UWI
ST. AUGUSTINE CAMPUS

Faculty of Law

4th UWI Oil & Gas Law Conference

TOWARDS A JUST TRANSITION

28th - 29th June, 2024 | 8:00 am - 6:00 pm

Hilton Trinidad and Conference Centre, Port of Spain

Dr Alicia Elias-Roberts

Dean, Faculty of Law, The University of the West Indies, St. Augustine Campus

Topic:

A comparative analysis of Oil and Gas law contracts and stabilization clauses in several jurisdictions

BIOGRAPHY:

Dr. Alicia Elias-Roberts is the Dean of the Faculty of Law at the UWI St Augustine Campus in Trinidad and Tobago. She has over 25 years' experience as an international lawyer, and an energy and environmental law academic and consultant. She has done consultancies for several international organisations, including the CARICOM, and various governments in the Commonwealth Caribbean. She has written over 20 journal articles, chapters in books and edited books with reputable publishers.

Dr. Elias-Roberts has a Law Degree from the University of Guyana, a Masters of Law (BCL) Degree from the University of Oxford (UK), and a LLM in Energy, Environment and Natural Resource Law from the University of Houston (Texas, USA). Dr. Elias-Roberts also has a PhD, focused on Energy Development Law in disputed maritime zones, from Queen's University (Canada). Dr. Elias-Roberts is an attorney at law admitted to practice law in Guyana, Trinidad and Tobago and the USA.

ABSTRACT:

Stability is a key concern for any type of investor. At the same time, stability is fairly difficult to be negotiated in long-term contracts and commodities industries like oil and gas as several assumptions might change throughout the duration of the investment (e.g. price of oil, government in place, etc).

Stabilization clauses are critical components in oil and gas law contracts, particularly in agreements between investors (often multinational oil and gas companies) and host governments. These clauses aim to provide a predictable legal and fiscal environment over the duration of the investment.

Another complexity that oil and gas upstream investments face is the fact that the exploration phase is highly uncertain and the rate of success tends to be fairly low. This is why host governments face a real dilemma between offering incentives to attract foreign investments (especially in the exploration phase) in order to find and develop oil and gas resources and considering the implications of the said bargain for the national and public interest in a long-term perspective. Thus, it is not uncommon for host governments to offer "sweet" deals while there are no proven reserves or commercial discoveries but might change their mind once the commercial discovery occurs as the same or a new government might perceive that the incentives given were far too generous. Alternatively, the price of the commodity might change significantly in favour of the investor or the government which might trigger a desire to renegotiate the said investment. Therefore, the main goal of stabilisation provisions is to mitigate such uncertainty and secure the agreed bargain between the involved parties.

My presentation will analyse different types of stabilisation clauses in several oil production countries. I will also highlight the complex and sensitive matters of stabilisation in oil and gas investments and the extent to which current contractual mechanisms provide the desired protection in a range of recent case studies and jurisdictions including Guyana, Ghana, Cyprus, Indonesia and Thailand. My presentation will also cover the purpose and importance, the legal and practical considerations, examples in practice and criticism and controversies surrounding various types of Stabilization Clauses

The Honourable Stuart R. Young SC, MP
Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister

BIOGRAPHY:

Stuart Richard Young as a practicing attorney, was democratically elected to Parliament on September 8, 2015 as the member for Port-of-Spain North/St Ann's West. He first served as a Minister in the Ministry of the Attorney General and Legal Affairs. Since then Young has served in several Ministerial capacities as Minister in the Office of the Prime Minister, as Minister of Communications and Minister of National Security. Currently, he is the Minister of Energy and Energy Industries in addition to his duties as Minister in the Office of the Prime Minister.

Young is member of several Cabinet Sub Committees including being the Chairman of the Finance & General Purposes Committee and has been a member of the National Security Council from September 2015 to date. Young has also served as a member of several Joint Select Committees of the Parliament. Young has led the Government's re-negotiation of several critical contracts in the country's hydrocarbon sector related to its Natural Gas Supply and Sales, resulting in more equitable terms and revenue for Trinidad and Tobago. He led the Empowered Government Team that restructured the Country's Four Train LNG Facility (Atlantic LNG) with bp and Shell being the major shareholders, completing this unprecedented agreement in December 2023. Additionally, he has been key in negotiating a 30 year Exploration and Production Licence for the production and export of natural gas from the Bolivarian Republic of Venezuela to Trinidad and Tobago which was concluded in December 2023. Minister Young has been a feature speaker at many Regional and International Energy Conferences and is an advocate for Energy Security being afforded to developing countries including those in the CARICOM, LATAM and African regions.

