

Call for Papers
RECIEL special issue on international climate litigation
Edited by Benoit Mayer & Harro van Asselt

Ideas have been floating for a number of years about the potential of using international courts to pursue enhanced action on climate change. These ideas seem to be gaining new momentum in light of both an increasing dissatisfaction of many stakeholders with the pace and outcomes of the international negotiations under the United Nations Framework Convention on Climate Change (UNFCCC), and the multiplication of substantive judicial decisions on climate change before domestic courts. Several small island developing states are considering ways to initiate proceedings before the International Court of Justice (ICJ), most likely through a request for an advisory opinion. Scholarly discussions have also explored the potential of climate litigation before the International Tribunal on the Law of the Sea (ITLOS), international arbitral tribunals, or various regional courts. A treaty adopted by Antigua and Barbuda and Tuvalu on 31 October 2021 creates the Commission of Small Island States on Climate Change and International Law with the view facilitating a request for an advisory opinion of ITLOS. The Stop Ecocide Foundation is conducting a campaign for the insertion of a crime of ecocide in the Rome Statute of the International Court of Justice, which could create another entry point for international climate litigation. At least four climate-related cases are now pending before the European Court of Human Rights, and two others before quasi-jurisdictional UN treaty bodies (the Human Rights Committee and the Committee on the Rights of the Child). And trade- and investment-specific dispute settlement mechanisms could perhaps also be used for strategic climate litigation.

In this context, we are inviting articles that would explore the prospects of international litigation on climate change. We are interested in articles addressing various aspects of the topic, including but not limited to the following:

- The procedural constraints to inter-state litigation, for instance the procedure of request an advisory opinion or the conditions of admissibility of contentious cases, and potential ways to overcome them;
- The advantages and drawbacks of various international courts and tribunals;
- The procedural constraints for decisions on climate change mitigation before regional human rights courts and UN treaty bodies (in particular conditions of standing);
- The legitimacy of international courts in resolving challenging questions that states are still trying to resolve through international negotiations;
- The prospects of international criminal law, including of an international crime of ecocide, for strengthening climate action;
- The prospects of international investment or commercial arbitration, or for the WTO dispute settlement mechanism, as alternative venues for climate litigation;
- The substantive law that could be applied by an international jurisdiction, whether with regard to climate change mitigation, adaptation, or reparations;
- The potential risks (and possible benefits) of institutional fragmentation in the context of international judicial decisions on climate change;
- The framing of potential adjudication, for instance the phrasing of the request for an advisory opinion;
- The prospects of specific cases, whether pending or merely under consideration;
- Other potential implications that substantive international judicial decisions could have, in terms of enforcement, influence on national litigation, and (geo)political impacts, including on international climate change negotiations.

Interested contributors should send an abstract to Benoit Mayer (bnt.mayer@gmail.com) and Harro van Asselt (harro.vanasselt@uef.fi) by 31 January 2022. Authors will be informed about their inclusion in the special issue by 18 February 2022.

Full papers (around 8,000 words, including footnotes) are due by 31 July 2022. The style guide and instructions for the submission of the full manuscripts are available here: <https://onlinelibrary.wiley.com/page/journal/20500394/homepage/forauthors.html>. Every submission will undergo a process of peer-review before a decision is made on its publication.