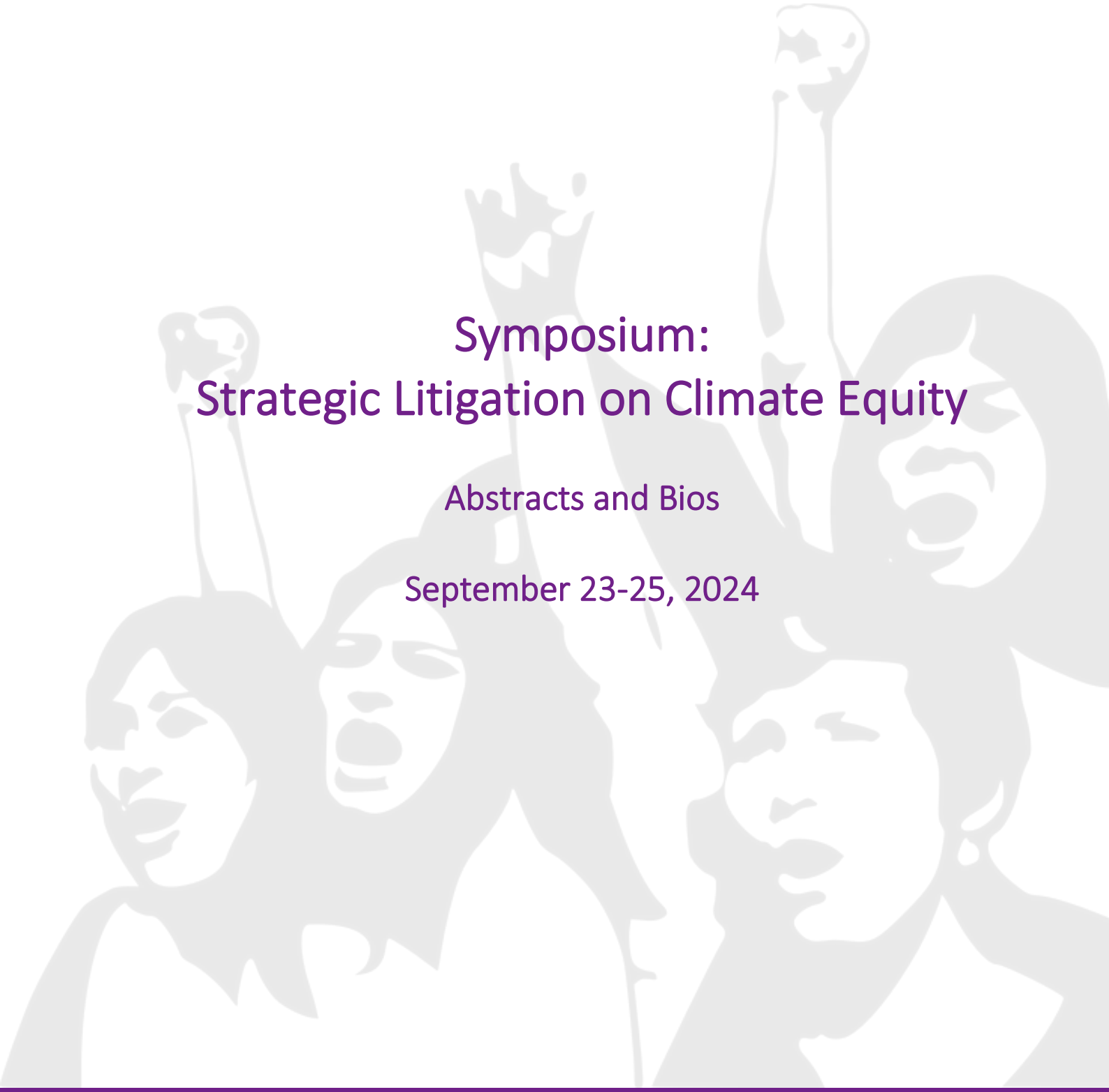

Symposium:
Strategic Litigation on Climate Equity

Abstracts and Bios

September 23-25, 2024

Berkeley Center on Comparative Equality & Anti-Discrimination Law

Climate Equality Working Group

Climate Litigation Network

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Aoife Nolan: "Harnessing the Power of Equality Law to Advance Climate Justice: The Role of Children and Future Generations"

Abstract: The last decade has seen increasing use of the courts and supra-national quasi-judicial bodies to advance both children and future generations' rights in the context of climate change. A significant and growing number of cases involving these groups have featured non-discrimination/equality arguments, with varying degrees of success. Drawing on existing jurisprudence and litigation at the international and national levels, this paper considers the opportunities and risks presented by equality argumentation in climate justice cases brought on behalf of children and FG, both in theory and practice. In doing so, it explores the inter-relationships (and disconnects) between these groups, as well as the particular issues that they raise for conceptions of age discrimination and equality.

Bio: Professor of International Human Rights Law & Director of the Human Rights Law Centre, School of Law University of Nottingham; President, Council of Europe European Committee of Social Rights.

Dina Lupin, Maria Tigre, and Natalia Urzola: "Gender, Climate Change, and the Courts"

Abstract: Climate litigation has become an increasingly important tool for challenging state inaction on climate change and demanding greater attention to social and economic injustices in domestic and global climate policy. However, even though more than 2,500 climate cases have been brought worldwide, less than ten focus on the gendered dimensions of climate change or the disproportionate impacts of climate change on the rights of women, girls, gender-diverse and non-binary communities. This is despite growing recognition of the gendered causes and impacts of climate change and the significant role of women, girls, gender-diverse and non-binary activists at the forefront of the climate justice movement.

Climate litigation can be a powerful instrument for addressing the gender-obscured approach, integrating useful definitions of gender into states' climate responses, and engaging with women, girls, and gender-diverse and non-binary groups about their needs and goals. In this paper, we outline what courts (and litigants) should and could be doing to realize rights-based litigation's potential to address the unjust impacts of climate change on women, girls, and gender-diverse and non-binary communities. This, we argue, is not simply a matter of calling for more litigation on the gendered dimensions of climate change but involves closely scrutinizing how gender is understood, used, and ignored in climate policy and climate litigation.

This approach suggests how litigation can help account for climate change's profoundly differential impacts while contending with issues of gender-based difference and inequality in practical ways. This article begins by discussing some of the gendered dynamics of climate change. Second, it examines seven climate cases in which gender arguments were advanced from a factual or legal perspective. Third, it outlines an agenda for using litigation to advance the understanding and justice-based decision-making in relation to gender and climate change.

Bio: Dr Dina Lupin is a Lecturer at the School of Law at the University of Southampton. She is also the Director of the Global Network for Human Rights and the Environment (GNHRE). In her research, Dina examines the role of fundamental legal values (such as human dignity) in the context of environmental decision-making and she uses feminist, queer and decolonial theory in her analysis of Indigenous epistemic and social resistance to unjust environmental processes and practices. Dina is the Alumni Co-ordinator and the Equality, Diversity and Inclusion Officer for Southampton Law School. She is also Co-ordinator of the Law and Psychology Programme.

Bio: Dr. Maria Antonia Tigre is the Director of Global Climate Change Litigation at the Sabin Center. She manages the Sabin Center's Global Climate Change Litigation Database with the support of the Sabin Center's Peer Review Network of Climate Litigation. Maria Antonia is a leading expert in the field of climate change law and climate litigation, having published dozens of articles on the topic. She co-heads the Sabin Center and GNHRE's project on Climate Litigation in the Global South. Her research particularly focuses on rights-based climate litigation, climate litigation in the Global South, and the forthcoming advisory opinions on climate change.

Bio: Natalia Urzola is an SJD student at Elisabeth Haub School of Law at Pace University. In 2020, she obtained her LL.M. from the University of California, Berkeley. Natalia is the Chief Operating Officer at the Global Network for Human Rights and the Environment and the Colombian Rapporteur of the Sabin Center's Global Peer Reviewers' Network of Climate Litigation. Her recent publications include Gender in Climate Litigation in Latin America: Epistemic Justice Through a Feminist Lens in the Journal of Human Rights Practice.

Nathalie Chalifour: "Equality Rights in Canadian Climate Litigation – Still a Poor Cousin even with the World on Fire"

Abstract: As more courts around the world hold governments accountable for taking scientifically-justified action on climate change, often on human rights grounds, Canada is increasingly becoming an outlier in safeguarding equality rights in the face of one of the most devastating issues of our time. Although the Supreme Court of Canada now recognizes that climate change disproportionately impacts certain groups, including Indigenous peoples, and lower courts have acknowledged that children and youth are disproportionately impacted by climate change, the four Charter-based climate lawsuits heard in Canadian courts have thus far have dismissed the equality-based components of the claims. Equality rights claimed under section 15 of the Canadian Charter of Rights and Freedoms have remained the poor cousin to the section 7 right to life, with judges devoting considerably less analysis to address equality arguments.