He is a graduate of St. Mary's College and the University of Nottingham, where he studied law and later was admitted to the bar in Trinidad & Tobago, England and Wales, the Commonwealth of Dominica and Antigua and Barbuda. Further, he has appeared as counsel in several Commissions of Enquiry and trials in the Industrial Court, High Courts, Courts of Appeal and at the Judicial Committee of the Privy Council.

Dr. Eduardo Pereira

Adjunct Senior Lecturer, Faculty of Law, UWI, St. Augustine Campus, Visiting Professor, University of Eastern Finland and Founder, International Energy Law Advisor Group

Topic:

Financial Challenges to Meet Climate Targets via Carbon Capture Storage in the Global South

BIOGRAPHY:

Prof. Eduardo G. Pereira is a worldwide recognized scholar specialising in Natural Resources and Energy Law. He is a founding partner at the International Energy Law Training and Research Company as well as at the International Energy Law Advisory Group. He has been active in the natural resources and energy industry for more than 15 years and is an international expert on oil, gas and energy contracts and regulations. His experience in this area – both academic and practical – is extensive. He has practical experience in over 50 jurisdictions covering America, Europe, Africa and Asia. Dr. Pereira concluded his doctoral thesis on oil and gas joint ventures at the University of Aberdeen (Scotland). He conducted postdoctoral research at Oxford Institute for Energy Studies (University of Oxford, UK) and another postdoctoral research at the Scandinavian Institute of Maritime Law (University of Oslo, Norway) and more recently at the Institute of Energy and Environment (University of São Paulo, Brazil). He possesses positions as a full-time, part-time, honorary, adjunct and/or visiting scholar in a number of leading academic institutions around the world. He is an associate editor of OGEL. He is also the author and editor of several leading oil and gas textbooks.

ABSTRACT:

Carbon Capture and Sequestration (CCS) is a key technology that holds the potential to contribute to a sustainable future. As per the name, CCS is a process of capturing CO2 from stationary sources of carbon emissions and permanently storing it, before it is released into the atmosphere or capturing atmospheric CO2, either directly from air (hereafter referred to as direct air capture, DAC) or from a point source (like a large fossil fuel-powered thermal power plant) and then, injecting it in the subsurface for storage. So, CCS technologies may contribute as an important tool to meet climate objectives in a variety of ways and become a key alternative for the decarbonization of the world's industrial industries. However, the wider use of CCS is inhibited by costs associated with CCS. The question of who is responsible for using up the carbon budget is crucial in the context of climate justice debates. The historical carbon footprint provides a clear depiction of the responsibility for dealing with climate change to date and addresses the countries responsible for providing a just climate transition for developing countries. Historical concentration of industry and wealth in developed countries means that they are responsible for majority the emissions over the past decades. The global south has also been facing the generational issue of proper financial resources and their structuring; in the climate aspect, given the global south's rising distress, the climate financial gap is already enlarged. With established renewable energy markets to attract diverse investment opportunities, the technological advancements and economies of scale have led to declining costs of renewable energy sources; additionally, feed-in tariffs, tax incentives, and other policies have also encouraged renewable energy adoption, pushing for comparatively much easier adoption of CCS than that of the developing countries which are additionally burdened with weak debt structuring and the international obligations of the 2050 goal to reach net zero. This paper intends to evaluate the feasibility of developing countries adopting CCS projects, identifying CCS as an alternative to decarbonization, exploring the commercialization of CCS projects, the international financial instrument's inclination towards the funding of sustainable and green projects, and the need for private investment. Addressing the unequal placement of the global south and north, the paper also intends to look at the contingent issues the global south is facing in establishing CCS facilities, mainly in the debt structuring of the states, the financial foundation required, and how the global north has addressed the issue of climate finance funding for the developing countries and how they might support the developing countries in this regard.

Ms. Leanna Ramkhalawan

Legal Advisor, Perenco T&T Limited

Topic:

Financial Challenges to Meet Climate Targets via Carbon Capture Storage in the Global South

BIOGRAPHY:

Ms. Leanna Ramkhalawan is a practicing Attorney-at-Law of approximately six (6) years. She currently holds the role of Legal Advisor at the T&T subsidiary of Perenco, a leading independent oil and gas company, with its Head Quarters in the United Kingdom and France. In addition to Oil and Gas and Energy Law, Ms. Ramkhalawan also advises in the areas of Contract Law, Civil Law, Industrial Relations Law and Environmental Law to name a few. Apart from the Private Sector, Ms. Ramkhalawan also has legal experience working with the State through the Ministry of Energy and Energy Industries (MEEI) and the Trinidad and Tobago Solid Waste Management Company Limited (SWMCOL). She is the holder of an LLB Law Degree from the University of the West Indies, St. Augustine (UWI) and a Legal Education Certificate from the Hugh Wooding Law School. She also recently completed her Master of Law (LLM) at UWI with a specialization in Oil and Gas Law under the tutelage of Prof. Eduardo G. Pereira.

