Abhandlungen / Articles

Do We Need a World Climate Court?

Helen Keller*
University of Zurich, Zurich, Switzerland
lst.keller@ius.uzh.ch

Viktoriya Gurash**
University of Zurich, Zurich, Switzerland
viktoriya.gurash@ius.uzh.ch

Corina Heri***
Tilburg University, Tilburg, Netherlands
C.Heri@tilburguniversity.edu

Abstract

We are at a critical juncture in the history of international law, as international courts and dispute settlement bodies grapple with the unfolding climate crisis. This article theorises a World Climate Court as a way of evaluating existing institutions which are being called upon to handle climate-related cases. By

* Professor of Public Law and European and Public International Law at the University of Zurich, a Judge at the Constitutional Court of Bosnia and Herzegovina, a former Judge at the European Court of Human Rights and a former member of the Human Rights Committee.
** Postdoctoral researcher at the University of Zurich.
*** Assistant Professor of Constitutional and Administrative Law at Tilburg University.

DOI 10.17104/0044-2348-2025-3-725 ZaöRV 85 (2025), 725-756

discussing the potential composition, jurisdiction and remedial regimes of a World Climate Court, we argue that existing international courts are less than ideally equipped for dealing with climate change cases. As a counterpoint, we suggest a World Climate Court composed of international law experts with broad legal expertise and supported by climate scientists. The article argues that a specialised court with a broad mandate to assess the international legal impacts of climate change could offer a structural and redistributive approach to remedies, and decide on climate cases in a more expeditious manner.

Keywords

Climate change – international dispute settlement – World Climate Court – jurisdiction – remedies for climate change – trans-judicial dialogue

I. Introduction

Do we need a World Climate Court (WCC)? From a realistic view of the current geopolitical situation, proposing such an institution may sound as presumptuous as it is futile. Despite staggering from one extreme weather event to another, the global community remains unable to agree on effective instruments to prevent the worsening climate catastrophe. The centrality of state sovereignty in the architecture of international climate change law undermines its ability to effectively address climate change. Despite broad participation in the Paris Agreement, states tend to 'choose fairness principles that favour their situation'[1] and avoid binding dispute resolution mechanisms in this realm. At the same time, an avalanche of climate litigation is rolling into national and international courts, including high-profile cases concerning the enjoyment of constitutional and human rights.[2] These developments

1 Joeri Rogelj, Oliver Geden, Annette Cowie and Andy Reisinger, 'Three Ways to Improve Net-Zero Emissions Targets', Nature 591 (2021), 365-368 (368).

2 Examples include the recent climate rulings from the Grand Chamber of the European Court of Human Rights (ECtHR) (see below, as well as a number of additional pending cases like ECtHR, *Müllner v. Austria*, no. 18859/21, Communicated Case of 18 June 2024) and before UN Human Rights bodies (UN Human Rights Committee, *Daniel Billy et al. v. Australia*, Communication no. 3624/2019, UN Doc CCPR/C/135/D/3624/2019, 22 September 2022; Committee on the Rights of the Child, *Sacchi et al. v. Argentina et al.* (dec.), UN Doc CRC/C/88/D/104/2019, 22 September 2021), but also domestic cases such as Dutch Supreme Court (Hoge Raad), *Urgenda Foundation v. the Netherlands*, judgment of 20 December 2019, no. 19/00135, ECLI:NL:HR:2019:2006; Montana First District Court for Lewis and Clark County, *Held and Others v. State of Montana and Others*, Findings of Fact, Conclusions of Law, and Order, 14 August 2023, case no. CDV-2020-307 (not yet final). In addition, on 29 March 2023, the United Nations General Assembly (UNGA) adopted a resolution requesting an advisory opinion from the ICJ on the obligations of states with respect to climate change. See UNGA Res A/77/L.58. The article was finalised in May 2025.

stem from the perceived failures of other (legal and political) avenues to secure adequate protection against climate change. It is thus apparent that climate protection measures will ultimately end up before national and international judicial bodies.

In academic debates, the role of international adjudication in addressing climate change, although still challenged,[3] is steadily gaining acceptance.[4] However, controversy has grown around the limitations of specific international judicial avenues to effectively deal with climate change.[5] This article examines the main criticisms of the existing fora, such as the International Court of Justice (ICJ) and human rights courts. Despite the importance of their existing and anticipated contributions to clarifying climate-related obligations, these bodies are neither specialised in climate law issues, nor do they have a specific mandate to review international environmental and climate law. As the existential threat of climate change intensifies, it seems timely to reflect on a possible WCC. Our proposal serves as a thought experiment, allowing us to create a yardstick for better understanding the existing institutions and how they could be reformed or reinterpreted to address the reality of climate change. This is more than a concrete practical proposal; it is also a way of evaluating existing institutions. In other words, regardless of likely political intransigence around the creation of the proposed WCC, it can be a productive exercise to compare existing courts and tribunals, especially human rights courts, with the proposal for an ideal WCC.

While proposals for a specialised international court for environmental issues have failed in the past, this discussion has been recently reinvigorated in response to the climate crisis and global environmental degradation. Current proposals for an international climate court vary widely as to the

3 See e. g. Aref Shams, 'Tempering Great Expectations: The Legitimacy Constraints and the Conflict Function of International Courts in International Climate Litigation', RECIEL 32 (2023), 193-205; Benoit Mayer, 'Climate Change Mitigation as an Obligation Under Human Rights Treaties?', AJIL 115 (2021), 409-451; Usha Natarajan, 'Who Do We Think We Are?: Human Rights in a Time of Ecological Change', in: Usha Natarajan and Julia Dehm (eds), Locating Nature: Making and Unmaking International Law (Cambridge University Press 2022), 200-228.

4 See e. g. Philippe Sands, 'Climate Change and the Rule of Law: Adjudicating the Future in International Law', J. Envtl. L. 28 (2016), 19-35 (20); Daniel Bodansky, 'The Role of the International Court of Justice in Addressing Climate Change: Some Preliminary Reflections', Ariz. St. L. J. 49 (2017), 689-712.

5 See e. g. Fabian Schuppert, 'Beyond the National Resource Privilege: Towards an International Court of the Environment', International Theory 6 (2014), 68-97 (88-89); Mayer (n. 3); Maine Burkett, 'A Justice Paradox: Climate Change, Small Island Developing State, and the Absence of International Legal Remedy', University of Hawai'i Law Review 35 (2013), 633-670.

mandate and parameters of such an institution. For example, some propose a court with the sole mandate of implementing the Paris Agreement[6] or a criminal tribunal covering climate change.[7] Meanwhile, others claim that long-standing proposals for an international court for the environment (ICE) could present a realistic step towards more sustainable governance and challenge the current system of national resource privilege.[8] This article critically analyses the common set of arguments regarding the necessity of a WCC. Overall, the objective is to theorise the possibility of a WCC as an institution that would assess the international legal impacts, particularly the human rights and international (environmental) law implications, of climate change.

A WCC can only be operationalised through the political decision of a critical number of states. The feasibility of establishing such an institution is ultimately a political matter, which falls outside the primary scope of this article. Instead, we will consider what a WCC could look like in the ideal case, as a way of learning about current institutional realities. Additionally, we will explore the viability of our proposal and whether moments of crisis, including climate catastrophe, and developments in climate science can make states more accepting of new solutions.

The article proceeds as follows. Section II will consider lessons to be drawn from initiatives for a specialised international environmental court which have failed to gain traction in the past (1) and highlight the limitations of the existing international avenues to adjudicate climate cases (2). Section III then reflects on the feasibility of a WCC (1) and sets out our proposals for such a court, thinking counterfactually to create a yardstick for evaluating existing institutions, especially in terms of their composition (2), jurisdiction (3) and remedies (4).

