



INTRALAW – INTERNATIONAL AND
TRANSNATIONAL TENDENCIES IN LAW
DEPARTMENT OF LAW
AARHUS UNIVERSITY

SECURITY AND GOVERNANCE IN THE GLOBALISED ARCTIC

NORDIC AND INTERNATIONAL PERSPECTIVES

Energy Security and Environmental Governance 2015

The increase in global energy demand, and the evolving politico-socio-economic contexts of Arctic countries are all factors (re) stimulating economic development in the energy sector: hydrocarbons resources (oil and gas), but also rare earth elements or uranium. Resource extraction is impacting the natural environment and the small-scale societies of the Arctic. National and regional governments therefore face crucial governance issues.

The sessions will in priority address the following questions:

- What is the rationale for the development of resource extraction in the various Arctic regions/states?
- How to compare the national environmental regulations in the Arctic related to energy resources extraction?
- How do national energy strategies accommodate regional and local needs?
- Which actors are involved in the setting of environmental standards and what are their relative powers?
- How does the EU contribute to the development of standards related to environmental protection?
- To what extent does international legal framework impact national regulations applicable in the Arctic? Conversely, to what extent local, regional and national regulations have an impact on international law?
- How to assess the evolution of public policies in the use of local renewable energy in Arctic communities?

Keynote speaker: Dr. Petra Dolata, Associate Professor at the University of Calgary, will be keynote speaker at this event. Other presenters with expertise on the Arctic region from both Aarhus University and international institutions will contribute to the interdisciplinary approach in the Arctic from political science, international relations, law and economics.

Organized by Ellen Margrethe Basse (EllenMB@law.au.dk) and Cécile Pelaudeix (cepe@cas.au.dk) on behalf of Arctic Research Centre and INTRAlaw, Aarhus University.

3 sessions are planned for the Matchpoint seminar on November 13th, 2015.

- **1. Session** Framing the issues of energy security, society and the environment
- **2. Session** Economic and socio-economic dimensions at stake
- **3. Session** Challenges and perspectives of interaction between law and policy

Program

Friday November 13th, 2015

1. Session Framing the issues of energy security, society and the environment

- 9.00-9.30 Key-note-speaker: **Petra Dolata**, *University of Calgary, Department of history*, Arctic Paradox? Energy Security and Environmental Governance in the Global Arctic
- 9.30-9.40 Brief Q & A
- 9.40-10.00 **Christoph Humrich**, *University of Groningen, Department of International Relations and International Organization*, Energy security, Arctic Environmental Development and Arctic Environmental Protection: Dissonance and Governance
- 10.00-10.05 Brief Q & A
- 10.05-10.25 **Hanna Lempinen**, *University of Lapland, Arctic Centre*, Energy, security and (social) sustainability – A conceptual excursion in the Arctic energyscape
- 10.25-10.30 Brief Q & A
- 10.30-10.50 **Cécile Pelaudeix**, *Aarhus University, Arctic Research Center and INTRALaw*, Governance of Offshore Hydrocarbon Extraction in the Arctic: conceptualising energy security
- 10.50-10.55 Brief Q & A
- 10.55-11.15 *Discussion*

2. Session Economic and socio-economic dimensions at stake

- 11.15-11.35 **Vladimir Pacheco**, *Aarhus University, Arctic Research Center*, The right hand does not know what the left hand does. The missing links in the research literatures on energy security and socio-economic impacts of non-renewable resource extraction in Greenland
- 11.35-11.40 Brief Q & A
- 11.40-12.00 **Anders Frederiksen and Maja Due Kadenic**, *Aarhus University*, Large scale projects in the Arctic: The socioeconomic effects of mining in the Scandinavian Arctic

12.00-12.05	Brief Q & A
12.05-12.25	Peter Borgetoft, Luis Boscan & Peter Møllgaard , CBS, Department of Economics, Trading Flexibility in Power Markets: theory and implications for future Arctic markets
12.25-12.30	Brief Q & A
12.30-12.50	<i>Discussion</i>
12.50-13.15	Lunch