This paper critically examines the way in which Canadian courts have adjudicated equality rights claims in the climate lawsuits to date. Specifically, the paper unpacks the way in which the following four issues influence the equality analysis: (1) how the case is framed (i.e. around insufficient action and/or a network of policies); (2) causation; (3) positive/negative rights; and (4) defining age-related distinctions in the context of climate change, including the mischaracterization of distinctions as temporal and the treatment of future generations as an analogous ground to age. The paper concludes with a discussion of the factual and legal conditions that are likely to work in favour of a positive outcome in equality-based climate litigation in Canada.

Bio: Nathalie Chalifour is a Full Professor with the Centre for Environmental Law and Global Sustainability at the University of Ottawa. Nathalie's research is focused on the rapidly evolving legal framework for climate change. She has written extensively about the division of powers over greenhouse gas emissions and carbon pricing and climate litigation under the Charter. Nathalie has made written and oral submissions on behalf of interveners before the Ontario Superior Court of Justice, the Saskatchewan and Ontario Courts of Appeal, and the Supreme Court of Canada. She is a member of the Royal Society of Canada's College of New Scholars and was awarded the Faculty's Excellence in Research Award as well as the Public Engagement Award for Media Relations in 2021. Professor Chalifour obtained her PhD in Law at Stanford University, and has a Masters in Law obtained as a Stanford Fellow and Fulbright Scholar.

Ria Das and Sia Das: "Fighting for the future of youth: Exploring the nexus between strategic climate litigation, climate movements, and intergenerational justice in Asia-Pacific"

Abstract: The humanity is facing a triple planetary crisis with youth being disproportionately impacted by climate change. They are facing discrimination and age-related vulnerabilities linked to climate change. Sadly, the world's response to this crisis has so far been lackadaisical and in piece-meal. This deliberate reticence in dealing with climate crisis has finally prompted the youths across the world to respond through climate movements and strategic climate litigation to assert claims for intergenerational justice. However, the unequal burden that youth and children bear is also shaped by inequitable access to justice.

This article explores the recent shift in youth-led Climate litigation while briefly reflecting on cases in Asia-Pacific and examining the significant barriers that hampers young people's rights to access justice, make claims and fully participate in the legal process through empirical data which was developed through a targeted survey consultation with youth and children in the Asia-Pacific region for a more comprehensive and collaborative understanding. The data reflects multifaceted barriers, such as lack of justifiability, legal standing, unaffordability, inaccessibility, limited education/ legal literacy, forms of discrimination and geographical isolation that prevents youth and children from equitably accessing channels of legal justice and remedies.

In doing so, we analyze a set of key issues: (i) Whether the harm that children and youth face constitutes discrimination? (ii) What are the states and courts obligation against youth and children related to access to justice in environmental matters (iii) what are the major barriers to the full enjoyment of these rights and if denial of such rights constitutes human rights infringements? (iv) Potential remedies.

Since children and youth are disproportionately and first-hand impacted by the crisis, their equal participation and claims in court can bolster environmental rights, enforce legal obligations and ensure intergenerational justice, while advancing their critical role as "equal stakeholders" in effective climate justice.

Bio: Ria Das is an environmental lawyer and researcher in India with experience of closely engaging with youth groups, indigenous and local communities and social movements to advance collaborative research, advocacy and strategic litigation. She is currently serving as UN's Youth Advisor on Environmental and Climate justice in the Asia-Pacific region and is an integral member of IUCN-WCEL Early Career environmental law specialist group, where she develops projects and explores cutting edge issues around international environmental law research. She has co-authored research papers with national. Regional and global perspective.

Bio: Sia Dias is a human rights lawyer and researcher based in India. Her research area focuses on the inter-relationship between the environment and human rights, with a particular focus on indigenous rights. She was awarded the "Best research essay" by the United Nations office of space affairs and US mission to international organization in Vienna for her research project on Indigenous knowledge and climate change.

Aoife Daly: “The right to freedom from discrimination of children/youth in the climate crisis”

Abstract: One of these groups are those who are under 18 years. Children are active agents who are leading efforts to combat climate change. Yet they are generally physically vulnerable as compared with adults. They generally are not permitted to vote, and cannot influence climate policy (though it will affect them the longest). Yet there are a number of conceptual difficulties with positioning children/youth in the non-discrimination framework, not least because of the overlap with young people generally (i.e. youth over 18). There are also legal obstacles, such as the fact that under-18s are frequently excluded from frameworks prohibiting unfair discrimination. The CRC for example has generally not resulted in explicit consideration of discrimination against children on the basis of childhood (i.e. detrimental treatment for being young/under 18) in the same way that has happened for other groups like women and ethnic minorities. Yet there is potential for doing so, primarily through CRC Article 2. Child/youth climate petitions (e.g. the ECHR Duarte case) are increasingly invoking the principle of non-discrimination. It is argued in this article that climate litigation facilitates academics, lawyers and others to elaborate on what the principle of non-discrimination might mean for children, so that it can be better employed to progress their rights and interests.

Bio: Professor Aoife Daly teaches law, and specialises in human rights law at the School of Law, University College Cork. Aoife's research focuses on human rights-based approaches and children's rights in areas which include environmental rights, climate action, and access to justice. She is author of the internationally celebrated Children, Autonomy and the Courts (Brill, 2018) and Child/Youth Climate Action and Human Rights Law (forthcoming 2024 with Routledge). She is an award-winning university teacher, and also enjoys teaching children about human rights through art. In 2023 she secured a European Research Council Consolidator Grant to build a team to carry out a large scale research study on child/youth climate justice - inside and outside the courts - around the world. She is a member of the Global Network of Human Rights and the Environment, and UCC's Environmental Research Institute.

Joris Fonteine: “Reflections on the concept of intergenerational equity based on the French Constitutional Council’s decision of October 27, 2023”

Abstract: In an unprecedented decision dated 27 October 2023, the French Constitutional Council recognized that the freedom of future generations to satisfy their own needs must not be compromised by the legislative authority when it adopts measures likely to cause serious and long-term damage to the environment.

This decision on the underground storage of radioactive waste was made possible by a dynamic reading of the right to live in a healthy and sustainable environment, which is enshrined in the French Charter of the Environment and incorporated into the Constitution. In a similar case dated 7 November 2023, the Strasbourg Administrative Tribunal issued a summary judgement suspending an administrative order extending the underground storage of non-radioactive hazardous waste for an unlimited period.

This undoubtedly represents an important step towards effective legal protection for future generations. Nevertheless, this decision is likely to raise questions as to the real scope of the protection of future generations since a detailed analysis reveals a restrictive understanding of the duty to protect the interests of future generations.

This analysis is nonetheless likely to run up against the objectives of the Paris Climate Agreement and the obligations of public decision-makers to implement public policies aimed at mitigating and attenuating the effects of climate change for present and future generations. Environmental and climate protection advocates could therefore rely on the Constitutional Council's decision to initiate litigation against public policies that are not sufficiently ambitious in terms of carbon neutrality objectives.

In this way, intergenerational equity, which is still largely overlooked, is likely to become a central concept in future strategic litigation on climate issues.

Bio: Joris Fonteine is an attorney specialized in Environmental Law and Criminal Law admitted to the Luxembourg Bar and academic affiliated to the University of Paris I Panthéon-Sorbonne, I regularly lecture at conferences and universities about climate justice.

Giorgia Pane: "Future generations' lack of locus standi in environmental claims as a possible violation of the right to effective remedy"

Abstract: Human rights-based environmental claims are being raised all over the world (Setzer and Byrnes, 2023). Some of these cases are directed against corporations, other against governments, but they all share the aim of finding redress against human rights' violations caused by gross environmental degradation, most notably the climate crisis.

In this wide landscape of strategic climate litigation, a specific role is being played by litigation with an intergenerational approach. Intergenerational equity is a concept that states that all generations have an equal place in relation to the natural system, and that there is no basis for preferring past, present or future generations (Weiss, 1992). Using this approach in climate litigation means tackling the issue of how future generations are impacted by the decisions made today, specifically in relation to the reduction of GHG emissions.

Cases using this approach have been brought both before international and national courts, with very different outcomes. The Sacchi case before the CRC was dismissed because it failed exhausting domestic remedies, but similar issues arise in the pending Duarte Agostinho case before the ECtHR (whose judgment is expected next 9th April). At the national level, particular relevance is to be given at the Neubauer case in Germany (stating the need to share the "carbon budget" between generations) and the Minors Oposa case in the Philippines (which granted locus standi to future generations not yet born).

The present contribution aims at analysing this litigation through the lens of the right to a fair trial in its right to effective remedies part. Indeed, it is argued that the impossibility for future generations to appear before courts in cases where future harm is often irreparable – like climate cases – can be a violation of the right to an effective remedy and a violation of the prohibition of discrimination.

Bio: Giorgia Pane is a PhD student enrolled in the final year of the PhD program "Human Rights: evolution, protection, limits" at the University of Palermo. Her thesis focuses on the justiciability of the collective right to a healthy environment with an intergenerational approach. She is conducting her work under the supervision of Prof. Pasquale De Sena (University of Palermo) and the co-supervision of Prof. Ruth Mackenzie (University of Westminster).

