



LECTURERS ABSTRACTS AND READINGS

PhD Seminar 2023 – Interdisciplinary research in law and for sustainable value creation

Day 1 – Monday 16 October

Why is interdisciplinarity important for PhD candidates?

David Monciardini, Dr., Senior Lecturer, University of Exeter

Abstract:

Why is interdisciplinarity important for PhD candidates?

We will discuss the importance of interdisciplinary research in sustainability law. The seminar will provide some initial insights to provoke your thoughts and provide you with examples of interdisciplinary socio-legal research. We will conclude by considering the advantages and disadvantages of interdisciplinarity in legal research.

Readings:

One is attached and the other one is [https://doi.org/10.1016/S0362-3319\(97\)90051-3](https://doi.org/10.1016/S0362-3319(97)90051-3) – Moti Nissani (1997).

Systems theory

Hanna Ahlström, Senior advisor and regulatory expert, Æra Strategic Innovation

Abstract:

Many researchers in different disciplines have highlighted the need to use a systems approach when studying complex systems. In organizational studies, systems theory can be traced back already to the 1930s, but it is the biologist Ludwig von Bertalanffy that is considered the founder of systems theory, which he developed in the 1940s. A systems approach has also been used in areas such as behavioral theory within companies, where research has incorporated elements of systems theory has sought to deal with organizational and social complexity. Systems thinking can help to understand and deal with complexity in a better way than linear thinking and is particularly relevant within the field of sustainability, because it provides a deeper understanding of the relationship between structure and behaviour, and can thus simplify the identification of root causes of problems and facilitates the identification of new solutions. As the world has entered a new geological epoch: the Anthropocene, this has resulted in increased complexity, non-linear change and uncertainty. The drivers of this new epoch are human activities, which now are the dominant forces of Earth system changes that destabilizes Earth systems and disrupts biogeophysical processes at a planetary scale. In an increasingly complex world, systems thinking can make it possible to see, handle and adapt to a wider spectrum of options. In sustainability science, many researchers use the specific theory of social-ecological systems, i.e., “SES thinking”. Humans and society are dependent on nature, and it is no longer possible to explain ecological processes and patterns without taking human influence into account. It is clear that society and nature work together in the form of interconnected social-



ecological systems. Furthermore, these systems are not only intertwined, but they develop together, they shape and are shaped by each other. This interaction is complex, it takes place across temporal and spatial levels and scales with new relationships, interactions and reactions, which often produce unexpected and surprising results. Actions at the local level can develop into phenomena that influence individuals' choices and behavior elsewhere as well. This lecture will focus on the role of systems thinking as a tool for enabling sustainable business practices. A key consideration for using such an approach is to recognize that all businesses are dependent on nature. Moreover, SES thinking is also well positioned to act as a "conceptual bridge" between different scientific disciplines and practices because of its broad scope, its focus on solving real-world problems, and its ability to integrate the natural and social sciences. SES thinking can be used as an approach that opens the discussion and enables joint creative work, through the definition of a common problem and meaningful approaches. In other words, SES thinking is a conceptual framework that connects research with practice.

Readings:

- Ahlström, H. 2022. Systems Thinking and the Law in the Age of the Anthropocene. In: Sjøfjell B, Liao C and Argyrou A (eds) *Innovating Business for Sustainability: Regulatory Approaches in the Anthropocene* (Ch. 3). Edward Elgar, Cheltenham. Available at SSRN: <https://ssrn.com/abstract=3987281>

Recommended reading:

- Meadows, D. H. 2008. *Thinking in systems: A primer*. Chelsea
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Policy-oriented legal research: reflections from a sustainability legal scholar

Eléonore Maitre-Ekern, Postdoctoral fellow, Department of Private Law, University of Oslo

Abstract:

Legal research is said to be primarily doctrinal and concerned with addressing the question: 'what is the law?' The doctrinal methodology dominates legal scholarship and reflects the legal analysis undertaken by practising lawyers and judges. However, legal research may also take the form of a legal inquiry about the law whereby the law is analysed from the point of view of problem solving, focusing on the participants involved, their bases of power, the circumstances in which interactions occur, and the probable and preferred outcomes of those interactions. Emphasis is then also on the historical and socio-ecological contexts of the law and policies, as well as on the need for reforms.