3. Session Challenges and perspectives of interaction between law and policy

13.15-13.35	Ellen Margrethe Basse , Aarhus University, Arctic Research Center and INTRALaw, How does the EU contribute to the development of environmental standards on offshore hydrocarbon extraction?
13.35-13.40	Brief Q & A
13.40-14.00	Anita Rønne , University of Copenhagen, Centre for Public Regulation and Administration, Sharing the costs and benefits in Energy and Natural Resource Activities - Applicability in the Arctic?
14.00-14.05	Brief Q & A
14.05-14.25	Bent Ole Gram Mortensen, Birgit Feldtmann & Hanna Barbara Rasmussen , University of Southern Denmark, Oil-Spill in Greenland
14.25-14.30	Brief Q & A
14.30-14.50	Mauro Mazza , University of Bergamo, Department of Law, Energy, Environment and Indigenous Rights: Arctic Experiences in Comparative Perspectives
14.50-14.55	Brief Q & A
14.55-15.15	<i>Discussion</i>

Abstract

1. Session *Framing the issues of energy security, society and the environment*

Petra Dolata

Title: Arctic Paradox? Energy Security and Environmental Governance in the Global Arctic, **Petra Dolata**, pdolata@ucalgary.ca, Associate Professor, *Department of history, University of Calgary*

Abstract:

Christoph Humrich

Title: Energy Security, Arctic Economic Development and Arctic Environmental Protection: Dissonance and Governance, **Christoph Humrich**, c.humrich@rug.nl, Assistant Professor, *Department of International Relations and International Organization, University of Groningen*

Abstract: Energy security has re-emerged as an important and salient issue in domestic and foreign policies. In regard to hydrocarbon extraction it became part of Arctic states' northern strategies. It figures prominently in the same way in polar policy statements of non-Arctic states. The proposed paper sets out to explore the relations between energy security, Arctic economic development, and Arctic environmental protection in terms of cognitive dissonance theory: While energy security and Arctic economic development are positively linked by hydrocarbon extraction, the two obviously fit less with the protection of the Arctic environment. I first try to show, how German arctic policy rhetoric and recent Arctic Council activity try to avoid the resulting dissonance through respective governance narratives, which just cover but not resolve the dissonances. Second, I point to an alternative narrative that is already present in German energy security policy – the renewable energy narrative. This narrative can bring in line arctic environmental protection and energy security. However, it produces a dissonance between energy security/environmental protection and arctic economic development. Resolving this dissonance in turn requires a different economic development narrative than is currently underlying Arctic Council activities. A glimpse of such a narrative appeared in early discussions about sustainability in Arctic Council governance, but seems to have been lost on the way. I therefore, finally, try to recover some of its substance, and flesh out implications this might have for the organization of the sustainable-development working-group in the Arctic Council as well as for the further institutional development of the Arctic Economic Council.

Hanna Lempinen

Title: Energy, security and (social) sustainability – A conceptual excursion in the Arctic energyscape, **Hanna Lempinen**, hanna-kaisa.lempinen@ulapland.fi, PhD Researcher, *Arctic Centre, University of Lapland*

Abstract: Projected growth in energy demand, dwindling reserves at existing production sites, changing climate and evolving technologies are attracting energy-related interest and activity further towards the northern regions of the globe. In these debates, the Arctic is framed as the world's new energy province: a region where energy is extracted and transported to the world markets to feed the growing global demand.

Both within and outside the Arctic region, sustainability and security are key arguments in energy-related debates and developments equally in terms of individual energy projects as well as developing

the Arctic energy province as a whole. In these debates, the meanings and the definitions of these two complex notions often overlap; furthermore, the economic and environmental aspects of both security and sustainability are frequently highlighted at the expense of human / social / societal security and sustainability concerns associated with energy developments. To complement the ongoing energy-related debates, this presentation takes an explicit focus on this sidelined and simplified social dimension(s) against the backdrop of conceptual discussions on energy security and sustainability in the north.

Cécile Pelaudeix

Title: Governance of Offshore Hydrocarbon Extraction in the Arctic: conceptualising energy security, **Cécile Pelaudeix**, cepe@cas.au.dk, *Arctic Research Center and INTRALaw, Aarhus University*

Abstract:

2. Session Economic and socio-economic dimensions at stake

Vladimir Pacheco

Title: The right hand does not know what the left hand does. The missing links in the research literatures on energy security and socio-economic impacts of non-renewable resource extraction in Greenland, **Vladimir Pacheco**, vpc@cas.au.dk, *Arctic Research Center, Aarhus University*

