Global Law as an Analysing Tool of Climate Change Adaptation: what Relevance for Justice Assessment of Coastal Governance?

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This study aims to present “global law” theories and their usefulness, to highlight the role that law and lawyers may play for coastal governance to be adapted to climate change, whether in terms of constraint or in terms of facilitation. Indeed, the hypothesis tested is that global law allows to consider the - otherwise invisible - actors de facto implicated in the rule-making and implementation processes at different levels, from local to global, but also the continuum between “soft” (or non-binding) and “hard” (or enforceable) law. Ultimately, this study is about testing the potential of global law perspective to favour interdisciplinary researches on the links between social and climate justice.

In order to do so, the study mobilizes and defines some recent notions, derived from the ecological thinking applied to the law. For example, from a legal analysis perspective, the notion of « regimes complex » is helpful in order to designate the set of norms, actors and processes involved in coastal governance, without being limited in our study by restrictive legal concepts, such as the judicial order, the formal legal value of the norms, or the de jure legitimacy of the actors considered. It permits to include in the study a sociological reading of a set of norms, to understand the circulation of these norms and to characterize them according to the actors who carry them.

If the study has vocation to question its validity in the field of coastal governance, it is supported by the broader example of adaptation to climate change, but from the narrow point of view of Reunion Island. The methodology of this study is also applied to the protection of whales, for the poster session (see submission of Stéphanie Sorby).

One of the results of this work is that adopting the situated point of view that global law recommends, inter alia in space and time, reveals and, thus, may favour the process framing the interactions between various levels, fora and actors of law-making and law-implementation in the field of adaptation to climate change. Indeed, mapping applicable law to a given area or subject matter, like coastal governance, actually depends from the point of view of the person answering the question, and the normative project he or she carries.

This study main outcome is that global law helps to reveal the “relative” but also “dynamic” characters of the law that may frame coastal governance. Therefore, it allows to assess the existing normative offer, by referring to the sociological framework of justice, to identify accountability gaps of de facto powerful actors, and, more fundamentally, to focus attention on “connecting needs” to link the issues of coastal governance and adaptation to climate change, or more broadly the issues of environmental and social justice.