

International law in an age of catastrophe

Call for Contributions for a symposium on Climate Justice

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We live in an age of catastrophe. This is not alarmism. Rather, denying this would mean disregarding all scientific evidence we have. At the beginning of this new decade, Australia is literally on fire and Indonesia under water. 2019 has marked the year in which the climate crisis has finally entered broader public debate, with protesters around the globe demanding that governments take the threat seriously and significantly increase the efforts in limiting emissions. This increased interest and concern is also visible on this blog, where last year we had an unprecedented number of posts on issues related to the climate (see e.g. [here](#), [here](#), and [here](#)). Nonetheless, the recent [meeting](#) of the parties to the UNFCCC in Madrid, the so-called COP25, has not brought the government commitments many had hoped for.

Today, there is no doubt that even with a warming of up to two degrees Celsius, the threshold that the [Paris Agreement](#) aims to keep, life on earth will change drastically. A recent [IPCC report](#) shows that even the difference of half a degree – between 1,5 and 2 degree Celsius – is of major impact. We live in an age of catastrophe and as international lawyers we must recognize that the climate crisis is not purely a matter of international climate change law nor international environmental law more broadly. Rather, it is likely to affect all areas of international law. But climate change is a phenomenon that is hard to grasp for international law in that its causes and impacts are local and global at the same time. The warming of the atmosphere no doubt affects the whole globe and clearly requires international answers; the contribution to the problem and its impact, however, are uneven. States with coastlines will first see the effects of rising seas, states with desert will first experience that the desert is expanding. Climate change affects states in the so-called Global South and their populations to a great degree, while they have contributed to the problem far less than the so-called Global North (see [here](#); for number see [here](#)). This reinforces and accelerates the well-known inequalities and power structures of the existing world order and accentuates many of the problems of our times. Climate change thus raises unprecedented questions of global justice. It could be said that the climate crisis tests international law's ability for coordinating action as never before.

Against this backdrop, Völkerrechtsblog will host a symposium which seeks to shed light on the issue of Climate Justice from different international legal perspectives. The hope is to prompt debate, recognizing the urgency this has as a topic of international legal scholarship. As citizens, we can do our best to limit the harm

we create to this planet and human life on it. As scholars we must think about how our subject, international law, is part of the problem and part of the solution. With view to tomorrow, we must begin thinking what norms of justice can guide human coexistence on a radically changing common globe.

In the following, we sketch some areas we consider relevant and that contributions to the symposium might take as a starting point. The list is of course not conclusive, and merely collects some thoughts on how the fundamental condition of climate requires attention in international law.

International economic law

Traditionally, climate change is treated as a matter of international environmental and biodiversity law. Another field regularly evoked is international economic law, which, largely built on a growth paradigm, is often said to stand in the way of more effective climate measures. But international economic law, and probably increasingly so, also plays a crucial role with regard to possible answers to the climate crisis, with emerging carbon emission trading systems, bans of certain goods such as plastic (see most recently [China](#)) and questions of climate financing and technology diffusion becoming ever more important (see [here](#)).

But climate change also increases the economic inequalities between states. It is probable that those who most benefitted from industrialization – and bear the greatest historical responsibility for climate change – are likely to take the lead now in a world of low-carbon economy (see e.g. the [European Green Deal Initiative](#)). The transition to a more sustainable economy is of course very much desirable, but it comes with the risk to leave behind less well-developed states.

Contributions to the symposium might discuss and analyze solutions to the climate crisis proposed in international economic law from different perspectives, also taking into account questions of distributive justice.

Statehood and relationship between states

But climate change affects many more – if not all – areas of international law. To begin with, rising sea-levels and shrinking islands lead to geographical change with consequences for existing boundaries and jurisdiction at land and sea (see for example [here](#)). It is thus not far-fetched to say that it poses challenges to the very notion of statehood which builds the basis of the existing international legal order.

Rights of people within states

With effects on rights such as the right to health, food and housing, climate change has furthermore become a basic human rights issue. How to feed a growing world population in times of droughts, water scarcity and increasingly extreme weather conditions? Also, procedural rights, such as the right to information and participation, are of increasing relevance. Another question concerns the protection of human rights during and after events caused by natural hazards and the intersections with the field of disaster relief law. The fact that climate change has different impact on

different people and is likely to affect vulnerable and marginalized groups more (“intersectionality”) raises further questions of equity and fairness.