Hannah Stahl and Ella Vines: "Intergenerational equity in climate change litigation: A comparative analysis of recent Australian and German climate litigation cases"

Abstract: While youth are vulnerable to climate change impacts, they are playing a vital role as change agents for addressing these impacts. This role is prominent in strategic climate litigation, where selecting plaintiffs with compelling stories has been posited as a criterion comprising a 'recipe for success'. This paper explores how intergenerational equity features in climate litigation in Australia and Germany. It aims to identify legal arguments developed to address this dimension of inequality, drawing from innovative approaches deployed in recent examples including the *Sharma, Waratah Coal*, and *Neubauer* cases.

In Australia, youth litigants in *Sharma* argued the Environment Minister owed a duty of care to children not to cause them harm from climate change, and drew upon intergenerational equity as a principle of ecologically sustainable development enshrined in federal environmental law. Australia's first human rights-based climate litigation, the *Waratah Coal* case, drew on the precautionary principle and intergenerational equity in environmental law when interpreting the term "public interest". In contrast, the German constitutional court in the *Neubauer* case did not link any of its considerations to sustainability and future generations in environmental law. Instead, it focused on the interpretation of guarantees of civil freedom in human rights. The court maintained there was no breach of a duty of care, but that the restriction of fundamental rights in the future due to insufficient climate protection constitutes a violation of human rights *today*. It argued any human right naturally entails a guarantee of its unhindered future exercise.

These observations suggest there are several pathways to address the issue of intergenerational equity within legal frameworks, inviting innovation from claimants and courts to explore how this inequality can be reduced. Furthermore, these cases highlight climate litigation as a forum in which litigants who are below voting age have their voices heard, offering insight into the relationship between intergenerational equity and representative democracy in the context of climate justice.

Bio: Ella Vines is an Australian legal practitioner and PhD candidate at the University of Melbourne, researching legal pathways to reduce Australian coal extraction and consumption under the supervision of professors Margaret Young and Jacqueline Peel. This year, Ella commenced as a post-doctoral research fellow at Monash University's Green Lab, researching regulatory frameworks for net-zero, nature-positive companies. She holds an LLM from the University of Melbourne, as well as an LLB and a Diploma of Languages (Indonesian) from Deakin University. Prior to commencing her PhD, she worked as a commercial lawyer in litigation and dispute resolution and business and not-for-profit structuring. Ella has a variety of teaching experience at Deakin, Melbourne and Monash universities, most recently in the areas of human rights law and corporate sustainability regulation.

Bio: Hannah is a PhD candidate at the University of Heidelberg in Germany, supervised by Professor Wolfgang Kahl. Her thesis explores how climate change litigation influences the separation of powers and the principle of democracy in Germany and Australia through comparative law methodology. She is currently working at the University of Melbourne for her research on Australian climate litigation, supervised by Associate Professor Rebecca Nelson. Hannah's research interest in climate litigation was sparked during her studies, leading to a publication on the *Urgenda* case in the Heidelberg law journal for student research. She holds a law degree from the University of Heidelberg, a certificate in French public and private law from the University of Heidelberg and the Université de Montpellier (France) and she has teaching experience in criminal law as well as work experience in environmental law practice. Hannah's research is supported by Villigst, one of the major organizations for sponsorship of excellent students and doctoral researchers in Germany.

Christina Eckes: "Demanding justification through strategic climate litigation: Ticking a procedural box or enforcing principles of justice?"

Abstract: In December 2023, the closing statement of Conference of the Parties (COP)28 under the United Nations Framework Convention on Climate Change (UNFCCC) notes 'the importance of "climate justice", when taking action to address climate change'. Against this seemingly obvious statement, I ask the question: How does *Strategic Climate Litigation against states in Europe asking for more stringent mitigation targets and measures* (SCL) hinder or advance climate justice? Examined examples include: *Urgenda* (NL), *KlimaSeniorinnen* (CH), *Klimaatzaak* (BE), *Neubauer* (DE), and *Klimatická žaloba* (CZ).

This paper examines whether and how SCL may contribute to climate justice. SCL, among other things, *demands justification* from defendants for inadequate mitigation. Demanding justification entails assessing whether the *substantive requirements of reasonableness* are met. Defendants are usually invited to offer justification against the findings of the Intergovernmental Pannel on Climate Change (IPCC). While some see the IPCC findings as the gold standard, others question their reliability and equity because principles of international law under the UNFCCC, such as the principle of Common But Differentiated Responsibility and Respective Capabilities (CBDR-RC) are not considered within IPCC targets and modelling scenarios.

Against this background, this paper traces what demanding (additional) justification through SCL in Europe does in terms of climate justice/equity. How is the 'adequacy of climate action' given meaning? What principles do judges rely on to assess whether any given action is adequate/meets a minimum requirement? What role is given to international principles such as CBDR-RC? How are harms inflicted on non-residents/foreigners considered? How is 'fairness' construed in the 'fair share' of a state, by the litigants and judges? What role do and can emission reductions abroad play to add to the 'fairness' of a country's share? What is considered an 'inequitable' burden for the defendants?

Bio: Christina Eckes is professor of European law at the University of Amsterdam. Since March 2024, she leads an ERC Consolidator project on Strategic Climate Litigation's direct and indirect consequences for democracy in Europe. Her current focus is how to assess 'fair shares'. Previously, she focused on human rights protection and separation of powers in the EU's multilayered constitutional landscape. Her publications include *EU Powers under External Pressure - How the EU's External Actions Alter its Internal Structures* (OUP, 2019) and *EU Counter-Terrorist Policies and Fundamental Rights - The Case of Individual Sanctions* (OUP, 2009).

Giuseppe Naglieri: "New efforts toward climate equality: Exploring just transition litigation and its implications"

Abstract: The actions to tackle climate change imply a radical change in the economic models, in the production processes, and in the very way of life to which modernity has accustomed humanity, since, as the German constitutional court noted in the landmark Neubauer decision «in our current way of life, virtually all forms of behavior either directly or indirectly involve some emission of CO2». In such a scenario, then, the policies directed at achieving climate neutrality can but be radical, that is, aimed at a profound rethinking of the categories of life on the planet.

If, however, in the face of inaction and lack of ambition in climate policies by governments, new forms of climate litigation are growing at all levels, often, climate change mitigation and adaptation actions undertaken by states are followed by various and diverse critical issues concerning the unequal distribution of the negative consequences of climate actions.

Often, indeed, socio-environmental inequalities are reproduced and amplified by climate transition policies that fail to give due consideration to the disproportionate effects such measures may have on certain historically vulnerable communities and groups: low-income communities, indigenous people, younger generations, and migrants.

A new category has thus emerged in the academic literature beside, and often overlapping with, climate litigation, known as just transition litigation, to which would belong all those cases that raise issues of distributive, procedural, and recognition justice within the context of climate change actions. This category is still understudied, but is proliferating, along with climate regulations. The proposed paper aims, after researching the several databases on climate litigation, to offer more information on just transition litigation and create a new categorization of the cases that fall under it, in the belief that this represents the future of climate equality litigation.

Bio: Giuseppe Naglieri is Post-doc Fellow in Comparative Constitutional Law at the University of Bari (Italy) and Adjunct Professor in Comparative Constitutional Justice at the University of Bari. He holds a Ph.D. in Comparative Constitutional Law at the University of Bari and a Ph.D. in Ciencias Jurídicas y Sociales at the University of Málaga (Spain). He is has been awarded of the Italian National Qualification to be Associate Professor of Comparative Public Law. He is author of a Monograph on Comparative Constitutional Justice (Giudicare e ottemperare. Uno studio comparato su soggetti, forme e modelli dell'esecuzione costituzionale, Maggioli, 2023) and numerous papers published in italian and international journals.

Orla Kelleher: "A constitutional guarantee of equality, human rights legislation and public sector equality duties: Teasing out opportunities for the next wave of government framework climate litigation in the UK and Ireland"

Abstract: Climate litigation can play an important role in giving a voice to vulnerable and marginalised communities – with those at the sharp edge of climate change like children and young people, older adults, women, disabled people, those experiencing poverty, and indigenous communities frequently acting as litigants. Both Ireland and UK have already been important staging grounds for government framework climate litigation, as seen in *Climate Case Ireland* and the *Net Zero Strategy* Case. Yet, legal provisions that might be used to vindicate the rights of these groups who experience climate impacts in unequal ways – like the constitutional guarantee of equality (in the Irish context) and human rights and equality legislation (in both the UK and Ireland) – did not play a major role during the first wave of climate litigation in either jurisdiction. Up until now, there has been a reticence by the courts in both countries to engage with rights-based arguments. However, this is likely to change as decisions/judgments are handed down in the European Court of Human Rights climate cases and as both jurisdictions move into their second wave of domestic framework climate litigation. Incidentally, both the UK and Ireland are respondents in the *Duarte Agostinho* case.