The transition to a sustainable future requires questioning the very basis of the principles and laws that are in place today, and the paradigm that underpins them. A paradigm reflects the knowledge and understanding, and constrains the development of theories and rules, at a certain period in time. Thus, a change of paradigm is possible, but it calls for challenging the existing paradigm as much as it requires setting up the new one. What is the role of the law in today's unsustainable world, and how can the law contribute to a sustainability transition?

This lecture aims at examining these fundamental questions: what legal research is adopted and for



what purpose? It is based on Eléonore's experience of doing legal-oriented policy research in sustainability law and the circular economy.

Readings:

- E. Maitre-Ekern, 'Re-thinking producer responsibility for a sustainable circular economy from extended producer responsibility to pre-market producer responsibility' (2021) 286 *Journal of Cleaner Production* 1. Available at SSRN: <https://ssrn.com/abstract=3732613>.

Additional (non-compulsory) reading:

- E. Fischer et al., 'Maturity and Methodology: Starting a debate about environmental law scholarship' (2009) 21 *Journal of Environmental Law* 2, 213-250.
 - P. Chynoweth, 'Legal Research in the Built Environment: A methodological framework' (2008) *The University of Salford Institutional Repository (USIR)*, 670-680.
 - D. Monciardini, E. Maitre-Ekern, R. Malcolm and C. Dalhammar, 'Circular Economy regulation: an emerging research agenda'. In Alexander, Allen; Pascucci, Stefano & Charnley, Fiona (Ed.), *Handbook of the Circular Economy: Transitions and Transformation* (De Gruyter, 2023).
 - T. S. Kuhn, *The Structure of Scientific Revolutions*, 4th edn (Chicago: University of Chicago Press, 2012).
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Challenges of legal history perspective into company

Jørn Øyrehaugen Sunde, Professor, Department of Public and International Law, University of Oslo

Abstract:

There are many reasons why use a legal historical perspective in a thesis on company law and sustainability. The overarching purpose of legal history as a perspective in a thesis on contemporary law, is that the temporal dimension is a tool to achieve an analytical distance to the topic. The experience of the past opens new horizons of expectations, to borrow the terminology of the German social historian Reinhart Koselleck. Especially in a thesis aimed at changing law, the experience of the past plays a vital role. Not because the experience of the past can be repeated in the future, but because it frames the contemporary and illuminates the relevant questions to ask the future. In this context, we must also keep in mind that in a time period when law is exposed to rapid and large changes, recent legal history serves this purpose just as well – and at times better – than ancient legal history.

Reading:

Dag Michalsen, Why legal history, [Rechtsgeschichte - Legal History \(rg-rechtsgeschichte.de\)](https://www.rechtsgeschichte.de)



Day 2 – Tuesday 17 October

Pathways Towards Sustainable Value Creation in the EU

Charlotte Villiers, Professor of Company Law and Corporate Governance, University of Bristol

Abstract:

The European Union's Sustainable Finance Framework: Are We Dancing With The Devil?

The enormity of the costs of transitioning to a low-carbon, more resource-efficient and circular economy is well recognised. The cost is indeed estimated to be in the region of \$100 trillion. Clearly, such level of expenditure cannot be born by public institutions and states alone and thus private capital (the financial sector, including banks, institutional investors and asset managers) is being called upon to play its part in the development of a more sustainable path for the planet.

A key feature of the European Union's Green Deal is its sustainable finance agenda, which seeks to bring sustainability considerations into the mainstream of financial decision-making, a core part of which is the transparency and long-term reporting framework that targets both corporate and financial actors. This framework has been shaped as a set of legislative instruments comprising the Sustainable Financial Disclosure Regulation, the Corporate Sustainability Reporting Directive and a European Taxonomy Regulation that classifies sustainable activities so that financial actors can distinguish between "green" and "brown" activities and thereby know what to target with their capital finance and investments and what to avoid. The aim is expressly to direct financial flows towards the EU's transition to a sustainable economy. Yet we might ask if this sustainable finance agenda could be used by the financial market actors, not so much to solve the climate change problems, but as a mask of legitimacy to enable them to gain redemption and recover their reputations which were damaged by the 2007-8 financial crash. Their decisions after all, with their emphasis on short-term returns, could be said to have contributed to the climate change and environmental destruction in the first place. Will this new sustainable finance framework put a stop to their destructive influence or is the EU effectively making a pact with the devil by focusing on the role and interests of the financial sector and limiting its agenda to the creation of benchmarks, measures and reporting requirements?