II. Lessons Learned

The idea of establishing an international court that can deal with environmental law issues is not new. Such proposals have been made several times since the 1990s. The present section outlines these proposals, which were never translated into reality. In doing so, we particularly want to show why these proposals were criticised or rejected, and what we can learn from this

6 Vinita Banthia, 'Establishing an "International Climate Court"', Journal of Environmental Law & Litigation 34 (2019), 111-128.

7 Shirley V. Scott, Patrick J. Keenan and Charlotte Ku, 'The Creation of a Climate Change Court or Tribunal' in Shirley V. Scott and Charlotte Ku (eds), Climate Change and the UN Security Council (Edward Elgar Publishing 2018), 66-84.

8 Schuppert (n. 5), 87.

 DOI 10.17104/0044-2348-2025-3-725

experience. Furthermore, to justify the need for a WCC, this section will provide a broad overview of the existing international and national judicial fora for resolving international disputes concerning climate change. In doing so, we will touch briefly on some of the key questions concerning the role and adequacy of these mechanisms for clarifying states' international legal obligations in this context. As climate change litigation is part of a broader category of (international) environmental litigation, we will also draw on the scholarly debate surrounding the existing avenues for resolving international environmental disputes, where relevant.

1. Past Initiatives

One of the earliest and most detailed proposals for a specialised ICE was made by the International Court of the Environment Foundation (ICEF),[9] which in 1992 presented the Draft Statute of the International Environmental Agency and the International Court of the Environment at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro.[10] This proposal called for an ICE with a particularly broad jurisdiction, namely:

'to decide any international environmental disputes involving the responsibility of States to the International Community […]; to decide any disputes concerning any environmental damage, caused by private or public parties, including the State […]'.[11]

The Draft Statute was further developed into a 1999 Draft Treaty for the Establishment of an ICE and discussed at an ICEF-sponsored conference held at George Washington University Law School in April 1999.[12] While this initiative had a clear strategy for implementing its goals and some countries expressed their interest in the idea of the ICE in response to a lobbying campaign by the ICEF,[13] it was unable to gain support from states.

9 See ICEF's website: <https://www.icef-court.org/history-of-an-idea-history-of-the-icef/>, last access 15 May 2025.

10 Draft Statute of the International Environmental Agency and the International Court of the Environment, as discussed in Cathrin Zengerling, *Greening International Jurisprudence: Environmental NGOs Before International Courts, Tribunals, and Compliance Committees* (Brill 2013), 303, 304-305.

11 Zengerling (n. 10), 304-305.

12 Zengerling (n. 10), 305.

13 For example, see Campaign for an International Court of the Environment (1996-2000), 'Some of the Answers Received by Governments and Parliaments' (Extracts from the ICEF 2000 Report), <https://www.icef-court.org/wp-content/uploads/2023/07/some-extracts.pdf>, last access 15 May 2025.

One of the prevailing reasons for this is that the ICEF's proposal defined the jurisdiction of its new court very broadly, using vague terms such as 'environmental dispute'. Ellen Hey has argued that an 'international environmental dispute' refers to a dispute involving what is generally considered to be an environmental treaty, as indicated by the object and purpose of the treaty in question.[14] However, other authors argue that it is illusory to believe that we can define what constitutes an international environmental dispute solely by reference to the applicable law, or that such disputes can be separated into a self-contained category for the purposes of litigation.[15] The inability to clearly define the boundaries of the ICE's jurisdiction and provide certainty about its mandate is problematic since experience shows that states grant compulsory jurisdiction more easily to specialised courts with delimited jurisdiction, for example those empowered to enforce certain treaty-specific claims.[16]

Despite these limitations, another proposal for an ICE has been made by the ICE Coalition, a UK-based initiative involving environmental, legal, business, academic, and non-governmental organisation (NGO) stakeholders. Since 2008, this group has advocated for an international rule of law that protects the global environment for present and future generations through the creation of an environmental dispute resolution mechanism with, ideally, binding jurisdiction.[17] Its proposals include an ICE that would be sufficiently specialised to weigh competing interpretations of scientific evidence against geopolitical and socio-economic development priorities; an international convention on the right to a healthy environment with broad coverage that would enshrine *erga omnes* obligations; direct access to the ICE by NGOs and private parties as well as states; transparency in proceedings; a scientific body to assess technical issues; and a mechanism to prevent forum shopping.[18]

Some scholars consider the idea of an ICE as the beginning of a new era, breaking with the established international order in the name of individual

14 Ellen Hey, *Reflections on an International Environmental Court* (Kluwer Law International 2000), 4.

15 Alan Boyle and James Harrison, 'Judicial Settlement of International Environmental Disputes: Current Problems', Journal of International Dispute Settlement 4 (2013), 245-276 (249).

16 Joost Pauwelyn, 'Judicial Mechanisms: Is There a Need for a World Environment Court' in: Bradnee Chambers and Jessica Green (eds), *Reforming International Environmental Governance: From Institutional Limits to Innovative Reforms* (United Nations University Press 2005), 150-178 (159).

17 See the ICE website: <http://www.icecoalition.org/>, last access 15 May 2025.

18 Audra Dehan, 'An International Environmental Court: Should There Be One?', Touro Journal of Transnational Law 3 (1992), 31-58 (51-52); Stephen Hockman, 'The Case for an International Court for the Environment', Journal of Court Innovation 3 (2010), 215-320 (223).

environmental rights and planetary well-being, and consider it as somewhat utopian.[19] More specific objections were also raised to these proposals, including their lack of clarity regarding the applicable law; doubts about whether existing juridical or dispute resolution institutions could take on the role envisaged for an ICE; and concerns over the inability of an ICE to enforce its decisions.[20]

The first objection, concerning the applicable law, relates to the scope of the proposed ICE's jurisdiction *ratione materiae*. Stephen Hockman, then chairman of the ICE Coalition, has suggested that international law is sufficiently developed to enable the court to decide on the appropriate law to apply to a dispute. If the dispute arises in an area covered by a specific bilateral or multilateral treaty, the terms of that treaty will be influential or decisive.[21] However, the proposal for a new court with broad jurisdiction risks creating excessive competition with law-based forums for dispute settlement and resonates with larger debates about fragmentation and forum-shopping.[22] The second objection is not clearly addressed in the proposal either. It raises two questions: whether a new international court is well-suited to decide cases that cannot be heard in any other international court; and whether international environmental adjudication is feasible, particularly in relation to existing non-compliance procedures (NCPs) under environmental treaties. The third objection, concerning the lack of mandatory enforcement powers of an ICE, is less convincing, as this argument holds true for most international courts and tribunals. For example, the ICJ does not have enforcement powers, yet ICJ judgments are highly regarded and provide considerable political and public pressure for compliance.[23] This could also be the case with an ICE.

The proposals by the ICEF and the ICE Coalition are not the only ones made in this direction to date. A range of proposals for a new international environmental court exist in various forms, suggesting ideas similar to those discussed above.[24] However, all of these proposals have so far failed to come to fruition. This may be partly due to substantive reasons, particularly

19 Schuppert (n. 5), 88.

20 As noted by Hockman (n. 18), 225.

21 Hockman (n. 18), 228.

22 See Hey (n. 14), 14.

23 Philip Riches and Stuart Bruce, 'Brief 7: Building an International Court for the Environment: A Conceptual Framework', Governance and Sustainability Issue Brief Series (2013), 1-8 (5).

