



# Climate Law and Governance Day 2016 Crafting the Paris Rulebook & Implementing the Paris Agreement



Centre for International  
Governance Innovation



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## About the Climate Law and Governance Initiative (CLGI)

The CLGI supports and generates knowledge sharing activities, an active community of practice, and specialised climate law and governance capacity-building events and courses alongside the annual Conferences of the Parties to the United Nations Framework Convention on Climate Change. It coordinates the work of a broad climate action coalition of international organizations, academic institutions, leading law associations and law firms, courts, and tribunals.

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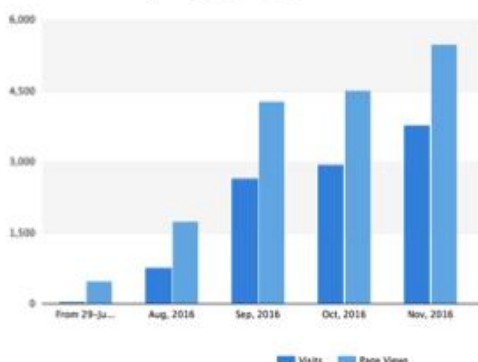
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# CLGD 2016 IN NUMBERS

25% Increase in online presence



**4** Themes  
Climate instruments, climate finance,  
climate justice & climate litigation

Student competitions **2**  
International climate law essay  
competition and winners moot

**2** Intergovernmental  
roundtable panels

Substantive expert  
roundtable sessions **12**

Participants from **7** sectors

Academica and students	International Organisations
Government Officials	Law Firms and Associations
Parliamentarians	Legal Practitioners
Media	

## Outputs

Blog series, legal working paper series,  
new Cambridge University Press book

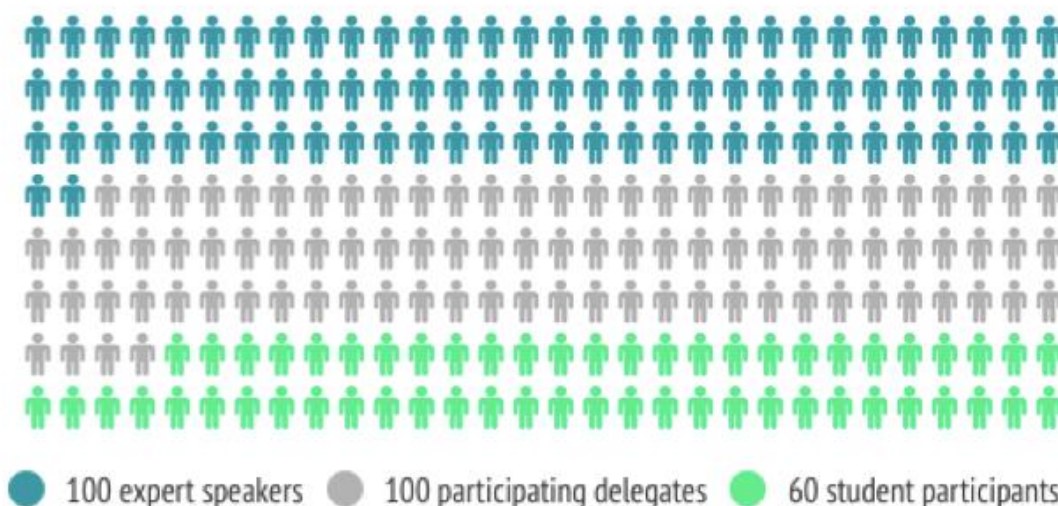
**30,000**

Results shared with 30,000 organisations,  
governments and individuals and counting

**>260**

Over 260 participants

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# CLIMATE LAW AND GOVERNANCE DAY 2016: CRAFTING THE PARIS RULEBOOK & IMPLEMENTING THE PARIS AGREEMENT

Friday, 11 November 2016 | during the UNFCCC COP22 | Venue: L'Université Privée de Marrakech

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## Highlights

Climate Law and Governance Day (CLGD) on 11th November at Université Privée de Marrakech was the major offering from the Climate Law and Governance Initiative (CLGI) at the 22<sup>nd</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change (COP22, UNFCCC). It took place alongside CLGI's climate law and governance innovation zone knowledge sharing booth during the first week of COP22, a Green Zone report back event on 12th November, a COP22 Blue Zone briefing on climate justice in highly vulnerable countries on 16th November, and a unique one-day climate law and governance specialisation capacity building course on 13th November. The events built on the success of the inaugural CLGD on 4<sup>th</sup> December 2015, which gathered experts at La Sorbonne Law School in Paris alongside COP21, and a series of agenda-forming lead up events during 2016 including the CLGI legal roundtable held during the Bonn SB44/SBSTA44 inter-sessional talks.

The CLGI's events helped to set an agenda for future legal and governance research, and to share knowledge and identify priorities for capacity building efforts to assist policy makers to implement climate change mitigation and adaptation objectives. Experts, policymakers, decision makers, legal professionals, academics, and jurists discussed the law and policy reform elements of (intended) Nationally Determined Contributions ((i)NDCs) and the Paris Agreement, the climate and energy Sustainable Development Goals, and the Doha Amendment to the Kyoto Protocol. This summary briefly highlights some of the main discussions across the four themes of CLGD: Climate Instruments, Finance, Justice and Litigation. A more detailed discussion of each session can be found from page 8.

### Crafting Climate Instruments

- *Trends*: “Peak climate change legislation”: experts identified a trend away from national level environment-focused climate law development towards subnational and cross-sector implementation instruments.
- *Challenges*: Fragmentation resulting from multi-tiered instruments; the reliance of the Paris Agreement structure on soft obligations in the bottom-up NDCs and harder obligations limited to the transparency obligations for the global stocktake; ensuring that the (increasing number of) instruments available are utilised in practice and made to work for people beyond the theoretical realm; and the inevitability of a future that includes some forms of geoengineering due to the ambition gap between NDC emission reduction commitments and the action needed to limit warming to 1.5 or even below 2 degrees, are challenges for crafting climate instruments.
- *Opportunities*: Innovation and legal creativity is needed to address fragmentation challenges; there are opportunities in the emerging developments in scope and application of voluntary disclosure-based standard instruments; and a growing recognition of the power of data and data-sharing to improve climate instruments.
- *Research priorities*: Ideas are needed for addressing polluter sectors excluded from the Paris Agreement; further defining and developing new approaches to loss and damage; further investigation of the status of NDCs in domestic legal structures and use of the “subsidiarity principle” as coordination and integration mechanisms among multi-tiered instruments; and a strong call for exploring the legal challenges of climate geoengineering such as exploring how the Paris Agreement's non-regression principle applies to removals as well as reductions.
- *Capacity building*: Enabling countries to integrate their sectoral laws and policies should be a capacity building priority; legislators and future generations should be targeted through universities and institutions; strengthen international partnerships in research, technology transfer and skills mobilization programmes.

### Mobilizing Climate Finance

- *Trends*: Experts noted a fragmentation of climate finance with the arrival of private sector financing, and financial flows and accountability issues becoming more diverse.
- *Challenges*: Funding gaps between national and local levels are a key challenge; provision of finance is not enough—capacity building and technology transfer are essential to ensure effective implementation.
- *Opportunities*: NDCs are being taken seriously by financial institutions and the certainty that clear legal instruments can provide can enhance investor confidence; we need legal creativity to meet the challenges of



legal and institutional fragmentation; need to develop new reporting, synergy mechanisms, and legal mechanisms for newly trending financing initiatives such as green bonds.

- *Research priorities:* There is a need to clarify the relationships between national and international economic law, including legal rules in the world trade organisation and international investment law, and the climate regime; and to find appropriate incentive structures for markets to transition to a low carbon economy.
- *Capacity building:* The potential for finance to mobilise low-carbon economies in developing countries should be explored, and local/regional levels should be included in developing the global climate financial architecture.