The paper suggests that relying so heavily on the financial sector without fully challenging the capitalist logic by which the sector operates, and without putting in place effective incentives and sanctions to steer their sustainability performance, is little more than a "nudge" and is unlikely to ensure that the desired goals will be achieved. What we value and how we value are central to the goals of sustainability and these are political, as well as economic, considerations. A broader, more inclusive reporting framework is required that embraces the priorities and participation of other stakeholders whose relationships with the environment and nature are more profound than measuring for the sake of financial returns.

Key Readings:

- Communication From The Commission To The European Parliament, The European Council, The Council, The European Central Bank, The European Economic And Social Committee And



The Committee Of The Regions, *Action Plan: Financing Sustainable Growth*, COM/2018/097 final, 8 March 2018.

- Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (Text with EEA relevance), PE/87/2019/REV/1, *OJ L* 317, 9.12.2019, p. 1–16.
- Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance), PE/20/2020/INIT, *OJ L* 198, 22.6.2020, p. 13–43.
- Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 (amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU,) as regards corporate sustainability reporting (Text with EEA relevance), PE/35/2022/REV/1, *OJ L* 322, 16.12.2022, p. 15–80 (CSRD).

Further Readings (Optional):

- Natascha van der Zwan, (2014) Making sense of financialization, *Socio-Economic Review*, Volume 12, Issue 1, Pages 99–129.
- Migliorelli, M. (2021) What Do We Mean by Sustainable Finance? Assessing Existing Frameworks and Policy Risks. *Sustainability*, Vol 13, 975-992.
- Baines, J., & Hager, S. B. (2023). From passive owners to planet savers? Asset managers, carbon majors and the limits of sustainable finance. *Competition & Change*, 27(3-4), 449-471.
- Ahlström, H., & Monciardini, D. (2021). The regulatory dynamics of sustainable finance: Paradoxical success and limitations of EU reforms. *Journal of Business Ethics*, 1-20.

Sustainable Value Creation in the Circular Economy

David Monciardini, Dr. Senior Lecturer, University of Exeter

Abstract:

To what extent circular economy (CE) is disrupting conventional thinking about value creation? The answer to this question depends also on the definition of CE. Drawing on recent debates about the contribution of CE to address societal grand challenges, you will be presented with empirical evidence and examples of business strategies and organisational practices that bring together the valorisation of wasted material resources and marginalised people.

Readings:

I will give student this article: <https://onlinelibrary.wiley.com/doi/full/10.1002/bse.3505>



Towards an EU Social Market Economy

Vera Palea, Lecturer, University of Torino – Department of Economics and Statistics

Abstract:

In this seminar, I will discuss how economists can contribute to socially engaged research, providing informed inputs to policy-makers.

The main focus of the seminar is on the alignment of current accounting rules in the European Union with the objectives of sustainable development and social market economy as set out by the Lisbon Treaty.

In 2002, Regulation 1606 (known as “IFRS Regulation”) mandated the adoption of international financial reporting standards (IFRS) in the EU for consolidated accounts of listed companies, with an option for member states to extend their use to the types of accounts using IFRS.

IFRS have been adopted in the EU with the purpose of reducing the cost of capital for companies, thereby contributing to unlock corporate investments. However, many critical studies have underlined the role of IFRS in altering company management, increasing short-termism and contributing to corporate financial fragility.

IFRS significantly differ from previous domestic accounting rules as they set fair value measurement as their basic evaluation criterion. In contrast, domestic accounting standards in the EU rely on historical cost as a basic valuation criterion.

Since financial reporting regulation is one of the competences of the EU, a key question arises regarding the consistency of IFRS regulation with the Lisbon Treaty. According to legal hierarchy, regulations and directives should align with the principles of sustainable development and social market economy.

The seminar will discuss essential research questions, methodologies, and findings from economic research aiming at assessing the consistency of IFRS Regulation with the EU’s fundamental objectives.

Specifically, the seminar will present compelling evidence demonstrating that the actual outcomes of the IFRS Regulation have not been consistent with its purpose of fostering investments. This underscores a significant discrepancy between the intended goals and the unintended consequences of IFRS regulation.

It also highlights the public-policy profile of accounting rules, providing arguments for a political economy of accounting. In fact, underinvestment due to accounting rules may be a critical issue when addressing climate mitigation and adaptation goals, thus creating a tension between accounting rules and the EU’s societal objectives of sustainable development and social market economy.

