



TASK FORCE ON EARTH SYSTEM LAW

Earth System Law Task Force Annual Meeting

10 September 2021

First meeting: 8.30-10.00 (CEST)

Second meeting: 16.00-17.30 (CEST)

As part of the 2021 Bratislava Conference on Earth System Governance

REPORT OF THE EARTH SYSTEM LAW TASK FORCE MEETINGS

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The notes contained in this report have been compiled by Emille Boulot (first meeting) and Catherine Blanchard (second meeting), and revised by Louis Kotzé and Rakhyun Kim. Apologies for any erroneous reporting of participants' views. We warmly welcome any feedback, including suggestions for additions and revision.

1. INTRODUCTION TO THE EVENT

The Task Force on Earth System Law held its fifth annual meeting, virtually, as part of the 2021 Bratislava Conference on Earth System Governance. To accommodate as many participants as possible, the Task Force held two meetings, the first mostly targeting participants from the Asia-Pacific and European regions, and the second, participants from the Americas, although all participants were invited to join either meetings or both. Some participants attended both meetings.

Building on the previous meetings in Lund (2017), Utrecht (2018), Oaxaca (2019), and an online setting (2020), we more specifically reflected on how to expand the activities and impact of the Task Force beyond 2021. This included:

- (1) Reflecting on the recent developments in the field;
- (2) Refining the shared scientific research agenda;
- (3) Discussing the ongoing special issue project with Earth System Governance;
- (4) Exploring alternative publications and research dissemination strategies and linking up with related networks.

An important step forward included the nomination of a steering committee, which is intended to be gender-balanced and representing different regions and career levels, and which will be reflecting on and leading new research and activities within the Task Force.

The Task Force currently consists of an interdisciplinary group of over 70 scholars from various backgrounds including law, philosophy, and political science, and it welcomes other perspectives, and continues to welcome new members to contribute to its collective work.

2. PROGRAMME

In order to accommodate as many participants as possible, located in different time zones, the Task Force hosted two meetings, which followed the same programme.

1. Welcome and introduction
 - a. Overview of the meeting
 - b. Brief round of introduction
2. Overview of recent activities
 - a. ESG speaker series in February
 - b. March workshop
 - c. Edited volume
 - d. Updating the website twitter account
3. Presentation of the Special Issue in Earth System Governance
4. Steering committee
 - a. Presentation of the role of the steering committee
 - b. Confirmation of the 8 nominations
5. Discussion and brainstorming for future activities.
 - a. How can the TF be beneficial for members?
 - b. What activities do members want to have within the TF? Members are welcome to take the lead in organizing activities under the ESL TF banner
 - c. Reflection on the concept of ESL
6. Closing

The first meeting was chaired by Louis Kotzé, assisted by Emille Boulot.

The second meeting was chaired by Rakhyun Kim, assisted by Catherine Blanchard.

3. PARTICIPANTS

First meeting

Louis Kotzé (North-West University)
Emille Boulot (McGill University)
Rakhyun Kim (Utrecht University)
Alice Bleby (University of New South Wales)
Tanya Brodie (Enviromer (Pty), South Africa)
Stefan Knauss (Martin Luther University Halle-Wittenberg)
Veronica Cors (Universidad de Navarra)
Nicky Van Dijk (University of Tasmania)
Brita Bohman (Stockholm University)
Genevieve Quirk (ANCORS – University of Wollongong)
Joanna Miller Smallwood (University of Sussex)
Prue Taylor (University of Auckland)
Hanna Ahlström (Royal Swedish Academy of Science)
Ellycia Harrould-Kolieb (University of Eastern Finland)
Timothy Cadman (Griffith University)
Klaus Bosselman (University of Auckland)
Michelle Maloney (Australian Earth Laws Alliance)
Michelle Lim (Macquarie University)
Paulo Magalhaes (Common home of Humanity, and University of Porto)
Feja Lesniewska (Centre for International Studies and Diplomacy and School of Law SOAS, University of London)