### **Tracking Trends in Climate Litigation**

- *Trends:* Litigation is increasingly at the heart of cases brought and no longer merely a sub-issue.
- *Challenges:* The significant knowledge gap amongst judiciary and legal practitioners is a persistent challenge for climate litigation; there is a lack of funding for bringing public interest cases on climate change; legal frameworks may not allow for standing; and demonstrating causation is often very difficult.
- *Opportunities:* Innovative ways of using existing provisions in tort and constitutional law and use of international climate instruments including the Paris Agreement and national implementing instruments to bolster cases need exploration; cross-jurisdictional learning can help find balance for justiciability, causation and standing.
- *Research priorities:* Novel tools are needed to ensure climate justice and accountability to commitments made in national, regional and international fora and for empowering citizens to take part in the formulation, implementation, enforcement and accountability in NDCs; it is important that the focus is not only on the legal framework but also consider the role of the legal community, civil society and communities on the ground.
- *Capacity building:* Training and education of the legal community on issues concerning climate change should be prioritised and include judges, arbitrators and in-house and corporate counsels so as to ensure that climate change is appropriately considered within judicial processes.

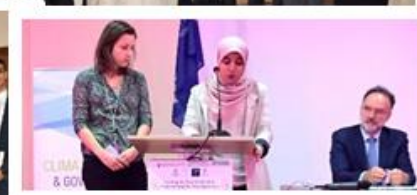
### **Advancing Equity and Climate Justice**

- *Trends:* Formal recognition of the importance of justice considerations to climate change law and governance is a growing trend, as well as recognition that solutions cannot be imposed top-down, local ownership is crucial and national instruments must be developed in light of the respective capacities and circumstances in countries.
- *Challenges:* Addressing the lack of awareness about climate issues, and climate instruments amongst affected groups while ensuring inclusivity of marginalised groups in decision-making processes is an ongoing challenge; in addition, continued gaps in institutional and legal frameworks in some countries, fuelled by capability, funding, and technological challenges, particularly for implementation and enforcement; and there is a need to find acceptable mechanisms for loss and damage and climate migration considerations.
- *Opportunities:* The effective implementation of the Paris Agreement and international and national provisions relating among others to transparency, accountability, and public participation can be key to achieving climate justice; a rights-based approach can be a useful tool to design equitable and effective responses to climate change but coherent overarching frameworks are important to avoid unintended consequences; capacity building is considered as a central tenet of the Paris Agreement
- *Research priorities:* Research should include the issue of loss and damage and its unclear status/meaning under the Paris Agreement; there is a need for interdisciplinary approaches and cross-pollination between legal disciplines and between different jurisdictions to use the full range of available tools and find novel ways to bring about climate justice; nationally appropriate policies and instruments to address challenges in (highly) vulnerable countries should be a research priority including access to technologies and funds; as well as addressing the gap in protection for those displaced by climate change; and exploring linkages with prevention of social conflicts.
- *Capacity building:* The global north often dominates negotiation at the international stage and it is thus imperative to institutionalise inclusivity, and provide for capacity building to empower all actors—including civil society—to be involved in these dialogues; on a regional and national level, countries should be enabled to implement practical responses that consider climate justice targeted to specific needs and vulnerabilities.

The organisers would like to express deepest recognition and greatest thanks to the help of the 2016 Climate Law and Governance Day Programme Committee, student volunteers, and contributors, whose engagement, encouragement and contributions, made the Day's extraordinary success possible.



## CLGD 2016 IMPRESSIONS







## CLIMATE LAW AND GOVERNANCE DAY 2016: CRAFTING THE PARIS RULEBOOK & IMPLEMENTING THE PARIS AGREEMENT

### SESSION SUMMARIES OF THE DELIBERATIONS & DEBATES

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#### *Implementing the Paris Agreement*

*Opening Plenary Chairs and speakers: Prof. Dr. Marie-Claire Cordonier Segger (Professor of Law, University of Waterloo / Senior Director & Centre for International Sustainable Development Law) & Prof. Dr. Abdeljabbar Arrach (Professor of Public Law, Université Hassan 1er de Settat). Welcome by Partners: Prof. Dr. Mohamed Knidiri (President, Université Privée de Marrakech); Prof. Dr. Ahmed Nejmeddine (President, Université Hassan 1er de Settat); Dr. Kishan Khoday (Regional Leader, UNDP); Dr. Arnold Kreilhuber (ILU Head, UN-Environment); Dr. Oonagh Fitzgerald (Director, International Law Research Programme, Centre for International Governance Innovation); Dr. André LaPerrière (Executive Director, GODAN); Maître Marie-Anne Birken (General Counsel, EBRD); Prof. Dr. Charles di Leva (Chief Counsel, Environmental and International Law Unit, World Bank) & Prof. Martijn Wilder (Head of CCEM Practice, Baker & McKenzie LLP)*

With institutional or legal reform explicitly prioritised in over 80% of intended Nationally Determined Contributions to the Paris Agreement submitted by parties to the UNFCCC, law and governance innovation will be crucial on all levels. Marie-Anne Birken from European Bank for Reconstruction and Development (EBRD) recapitulated the discussions of the previous day, stressing that despite the emphasis on a bottom-up process and the increasing role for non-state actors, international law remains an important mechanism to respond not only to climate change but also to advance sustainability in many different areas. Further, she pointed out that in view of rapid scientific changes it is crucial to ensure that international and national (legal) regimes are sufficiently flexible to accommodate new insights and advances in technology. She reminded everybody that it will be necessary to a look beyond narrow legal issues and consider interlinked issues such as awareness raising to effectively respond to climate change.

Dr. André LaPerrière from GODAN discussed challenges related to implementation. Implementing international commitments into national law and to further implement and enforce national law will require capacity building in many countries to deal with these challenges. Moreover, instruments will need to be put in place to track progress in implementing the Paris Agreement and the NDCs. In line with the mission of his organisation, he also mentioned the relationship between agriculture, land management and climate change. While agriculture can exacerbate climate change it can also be a mechanism to mitigate climate change.

Prof. Dr. Charles DiLeva from the World Bank reported back on climate instruments and finance. He stressed the importance of implementation and that regardless of specialisation all legal professionals - whether they are contract, transactional or litigation lawyers - can contribute to addressing climate change. Particularly in the last year many relevant new instruments have been introduced including the SDGs, the Paris Agreement which links climate change law with other legal regimes, the Kigali Amendment and the ICAO Agreement on CO<sub>2</sub> emissions from international aviation. All these instruments and other instruments including financial instruments are coming together, alongside other tools such as litigation and the resulting case law to move things forward.

Dr. Arnold Kreilhuber from UN-Environment reported back on the Legal Preparedness session held during CLGD. He highlighted how CLGD sessions demonstrated the far reaching implications and interdisciplinary nature of climate change. As such, climate change has also contributed to international environmental law and being considered together with more interlinked issues, is no longer considered as a silo issue. Climate change is not an isolated matter but relates to matters such as prosperity, fairness, justice, financial tools and is ultimately about people. With the increasing range of (legal) instruments available it is crucial that these instruments are utilised in



practice to make them work for people and lead to the changes we desire to see and not remain an academic exercise. To this end, it will also be necessary to take an interdisciplinary approach and ensure cross-fertilisation between legal disciplines so as to use the full range of instruments available.

Dr. Kishan Khoday from the United Nations Development Program (UNDP) provided inspiring remarks on the theme of Climate Justice. Informed by several leading studies undertaken by UNDP with partners, and demonstrating an expertise and experience that was deeply welcomed by participants, he explained the need to take into account both substantive environmental, social and economic concerns related to climate change, and also procedural justice matters related to public participation, access to information, and access to justice, among others. He elaborated upon UNDP's action to bring national action together and that more plans are being drawn up for post-COP22 activities. Dr. Oonagh Fitzgerald from the Centre for International Governance Innovation (CIGI) presented the mission and activities of CIGI in the field of climate change, stressing the complexity of the intersections between on international law on climate change, human rights and economic development.

