SUSTAINABLE LIVELIHOODS & CLIMATE CHANGE REGULATION: ASIAN APPROACHES

DATE: JUNE 4, 2019

TIME: 8:30-5:30 **VENUE: HANOI LAW**

REGISTRATION 8:30-9:00

INTRODUCTION 9:00-9:30 INTRODUCTION CHAIRS:

TRANG QUANG HUY (Acting Rector, HLU) (10 Minutes), NGUYEN VAN CUONG (The Director General, ILS) (10 Minutes), & HELEN LANSDOWNE (Associate Director, CAPI, UVic) (5 Minutes) **WORKSHOP OVERVIEW:** SUPRIYA ROUTH (5 Minutes)

SESSION ONE: ECONOMIC GROWTH OR SUSTAINABLE LIVELIHOODS? SESSION CHAIR: HOANG LY ANH 9:30-11:00 (90 MINUTES)

Chair Introduction (5 Minutes)

The Ecological Idea of Work & De-colonial Ethics Supriya Routh & Ellen Campbell (15 Minutes)

Are our Environmental Laws too Economic Growth Oriented? A Comparison Between Bhutan and Other Asian Countries Tshering Dolkar (15 Minutes)

Livelihoods Harmonizing with Nature: Present State and the Responses of the Legal Framework Vu Thi Duyen Thuy (HLU) (15 Minutes)

State Administration Towards Safeguarding Sustainable Livelihoods for Communities in Context Dang Hoang Son & Pham Thi Mai Trang (HLU) (15 Minutes)

Discussion (25 Minutes)

TEA/COFFEE BREAK 11:00-11:15

SESSION TWO:

INSTITUTIONAL RESPONSES TO SUSTAINABLE LIVELIHOODS & CLIMATE CHANGE SESSION CHAIR: VU THI DUYEN THUY 11:15-12:30 (75 MINUTES)

Chair Introduction (5 Minutes)

Safeguarding Sustainable Livelihoods through the REDD+ Mechanism: International and Vietnamese Legal and Policy **Perspectives**

Hoang Ly Anh (HLU) (15 Minutes)

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SESSION TWO (CONTINUED)

Transparency reporting and climate justice in Southeast Asia Melissa Low (15 Minutes)

The Role of the Electricity General Authority of Thailand (EGAT) in Promoting Renewable Energy Industries through Technical Skills Training Dr. Piti Eiamchamroonlarp (15 Minutes)

Discussion (25 Minutes)

LUNCH BREAK 12:30-1:30

SESSION THREE: THE REGULATION AND MANAGEMENT OF THE ENVIRONMENT SESSION CHAIR: PHONG X CAO

1:45-3:30 (105 MINUTES)

Chair Introduction (5 Minutes)

Issues of Environmental Liability Pham Van Loi (Institute of Environmental Studies) (15 Minutes)

Air Quality Management in Vietnam: Status and a Way Forward Nguyen Minh Khoa (15 Minutes)

The Haze Problem in Northern Thailand Nuthamon Kongcharoen (15 Minutes)

A New Approach to Environmental Impact Assessment in Vietnamese Environmental Protection Law: Looking from an Empirical and Comparative Perspective Tran Thi Quang Hong (ILS) (15 Minutes)

Current Criminal Environmental Justice in Vietnam Nguyen Van Cuong (15 Minutes)

Discussion (25 Minutes)

TEA/COFFEE BREAK 3:30-3:45

SESSION FOUR: ECONOMIC EXPLOITATION & COMMUNITY RESILIENCE:CASE STUDIES CHAIR: SUPRIYA ROUTH 3:45 TO 5:00 (75 MINUTES)

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Chair Introduction (5 Minutes)

The Social Mediation of Environmental Destruction: Case Studies from Southeast Asia Helen Lansdowne (15 Minutes)

Regulating Aquaculture: A Case study of West Godavari, Andhra Pradesh, India

Sunayana Ganguly, Tejanarasimha Kopparapu, & Rajath Bysani (15 Minutes)

Protecting Persons Displaced in the Context of Flood in Kratie, Cambodia: A Human Rights-Based Approach Ratana Ly (15 Minutes)

Discussion (25 Minutes)

VALEDICTORY SESSION

5:00 TO 5:30 (30 MINUTES)

