# Between and Beyond Regional Perspectives on Climate Change and Human Rights

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Climate change has reached the dockets of (international) courts. The intersecting nature of this existential threat has led to a flurry of judicial action – somewhat paradoxically in the absence of meaningful political action. There is scarcely an international court that has not yet dealt with at least one facet of climate change – a perhaps unique opportunity for inter-judicial dialogue. With *Klimaseniorinnen* before the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights' (IACtHR) advisory opinion on state obligations for responding to the climate emergency, and the forthcoming advisory opinion of the African Court on Human and Peoples' Rights, a cross-regional *corpus juris* on human-rights-based obligations to adapt and mitigate climate change impacts is emerging – despite all regional differences.

Yet, as case law is proliferating, the discussion about climate change in international adjudication has become highly specialized, focusing on (diverging) interpretations of standing, causality, and risk. Against this background, this contribution shares three observations on the emergence of regional climate change law: how it unites regions, enables learning, and expands into the mainstream.

This contribution also calls for taking this regional perspective seriously by extending it beyond what is traditionally understood as inter-judicial dialogue. In fact, I argue that to bring this cross-regional *corpus juris* to life and make climate change litigation effective on a global level, cross-regional perspectives must be promoted by all legal actors, not just judges. Learning from the variety of regional forms of litigation and jurisprudence must also take place at the level of litigants, civil society, and scholars.

## Uniting Regions

More than 8,000 km away from the European continent, the island of Bonaire lies in the Caribbean, described as the "ground zero for the global climate emergency" by UN Secretary General Guterres. Not by coincidence, the IACtHR began the public hearings on its climate advisory opinion in neighboring Barbados. Yet, as part of the Kingdom of the Netherlands, the already significant impacts of climate change faced by the inhabitants of Bonaire – extreme heat, drought, flooding, and coral reef loss – were recently adjudicated in Europe by the District Court of The Hague.

While domestic in nature, the case resonates strongly with regional human rights law. In the resulting Bonaire decision, the Dutch court relied heavily on *Klimaseniorinnen* to articulate concrete mitigation and adaptation measures required by the Netherlands. Although the IACtHR's jurisprudence did not feature explicitly in the Court's reasoning, Greenpeace, which was the main litigator, relied on a legal strategy that was heavily inspired by the Inter-American approach to human rights interpretation. In particular, it highlighted the specific vulnerabilities of the islanders and their historical and cultural traditions, which were also shaped by experiences of colonialism. The islanders of Bonaire, already affected by climate change, thus shift from a relatively remote and unknown part of the world to center stage in the global fight against climate change, also holding (post-)colonial states in the Global North accountable. The Bonaire decision is thus not only another example of the power of small island states such as Vanuatu in shaping climate change law by bringing their already existing challenges before international courts but also demonstrates the importance of liminal spaces in climate

change law. As Justice Chantal Ononaiwu from the Caribbean Court of Justice explained at the 2025 Conference of the Latin American Society of International Law (SLADI), through climate change litigation, island nations and peoples, often located in the Global South, become motors of creative legal evolution. Similarly, Corina Heri proposed the concept of "legal liminality" as a moment of creativity that opens space for including broader concerns of spatial and temporal climate justice in regional litigation. Situated at the geographical boundary between Europe and the Americas, the case of Bonaire illustrates how the struggle against climate change unites, rather than detaches, both regional regimes.