### ***Advancing Climate Justice through the Paris Agreement***

*Inter-Governmental Plenary Chair & Opening Remarks: Dr. Paul Watkinson (Chief Negotiator and Head of the Climate Negotiations Team, Government of France). Speakers: Hon. Cecilia Ogwal (Member of Parliament and Delegate of the Ugandan Delegation to COP22) & Maître M. Hafijul Islam Khan (Executive Director, Centre for Climate Justice—Bangladesh & Adjunct Professor, North South University, Bangladesh)*

In this intergovernmental plenary, chaired by a senior negotiator from France who led the Paris Agreement discussions and had taken up the capacity building committee chairmanship, with presentations from distinguished senior representatives of Uganda's parliament and the Bangladesh legal community, experts discussed the opportunities and challenges of the Paris Agreement in terms of climate justice, as well as the design options for the Paris Rulebook. They benefited from key perspectives on the future legal and institutional developments needed for a resilient, carbon-constrained world.

In opening the session, senior delegates observed a lack of understanding of the climate consequences of the actions of both ordinary people, and of governments as an ongoing trend and key *challenge*. In the context of climate justice, the delegates reinforced the importance of responsibilities and liabilities being based on historic responsibility, referencing the preamble of the Paris Agreement. Delegates referred to the Agreement's structure as an ongoing opportunity in respect of differing capacities in that it enables parties to tackle climate change with their own laws and decisions in light of their respective national circumstances. However, they noted that the capacity and understanding challenge is compounded by the bottom-up structure of the Agreement.

Supported by their Chair, the speakers emphasised the need for capacity building to ensure that all countries, and developing countries in particular, are enabled to implement practical legal and institutional responses domestically and to close the ambition gap. In the context of climate justice, the senior representatives pointed to the need for dynamism in domestic legal and institutional responses to ensure that "the products benefit all". Three elements were identified as key to ensuring climate justice: effective implementation, transparency, and accountability in support. Participants called for support to be provided to vulnerable communities beyond finance, including technology transfer, and for capacity building that is targeted to their specific needs and vulnerabilities.

In concluding the session, the discussion highlighted the need for capacity building to target legislators and future generations through universities and institutions. While national frameworks are clearly crucial, the senior representatives also called for policy makers, legal professionals, and decision makers to ensure that national and international frameworks work together. In particular, the reliance of the Paris Agreement compliance mechanism on transparency and stocktaking innovations, make this a priority area for future research and capacity building efforts. Further, the delegates identified the exclusion of some polluters and its lack of consensus on loss and damage as challenges in the existing framework of the Paris Agreement requiring crucial contributions from the climate law and governance community.

### ***Transparency, Food Security & Climate Instruments***

*South-South Plenary Roundtable Chair & Opening Remarks: Dr. André LaPerrière (GODAN) & Speakers: Raj Bavishi (Legal Counsel, Green Climate Fund); Maître Eric Kassongo (Director, Congolese Centre for Sustainable Development/Fellow, CISDL); & Dr. Kirit Shelat (National Council for Climate Change, Sustainable Development and Public Leadership, NCCSD).*

This intergovernmental panel aimed to explore case studies and ideas in responding to the interlinked challenges of climate change and food security. It examined innovative climate-smart agriculture governance instruments, as well as looking at the roles of open data and improved information and knowledge exchange in specifically addressing the nexus of climate change adaptation and food security. The panel was opened with the assertion that good implementation requires good policy, and good policy requires good data.

Picking up on the importance of transparency measures, this panel addressed an observed *trend* towards the recognition of the imperative of data in enabling better decision-making, and asked how the Paris Agreement requires us to change what we are currently doing. One outcome of the discussion was an emphasis placed on the need for agreed common indicators within the transparency provisions of the Paris Agreement, and regular check-ins.

However the fragmentation of data collection, arising in the context of its growing importance, was noted as a growing *challenge*. The panel shared some data harmonisation innovations being undertaken by governments at various levels, and pointed to this as a future research area. Citizens' rights to data and information collected by governments is another key area for future exploration, with the panel noting a future challenge in the need to improve access and fund innovation in data provision.

Case studies exploring the climate-food security nexus in India and the Democratic Republic of Congo revealed challenges in education, understanding, and funding. Disparate responses and a lack of integration amongst governing sectors was noted as a key problem in the DRC and other African nations, with capacity building needed to enable integration on the domestic level. Insurance was presented as a potential innovation area requiring more attention, along with a need to provide more resources to farmers.

## ***Mainstreaming Green Financing: EBRD Green Economy Transition, and Legal & Institutional Implementation of selected (i)NDCs***

*Session 1 Chair & Speakers: Maître Marie-Anne Birken (General Counsel, EBRD); Maître Angela Delfino (Senior Counsel, EBRD); Maître Vesselina Haralampieva (Principal Counsel, EBRD); Prof. Dr. Abdeljabbar Arrach (Professor of Public Law, Université Hassan 1er de Settat, Faculty of Law, Economics and Social Sciences); Prof. Dr. Fadhel Moussa (Professor at the University of Carthage); Dr. Markus Gehring (Deputy Director, Economic Law, ILRP, CIGI); Dr. Omar M. I. Al Khataibeh (Centre Al-Khataibeh, Jordan); Maître Stuart Bruce (CISDL, King & Wood Mallesons) & Prof. Benoit Mayer (Chinese University of Hong Kong, Faculty of Law/Fellow, CISDL).*

This first substantive session explored the issue of mainstreaming green finance by looking at investment projects and legal reform activities financed by the European Bank for Reconstruction and Development (EBRD) in the context of its Green Economy Transition initiative.<sup>1</sup> The panel discussed in detail the preliminary findings of a pilot project led by the EBRD in Jordan, Tunisia and Morocco that aims to assist the implementation of (i)NDCs by identifying legal, regulatory and institutional obstacles, opportunities and possible areas for reform.

The pilot project illustrates a variety of obstacles that will be faced by certain countries in implementing their (i)NDCs. These include administrative barriers, red tape, lack of transparency in decision-making, market failures in a number of sectors seen as priority under countries' (i)NDCs, lack of enforcement, inadequate laws for the implementation of NDCs, and lack of academic studies on climate change issues. These *challenges* are compounded by socio-economic barriers such as budget deficits, poverty and unemployment.

However, the panel stressed that the transition to a low carbon economy presents many *opportunities* for countries. Reforms required encouraged by the Paris Agreement may act as catalysts to advance sector development that can lead to growth in income and employment. The bottom-up approach of the Paris Agreement allows states to focus on removing specific national legal and governance barriers that hinder the absorption of and attractiveness for investment.

Based on their analysis, the panel proposed several *actions and areas for reforms*. Comparisons in the pilot countries have shown that high-level government support is crucial to catalyse initiatives at lower levels of government and provide certainty for stakeholders. Despite various levels of progress and reforms undertaken, there will also be a continued need to review and upgrade existing financial, commercial and sectoral laws (*e.g.* on energy and water). This should be complemented by institutions with specific mandates and effective implementation and coordination powers. In addition, to reduce legal barriers and ensure accountability, strong transparency frameworks will be required including monitoring, reporting and verification mechanisms. The panellists also emphasised the importance of public participation—among others by cities, civil society, private sector and social partners - for achieving the goals of the Paris Agreement.