Suggested readings:

- Palea, V. 2015. The political economy of fair value reporting and the governance of the standards-setting process: Critical issues and pitfalls from a continental European Union perspective, *Critical Perspectives on Accounting*, Vol. 29, 1–15
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2365695



- Palea, V. 2018. Financial reporting for sustainable development: Critical insights into IFRS implementation in the European Union, in *Accounting Forum*, Vol. 42, pp. 248–60 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3328408
 - Palea, V., Haldane A., Migliavacca A. 2023. Is accounting a matter for bookkeepers only? The effects of IFRS adoption on the financialisation of economy. Paper. Revised and resubmitted (minor revisions) to Cambridge Journal of Economics. (attached .pdf).
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The role of digital platforms and ecosystems in sustainability transition?

Raissa Pershina, Associate Professor, Digital Innovation, University of Oslo

Abstract:

In the era of digital transformation, platform organizations and their ecosystems wield unprecedented power to reshape industries, promote innovation, and foster economic growth. In this lecture, we will explore a rather overlooked aspect of platform ecosystems, which is their capacity to contribute to addressing grand challenges. More specifically, we will discuss multi-sided platforms, their key characteristics and dynamics, and examine a concrete example of online food delivery to understand how harnessing data can contribute to a more sustainable value creation.

Recommended readings list (all are non obligatory):

- Pershina, R. (2022). Big data analytics for developing sustainable capabilities of digital business ecosystems. I Baumann, S. (Ed.), *Handbook on Digital Business Ecosystems: Strategies, Platforms, Technologies, Governance and Societal Challenges*, (pp. 510-528). Edward Elgar Publishing.
 - Khan, L. (2017). Amazon's antitrust paradox. *Yale Law Journal*, 126. (Read “III. Amazon’s business strategy” & “IV. Establishing structural dominance”, pp. 746 – 783).
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Day 3 – Wednesday 18 October

The making of the law: experience from international negotiations

Christina Voigt, Professor, Department of Public and International Law, University of Oslo



The making of technology

Iris Lorscheid, Professor Dr., Vice-Rector Research Program Leader Digital Business & Data Science ,
Campus Hamburg

Abstract:

The intersection of technology and law research presents a dynamic frontier, with opportunities for innovative exploration and research. Simulation as research method, particularly agent-based modeling, emerges as powerful tools in this endeavor, offering a lens through which complex socio-cognitive processes can be examined. Such simulations become especially crucial when navigating multifaceted legal landscapes. Beyond simulations, the integration of analytics can further refine our understanding, uncovering hidden patterns within vast datasets, in a new era of data-driven insights. By sifting through vast datasets, analytics tools can offer a more holistic understanding of legal phenomena. Integrating vast data sets with generative AI has the potential to profoundly transform the legal profession. While AI tools can enhance the efficiency of legal experts in addressing complex matters, it is essential to consider the associated risks. While AI tools hold the promise of revolutionizing legal research and practice, they also bring forth ethical and procedural concerns.

The PhD seminar titled "The Making of Technology" delves into the complex interplay of technological advancements and their implications for legal research and practice. Technology is not merely a tool but a catalyst, reshaping the very foundations. The seminar underscores the importance of embracing interdisciplinary approaches, particularly in the realm of agent-based simulations and analytics, to foster a deeper understanding of socio-cognitive processes inherent in legal systems. While generative AI offers vast potential, the perspective of regulating AI emerges as a critical consideration. Ensuring ethical use, transparency, and accountability in AI systems is paramount to maintain trust and uphold the integrity. By bridging the gap between technology and law, we are presented with an opportunity to redefine traditional paradigms, and pave the way for a more inclusive, equitable, and sustainable legal future.

