

Climate Change and the Rule of Law Conference

31 March - 1 April 2022

UCL Faculty of Laws, Bentham House, Endsleigh Gardens, London, WC1H 0EG

PROGRAMME

DAY 1 - THURSDAY 31 MARCH

08:30-09:00 Welcome and Refreshments

09:00-09:45 Session 1: Climate Change and the Rule of Law – Diverse Perspectives

Chair: Professor Steven Vaughan, UCL Laws

There are many and complex links between the climate crisis and rule of law. Without rule of law values, any sustained response to climate change is increasingly difficult, whilst the instability threatened by climate change may place rule of law values at risk. In a quick-fire round of five minute contributions, we begin to set out the centrality of rule of law to our current crisis, from diverse functional and geographical perspectives.

- Tom Burke (E3G)
- Lord Carnwath (UCL Laws)
- Professor Ademola Jegede (University of Venda)
- Professor Jeff King (UCL Laws)
- Professor Maria Lee (UCL Laws)
- Maria Socorro Manguiat (United Nations Environment Programme)
- Dr Birsha Ohdedar (SOAS, University of London)

09:45-10:45 Session 2: Urgency, Communities and Democracy – Climate Change and the Rule of Law

Chair: Professor Ademola Jegede, University of Venda

The climate crisis, and particularly its urgency, creates some resistance and significant challenges to the place of local and other communities in shaping their own world. This session will explore inclusion and exclusion in climate decision making, and the role played by law in that.

- **Dr Chiara Armeni and Professor Maria Lee (UCL Laws/University of Brussels):**
Participation in a time of climate crisis
- **Professor Jane McAdam (University of New South Wales):**
A question of timing? Addressing displacement in the context of climate change
- **Professor Rebecca Willis (Lancaster University):**
The role of democratic participation in climate law and governance

10:45-11:00 Refreshment break

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11:00-12:30 Session 3: Rule of Law, Rule of Lawyers

Chair: Professor Carolyn Abbot, University of Manchester

Lawyers and the legal profession play a key role in shaping the way the world runs. Bounded by the professional principle of independence, these lawyers act as norm intermediaries between their clients and the state. This raises questions around ethical behaviour for individuals and the legal community. It also raises questions about the power of law. Is law more than a tool? Does legal expertise, like other forms of expertise, risk a de-politicisation of intensely political questions? Can law be radical or is it necessarily conservative and incremental?

- **Professor Sarah de Gay (Visiting Professor, Independent Committee Member, Non-Executive Director, Trustee, Junior Warden and Solicitor):**
Do E&W solicitors have a legal duty to advise their clients on climate-related issues?
- **Peter Kellett (Environment Agency):**
A changing climate for in house lawyers? What should they really say to clients?
- **Justice Brian Preston (New South Wales Land and Environment Court):**
Climate Conscious Lawyering
- **Professor Steven Vaughan (UCL Laws):**
Climate Change and the Rule of Law(yers)

12:30-14:00 Lunch

14:00-15:30 Session 4: Populism and Threats to the Rule of Law

Chair: Dr Uta Staiger, UCL European Institute

Threats to the rule of law, for example from populists who seek to evade restrictions on their own power, threaten also our progress on climate change. Perhaps paradoxically, certain approaches to climate change pose their own threats to rule of law. For example, the 'state of exception' implied by some approaches to the 'climate emergency' may be inimical to rule of law. Even the urgency of the climate crisis may lead to impatience with the procedures and pace of rule of law.

- **Professor Sanja Bogojevic (University of Oxford):**
The race for lithium and the rule of law
- **Professor Chris Hilson (University of Reading):**
Climate and the Court of Justice: EU judicialization of politics, populism and the rule of law

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- **Professor Jeff King (UCL Laws):**
Populism vs. (Rule of Law/Expertise/Democracy)
- **Astrid Puentes (Independent Legal Consultant ((Formerly Inter-American Association for Environmental Defence))):**
Climate crisis: the banana republics turning into fossil fuel republics, and why climate justice matters

15:30-16:00 Refreshment break

16:00-17:00 Session 5: Climate Change and the Rule of Law in the Courts 1 – Whose Rule of Law?

Chair: Dr Kim Bouwer, University of Durham

It is important to examine the priorities driving litigation on climate change. This raises questions about the role of courts and which actors have the greatest potential to drive their interventions. (The old question of whether the 'haves come out ahead'.) In particular, this session will explore the relationships between 'northern' litigation strategies and 'southern' realities.