To encourage public and private investments that reduce carbon emissions and pollution, enhance energy and resource efficiency, and prevent the loss of biodiversity and ecosystem services, will require action from both the public and private sectors. Thus, governments should level the playing field for greener products by phasing out antiquated subsidies, reforming policies and providing new incentives, strengthening market infrastructure and market-based mechanisms, redirecting public investment, and greening public procurement. It will also be crucial

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<sup>1</sup> EBRD defines a Green Economy as “a market economy in which public and private investments are made with a specific concern to minimise the impact of economic activity on the environment and where market failures are addressed through improved policy and legal frameworks aiming at accounting systematically for the inherent value of services provided by nature, at managing related risks and at catalysing innovation..



that the private sector understands and seizes the opportunities presented by the green economic transition by responding to policy reforms and price signals through higher levels of financing and investment.

## ***Law, Science & Risk in Climate Engineering***

*Session 2 Chairs & Speakers: Dr. Oonagh Fitzgerald (ILRP Director, CIGI); Dr. Janos Pasztor (Senior Fellow to Carnegie Council and Senior Advisor to the UN Secretary General on Climate Change); Prof. Dr. Neil Craik (Director, SEED, University of Waterloo/ Senior Fellow, CIGI) & Dr. Timiebi Aganaba-Jeanty (Post-Doctoral Fellow, ILRP, CIGI).*

This session, hosted by the Centre for International Governance Innovation, explored the legal and policy dimensions of climate geoengineering in relation to the Paris Agreement and associated processes. It addressed the human rights dimensions and policy challenges related to climate geoengineering and examined what has been learned through recent initiatives on climate engineering governance at international levels.

Climate geoengineering covers both carbon dioxide removal (CDR) technologies such as bioenergy with carbon capture and storage (BECCs), and solar radiation management technologies (SRM), such as stratospheric aerosol injection. The panel summarised the treatment of geoengineering under international law to date, putting forward the relevance of the “no harm” principle of customary international law. The London Convention is the more formally constraining instrument, making marine geoengineering dumping prohibited under the London Protocol (2013 amendments, not yet in force). CDR, the panel suggested, is addressed within the Paris Agreement itself, with Article 2 speaking directly to geoengineering with its requirement for eventual negative emissions, Article 4 referring to both “reductions and removals”, and the potential for inclusion of geoengineering instruments within NDCs. Regarding the latter, the panel predicted a possible move to the inclusion of more CDR within NDCs as removals, with the line between CDR as mitigation and CDR as geoengineering one of scale.

Three key imperatives were presented for the climate law and governance community to address the legal questions raised by the prospects of geoengineering: (1) most 2C scenarios include some sort of emission removals, (2) 1.5C scenarios rely heavily on negative emission action, and (3) a political imperative from the risk of one country taking unilateral or “rogue” action. At the same time, the panellists cautioned against a reliance on such measures since the technology is not developed and an emissions overshoot today may not be possible to claw back tomorrow, underscoring a need for innovation and creativity in the development of legal frameworks addressing this issue.

Throughout the roundtable discussion, the panel raised future *research priorities* such as exploring how the Paris Agreement’s non-regression principle applies to removals as well as reductions, and how to maintain balance. Further market rules and arrangements are also needed. They concluded that SRM technology is not addressed by the Paris Agreement, although work should be done to explore how some Paris mechanisms can help to address governance of its research and development, emphasising the importance of transparency, participation, and inclusivity. Attribution issues are likely to be one of the biggest research priorities in SRM.

Overall, the panel called for mechanisms to ensure that all countries understand the status of research, transparency in who is conducting it, and crucially, enabling public confidence in the research that is conducted. The session dedicated discussion to the question of how this issue is addressed in the developing world, noting the dominance of the global north in the debate, and emphasising the need to institutionalise inclusivity, and the need for capacity building to enable all actors to be able to be involved in these dialogues. While the panel saw an important role for the UNFCCC and the Paris Agreement within these priorities, they suggested that it should not be the main instrument to address geoengineering.

## ***Limits of Adaptation Policies at Regional and Local Levels***

*Session 3 Chairs & Speakers: Dr. Marcelo Mena Carrasco (Environment Vice-Minister of the Republic of Chile); Dr. Sol Meckievi (Researcher, (CR)2); Maître Gustavo Manóez (Senior Expert, UN-Environment); Maître Paula Ellinger (Responsible of Climate Change Program, AVINA) & Maître José Félix Pinto Bazurco Barandiarán (International Climate Fellowship of the Alexander von Humboldt Foundation).*

This session featured representatives from Chile, Argentina and Peru. The Panel discussed the main challenges to address climate change at the local level, exploring the main factors and obstacles at play in ensuring optimal policies to prevent or alleviate the impacts of climate change.

Reflecting on the geographical and biodiversity characteristics of South American countries, panellists highlighted the importance of adaptation climate change policies. They drew attention to the Andes and Rainforest region, demographically low-income areas of rural and native communities, that are highly vulnerable to climate change effects. The panellists argued that local governments are key actors to address climate change *challenges* in such circumstances. The discussion explored three main concerns in ensuring the success of local policies: the financial gap between national and local levels, sectoral approaches and local capacity building.

Regarding the first challenge, panellists profiled incentive examples that can address financing gaps, such as green taxes and climate change projects that can be vested at the local level directly. They agreed that it is necessary to include local and regional levels in the developing global climate financial architecture. They suggested that governments and the private sector should focus on how to mobilize financial support from the national to the local level in order to implement those actions.

On the second challenge, the panel stated that most South American countries have developed national climate change policies. The examples discussed concerned recent climate change policies developed in Chile and Peru, led by the Ministries of Environment. However, they noted that major challenges remain in: (i) ensuring coordination mechanisms among local, regional and national levels (ii) creating participation systems and (iii) the need to use the “subsidiarity principle” in order to integrate local decisions into the national policies. Addressing these challenges, panellists argued, can aid effective implementation of adaptation policies. Recognising the potential for addressing climate change through land use policies, institutional reform can be an important mechanism to integrate and coordinate climate change mainstreaming between policy sectors.

Regarding the third challenge, the panel emphasised the importance of capacity building at the local level and the potential to engage local actors in order to ensure implementation of climate projects. They highlighted the importance of multi-stakeholder approaches in addressing adaptation. Involving multiple stakeholders at different stages of Adaptation Plans can help to ensure the implementation of long-term policies and projects.

The importance of non-state actors in the context of the Paris Agreement lacking a robust non-compliance system is vital in order to push governments to comply with their (i)NDCs. Given the multi-level dimension of the Paris Agreement, this panel clearly showed that national government needs to work closely with local actors, the private sector, and non-state actors.

## ***Climate Instruments in Highly Vulnerable Countries***

*Session 4 Chairs & Speakers: Mr Christopher Tavo (Director, Vanuatu State Law Office); Dr. Edna Blanc Civil (Senior Officer, Haiti); Mrs Dorosday Kenneth (Senior Officer, Vanuatu), Maître M. Hafijul Islam Khan (Executive Director, Centre for Climate Justice—Bangladesh & Adjunct Professor, North South University, Bangladesh) & Maître Erick Kassongo (Director, CCSD/Fellow, CISDL).*

This session featured representatives from Vanuatu, Uganda, Grenada, and Bangladesh discussing how their regions are highly vulnerable to the projected effects of climate change, and how climate change may create or exacerbate further conflicts within countries and across regions. The panel shared holistic and novel past and future climate change regulation efforts of highly vulnerable countries to respond to climate change, and asked what can be learned from these experiences.

All panellists noted gaps in their existing legislative frameworks, and saw filling these gaps as an *opportunity* and priority moving forward. They called for capacity building from the international community, as well as financing and funding for implementation of climate actions. The panellists presented some of the innovative legislative and governance instruments developed in highly vulnerable countries. Grenada, for example, has undertaken institutional reforms to enable greater integration in coastal zone land management. Bangladesh has deepened community participation in adaptation management, and is developing innovative funding mechanisms utilising trust funds.