In the UK, arguments relating to breaches of the Human Rights Act 1998 and a failure to discharge public sector equality duty under the Equality Act 2010 are being raised in the pending challenge to the Third National Adaptation Programme. In Ireland, the Supreme Court has indicated that it would, in an appropriate case, be open to hearing a constitutional challenge to climate mitigation measures (or lack thereof) and it has also shown a growing willingness to hear constitutional equality claims (albeit in a different context). Ireland also has the European Convention on Human Rights Act 2003 and public sector equality and human rights duties under the Irish Human Rights and Equality Commission Act 2014, both of which have been largely underexplored in the context of government framework climate litigation to date.

Using doctrinal and comparative methodologies, this paper will explore the prospects and pitfalls for arguments based on these equality and human/constitutional rights provisions in the next wave of government framework climate litigation in both jurisdictions. It will also seek to locate these findings in the broader global climate equality litigation context.

Bio: Dr Orla Kelleher BL is an assistant professor at the School of Law and Criminology at Maynooth University where her research and teaching focuses on climate, environmental, and constitutional/human rights. She holds a PhD from University College Dublin, an LLM from the College of Europe and BCL (Law and French) degree from University College Cork. She is a qualified barrister having been called to the Irish Bar in 2020. Over the past two years, Orla has been funded to conduct engaged research on EU climate law and litigation with Environmental Justice Network Ireland. She also works with the Community Law and Mediation Centre for Environmental Justice on strategic environmental and climate litigation.

Britini Dienhoff: "Community and climate lawyers – Time to bridge the gap?"

Abstract: If someone says "climate litigation", what comes to mind? "*Urgenda*", "*Shell*", and the "*Sacchi petition"*? Or, the hundreds (if not thousands) of cases brought by community lawyers and "everyday" people facing "everyday" problems? It could be both, couldn't it?

As society reaches a critical point in history where the impacts of climate change are here, and here to stay - this paper considers the role community lawyers can play in climate litigation through their inherent rights and equality focus. Whilst not "climate" lawyers, community lawyers live in communities and work closely with clients who are at the frontlines of climate change. They see the daily impacts of climate change on their communities and their clients - clients who are a broad range of individuals at the intersection of those who have disabilities, are Indigenous, racialised groups, women, children and more.

This paper reviews recent work and cases brought by "everyday" people and community lawyers in Australia, which although not branded as "climate" or "environmental" litigation, have started to shape and influence adaptation policy and measures. It will also explore how community lawyers, who are experts in discrimination, housing, social security and other generalist areas of law, do and will continue to play a significant role in creating on the ground and broader change for their clients and society.

This is not to say the time for "climate" lawyers is done, however. As much as climate lawyers can learn from community lawyers in terms of the intersectional client experience, community lawyers can learn from climate lawyers. At this critical juncture, the paper asserts that the need for building capacity, skilling up and sharing knowledge has never been more important.

Bio: Brittni Dienhoff lives in a remote town in the north of Australia. She works as a Civil Solicitor at the North Australian Aboriginal Justice Agency (**NAAJA**) where she supports First Nations clients with an array of legal matters. While her work mostly focuses on housing, social security and child protection - especially while living and working with clients in extreme weather conditions, Brittni personally sees the intersections with climate justice on a daily basis.

Previously, Brittni was a solicitor at Environmental Justice Australia (**EJA**) where she worked closely with local communities to tackle the climate crisis. Brittni contributed to the significant Living Wonders legal intervention, and acted on behalf of five young people from First Nations and disability communities in their complaint to United Nations Special Rapporteurs. Prior to EJA, Brittni worked in private practice in corporate climate risk, and spent six months on secondment at the Human Rights Law Centre.

Brittni holds a Bachelor of Law (Hons) and a Bachelor of Commerce (Economics) from Monash University. She is a Board Member of Better Renting, an alumni of the Centre for Australian Progress fellowship, has contributed to publications by the United Nations Environment Programme Finance Initiative and The Chancery Lane Project.

Nurina Ally and Melanie Murcott: "Framing Matters: Legal mobilisation, climate justice, and amicus curiae interventions in South Africa"

Abstract: This paper explores the potential role of amicus curiae (friend of the court) interventions in framing environmental litigation as a climate justice issue in South Africa, placing fairness and intersectional equity at the forefront of responses to climate change.

Despite a robust public interest litigation culture, and a transformative constitutional framework, only a handful of environmental rights cases have explicitly engaged with climate change adaptation or mitigation issues, and/or climate science. Climate science has played a relatively limited role. Even more surprising, jurisprudence from the country's apex court, renowned for its pathbreaking jurisprudence on human rights, has seldom engaged the environmental right enshrined in section 24 of the Constitution.

Drawing on the successful role of amicus curiae interventions in legal mobilisation on the right to basic education and children's rights in South Africa, we suggest that these third-party interventions can assist in bolstering climate justice movements in litigation. In particular, amicus curiae briefs can be used to: (i) advance a transformative, rights-based approach to climate cases, (ii) encourage courts to explicitly engage with climate science in such cases; (iii) bring climate justice issues to the fore; and (iv) raise public awareness of climate justice campaigns.

We conduct a study of amicus curiae interventions in environmental rights litigation in South Africa, and present data on the frequency of such interventions, forums in which such interventions have been used, parties that have acted as a friend of the court, arguments made by the intervention, and influence on the court's judgment. We focus on litigation where climate mitigation and adaptation issues were before the court, regardless of whether the parties framed the issues in those terms. In light of this data, we critically assess 'missed opportunities' for strategic amicus curiae interventions in environmental litigation in South Africa and make practical recommendations for future litigation. Lessons from this study are not only instructive in the South African context, but also for climate litigators and activists in other jurisdictions.

Bio: Director, Centre for Law and Society, University of Cape Town; Senior Lecturer, Department of Public Law, University of Cape Town.

Monica Iyer: "Climate litigation and the possibility of transformative justice"

Abstract: Perhaps the most optimistic view of the climate crisis is that it presents an opportunity, or even a necessity, to forge a new vision of the world that we share. Proponents of this outlook argue that if we are to face the threat of global warming, this must be done in a manner that is not only environmentally sustainable, but that also reckons with historical and structural inequalities and provides opportunities for all people, as well as nature, to thrive.

However, while climate litigation may provide an important tool for addressing some of the disproportionate impacts that climate change has on historically marginalized groups or individuals, there is significant skepticism about the power of such litigation to effect transformative or systemic change.

This paper will provide a brief overview of climate impacts on historically marginalized groups and individuals and the advocacy that calls for a just transition that represents a break with past systems and structures of inequality. Then, calling on climate litigation databases, it will examine the remedies sought and granted in climate litigation cases thus far to determine whether, and if so how, any such cases have offered the possibility of addressing historic or structural inequalities. Finally, drawing on the literature of reparative and transformative justice, it will explore whether there are avenues through which climate litigants might be able to seek more transformative outcomes.

Bio: Monica Iyer is the Clinical Fellow/Senior Lecturing Fellow at Duke Law School's International Human Rights Clinic, and in Fall 2024 will commence a new role as an Assistant Professor of Law at the Georgia State University School of Law. As a scholar she focuses on the intersection of climate change and the environment and human rights, with a particular interest in the rights of migrants, racial justice, and gender justice. Prior to joining academia, Monica worked for the Office of the United Nations High Commissioner for Human Rights in Geneva, including leading the Office's work on climate change-related migration. She has also worked as a human rights and civil rights attorney for several other organizations, including as an Assistant Attorney General for the Civil Rights Bureau of the New York State Office of the Attorney General. She holds degrees from NYU Law, the University of Chicago, and the Catholic University of the Sacred Heart in Milan, Italy.

Hannah Bauer: "Constitutional moments in green amendment litigation – A comparison of constitutional case law in Germany, Montana, and Pennsylvania"

Abstract: Climate Change Litigation encompasses a diverse array of legal domains, ranging from corporate law to criminal law, and constitutional law, reflecting the multifaceted nature of the issue it addresses: climate change—a global crisis impacting every person, industry and sector. Climate change poses a fundamental challenge on numerous fronts, consequently influencing the very core of legal systems which is constitutional law. Landmark cases across various jurisdictions worldwide have spurred developments in constitutional environmental protection.

Through comparative analysis of cases in Montana, Pennsylvania, and Germany, it becomes evident that these pivotal cases—termed constitutional moments—are based upon equality arguments, emphasizing the imperative of safeguarding the interests of future generations and ensuring intergenerational equity. However, the role of the separation of powers doctrine varies in different jurisdictions, delineating the parameters within which courts operate and the potential outcomes of climate litigation.

Building upon these insights, this paper offers actionable recommendations for enhancing climate protection within the legal systems of these jurisdictions, as well as guidance for other jurisdictions seeking to (re)invigorate constitutional environmental safeguards. By elucidating the potential of climate litigation to instigate substantial constitutional reforms in the arena of environmental protection, this paper contributes to a deeper understanding of the transformative power of strategic litigation in confronting the challenges posed by climate change.