24 For an overview of the main initiatives, see Susan Hinde, 'The International Environmental Court: Its Broad Jurisdiction as a Possible Fatal Flaw', Hofstra Law Review 32 (2003), 759-793 (759-736); Zengerling (n. 10), 303-308; Ole Pedersen, 'An International Environmental Court and International Legalism', J. Envtl. L. 24 (2012), 547-558 (548-553).

because the gaps in international environment dispute settlement that need to be addressed were not clearly defined. Furthermore, states' environmental governance choices represent an important obstacle to establishing an ICE, as they have not been forthcoming in granting courts or tribunals the necessary jurisdiction to allow other states or non-state actors to challenge their environmental policies or conduct.[25]

While these earlier proposals for an ICE failed, the reality of anthropogenic climate change seems to have reinvigorated interest in such an institution in recent years.[26] For example, in 2014 the International Bar Association recognised the need to provide individuals with redress for environmental harms. It supported the creation of an international environmental court while simultaneously noting the political difficulties of doing so.[27] Another example is the creation of an international *climate* court, as discussed within the negotiations of the Paris Agreement. Specifically, the 'Geneva Negotiation Text', the outcome document of the Ad Hoc Working Group on the Durban Platform for Enhanced Action session held in Geneva in February 2015, listed the possibility of an International Climate Justice Tribunal among other compliance options.[28] The Parties, however, ultimately opted for a non-adversarial mechanism to facilitate implementation of and promote compliance with the provisions of the Paris Agreement.[29] The resulting Paris Agreement Implementation and Compliance Committee (PAICC) is a facilitative and non-punitive body of experts that can consider cases where Parties to the Paris Agreement do not communicate or maintain nationally determined contributions (NDCs), submit required information, participate in the 'consideration of progress', or submit mandatory information.[30] These procedures became operational in 2023, when the PAICC notified two state Parties

25 Pauwelyn (n. 16), 152.

26 See e. g. Banthia (n. 6); Scott, Keenan and Ku (n. 7); Stuart Bruce, 'The Project for an International Environmental Court' in: Christian Tomuschat, Riccardo Pisillo Mazzeschi and Daniel Thürer (eds), *Conciliation in International Law* (Brill 2017); Pedersen (n. 24); Riches and Bruce (n. 23); Stephen Hoffman QC, 'The Case for an International Court for the Environment', Effectius Newsletter 14 (2011).

27 International Bar Association, 'Achieving Justice and Human Rights in an Era of Climate Disruption' (2014) 86, <https://www.ibanet.org/MediaHandler?id=0f8cee12-ee56-4452-bf43-cfcab196cc04>, last access 15 May 2025.

28 UNFCCC, Negotiation Text (12 February 2015) ('Geneva Negotiating Text'), found at: <https://unfccc.int/files/bodies/awg/application/pdf/negotiating_text_12022015@2200.pdf>, last access 15 May 2025, as discussed in Christina Voigt, 'The Compliance and Implementation Mechanism of the Paris Agreement', RECIEL 25 (2016), 161-173 (164).

29 Paris Agreement to the United Nations Framework Convention on Climate Change, 12 December 2015, T. I. A. S. no. 16-1104, Article 15.

30 Paris Agreement (n. 29); Conference of the Parties Decision 20/CMA.1, UN Doc FCCC/PA/CMA/2018/3/Add.2 (19 March 2019).

 DOI 10.17104/0044-2348-2025-3-725

to the Paris Agreement of a 'consideration of issues' against them.[31] However, the PAICC does not have jurisdiction to hear and decide adversarial cases, leaving the Paris Agreement with little to no enforcement machinery.

States are unlikely to backtrack on this decision or expand the possibility of being exposed to suits concerning their climate policies before courts, whether international or domestic. At the same time, with a view of improving the implementation of the Paris Agreement, Vanita Banthia has argued that one solution is to establish an international climate court.[32] Such a court's mandate, in the author's view, would be limited to the interpretation and application of the Paris Agreement.[33] Specifically, it is suggested that states might accept the jurisdiction of this court because it 'will only be holding each nation to its own standards', as states are allowed to set their own emission reduction goals.[34]

However, if the proposed court does not have the competence to evaluate the substance of states' national emissions reductions, then its mandate would be even more limited than the existing involvement of human rights courts and bodies. For example, although the European Court of Human Rights (ECtHR) in the *KlimaSeniorinnen* judgment assessed positive obligations based on the European Convention on Human Rights (ECHR) in view of setting and implementing national mitigation measures,[35] it still retains the possibility of substantively examining the ambition of state climate policies. In the pending case of *Müllner v. Austria*, the ECtHR is faced with the argument that by failing to sufficiently reduce emissions to meet its climate goals, the respondent state has made it impossible to achieve the 1.5C warming target set out in the Paris Agreement.[36] In *Engels v. Germany*, the ECtHR is tasked with determining whether Germany's specific emissions reduction target is compatible with its positive obligations under Articles 2 and 8 of the ECHR.[37] Although the ECtHR is a regional court and thus a poor proxy for a global one, other human rights-based adjudicators are expected to continue hearing climate cases as well. Creating an international climate court with the narrow mandate of being exclusively tasked with

31 Annual Report of the PAICC to the Conference of the Parties, FCCC/PA/CMA/2023/4, 25 September 2023, paras 12 and 13 (concerning the Holy See's failure to communicate an NDC and Iceland's failure to submit its mandatory biennial communication of information).

32 Banthia (n. 6), 119-120.

33 Banthia (n. 6), 121.

34 Banthia (n. 6), 121.

35 ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, judgment of 9 April 2024, no. 53600/20, paras 541-555.

36 *Müllner* (n. 2).

37 *Engels v. Germany*, 46906/22 (ECtHR, application filed in September 2022, not yet communicated).

overseeing the implementation of the Paris Agreement would not add significant value to the existing legal framework. Such a court would have limited capacity to address the most pressing issues of states' obligations to mitigate climate change.

Another recent proposal by Shirley V. Scott, Patrick J. Keenan, and Charlotte Ku discusses the possibility of the United Nations Security Council creating a climate change-focused criminal tribunal.[38] The authors acknowledge that while it would be within the Council's authority to create a 'climate crimes court', it is too early to consider climate change from the perspective of criminal law.[39] The primary doctrinal challenges in addressing climate crimes through international criminal law stem from issues related to the legality principle, standards of proof, and the difficulty of establishing an appropriate theory of liability.[40] Moreover, as Fabien Schuppert astutely points out, with three of the world's most significant environmental polluters – China, Russia, and the United States – holding veto power in the Security Council, one might question whether relying on this body is akin to 'putting the fox in charge of the henhouse'.[41]

At the same time, despite state inaction (or inadequate ambition) in terms of mitigation and adaptation measures, the number of climate cases has risen exponentially in recent years, creating unprecedented challenges for existing courts and tribunals.[42] In view of this reality, the following section will theorise a WCC, as both an innovative institutional proposal and a yardstick for better understanding the limitations and potential of existing institutions. In doing so, we will endeavour to learn from the earlier proposals discussed above, while exploring the possibility of bringing existing institutions closer into line with our own proposal.

38 Scott, Keenan and Ku (n. 7), 66-84.

39 Scott, Keenan and Ku (n. 7), 67. The possibility of incorporating 'ecocide' into international criminal law is currently being debated in the scholarship. See Romaine de Rivaz, 'Ecocide: défis et perspectives en droit international pénal', Jusletter (2024), 2-41; CoE, Terms of Reference for a New Committee of Experts on the Protection of the Environment through Criminal Law (PC-ENV): <https://search.coe.int/cm?i=0900001680a91ebb>, last access 15 May 2025.

