



Columbia Center on Sustainable Investment

A JOINT CENTER OF COLUMBIA LAW SCHOOL
AND THE EARTH INSTITUTE, COLUMBIA UNIVERSITY

Climate Change, the Courts, and the Paris Agreement

September 26, 2018
Columbia University

PROGRAM

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SABIN CENTER FOR CLIMATE CHANGE LAW



SUSTAINABLE DEVELOPMENT
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Conference Organizers and Supporters

Columbia Center on Sustainable Investment (CCSI)

The Columbia Center on Sustainable Investment (CCSI), a joint center of Columbia Law School and the Earth Institute at Columbia University, is a leading research center and forum dedicated exclusively to the study, practice and discussion of sustainable international investment (SII) worldwide. Through research, advisory projects, multi-stakeholder dialogue and educational programs, CCSI constructs and implements an investment framework that promotes sustainable development, builds trusting relationships for long-term investments, and is easily adopted by governments, companies and civil society. <http://ccsi.columbia.edu>.

The Sabin Center for Climate Change Law at Columbia Law School

The Sabin Center for Climate Change Law develops legal techniques to fight climate change, trains law students and lawyers in their use, and provides the public with up-to-date resources on key topics in climate law and regulation. The Sabin Center is both a partner to and resource for public interest legal institutions engaged in climate change work. Further, the center addresses a critical need for the systematic development of legal techniques to fight climate change outside the realm of judicial litigation, and the compilation and dissemination of information for lawyers in the public, private and NGO sectors. <http://columbiaclimatelaw.com/>

Sustainable Development Solutions Network (SDSN)

The UN Sustainable Development Solutions Network (SDSN) has been operating since 2012 under the auspices of the UN Secretary-General. SDSN mobilizes global scientific and technological expertise to promote practical solutions for sustainable development, including the implementation of the Sustainable Development Goals (SDGs) and the Paris Climate Agreement. SDSN aims to accelerate joint learning and promote integrated approaches that address the interconnected economic, social, and environmental challenges confronting the world. SDSN works closely with United Nations agencies, multilateral financing institutions, the private sector, and civil society. <http://unsdsn.org/>

The international community agreed at the 21st Conference of the Parties to the UN Framework Convention on Climate Change in 2015 to hold global temperature increase to “well below 2° C” (“Paris Agreement”). But while the Paris Agreement represents an enormous step forward in the global fight against climate change, countries and companies have struggled to create and implement sufficiently ambitious emissions reductions plans. Scientists warn that existing emissions reduction pledges still fall far short of that necessary to put the planet on a path to even a 2° C increase, nevermind the commitment to “well below” 2° C.¹

In recent years, citizens, sub-national governments, and NGOs have turned to litigation to hold governments and corporations accountable for their contributions to climate change. These lawsuits invoke a variety of legal theories and seek an array of remedies. They include efforts by cities to sue fossil fuel companies for damage from climate impacts, suits brought by children to force governments to adopt more aggressive climate policies, NGO campaigns to block or shut down fossil fuel infrastructure, and state, NGO, and fenceline community challenges to rollbacks of critical federal regulation.

This conference brings together expert practitioners from diverse backgrounds to showcase a panoramic snapshot of the state of climate litigation, and discuss the role for litigation in efforts to meet the Paris Agreement target.

¹ UN Environment. 2017. “The Emissions Gap Report 2017.”

September 26, 2018, Wednesday

1:15-1:40 **Introductory Remarks:**

Senator Sheldon Whitehouse, Senator, Rhode Island (by VC)

Michael Gerrard, Andrew Sabin Professor of Professional Practice, Columbia Law School, Columbia University

1:50-3:45 **Session One:** *Taking the Government to Court*

Governments are the critical actors in the fight against climate change. But governments have not yet taken action on a scale commensurate to the magnitude of the climate crisis. This panel will reflect on the proliferation of lawsuits intended to force governments to take responsible action to mitigate climate change, including cases in Europe, Latin America, and North America. These cases rely on myriad legal theories, and have been brought on behalf of a wide range of stakeholders.

Questions this panel will consider include:

- What role can and should litigation play in efforts to mitigate climate change and meet Paris Agreement commitments? How can litigation act as a complement to other tools to fight climate change?
- What are the legal theories that ground recent cases? Who are the plaintiffs, who are the defendants? In which jurisdictions are the cases brought? What remedies to the cases seek? Are the courts better equipped to provide some remedies than others?
- Are there jurisdictions in which litigation against governments is particularly promising? What are the frontiers for this type of litigation?

Moderator:

- **Michael Gerrard**, Andrew Sabin Professor of Professional Practice, Columbia Law School, Columbia University

Panelists:

- **Abigail Dillen**, Vice President for Climate and Energy Litigation, EarthJustice
- **Caterina Freytag**, Policy Advisor – Climate Litigation, Germanwatch
- **David J. Hayes**, Executive Director, State Energy & Environmental Impact Center at NYU School of Law
- **Tessa Khan**, Co-Director, Climate Litigation Network
- **Cesár Rodríguez Garavito**, Executive Director, Dejusticia
- **Mary Wood**, Philip H. Knight Professor of Law and Faculty Director, Environmental and Natural Resources Law Center, University of Oregon

3:45-4:00 **Coffee Break**

4:00-6:00

Session Two: *Litigation Against Companies*

Enterprising lawyers have also begun to use litigation to directly challenge the conduct of those industries disproportionately responsible for climate change. Some of these cases have been part of a coordinated campaign by climate activists to block fossil fuel infrastructure projects or force the closure of coal power plants. Others have been brought on the part of states, cities, and citizens to hold fossil fuel companies accountable for their decades of misinformation and outsized contributions to climate change.

- What are the challenges that emerge when bringing cases directly against fossil fuel companies as opposed to against governments?
- The climate aggravating impacts of fossil fuel production and consumption are not the only injustices caused by this industry. How have existing litigation efforts sought to foreground true climate justice as a complement to GHG emissions reductions?
- What has been learned from the successes and shortcomings of existing litigation efforts? How can the successes be replicated and scaled?

Moderator:

- **Michael Burger**, Executive Director, Sabin Center for Climate Change Law, Columbia Law School

Panelists:

- **Susan Amron**, Chief, Environmental Law Division, New York City Environmental Law Department
- **Commissioner Roberto Cadiz**, Philippines Human Rights Commission
- **Mary Anne Hitt**, Director, Beyond Coal Campaign, Sierra Club
- **Vic Sher**, Partner and Co-Founder, Sher Edling LLP
- **Lemuel Srolovic**, Environmental Protection Bureau Chief, New York State Office of the Attorney General