Reading list:

- *On AI and Law (practice)*: Rissland, E. L., Ashley, K. D., & Loui, R. P. (2003). AI and Law: A fruitful synergy. *Artificial Intelligence*, 150(1-2), 1-15.
- *On AI, Law, and Society*: Karnouskos, S. (2022). Symbiosis with artificial intelligence via the prism of law, robots, and society. *Artificial Intelligence and Law*, 30(1), 93-115.
- *On regulating AI*: Hacker, P., Engel, A., & Mauer, M. (2023, June). Regulating ChatGPT and other large generative AI models. In *Proceedings of the 2023 ACM Conference on Fairness, Accountability, and Transparency* (pp. 1112-1123).
- *On success of AI in law school*: Choi, J. H., Hickman, K. E., Monahan, A., & Schwarcz, D. (2023). Chatgpt goes to law school. (working paper, Available at SSRN).
- *On agent-based simulation to understand decision-making*: Lorscheid, I., & Meyer, M. (2021). Toward a better understanding of team decision processes: combining laboratory experiments with agent-based modeling. *Journal of Business Economics*, 91(9), 1431-1467.
- *On analyzing consequences of decision-making with agent-based simulation*: Lorscheid, I., & Meyer, M. (2017). Agent-based mechanism design—investigating bounded rationality concepts in a budgeting context. *Team Performance Management: An International Journal*, 23(1/2), 13-27.
- *On building theory with agent-based simulation*: Lorscheid, I., Berger, U., Grimm, V., & Meyer, M. (2019). From cases to general principles: A call for theory development through agent-based modeling. *Ecological Modelling*, 393, 153-156.



The making of infrastructure

Marianne Zeyringer

Abstract:

Energy system models allow us to analyze the design of energy systems that achieve the headline goal of the Paris Agreement of keeping global warming to well below 2°C and in so doing avoid dangerous climate change. In this lecture will discuss the complexities and system interaction of the energy transition as well as the use of models.

Readings:

- [https://www.cell.com/patterns/pdf/S2666-3899\(23\)00099-5.pdf](https://www.cell.com/patterns/pdf/S2666-3899(23)00099-5.pdf)
- https://www.duo.uio.no/bitstream/handle/10852/80496/iee_2020.pdf?sequence=2&isAllowed=y

The making of social norms

Emily Oswald, Postdoctoral Fellow, Department of Education, University of Oslo

Abstract:

Making –and changing?–social norms about sustainability: How educational researchers approach what happens in schools

This short lecture uses contrasting examples from educational research (Cincera & Krajhanzl 2013; Barton & Tan 2010) to map some of the ways young people learn about sustainability issues at school. These examples are contextualized with reference to factual, normative, and pluralistic approaches to environmental education (Öhman & Östman, 2019). I argue that both the specific examples and the categories of factual, normative, and pluralistic help us understand how educators and educational researchers have sought to influence social norms related to sustainability.

Barton, A. C., & Tan, E. (2010). We Be Burnin'! Agency, Identity, and Science Learning. *Journal of the Learning Sciences*, 19(2), 187–229. <https://doi.org/10.1080/10508400903530044> <<https://doi.org/10.1080/10508400903530044>>

Cincera, J., & Krajhanzl, J. (2013). Eco-Schools: What factors influence pupils' action competence for pro-environmental behaviour? *Journal of Cleaner Production*, 61, 117–121. <https://doi.org/10.1016/j.jclepro.2013.06.030> <<https://doi.org/10.1016/j.jclepro.2013.06.030>>

Östman, J. Ö., Leif. (2019). Different teaching traditions in environmental and sustainability education. In *Sustainable Development Teaching*. Routledge.



Readings:

Here are three articles for recommended reading:

- Jickling, B. (1992). Why I Don't Want My Children to Be Educated for Sustainable Development. *Journal of Environmental Education*, 23(4), 5–8. (4 pages)
- Kenis, A., & Mathijs, E. (2012). Beyond individual behaviour change: The role of power, knowledge and strategy in tackling climate change. *Environmental Education Research*, 18(1), 45–65. (20 pages)
- Reid, A. (2019). Climate change education and research: Possibilities and potentials versus problems and perils? *Environmental Education Research*, 25(6), 767–790. (23 pages)

I've attached a PDF of the Jickling 1992 article; the other two are available through the UiO library.

Day 4 – Thursday 19 October

Due diligence through a human rights lens

Anna Maria Lundberg, Associate Professor, Norwegian Centre for Human Rights, University of Oslo

Reflections on the Norwegian Transparency Act

Mark Taylor, Dr. Philos, Researcher, FaFo

In July, 2022, the Norwegian parliament passed the Act Relating to Enterprises' Transparency and Work on Fundamental Human Rights and Decent Working Conditions, referred to as the Norwegian Transparency Act. The Transparency Act incorporates international standards on business and human rights into domestic law, with the stated purpose of promoting businesses' respect for fundamental human rights and decent working conditions. The TA a hybrid of two regulatory phenomena: one concerned with so-called Transparency in Supply Chains (TiSP) and the other is so-called mandatory human rights due diligence laws. The presentation will reflect on the main elements of the Transparency Act, including how the Act domesticates the global norm defining responsible business, the regulatory significance of the Act's creation of a Right to Information, as well as comment on the initial results from implementation of the Act.