40 Scott, Keenan and Ku (n. 7), 69-70.

41 Schuppert (n. 5), 85.

42 For an overview, see Joana Setzer and Catherine Higham, 'Global Trends in Climate Change Litigation: 2023 Snapshot', Grantham Research Institute et al., <https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2023/06/Global_trends_in_climate_change_litigation_2023_snapshot.pdf>, last access 15 May 2025; Climate Litigation Database, maintained by the researchers of the Climate Rights and Remedies Project at the University of Zurich, <https://climaterightsdatabase.com/database/>, last access 15 May 2025.

2. Existing Avenues

The key proposition discussed in this section is that existing international courts are insufficiently equipped – in terms of international environmental law expertise and mandate – to make decisions that address global environmental needs, including those related to climate change.[43] Proponents of this view note that some of the relevant bodies, such as the World Trade Organization, may be too heavily weighted in favour of trade and investment, and not enough in the direction of environmental protection (or, it can be added, human rights protection).[44] Similar complaints are raised about the ICJ, although this court has recently displayed an increasing willingness to engage with scientific evidence in environmental cases,[45] expanded environmental impact assessment requirements,[46] and taken a hands-on approach to the causal nexus between wrongful acts and environmental damage.[47] While the ICJ has not yet had an opportunity to adjudicate a contentious climate case, it is currently hearing an advisory opinion request in this regard.[48] However, the ICJ is not specialised in environmental matters; in fact, its dedicated seven-judge environmental Chamber, created in 1993, was disbanded in 2006 without hearing a single case.[49] And, in the past, the ICJ has been criticised for its failure to adequately protect environmental interests.[50] For example, in the *Gabčíkovo-Nagymaros* case, it failed to accept Hungary's argument that anticipated environmental damage excused performance under a treaty, arguably giving insufficient weight to the environmental interests at stake.[51]

Let us assume, for example, that a climate-vulnerable developing state making serious efforts to mitigate emissions and/or adapt to global warming

43 Schuppert (n. 5), 88-90; Nagendra Singh, *The Role and Record of the International Court of Justice* (Nijhoff 1989), 164.

44 See Hinde (n. 24), 740.

45 ICJ, *Whaling in the Antarctic* (Australia v. Japan: New Zealand intervening), merits, judgment of 31 March 2014, ICJ Reports 2014, 226.

46 ICJ, *Construction of a Road in Costa Rica along the San Juan River* (Nicaragua v. Costa Rica), merits, judgment of 16 December 2015, ICJ Reports 2015, 665.

47 ICJ, *Certain Activities Carried Out by Nicaragua in the Border Area* (Costa Rica v. Nicaragua), compensation, judgment of 2 February 2018, ICJ Reports 2018, 15 (para. 34).

48 See UNGA Res A/77/L.58.

49 ICJ, Press release no. 93/20 (19 July 1993); on the Chamber's informal dissolution, see Basile Chartier, 'Chamber for Environmental Matters: International Court of Justice (ICJ)', Max Planck Encyclopedia of International Procedural Law (2018).

50 See on this Bruce (n. 26), 138.

51 Sean Murphy, 'Does the World Need a New International Environmental Court', Geo. Wash. J. Int'l L. & Econ. 32 (2000), 333-349 (343); ICJ, *Gabčíkovo-Nagymaros Project* (Hungary/Slovakia) judgment of 25 September 1997, ICJ Reports 1997.

were to bring a case before the ICJ.[52] The main problem would likely be that the ICJ subscribes to the view that trans-boundary environmental cases are chiefly about sovereignty and territoriality,[53] and it displays 'overt disdain for distributive justice'.[54] While the customary international norm on avoiding significant transboundary harm (the 'no-harm rule') may be flexible enough to encompass at least some of the impacts of one state's greenhouse gas emissions on another state's territory, it is particularly unclear how this due diligence obligation will be applied in the context of a global phenomenon, or whether it can provide adequate reparation for the harms in question.[55] As Antonios Tzanakopoulos aptly argues, the ICJ can be seen as 'a reluctant progressive', a characterisation reflected in two key trends that define its jurisprudence.[56] First, the ICJ frequently resorts to technical considerations of jurisdiction or admissibility to sidestep involvement with 'progressive causes' in contentious disputes, particularly when such cases bear significant political stakes.[57] Second, when the ICJ does engage with substantive issues, it does so with caution and restraint, displaying a preference for consolidating existing legal developments and enabling gradual progress rather than pioneering bold advancements, which is particularly evident in the Court's practice on the protection of the environment.[58] Given the ICJ's position as the principal judicial organ of the United Nations (UN), the internal process of consensual drafting through which it adopts decisions,[59] and its past track record, it seems unlikely that the Court will evolve into 'a global justice and

52 Andrew L. Strauss, 'Climate Change Litigation: Opening the Door to the International Court of Justice' in: William C. G. Burns and Hari M. Osofsky (eds), *Adjudicating Climate Change: State, National, and International Approaches* (Cambridge University Press 2009), 334-356.

53 Schuppert (n. 5), 88.

54 Steven Ratner, 'Ethics and International Law: Integrating the Global Justice Project(s)', International Theory 5 (2013), 10-34 (17): as discussed in Schuppert (n. 5), 88-89.

55 ICJ, *Case Concerning Pulp Mills on the River Uruguay* (Argentina v. Uruguay), judgment of 20 April 2010, ICJ Reports 2010, 14 (para. 101), as discussed in Sandrine Maljean-Dubois, 'The No-Harm Principle as the Foundation of International Climate Law' in: Benoit Mayer and Alexander Zahar (eds), *Debating Climate Law* (Cambridge University Press 2021), 15-28.

56 Antonios Tzanakopoulos, 'Chapter 6: The International Court of Justice and "Progressive causes"' in: *Research Handbook on the International Court of Justice* (Edward Elgar 2025), 107, 138.

57 The author defines 'progressive causes' as 'projects related to globally significant societal and ecological challenges which require a break from the status quo to appropriately address, but upon which states hold (sometimes wildly) divergent views'. Tzanakopoulos (n. 56), 107, 138.

58 Tzanakopoulos (n. 56), 138; ICJ, *Certain Activities* (n. 47); ICJ, *Gabčíkovo-Nagymaros* (n. 51); ICJ, *Pulp Mills* (n. 55).

59 For detailed arguments see Tzanakopoulos (n. 56), 138-140.

environmental sustainability enhancing institution' in the future.[60] In addition, the predominantly inter-state character of procedures before the ICJ presents a serious limitation to its role as a potential forum for resolution of international climate change disputes.[61]

Currently, it is not states, but rather non-state actors – such as individuals and environmental NGOs – that are particularly active in initiating climate change litigation. This is reflected in the ongoing 'turn to rights', where human and constitutional rights are increasingly being mobilised by individuals seeking, in particular, the mitigation of states' greenhouse gas emissions. Different adjudicators have been seized with relevant cases, from domestic courts[62] to United Nations treaty bodies[63] and regional human rights courts.[64]

These bodies have advantages and disadvantages compared to the adjudicators discussed above, especially the ICJ. The example of the ECtHR is, again, a case in point: it has a mandate to protect the human rights featured in the ECHR,[65] and it is through this prism that the Court sees environmental degradation and climate change issues. At the same time, its focus on civil and political rights, combined with the fact that environmental protection lacks the status of a separate right under the ECHR, means that – as argued by Alan Boyle – environmental interests can be outweighed by other interests[66] in the sense that they do not necessarily receive fair consideration in existing proceedings. More generally, human rights bodies may limit their concrete guidance due to their subsidiary role and concerns over backlash; extraterritoriality rules stand in the way of global climate justice claims;[67] and individualistically focused cases may fail to deliver systemic change. Still, given the differences in institutional settings, human rights bodies will approach climate change cases from a different starting point than the ICJ, with its general mandate, or the International Tribunal for the Law of the Sea (ITLOS), with its more specific one. ITLOS has recently provided valuable guidance by recognising anthropogenic greenhouse gas emissions as a form of marine pollution that states must mitigate under their

60 Schuppert (n. 5), 89.

61 Zengerling (n. 10), 310; Hinde (n. 24), 735; Hey (n. 14).

62 For example, Dutch Supreme Court, *Urgenda* (n. 2); The Lahore High Court, *Asghar Leghari v. Pakistan*, Case W. P. no. 25501/2015, 25 January 2018; German Federal Constitutional Court, *Neubauer et al. v. Federal Republic of Germany*, 1 BvR 2656/18, 24 March 2021.