The panellists highlighted a host of *challenges* that are common and particularly important to highly vulnerable countries, for whose citizens, economies, and environments the impacts of climate change will be more devastating and whose governments frequently lack the resources and capacities to take measures at scale. Issues to be addressed in this context will be how to increase the level of climate change understanding, establish robust policies to address vulnerabilities, prevent social conflicts due to climate migration, and how to effectively implement and enforce international and national climate instruments including the Paris Agreement, NAPs or NAPAs. Increasing climate change understanding amongst civil society and the private and public sectors is also needed in highly vulnerable countries.

The discussants were unified in the conclusion that in these countries, tackling climate change is important for the agriculture and fishery industries, prevention of armed conflicts, and avoiding displacement due to climate catastrophes. With an absence of political power, the panel noted that legal power becomes the most important power for some small states and they viewed the Paris Agreement as presenting an opportunity in that it encourages the development of legal instruments to address climate change. Suggested actions for countries included institutional reforms to create dedicated high-level climate change units or ministries, create task forces to develop concrete solutions on climate change, implement a comprehensive holistic climate change strategy and devise policies to tackle problematic issues such as climate migration, land use and sustainable agriculture. They pointed to the important contribution that new technologies can make in areas such as energy and agriculture but also more broadly to assist adaptation and mitigation efforts, recognising that access to the needed technology is often difficult.

In terms of *research and capacity building priorities* they suggested focusing on exploring new paths for climate change education and awareness raising, and avenues to prevent and mitigate harm from social conflicts including illegal land grabs and climate migration. Other ideas include developing and implementing insurance systems to help



farmers, assist with establishing an incentive system that makes trade in vulnerable countries less CO<sub>2</sub> intensive and build capacities for climate change adaptation and mitigation.

## ***Legal Preparedness for the Paris Agreement***

*Session 5 Chair & Speakers: Dr. Robert Ondhove (Legal Officer, UN Environment); Maître Christoph Schwarte (Executive Director, LRI); Dr. Alina Averchenkova (Grantham Research Institute on Climate Change & Environment, London School of Economics); Maître Stephen Minas (Dickson Poon School of Law, King's College London) & Dr. Albert B W Edwards (Deputy Solicitor General of Legislative Drafting, Attorney General Ministry, Belize).*

This panel discussion, hosted by UN Environment and the Legal Response Initiative, focused on the utility for developing (national) legal frameworks in responding to climate change. While not all climate action requires legislation, the panel considered a robust legal framework and the creation of enforcement mechanism crucial.

A recent study by LSE and the Grantham institute shows that there is a *trend* towards a decrease in the number of specific climate-related legislation, although the reason for this shift is not entirely clear. Possible explanations suggested included that there is sufficient legal framework already in place, that the urgency for legal actions against climate change has diminished or that the focus has shifted to implementation.

In reviewing the commitments of the (i)NDCs and the domestic legal and institutional frameworks and policy measures, the panel pointed to a number of *problems*. Current commitments of all countries as a whole under the (i)NDCs will be insufficient to achieve the goals of the Paris Agreement. The panellists also noted climate legislation is an economic challenge especially for countries with very limited financial resources. This is reflected in the finding that particularly developing and emerging countries have so far struggled to implement the commitments in their (i)NDCs. Shortcomings can be particularly noted in the areas of effective decision-making processes, public and private bodies' support of climate action, and public awareness of climate change.

To *address* these issues, technical cooperation, capacity building and financing instruments will be required. Legal frameworks will also be important in this regard including providing clear regulatory stability to allow investment to take place, enabling the flourishing of technology markets and ensuring the diffusion of legal technology for climate change mitigation and adaptation.

The panel posited that the need to implement the Paris Agreement offers an *opportunity* to states and regional economic organizations to re-examine their responses to climate change. Given the cross-cutting nature of climate change the agreement is also an opportunity for states to create a more coherent system that advances sustainability and can assist in achieving the goals of the 2030 Sustainable Development Agenda. However, there can be no one-size fits all solution and each legal and institutional framework needs to take into account the specific circumstances in the country.

As for *research and capacity building priorities*, the panel particularly mentioned finding innovative ways to develop holistic legal frameworks that address climate change and sustainable development. Furthermore, they see a key role for the law and governance community to explore opportunities to address where legal frameworks that are insufficient to bring about the required change to meet commitments under the Paris Agreement and the respective (i)NDCs.

## ***Human Rights, Climate Justice & Law on Migration***

*Session 6 Chair & Speakers: Dr. Oonagh Fitzgerald (ILRP Director, CIGI); Dr. Kishan Khoday (UNDP); Dr. Cosmin Corendea (Academic Officer/Legal Expert, United Nations University Institute for Environment and Human Security (UNU-EHS)); Prof. Benoit Mayer (Chinese University of Hong Kong, Faculty of Law/CISDL); Maître Katherine Lofts (Programme Manager, CISDL); Katharina Rall (Researcher with the Health and Human Rights Division at Human Rights Watch) & Dr. Khalid Ramli (Expert, Morocco National Human Rights Council).*

A combined session, featuring speakers from the United Nations University, Human Rights Watch, the Chinese University of Hong Kong, CISDL and the Indigenous Rights Center, this panel focused on human rights and the protection of vulnerable groups, in particular indigenous peoples and those displaced by climate change.

The panellists suggested that human rights law can be seen as an *opportunity* to address shortcomings in the climate change framework as a rights-based approach can be a useful tool to design equitable and effective responses to climate change. As such it allows a reframing of decision-making by focusing on the impacts climate change has on individuals and where this might be a catalyst for action. At the same time the panellists also discussed how it is crucial that there is a coherent framework to deal with the human rights climate change nexus. While human rights should be taken into account in climate change responses, it is also important to conversely integrate climate change into human rights instruments or instruments protecting indigenous rights.

A second closely related discussion focused on how to address the *gap* in protection for those displaced by climate change. In the absence of a strong framework to protect those displaced both internally and those that cross borders, human rights are crucial to at least provide a minimum standard of protection until stronger responses have been developed. However, from a normative point a question was also raised as to protecting the rights to one particular cause of vulnerability. As an analytical issue, climate migration also raises the difficulty of attribution. Effectively it appears that addressing climate migration will include two responses: adaptation to the extent possible and migration where this is not tenable. To address climate loss and damage by providing compensation or reparations was discussed by some participants and experts as a way forward. Countries, also international agencies and NGOs, are exploring the potential for innovative claims, compensation and other instruments to be used locally, nationally and internationally in this context, and new research, capacity-building and technical assistance efforts may be necessary, together with dialogue to share lessons learned, in coming years.

## ***Aligning Climate Policy Teaching & Research with the Paris Agreement***

*Session 7 Speakers: Dr. Marilyn Averill (Senior Fellow, Getches-Wilkinson Center for Natural Resources, Energy and the Environment, University of Colorado Law School); Atty. Joyce Melcar Tan (Delegate COP21, Ateneo de Manila University); Atty. Kriselle Samantha Sy (Delegate, Ateneo de Manila University).*

This session explored new directions for legal education and national policy and law to support the entry into force and implementation of the Paris Agreement. It provided an opportunity for educators, researchers and policy-makers to come together to discuss ways to harness legal education and action to achieve ambitious (intended) nationally determined contributions, in a manner that respects constitutional arrangements, democratic principles, transparency, public participation and education, and the rule of law.

Due to other COP22 commitments, the session focused particularly on case studies of successful climate law and governance teaching experiences in the Philippines and the US. The speakers from the Ateneo de Manila University School of Law pointed to the *opportunities* that are available to universities in contributing to an effective response to climate change. The research and subsequent policy and discussion papers on issues such as mitigation, adaptation, climate finance, climate justice or engaging the private sector are crucial for stimulating public debate and enhancing our understanding of problems and possible solutions. As national and sub-national governments often rely on the expertise of researchers at universities in developing their policies and legal frameworks, universities are also uniquely positioned to influence governments to take action on climate change. Moreover, increasing collaboration between universities both at home and abroad can help with knowledge exchange and finding innovative solutions to different problems.