Bio: Hannah Bauer is a dual degree law student pursuing studies at the University of Connecticut School of Law and the University of Freiburg, Germany. She holds an LL.M. in US Law with certificates in Human Rights, Corporate and Regulatory Compliance, and Energy and Environmental Law. Currently, she is continuing her legal education in Germany. Hannah has actively pursued her passion for climate change law, contributing to greenwashing litigation against Exxon and Reynolds during her externship at the Connecticut Office of the Attorney General. Additionally, she was part of the team organizing the Greenwashing Conference at Uconn, recognized with the 2023 ABA Law Student Environment, Energy, and Resources Program of the Year Award. Her academic achievements have been recognized through scholarships from institutions such as the German Academic Scholarship Foundation, the German Academic Exchange Service and Episcopal Academic Scholarship Foundation (Cusanuswerk). Notably, she was honored with the Clark-Janis International Award for academic excellence in the LL.M. program and received an honorable mention at the Yale Undergraduate Research Conferencefor her paper on Trans-Governmental Networks: A Solution for Effective Greenwashing Regulation and Enforcement.

Tiago Burkhart: "Litigating climate change in the Amazon: Protecting the commons, indigenous peoples and the principle of climate equality in comparative perspective"

Abstract: Climate change fosters structural and functional transformations in legal systems worldwide, driving the development of new legal methodologies to address this issue. One of them is strategic litigation in the climate field, which has proven effective in the formal recognition of new rights along with the establishment of new duties for States and several other actors. Latin America, especially the Amazon rainforest, has been a growing hotspot in this regard, as Amazon countries have been the scene of several case-law that reach Superior Tribunals as well as Constitutional Courts on the subject, boosted in particular by indigenous peoples or either by issues involving indigenous peoples' rights.

Taking this into consideration, this article aims to critically analyze climate litigation in the Amazon under the prism of strengthening the principle of climate equality, with a focus on the role of indigenous peoples and their rights in the design of a "*commons-based*" litigation architecture. To this end, three cases will be further analyzed: the case of *Río Marañón* in Peru (2024), the case of *Marco Temporal* thesis in Brazil (2023), and the case of *Río Atrato* in Colombia (2016). The hypothesis states that these cases significantly contribute to the affirmation of the principle of climate equality, which is based on the protection of indigenous peoples' rights and Amazonian commons – especially water and land – and stand as paradigmatic for the study of comparative law. The article falls within the field of critical human rights theory and comparative legal studies, and is divided into three parts: 1. Litigating climate change: the Amazon, indigenous peoples and the commons; 2. Comparing case-law in Peru, Brazil and Colombia; 3. Fostering the principle of climate-equality.

Bio: Postdoc Research Fellow in Comparative Public Law, University of Rome Unitelma Sapienza, Italy. Ph.D. in Comparative Law and Processes of Integration, University of Campania "*Luigi Vanvitelli*", Italy.

Ana Pedrajas: "Climate justice for Bonaire: A future landmark decision on climate equality?"

Abstract: According to recent scientific developments — including the IPCC's Sixth Synthesis Report, current climate action is unquestionably insufficient. Those grim conclusions are all the more alarming as means to tackle climate change's impacts are limited and could be unequally distributed. The Caribbean island of Bonaire stands out as an example of such inequality. While its natural resources, its culture and the lives of its inhabitants are under imminent threat due to sea-level rise, Dutch climate law is focused on strengthening European Netherlands' resilience, putting the Netherlands Antilles to the side. Concerned by this menace, eight inhabitants recently launched judicial proceedings against the state, invoking, inter alia, a case of discrimination under Article 14 of the ECHR. This paper offers to ponder the potential of this case, which could be a stepping stone towards a reinforced climate law, bringing momentum to international climate negotiations and litigation.

Leaning on recent developments such as the Urgenda case and the Human Rights Committee's views in Ioane Teitiota v. New Zealand and Daniel Billy v. Australia, we intend to dwell on a few gaps left to fill in climate litigation, such as the question of discrimination in climate action and the violation of the right to life. This study would imply an assessment of the role of vulnerability and discrimination claims as a means to advance climate litigation. The Bonaire case could be another contribution to finally allow international bodies to get a full grasp on climate law and hold states accountable. Besides, our inquiry aims at addressing a pending question of climate justice: how can we use existing law to incite developed states, responsible for climate change and unlikely to benefit from an international financial support, to employ their capacities to protect all their citizens in a fair and equitable way?

Bio: I am Anna Pedrajas, an international public law graduate and French PhD candidate at Jean Moulin Lyon 3 University. Embarked on my doctoral journey since September 2023, my research surveys the way international law, broadly defined, tackles cultural heritage in the face of climate change. I explore the limits of international heritage law and climate law in addressing the matter, and the potential of cultural rights, the right to a safe environnement, loss & damage under the UNFCCC, climate litigation, the reinforcement of global environmental and climate protection, and intergenerational equity as key legal foundations to address heritage under threat.

Shuma Talukdar: "Analyzing climate litigation through an equality lens: Comparative case studies from Pakistan and Chile"

Abstract: Climate change poses multifaceted challenges globally, with its impacts often exacerbating existing inequalities and disproportionately affecting marginalized communities. In response, a growing number of legal actions have emerged, seeking to address climate-related harms through the lens of justice and equity. This study undertakes a comparative analysis of climate litigation cases from two Global South countries, Pakistan and Chile, with a specific focus on examining how these legal proceedings address issues of equality and non-discrimination. The choice of these two countries is justified by their diverse geographical, socio-economic, and legal contexts, which offer valuable insights into the intersection of climate change and equality concerns.

Pakistan, as a developing nation highly vulnerable to climate change impacts, has experienced a surge in climate-related litigation, often led by grassroots organizations advocating for the rights of vulnerable populations. Chile, with its recent wave of social and environmental movements, has witnessed the emergence of climate litigation cases addressing issues of environmental racism and inequality.

Through a comparative analysis of two specific gender-based climate cases from these countries, this research seeks to identify common themes, legal strategies, and outcomes related to the pursuit of justice and equity in the context of climate change. By examining the approaches taken by courts and legal systems in Pakistan and Chile, this study aims to contribute to a deeper understanding of how climate litigation can effectively address inequality and discrimination, while also highlighting challenges and opportunities for advancing climate justice on a global scale. The findings of this research have implications for legal practitioners, policymakers, and activists involved in climate change mitigation and adaptation efforts, providing valuable insights into strategies for promoting equitable outcomes in the face of climate-related challenges.

Bio: Corporate Lawyer and Corporate Governance Professional, Director, LexEd Research, Kolkata (India). Her educational qualifications include B.A. Honours (Pol. Sc.), M.P.A., LL.B., LL.M. (Business Law), Diploma in International Environmental Law & Governance and Intellectual Property Rights. She holds professional membership of the Supreme Court of India, the Bar Council of India, and the IUCN-WCEL (Biodiversity Law, Climate Change Law) specialist group and Ethics task force. Her research interests include the intersectional study of gender, climate, business, and law. Her scholarly publications include an edited volume *Judicial Responses to Climate Change in the Global South: A Jurisdictional & Thematic Review* (Berlin: Springer, 2023) and papers in peer-reviewed journals and edited collections. She has also published in popular media and presented at international conferences in Asia and Europe.

Greenpeace: “Climate litigation addressing systemic inequalities and differentiated impacts”

Abstract: Like many environmental injustices, climate change is rooted in “racism, discrimination, colonialism, patriarchy, impunity and political systems that systematically ignore human rights.” It is grounded in the "grotesque and growing inequality propelled by the private sector" which benefits from capitalist economic systems that degrade, overexploit the natural environment and deplete non-renewable resources. The impacts of climate change fall disproportionately on populations who are the least culpable in causing this crisis but who are in vulnerable situations, disadvantaged and disenfranchised due to power imbalances relating to gender, race, cultural, indigenous background, age, socio-economic status, among others. These impacts are already seen at 1.1°C temperature increase and they will only get worse.

This paper explores the ongoing efforts to address these systemic inequalities that exacerbate disproportionate climate impacts and how a decolonial, intersectional, interconnected approach of interweaving strategic litigation, legal advocacy, narrative interventions, people activation and community co-powerment are amplifying diverse demands for justice.

This paper focuses on three examples which show how, to strive for climate justice, social, racial, intergenerational and gender justice issues need to be considered and addressed as well. First, the 9 April 2024 ECtHR decision in the Verein KlimaSeniorinnen Schweiz and Others v. Switzerland and the disproportionate impacts on senior women are analysed. Second, it examines the Norwegian Supreme Court decision, subsequent application before the ECtHR and spin-off domestic litigation in the People v. Arctic Oil case focusing on discrimination based on age, birth-cohort, indigenous Sámi background and the rights of children to be heard. Lastly, it studies the recent filing in the Futuru di Boneiru case, exploring the discriminatory policies from European Netherlands, their effect on its overseas Caribbean territory of Bonaire and the efforts to seek alternative demands for adaptation measures such as poverty alleviation.