Brief Roundtable to decide final papers and publication & THANK YOUs

DINNER 7:00



ABSTRACTS

The Ecological Idea of Work & Decolonial Ethics by Supriya Routh and Ellen Campbell

Work is narrowly conceptualized in a colonial legal framework that privileges upper-class, white, male, heteronormative, exploitative, and extractive (work associated with development) activities for the creation and sustenance of capital. This predominant notion of work avoids or undervalues the recognition of work that is considered lower class, racialized, feminized, animalized, naturalized, or otherwise "othered" (through religious or cultural affiliation) that operates in service of a larger ideal: contributions to larger society. This ethos conceptualizes humans, animals, and nature as capital and alienates the products of labour from them, which, in turn, contributes to the unconsidered degradation of the environment.

We argue here that understandings of labour, and in turn sustainable development, need to be predicated on a basis beyond anthropocentrism, instead attuned to the multi-species and multi-object reciprocal relationships that contribute to the biosphere. While using labour and work-relationships and relevant legal protections have their limitations, such a starting point can be useful for discussing and understanding the specific duties and rights that humans have to each other, animals, plants, and nature. Critically, this understanding means that we not only need to look at less anthropocentric conceptualizations of labour but also dissolve the colonial narrative of employment-like relationships. This process requires learning from Indigenous relationships between humans, nature, and animals as a starting point for formulating a decolonial labour ethic to secure better protections for the interests of humans and the nonhuman world.

Consequently, this paper will consider key Indigenous groups in the colonial state of India to consider elements that could be useful to shaping and reconceptualizing a decolonial labour ethic. In particular, it considers how indigenous governance and law can inform a decolonial labour ethic in a way that establishes practical protections for humans and nonhumans outside of market-centric logic.

Are our Environmental Laws too Economic Growth Oriented? by Tshering Dolkar

This paper explores the controversial topic of whether the environmental laws are failing its purpose of conserving the environment and instead focusing too much on economic growth. Firstly this paper will discuss as to what the purpose of environmental laws are? How did it come into existence in the first place? Additionally the paper will include a comparative study of environmental laws of Asian countries such as India, Vietnam and Bhutan and then try to identify possible answers for the question put forward above. In order to answer the question, this paper will specifically focus on how these countries enact their environmental laws, the major role of how the democratic process affects the purpose of environmental law and the enforcement trend(environmental laws) in these respective countries?

The paper will further explore to see if there should be a balance between environmental conservation and economic growth. Since the author is from Bhutan, the paper will discuss the development philosophies such as the sustainable development and Gross National Happiness and grapple the question of how Bhutan maintain as one of the leading exemplary country in the field of environmental conservation when rest of the world are giving more importance to economic development. The paper would conclude by stating that countries such as India and Vietnam should further strengthen their environmental laws to maintain its primary purpose of conserving the environment and state that although Bhutan is still a Least Developed Nation in the world, the rest of the world has so much to learn from this tiny Himalayan Kingdom.

Livelihoods Harmonizing with Nature: Present State and Responses of the Legal Framework by Vu Thi Duyen Thuy (HLU)

Vietnam has a rich and diverse forest ecosystem with a large number of inhabitants who are living in the forest. They are the people who protect the forest and are also the ones who directly destroy the forest to earn a living. Therefore, ensuring sustainable livelihoods for them not only helps them to have a better life but also mitigate climate change and protect the forest. This paper explores the practical implementation of measures to ensure sustainable livelihoods

for inhabitants, especially ethnic minorities in Vietnam associated with forest protection and development. At the same time, the paper also mentions changes in Vietnam's forest protection legal system on this issue. The paper will propose some solutions to improve the effectiveness of implementing livelihood improvement in harmony with forest protection.

State Administration Towards Safeguarding Sustainable Livelihoods for Communities in the Context by Đặng Hoàng Sơn & Phạm Thị Mai Trang (HLU)

Quản lý Nhà nước để bảo đảm sinh kế bền vững cho cộng đồng trong điều kiện biến đổi khí hậu là hoạt động chi phối trực tiếp tới hiệu quả công tác ứng phó biến đổi khí hậu, bởi nó được thực hiện thông qua hệ thống cơ quan Nhà nước - tổ chức chính trị có quyền lực đặc biệt trong đời sống xã hội. Các hoạt động quản lý Nhà nước về ứng phó biến đổi khí hậu trong những năm qua. tuy đạt được nhiều kết quả tích cực, song cũng có những tác động tiêu cực đến sinh kế của cộng đồng.