The panel discussion also highlighted that capacity building is considered as a central tenet of the Paris Agreement, offering new opportunities for leading institutions to coordinate capacity building initiatives. It emphasised that capacity building activities in the past have too often failed to build local capacity or have a lasting impact in developing countries.

Engaging universities in climate action is a tremendous opportunity to build capacities of all participants over the long term. Like other climate action, effective capacity building will require funding. Universities have many resources that can be shared without (much) new funding, so they can make an invaluable and more immediate contribution to capacity building and responding to the challenges posed by climate change. Proposed actions included engagement and cooperation of universities with relevant UNFCCC bodies, negotiation groups and NGOs; enhancement of research collaborations, sharing of knowledge and skills, ensuring access to information, provision of distance learning and increasing student exchanges.

Experts agreed that obstacles remain to be addressed. Language barriers and paywalls may inhibit access to valuable resources. Moreover, universities in developing countries often lack the necessary equipment including computers or other technical equipment to enhance their learning about and conduct research on climate action. Insufficient viable opportunities exist for students from developing countries to attend universities in developed countries and academic conferences are often less accessible to researchers from developing countries. Researchers from the developed world often have funding constraints that prevent them from traveling to foreign countries, or from including colleagues from the developing world in research projects. Research collaborations tend to occur amongst scholars with the same academic or regional background rather than between academics from different backgrounds.

## ***Role of Climate Litigation in the post-Paris World***

*Session 8 Chairs & Speakers: Ms Farhana Yamin (CEO, Track 0 and Visiting Professor at University College London); Prof. Michael Burger (Executive Director, Sabin Center for Climate Change Law, Columbia Law School); Ms Alyssa Johl (Independent Attorney); Mr Stephen Leonard (President, Climate Justice Programme); Ms Elizabeth Brown (Attorney, Our Children's Trust) & Dr. Maria Banda (Graham Fellow, University of Toronto's Faculty of Law/World Commission on Environmental Law).*

In recent years there has been a growing focus on climate justice and an increase in climate litigation across the globe. While climate litigation was the focus of much of the contribution, the debate was set within the context of the wider concept of climate justice as going beyond being a legal movement. The speakers pointed out that climate justice has become increasingly popular in terms of political capital and is an important concept as it takes into



account wider issues including human rights, social inequalities, accountability of corporations and financial elites, corruption, just transition for workers as well as loss and damages and considering those most vulnerable and least able to protect themselves.

The panel noted a *trend* towards the number of domestic climate litigation cases increasing as existing and new legal tools and mechanisms are being employed to make climate change issues justiciable. Climate change is no longer merely a sub-issue, but has become the heart of many claims across the globe. While most climate cases to date have been brought in developed countries, it is to be expected that cases in developing countries and international and regional fora will increase. Based on past and current cases, the panellists explored amongst others the different objectives, legal sources, types of defendants and remedies of climate litigation. Lawyers have become increasingly innovative in using existing provision in areas as diverse as constitutional law, tort law and common law to international human rights law or international investment law as legal basis for their claims against states and corporations. It is expected that the Paris Agreement and the NDCs will also be referred to in future litigation. The aims of cases brought before courts and arbitral tribunal vary and may include holding governments and corporate actors accountable for mitigation and adaptation commitments, establishing liability for failure to adapt, establishing emission-related causation for purposes of legal liability and establishing a causal link between resource extraction and climate impacts. Not all cases seek compensation and other remedies include declaratory judgements e.g. on emissions reduction, adaptation, environmental impact assessment and injunctions.

Various *challenges* make litigating climate change difficult. Establishing causation remains a major issue, but advances in science allow the identification and attribution of impacts more clearly. Lack of standing and funding can also present obstacles and depends on the individual jurisdictions. Mechanisms to address these should be enhanced to ensure climate justice is available to all.

*Capacity building* in the form of training and education of the legal community on issues concerning climate change including judges, arbitrators and in-house and corporate counsels will be crucial to ensuring that climate change is adequately addressed during judicial proceedings. More *research* will be needed to find innovative ways to ensure climate justice and accountability to commitments made in national, regional and international fora and for empowering citizens to take part in the formulation, implementation and enforcement in (i)NDCs. In addition, more cross-jurisdictional learning should be encouraged so as to find the right balance for justiciability, causation and standing, etc.

The panel also highlighted that when looking at advancing climate justice and considering the role of litigation the focus should not only be on the legal framework but also consider the role of the legal community, civil society organisations and the communities on the ground.

## ***Role of Law in Implementing (i)NDCs***

*Session 9 Chairs & Speakers: Maître Jan-Willem van de Ven (EBRD); Maître Ilona Millar (Special Counsel, Baker & McKenzie); Maître Erick Kassongo (Director, CCSD/Fellow, CISDL); Maître Marisa Martin (Senior Associate, Baker & McKenzie) & Dr. Jane Wilkinson (Director, CPI).*

The session explored the role of law and governance in creating the necessary legal environments to support the implementation and flow of public and private sector climate finance into NDCs and their objectives. At the centre of discussion were the questions: how to create a low-carbon economy and the incentives required and what can be learned from past experiences and existing research on the topic.

It is widely accepted that without the involvement of the private sector a global transition to low emission economies will not be possible. The panel highlighted various factors and *obstacles* that play a role in ensuring private sector involvement. Investment decisions for investors depend on the risk, cost and technical capacities. Particularly in developing countries, investments can be deterred by risks associated with shortcomings in good governance and political instabilities such as volatile governments, unclear or lacking regulatory frameworks, no/little enforcement of laws, corruption and uncertain land tenure. In countries where the private sector may not have been fully invested at the negotiation stage, difficulties may arise in implementing the full breadth of the NDCs and enabling more ambition.

Law and governance reforms are amongst the main tools to provide more certainty. For instance, these reforms can lower the risks and provide greater certainty to attract green economy investors. This also holds true for the new environmental markets envisioned under the Paris Agreement and for national initiatives. Investors will be hesitant to invest without clear legal regimes. One of the examples discussed during this roundtable concerned recent feed-in-tariff promises and associated “reneging”, by Spain, Greece, Bulgaria and Germany which showcased the potential for “green market collapse”. However, interestingly, certain accepted safeguards are building confidence in “greener” markets. These include disclosure in portfolios of an investment’s exposure to “climate risk”, and the more generally accepted notion of putting a price on the externality of carbon through market or taxation methods.

Another obstacle discussed by the panel is barriers to entry into new energy regimes created or envisioned in the (i)NDCs as part of planned reforms for the renewable energy sector. While it is important that states regulate entry with a view to the national circumstances, it is important that the regulatory regime keeps a focus on the aim to move to low carbon economies.

Involving the private sector in climate action can be an important opportunity to achieve the goals of the Paris Agreement. It will be crucial that the regulatory regime addresses barriers hindering or running contrary to the objectives of responding to and anticipating climate change. Additionally, it will be important not to have sectoral reforms in isolation, but to ensure consistency across sectors and regimes both nationally and internationally. This, alongside the attempt to create stable conditions that reduce uncertainty for investors, will be vital to create the conditions needed to attract climate investment.

Research priorities will include elaborating appropriate incentive structures for markets to transition to a low carbon economy and exploring and suggesting ways to overcome regulatory barriers to attaining the goals of the international climate regime.

