



GJIE-NYU LAW
A DIALOGUE ON THE LATEST SCIENTIFIC AND LEGAL DEVELOPMENTS IN CLIMATE CHANGE LAW
December 9, 2023

In Cooperation with the UN Environment Programme, the International Association of Judges, World Commission on Environmental Law, the International Council of Environmental Law and the European Union Forum of Judges for the Environment

A Dialogue on the Latest Scientific and Legal Developments in Climate Change Law

Climate Change is a global issue that requires the attention and action of institutions and stakeholders at every level around the world. This includes multifaceted, cross-cutting approaches that incorporate the work of international and domestic actors. An important element of this effort is the role of national and international courts, often tasked with deciding disputes with complex temporal and spatial environmental ramifications. Indeed, climate cases have been on the rise globally – as more stakeholders are getting involved in decision making processes, and awareness of the harmful and lasting effect of environmental harm steadily increases.

Due to the complexity and rapid development of the field from a scientific and jurisprudential development, judges have identified a need for the development of judicial professional expertise on these issues. The CHRJG and GJIE therefore see the upcoming Conference of the Parties COP-28 – which will count with the broad participation of high-level judges from around the world due to the support of the GJIE and UNEP – as a unique opportunity to fill this gap. Under the framework of the GJIE-CHRJG partnership, the GJIE and CHRJG will therefore hold an immersive one-day Dialogue to provide GJIE members and other judges with the knowledge and tools needed to rule on climate change issues.

The Dialogue seeks to facilitate knowledge exchange between judges and interdisciplinary climate experts, and to build the capacity of judges so that they may better grasp and resolve the proliferating set of climate change disputes. In this way, the GJIE and CHRJG seek to contribute to the development of jurisprudence and best practices in the environmental law field.

With this in mind, the Dialogue will focus on four key and timely areas of scientific and jurisprudential climate developments: **(I) Global Overview of Climate Jurisprudence: Cases, Doctrines, and Remedies, (II) Climate Science, Ethics and the Law, (III) Emerging Legal Doctrines at the Intersection Between Climate Law and International Human Rights, and (IV) Relevant Upcoming Climate Law Developments.**

Dialogue Program

Time	Program
7:30 am	Hotel Pick-up (Dubai) and Drive to NYUAD (Abu Dhabi)
9:00 – 10:00 am	Breakfast

10:00 – 11:00 am	Opening by Justice Antonio Herman Benjamin, Professor, Mr. Andy Raine, NYUAD Leadership, César Rodríguez-Garavito
11:00 am – 12:00 pm	Session I: Global Overview of Climate Jurisprudence: Cases, Doctrines, and Remedies <ul style="list-style-type: none"> ◇ Chief Justice Luís Roberto Barroso ◇ Chief Justice Martha K. Koome (Chair) ◇ Chief Justice Luc Lavrysen
12:00-1:30 pm	Lunch
1:30-3:00 pm	Session II: Climate Science, Ethics and the Law <ul style="list-style-type: none"> ◇ Ms. Ashley Nemeth ◇ Dr. L Delta Merner <p>Discussion:</p> <ul style="list-style-type: none"> ◇ Mr. Gustavo Alanis ◇ Justice Nambitha Dambuzza ◇ Justice Syed Mansoor Ali Shah ◇ Ms. Ashley Nemeth (Chair)
3:00-3:15 pm	Coffee Break
3:15-4:45 pm	Session III: Emerging Legal Doctrines at the Intersection Between Climate Law and International Human Rights <ul style="list-style-type: none"> ◇ Professor Nick Bryner ◇ Professor Melina De Bona (Chair) ◇ Justice Sapana Pradhan Malla ◇ Professor César Rodríguez-Garavito
4:45-5:45 pm	Session IV: Relevant Upcoming Climate Law Developments <ul style="list-style-type: none"> ◇ Ms. Juliette Biao ◇ Ambassador Luiz Alberto Figueiredo Machado ◇ Justice Leonardo Nemer Caldeira Brant (Chair) ◇ Mr. Andy Raine ◇ Professor Christina Voigt
5:45-6:00 pm	Plenary & Closing
6:30 pm	NYUAD Pick-up (Abu Dhabi) and Drive to Hotel (Dubai)

Program Details

I. Session I: Global Overview of Climate Jurisprudence: Cases, Doctrines, and Remedies

The rise in climate change jurisprudence has brought with it three predominant avenues through which practitioners have sought to hold states and corporate entities accountable for duties regarding climate change – adaptation, mitigation, and loss & damage lawsuits. As a result, courts

are increasingly receiving cases challenging climate action or inaction. While at times overlapping, each approach raises diverse juridical questions across a broad array of climate change impacts. This session will shed light on the approaches and explore potential future trends.

II. Session II: Climate Science, Ethics and the Law

Caselaw concerning the impacts of climate change often make causal claims about the effect of a defendants' greenhouse gas (GHG) emissions. These cases have proliferated around the world, varying in form from seeking compensation for climate-related losses to compelling governments to reduce their GHG emissions. This session will shed light on what is within the realm of scientific possibilities for climate-related legal evidence, discuss how judges may use such evidence to inform the resolution of timely juridical questions like causation, and provide a space for participants to consider how the law can adapt to inherent scientific limitations. Understanding what science can and cannot prove will equip courts to accurately assess scientific evidence. The session will particularly focus on attribution science, as well as thinking through and deciding diverse types of climate cases.

