

Centre Participates in New Research Project to Develop a Global Practical Toolbox on Corporate Climate Litigation

By Dr. Ivano Alogna

Building on our recent focus on harnessing pro bono to tackle climate change, the Centre is participating in a new British Institute of International and Comparative Law (BIICL) research project on climate litigation. The project is being led by Dr Ivano Alogna, Research Leader in Environmental and Climate Change Law at BIICL. Dr Alogna describes this exciting new project below.

The project, launched during COP27 in Sharm El-Sheikh in November 2022, will develop a practical global toolbox for corporate climate litigation. Although there is a growing body of work analysing climate litigation from a comparative perspective, that work has traditionally focused on actions against non-corporate entities like governments. Cases against corporations have yet to receive the same rigorous attention. The toolbox aims to address this.

“The project will create a suite of Global Perspectives on Corporate Climate Legal Tactics, a selection of tools for NGOs, government bodies and local communities and other affected groups and individuals around the world and those representing them.”



Dr Joyce Kimutai, Nigel Fleming KC, Dr Ivano Alogna, Dr Irene Pietropaoli, Richard Lord KC at the BIICL's Corporate Climate Litigation: Lessons Learned, Comparative Perspectives and Future Pathways event in May 2023.



The British Institute of International and Comparative Law exists to develop and advance the understanding of international and comparative law in the UK and around the world, and to promote the rule of law. Through our work, we seek to improve decision-making which will help to make the world a better place and have a positive impact on people's daily lives. Our vision is to be an independent leader in applied legal research and ideas: informing debate, policy and practice; upholding and maintaining humane and democratic values; promoting evidence-based decision-making; and contributing to the upholding of the international legal order.



Professor Dr Jacqueline Peel.

The BIICL project will:

- produce a comparative analysis of corporate climate litigation cases globally, examining causes of action, remedies sought and procedures used across 17 countries in the northern and southern hemispheres, to provide a comprehensive overview of both the current best practice worldwide and the most suitable corporate climate litigation avenues for different legal systems and economies;
- catalogue existing cases – taking stock of the lessons learned in other fields (e.g. tobacco, asbestos, toxic torts);
- engage in strategic, prospective and interdisciplinary thinking, identifying possible frameworks, arguments, and legal instruments to tackle climate change; and
- help litigation planning, contribute to more comprehensive and effective climate action, raise public awareness and eventually – as a consequence of its deterrent effect – encourage corporate actors to mitigate their litigation risks by changing business behaviour.

The project will create a suite of Global Perspectives on Corporate Climate Legal Tactics, a selection of tools for NGOs, government bodies and local communities and other affected groups and individuals around the world and those representing them. It will also establish an inventory of substantive and procedural provisions relevant to climate change cases, to be used as legal models by policymakers and legal practitioners, and act as an authoritative reference point for judges and other adjudicators.

The research and content analysis is being carried out by BIICL's climate change research team and National Rapporteurs from each of the jurisdictions in the study – Australia, Brazil, Canada, China, France, Germany, India, Italy, Japan, Kenya, the Netherlands, Nigeria, Norway, Philippines, Poland, the United Kingdom and the United States. These include some of the most respected academics in the field.

For Australia, the National Rapporteur team is coordinated by Professor Jacqueline Peel, a

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leading and internationally-recognised expert in the field of environmental and climate change law. Professor Peel is the Director of Melbourne Climate Futures at the University of Melbourne and Lead Author in Working Group III of the latest (6th) IPCC Assessment Report. Professor Peel's team includes Melbourne Climate Future researchers Rebekkah Markey-Towler and Thea Shields, as well as a group of experts from practice, academia, judiciary and science forming a wider International Expert Group (IEG) ensuring that all angles and disciplines are covered. Among the experts participating in the Australian IEG are the Australian Pro Bono Centre's CEO, Gabriela Christian-Hare and Senior Policy Officer, Sue Mahony.

The IEG (currently composed of around 200 experts worldwide), National Rapporteurs and the BIICL team

are supported by a Core Group steering the project. The Core Group comprises internationally renowned experts from around the world in the field of corporate climate litigation and related areas, drawn from science, the judiciary, legal practice, and academia. Professor Peel is also part of this Core steering group.

The project will run for two years. In the first year the project team will collect the most up-to-date and comprehensive information on a country-by-country basis about the



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COP27 Toolbox project launch event: from top left: Prof. Dr. Jaap Spier, Richard Lord KC, Dr Ivano Alogna, Ingrid Gubbay, Prof. Dr. Jacqueline Peel.

possible avenues for improving corporate climate litigation through country workshops and interdisciplinary dialogues. This process will lead to 17 national reports, as well as comparative workshops for exchange and comparison among experts from all the countries being analysed. During COP28 in Dubai in December 2023, BIICL will publish a report of its findings in the form of a Global Toolbox on Corporate Climate Litigation for use by local communities, NGOs, states and other stakeholders.

In May 2023, BIICL held an event called Corporate Climate Litigation: Lessons Learned, Comparative Perspectives and Future Pathways. The event involved three panels of leading experts drawn from academia, legal practice, the judiciary and science participating in the Toolbox project, exploring the most compelling issues and

future prospects of corporate climate litigation through a high-level comparative and interdisciplinary discussion. A recording and an event report is available on the BIICL website.

In the second year, the project team will disseminate information widely and exchange knowledge about the Toolbox with judges, NGOs, businesses, subnational and national governments, legislators, and other climate governance actors through publications, workshops, webinars and conferences by BIICL and at supporting institutions. The Toolbox will also be tested in courts, through climate actions brought by our partner institutions or other stakeholders.

Overall the project aims to create momentum to ensure that companies will be critical actors for real and positive change toward a net-zero future. ■

You can access the [Centre’s Pro Bono Guide to the Climate Crisis](#) and the [Global Pro Bono Climate Action Portal](#), a collaboration with PILnet, from the Centre’s website.



Dr Ivano Alogna is the Research Leader in Environmental and Climate Change Law at BIICL and directs its rapidly developing environmental and climate change law programme, including the “Global Perspectives on Corporate Climate Legal Tactics” project.

He is an Associated Member of the Sorbonne Research Institute in International and European Law (IREDIES), Sorbonne Law School, a member of the European Law Institute (ELI) project on “Ecocide”, and a Glasgow Law Fellow at the University of Glasgow, School of Law.

Dr Alogna is a member of the IUCN World Commission on Environmental Law and its Climate Change Expert Group, and an Expert of the “Environmental Law and Policy” Commission, IUCN French Committee. He was the General Rapporteur of the “Global Pact for the Environment” project.

He is the co-editor of the book ‘Climate Change Litigation: Global Perspectives’ (2021, Brill) and of a forthcoming volume on ‘Climate Litigation in Europe’ (2023, Intersentia).

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