ABSTRACT:

Carbon Capture and Sequestration (CCS) is a key technology that holds the potential to contribute to a sustainable future. As per the name, CCS is a process of capturing CO2 from stationary sources of carbon emissions and permanently storing it, before it is released into the atmosphere or capturing atmospheric CO2, either directly from air (hereafter referred to as direct air capture, DAC) or from a point source (like a large fossil fuel-powered thermal power plant) and then, injecting it in the subsurface for storage. So, CCS technologies may contribute as an important tool to meet climate objectives in a variety of ways and become a key alternative for the decarbonization of the world's industrial industries. However, the wider use of CCS is inhibited by costs associated with CCS. The question of who is responsible for using up the carbon budget is crucial in the context of climate justice debates. The historical carbon footprint provides a clear depiction of the responsibility for dealing with climate change to date and addresses the countries responsible for providing a just climate transition for developing countries. Historical concentration of industry and wealth in developed countries means that they are responsible for majority the emissions over the past decades. The global south has also been facing the generational issue of proper financial resources and their structuring; in the climate aspect, given the global south's rising distress, the climate financial gap is already enlarged. With established renewable energy markets to attract diverse investment opportunities, the technological advancements and economies of scale have led to declining costs of renewable energy sources; additionally, feed-in tariffs, tax incentives, and other policies have also encouraged renewable energy adoption, pushing for comparatively much easier adoption of CCS than that of the developing countries which are additionally burdened with weak debt structuring and the international obligations of the 2050 goal to reach net zero. This paper intends to evaluate the feasibility of developing countries adopting CCS projects, identifying CCS as an alternative to decarbonization, exploring the commercialization of CCS projects, the international financial instrument's inclination towards the funding of sustainable and green projects, and the need for private investment. Addressing the unequal placement of the global south and north, the paper also intends to look at the contingent issues the global south is facing in establishing CCS facilities, mainly in the debt structuring of the states, the financial foundation required, and how the global north has addressed the issue of climate finance funding for the developing countries and how they might support the developing countries in this regard.

Professor Roger Hosein

Principal Coordinator, Trade and Economic Development Unit, Department of Economics, The University of the West Indies, St. Augustine Campus

Topic:

Managing the Resource Curse in a small petroleum exporting economy: a case study of Trinidad and Tobago

Mr. Anthony Paul

Chairman of the Board, Lloyd Best Institute of the Caribbean

Topic:

Are Laws Sufficient? Lax oversight and its economic impact in T&T

BIOGRAPHY:

Anthony (Tony) Paul has 45 years of experience in technical and commercial roles in management and leadership across the oil. natural gas and mining value chains. As Director of Geology and Geophysics in the T&T Ministry of Energy, he was responsible for attracting investors, conducting licensing rounds, negotiating contracts and overseeing exploration activities. He has served as Senior Geophysicist at Petrotrin, supporting Joint Ventures with major multinationals; with Amoco and BP in T&T in leadership roles in exploration, appraisal, field development, and production operations and maintenance; and with BP plc,, based in London, in digital business strategy. Tony assists governments and investors in developing countries in maximizing local benefits from extractives resources. He draws upon his uniquely deep and rich practical experiences to design and implement pragmatic and robust regulatory and administrative systems, focusing on good governance. He was lead author for local content strategies and policies for BP in Azerbaijan and T&T and the governments of T&T, Ghana, Kenya and Guyana. He supported similar initiatives in Mozambique; Nigeria Angola, Uganda, Tanzania, Liberia and Lebanon. He has advised dozens of countries in Latin America, the Caribbean, Africa, the Middle East and Central and Southern Asia, through capacity development for parliamentarians, government officials, business communities and civil society. He holds a BSc in Geology from Imperial College, London and an MS in Geophysics from the University of Houston, Texas.

ABSTRACT:

Immediately after Independence in 1962 the government of Trinidad and Tobago, recognising the very significant potential impact of the petroleum sector on the economy and the livelihoods of its citizens, set in motion a series of events to identify, pursue and secure the maximum benefits from the petroleum sector. These resulted in the Petroleum Act (1969) and Regulations (1971), a reconfigured Ministry of Petroleum and Mines to oversee their implementation and a Petroleum Taxes Act and Regulations (1974) under the Minister of Finance. These Acts and Regulations included some ground breaking concepts and approaches, such as measures to enable what is now commonly referred to as Local Content and to mitigate transfer pricing and tax avoidance. The industry was operated by multinational companies and, as fate would have it, the year between the Petroleum Act being proclaimed and its regulations being brought into effect, was one of the most significant in the modern history of T&T in terms of social and economic justice. It is no surprise therefore that embodied within this system of governance were measures to ensure that T&T's citizens, as owners of the resource would be assured of a fair chance to participate in the sector, share in its bounty and transparent oversight. The Petroleum Act was designed on a system of Licenses, which allowed the Minister the flexibility to determine and institute specific measures for the conduct each of the wide range of operations involved across the sector. At the outset, the Ministry of Petroleum and Mines hired experienced technocrats from among locals employed by the incumbent multinational companies and used innovative compensation tools to attract and retain talent. Furthermore, it introduced standard operating procedures to ensure consistency and transparency in the application of the Regulations, and to improve efficiency in the its internal operations. Trinidad and Tobago therefore entered into its Independence age with a well-designed regulatory eco-system, populated with talented people and processes, customised to the country's unique circumstances. For the next 2 decades or so these worked brilliantly and brought about a golden age of economic and social transformation that became widely admired. The system however had a major flaw. It provided no oversight of the Regulators. There has been no major overhaul of the Acts or Regulations for over 50 years. Because it had worked well, run by trusted technocrats, who were largely unsupervised, it was not evident that sector supervision was breaking down, just as natural gas was on the rise. There were huge gaps in the body of regulations for natural gas, which only came into prominence in the late 1980. As the operating manuals were no longer appropriate and fell into disuse, decision making became more ad hoc, eroding consistency and accountability. Some key regulations were being ignored, not implemented as intended or no longer fit for purpose. This presentation will give some examples of the lack of implementation of key regulations and illustrate the huge economic damage this has done to the economy of T&T, making a case for a revisit to the regulatory eco-system for the sector.

Mr. Randy Ramadhar Singh

Environmental Physics Laboratory, Department of Physics, Faculty of Science and Technology, The University of the West Indies, St. Augustine, Trinidad and Tobago

Topic:

A pathway for a just energy transition for Trinidad and Tobago

BIOGRAPHY:

Randy is a PhD candidate in the Department of Physics, Faculty of Science and Technology, UWI St. Augustine and his graduate research includes the global energy transition from fossil fuels to renewables from technical, economic, environmental, and social viewpoints with a focus on Trinidad and Tobago. He has conceptualised and authored several policy and advocacy documents both at the governmental levels and in academia.

He has also been intensively involved in the development of legislation and regulation to enable just, equitable and inclusive energy transitions to include renewables as alternative and sustainable forms of low carbon energy. Recently he presented work on just energy transitions at the United Nations and at the ICCE (spell out) in Portugal and has also been appointed a Salzburg Global Seminar Fellow. This role Salzburg Global Seminar Fellow involves leading a team preparing a country brief and policy dialogue on identifying Just Energy Transition pathways for Trinidad and Tobago's prosperity post fossil fuel energy transition.

ABSTRACT:

IA small island developing state (SIDS) in the Caribbean with a hydrocarbon economy, Trinidad and Tobago, enters its second energy transition to incorporate renewables into its power generation sector. This SIDS would benefit from a comprehensive strategy that would provide direction for a fair and equitable energy transition. To this end, current native energy policies are examined and assessed under the lens of energy justice. Recommendations are made for Trinidad and Tobago to gain from incorporating the fundamental principles of energy justice into its present and forthcoming energy policy structure. These include procedural, distributional and recognitional justices. This work also considers a pathway for a just energy transition where the potential income from the avoided gas is used as a subvention for the inclusion of utility scale renewable energy facilities. This approach allows for relatively low electricity tariffs to be retained for domestic consumers and avoided gas to be directed to regenerate the downstream petrochemical sector. Such an approach strengthens the tenets of energy justice and presents a case for Trinidad and Tobago to lead in just energy transition whilst achieving the country's NDCs to the Paris Agreement.

Justice Anthony D.J. Gafoor

PhD; LL.M; Executive Masters of Law (Dispute Resolution); MA (Business Law); MSc (Finance and Financial Law); FCIArb; Barrister (UK); Attorney at Law (T&T).

Topic:

Taxation and Fiscal Systems in the Energy Industry Abstract A review of some recent energy cases before the Tax Appeal Court of Trinidad and Tobago (Superior Court of Record)

BIOGRAPHY:

Justice Dr. Anthony Gafoor is the Chair and Chief Judge of the Tax Appeal Court of Trinidad and Tobago (Superior Court of Record). He holds a PhD in International Relations/Law as well as several postgraduate qualifications among which include among their subject areas Taxation, Finance and Financial Law; Energy Law; the Law of Multinational Corporations and International Economic Law. He is a Fellow of the Chartered Institute of Arbitrators, UK; Chair of the Chartered Institute of Arbitrators Caribbean Branch; and the Chair of the Chartered Institute of Arbitrators Trinidad and Tobago Chapter.