Chuyên đề này tập trung làm rõ: (i) Tác động của biến đổi khí hậu tới sinh kế của cộng đồng dân cư ;(ii) Sự cần thiết thực hiện quản lý nhà nước để bảo đảm sinh kế cho cộng đồng trong điều kiện biến đổi khí hậu; (iii) Đánh giá các hoạt động quản lý nhà nước để bảo đảm sinh kế cho cộng đồng trong điều kiện biến đổi khí hậu; (iv) Tác động của quản lý nhà nước đếnsinh kế của cộng đồng trong điều kiện biến đổi khí hậu (tác động tiêu cực, tích cực); (v) Đề xuất các giải pháp hoàn thiện chính sách, pháp luật,hoạt động quản lý nhà nước để bảo đảm sinh kế cho cộng đồng trong điều kiện biến đổi khí hậu.

Safeguarding Sustainable Livelihoods through the REDD+ Mechanism: International and Vietnamese Legal and Policey Perspectives

by Hoang Ly Anh (HLU)

REDD+ is a voluntary mechanism under UNFCCC which is developed by the Parties and which aims at "reduc[ing] emissions from deforestation and forest degradation and conservation of forest carbon stocks, sustainable management of forests and enhancement of forest carbon stocks". Taking national approach as the most effective way to realize REDD+ by the Parties to achieve the objectives of...

adaptation and mitigation to climate change, the Parties also do expect to secure sustainable livelihoods of local communities by providing and implimenting safeguarding measures (safeguards).

This paper uses different methology and methods including compative law and law-in-context to examine the issue of safeguarding sustainable livelihoods through REDD+ mechanism at both international and national levels and from both legal and policy perspectives. It is argued that while Vietnam makes big efforts to meet the spirit of REDD+ safegards by establishing its legal and policy framework on REDD+, the State still need to develop and effectively compliment other issues including carbon rights and benefit sharing under REDD+ in its legal and policy framework. By that way, the country in order to more safely secure sustainable livelihoods of local communites in Viet Nam.

This paper divides into four parts (i) Understanding REDD+, livelihood and its relationship; (ii) Developing REDD+ at international level and requirments for implementation; (iii) Responses to international REDD+ by Vietnamese legal and policy framework: Pros and cons (iv) Some recommendations to improve its realization of REDD+.

Transparency Reporting and Climate Justice in Southeast Asia by Melissa Low

Transparency is a key pillar of the international climate change regime. The United Nations Framework Convention on Climate Change (UNFCCC), its Kyoto Protocol and Paris Agreement all have transparency arrangements. Since Cancun in 2016, developing country Parties to the UNFCCC have biennial reporting which forms the basis of understanding how countries are progressing towards their voluntary climate targets. The effectiveness of the International Consultation and Analysis (ICA) can be attributed to its thoughtful design, which assures participating countries that the process will be "non-intrusive, non-punitive and respectful of national sovereignty". Southeast Asian countries have been engaging in the MRV arrangements under the UNFCCC.

This paper will examine Southeast Asian countries' experience of undergoing the ICA process and evaluates the strength of the process and it prepares them for the Enhanced Transparency Framework (ETF) . . .

under the Paris Agreement which, as agreed in Katowice, Poland, will begin from 2024. It will focus on the 10 Southeast Asian countries, namely, Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam, and discuss whether increasing transparency under the UNFCCC is helps Southeast Asian governments and peoples understand their energy systems and needs better, and to find solutions that work under given socio-economic and political circumstances ultimately towards climate justice.

Roles of Electricity General Authority of Thailand (EGAT) in Promoting Renewable Energy Industries through Technical Skills Training

by Dr. Piti Eiamchamroonlarp

Renewable energy serves asa crucial element of Thailand's Intended Nationally Determined Contribution (INDC) submitted (October, 2015) under the United Nations Framework Convention on Climate Change. Renewable energy investment has been stimulated by a constantly updated power development plan (PDP), subsidies such as feed-in tariffs (FIT), and an electricity licensing system under the Energy Industry Act (2007). Renewable energy industries are expected to help ensure that energy security and sustainable development, while, simultaneously, contribute to employment growth in Thailand.According to a paper published by Green Peace (in June 2018), the direct employment rate of Thailand's renewable energy sector (in 2016) exceeded that of the coalfired power projects. However, advancement and the dynamic nature of renewable technologies is likely to pose challenges to the workforce in Thailand. Spotting the problem, the Electricity General Authority of Thailand (EGAT), a stateowned entity and the biggest power producer as well as buyer in Thailand, has highlighted the development of human resources as an essential step towards a low-carbon economy. EGAT's Operation and Maintenance (O&A) Academy Training Center has been established to provide O&A training for private power producers.