## ***Rapid Entry Into Force & the Paris Agreement Rulebook***

*Session 10 Chairs & Speakers: Dr. Markus Gebring (Deputy Director, Economic Law of the CIGI Law Programme); Dr. Charles di Leva (World Bank); Maître Christopher Campell-Durufflé (Fellow, CISDL/Trudeau Scholar, University of Toronto); Maître Ilmi Granoff (Program Director, Sustainable Finance, Climate Works Foundation); Dr. Leslie-Anne Duvic-Paoli (Research Associate in the Department of Land Economy and a Fellow at the C-EENRG); Prof. Dr. Bryce Rudyk (Professor, New York University/ Senior Counsel, AOSIS Delegation) & Maître Steven Herz (Senior Attorney, Sierra Club).*

The Paris Agreement on Climate Change entered into force in 2016, and the rulebook for the implementation of its provisions, in a manner that respects climate justice, is only just being developed. While reporting and review to promote compliance is not new under international environmental law, the Paris outcomes rely on a unique

approach to transparency that is manifest in four of its mechanisms: Nationally Determined Contributions (NDCs), the Transparency Framework, the Global Stocktake, and the Implementation and Compliance Committee. This session provided analysis of these interacting provisions, situating them within the broader corpus of international law on sustainable development, and discussing national law and governance challenges for their implementation. Participants explored the most important priorities for international legal research and collaboration, and how existing international law institutions, accords and tribunals can best support the Paris Agreement.

With the Paris Agreement’s legal obligations being of a soft law nature, the panellists noted that its legal authority depends on the understanding of the Parties. They called for placing knowledge at the centre of the developing Paris Agreement rulebook, and emphasised the importance of capacity building and providing access to finance to enable parties to improve their understanding, participation, and implementation.

The panel addressed the issue of the possible involvement of non-state actors in implementing the Paris Agreement. In this context, emphasis was placed on their potential participation in proceedings of the Compliance Committee, the role, nature and function of which has not yet been clarified. The creation of a preventive, early warning mechanism in the form of the compliance mechanism is seen as a very important part of the implementation of the Paris Agreement. However, caution should be taken on the political implications of this mechanism. It should not be seen as a reason for States to leave the Paris Agreement due to the fear of a non-compliance finding by the Committee.

## ***Standards and the Paris Agreement***

*Session 11 Chairs & Speakers: Maître Sarah Leugers (Director of Marketing and Communications, The Gold Standard Foundation); Maître Jeff Cohen (Senior VP for Policy, EOS Climate Inc.); Maître Gareth B.P.J. Phillips (Chief Climate and Green Growth Officer, African Development Bank); Dr. Tom Baumann (International Chair of SO TC 207/SC 7 and co-founder GHGMI); Maître Jose Luis Hernandez (Standards Manager for Sustainability, CSA Group) & Dr. Ira Feldman (Adaptation Coordinator, ISO TC 207/SC7 and Adaptation Leader, GHGMI).*

Recognizing that the Paris Agreement provides the framework but not the details for implementation of climate action, this session explored how international voluntary standards, such as those promulgated by the International Organization for Standardization (ISO-Geneva), could help identify best practices and policy approaches for mitigation and adaptation. Panellists suggested that voluntary standards have a history of driving technological innovations and emissions reductions where they might not otherwise occur, and that they often eventuate into binding regulation. They pointed to this and other *trends* and recent political developments to emphasise the imperative for the climate law and governance community to recognise the potential in standards. Standards can help to facilitate transparency and accountability in the trend towards inclusion of non-state actors in climate change action.

Standards can also be driven from the private sector, filling *gaps* that regulation is not addressing. They were raised as a possible tool to drive increasing ambition, a goal taken by some of the companies presenting during this session. In particular, the panellists suggested that standards could be a useful tool in broaching the bridge between climate change action and sustainable development. The panellists also explored whether an ISO standard on climate finance could help mobilize the private sector funds necessary to meet the climate change challenge.

The panel asked how the ISO voluntary standards development processes could coordinate with and complement UNFCCC initiatives, and how voluntary international standards and other “soft law” tools can be effectively

utilized in legal and regulatory regimes. The discussion noted the power of standards in representing global consent, as interactive living documents with several layers of integrated content and expert collaboration. Overall, the session called for using and referencing international standards to support public policy, and for dialogue between the standards and law and governance communities to develop and implement innovations in this area.

## ***A Moroccan Perspective on Society, Climate Change & Justice***

*Session 12 Chairs & Speakers: Prof. Dr. Abdeljabbar Arrach (Professor of Public Law, Université Hassan 1er de Settat, Faculty of Law, Economics and Social Sciences); Maître Mustapha Abdi and Maître Khalid Saleh; Maître Abdelatif Saidallah and Maître Atik Essaid; Maître Nisrine Zerdoug and Maître Zoubair Khaonja; Maître Saida Lafdadla and Maître Said Chougag (Laboratory for Research on Compared Democratic Transition (LRTDC), Université Hassan 1er de Settat); Prof. Rachid Essaid; Prof. Abdelmajid Asaad; Prof. Hanane Benkacem; Prof. Fatima Elmaslouhi; Prof. Najib Elbadjoui; Prof. Hafid Lyounsi; Prof. Abdrabmane Chabchi; Prof. Mohamed Boujnoun & Prof. Abdrabmane Elmadi. (LRTDC, Université Hassan 1er de Settat).*

This session considered the relationships between gender, immigration, human rights and urban and territorial dynamics and climate change with a focus on the Moroccan context.

The panellists highlighted that while the Moroccan legal framework has enshrined gender equality in multiple instruments including the constitution, it insufficiently addresses gender-related issues in the context of climate change or environmental problems. The speakers stated that in view of the marginalised role of women in public institutions and major departments, their lacking influence on the formulation of environmental and climate policy and the barriers posed by traditions and customs, the general provisions on gender equality are unlikely to adequately address and safeguard gender rights in the context of climate change. They suggested that it is crucial to develop comprehensive and holistic strategies to mainstream gender concerns into frameworks and instruments addressing climate change, develop mechanisms to ensure that women are able to participate in the decision and policy-making process and become key players in the climate change regime and additionally stimulate a national debate on gender and environmental human rights more broadly.

The researchers from LRTDC also focused on human rights as a vehicle to address climate change in Morocco. They argued that while the legal and institutional framework in Morocco in principle offers opportunities to use human rights to advance the commitments and objectives in the Paris Agreement, in practice various obstacles hamper their use. Instruments discussed included the right to a healthy environment enshrined in the 2011 Constitution, which has resulted in the enactment of various laws relevant to achieving the commitments of the Paris Agreement, and its connection to the right of life as well as the National Strategy for the Environment and Sustainable Development. The panellists contended that the main problem is less the lack of a suitable regulatory environment as it is further operationalising and applying the available instruments in practice. In this regard, one of the major constraints emphasised was insufficient awareness amongst legal practitioners, policy makers and educators. While efforts are made to raise awareness, including by the media, these efforts are insufficient. In the view of the panellists, it is crucial to mobilise civil society to activate and raise awareness and to promote the use of human rights instruments to advance climate change responses through education and training for relevant stakeholders.

Migration in the context of climate change was another issue relevant to examining the relationship of the Moroccan society and climate change. Morocco's legal and institutional framework includes a variety of instruments to protect migrants and refugees. However, it has not been adapted to accommodate challenges posed by



environmentally induced migration. Questions to be addressed include how to define environmentally induced migration, how to afford adequate protection and how to integrate environmentally induced migrants into society in view of Morocco's limited capabilities. The panel also considered the need to establish national mechanisms as well as international and regional cooperation between governments to address issues of migration.

Another dimension raised by the researchers was the influence of urban and territorial development on the implementation of the Paris Agreement. Factors such as high population growth rate, the shape and density of cities and increasing urbanisation and the increase in economic activities need to be considered when crafting the legal and institutional frameworks to implement the Paris Agreement and address climate change. Measures suggested included integrating climate change and territorial concerns in local and regional plans, establishing regional committees to consider the nexus between urban and territorial dynamics and climate change and strengthening international partnerships in research, technology transfer and skills mobilization programmes.