He is a certified arbitrator, mediator and mediation trainer, a Member of Faculty of the Chartered Institute of Arbitrators and a former Senior Lecturer in Mediation Studies at the Department of Behavioural Sciences and in International Law, Regional Integration and the CSME and the International Law of Development at the Department of Political Science, UWI, St. Augustine as well as a Lecturer in Business Law at the UWI Open Campus; and in Corporate Ethics at the Department of Management and the Arthur Lok Jack School of Business. He is also the Editor of the Trinidad and Tobago Tax Cases as well as a frequent presenter at national, regional and international conferences.

ABSTRACT:

The energy sector is of critical importance to the national fiscal regime of Trinidad and Tobago and the wider Caribbean due to its contribution to the national budget. Trinidad and Tobago has itself had a long history of oil and gas exploration. Many multinational corporation in the energy sector have established branches or subsidiaries in the local jurisdiction. The operations of these multinational companies and the relationship between their headquarters and the local or regional subsidiary and the State has given rise to several taxation disputes. These disputes generally revolve around the Double Taxation Treaty arrangements among the CARICOM Member States and the wider issue of withholding taxes. This presentation seeks to present a brief overview of the role of the Tax Appeal Court of Trinidad and Tobago in resolving these disputes. It examines some of the more recent cases which have emerged from the jurisprudence of the Court. These cases may also have significant implications for the newly emerging oil and gas regimes in other neighboring CARICOM jurisdictions. Key words/phrases: fiscal regime; oil and gas exploration; multinational companies; CARICOM Double Taxation Treaty; withholding tax.

Dr. Indira Rampersad

Lecturer, Political Science/International Relations, UWI, St. Augustine,

Topic:

Oily war: interrogating the Guyana-Venezuela Dispute

BIOGRAPHY:

Dr. Indira Rampersad holds a Ph.D. in Political Science, a Master of Philosophy in Latin American Literature, a Master of Philosophy in International Relations, a Bachelor of Arts in Language in Literature, a postgraduate Diploma in International Relations and a Certificate in Translation from Spanish to English. She has also obtained an LEC from the Hugh Wooding Law School, Trinidad and Tobago, an LPC and an LLM from Staffordshire University, UK and an LLB from the University of London.

Dr. Rampersad has been awarded two Fulbright scholarships for study in the United States, one at the Southern Illinois University, Carbondale, Illinois, to examine the American Political System, the other to undertake her Ph.D. in Political Science at the University of Florida, Gainesville, where she majored in International Relations and minored in Public Policy. Her doctoral dissertation focused on American foreign policy to Cuba on which she has published and presented at many international academic and non-academic forums. Her research interests now extend to Latin American and Caribbean Politics and International Relations, American Foreign Policy, crime and violence in the Caribbean, the Caribbean Court of Justice, International Law and Caribbean Constitutional Law.

Dr. Rampersad has served as a Commissioner of the Equal Opportunity Commission of Trinidad and Tobago. She is also a qualified Attorney-at-law and a regular media commentator on national, regional and international issues. She is currently Head of the Department of Political Science at The University of the West Indies (UWI), St. Augustine, Trinidad and Tobago where she has been a Lecturer in Political Science/International Relations since 2007.

ABSTRACT:

This paper argues that Venezuela's recent renewed claims to the Essequibo region in Guyana is primarily an economic oil war on the one hand and a traditional quest for regional political power on the other.

It contends that economically, Venezuela's interest in the disputed territory is due to the rich, superior quantity and quality oil reserves currently being explored in Guyana. Venezuela has over 300 million barrels of oil reserves whereas Guyana has about 11 billion barrels.

The paper examines the legality of Venezuela's actions. It notes that rather than engage in unitization to cooperate across borders, Venezuela has been threatening annexation of Guyana's Essequibo region and even issuing a threat of territorial acquisition through the use of force in breach of international law.

The paper further contends that Venezuela's historical border dispute with Guyana is part of its larger quest for political power in the Caribbean. This is exemplified its ideological oil initiative via the Alba/PetroCaribe project. Moreover, it argues that Venezuela's oil war with Guyana is a feature of the intermestic politics of President Maduro in his strategic attempt to whip up domestic political support for the upcoming internal elections in Venezuela later this year.

