**‘Beyond Evidence’ – Workshop – Abstracts**

**Panel 1**

**Expert and Lay Knowledge Claims as Evidence with the Regulation of Nationally Significant Infrastructure Projects  
  
Yvonne Rydin, The Bartlett School of Planning, UCL**

**Evidence as process: the organizational mediation of evidence in regulatory decision-making  
  
Bettina Lange and Owain Johnstone, Centre for Socio-Legal Studies, Oxford**

This presentation develops the idea of evidence as process by outlining how over time organizations shape the generation and use of evidence when developing public policies and taking regulatory decisions. This process is understood as a two way link, with evidence and organizational practices co-constructing each other. This is contrasted with the idea of evidence as a discrete ‘in the moment’ specific knowledge claim.

In making these points the presentation draws on a review of literature about evidence based public policy making and regulatory decision-taking as well as examples of using environmental science knowledge in UK water resource management. The presentation critiques some of the abstract conceptualisations developed in the literature about types of evidence, evidence providers, drivers of and obstacles to the influence of evidence, as well as functions of evidence in making public policy and taking regulatory decisions. More specifically, we argue, firstly, that the types of evidence relied upon in public policy-making and regulatory decision-taking goes beyond traditional academic research, and hence criteria for assessing what constitutes relevant evidence are pluralizing. Secondly, we suggest that evidence is often generated in a ‘distributed manner’, i.e. not by a distinct organization, but in networks of collaboration and contestation to which various regulated and regulatory organizations contribute.

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**How Law Anticipates: Ways of Knowing and Governing Technological Futures**

**Elen Stokes, Dept. of Law, Birmingham University**

In this talk, I will present some initial thoughts on the various ways in which law anticipates technological futures.  Much has been written on the role of new technology in promoting particular visions of innovation and progress.  While the future-orientedness of technological development is taken as given, further work can be done on law’s epistemic and normative practices for engaging with technological potentialities.  It is accepted by many that prediction and probability are limited ways of thinking about the ‘not yet’.  Anticipation entails more than the quantification of possible outcomes – it is ‘a moral economy in which the future sets the conditions of possibility for action in the present’ (Adams et al 2009).  I will discuss the UK’s regulation of shale gas fracking to highlight how – with which modes and rationalities of knowing and governing the future – law functions as an ‘anticipatory regime’.

**Panel 2**

**Some challenges of integrating economic and environmental evidence in regulatory decision making**

**Chris Decker, Centre for Socio-Legal Studies, Oxford**

Some economic regulators are increasingly being required to make decisions in settings where the lack of knowledge, and associated ‘deep’ uncertainty, stems from a fundamental ignorance about the future. One such example is climate change. This presentation will explore whether, and how, regulatory frameworks and decision-making paradigms might need to adapt to contexts of deep uncertainty, and if so how they might be adapted. I will first describe different levels and concepts of uncertainty, before considering the characteristics and merits of alternative regulatory decision making tools for dealing with deep uncertainty.  Drawing insights from a recent case in the English water sector (the Bristol Water case), the presentation will then consider some of the potential impacts of such deep uncertainty for economic regulators, highlighting a number of challenges associated with adapting regulatory processes and decision-making to account for deep uncertainty.

**The use of economic evidence in competition enforcement and economic   
 regulation**

**Marie Clark, Competition and Markets Authority, UK**

This presentation addresses how the CMA in conducting economic analysis approaches balancing potentially competing considerations and deals with uncertainty. By way of background, I will set out the core functions of the CMA as a competition authority and how economic analysis informs the carrying out of these functions. I will comment briefly on the sources of uncertainty and how we handle this in analysis and decision-making. I will provide a framework for categorising the circumstances in which the CMA is required to balance competing considerations. These might be balancing pro and anti-competitive effects or balancing competition and wider non-competition considerations. The CMA does not seek to promote competition for its own sake, but to make markets work well for consumers, businesses and the economy. For example, we state in our current Annual Plan that the CMA is committed to supporting growth in the UK economy and ensuring that users of public services get good outcomes. Another theme is protecting and empowering the vulnerable and ‘disengaged. I will give examples of the CMA taking into account such wider considerations including in determining priorities, assessing the detriment arising from competition problems and findings ways of addressing problems.

