecht Centre for Water,
Oceans and Sustainability Law



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RESEARCH PROGRAMME 2013-2018

UTRECHT UNIVERSITY

FACULTY OF LAW, ECONOMICS AND GOVERNANCE

1. INTRODUCTION

Water is life. Oceans and fresh water systems each play their own role, but these systems interact as well. Both are under increasing pressure due to human activities and human-induced climate change. Fish stocks are being overfished or have become depleted; sea level rises threaten the survival of low-lying urban areas, deltas, and rural and natural areas; aquifers are emptied or are no longer fit for use due to pollution; and too intensive or mistaken land use contributes to erosion and floods. All these issues point at the necessity to find solutions which guarantee a sustainable use of oceans and fresh water resources. Choices must be made. The availability of scarce resources needs to be shared among users with different interests. The management of oceans as a common good and the sustainable use of fresh water, on the basis of the protection of the available sources in the long term, the availability of sufficient surface water and groundwater of good quality for a sustainable and equitable use, protection against flooding and dealing with uncertain risks are the main challenges of our time.

The management of oceans, fresh water and deltas should be adaptive to enable change in response to changing circumstances (climate, population growth, economic development, urbanisation) or because of innovative technical or administrative changes. These changes require an adaptive, resilient legal system, which safeguards sustainability and equitability. The research programme also covers adaptation to climate change in water and ocean management. The management of water and the oceans is related to maritime zones and river basins. Where seas, oceans, rivers or aquifers cross national borders, shared responsibility is necessary for the realization of sustainable and equitable management. The research departs from the basic assumption that oceans and freshwater systems have a value of their own. Sustainability, equity and shared responsibility are core values of the research programme and provide for a binding factor between individual research projects. Next to similarities in fundamental normative values, similarities occur with regard to questions about the division of competence and the instruments to manage oceans and fresh water systems. Last but not least, the programme aims to contribute to the prevention and management of disputes.

2. THE UTRECHT CENTRE FOR WATER, OCEANS AND SUSTAINABILITY LAW

The Utrecht Centre for Water, Oceans and Sustainability Law of Utrecht University (the former Centre for Environmental law and policy/Netherlands Institute for the Law of the Sea) is one of the leading water law and governance research institutions in the Netherlands and in Europe. Its leading position in the area of water law and policy is partly due to international and interdisciplinary collaboration and a keen eye for the application of scientific insights into practice. Members of the research group advise international organisations, the European Commission and various Dutch and other governmental and private institutions and participate in various international consortia.

The research originally developed from two separated tracks over the past decades. On the one hand, the oceans track and, on the other, the fresh water track. The ocean track has an

international law focus, including the law of the sea. This is linked with the implementation of international rules by the EU and by states, including the Netherlands. The fresh water track covers the legal aspects of fresh water and river basin management on the international, European and national level. This includes drinking water and the relation between water and other parts of European and national environmental law, including spatial planning and nature protection. The Utrecht Centre for Water, Oceans and Sustainability Law has broadened its research scope with legal theoretical research, human rights and the role of private actors including corporate social responsibility.

3. RESEARCH QUESTION AND PRIORITIES

The main research question of our research programme is the following:

What contribution can law deliver to a sustainable management of oceans, freshwater systems and deltas, on the basis of mutual responsibilities, and to the pursuit of an equitable distribution of associated risks and natural resources?

The research within the Water, Oceans and Sustainability programme focuses on key sustainability and distributional aspects in the field of ocean and fresh water management. The programme consists of 4 points of focus with respective research questions:

1. NORMATIVE PERSPECTIVE: SUSTAINABLE AND EQUITABLE

Research within this point of focus deals with the development of a normative framework that delivers substance to the concepts of sustainability and equity.

What are the main values in water and oceans law and how can human rights, principles from international customary law and relevant treaties, EU law and constitutional principles contribute to the normative framework?

2. INSTITUTIONAL PERSPECTIVE: MUTUAL RESPONSIBILITIES

This point of focus is aimed at institutional (governance) aspects of sustainable and equitable management, as seen from a multi-level perspective (i.e. international, the regional – EU – and national dimension, and the interactions amongst them) and a multi-actor perspective (i.e. states and decentralized state agencies, civilians, NGOs, businesses, and intergovernmental organizations).

What are the bottlenecks in the current institutional structure and what improvements are required for the sustainable and equitable management of river basins, oceans and deltas?

3. INSTRUMENTAL PERSPECTIVE: MANAGEMENT

By the use of what mix of public and private means can the sustainable and equitable management of river basins, oceans and deltas be accomplished?

4. DISPUTE SETTLEMENT: PREVENTION, SETTLEMENT AND REMEDIES

Which dispute resolution mechanisms and what remedies can contribute to the sustainable and equitable management of river basins, oceans and deltas, based on mutual responsibilities, for oceans and freshwater systems?

The following criteria are involved in the subsequent development of the sub-questions:

- 1) What type of research is to be conducted in order to answer the respective research question?
- 2) What are the most pressing questions for the future?
- 3) Can the research be accomplished, taking into account the existing expertise within the research programme and the (potentially required) available external financing?

4. RESEARCH METHODS

The researchers use a combination of three methods to implement the research programme. These are classic legal research, comparative legal research (internal – public, private and criminal law - and by comparing Dutch law with the laws of other countries) and multidisciplinary empirical research. Classic legal research studies the applicable rules, through an analysis of treaties, legislation, case law and literature.