Mr. Kevin Ramnarine

Strategic Energy Adviser, Former Minister of Energy, Trinidad and Tobago

Topic:
Fiscal systems in Trinidad and Guyana's Energy sector

BIOGRAPHY:

Kevin Ramnarine served as Minister of Energy of Trinidad and Tobago (2011 to 2015). During his tenure he created a positive climate for investment which included the fiscal reforms that opened the country's deepwater province to investment and ultimately exploration. He also presided over the launch of the first ever IPO of an energy company in Trinidad and Tobago (TTNGL) and guided a $US one billion petrochemical investment by Mitsubishi to Final Investment Decision in 2015. Prior to being appointed Energy Minister, he held positions in the Energy Chamber of Trinidad and Tobago and at British Gas (now Shell) where he worked as a Lead Economist. Since leaving Ministerial office, he has lectured at the Lok Jack Global School of Business and worked as an energy consultant. He is a regular speaker and writer on energy and sustainable development and has delivered speeches at major international conferences and at universities in the US and the UK. In 2021, he contributed to the book "The Global Energy Transition" a publication of the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee. He has advised the Governments of Guyana, Barbados and Lebanon on matters related to energy policy. In 2014, he was named "Energy Executive of the Year" by the Petroleum Economist magazine. He holds a B.Sc. in Chemistry, a Bachelor of Law (LLB), a M.Sc. in petroleum engineering and an international MBA. He is also a member of the Society of Petroleum Engineers (SPE).

Prof. Francesco Cannas

Professor in Tax Law, University of Turin

Topic:

How to Tax Our Way to Energy Justice

BIOGRAPHY:

Francesco is a tax expert, active both in academia and in the private practice. He is admitted to the Italian Bar (Avvocato) and, after having held positions in several countries, is currently an Assistant Professor in Tax Law at the University of Turin. He is the author of a monography on VAT and more than fifty publications on top international tax law journals (among which, World Tax Journal, Intertax, European Taxation, World Journal of VAT/GST Law e EC Tax Review). As a tax adviser, he worked extensively with both European and international clients.

ABSTRACT:

This chapter is already accepted for publication and its purpose is to discuss some of the legal issues that currently make many tax systems not entirely suitable to support what is commonly known as the eco- or green transition. The legal analysis focuses on certain concepts, particularly those of horizontal equity and neutrality, which were originally conceived from a predominantly economic perspective and should now be reviewed from a partially different point of view in order to provide a more holistic meaning. The theory underlying the present contribution is that the idea that two persons may be treated differently for tax purposes on the basis of how much they pollute, even if their economic situation is similar, should be elevated to the rank of constitutional value. In this context, the concepts of environmental equity and environmental neutrality should be introduced in the tax systems. In addition to this, it must also be considered that the tax system can often play a role that is little more than marginal and certainly cannot be the primary driver of developing a sustainable energy sector because that would be asking too much of taxes. This is why, for example, the revision of certain legal principles may help shape tax incentives for research and development or encourage a more environmentally friendly consumption taxation. However, it is unlikely to foster technology transfer to developing countries lacking infrastructure or ground the removal of subsidies to the most polluting sectors of the economy. This is the ultimate reason why this chapter does not comprehensively analyse, among others, the removal of subsidies to polluting sectors. This is not because it is an irrelevant issue from a tax standpoint but because what is required in that case is the policymaker's decision to remove these subsidies rather than a change in the legal basis on which they are rooted. From a methodological point of view, this chapter is written from a European and comparative perspective in the sense that it analyses some of the legal issues related to the incentivisation of clean and affordable energy, beginning with those that have emerged from the EU experience. Its objective is to elaborate conceptual solutions that can subsequently be used as a general model and commencement for reforms either in or outside the EU itself.

Ms. Indira Rampaul-Cheddie

Permanent Secretary, Office of the Attorney General and Ministry of Legal Affairs

Topic:

The Proposed Standardization of Energy, Oil and Gas and Renewable Energy Contracts

ABSTRACT:

The use of Production Sharing Contracts ("PSCs) has been a positive shift away from traditional oil and gas contractual arrangements, such as Exploration and Production Licences. Their use and development have evolved remarkably over time so as to respond to changing realities in the oil and gas industry. This has been seen by virtue of utilizing certain legal constructs such as content clauses and cost recovery clauses to facilitate contractual obligations between the National Oil Company ("NOC") and the State. For instance, following the adoption of the World Bank PSC Model by the Government of the Republic of Trinidad and Tobago in 1995, the inclusion of contractual terms and conditions specific to the nature and complexity of the contractual agreement has undoubtedly seen to be beneficial to those major key players involved in the upstream petroleum sector.

However, based on the drafting of certain contractual provisions, it follows that the exhaustive or limited character of such contractual provisions contained in PSCs may amount to absurdities in interpreting the PSC itself in light of certain regulatory, policy and legislative considerations and moreover, may amount to a lack of uniformity if such precedents are applied to other jurisdictions. Notwithstanding the benefits gained from standardized model contracts which include, inter alia, revenue sharing, local employment and infrastructure development, its disadvantages can be perilous owing to the disparate economic, socio-economic, political geographical, geopolitical and legislative factors and risks involved. An example is Venezuela where there was an imposition of sanctions by the United States on account of political instability which in turn led to its infrastructure and production equipment being dismantled and IOCs not being given the opportunity to invest in its oil and gas industry.