Second meeting

Rakhyun Kim (Utrecht University)
Catherine Blanchard (Royal Netherlands Institute for Sea Research, and Utrecht University)
Ashok Vardhan Adipudi (Indian Institute of Technology, Kharagpur, and Utrecht University)
Laura Mai (King's College London)
Harro van Asselt (University of Eastern Finland)
Mike Angstadt (Colorado College)
Rosalind Warner (Okanagan College)
Genevieve Quirk (ANCORS – University of Wollongong)
Margot Hurlbert (University of Regina)
Pablo Serra-Palao (Universidad de Murcia)
Frank Biermann (Utrecht University)
Jeremy Bendik-Keymer (Case Western Reserve University)
Paulo Magalhaes (Common home of Humanity, and University of Porto)

4. CONTENT

4.1 PAST AND CURRENT ACTIVITIES

4.1.1 ESG Speaker Series on ESL (February 2021)

This event helped to build the profile of ESL in the ESG network.

4.1.2 March Workshop (17 March 2021)

Workshops were held in Asia Pacific and Europe which were generative and network building. Genevieve Quirk indicated her appreciation in relation to the March meeting, mentioning that it is what creates the bonds that strengthen the groups, and that consequently we should continue with meetings every 6 months, which is important to keep the discussion going.

4.1.3 Edited volume

Book update from Tim Cadman (first meeting) and Margot Hurlbert (second meeting), with additional comments by Rosalind Warner and Mike Angstadt.

Earth System Law: Standing on the Precipice of the Anthropocene

<https://www.routledge.com/Earth-System-Law-Standing-on-the-Precipice-of-the-Anthropocene/Cadman-Hurlbert-Simonelli/p/book/9781032056241>

The book puts together the 3 dimensions of ESL: analytical normative and transformative

4.1.4 Media Updates

The Task Force website has been updated:

<https://www.earthsystemgovernance.org/research/taskforce-on-earth-system-law/>

New Twitter account: @ESG_LawTF

Task Force members are welcome to tag their news and/or publications with the Task Force's Twitter so that we can publicize them.

4.1.5 Special Issue

Louis Kotzé, Rakhyun Kim and Catherine Blanchard are co-editors of a special issue on ESL to be published in the ESG Journal.

Many Task Force members are contributing to the special issue. Some papers have already been published, and the co-editors hope to have the special issue ready by the end of 2021.

More information about the special issue can be found here:

<https://www.sciencedirect.com/journal/earth-system-governance/special-issue/10ZQL018KHP>

4.2 STEERING COMMITTEE

The nominations are:

Mike Angstadt, Colorado College

Harro van Asselt, University of Eastern Finland
Emille Boulot, McGill University
Tracy-Lynn Field, University of the Witwatersrand
Josh Gellers, University of North Florida
Michelle Lim, Macquarie University
Michelle Scobie, University of the West Indies
Prue Taylor, University of Auckland

As there were no objections to these nominations, this was accepted as confirmation of the nominees.

The co-convenors wish to plan a first “kick-off” meeting with the steering committee later this year, before the end of the year holiday, in order to define in more details, in collaboration with the committee members, the role of the steering committee.

4.3 DISCUSSION

This part of the meeting was dedicated to discussing different orientations that the Task Force could take for future research and activities, and gather experience, inputs and ideas from members.

4.3.1 First meeting

Regarding opportunities of networking and creating bridges/synergies between different groups working on similar an/or complementary issues, Michelle Maloney indicated her interest in co-hosting webinars with ESL Task Force, Australian Earth Laws Alliance (AELA) and Ecological Law and Governance Association (ELGA).

Louis Kotzé indicated that Task force members are strongly invited to share with the co-convenors information about networks that members are involved with in order to pursue more formal partnerships.

Klaus Bosselmann indicated that there are existing groups such as ELGA who have many strong collaborations within international environmental law and requests that the Task Force consider the distinction between Earth System Law and Ecological Law – some resolution is needed concerning the ethical basis of ecological law and earth system law. Questions include what is the identity of earth system law? Further discussion is needed here. Klaus indicated that he is attempting some of this discussion with his new book.

Klaus also proposed an in-depth multi day forum to bring all the progressive environmental lawyers together to explore various aspects of earth and ecological law movements and to develop a more coherent understanding of what earth system law entails and how it relates to earth jurisprudence and ecological law.