Due diligence in German business law

Anne-Christin Mittwoch, Professor, Dr., Martin-Luther-Universität

Abstract:

The German Act on Corporate Due Diligence in Supply Chains of July 16 2021 (Lieferkettensorgfaltspflichtengesetz, in short LkSG) has come into force on 1 January 2023. While the legislative process was marked by fierce criticism, especially from German business associations, the regulations which were finally passed have provoked quite positive reactions. The Supply Chain Act is the most important step taken so far by the German legislature in terms of promoting corporate sustainability and protecting human rights in globalised supply chains. The presentation covers its background, history and comparative context, its scope, core obligation and enforcement and provides an assessment. The LkSG has a limited and staggered scope of application: From 1 January 2023 it applies to all companies with more than 3000 employees that have a central administration, principal base of business, admin headquarters, statutory seat or domestic branch office in Germany. From 1 January 2024, this threshold will be lowered to the number of 1000 employees.

The LkSG's innovative core content can be found in section 3 para. 1, which obliges companies to observe human rights and environmental due diligence obligations in their supply chains in an appropriate manner (so-called due diligence). The concept of the supply chain seems comprehensive (it includes upstream and downstream); however, the LkSG distinguishes in that respect between the enterprise's own business area, direct and indirect suppliers, imposing only few obligations on indirect suppliers.

With regard to enforcement, the German legislator opted for purely public enforcement and expressly excluded separate civil liability in section 3 para. 3 LkSG. The Federal Office of Economics and Export Control (Bundesamt für Wirtschaft und Ausfuhrkontrolle, in short BAFA) is the responsible authority for monitoring and sanctions according to sections 19 para. 1, 24 para. 5 LkSG. BAFA follows a so-called risk-based approach. Companies that fall under the scope of the LkSG have to submit an annual report on the fulfillment of their due diligence obligations to BAFA. BAFA also has the right to impose fines and to exclude companies from the award of public contracts for up to three years. Overall, the LkSG is indeed a milestone but also has many weaknesses, some of which will be mitigated by the upcoming European Corporate Sustainability Due Diligence Directive.

Core reading material:

- ØMittwoch/Bremenkamp, The German Supply Chain Act – A Sustainable Regulatory Framework for internationally active Market Players?, in: Tietje/Kraft/Mittwoch (Eds.), Beiträge zum Transnationalen Wirtschaftsrecht, 2022, Heft 182.
Available at: <https://omp.bibliothek.uni-halle.de/iwr/catalog/book/294>
- ØRühl, Cross-border Protection of Human Rights: The 2021 German Supply Chain Due Diligence Act, in: Borg-Barthet, Živković et al (eds), Gedächtnisschrift in honor of Jonathan Fitchen (forthcoming)
Available on SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4024604
- ØMittwoch, Supply chain regulation made in Germany – a tentative step towards sustainability, Blogging for Sustainability, University of Oslo
Available at:



<https://www.jus.uio.no/english/research/areas/sustainabilitylaw/blog/companies-markets-and-sustainability/2021/supply-chain-regulation--mittwoch.html>

Board behaviour: interplay between reporting and due diligence

Jukka Mähönen, Professor, Department of Private Law, University of Oslo

Abstract:

The board is the central operator in an enterprise. The board owes a duty of care to the enterprise and is responsible for its daily business decisions with the management. A crucial part of board duties is transparency: a duty to prepare accounts for the enterprise. During the last decade besides annual accounts, a more and more crucial reporting duty is to describe enterprise's business model, risks and opportunities and due diligence processes. In the European Union, the Corporate Sustainability Reporting Directive of 2022 and European Sustainability Reporting Standards of 2023 have been seen as important steps forward as incentives for sustainable business models and sustainability due diligence through reporting. In this presentation I discuss this claim and is reporting enough or do we need substantive rules of board duty of due diligence.