Albeit certain common provisions in a PSC can remain unchanged to fit current reality, such as definitions and scope, it can be said that certain clauses attributed to a typical, opaque PSC may not cater to the needs of the IOC and State given changing circumstances. Therefore, PSCs may need to be tailored to the concordant will of the parties.

In this regard, the proposed standardization of oil and gas contracts for infrastructure, extractives and energy industries is paramount in addressing the lack of uniformity in PSCs. Commonwealth jurisdictions, both regional and international, shall be used in order to illustrate the domestic legislative framework; the legal conundrums which exist in such territories; and moreover, address the issue of whether there is sufficient scope to facilitate the modification of such clauses given the petroleum laws of that jurisdiction. Jurisdictions such as Trinidad and Tobago, Guyana and Nigeria shall be used as comparators in analyzing the trajectory of considerations in developing a comprehensive model contract for infrastructure, extractives and energy industries.

Moreover, the Paper shall examine those clauses of the PSC which can be kept and those clauses which can be tweaked in light of enhancing contract administration, managing stakeholder expectations, facilitating sustainable investment and evolving legislation, both national and international, in oil and gas contracts.

Ms. Vanna Jankiepersad

Legal Counsel II, Office of the Attorney General and Ministry of Legal Affairs

Topic:

The Proposed Standardization of Energy, Oil and Gas and Renewable Energy Contracts

ABSTRACT:

The use of Production Sharing Contracts ("PSCs) has been a positive shift away from traditional oil and gas contractual arrangements, such as Exploration and Production Licences. Their use and development have evolved remarkably over time so as to respond to changing realities in the oil and gas industry. This has been seen by virtue of utilizing certain legal constructs such as content clauses and cost recovery clauses to facilitate contractual obligations between the National Oil Company ("NOC") and the State. For instance, following the adoption of the World Bank PSC Model by the Government of the Republic of Trinidad and Tobago in 1995, the inclusion of contractual terms and conditions specific to the nature and complexity of the contractual agreement has undoubtedly seen to be beneficial to those major key players involved in the upstream petroleum sector.

However, based on the drafting of certain contractual provisions, it follows that the exhaustive or limited character of such contractual provisions contained in PSCs may amount to absurdities in interpreting the PSC itself in light of certain regulatory, policy and legislative considerations and moreover, may amount to a lack of uniformity if such precedents are applied to other jurisdictions. Notwithstanding the benefits gained from standardized model contracts which include, inter alia, revenue sharing, local employment and infrastructure development, its disadvantages can be perilous owing to the disparate economic, socio-economic, political geographical, geopolitical and legislative factors and risks involved. An example is Venezuela where there was an imposition of sanctions by the United States on account of political instability which in turn led to its infrastructure and production equipment being dismantled and IOCs not being given the opportunity to invest in its oil and gas industry.

Albeit certain common provisions in a PSC can remain unchanged to fit current reality, such as definitions and scope, it can be said that certain clauses attributed to a typical, opaque PSC may not cater to the needs of the IOC and State given changing circumstances. Therefore, PSCs may need to be tailored to the concordant will of the parties.

In this regard, the proposed standardization of oil and gas contracts for infrastructure, extractives and energy industries is paramount in addressing the lack of uniformity in PSCs. Commonwealth jurisdictions, both regional and international, shall be used in order to illustrate the domestic legislative framework; the legal conundrums which exist in such territories; and moreover, address the issue of whether there is sufficient scope to facilitate the modification of such clauses given the petroleum laws of that jurisdiction. Jurisdictions such as Trinidad and Tobago, Guyana and Nigeria shall be used as comparators in analyzing the trajectory of considerations in developing a comprehensive model contract for infrastructure, extractives and energy industries.

Moreover, the Paper shall examine those clauses of the PSC which can be kept and those clauses which can be tweaked in light of enhancing contract administration, managing stakeholder expectations, facilitating sustainable investment and evolving legislation, both national and international, in oil and gas contracts.

Dr. Emma Perot

LLB, LLM, BPTC, PhD, Lecturer in Law, UWI St. Augustine

Topic:

Technology transfer, climate change, and the developing world: The difficulties posed by green patents

BIOGRAPHY:

Dr Emma Perot is a Lecturer in Law at the University of the West Indies. Her first book, 'Commercialising Celebrity Persona: Intellectual Property Law and Practice' was published in September 2023 by Hart Publishing. Emma's expertise in the field of Intellectual Property has yielded publications on deepfakes, NFTs, use of paparazzi photographs by celebrities, and the role of patents in the climate crisis. Emma organises the internationally attended 'Research Skills Series' as well as the 'Alternative Careers for Law' series which exposes students to different opportunities outside of the traditional practice route.