Issues of Enviromental Liability

by Pham Van Loi (Institute of Environmental Studies)

Vietnam is on the way to build a multi-sector market economy towards industrialization and modernization of the country. However, in addition to the positive side, i.e., promoting investment, developing many industrial zones, export processing zones, hi-tech zonesand setting up enterprises of all economic sectors, environmentalpollution and degradationhave arisen together with economic development.

Although the 2014 Law on Environmental Protection sets out very clear and specific regulations on environmental protection activities, when enterprises are established, their investors only consider how to make their businesses operate and do business effectively and profitably and very few of them think that environmental protection and good treatment ofwaste emitted by their production andbusinessoperations must be in parallel with business development. This has resulted in an increasingly polluted environment that has greatly affected the living environment, affecting the lives and health of people living near and around the area in whichenterprises dischargewaste.

There are many different ways and measures prescribed by law to prevent and restrict this situation, in which legal measures with the main contentsare to stipulate the responsibility to compensate for the damagescaused by environmental pollution and degradation are paid much attention by the State. However, the current legal provisions on the mechanism of claiming damages in this field in Vietnam only stop at the general principles that cannot be applied in practice. In fact, settlement of lawsuits for compensation for damages caused by environmental pollution in recent years in Vietnam has faced many difficulties because of the following obstacles and shortcomings: Obstacles and shortcomings in settling compensation for damages to people's lives, health and properties; Obstacles and shortcomings in settling compensation for natural environment.

Air Quality Management in Vietnam: Status and A Way Forward by Nguyen Minh Khoa (ISPONRE)

Air pollution is currently a major concern in Vietnam. In the Environmental Performance Index (EPI) ranking which was disclosed in 2014, air quality in Vietnam was only ranked 170 out of 178 listed countries in the world. That is, Vietnam is one of the countries where the air is most polluted. In big municipalities such as Ha Noi, Ho Chi Minh City, or Hai Phong, air pollution is severe, in particular dust pollution. Air pollution has caused much harm to people's health, especially for problems relating to respiratory tract. Apart from affecting health and lives of people, air pollution has caused huge economic losses, through the cost of health and medical care, loss of time due to illness in humans, crop damages, affecting quality of constructions and materials, tourism, and others.

The current situation of air pollution in Vietnam is severe, but the policy system for the management and protection of air quality and prevention of air pollution is considered inadequate and ineffective. There are some measures to preserve clean air which are outlined in the Sustainable Development Strategy, Environmental Protection Strategy, stipulated in the Law on Environmental Protection and some other documents. However, these provisions chiefly serve for the purpose of orientation, and have not been effectively applied in practice. The policy framework and legislation on clean air is in shortage. Policy makers have paid attention to the prevention and control of pollution sources, but have not really into an integrated approach to air quality management.

The Haze Problem in Northern Thailand by Nuthamon Kongcharoen

Every year that Thailand has haze problem from February until the rain comes around May. The major cause of haze pollution comes from outdoor burning both from forest fire and clearing agricultural area. While other nearby countries like Myanmar and Laos also have the hot-spot caused by the Thai agricultural manufacture spreading its investment as well as their forest fire without government attention. Although, in ASEAN, we have ASEAN Agreement on Transboundary Haze Pollution, but it still has less action . . .

from this agreement implementation. Look up to the haze pollution experience from Indonesia which looks successful to resolved the haze pollution when the Singaporean government has regulated the transnational business after social movement from the people. This lesson from local movement can push forward intergovernmental action is needed for today globalization.