Comparative legal research compares the rules in one country, or one field of law, with another. It inspires by offering different arguments and different solutions to the same or similar problems. It is especially important in European water law, because EU Member States have a shared responsibility for the management of river basin districts. It is also very useful for the development of new EU water legislation. For this purpose, researchers from the Utrecht Centre for Water, Oceans and Sustainability Law participate in international and European networks.

The Utrecht water research is also characterized by its multidisciplinary approach. Legal researchers frequently collaborate with economists, policy scientists, toxicologists, ecologists, hydrologists and civil technicians, for instance within the Water Governance Centre, the research programme Knowledge for Climate and various NWO projects (on international, European and national issues) and in the context of research on demand projects (contract research). Knowledge from these disciplines is valuable because it offers empirical insights into the nature and extent of water-related problems and the question whether the proposed legal amendments can truly contribute to the development of a sustainable and equitable management of oceans and fresh water systems.

5. PARTNERS AND RESEARCH PROJECTS IN WHICH WE PARTICIPATE

The Utrecht Centre for Water, Oceans and Sustainability Law is involved in various research projects which are implemented in cooperation with researchers from our own University or from other universities. In addition, we cooperate with other universities and governmental

institutions by offering master's courses or lectures.

Within Utrecht University, the Utrecht Centre for Water, Oceans and Sustainability fits within the UU focus areas of Earth and Sustainability, Origins and Impacts of Institutions, Conflicts and Human Rights and Coordinating Societal Change. It also fits within the strategic theme of Utrecht University's Sustainability (in particular 'water, ecosystems & climate' 'urban areas' and 'energy') and Institutions programmes. The Centre is part of the Utrecht Sustainability Institute (USI). The research adheres to the EU Grand Challenges of 'Resource Efficiency and Climate' and 'Inclusive, innovative and Secure Society' as well as Food security, sustainable agriculture, marine & maritime research and the bio-economy. The research also adheres to the leading Dutch 'Water' sector.

Researchers at the Centre are members of the Ius Commune Research School and participate in the Transboundary environmental law programme.

Researchers are also members of the IUCN Environmental Law Academy.

The water track carries out multidisciplinary research in collaboration with the multidisciplinary scientific committee of the Dutch Water Governance Centre.

Climate change research is focused on adaptation to climate change. In this respect cooperation takes place with experts from Leuven University, the University of Malta, University College London, Imperial College London and Università degli Studi di Milano, the IE Law School in Madrid, Maastricht University, and Tilburg University, in close cooperation with the European Commission (DG CLIMA) within the Malta Forum for Legal Issues for Adaptation to Climate Change, established in the autumn of 2011.

The water track has a number of European partners. It cooperates with two German universities; Trier University, in particular with the Institut für Wasserrecht, and the Helmholtz Centre for Environmental Research in Leipzig. They both deal with water law and adaptation to climate change.

In France, we cooperate with the L 'Academie de l'eau (Paris) and with the Professor of Integrated coastal zone management at the Université du Littoral Côte d'Opale Faculté de droit de Boulogne sur Mer. In the UK we cooperate with Dundee University, in particular with the [Dundee IHP-HELP UNESCO Centre](#). The Helmholtz Centre for Environmental Research Academie de l'Eau and the [Dundee IHP-HELP UNESCO Centre](#) are multidisciplinary research centres. The Utrecht Centre also participates in the European network of water lawyers, the *Reseau d'eau*, which is managed by the Centre International de Droit Comparé (CIDCE) of Limoges University.

The ocean track (the Netherlands Institute for the Law of the Sea) is one of the few specialized institutes in this field. In addition to the contacts maintained with the institutions mentioned below, a large network exists with individual researchers who study the law of the sea at universities in Europe, North America and East Asia. The ocean track cooperates in research programmes on the international law of the polar areas. This includes 'Geopolitics in the High North', a 5-year (2008–2012) research programme financed by the Norwegian Research Council, implemented by the Norwegian Institute for Defence Studies in cooperation with various partners, and the Arctic Law Thematic Network of the Arctic Centre of the University of Lapland, Rovaniemi, Finland. Together with the Australian National University a research

project is being prepared on the interaction between mondial regimes for the oceans and regional regimes for the polar seas. Cooperation also occurs with other institutes specialized in the law of the sea. Among others: the Korea Maritime Institute, the Oceans Policy Research Foundation (Japan), the Centre for International Law of the National University of Singapore and the Center for Oceans Law and Policy of the University of Virginia, USA.

Our specialization in the areas of the law of the sea and water law has also led to educational cooperation. We offer master's courses or lectures within the multidisciplinary master's programme Water science and management (UU) and a few international master's courses at, for example, Leuven (Master's in Energy and Environmental Law) Paris (Paris II/Pantheon-Assas, Master's in European Law), Malta (Energy, Environmental and Climate Law) and Tromsø (Tromsø University, Norway, Master's in the Law of the Sea and Oceans Management). In addition, we contribute to the Rhodes Academy of Oceans Law and Policy in cooperation with (among others) the Center for Oceans Law and Policy of Virginia University, USA. Specialised courses on the international law of the sea are also provided for the Dutch government and the government of Greenland.

For all research projects see our website.

6. CONTRACT RESEARCH

We carry out and have carried out research on demand and in cooperation with Dutch and foreign governmental institutions (European Union, states), international organisations (for example the OECD), research institutes like RIVM, PBL, Alterra (Wageningen), STOWA, Imares, Deltares, ministries like I&M and ELI, the Water Governance Centre, provinces, water boards, municipalities, the Dutch Council of State and private and societal organisations like the Unie van Waterschappen, the Interprovinciaal Overleg, the Vereniging Nederlandse gemeenten, the Vereniging van drinkwaterbedrijven et cetera.