Emma received her PhD in Intellectual Property from King's College London where she was a fully funded Dickson Poon Scholar. During her PhD she was elected President of the Graduate Legal Research Society, convened the International Graduate Legal Research Conference, acted as a research assistant to Copinger and Skone James on Copyright, and worked as a Study Skills Leader. She obtained her LLM in Intellectual Property with Distinction from University College London. She was a Kennedy Scholar at Lincoln's Inn where she was called to the UK Bar in 2016. Prior to this, she achieved her LLB with First Class Honours from the University of Kent where she received the Chancellor's Scholarship for Trinidad and Tobago.

ABSTRACT:

This paper considers the absence of enforceable technology transfer obligations within the Paris Agreement. It acknowledges that the patent system is an imperfect incentive for innovation, but that patent protection is necessary for research and development. Developed countries have consistently objected to attempts by developing countries to address patents in international treaties, most recently the Paris Agreement. As such, this paper will propose an Incentivised Licensing approach that would require governments to grant tax deductions to companies that enter into green technology licensing deals with developing countries. This approach recognises the role that patents play in technology transfer and places an obligation on governments to actively encourage green technology transfer. Furthermore, governments of developing countries will be able to access the Green Climate Fund to ensure that licensors are adequately remunerated for their technology. This solution strikes a balance between the needs of companies to recoup investment, the desire of developed countries to maintain strong patent rights, and the ability of developing countries to access technology transfer to achieve a Just Transition.

Ms. Margarita Nieves Zárate

LL.M, PhD Researcher, Faculty of Law, University of Groningen the Netherlands

Topic:

The evolution of oil and gas regulators in times of climate change: institutional responses to the energy transition

BIOGRAPHY:

Margarita Nieves-Zárate, PhD candidate (University of Groningen), LLM in mining, oil and energy law (University Externado), lawyer (University Popular del Cesar), is a Colombian pioneering lawyer, regulatory expert, scholar, academic writer, researcher and public speaker on climate change, energy transition, oil and gas regulation and sustainable development with 16 years of professional and academic working experience. She has published +20 papers and book chapters, and been invited as speaker in +50 academic and industry conferences on these topics. Margarita led the implementation of the first offshore wind energy auction in Latin America and the Caribbean, and has +10 years of experience in the public sector in Colombia. She has been a guest lecturer at several universities (Nottingham, Stirling, Andes, Externado).

ABSTRACT:

The fight against climate change, the societal pressure to decarbonize energy production and the emergence of renewable energy technologies contest the conventional design of offshore oil and gas regulators devoted to promote the exploration and exploitation of hydrocarbons. In the last years some policymakers of offshore oil and gas producing countries reformed their hydrocarbons regulators to embrace these climatic demands, as it is illustrated with the cases of the United States (US), the United Kingdom (UK), and Canada.

In 2005 the functions of the US federal offshore oil and gas regulator were expanded to include the grant of leases to produce energy from sources other than oil and gas. Subsequently, in 2010 the US federal government changed the name of the Minerals Management Services (MMS) -the former oil and gas licensing authority- to the Bureau of Ocean Energy Management. In the UK, policymakers have reformed two institutions that regulate the offshore oil and gas sector. The Oil and Gas Authority was renamed in 2022 as the North Sea Transition Authority, while in 2023 the Department for Business, Energy & Industrial Strategy was redesigned to create the Department for Energy Security and Net Zero. Similarly, in Canada, the name of the oil and gas regulator of the province of British Columbia (BC) changed in 2022 from theBC Oil and Gas Commission (BCOGC) tothe BC Energy Regulator, expanding its functions to energy resources and technologies such as hydrogen, and carbon capture and sequestration.

The rebranding of offshore oil and gas regulators to energy regulators has been received with skepticism by environmental non-governmental organizations and climate activists, which consider these changes as a form of "greenwashing" that might even endanger the advance of cleaner energy technologies. Though recent academic studies have analyzed the role of oil and gas major companies in the energy transition,[1] less attention has been devoted to the organizational responses of hydrocarbon regulators to the energy transition. This paper aims to contribute to fill this research gap by comparing the institutional reforms of offshore hydrocarbons regulators undertaken in the US, the UK and Canada. Some pressing questions are: what is the role of offshore oil and gas regulators to decarbonize the energy sector?; what are the main changes introduced to offshore oil and gas regulators to foster the energy transition?, and what type of indicators may contribute to identify whether oil and gas regulators advance or refrain the energy transition? The analysis of the challenges faced by offshore oil and gas regulators in the countries selected, may offer lessons to other regulators around the world to respond to the societal demands for low carbon energy sources.