Louis added that there is indeed a need for the ESL forum to consider the function, purpose and research agenda of ESL and to interrogate that over a number of days. Louis notes that ESL is a research framework to link up with ESG – to be the legal element of ESG but notes that we are now seeing many different interpretations. He asks that, if there are suggestions from the members on how to facilitate such a discussion, please send them through to the convenors.

Further updates

Paolo Magalhaes indicated that 250 Lawyers and legal academics in Portugal have signed a petition to recognise the climate as common heritage of humanity and it is gaining significant attention in Portugal:

- <https://www.noticiasao minuto.com/pais/1829157/academicos-portugueses-pedem-que-clima-seja-patrimonio-da-humanidade>
- <https://www.google.pt/amp/s/24.sapo.pt/amp/atualidade/artigos/mais-de-250-academicos-portugueses-pedem-que-clima-seja-patrimonio-da-humanidade>
- <https://www.noticiasao minuto.com/pais/1829157/academicos-portugueses-pedem-que-clima-seja-patrimonio-da-humanidade>

What can the Task Force do for members?

More thorough engagement of the foundations of ESL.

Collaboration – ELGA has a formalized process of partnership and this clarifies the purposes of the group – Klaus Bosselmann suggests that the steering committee establishes processes for partnerships and identifies potential partners. We do not want to enter into an academic competition.

Louis Kotzé supports Klaus' input by indicating that the Task Force is not a standalone network, it is a network within the ESG network and ESL operates within ESG. The first meeting of the steering committee will address this issue, i.e. flesh out what we want to do with these partnerships.

Louis also asks members to suggest partners the Task Force could reach out to, with a brief reasoning for why such partnerships would be useful.

Genevieve Quirk suggests that the ESG Science Plan should be provided to potential partners for partners to consider how they can best engage.

Louis suggests that we could potentially ask the steering committee to provide feedback on the network progressing and partnerships.

Ellycia Harrould-Kolieb asks how can we create linkages with other taskforces as many of the ESL members are members of other taskforces within ESG – in order to capture the commonalities?

It was also suggested that the creation of specific working groups could be explored with convenors and steering committee.

Louis Kotzé asks members to send suggestions for working group within taskforce and whether they would be keen to lead that working group – e.g. ethics, ocean governance. For example, Paulo Magalhaes proposed a climate working group.

Tim Cadman indicates that he would like to see ongoing cross Task Force meetings at the level of the ESG IPO so that some regions are not left out when planning Task Force Days and main conferences.

4.3.2 Second meeting

Rak Kim first presented what was discussed during the first meeting to give participants an overview of the discussion.

As we grow as a Task Force, we might be entering into competition with other concepts, which could lead to fragmentation. This is why we need to build partnerships with other communities and concepts. The question is: how to do that?

One action that was suggested in the first meeting was to ask participants to share the name of networks they are part of so that we can try to link up with them. This idea was reiterated during the second meeting, and all members are therefore invited to share their ideas with the convenors so that further action can be undertaken.

Rak also referred to a presentation given by Michael Leach during the conference: what sets ESL apart from ESG, and also how to make ESL more understandable by lawyers.

Frank Biermann indicated that he doesn't see the overlaps with other groups as a competition, but as possibilities to link up to other networks, as opportunities to collaborate, both with other Task Force and external groups, e.g. Common Home of Humanity.

On collaborating with other Task Forces, Laura Mai suggests that it would be good for all Task Forces share their notes or reports so that we know what is happening

Frank further adds that there are unique legal questions that differentiate ESL from ESG, and these are the questions we need to explore in the Task Force. He explains that ESL goes beyond the old international environmental law community, ESL proposes new debates related to the environment, but at the level of the planet. ESL is an opportunity to bring lawyers in the ESG discussion.

The goal is to gather a large group of people, to make the concept even more legitimate because it encompasses different people, different perspectives. For that purpose, he suggests a paper project on a topical question that we could write all together as a Task Force.

Genevieve Quirk indicates that as we are a fairly new Task Force, we benefit from a 'convener power'.

We could take from this power to distinguish ourselves.

The question is: what will we do with this convening power?

This would be shaped, inter alia by what the needs are and where the needs lie. She mentions that it was suggested in the first meeting to have a workshop to discuss this, or that this could also be a task for the steering committee.