Bio: The Greenpeace network comprises 25 independent national and regional organisations operating in over 55 countries. Greenpeace International (“GPI”) is the network’s coordinating body. For over 50 years, Greenpeace has campaigned to prevent environmental harm, protect human rights and ensure the Earth's ability to nurture life in all its forms. The GPI Legal Unit comprises a team of specialised lawyers who provide independent legal advice on numerous issues, including climate litigation. The Climate Justice and Liability Campaign is a global campaign within the Greenpeace network focusing on growing people-power to hold those responsible for the climate crisis accountable and demand justice.

Co-authors (alphabetical): Louise Fournier, Michelle Jonker-Argueta, Valentina Panagiotopoulou, Nina Schulz, Maria Alejandra Serra, Nhlanhla Sibisi, Kasey Valente.

Diana Quevedo: "The role of courts in the protection of indigenous peoples' rights in the context of climate justice in Colombia"

Abstract: Climate justice refers to the distribution of rights, responsibilities, and burdens among people that will be affected at different levels or between the present and future generations, therefore climate justice is "a matter of establishing responsibilities and rights, and then allocating the burdens of climate change mitigation and adaptation accordingly".

One of the groups that will be disproportionally affected are the indigenous peoples "due to their connection to their land and dependence on their ecosystems", especially in developing countries highly vulnerable to climate change. To address this issue and lessen climate injustice, indigenous communities have sued governments and private companies to reduce the burdens imposed by economic projects, including mitigation activities.

In Colombia, different mitigation and mining projects have been implemented in the territory of indigenous peoples without considering the future impacts of climate change. In this context, the Constitutional Court has played a pivotal role in the protection of their human rights in climate-related cases, particularly in those related to renewable energy projects, the impact of climate change in mining projects5, and REDD+ activities.

Based on the cases listed above, the objective of this paper is to analyze the role of the Colombian courts, specifically the Constitutional Court, in the pursuit towards climate justice by recognizing that even mitigation projects aiming to enhance climate action can cause climate injustices when they disregard the rights of indigenous peoples.

Bio: Lawyer (Universidad Externado de Colombia) who holds a Master of Philosophy in Environmental Policy (University of Cambridge). She is a candidate to an LLM on Natural Resources Law (Universidad Externado de Colombia). She has previously worked as a research assistant in the Department of Environmental Law at Universidad Externado de Colombia, and as a consultant for land planning, climate change, and waste management, among other environmental law issues. Since 2018, she is a researcher at the Research Group in Environmental Law at Universidad Externado de Colombia. Her current research focuses on climate change law, environmental peacebuilding, environmental justice, and environmental liability. Member of the legal research group at the Centre for International Sustainable Development Law (CISDL).

Lorena Zenteno: "The Role of Indigenous Peoples in Climate Litigation in Latin America"

Abstract: Across Latin America, indigenous communities act as primary defenders against environmental degradation and climate change. Their ancestral knowledge, deep connection to the land, and sustainable living practices have established them as inherent conservationists. Climate change poses a significant threat to these communities, particularly those residing in regions highly susceptible to climate impacts. These impacts threaten their economic, social, and cultural well-being, and even their existence.

In many Latin American countries, indigenous communities occupy a unique position because their constitutions have long recognized human and environmental rights. This recognition is further reinforced by the broad acceptance of international human rights treaties, such as the ILO Convention 169 on the rights of indigenous peoples.

As the effects of climate change become more pronounced, these communities are increasingly turning to legal action to defend their lands, rights, and the environment. They are utilizing the growing trend of rights-based climate litigation, anchored in national constitutions and international treaties.

This paper highlights the essential role of indigenous communities in Latin America in combating climate change. By reviewing landmark climate litigation cases in domestic courts, it aims to illuminate the legal strategies of indigenous peoples, the specific demands they make, and the ongoing challenges they face in their quest for climate justice. The analysis concludes that Indigenous peoples in Latin America play a crucial role in strategic climate litigation, employing rights-based arguments.

Bio: Lorena Cristina Zenteno Villa is a Chilean attorney specializing in human rights and environmental law. A former member of the judiciary in Chile, since 2015, she has served as a Law Clerk for the Constitutional Chamber of the Supreme Court. She is an active member of the National Association of the Chilean Judiciary's Environment and Human Rights Commission, focusing on educating on climate law. Lorena is currently enhancing her academic and professional credentials by pursuing an SJD program at the University of Miami. Her dedication to climate justice and gender equity is reflected in her significant contributions to the field, including her work with the UN Special Rapporteur on Cultural Rights. She holds a LL.M. in Environmental Law from the University of Davis and a Master's in Business Law from University Pompeu Fabra.

Pilar Moraga: “Equity and Vulnerability in the Face of Climate Change: A Contribution from the Inter-American Court of Human Rights – New Standards?”

Abstract: In the Latin American context (Tigre et al, 2023), as in other regions of the world, climate litigation is rapidly developing within a context of vulnerability that characterizes this area of the planet against the effects of climate change (Fiorini, 2023). The issues of equity and climate justice are concepts recently recognized in certain legislations, such as Chile's Framework Law on Climate Change (Moraga, 2022). However, the jurisprudence of domestic courts has not stopped to analyze the characteristics of certain human groups whose condition makes them more vulnerable than others to the effects of climate change. Moreover, in cases that refer to such disadvantaged situations, they do not reason much about it, nor do they develop an interpretation of the legal framework applicable to the case, different from that which they would use concerning other human groups.

Based on the above, this paper proposes to analyze whether it is possible to derive from the jurisprudence of the Inter-American Court of Human Rights certain standards regarding equity in the treatment of human groups more vulnerable to the effects of climate change (Pinto et al, 2023). In this perspective, the cases of jurisprudence in which the Court discusses the issue of climate change linked to the violation of rights (1) will be identified, and the treatment of the concept of vulnerability and vulnerable groups, related with the adverse effects of climate change (2) will be analyzed. Finally, we propose to conclude if this Court defines or uses standards or criteria’s of equity, in light of these human groups (3).

Bio: Pilar Moraga Sariego; Full Professor, University of Chile. Director Centro de Derecho Ambiental, Faculty of Law; Director at Center for Climate and Resilience Research (CR)2; Principal researcher of Fondecyt Project titled: Reconceptualization of Climate Litigation in Chile".

Luiz Moreira: “The Peru vs La Oroya decision: An analysis of its impacts for the climate equality scenario and perspectives for the Global South”

Abstract: In a historic judgment, on March 22, 2024, the Inter-American Court of Human Rights held the State of Peru internationally responsible for human rights violations affecting 80 residents of La Oroya, due to pollution of mining-metallurgical activities at the La Oroya Metallurgical Complex. The case addresses allegations of more than a century of catastrophic industrial pollution from the La Oroya Metallurgical complex.

Due the fact that is the first time that the Court recognised the different impact of the pollution for women, children and the most vulnerable, besides the common responsibility of the State in case of pollution, this decision represents a landmark for the climate litigation scenario. The interconnection between intergenerational equity and the precautionary principle is one of the main points of the dispute, the Court acknowledged that: "guaranteeing the interest of both present and future generations and the conservation of the environment against its radical degradation is essential for the survival of humanity."

This paper will conduct an analysis of this landmark decision and its impacts on the climate equality scenario, especially for the south global perspective and the most vulnerable population. It begins by exploring the main arguments of the legal action and from the decision, and how the scenario of the climate ligation has evolved until this landmark decision in the protection of the most vulnerable population in the South Global. Then, it outlines the the specifics of the scenario of environmental inequality for population in the South Global, which are the most affected for the climate change consequences. Finally, it traces possible perspective and possibilities to fight the climate inequality and its effects through climate litigation and holding countries and companies as accountable.

Bio: I am a 24-year Brazilian lawyer, graduated in 2023 at PUC-Rio and concluding a post-graduation programme on regulatory law at the same institution, with the conclusion paper on the regulation of Carbon Market. I have background experience and specialization on the Environmental Law and Climate Change area with articles published in the area and being part of different research groups. Now, I am working at Hotta Advocacia in collaboration with Pogust Goodhead with climate litigation on the case against BHP for the Fundão Tailing Disposal Dam, representing more than 700.000 people and municipalities that were affected in the biggest environmental disaster in Brazil.

Arpitha Kodiveri: "Caste, climate justice and frontiers of climate litigation in India"

Abstract: A recent study has shed light on a significant revelation: the intensification of heatwaves in South Asia, attributed to human-induced climate change, has surged by a factor of thirty. These heatwaves, with their repercussions spanning from loss of life to disruption of livelihoods, disproportionately impact vulnerable and marginalized communities, notably the Dalit community in India.

For instance, the heatwave of 2023 in Uttar Pradesh resulted in a notable toll of one hundred lives, a substantial portion of whom hailed from lower caste backgrounds. The tragedy was exacerbated by acute water scarcity, further magnifying the vulnerability of these communities as they faced caste-based discrimination of lack of access to water. Similarly, in the aftermath of the 2024 floods in Chennai, relief efforts conspicuously lagged in Dalit-inhabited areas.