63 CRC, *Sacchi* (n. 2); UN Human Rights Committee, *Daniel Billy* (n. 2).

64 IACtHR, Advisory Opinion OC-23/17, Inter-American Court of Human Rights Series A No. 23, 15 November 2017; ECtHR, *KlimaSeniorinnen* (n. 35).

65 ECHR, CETS no. 005, 4 November 1950, Article 32.

66 Alan Boyle, 'Climate Change, Sustainable Development, and Human Rights' in: Markus Kaltenborn, Markus Krajewski and Heike Kuhn (eds), *Sustainable Development Goals and Human Rights* (Springer 2020), 171-189 (185).

67 ECtHR, Duarte Agostinho and Others v. Portugal and 32 Other Member States, decision of 9 April 2024, no. 39371/20.

law of the sea obligations.[68] However, ITLOS does not have the mandate to comprehensively address climate change issues.[69]

The perspective of human rights bodies depends on the scope of their jurisdiction and standing rules, as well as the substantive obligations of the parties under specific treaties. This shapes their response to climate cases. For example, the ECtHR's recent *KlimaSeniorinnen* judgment was clearly concerned with safeguarding the Court's docket and long-term viability, highlighting the diffuse and far-reaching impact of climate change extending beyond the rights of specific individuals, and the inherent limitations of judicial remedies in addressing such systemic and policy-driven challenges.[70] Against this background, and despite the judgment being a landmark ruling in many ways, it does not seem ideal for human rights bodies to handle large numbers of climate-related cases in addition to their existing workload, especially when resolving these cases takes time. In the realm of climate, we cannot afford to wait years for a judgment.

Overall, while we do not contest the ability or role of human rights bodies to engage with climate cases, we argue that they are not ideal for dealing with climate change. In addition to being insufficiently sensitive to climate change issues, the large number of competing treaty bodies means that different adjudicators' responses could contradict each other, creating legal uncertainty and fragmentation. Furthermore, because of their limited expertise in issues related to climate science and the environment more generally, the existing bodies are not well-equipped to deal with the complexity of climate disputes. The limitations of the existing mechanisms for addressing climate harm highlight the potential benefits of a new court with a specific mandate to handle climate-related claims.

In addition, some authors claim that the existence of NCPs under various environmental treaty regimes calls into question the use of international courts and tribunals.[71] They argue that the NCPs – examples of which include the PAICC and the Aarhus Convention's 'non-confrontational, non-judicial and consultative' option for compliance review[72] – are better equipped to protect the global public's environmental interests.[73] One of the key points here is that, given their position at the intersection between diplomacy and law, the decisions of compliance committees remain non-

68 ITLOS, Advisory Opinion in Case No. 31 of 21 May 2024.

69 See overall e. g. Rozemarijn J. Roland Holst, 'Taking the Current When It Serves: Prospects and Challenges for an ITLOS Advisory Opinion on Oceans and Climate Change', RECIEL 32 (2023), 217-225.

70 ECtHR, *KlimaSeniorinnen* (n. 35), para. 479.

71 Justine Bendel, 'Chapter 7: Relationships Between Judicial Dispute Settlement and Non-Compliance Procedures' in: Justin Bendel, *Litigating the Environment* (Edward Elgar 2023), 213-248.

72 UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, Denmark, 25 June 1998, 2161 UNTS 447.

73 Boyle and Harrison (n. 15), 275.

binding. States agree to create these largely non-binding, non-contentious NCPs to prioritise other interests if needed.[74] However, the non-compulsory nature of NCPs risks creating a two-tier system of international norms – those that can be judicially enforced and those that cannot.[75]

The fact that an NCP is a mechanism established within a specific multilateral environmental agreement limits its ability to effectively promote the implementation of international environmental law. For example, the ability of the PAICC to achieve the global temperature goal must be understood within the framework of the Paris Agreement, which primarily established legally binding administrative and procedural obligations, leaving the substantive content largely to the discretion of the parties.[76] Combining an enforcement mechanism with a top-down allocation of binding, individual emission reduction obligations would have been a more direct and predictable way of staying below the Paris Agreement's warming targets.[77] Indeed, the rise in climate change litigation and the 'turn to rights' within that litigation are related to the perceived failures of other means (including NCPs) of securing protection against the harmful impacts of climate change.

Looking back at the attempts to establish an international environmental court, we note that criticism of past initiatives has largely focused – in a somewhat technical way – on the proposed institutions' overly broad or vaguely defined jurisdiction *ratione materiae*. In essence, this criticism shows that states would fear the repercussions of creating a powerful international court dealing with environmental matters. These concerns are largely understandable from the perspective of state sovereignty and national best interests, at least for high-emitting states which would not want to see their current and historical conduct challenged before this institution. At the same time, it has become clear that the prioritisation of national resource privileges[78] and state sovereignty remains the most significant unresolved issue in political modernity and the main obstacle to effectively addressing climate change.[79] International law must find the right balance between the ideal of normative considerations of global justice and the reality of self-interest in politics.[80] Given

74 Boyle and Harrison (n. 15), 230.

75 Pauwelyn (n. 16), 152.

76 Pauwelyn (n. 16), 152; Voigt (n. 28), 164.

77 UN Secretary-General, 'Gaps in International Environmental Law and Environment-Related Instruments: Towards a Global Pact for the Environment – Report of the Secretary-General', UN Doc A/73/419 (30 November 2018), para. 28.

78 Schuppert (n. 5), 89.

79 Sam Adelman 'Rethinking Human Rights: The Impact of Climate Change on the Dominant Discourse' in Stephen Humphreys (ed.), *Climate Change and International Human Rights Law* (Cambridge University Press 2010), 159-179 (167).

80 Schuppert (n. 5), 83.

their current practice, existing international institutional and judicial avenues appear unsuitable for achieving this goal and dealing with climate change in a holistic, expert-driven way. In the following sections, we argue that establishing a WCC could provide an important institutional benefit in effectively advancing global justice and addressing climate change.

III. A Way Forward

1. The Feasibility of a WCC

Considering that the political will for the creation of an international environmental court has so far been lacking, the question is whether the path to a WCC is at all feasible. State support will be a deciding factor for the success of any future proposals. However, such support and eventual participation will depend on the specific contours of the proposal and the political context in which it arises.