III. Session III: Emergent Legal Doctrines at the Intersection Between Climate Law and International Human Rights

Today, approximately 2,341 climate cases have been filed across the globe, with the sheer number, geographic distribution, and diversity in legal bases continuing to expand. This session will particularly focus on one of the field's most prominent developments – the “rights-turn” or the boom in climate change lawsuits that incorporate rights-based arguments. While in 2015 only eleven rights-based climate cases had been filed anywhere in the world, litigants have since brought approximately 300 such cases in over thirty national jurisdictions and over eight international judicial or quasi-judicial bodies. This session will explore the role of rights-based climate caselaw as a leverage point for scaling and speeding up climate action at a moment when time is running out to prevent the most catastrophic scenarios of global warming. It will also explore the key jurisprudential doctrines and developments upon which rights-based climate jurisprudence is based on.

IV. Session IV: Relevant Upcoming Climate Law Developments

This session will inform judges of the most salient upcoming processes and developments in the climate law field. The session will shed light on the way in which such developments may advance or hinder the development of the climate law field.

Participants (in alphabetical order by last name)

- ◇ Mr. **Gustavo Alanis** (Universidad Iberoamericana Attorney; IUCN Member)
- ◇ Ms. **Juliana Almeida** (Environmental Law Specialist of the Law Division, UNEP)
- ◇ Justice **Oscar Angote** (Presiding Judge of the Environment and Land Court, Kenya)
- ◇ Chief Justice **Luís Roberto Barroso** (Chief Justice of the Supreme Court of Brazil)
- ◇ Justice **Antonio Herman Benjamin** (Justice of the High Court of Brazil; GJIE Co-President)
- ◇ Ms. **Juliette Biao** (Director, UN Forum on Forests Secretariat)
- ◇ Mr. **Caio Borges** (Coordinator of the Law and Climate Program, Instituto Clima e Sociedade)
- ◇ Professor **Nick Bryner** (Associate Professor of Law at Louisiana State University; GJIE Special Advisor)
- ◇ Justice **Nambitha Dambuza** (Justice of the Supreme Court of Appeal of South Africa)
- ◇ Professor **Melina De Bona** (Adjunct Professor of Law at NYU School of Law; Center for Human Rights and Global Justice Attorney at NYU School of Law)
- ◇ Professor **Pavlos Eleftheriadis** (Professor of Legal Studies at NYU Abu Dhabi; Affiliated Professor at NYU School of Law)
- ◇ Ambassador **Luiz Alberto Figueiredo Machado** (Ambassador Extraordinary for Climate Change of Brazil)
- ◇ Chief Justice **Martha K. Koome** (Chief Justice of the Supreme Court of Kenya)
- ◇ Chief Justice **Luc Lavrysen** (Chief Justice of the Constitutional Court of Belgium)
- ◇ Justice **Syed Mansoor Ali Shah** (Justice of the Supreme Court of Pakistan)
- ◇ Dr. **L. Delta Merner** (Lead Scientist at the Science Hub for Climate Litigation, Union of Concerned Scientists)
- ◇ Justice **Leonardo Nemer Caldeira Brant** (Justice of the International Court of Justice)
- ◇ Ms. **Ashley Nemeth** (Clinical Supervisor at NYU School of Law; Center for Human Rights and Global Justice Attorney at NYU School of Law)
- ◇ Justice **Sapana Pradhan Malla** (Justice of the Supreme Court of Nepal)
- ◇ Mr. **Andy Raine** (Head of Frontiers in Environmental Law Unit of the Law Division, UNEP)
- ◇ Professor **César Rodríguez-Garavito** (Professor of Clinical Law at NYU School of Law; Chair of the Center for Human Rights and Global Justice at NYU School of Law)
- ◇ Professor **Aude Solveig Epstein** (Visiting Assistant Professor of Legal Studies at NYU Abu Dhabi; Tenured Assistant Professor at Paris Nanterre University Law School)
- ◇ Professor **Christina Voigt** (Professor of Law at the University of Oslo; Chair of the IUCN World Commission on Environmental Law)
- ◇ Ms. **Rose Wachuka Macharia** (Chief of Staff, Supreme Court of Kenya)
- ◇ Ms. **Jackline Wawira** (Aide, Supreme Court of Kenya)

The Academic Partnership Between the GJIE and CHRGI

The Global Judicial Institute on the Environment (“the GJIE”) is organized by judges for judges and committed to judicial independence, transparency, and integrity. It supports the judiciary across the world to effectively handle cases concerning the environment. Composed of actively sitting

supreme court justices and judges from around the world, the GJIE provides opportunities to exchange information, create partnerships for collaboration, strengthen capacity, and provide research and analysis on topics important for environmental adjudication, court practices, and the environmental rule of law.

The Center for Human Rights and Global Justice (“the CHRJ”) at New York University School of Law brings together and expands a rich array of teaching, research, clinical, internship, and publishing activities on issues of international human rights law. The Center acts as a catalyst with global partners to develop innovative ideas and practices that address the unparalleled challenges that the human rights field currently faces – from the erosion of democratic norms and growing inequalities to the climate emergency, technological disruption, changing geopolitics, and violent conflict.

The GJIE and CHRJ have recently established and launched a formal academic partnership, under which they undertake joint research and educational activities for judges across the world on issues related to environmental law and jurisprudence. These include, but are not limited to, implementation of regional and thematic events on judges and the environment, implementation of biannual symposiums at the New York NYU School of Law campus, and joint research activities.