This paper delves into the intricate nexus between entrenched discriminatory structures, such as the caste system, and the heightened susceptibility of Dalits to the adverse impacts of climate change. Manifesting in various forms, including restricted access to essential resources like housing, land, and water, this systemic discrimination perpetuates Dalit marginalization during extreme climatic events. Moreover, the reliance of many Dalits on occupations such as sanitation work predisposes them to the exigencies of post-disaster cleanup efforts.

Nevertheless, amidst adversity, Dalit communities have emerged as pioneers of environmental justice advocacy, resiliently asserting their rights. Yet, the legal framework remains inadequate, failing to address the discriminatory dimensions of climate-related challenges faced by Dalits.

Drawing on qualitative interviews and fieldwork with affected Dalit communities, as well as insights from Dalit Climate movements and human rights and environmental lawyers, this paper aims to outline pathways toward redress. It advocates for the convergence of anti-discrimination jurisprudence and climate litigation to rectify the injustices inflicted upon Dalit communities in the aftermath of extreme climatic events.

Bio: Arpitha Kodiveri is an environmental law and justice scholar and assistant professor of political science at Vassar College. Her work focuses on the role of law in the context of redressing climate harms faced by indigenous communities and other marginalized communities in South Asia with a focus on issues of climate reparations. Her previous research examines land conflicts and legal mobilization by forest-dwelling communities in India. As a postdoctoral scholar at the Climate Law Accelerator at NYU Law, she spearheaded the work on loss and damage litigation in Bangladesh. She has worked as an environmental lawyer supporting Adivasi and forest-dwelling communities in India. She is the recipient of the Hans Kelsen Fellowship at the EUI and the Fulbright-Nehru Fellowship.

Ashley Nemeth: "Extreme heat litigation as a tool to advance women's human rights"

Abstract: Across the globe, anthropogenic-induced climate change is resulting in increased extreme heat and more frequent heat waves, in turn killing thousands of people every year. The record-breaking heat in the summer of 2022, for example, caused more than 61,000 deaths in Europe. The burdens of heat, however, are not felt equally. It is estimated that of those European fatalities, 63% more women than men fell victim to heat. Moreover, extreme heat can produce devastating knock-on climate consequences (i.e., drought and water scarcity) that similarly burden women disproportionately. Women, especially marginalized and lower-income women, face inordinate consequences due to a complex interplay of biological, social, economic, and cultural factors, including physiological differences and societal roles.

This paper explores the emerging field of climate litigation focused on extreme heat, highlighting its potential to address gender disparities. Extreme heat represents low-hanging fruit for climate litigators in overcoming many of the thorny questions that plague present disputes: attribution science establishes a strong connection between climate change and extreme heat thus helping prove legal causation; medical and sociological literature robustly document the disproportionate impacts of extreme heat on women thus aiding advocates in proving factual causation. Case examples, such as Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, underscore the efficacy of extreme heat claims in advancing women's rights through litigation. However, climate litigation at the intersection of extreme heat and gender remains rare, with opportunities for expansion. The paper concludes by identifying additional human rights frameworks, including the right to water, as potential bases for litigation, yet to be fully utilized. Extreme heat represents a novel frontier for climate equality litigation and should be used to promote gender equity in the face of the climate crisis.

Bio: Ashley Nemeth is a Research Scholar at the NYU Law Center for Human Rights and Global Justice (CHRGJ) and a Clinical Supervisor for the NYU Law Earth Rights Advocacy Clinic, where she focuses on climate impacts, economic justice, and human rights. She also leads the NYU Climate Law Accelerator's Loss and Damage Hub and is a licensed attorney in New York and Washington, D.C. Before joining the CHRGJ, Ashley was an associate in White & Case's International Arbitration Group, where she worked with foreign sovereigns and private companies and maintained a robust humanitarian and human rights law pro bono practice. She holds a J.D. from NYU School of Law (cum laude), where she was awarded the International Human Rights Convocation Award and the LACA Kim Barry '98 Memorial Convocation Award for Human Rights. Her previous career was as a Certified Public Accountant and she holds an M.S in Entrepreneurship (cum laude) and B.S. in Accounting (cum laude) from the University of Florida.

Camila Bustos: "Climate sovereignty for Puerto Rico"

Abstract: Tort-based climate litigation has become a widespread tactic to hold fossil fuel corporations accountable for decades-long misinformation campaigns to distort climate science and stall regulatory efforts to tackle the climate emergency. These lawsuits—brought primarily by counties and municipalities—generally include negligence, nuisance, and trespass claims, seeking economic damages to compensate for the tremendous losses that climate impacts are imposing on plaintiffs' land, population, and resources. Unsurprisingly, the first set of lawsuits were filed on behalf of more affluent communities located along the California coast, namely San Mateo, Marin, and Imperial Beach. These complaints did not mention the disproportionate impacts of climate change along race, class, or gender lines. Nonetheless, as new lawsuits have been filed, the language of these complaints has evolved, increasingly incorporating climate justice arguments that highlight the disproportionate burden front-line communities face (e.g., urban heat island effect, higher asthma rates, etc.) For instance, Minnesota and the District of Columbia complaints describe the disproportionate impact that climate change is having on low-income communities and communities of color. Similarly, the Maui County complaint expressly discusses the impacts of climate change on Native Hawaiian communities and cultural resources.

Most recently, several Puerto Rican municipalities filed an action alleging violations under the Racketeer Influenced and Corrupt Organizations Act (RICO). Puerto Rico is a locality where issues of disproportionate impact, coloniality, migration, and inequality intersect. Hurricane Maria and subsequent hurricanes have further illustrated the second-class citizenship of Puerto Ricans who continue to fight for self-determination. This paper examines the Puerto Rican litigation in a broader context of equity and sovereignty literature to argue that climate litigation may not always serve climate justice goals. Indeed, climate litigation may replicate existing power differentials, failing to genuinely center and account for the demands of frontline communities implicated by the case.

Bio: Camila Bustos is an Assistant Professor at the Elisabeth Haub School of Law at Pace University, Professor Bustos was a Visiting Assistant Professor of Human Rights at Trinity College and a Clinical Supervisor in human rights practice at the University Network for Human Rights. She also served as a term law clerk to Justice Steven D. Ecker of the Connecticut Supreme Court and as a consultant with the International Refugee Assistance Project (IRAP). Professor Bustos is a graduate from Yale Law School, where she received the Francis Wayland Prize and was a Switzer Foundation Fellow and a Paul & Daisy Soros Fellow. During law school, she worked at the Center for Climate Integrity, the Climate Litigation Network, and EarthRights International, where she researched climate litigation issues. Professor Bustos also co-founded Law Students for Climate Accountability, an international law student-led movement pushing the legal industry to phase out fossil fuel representation and support a just, livable future. Prior to law school, she worked as a human rights researcher at the Center for the Study of Law, Justice, and Society (Dejusticia) in Colombia, where she also served as a plaintiff in a landmark case against the Colombian government for its failure to stop deforestation in the Amazon forest.

Yusra Suedi: "Strategic litigation for climate equality before the International Court of Justice: Hopes and Hurdles"

Abstract: For decades, developing and small island states have been pushing for climate equality within the international climate regime. They have strived for the equitable distribution of burdens and responsibilities between developed and developing countries, and reparations from developing countries for climate damage which has irreparably impacted vulnerable people and communities across the Global South.

While the International Court of Justice (ICJ) has been a sought-after venue for strategic litigation to achieve these goals, this paper argues that this presents noteworthy challenges that make it a risky endeavour. It first explains that the political desire for climate equality through strategic litigation is the product of historical political hurdles to achieve recognition of loss and damage, and frustrations in the operationalisation of the Loss and Damage Fund (1). It then turns to challenges seeking climate equality through strategic litigation before the ICJ (2): contentious litigation before the presents several obstacles at the stage of jurisdiction and admissibility (2.1) and an advisory opinion may not squarely address the question of reparations to achieve climate equality to the extent desirable (2.2). Finally, it argues that the available reparations under the International Law Commission's Draft Articles on the Law of State Responsibility provide unsatisfactory options to achieve climate equality (3).

Bio: Yusra Suedi is a Lecturer in International Law at the University of Manchester, where her research is focused on international dispute settlement, strategic litigation climate/environmental law. She holds a doctorate in Public International Law from the University of Geneva for her manuscript entitled The Individual in the Law and Practice of the International Court of Justice (forthcoming with Cambridge University Press). Yusra has worked for the United Nations and international courts and tribunals. She has represented governments and organisations before the International Court of Justice – including the International Union for Conservation of Nature (IUCN) in the pending Obligations of States in respect of Climate Change advisory proceedings – and has published in journals such as The Law and Practice of International Courts and Tribunals and the Leiden Journal of International Law.

Victor Wu: "Climate justice through civil rights litigation"

Abstract: Climate change is a civil rights issue. It disproportionately impacts certain groups more than others, based on demographic factors including race, gender, income, disability, and age. Thus, recent years have seen an increase in climate litigation centered on individual rights and allegations of discrimination. In *Juliana v. United States*, for instance, the plaintiffs argued that the defendants violated their constitutional rights and discriminated against children. However, tools used for civil rights litigation remain underutilized by climate litigants and underexplored by scholars studying climate litigation. This paper will analyze how various instruments traditionally employed in civil rights litigation, including the Civil Rights Act, *Bivens* claims, and Section 1983 suits, may potentially be used to demand climate mitigation.

