



THE CENTER FOR CLIMATE CHANGE,
ENERGY AND ENVIRONMENTAL LAW



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Theorizing Energy Law as a Field of Law

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This presentation

Answers the question of why *theorise* energy law

Explores how **special jurisprudence** can help **strengthen** energy law's coherence as a legal field

Examines to what extent energy law can be seen as **an autonomous legal field**

Notes how its main characteristics **shape perceptions** of fragmentation

Special jurisprudence – why *theorise*?

Theory is “an attempt to provide an explanation of a phenomenon with the aim of understanding the phenomenon”

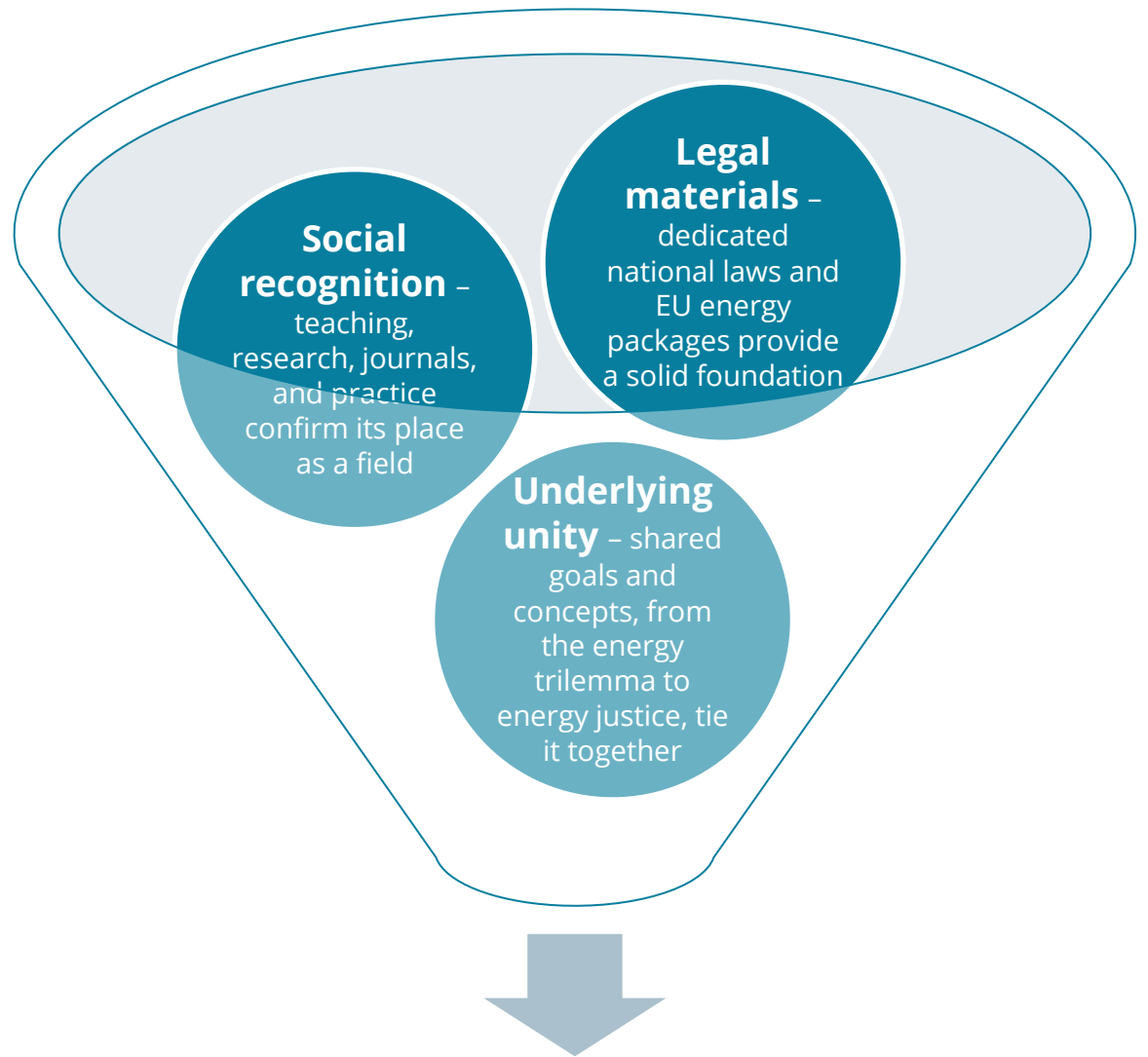
- Special jurisprudence:
 - theorises special areas of law, and finds value in advancing the theoretical foundations of legal fields
 - asks, what defines and sustains particular areas of law;
 - helps structure the process of theorizing
- The pressures on energy law make the current loosely defined status quo of the legal field **unsustainable**

Finding a legal field

Special jurisprudence's **three criteria** for a field of law:

- I. **Legal materials** – There must be statutes, cases, and other rules out of which the area emerges; it cannot be created out of nothing.
- II. **Social recognition** – The legal community must generally acknowledge it as a distinct field; no single scholar or practitioner can declare a new field on their own.
- III. **Underlying unity** – Beyond grouping rules together, there must be some theoretical or conceptual account that explains what binds the field and gives it coherence.

Energy law & the criteria for autonomy



Theory of energy law

How energy law's characteristics shape perceptions of fragmentation

- Energy law is (still) often seen **as fragmented** – its borders are fuzzy, it is driven by technological change, and it balances conflicting objectives.
- From the perspective of special jurisprudence, these characteristics matter because they put the third criterion – underlying unity – **to the test**.
- **Coherence**, not legal materials or recognition, is the real challenge – and theorising is needed to clarify what holds the field together.



Final thoughts

- Energy law meets the criteria of an autonomous field, but **its characteristics challenge coherence and sustain perceptions of fragmentation**
- Building its theoretical foundations **requires dialogue, critique, and collaboration among scholars**

Thank you!



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