- **Professor Anuj Bhunia (O.P. Jindal Global University):**
Indian Courts and Climate Change: Panacea or Smokescreen
- **Professor Jonas Ebbesson (University of Stockholm):**
Challenging and developing legal concepts through climate lawsuits: how does that square with the rule of law?
- **Professor Ademola Jegede (University of Venda):**
Struggling to be heeded! Climate rule of law and the protection of indigenous peoples' land rights under the AHRs

17:00-19:00 Drinks and canapés (for in person attendees)

DAY 2 - FRIDAY 1 APRIL

08:45-09:00 Coffee

09:00-10:30 Session 6: Climate Change and the Rule of Law in the Courts 2

Chair: Professor Lisa Vanhala, UCL Department of Political Science

The role of courts in stimulating (or blocking) responses to climate change has been a central question for scholars, practitioners and activists. The role of the courts in upholding the rule of law seems self-evident. But there are important questions around the role of the court (which cannot just depend

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on the instrumental response of particular courts) and what it means to apply or enforce or uphold the rule of law.

- **Professor Gitanjali Gill (Northumbria University):**
Climate Change and the Indian Judiciary through a Transformative Lens
- **Professor Liz Fisher (University of Oxford):**
Climate Change, Statutory Construction, and Legal Imagination
- **Professor Jackie Peel (University of Melbourne):**
Recipe for success? Lessons for Successful Strategic Climate Claims
- **Professor Ceri Warnock – University of Otago: The Principle of Legality:**
Normalising Climate Change Considerations in Litigation?

10:30-11:30 Session 7: Climate Change and Business

Chair: Dr Megan Bowman, King's College London

Perspectives on the private sector contribution to climate change mitigation have shifted over recent decades. Reflecting more general changes in perspective, business is no longer primarily presented as the subject of regulation (the problem), but rather as drivers of the transition (the solution). Wherever we stand on the subtleties of this crude dichotomy, the centrality of 'business' poses important questions for rule of law. How does the rule of law deal with corporate power? How are corporations enabled to support the green transition and held to account for their commitments? For those businesses not supporting a low carbon future, how are these entities to be held to account for the harm that they do?

- **Richard Harvey (Greenpeace International):**
Corporate accountability for the climate crisis: how people-powered lawsuits are hastening the demise of fossil fuels
- **Dan Leader (Leigh Day):**
The developing legal landscape on parent company liability – is corporate impunity drawing to a close?
- **Professor Christine Parker (University of Melbourne):**
From 'corporate governance' to ecological regulation: flipping the regulatory story on climate change

11:30-11:50 Refreshment break

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11:50-12:50 Session 8: Governing Climate Change – Legislation, Regulation and Rule of Law

Chair: Lord Carnwath, UCL Laws

The banal routines of law underpin progress on climate change. This session explores the now globally dominant approaches to governing climate change: relentless legislating, target setting, planning, monitoring and reviewing. If they are to contribute to progress, these approaches make significant demands of government actors and civil society, and raise questions about how far the law can reframe often settled government norms of policymaking.

- **Professor Sharon Turner (Independent Consultant and Expert Adviser to the European Climate Foundation Governance Programme):**
Long-term Framework Climate Laws Virtue Signalling or Cornerstone of Effective Climate Governance?
- **Dr Andrew Jackson (University College Dublin):**
The value of framework climate laws in a historically laggard jurisdiction: mere symbolism or something more?
- **Professor Eloise Scotford (UCL Laws):**
The Disappointment of Climate Change Legislation: Climate Change Acts and their Legal Limits

12:50-14:00 Lunch

14:00-15:30 Session 9: Early Career Researcher Sessions (in parallel)

15:30-15:45 Refreshment break

15:45-17:200 Session 10: International Law, International Processes and COP 26

Chair: Professor Eloise Scotford, UCL Laws

This session will cover rule of law issues in international environmental law, with a focus on international climate law and also addressing wider issues of global environmental democracy.

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- **Julio Cordano (Delegation of Chile to the UNFCCC):**
Rigidity at UNFCCC Institutions and the Emergence of Soft Law
- **Michai Robertson (Advisor to the Alliance of Small Island States)**
COP 26 Outcomes and the Rule of Law
- **Christoph Schwarte (Legal Response Initiative):**
The Paris Agreement and the Rule of Law
- **Professor Paulina Astroza (University of Concepción):**
Chile and Escazú Agreement: A Tale of a Threat to Environmental Democracy

17:20-17:30 Closing remarks: Conference Organising Committee