### ***Highlighting Climate Law & Governance Student Leadership: Engagement, Research Posters, International Essay Contest & Mooting Competition***

By involving students, both international and local, and discussing opportunities to align policy teaching with the new international climate regime, the CLGI partnership's COP22 engagement helped to support the next generation of law and policy makers. Students from universities from a wide range of universities were awarded medals in a global international climate law and governance essay competition, showed posters of their research projects, and performed a mooting competition for world-class international expert judges during the day.

#### ***Essay Competition***

Organised by the Centre for International Sustainable Development Law (CISDL), in cooperation with the Lauterpacht Centre for International Law (LCIL) at the University of Cambridge, the Centre for Research on Climate Resilience (CR2) at the University of Chile, and the Centre for Advanced Studies in Environmental Law and Policy (CASELAP) of the University of Nairobi, the legal essay competition was open to students of law and related fields at the undergraduate and graduate level, from all regions of the world. The winners of the 2016 CISDL Legal Essay Competition On Climate Change, Sustainable Development and the Law: Governance Challenges and Innovations were announced during the opening ceremony of CLGD 2016. Medals were separately awarded to the French and English language submission.

*Gold Winners* The French language gold awards were presented to Guy-Jules Kounga (Cameroon) and Zineb Hamdoune (Morocco). The English language gold awards were presented to Clarice Wambua (Kenya), Maoulainine Yahjabouha and Fatim Ezzahra Haytoui (Morocco), and Conner Tidd (Canada).

*Silver Winners* The French language silver awards were presented to Ossama Azzouzi (Morocco), Marie-Bernard Dhedya Lonu (Democratic Republic of Congo), and Yepery Coulibaly and Asmaa Mahmoudi (Morocco). The English language silver awards were presented to Tatiana Abarca Alvarez (Costa Rica), Félix Leyman (Belgium), Joshua Smith (Canda), and Marianne Daval (France).

*Bronze Awards* In recognition of the high quality submissions received this year, the judging panel also awarded bronze awards and honourable mentions to Hanh Nguyen (Vietnam), Nicolas Blanc (France), Júlia Oliveira Rosa (Brazil), and M. Hussein Ait Belaid and Najwa Azami Idrissi (Morocco).

### ***Mooting Competition***

The moot competition, performed live just before the closing ceremony of Climate Law & Governance Day, featured English and French mock trials by the medallists from the essay competition. The scenario concerned a dispute in front of the International Court of Justice (ICJ) between two fictional states.

The facts of the case involved a small island state bringing action against a large developed nation. The developed country had economically benefitted from industrialization, involving large emissions of greenhouse gases (GHG), was still responsible for a significant share of global GHG emissions, and had failed to comply with its commitments under the Kyoto Protocol in the past although it had also become a leader for clean technology and committed to substantial emission reductions under the Paris Agreement including becoming carbon neutral by 2100. The small island state is experiencing significant adverse effects, believed to be closely linked to climate change, including biodiversity losses, increases of natural disasters and a threat to its existence due to rising sea levels. Both parties had ratified the UNFCCC, the Kyoto Protocol, The Paris Agreement, the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Law of Treaties and accepted the compulsory jurisdiction of the ICJ.

During the moot applicants and respondents raised arguments concerning jurisdictions and justiciability. On merits, they argued among others on questions concerning the violation of the customary no harm principle, attribution, violations of obligations under the Kyoto protocol and the UN Framework Convention on Climate Change, as well as breaches of obligations under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Moreover, the mooters debated claims on reparation and damages.

We owe our greatest thanks to Dr Charles di Leva, Ms Marie-Anne Birken and Dr Martijn Wilder who served as judges for the English participants, and Dr André Laperrière and Maitre Eric Kassongo who judged the French contestants. We are also indebted to Silvia Maciunas for preparing the materials for the moot.

The anglophone moot was won by the Gold essay competition winning team of Conner Tidd (Canada) and Clarice Wambua (Kenya). The francophone moot was won by the Gold essay competition winning team of Guy-Jules Kouna (Cameroon) and Zineb Hamdoune (Morocco).

The international essay contest and moot competition brought together students from around the world to take part in pushing the limits of participants' legal knowledge on climate governance. The event promoted learning and critical thought after the world's monumental shift in direction on climate change, and helped prepare the next generation of law and policy makers for the challenges in climate governance. These activities built capacity, shared energy and new ideas, and provided inspiration for action. The Centre for International Sustainable Development Law and McGill Journal of Sustainable Development Law proudly sponsored this event to underline the importance of training climate jurists of the highest standards, and awarded honours to the essay contest medallists during CLGD. Further details can be found on the CLGI website at

<http://www.climatelawgovernance.org/student-involvement-and-competitions.html>

## CLIMATE LAW AND GOVERNANCE DAY 2016: CRAFTING THE PARIS RULEBOOK & IMPLEMENTING THE PARIS AGREEMENT

### OVERVIEW OF THE OUTCOMES

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CLGD 2016 and CLGI's other associated COP22 activities provided fora for dialogue beyond the negotiations context. This summary report links the results of Climate Law and Governance Day to the COP discussions, highlighting new opportunities for cooperation to strengthen climate law and governance capacity, with resulting benefits for transparency and compliance. The events have helped to build an informed and engaged climate justice community of practice, strengthened by the exchange of knowledge and legal experiences shared in Climate Law and Governance Day preparatory symposia and other fora, and supported by new capacity-building support such as a new Climate Law & Governance Masters Degree to be offered by international law partners, in collaboration with Hassan the 1st University of Settat Faculty of Law.

The outcomes of CLGD 2016 include new publications and online legal materials for law teaching and practice, building on shared lessons learned, including legal working papers, case studies and good practice regulations. These publications contribute to the co-creation of new knowledge, and new opportunities to establish partnerships for research, technical assistance and capacity building to support international, national, and local implementation of the Paris Agreement. These outcomes are presented via the Climate Law and Governance Initiative online knowledge centre at [www.climatelawgovernance.org](http://www.climatelawgovernance.org).

#### **Climate Law and Governance Working Paper Series**

The leading insights presented by CLGD experts will be shared through the Climate Law and Governance Legal Working Paper Series published on the CLGI website. The series is open source and is intended to stimulate debate and raise awareness in the climate change community on climate law and governance. The series is edited by Dr Marie-Claire Cordonier Segger (Professor of Law, University of Waterloo / Senior Director CISDL), Dr. Oonagh Fitzgerald (Director, International Law Research Programme, CIGI), and Dr Walid Ali (Regional Climate Change Specialist, UNDP), as a collaboration between the CISDL, the UNDP, the University of Cambridge and CIGI.

#### **Climate Law and Governance Initiative Knowledge Centre**

The Knowledge Centre is aimed at sharing ideas and information, and building capacity of the new generations of law-makers in global efforts to address climate change and implement the Paris Agreement.

The Knowledge Centre has four components:

1. The International Law on Climate Change hub which houses links to leading open access articles from climate law and governance experts that highlight innovative international legal responses relating to climate change.
2. The Climate Law and Policy Innovations hub which houses short posts concerning innovative local, regional, and national domestic law and governance responses relating to climate change.
3. The New Knowledge Resources hub which houses links and descriptions of innovative databases and initiatives as well as resources from organisations and institutions across the globe aiming to assist governments, academics, practitioners, experts, and stakeholders from civil society and the private sector in efforts to address climate change.
4. The Conversations with Climate Experts Blog which houses blog posts from leaders in the climate law and governance field.

The CLGI will also continue hosting dialogues and events alongside the UNFCCC processes and beyond.