## Learning in Regions

Climate change adjudication offers perhaps the clearest example of cross-regional learning between regional human rights courts. This goes beyond explicit judicial dialogue and cross-references in case law. In fact, at every stage of the proceedings – the pre-decision, the decision, and the post-decision stage – both the European and Inter-American systems show striking similarities. In both regimes, climate cases are brought through strategic litigation, they are expedited in the case management system, and we see exceptional levels of participation, either at public hearings or through *amicus curiae* submissions. For instance, the IACtHR received a total of 255 submissions in the course of its advisory opinion. As Matei Alexianu and Hannah Sweeney have shown, the unprecedented participation of non-state actors in climate change litigation is visible in most international bodies. The decisions are framed around causality, provide a legal basis for state obligations, and adopt a holistic understanding of climate harms, particularly concerning vulnerable groups. After the decision has been handed down, we can observe a clear communication strategy and an ensuing discussion on compliance and impact. For instance, when the triple climate cases – *Klimaseniorinnen*, *Duarte Agostinho*, and *Carême* – were published, the Press Service at the ECtHR circulated an extensive media package, including a prepared Q&A. This more proactive communication strategy is quite exceptional for the ECtHR. At the IACtHR, the microsite on the advisory opinion on climate change applies judicial storytelling devices more openly, including infographics, the recordings of public hearings and a short video explaining the meaning of the opinion.

Yet, climate change adjudication at the regional level also faces a common problem. Importantly, climate change sits at the center of the three major challenges facing human rights today: increasing autocratization and decline of the rule of law, persistent violent conflicts and human suffering, and the transformation of digital technology. All three challenges exacerbate the climate emergency. Christina Eckes has already argued in this blog that the current backlash against climate action in Europe shows that the climate crisis is also a rule-of-law crisis. War and military violence also have a catastrophic impact on the climate, not just through the destruction of the local environment through military action, but also through war-related greenhouse gas emissions. For instance, Russia's war against Ukraine has led to 311 million metric tons of $CO_2$ emissions until February 2026, almost the same amount as the annual emissions of France. Digital technology, in particular data centers, networks, and energy-intensive artificial intelligence, also has a large carbon footprint, comparable to the aviation industry. Regional human rights systems have, so far, not found a way to mainstream climate change considerations into the discussion of all three challenges, which prevents a systematic approach to combatting climate change at the regional level.

## Expanding Regions

As a regional climate change law coalesces around a series of common principles and *obiter dicta*, its interaction and transmission to other regimes and courts becomes the next central challenge. On the global level, climate change-related proceedings and discussions at International Tribunal for the Law of the Sea (advisory opinion on climate change), the International Criminal Court (ecocide), or the UN treaty bodies (climate refugees) may create risks of fragmentation vis-à-vis regional approaches. They might

develop diverging levels of protection, respectively state obligations, from regional human rights courts which might create legal loopholes or allow states to hide behind diverging interpretations.

Similarly, mainstreaming the regional human rights case law to trade and investment dispute settlement bodies remains an ongoing challenge. As trade and investment dispute settlement bodies are tasked with adjudicating on the economic consequences of climate change mitigation and adaptation, upholding state obligations vis-à-vis climate change developed under human rights law is central but so far mostly absent in economic litigation. For example, the recent EFTA Court advisory opinion reaffirmed the need to conduct environmental impact assessments taking into account greenhouse gas emissions before granting oil exploitation licenses, yet did not include or cite human rights considerations. Camille Martin has shown that, when investor-state dispute settlement bodies engage with climate change, they tend to do so only in a limited way, treating it primarily as a contextual factor. It remains to be seen whether the strong reliance on ECtHR case law in investment arbitration also extends to its climate change case law. This demonstrates that inter-judicial dialogue on climate change has to expand beyond the level of regional human rights courts. In the future, it must also include institutions, actors, and litigants that work in other fields of (international) law including the business world.

## Learning from Regions as a Scholarly Responsibility

Inter-judicial dialogue aims to harmonize, promote, and advance climate change considerations across international, regional, and national courts. However, furthering such dialogue is not the exclusive task of judges and arbitrators, but also of scholars. Regional climate change law presents a unique opportunity to promote a cross-regional perspective on this global challenge. It is not only on judges to read, cite, and learn from each other, but also on us – in our writing, teaching, and thinking – to engage with the interconnectedness of those cases and debates. All too often, discussions and scholarly writings remain focused on individual cases or courts. Advancing climate justice requires breaking down the epistemic silos in which regional human rights law has emerged.

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