A New Approach to Environmental Impact Assessment in Vietnamese Environmental Protection Law: Looking at an Empirical and Comparative Perspective by Tran Thi Quang Hong (ILS)

Having been in place since the launch of the first law on environmental protection of Vietnam, environmental impact assessment (EIA) has been playing double roles: preventing future projects with potential adverse impact to environment and controlling the environmental impact of operating projects. However, the apparent environmental consequences arising from operating investment projects suggest that EIA has not been able to fulfil its task effectively. There are some measures to preserve clean air which are outlined in the Sustainable Development Strategy, Environmental Protection Strategy, stipulated in the Law on Environmental Protection and some other documents. However, these provisions chiefly serve for the purpose of orientation, and have not been effectively applied in practice. The policy framework and legislation on clean air is in shortage. Policy makers have paid attention to the prevention and control of pollution sources, but have not really into an integrated approach to air quality management.

Current Criminal Environmental Justice in Vietnam by Nguyen Van Cuong

This paper reviews the current implementation of legal provisions on environmental crime in Vietnam. It shows that improving environmental laws has been one of the top priorities in policymaking in Vietnam for the past 25 years marked by the adoption of the first Environmental Protection Law in 1994 (and amended twice in 2005 and 2014) and inclusion of environmental crimes in the Criminal Code of 1999 (as amended in 2009 and replaced by the Criminal Code of 2015, as amended in 2017). However, after about 20 years . . .

of implementation of provisions on environmental crimes, the number of cases prosecuted remains limited. No cases of pollution crimes have been successfully prosecuted. The reasons for this situation are explained by loopholes or shortcomings in provisions of the Criminal Code of 1999 (as amended in 2009) on environmental crimes or weak enforcement of this Code as well as the new Criminal Code of 2015 (as amended in 2017). This paper also suggests some proposals to enhance the effectiveness of legal provisions on environmental crimes in the current Criminal Code of 2015 (as amended in 2017).

The Social Mediation of Environmental Destruction: Case Studies from Southeast Asia by Helen Lansdowne

This paper offers an analysis of the varying practices of development constituted by governments, multilateral investment agencies and global investment in Vietnam, Myanmar and the Philippines. Taking a critical stance on the global capitalist practices of development, the paper argues that outside intrusions in the form of international investments has resulted in the degradation of the environment with respective to the Southeast Asian countries investigated. Specifically, the paper will draw attention to the coffee growing industry in Vietnam; international investment in the tourist sector in the Inle Lake region of Myanmar; and the changes to shifting cultivation in the Philippines as a result of the expropriation of lands to be used for industrial agriculture.

Regulating Aquaculture: A Case study of West Godavari, Andhra Pradesh, India

by Sunayana Ganguly. Tejanarasimha Kopparapu, & Rajath Bysani

Common property management regimes that once existed throughout Asia have come under pressure of collapse in recent decades under a variety of pressures. Commercialization, population growth and intensification of state authority are some of the underlying factors resulting in collapsing common property systems. This paper explores how the intensification of aquaculture in the district of West Godavari has resulted in changing practices around the common property of ground water. . . .

Aquaculture has been considered as a potential mechanism of poverty alleviation by forming part of a diversification strategy for small-scale fisher-folk who live in areas that are more vulnerable to climate change. However the exacerbation of climate-related stresses, overexploitation and regulatory failures have serious implications for sustainable development of aquaculture in the twin, often contrasting, aims of livelihood security and environmental protection.

Protecting Persons Displaced in the Context of Flood in Kratie, Cambodia: A Human Rights-Based Approach by Ratana Ly

Locals in Phreah Kunlong village, Kratie province experience annual flooding and displacement for generations and have developed adaptive capacity to both flood and displacement. People are prepared for the floods, and for seasonal migration and displacement. Many families set up tents in public safety hill, during the flooding period, which lasts between two weeks and a few months, every year. Other families, however, go to look after their cows in the safety hill during the day and choose to return to their flooded houses in the evening, despite the constant fear for wind-storm and drowning. This research asks how the relevant affected communities, independent observers, and government officers are involved in flood and displacement management in Phreah Kunlong village, through a human rights-based approach. To answer this question, this research looks at the international human rights frameworks relating to the protection of persons displaced in the context of flood and climate change. It also obtains the views and perceptions of relevant stakeholders on how to best address the flood-induced displacement by applying empirical research methods.

The research concludes by challenging the traditional definition of displacement, where people are forced to abandon their habitual residence. It suggests that there may be different forms displacement. The research further finds out that people who are displaced at the safety hill and people who choose to be at home experience similar challenges and difficulties including, but not limited to the access to food, water, work, and schooling. Furthermore, the overall socioeconomic improvement and development in the village reduce the likelihood of being displaced, or provide a better living condition when being displaced.