Achieving the greatest reduction in global greenhouse gas emissions requires solving a highly complex equation that includes the stringency of commitments, levels of participation and compliance by states.[81] All three elements are interconnected, and it is important to consider how changes in one will impact the others.[82] This formula reflects the main conundrum of international environmental governance: the more demanding and stringent the commitments to address climate change become, the harder it is to secure states' participation in the international institutions advancing these commitments. It could be argued that the broad state participation in the Paris Agreement was possible because it does not include rigid, predetermined emissions reductions or a compulsory dispute settlement mechanism. Moreover, the possibility of creating an International Climate Justice Tribunal was particularly criticised in the United States,[83] with some authors arguing that it seems unlikely that developed states would want to establish a climate court to hold themselves accountable. This is especially true given that the foundation of United Nations Framework Convention on Climate Change (UNFCCC) law lies in the principle of common but differentiated responsibilities and respective capabilities, which assigns greater legal obligations to developed

81 Daniel Bodansky, Jutta Brunnée and Lavanya Rajamani, *International Climate Change Law* (Oxford University Press 2017), 6.

82 Bodansky, Brunnée and Rajamani (n. 81), 6.

83 Sara Malm, 'UN Planning an "International Tribunal of Climate Justice" Which Would Allow Nations to Take Developed Countries to Court', Daily Mail, 2 November 2015, 10:40 EST, <https://www.dailymail.co.uk/news/article-3300366/UN-planning-international-tribunal-climate-justice-allow-nations-developed-countries-court.html>, last access 15 May 2025, as discussed in Banthia (n. 6), 126.

countries.[84] While the creation of a WCC is a challenging undertaking for political reasons (considerations related to securing political acceptance being beyond the scope of this paper's legal analysis), it is still possible.

The international political environment is dynamic and the support of states for a WCC may yet emerge. For example, the establishment of the International Criminal Court, despite opposition from the United States, is regarded as 'a hard-won revolution in international law-making' and a triumph for NGOs, which played a key role in the negotiations leading to its creation.[85] However, current political dynamics and increasing instances of disregard for international law have arguably reshaped the structure of international law itself. This transformation has prompted renewed scrutiny of its role, raising fundamental questions about whether international law remains an effective instrument for governing international relations and fostering cooperation.[86] At the same time, despite the current challenges confronting international institutions,[87] international courts are seeing an unprecedented volume of cases.[88] More specifically, in the context of climate change and the environment, while some have been sceptical about the role of international adjudication on climate change, perspectives on this are rapidly evolving.[89] Indeed, although the Advisory Proceedings on climate change before the ICJ seemed inconceivable just a couple of years ago, it is now a reality.

Moving forward, climate change is a science-based problem, and thanks to the knowledge provided by the Intergovernmental Panel on Climate Change (IPCC), our understanding of climate change is becoming more robust.[90]

---

84 Scott, Keenan and Ku (n. 7), 31.

85 José Enrique Alvarez, 'The New Dispute Settlers: (Half) Truths and Consequences', Tex. Int'l L. J. 38 (2003), (405-444), 407.

86 Heike Krieger and Georg Nolte 'The International Rule of Law – Rise or Decline? – Approaching Current Foundational Challenges' in: Heike Krieger, Georg Nolte and Andreas Zimmermann (eds), *The International Rule of Law: Rise or Decline?* (Oxford Academic 2019), 3-30; Eyal Benvenisti, 'The Resilience of International Law in the Face of Empire', Just Security, 17 February 2025.

87 Kushtrim Istrefi and Luca Pasquet, 'Mind Your Attitude: The Erosion of International Law?', EJIL: Talk!, 3 March 2025.

88 See, for example, Julia Foxen, 'World Court Faces 'Unprecedented Number' of Cases': <https://news.un.org/en/interview/2024/10/1155951>, last access 15 May 2025.

89 Sands (n. 4), 20.

90 IPCC currently has 195 member countries. It prepares comprehensive Assessment Reports about the state of scientific, technical, and socio-economic knowledge on climate change, its impacts and future risks, and options for reducing the rate at which climate change is taking place. The IPCC also produces Special Reports on specific topics agreed by its member governments, as well as Methodology Reports that provide practical guidelines for the preparation of greenhouse gas inventories. Government representatives approve summary of IPCC's reports line-by-line. See <https://www.ipcc.ch/about/preparingreports/>, last access 15 May 2025.

Better appreciation of scientific knowledge on climate change highlights the empirical flaws of the current system of climate governance, which continues to facilitate 'unsustainable resource use and social and global injustice'.[91] Such flaws have led to increasing action, particularly by civil society, individuals most affected by climate change, and small island developing countries, which are especially vulnerable to climate change. If the above trend continues, the international community might decide that the creation of a WCC would prove beneficial for all.

The path to a WCC will be a tightrope walk. On the one hand, if the proposal for a WCC defines its jurisdiction very narrowly, we run the risk of creating a toothless paper tiger. On the other hand, if we give the WCC the broadest possible powers, we risk that states will shun this institution. Given that the project for a WCC must be navigated between these two extremes, as its own Scylla and Charybdis, the following outlines proposals for the Court's composition (III. 2.), for its jurisdiction *ratione materiae*, *personae* and *temporis* (III. 3.), and its competences in the field of remedies and reparation (III. 4.).

2. Composition of a WCC

A first way to improve international mechanisms for climate change adjudication is to strengthen the fields of expertise within these institutions. This would present a significant added value over existing mechanisms. Because international climate law is premised on scientific knowledge, such as emissions reductions pathways and climate models, climate cases bestow an additional responsibility on international judges to make scientific evaluations alongside legal ones. International climate law is based on advancements in the best available climate science. More fundamentally, the prominent place of scientific evidence in climate cases is 'the direct consequence of the low normativity of the international legal rules designed on these questions'.[92] In climate litigation, legal questions require the establishment of scientific fact, at least to the required standard of proof (e. g. beyond a reasonable doubt). At the same time, scientific knowledge entails uncertainties and can be marked by disagreements among scientific experts, although in the context of climate science this is greatly reduced by the existence of the IPCC, as an intergovernmental expert panel that conducts large-scale reviews of scientific studies.

91 Schuppert (n. 5), 84.

92 Jean D'Aspremont and Makane Moïse Mbengue, 'Strategies of Engagement with Scientific Fact-finding in International Adjudication', Journal of International Dispute Settlement 5 (2014), 240-272 (248).

There is an essential and important division of labour in this context. Judges are not tasked with being the ultimate arbiters of scientific truth, just as scientists are not meant to settle legal disputes. Instead, judges evaluate scientific evidence from a legal standpoint, offering well-reasoned explanations that ensure their decisions are perceived as both legitimate and authoritative.[93]

In this regard, our proposed WCC should comprise a balanced mix of experts with backgrounds in international environmental law, general international law, and international human rights law, supported by ongoing cooperation with climate scientists. Additional institutional cooperation with selected IPCC contributors, or its lead authors, would ensure that the expertise in question is representative of the best available climate science. *Ad hoc* specialists in fields such as biodiversity, atmospheric science, and oceanic studies could also be involved when needed, with resources allocated for convening expert hearings at the WCC premises or sending delegations on fact-finding missions where necessary.

The resulting specialised Court would be capable of deciding on climate cases in a more expeditious manner given its ease of access to the necessary scientific and legal expertise. This is crucial given the urgency of the climate crisis and the many new challenges that will continue to emerge. Furthermore, the parties would have confidence that adjudicators are well-equipped to deal with climate cases, which concern science-based issues. This is an important benefit of a WCC, given that 'international actors that are eligible for international dispute settlement mechanisms will submit cases involving scientific aspects before international courts only to the extent that they are confident that their case will be fully and duly appreciated by the judges'.[94]

In evaluating existing institutions by this yardstick, we note that existing interaction with experts is relatively limited, largely involving the assessment of documentary scientific evidence and third-party interventions by non-specialist lawyers and judges, or interaction only with experts put forth by the parties to a dispute. Even where institutional possibilities for deeper engagement exist,[95] they may not be used given time and cost

93 D'Aspremont and Moïse Mbengue (n. 93), 263-269; Alain Papaux, 'Un droit sans émotions. *Iram non novit jus*: esquisse des rapports entre sciences et droit', Revue européenne des sciences sociales XLVII-144 (2009), 105-119 (112-113).