**The standard and intensity of review of economic evidence: A comparative institutional competencies approach**

**Despoina Mantzari, School of Law, University of Reading**

 The presentation seeks to address the following theme of the workshop: “What judicial or quasi-judicial control should be exercised over the use of economic reasoning in regulatory decision-making?” In doing so, it focuses on the substantive review of economic evidence enshrined in the discretionary assessments of the federal regulators of energy (Federal Energy Regulatory Commission, FERC) and communications (Federal Communications Commission, FCC) in the US and the sectoral regulators of communications (Office of Communications, OFCOM), energy (Office of Gas and Electricity Markets, OFGEM)  and water (Office of Water Services, OFWAT) in the UK. It seeks to make both a positive and a normative claim. It describes what is happening and also prescribes what should be happening in judicial scrutiny of economic evidence. In the latter case, it argues that courts when reviewing the regulators’ economic assessments, should embrace comparative institutional competencies considerations alongside constitutional, institutional and historical considerations that have informed the scope and intensity of substantive review of the regulatory agency’s discretion. Drawing on insights from political science and economics, the suggested approach illuminates the institutional disadvantages of the courts that may warrant a high degree of deference. At the same time, however, it remains sensitive to the polycentric elements of regulatory disputes as well as to a number of institutional realities that may attenuate the weight of such comparative institutional disadvantages.

**Panel 3**

**Knowledge integration and conflicts in regional climate change adaptation processes: The case of Northwestern Germany**

**Bernd Siebenhüner, Ecological Economics Group, Carl von Ossietzky University of Oldenburg, Germany**

The integration of different bodies of knowledge from various societal actors is a cornerstone of transdisciplinary research that particularly targets at developing solutions towards socio-ecological transformations. In these concepts, broad stakeholder involvement is intended to promote knowledge integration, consensus and activate local actors to initiate and advance learning and change processes. In doing so, however, transdisciplinary processes enter societal battlegrounds and meet conflicting interest and knowledge claims. Thus, the talk will discuss different types and causes of conflicts in knowledge integration processes conceptually and will empirically present project experiences on regional adaptation to climate change in Northwestern Germany. It shows that societally relevant transdisciplinary research processes need to be prepared for conflict resolution, the proper understanding of the causes of conflicts and for overcoming resistance and blockages to allow for mutual learning and innovation.

**Drought management in the UK - agency vs. scale?  
  
Catharina Landström, Environmental Change Institute; Kevin Grecksch, Centre for Socio-Legal Studies, University of Oxford**

Drought management in the UK takes place in a narrow, confined governance space. Measured against international literature on drought management, the UK shows little innovativeness and little actual willingness to change among national stakeholders. One way of promoting innovation is to bring together people with different perspectives. Environmental Competency Groups, a  methodology aiming to bring local residents’ experience-based knowledge of water management in relation to particular catchments to bear on the generation of scientific knowledge, has been successfully trialled in relation to both droughts and flooding in the UK. We propose that drought management is the management of people and a matter of communication before, during and after a drought. This presentation therefore explores how we can create a continuous relationship between the different levels of knowledge production and communication thereby widening the governance space.

**Natasha Wyse, Environment Agency**

**Agreeing on Accounting: The Construction of Carbon Accounting in the Paris Agreement of 2016**

**Dennis West, MSc Candidate, London School of Economics**

Using the case of the Paris Agreement of 2016 this presentation investigages why carbon accounting became more stable than other reporting issues. Taking a genealogical and cyclical approach, I trace the accounting provisions in the Treaty to their institutional origins. The findings suggest that the construction of carbon accounting followed a process of negotiation that led to agreement on the meanings attached to carbon accounting. Extending the current cyclical model, I propose seven cycles of negotiations. This presentation is intended to contribute to the debate on accounting emergence and concludes with avenues for further resesarch on governance in action.