Abstract: In recent years the governance of Greenlandic non-renewable natural resources has received a fair bit of attention in the public domain. Even though mineral extraction has taken place since the 1840s and oil exploration has occurred since the 1970s what is new this time in the public discussion is that much of the governance of these resources is conducted primarily by the self-rule government based in Greenland. Supplementing this form of governance are international best practice standards that resource extraction companies voluntarily subscribe to and the various international covenants that apply to the Arctic. New also in the debate are the links between energy resources and security as conceptualized in the energy security literature. What is not new in the discussion is the extent to which the resources extracted will impact the local population. In the past much was said in relation to job numbers, taxes and royalties. More recently, however, the discussion has broadened and includes both negative and positive impacts on the environment, on energy security and on society at the local and national levels. Unfortunately, and unlike the number of articles in the mass media, the social science literature that informs this discussion in Greenland is not vast and is divergent. The energy security literature and that of socio-economic impacts rarely engage with each other. In order to assess the level of knowledge and the gaps in this area, this presentation will review the social science literature that examines both energy security and the socio-economic impacts of non-renewable resource extraction in Greenland. The review will place special emphasis on studies that have been written both in English and Danish about non-renewables that are destined for the energy sector, namely Coal, Gas, Oil and Uranium. The review aims to alert policy makers and researchers of the existence of energy security and socio-economic impact studies conducted in the past, and point to those areas where engagement of both sets of knowledge could inform governance decisions at a time when increasing global energy demand is expected to continue impacting the Greenlandic social and natural environments.

Anders Frederiksen & Maja Due Kadenic

Title: Large scale projects in the Arctic: The socioeconomic effects of mining in the Scandinavian Arctic, **Anders Frederiksen**, afr@auhe.au.dk, Professor (MSO) and **Maja Due Kadenic**, maja@auhe.au.dk, PhD Researcher, Aarhus University

Abstract: The Arctic region attracts renewed attention from extractive industries, oil companies and governments from around the world. Currently extraction activities are taking place in the Scandinavian, Russian, and North American sections of the Arctic (Harsem et al., 2011). Further, the Arctic states are promoting natural resource development as a strategy for creating employment and national economic growth (Kullerud, 2011).

This paper analyzes socioeconomic effects of mining in the Scandinavian Arctic. While previous studies of extractive industries have had a tendency to focus on macroeconomic effects, studies of local socioeconomic effects lack the same scale (McMahon and Remy, 2001). This paper establishes the socioeconomic effects of mining in the Scandinavian Arctic by conducting a comprehensive empirical analysis. We use data at the municipality level from Norway, Sweden, and Finland (including their Arctic regions) that cover the period 1995 to 2012. The applied econometric model (Jacobson, Lalonde, and Sullivan, 1993) allows us to identify the total effects of a mine opening in the municipality, i.e. its effects on local activities that take place before, during and after the official opening of the mine.

Our empirical analysis shows that mines have a strong positive and significant effect on employment. We can also establish that mines reduce unemployment and the number of people outside the labor force. However, mines do not influence the population size in the municipality where it is located, which indicates that new jobs are filled by people previously unemployed or outside the labor force. Furthermore, there are positive effects on employment shares allocated to the mining sector, construction sector, and primary sector, while other sectors remain unaffected or their importance decline. Mines also increase the number of people aged 20 to 39 who live in the municipality where the mine is located. However, we do not find significant effects on gender composition, child births or skill composition as a consequence of a mine opening. Finally, the analysis shows a significant reduction in crime rates.

Peter Borgetoft, Luis Boscan & Peter Møllgaard

Title: Trading Flexibility in Power Markets: theory and implications for future Arctic markets, **Peter Borgetoft**, pb.eco@cbs.dk, Professor; **Luis Boscan**, bo.eco@cbs.dk, PhD Researcher and **Peter Møllgaard**, pm.research@cbs.dk, Professor, *Department of Economics, Copenhagen Business School*

Abstract: Due to increased amounts of renewable energy supply, power markets increasingly value flexibility, i.e., the possibility to modify generation or demand within a timescale ranging from minutes to hours in response to variability. We set up an economic model of bilateral trade between a prosumer that offers to sell flexibility to an aggregator who, in turn, resells this flexibility in a marketplace. We show that flexibility trading is welfare enhancing as long as a transaction-cost reducing technology is in place.