94 D'Aspremont and Moïse Mbengue (n. 93), 269; Caroline E. Foster, 'The Consultation of Independent Experts by International Courts and Tribunals in Health and Environment Cases', FYBIL 20 (2009), 391-421 (404).

95 E. g. the ECtHR's ability to convene expert hearings in Strasbourg and engage in fact-finding missions in Member States (Article 38 ECHR; Rule A1 of the Annex to the Rules of Court (28 March 2024)); see Helen Keller and Pranav Ganesan, 'The Use of Scientific Experts in Environmental Cases Before the European Court of Human Rights', ICLQ 73 (2024), 997-1021.

constraints – or, where they are used, they may trigger criticism about a lack of transparency.[96]

3. Jurisdiction

To limit fragmentation, carefully designing the jurisdiction *ratione materiae, personae* and *temporis* for a WCC will be vital. This contributes to addressing gaps in the enforcement of international climate law, harmonising applicable international regimes, and minimising forum-shopping. Jurisdictional design will be challenging, since the WCC's efficiency would be limited if a sufficient number of powerful states did not ratify the WCC's Statute. To this end, the WCC's jurisdiction should not be perceived as an existential threat to states' self-determination, especially in matters of economic policy and development-related interests. At the same time, climate change is rooted in global inequality and fossil-fuel dependent, growth-oriented economies. A WCC cannot claim legitimacy as an institution if it fails to address these underlying causes. To be both feasible and legitimate, institutional proposals must walk a fine line between doing too much and doing too little.

a) *Ratione Materiae*

A central question that arises here concerns the types of disputes that would fall within the *ratione materiae* jurisdiction of a WCC. One way of delineating the jurisdiction of a specialised international court is by reference to the applicable law.[97] However, such an approach is inappropriate for a WCC intended to harmonise different applicable international regimes. After all, climate change has implications for a broad range of international (environmental) law norms. For example, indicators and elements referred to in states' NDCs under the 2015 Paris Agreement can be assessed through the prism of international (environmental) law in order to determine their 'fair share' of greenhouse gas emissions, drawing on principles such as sustainable development, precaution, polluter pays, sovereignty, special circumstances,

96 Michael A. Becker and Cecily Rose, 'The Return of Not-Quite "Phantom Experts"?: The ICJ Meets with IPCC Scientists', Verfassungsblog, 3 December 2024, <https://verfassungsblog.de/the-icj-meets-with-ipcc-scientists/>, last access 15 May 2025.

97 See e. g. Article 32 of the ECHR; Article 1 of the Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, 2187 UNTS 3.

common but differentiated responsibilities and equality.[98] At the same time, climate change poses a serious and far-reaching threat to people and communities worldwide. It impacts the realisation of a range of human rights and challenges existing human rights law in various ways – including its anthropocentric, individualistic, territorial, civil, and political, and short-term focus.[99] Ultimately, few areas of international law will remain unaffected by the progression of climate change and the increasing inequality, conflict, and other multifaceted harm it brings.[100] It is precisely because of this reality that a segmented, siloed response is inappropriate. Instead, focusing on what we think matters most in the climate context[101] offers a better starting point for any inquiry into the subject-matter jurisdiction of a WCC – more so than trying to identify which treaties or other rules are generally considered relevant to climate change or imagining hypothetical new instruments.

In view of this, a WCC should have the mandate to decide cases involving adverse effects that result, or are likely to result, from climate change. Given the complexity of the phenomenon, its subject-matter jurisdiction should primarily be limited to climate-related cases. This raises the question of whether a WCC would be required to establish a degree of a causal relationship as part of its jurisdiction assessment. Although this would result in a degree of overlap between jurisdictional and substantive issues, the role of causation would remain distinct in relation to these issues. In establishing its jurisdiction, a WCC could rely on the IPCC's findings on general causation to determine factual cause-and-effect relationships, without delving into the question of causation attributable to a specific State. Such State-specific causation would be indispensable in determining responsibility and in apportioning reparation obligations. Moreover, a WCC should be able to look at other environmental issues where relevant, given the existence of different planetary boundaries and the fact that climate change is only one part of a multiple planetary crisis that also includes pollution emergencies and biodiversity loss. If a specific issue concerns the specialised jurisdiction of another international court or tribunal, a WCC should have the possibility to request

98 Lavanya Rajamani et al., 'National 'Fair Shares' in Reducing Greenhouse Gas Emissions within the Principled Framework of International Environmental Law, Climate Policy 21 (2021), 983-1004.

99 See e. g. Human Rights Committee, General Comment no 36 on the Right to Life, UN Doc CCPR/C/GC/36, 30 October 2018, paras 3 and 62; UN Human Rights Committee, *Teitiota v. New Zealand*, Communication no. 2728/2016, UN Doc CCPR/C/127/D/2728/2016, 24 October 2019, para. 9.4.

100 IPCC, 'Climate Change 2023: Synthesis Report – Summary for Policymakers', (2023), B.2.3.

101 A similar approach to the definition of an international environmental dispute is discussed in Boyle and Harrison (n. 15), 249-250.

an opinion of this body. This trans-judicial dialogue could be an efficient tool for a WCC to coordinate with the other international jurisdictions and take better-informed decisions.

The global nature of climate change underscores the importance of a holistic approach for adjudicators dealing with climate-related damage. One key advantage of a WCC is its ability to ensure coherent interpretation of international standards in climate cases and drive greater systemic integration of international law. State responsibility is contingent upon a violation of international law.[102] In this regard, beyond expanding existing rules, the need to establish clarity and a harmonised approach regarding the obligations of states is underscored by the fact that important aspects of key international environmental norms remain opaque.[103] We note that the legal status and content of the key norms, such as the precautionary principle, sustainable development, common concern, or common but differentiated responsibilities remain contested.[104] Likewise, the ways in which climate change affects and interacts with international human rights obligations is far from clear, despite a number of initial proceedings in this regard before different adjudicators.[105] Relatedly, because of the interdependence of legal responses to climate change and political negotiations, international climate litigation faces 'serious objections relating to the political sensitivity' of climate change issues.[106] Therefore, the role and mandate of a WCC should be carefully considered in view of the indeterminacy of the key legal principles and highly-politicised nature of climate change.[107]

Another important issue that must be addressed here is the ongoing emission of greenhouse gases by non-state actors, particularly transnational corporations and the so-called 'carbon majors', which cumulatively contribute to climate change.[108] While arguments have been made for extending international human rights law standards to corporations, they have no direct 'hard'

102 ILC, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement no. 10 (A/56/10), chp. IV. E.1, Article 1(b).

103 For example, Alexander Zahar argues that a state's level of ambition in mitigation is a question of governmental policy. See Alexander Zahar, 'Factual Findings and Applicable Law in Climate Litigation', Presentation delivered at the Workshop on Climate Litigation in a Warming World, Duke Kushan University, China, 18 September 2019, <ssrn.com/abstract=3461239>, last access 15 May 2025.

104 Jutta Brunnée, 'Of Sense and Sensibility: Reflections on International Liability Regimes as Tools for Environmental Protection', ICLQ 53 (2004), 351-367 (354).