Harro van Asselt states that having multiple debates about what is ESL and how it distinguishes itself is not productive, because trying to have a broad agreement on what it is would be challenging.

He suggests that what we could do is set some topics apart that would then be scrutinized. Based on existing ESL literature, it could be possible to simply identify concepts or elements that we are interested in to focus on. We could then organize workshops around specific questions from an ESL perspective.

We could ask people about topics they would be interested in discussing, and then act as conveners for those events.

In response to this suggestion, Jeremy Bendik-Keymer suggested (in the chat) the following specific topics of discussion:

- law and indigenous law; access to discourses and practices of justice
- how Earth System Science informs the objects and practices of law
- legal space around permitting or prohibiting geo-engineering.

Paulo Magalhaes raises the topic discussed in the first meeting to have working groups within the Task Force.

Jeremy Bendik-Keymer reminds the participants of the link that could be created with the Planetary Justice community, and that the ESL Task Force could bring insights to this community and vice versa.

He indicated (in the chat) that there was a very interesting discussion in the planetary justice group about how to approach access to the discourse and practice of justice, which would also apply to the discourse and practice of law, e.g. jurisprudence in a broad sense? How do we approach access to the discourse versus the practice? How can we determine the objects of the law?

He also suggests that, as law can mean different things, we should take into consideration legal pluralism.

Rak Kim indicated that he finds that the idea of having working group is good because there is a need/interest from members in having groups to discuss their own work in relation to ESL, but it can also be premature considering the Task Force is not that big.

Pablo Serra-Palao suggests that he would be interested in having within the Task Force informal spaces where senior scholars could give emerging scholars feedback on ongoing work, especially for young scholars coming from regions where ESL/ESG is undertheorized.

4.3.3 Comments and input received as follow ups to the meetings

Ellycia Harrould-Kolieb suggested the creation of a working group on the ocean-climate-biodiversity nexus. She indicated that Genevieve Quirk would be potentially interested in co-leading this too. Ellycia is also interested in participating in separate climate and/or ocean working groups if they are established, as well one on multilateral environmental agreements (MEAs).

Genevieve Quirk indicated that, as part of the initiative to create partnerships with other groups, it could be useful to have a copy of the ESG Science Plan to share with potential partners so they can ensure they are aligned with the broader ESG project. A return email with the receipt of the ESG Science Plan is a mechanism to register the engagement that can form part of the record-keeping of partnerships for the group.

Hanna Ahlstrom shared the following thoughts:

- Propositions on partnerships: Hanna is a member of the executive board of the International Sustainable Development Research Society (ISDRS), and the interest to create a link with the ESG network has been discussed within that group. She mentions that she would be happy to be the link between the organizations in a potential initial phase. Maybe this is something for the steering committee to reflect upon.
- Propositions on working groups: Corporate Sustainability as a theme for a potential working group.
- Propositions on the directions of the ESL Task Force: Generally, having attended quite some parts of the interesting ESL sessions during the conference, Hanna adds the following, especially in light of prof. Bosselmann's comments during the first meeting:
 - She wanted to build on the comment by Tim Cadman made in the chat regarding the importance of the Earth system to be another entry point than simply the ecological system as focal point, including interdisciplinary understanding of functioning of processes such as biogeochemical cycles. As such, she believes, in light of the task force being a network within a network, that interdisciplinarity (and transdisciplinarity) is key. There is to date a serious deficit in legal scholarship and she believes that the people that are part of the task force are important drivers for why we see that this has started to change.
 - Second, she indicates that she has greatly appreciated the current working definitions on what ESL means and especially to view it as “an innovative legal imaginary”. This approach directs discussions that are being stuck and locked into arguments regarding sub-fields of legal research and research generally. She attended an ESL session during the conference, during which they discussed that this is how ESL could distinguish itself – as a paradigm in constant development, where an actual definition (beyond what already exists) may not be useful as it will limit progress. It is a paradigm that will develop into a sub-field in a discipline (e.g., international environmental law) with a precise definition – which is still quite a radical opinion in the very much disciplined academic sector.

Nicky van Dijk suggested to reach out to the [Climate Justice Network](#), a network in the law faculty of the University of Tasmania, that is keen for collaboration.