Ellen Margrethe Basse

Title: How does the EU contribute to the development of environmental standards on offshore hydrocarbon extraction? **Ellen Margrethe Basse**, EllenMB@law.au.dk, *Arctic Research Center and INTRALaw, Aarhus University*

Abstract: Most of the Arctic marine area is under the sovereignty and maritime jurisdiction of the Arctic states, and there are several weaknesses in the effectiveness of the state-based multilateral negotiations on the needed measures to tackle the negative consequences of offshore extraction activities. The intention with this presentation is to explain the role of the European Union (EU) in the emerging of a new eco- and life-cycle-based management approach. In the opinion of the EU, the multi-faceted character of maritime management necessitates multi-functional strategies and legal acts based on a holistic approach covering all maritime sectors. The Marine Strategy Framework, the Offshore

Security, and the Marine Spatial Planning Directives are examples of the interrelation and the holistic approach used by the EU. The EU legislator has the European Court of Justice's word for its right to act with exclusive external competences to ensure an export of the EU norms also in situations, where the Member States of the EU – and not the EU – are the accepted members of the international organisation that the EU wants to push. The EU is acting as a global actor when exercising its extraterritorial effects by effectively imposing its standards and criteria on all oil and gas offshore operators and operations with jurisdictional relation to the EU. The activism inside as well as outside EU's legal order is one of many ways in which 'global environmental law' can evolve away from 'silo-thinking' and a legal system controlled by nation-state actors defending state sovereignty as a paramount principle.

Anita Rønne

Title: Sharing the costs and benefits in Energy and Natural Resource Activities – Applicability in the Arctic? **Anita Rønne**, anita.ronne@jur.ku.dk, *Associate Professor, Centre for Public Regulation and Administration, University of Copenhagen*

Abstract: Energy and natural resources activities bring energy supply security and benefits for many, but also impose costs on local communities. The last few decades have seen the development of a range of legal mechanisms and soft law frameworks designed to address the trade-offs between the social and environmental impacts and benefit-sharing of resource and energy activity for local communities and citizens. The existence of such mechanisms has been strong drivers of change in different parts of the world. The paper will look into the diversity of the different type of instruments and into the ways these concepts differ in their enforceability and level of acceptance in order to consider their applicability for the Arctic region.

Bent Ole Gram Mortensen, Birgit Feldtmann & Hanna Barbara Rasmussen

Title: Oil-spill response in Greenland, **Bent Ole Gram Mortensen**, bom@sam.sdu.dk, *Professor*; **Birgit Feldtmann**, bfe@sam.sdu.dk, *Associate Professor* & **Hanna Barbara Rasmussen**, hbrasmussen@health.sdu.dk, *Postdoc Researcher, Department of Law, University of Southern Denmark*

Abstract: Climate changes give opportunities for the opening up of new shipping routes and possible mineral extractions and oil and gas exploration which may increase the risk of major oil spills in the waters surrounding Greenland. The increased risk comes both from oil exploration, oil transports and the bunkers from all kinds of vessels.

This paper will investigate the oil-spill response (OSR) in Greenland primarily from a legal perspective. Except from the obviously challenges in Greenland such as the arctic climate and the enormously distances the Greenland, OSR is also challenges by being divided between the Greenland Self Government and Denmark. Further, the OSR calls for a civilian–military cooperation based on multi-agency cooperation, and it is a question, how the institutionalized roles may constitute a facilitator or inhibitor in effective civilian–military cooperation in the field of OSR

Mauro Mazza

Title: Energy, Environment and Indigenous Rights: Arctic Experiences in Comparative Perspective, **Mauro Mazza**, mauro.mazza@unibg.it, *Associate Professor of Comparative Law, Department of Law, University of Bergamo*

Abstract: Indigenous peoples of the Arctic are currently faced with a dilemma. On the one hand, the preservation of their customs, the traditional lifestyles, cultural values, are closely related to the

maintenance of the environmental characteristics of the territories inhabited since time immemorial. On the other hand, the needs of the development of economic activities, represented primarily from the extraction of minerals and exploitation of energy resources, pose new challenges, with respect to which the decisions are not taken only by Arctic indigenous communities, and that may also be important for the natives as a chance to improve their overall living conditions (in terms of labor, employment, education, etc.).

Arctic states have addressed these issues with different legal tools. The latter range from US land claims settlements to recognition of “ancestral” and treaty rights in the constitutional order of Canada, until the creation of Saami Parliaments in the Nordic countries, or the peculiar rules for the county of Finnmark in Northern Norway, approved in 2005, which gives broad powers to the indigenous communities. In turn, the Greenlandic statute of autonomy in force since 2009 did not prevent tensions between the Inuit communities in Greenland and the Danish central authorities regarding the exploitation of natural resources and energy, including uranium. Less adequate, in comparison with the other Arctic states, appears the protection of Saami in northern Russia, not so much in terms of regulation, but from the point of view of the effective application of existing rules.

Anyway, useful legal instruments for effective protection of specific minorities represented by Arctic indigenous peoples can come also from the provisions of the international law of human rights, both specifically dedicated to the natives and the rules of general human rights.