European Society of International Law (ESIL) Research Forum on:

SOLIDARITY. THE QUEST FOR FOUNDING UTOPIAS OF INTERNATIONAL LAW

23-24 April 2020

Call for Papers for the ESIL Interest Group Event on International Environmental Law

SOLIDARITY IN THE CONTEXT OF NATURAL RESOURCES MANAGEMENT

23 April 2020

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ESIL Interest Group on International Environmental Law
The resolution 1803 (XVII) on the “Permanent Sovereignty over Natural Resources” (PSNR), adopted by the UN General Assembly in 1962, was understood as a means of increasing the economic and technological advancement of developing states. The right to control and dispose of their own natural resources claimed by peoples under colonial rule and newly independent developing states in the era of decolonisation lies at the heart of the PSNR. However, it is worth mentioning that PSNR is not absolute and the resolution itself significantly limits its application. In particular, in cases where an authorization was granted, the capital imported and the earnings on that capital shall be governed by inter alia by international law; the profits derived must be shared in the proportions freely agreed upon, in each case, between the investors and the recipient state; and most importantly, nationalization, expropriation or requisitioning shall be based on grounds or reasons of public utility, security or the national interest and an appropriate compensation shall be paid.

In addition, PSNR is limited by parallel international obligations of states. Especially international obligations arising from international economic law (for instance the WTO) or international environmental law (for instance UN Framework Convention on Climate Change or the Convention on Biological Diversity) significantly limit states in exercising their sovereignty over natural resources. For instance, once a state joins the WTO it is obliged to exercise its right to regulate trade and export of natural resources according to WTO rules (Panel Report/Appellate Body Report, China – Measures Related to the Exportation of Various Raw Materials). In other words, the fulfilment of sovereignty over natural resources is subject to the WTO rights and obligations. One may claim that the net of trade-related international obligations undertaken by states undermines PSNR and implies a shift toward a global energy market making natural resources available to those who need them based on an implicit solidarity. By the same token, the Principle 21 of the Declaration of the United Nations Conference on the Human Environment implies a sense of solidarity, since states are required to ensure that the exploitation of natural resources within their jurisdiction do not cause damage to the environment of other states. To conclude, an increased global cooperation and an ever-growing number of international obligations gave rise to a need to reconceptualize our traditional understanding of PSNR.

Efforts to eliminate the widening gap between the developed and the developing countries in 70s formulated in the Declaration on the Establishment of a New International Economic Order and the Programme of Action
The concept of solidarity is one of the fundamental values on which the EU is founded (Article 2 of the TEU). It is referred to in various provisions of the EU treaties, particularly in Art. 222 of the TFEU (The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster) and Art. 194 of the TFEU (energy solidarity). Article 194 reads: “In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States”. Until recently, no attention has been given to the interpretation of the energy solidarity clause. In 2019, the General Court of the European Union in case T-883/16 Poland v Commission (OPAL Decision) annulled the
European Commission’s decision approving the modification of the exemption regime for the operation of the OPAL gas pipeline. In its decision, the court for the first time elaborated on a principle of energy solidarity enshrined in Article 194(1) of the TFEU. According to the court, the principle of energy solidarity requires EU member states and EU organs, in all their energy market decisions with a potential cross-border impact, to take into account not only their own interests but also those of other member states and also those of the European Union as a whole. There is no doubt that the interpretation of the principle of energy solidarity will have a significant impact on the development of EU energy law over the next decade.

The IG on International Environmental Law invites contributions addressing the concept of the energy solidarity established by the Lisbon Treaty, the OPAL decision as well as the potential implications of the OPAL for the Energy Union.

AREAS OF INTEREST

- **Energy solidarity in the context of the UN 2030 Agenda for Sustainable Development**
- **Energy solidarity in the context of the European Union and its energy and climate policy**
- **Sustainable energy for all**
- **The OPAL decision**
- **Energy solidarity at the international level**
- **The sharing of transboundary natural resources**
- **Legal regimes governing utilization of natural resources beyond national jurisdictions**
- **The concept of solidarity in the context of the UNCLOS and Deep-sea mining**
- **The concept of solidarity in the context of the Moon Agreement**
- **PSNR in the context of international trade law**
- **PSNR in the context of international environmental law**
All **Members of the ESIL Interest Group on International Environmental Law**, the members of other ESIL IGs and also the **non-ESIL members** (ESIL membership will be required if the abstract is selected) are **invited** to submit abstracts.

**ORGANIZING COMMITTEE**

*Paolo Davide Farah* (West Virginia University, USA & gLAWcal - Global Law Initiatives for Sustainable Development, UK) - Convener ESIL Interest Group on International Environmental Law  
*Martin Svec* (Masaryk University, Czech Republic & gLAWcal – Global Law Initiatives for Sustainable Development, UK)

**APPLICATrIONS**

The following must be submitted to *paolo.farah@glawcal.org.uk* by **14 February 2020**:  
• The author’s **name and affiliation**;  
• A 500-700-word **abstract** [Word file and PDF];  
• The author’s **CV**, including a list of relevant publications;  
• The author’s **contact details**, including email address and phone number;  
• Whether the author is an **ESIL member**

Multiple abstracts from the same authors will be considered, but only one can be selected. Co-authored **multidisciplinary** papers are also welcomed. The Organizers are unable to provide funding for any cost related to the participation to the conference.

**PUBLICATION OPPORTUNITIES**

The organizers have **publication plans** for the presented papers. The precise format of publication will be discussed during the IG event.