Readings:

- Beate Sjøfjell, 'Time to Get Real: A General Corporate Law Duty to Act Sustainably' (20 September 2022). University of Oslo Faculty of Law Research Paper No. 2022-48, Preprint of chapter in Hanne Birkmose, Mette Neville and Karsten Engsig Sørensen (eds) 'Instruments of EU Corporate Governance: Effecting Changes in the Management of Companies in a Changing World' (Kluwer Law International, 2023), Available at SSRN: <https://ssrn.com/abstract=4224255> (26 pages)

Recommended further reading:

- Beate Sjøfjell and Jukka Mähönen, 'Corporate Purpose and the Misleading Shareholder vs Stakeholder Dichotomy' (February 21, 2022). University of Oslo Faculty of Law Research Paper No. 2022-43, Nordic & European Company Law Working Paper No. 22-08, forthcoming in *Bond Law Review* (2022) 34(2) pp. 69-112, Available at SSRN: <https://ssrn.com/abstract=4039565> (50 pages)
 - Jukka Mähönen, 'Auditors' role in corporate governance' (September 19, 2022). University of Oslo Faculty of Law Research Paper No. 2022-47, Preprint of chapter in Hanne Birkmose, Mette Neville and Karsten Engsig Sørensen (eds) *Instruments of EU Corporate Governance: Effecting Changes in the Management of Companies in a Changing World* (Kluwer Law International, 2023), Nordic & European Company Law Working Paper No. 22-05, Available at SSRN: <https://ssrn.com/abstract=4223234> (28 pages)
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Day 5 – Friday 20 October

Reflections on the future of sustainability legal research and interdisciplinarity

Beate Sjøfjell, Professor, Department of Private Law, University of Oslo

Abstract:

In this presentation, I will reflect on the role of legal research in contributing to sustainability, in light of our research group Sustainability Law's explicit aim of conducting interdisciplinary analyses of law with the aim of identifying normative solutions that contribute to global sustainability. We bring interdisciplinary analyses up to the forefront in that way because we interdisciplinary as a necessary element of sustainability law.

I will start out by introducing the research-based concept of sustainability within which we position our analyses, namely securing social foundations for humanity now and for the future while mitigating pressures on planetary boundaries. I will move on to discuss challenges and possibilities in undertaking interdisciplinary analyses with this explicit teleological approach. The examples I include will range from theory-building through analyses of EU legislation, to transdisciplinary projects, co-producing knowledge with practitioners.

As regards theory-building, I will draw on work-in-progress with Jukka Mähönen, where we seek to interdisciplinarise legal theory, with business law theory as a case in point. In our work, we challenge the pervasive influence of a specific strand of legal-economic thinking in business law theory, where certain economic efficiency approaches have sidelined past company law debates. We suggest that business law theory needs to engage with the reality of the organisation of contemporary business and with the role and impact of business in society.

For analyses of EU legislation, I will discuss the EU's recent sustainability efforts of sustainable finance and sustainable corporate governance, demonstrating how a lack of a research-based concept of sustainability as the framework has contributed to the EU's efforts leading more to sustainability washing and sustainability wishing, than actually contributing to sustainability.

I will conclude with brief examples of our transdisciplinary work: one inhouse pilot project at the University of Oslo on sustainable public procurement, and one collaborative project with a Norwegian savings bank.

Readings:

- Sjøfjell, Beate, Sustainability and Law in the Anthropocene (September 7, 2022). Preprint of chapter in the volume 'Responding to the Anthropocene: Perspectives from twelve academic disciplines', Ursula Münster, Thomas Hylland Eriksen and Sara Asu Schroer (eds), Scandinavian University Press, in print 2023, University of Oslo Faculty of Law Research Paper No. 2022-46, Nordic & European Company Law Working Paper No. 22-11, Available at SSRN: <https://ssrn.com/abstract=4212422> (15 pages)
- Sjøfjell, Beate and Mähönen, Jukka T, Interdisciplinarising Legal Theory: Towards a Reconceptualisation of Business Law (November 16, 2020). University of Oslo Faculty of Law Research Paper No. 2020-36, Nordic & European Company Law Working Paper No. 22-07, Available at SSRN: <https://ssrn.com/abstract=3731289> <<https://ssrn.com/abstract=3731289>> or <http://dx.doi.org/10.2139/ssrn.3731289> (26 <[http://dx.doi.org/10.2139/ssrn.3731289%20\(26](http://dx.doi.org/10.2139/ssrn.3731289%20(26)> pages)