Bio: Victor Wu is a JD candidate at Stanford Law School. At Stanford, Victor serves as Co-President of the Environmental Law Society, Editor-in-Chief of the Environmental Law Journal, and Co-President of the Energy and Infrastructure Club. He has completed internships with Earthjustice, the Sierra Club, the US Environmental Protection Agency, the Environmental Law Institute, the Environment and Natural Resources Division of the US Department of Justice, and the California Attorney General's Environment and Natural Resources Section. Before law school, he studied Government, Environmental Studies, and Quantitative Social Science at Dartmouth.

Eoin Jackson: "Corporate climate litigation and equality – A new frontier for strategic litigation?"

Abstract: This paper seeks to examine the intersection of corporate climate litigation and equality. It will be loosely divided into two strands. The first strand will examine whether it is appropriate to make or utilize equality related claims within a climate lawsuit against a corporation. It will be noted that this would represent a new frontier for corporate climate litigation litigation, which can be justified due to the growing interest in the intersection of equality, climate change and the role of corporations in the climate emergency. The paper will cover in brief the growing interest in supply chain due diligence, as well as the demands from equality activists for more corporate responsibility regarding climate change as evidence of the need to examine this intersection in a litigation context.

The second strand of the paper will examine how equality may play a role in the pursuit of corporate climate litigation. Firstly, the paper will examine what role, if any, an equality lens has played in corporate climate litigation thus far. It will be noted that major cases like *Milieudefensie v. Royal Dutch Shell* focused on more general obligations in relation to the right to life, and that equality has thus far not played a significant role in corporate climate litigation. It will be argued that this is down to a lack of focus on the intersection of human rights and corporate responsibility for climate change within strategic litigation rather than a deliberate avoidance of equality based arguments. To bolster the case for the use of equality within corporate climate litigation, the paper will look to past examples of equality being used as a means of challenging corporations, relying in particular on success from the environmental justice movement in the United States and broader jurisprudence from the Global South.

Bio: I am an incoming PhD candidate at the London School of Economics, and hold an LLM from Harvard Law School and an LLB from Trinity College Dublin. I am a Foundation Scholar of Trinity College Dublin and a Gammon Fellow of Harvard Law School.

Prior to my PhD, I served as a Legal Fellow with the Institute for Governance & Sustainable Development focusing on climate litigation and methane policy. I have also worked as a Research Assistant for the Harvard Program for International Law and Armed Conflict, focusing on the intersection of humanitarian law and climate change. I am currently the Chief of Staff for the Climate Governance Commission and the UK Co-Director of Student Outreach for Law Students for Climate Accountability. I am also a former Managing Editor of the Trinity College Law Review, and the Dublin University Journal of Criminology, and have also served on the editorial boards of the Harvard International Law Journal and the Harvard Human Rights Review.

I am widely published in the field of international climate law and climate justice. My work has featured in the Hibernian Law Journal, LSE Law Review, Cork Online Law Review, Harvard Human Rights Review, Opinio Juris, and EJIL. My first book contribution - a chapter on the intersection of Islamic law and climate justice, as part of a leading peer reviewed book on new perspectives on climate justice - is due for release June 2024.

Refiya Kaya: "The advantages of equality law concerning the causation test in climate cases"

Abstract: Some of the serious negative consequences of climate change may not become clear until a long period of time has elapsed. Moreover, several factors may overlap, and as the negative effects are revealed, it may be difficult to distinguish what generates each outcome. Hence, it is difficult to convince the Courts that a causation link is established.

This paper focuses on the Article 14 (equality clause) of the European Convention on Human Rights. I claim that invoking Article 14 in conjunction with other related articles provides a significant advantage regarding the causation test.

Causation under Article 14 is established differently and more leniently. According to the European Court of Human Rights (ECtHR), a causation link needs to be established between the less favourable treatment and the protected grounds. The ECtHR does not apply a strict causation test that requires proving that the given protected ground alone generates the allegedly wrongful treatment. Instead, the ECtHR applies a moderate causation test that requires applicants to prove that a given protected ground plays a role in generating the alleged wrongful treatment or disproportionate burden.

Based on the current case law of the ECtHR, I establish the strategic importance of equality law concerning causation test in climate change cases.

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Alex Carillo Bañuelos: "Climate litigation and quality through a procedural approach: Tools to improve access to justice for vulnerable groups"

Abstract: Plaintiffs in several jurisdictions continue to explore climate litigation as an effective mechanism to challenge government inaction, increase ambition, and advance mitigation and adaptation strategies at the domestic and international levels. Many of these cases are also raising questions regarding the unequal impacts of climate change on a range of vulnerable groups, including women, children, and Indigenous peoples. Courts have developed a body of case law to address some of these questions and guarantee access to justice for vulnerable groups. For instance, in 2021, the Supreme Court of Mexico recognized the importance of considering cumulative impacts in the environmental impact assessment (EIA) procedure to protect vulnerable communities and prevent disproportionate exposures to pollution and environmental degradation. In 2018, this court also recognized that, to protect the right to a healthy environment and guarantee access to justice, judges must be mindful of the potential power asymmetry between the parties in environmental and climate change cases.

How can courts reduce this asymmetry and enable access to justice for vulnerable groups and communities? This article considers several precedents of the Mexican Supreme Court and its interpretation of international instruments such as the Escazu Agreement on environmental access rights to identify three legal tools that may be useful in reducing procedural hurdles for vulnerable groups in climate change litigation cases: (1) the reversal of the burden of proof, (2) a broad interpretation of the standing requirements, and (3) the obligation to ensure access to information and public participation. The article also considers precedents that interpreted the equality rights of specific groups in light of the content and scope of the human right to a healthy environment. This analysis will illustrate the importance of analyzing procedural issues as part of a wider discussion on the complex inequality issues that arise from climate change.

Bio: Climate Change and Human Rights Advisor at the Supreme Court of Justice of Mexico. He completed his LL.M. at Harvard Law School as a Fulbright Scholar. He holds an LL.B. (Hons.) from Centro de Investigación y Docencia Económicas (CIDE), Mexico. His academic research focuses on climate change litigation, environmental rights, and constitutional procedures. Through several academic publications, he has identified key issues that courts must address in climate-related lawsuits, the type of actors involved, and the successful litigation strategies that led to high-profile climate cases. He has also analyzed the legal actions that allow citizens to bring climate-related claims before Mexican courts.

Roslyn Lai and Finnian Clarke: "Leveraging private capital towards an equality-focused approach to climate litigation"

Abstract: This paper advances an equality-focused approach to climate litigation, both in terms of funding strategies and of legal argumentation. It suggests instilling and prioritising equity at the juncture between funding and litigating to ensure that individuals who benefit the most from climate-linked advocacy can access capital at an early stage. This, in turn, promotes the development of legal principles at the international and domestic levels as funds are injected into select cases that pose the most urgent questions regarding inequality.

Part one will focus on addressing inequality from the litigation funder's perspective. At the funding juncture, it is observed limited developments have been made in the loss and damages negotiations at UNFCCC. Coupled with the responsive rise of strategic litigation as a tool for social change, a two-prong third-party funding-driven approach can effectively plug a funding and development gap. First, by mobilising private capital into high-impact cases (should a claim be deemed procedurally and meritoriously sound) and second, by ensuring subsequent damages arising out of successful action are used to build financial resilience through the development of a regenerative loss and damages fund for affected communities.

Part two will focus on combatting inequality from the litigator's perspective. The discrimination lens has proven to be a hugely useful tool across the international framework of litigation that is taking place in the ICJ, IACtHR, and ECtHR. Inter- and intra-generational inequity will inevitably be at the heart of the forthcoming international jurisprudence. Looking forward, when translating this new jurisprudence domestically, it is vital that financial resources are directed toward the sites of greatest inequality to maximise its impact. This section of the paper will turn to how and to what extent inequality can be placed at the heart of the climate litigation agenda in the coming years.

Bio: Roslyn is the Head of Legal at No Impunity, an impact litigation exchange that financially supports proceedings based on environmental damage and corporate human rights abuses. She is also a mentee in Professor Pierre Tercier's group at the flagship Young ICCA Mentoring Programme (10th Cycle) and a member of the Conference & Events Committee at Racial Equality for Arbitration Lawyers. Having previously interned at an international law firm's arbitration group and the Hong Kong International Arbitration Centre, Roslyn is also interested in commercial and investment arbitration developments in the Asia Pacific and Greater China region.

Bio: Finnian Clarke is a barrister at Doughty Street Chambers in London, specialising in climate justice and discrimination law. His work involves advising on and bringing high-impact strategic cases in the UK and international courts. He is currently instructed by a number of NGOs to make submissions regarding intergenerational equity in the Inter-American Court of Human Rights advisory opinion case, as well as by a number of climate whistleblowers seeking to unshackle themselves from restrictive NDAs.