With increasing effects on the living conditions of humans, climate-related claims against governments or private actors are likely to become an ever-bigger subject of litigation before domestic and international courts (“climate litigation”). One pressing and yet unanswered question is who has to pay for climate damages and whether the historic dimension of the problem should be taken into account.

Blog posts might thus discuss aspects concerning the intersection and interrelation between climate law and human rights law and how domestic or international courts via human rights litigation might contribute to Climate Justice.

Migration

Changes in climate cause displacement and are important factors for migration (see on the recent first ruling of the Human Rights Committee concerning a “climate refugee” [here](#)). The complex causalities linking climate change and migration constitute a challenge for legal responses. At present, international law does not know any rules on what states might owe to persons who lost their homes due to rising sea levels or other conditions related to climate change. In 2015, the blog co-hosted a [symposium](#) on displacement for reasons of climate change and environmental disaster (parts in German), discussing i.a. the Nansen initiative, which resulted in the [Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change](#). There is no question that the nexus of climate-related environmental changes and migration raises significant justice questions and will require international attention. In that sense, the 2018 [Global Compact for Safe, Orderly and Regular Migration](#) repeatedly references climate change.

Possible contributions might discuss in how far new legal frameworks are needed and conceivable, and how existing regimes might be interpreted with a focus on climate justice.

Armed conflicts

All these issues taken together or separately might furthermore increasingly become security issues, with battles over land, water and other resources becoming more frequent. Last year’s wildfire in the Brazilian Amazon furthermore gave rise to a debate about states’ right or even obligation to intervene in another country in order to prevent irreversible and possibly global harm to the environment (see [here](#)).

While the question of the role of the UN Security Council (UNSC) regarding climate change remains disputed and unclear, the UNSC has debated the issue of climate change and security on several occasions and has recently adopted the term ‘[threat multiplier](#)’ for the phenomenon (see for a good overview of the debate regarding climate change in the UNSC [here](#)). Germany has announced that it intends to use its term as member of the UNSC to further discuss the issue of climate change as a threat to international peace and stability on the agenda (see [here](#)).

Possible blog posts might thus further discuss climate change as a security issue.

Cross-cutting questions

Climate change furthermore raises cross-cutting questions. The failure to find international compromises at the recent COP25 conference is yet another example for the current inability of states to solve what might be the most pressing issue of our times. This failure prompted actors that are not as such subjects of international law to step in and take measures in the absence of state action. One example are cities: the [C40](#) forms an alliance of cities with the aim to take the lead in climate action. Hundreds of cities and local governments have further declared the state of [climate emergency](#).

Another important actor is the business sector. A report shows that just 100 companies are responsible for around 70% of global greenhouse gas emissions since 1988 (see [here](#)). A [report](#) by the OHCHR clearly identifies business as duty-bearers in relation to climate change. It is thus clear that any solution regarding the climate crisis needs to involve industry.

Contributions might thus also discuss the role of subnational or other actors or link the field of business and human rights to the issue of Climate Justice.

Questions beyond the current international law

More fundamentally, the current crisis raises the question as to how certain mechanisms or areas of international law help the harming of the earth and its inhabitants rather than protecting them. Is the international law as we know it able at all to deliver solutions to the climate crisis, or is it part of the problem? In other words, the question is whether the current crisis can be solved within our current legal and economic system – or whether we need more fundamental changes. In times of increased awareness for “[planetary boundaries](#)“, this question becomes more and more pressing. An increasing number of critical voices point to the fact that the climate crisis cannot be solved through the “greening” of international economic law and the “marketization” of climate law and that we must re-think the very structures of the current law (see [here](#); for a feminist view see [here](#)).

Also such critical approaches to the topic are welcome to the symposium.

Send us your contribution

We invite contributions on any of these topics – and on any further questions relevant to the symposium’s theme. Contributions should be around 1000-1500 words long, and are welcome in English, French, or German. The symposium will take place in May 2020, contributions will be received till 31 March 2020. Please send us your texts or inquiries at editorial-team@voelkerrechtsblog.org.

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