105 For an overview, see Setzer and Higham (n. 42), alongside the cases discussed in this article.

106 Benoit Mayer, 'International Advisory Proceedings on Climate Change', Mich. J. Int'l L. 44 (2023), 41-115 (78).

107 Bodansky (n. 4), 703.

108 Bruce (n. 26), 146.

obligations under international law.[109] At the same time, international human rights law requires states to regulate the dangerous activities of private actors under their control.[110] There are a number of non-binding instruments (often referred to as 'soft law')[111] which could serve as a starting point for a WCC to identify a customary due diligence standard in this regard. Another matter worth investigating further is whether, in line with the Inter-American Court of Human Rights' recent invitation, there is a *jus cogens* obligation to protect the environment.[112]

One may argue that the creation of the WCC presents an even greater risk of fragmentation within international climate litigation. It is conceivable that many disputes falling under the jurisdiction of a WCC could also be dealt with, in some way, by other international adjudicators. Public international law does not coordinate jurisdiction of courts, and in most cases, the instruments establishing international courts do not provide rules governing their relationship with the jurisdictions of other courts.[113]

Nikos Lavranos argues that international judges and arbitrators could use the principle of comity to manage competing jurisdictions.[114] He suggests

109 See Human Rights Committee, General Comment no 31 on the Nature of the General Legal Obligation Imposed on State Parties to the Covenant, UN Doc CCPR/c/21/Rev.1/Add.13, 26 May 2004, para. 8; Eric De Brabandere and Maryse Hazelzet, 'Chapter 7: Corporate Responsibility and Human Rights – Navigating Between International, Domestic and Self-Regulation', in: Yannick Radi (ed.) *Research Handbook on Human Rights and International Investment Law* (Edward Elgar 2017), 221-243.

110 See e. g. ECtHR, *Cordella and Others v. Italy,* judgment of 24 January 2019, nos 54414/13 and 54262/15.

111 For example, the Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights adopted by the UN Human Rights Commission's Sub-Commission on the Promotion and Protection of Human Rights in 2003, UN Doc E/CN.4/Sub.2/2003/12/Rev.2, 26 August 2003; the OECD Guidelines for Multinational Enterprises (last updated 2023).

112 IACtHR, *Inhabitants of La Oroya v. Peru*, (Preliminary Exceptions, Merits, Reparations and Costs), judgment of 27 November 2023, Series C no. 511, para. 129.

113 Thomas Schultz and Niccolo Ridi, 'Comity and International Courts and Tribunals', Cornell Int'l L. J. 50 (2017), 577-610 (587). A distinctive rule within international law is set out by Article 344 of the Treaty on the Functioning of the European Union (TFEU), which prohibits Member States from submitting disputes concerning the interpretation or application of the Treaties to any dispute resolution mechanism other than those established by the Treaties themselves. In doing so, it enshrines the exclusive jurisdiction of the Court of Justice of the European Union (CJEU), underscoring the uniquely centralized nature of judicial authority within the EU legal order. See Art. 344 Treaty on the Functioning of the European Union (Consolidated Version), OJ 2016 C202/47; ECJ, *Commission v. Ireland* (Grand Chamber), judgment of 30 May 2006, C-459/03, para. 123.

114 Nikos Lavranos, 'The OSPAR Convention, the Aarhus Convention and EC Law: Normative and Institutional Fragmentation on the Right to Access to Environmental Information' in: Tomer Broude and Yuval Shany (eds), *Multi-Sourced Equivalent Norms in international Law* (Hart Publishing 2011), 143-169 (168).

that if international judges come to the conclusion that another court or tribunal is better placed to adjudicate a dispute, they should relinquish their jurisdiction in favour of this forum.[115] However, comity's weakness lies in the unclear source of power for its application.[116] More importantly, in the absence of a legal duty to defer a dispute to another jurisdiction, when an international court establishes its jurisdiction over a case, it generally does not have the discretion to refrain from deciding an admissible case.

The existence of parallel jurisdictions concerning different aspects of climate-related cases is not necessarily a problem for the WCC. Specifically, the multiplicity of international courts dealing with similar issues will lead to 'a denser body of law, which also includes more sophistication, and a further elucidation of fundamental principles underpinning the order'.[117] In the early 2000s, the UN International Law Commission (ILC)[118] and academic literature[119] focused on norm conflicts arising from the fragmentation of international law, expressing concern that such conflicts could undermine coherence and stability in the international legal system. However, this concern has proven largely exaggerated, and more recent scholarship increasingly views fragmentation as an opportunity.[120] Given this, the existence of different avenues for bringing climate-related cases could be beneficial, especially if there is sufficient dialogue between these various adjudicators to prevent contradictory findings. A system of advisory opinions between the WCC and other adjudicators would be particularly useful in this context.[121] This could take various forms, including one that specifically addresses the climate-related legal and scientific issues of a case.

115 Lavranos (n. 114), 168.

116 Schultz and Ridi (n. 113), 596-597.

117 See Anne Peters, 'The Refinement of International Law: From Fragmentation to Regime Interaction and Politicization', I.CON 15 (2017), 671-704 (681).

118 Study Group of the International Law Commission, Report on the Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law, finalised by Marti Koskenniemi, U. N. Doc. A/CN.4/L.682 (April 13, 2006), with app.: Draft conclusion of the work of the Study Group, U. N. Doc. A/CN.4/L.682/Add.1 (2 May, 2006).

119 See, for example, Joost Pauwelyn, Conflict of Norms in Public International Law. How WTO Law Relates to Other Rules of International Law (Cambridge University Press 2003); Martti Koskenniemi and Päivi Leino 'Fragmentation of International Law? Postmodern Anxieties', LJIL 15 (2002), 553-579; Eyal Benvenisti and George W. Downs, 'The Empire's New Clothes: Political Economy and the Fragmentation of International Law', Stanford L. Rev. 60 (2007), 595-631.

120 See, for example, Peters (n. 117), 671-704 (681); Margaret A. Young (ed.), *Regime Interaction in International Law: Facing Fragmentation* (Cambridge University Press 2012).

121 We are grateful to Caroline Foster for this suggestion.

b) *Ratione Personae*

Restrictions on standing, participation and access to international courts and tribunals have been commonly referenced as pressing issues relating to international adjudication of environmental disputes.[122] In terms of its *ratione personae* jurisdiction, we propose that the WCC could improve on existing international regimes by lowering access hurdles for individuals, while allowing inter-state claims. This should mean, first and foremost, allowing individual applicants to bundle their claims into one representative application brought by an NGO or environmental movement. Such an approach would enhance existing instruments, which largely require non-state applicants to demonstrate that they have been individually affected in their rights. It also improves upon the recent approach of the ECtHR, which combines acceptance of representative NGO applications with an almost impossible standard for individual applicants to meet.[123]

A high threshold for individual victims protects the dockets of generalist courts and the sensitivities of states, but it is particularly ill-suited to the context of climate change, where risks are diffuse, long-term, and may not be fully manifested at the time of their causation. Individuals are increasingly at risk of heat-related mortality due to the impact of climate change on the frequency and intensity of heat waves. However, these effects may not yet be fully evident, and applicants may struggle to obtain the necessary scientific and legal expertise to bring such claims, or face significant costs in doing so.[124] In this regard, legal aid funding is vital, along with simplified applications procedures, and – where causation is concerned – reliance on statistical evidence and modelling as reliable forms of evidence of harm beyond a reasonable doubt. Various controls should be in place to balance openness to claims with the risks posed by participating NGOs to the system itself. This could include a clear set of criteria for standing, such as an objective standard based on the qualification, experience, and interest of an NGO in a given dispute. Another option could be the requirement for NGOs to acquire prior accreditation to have standing before a WCC.[125]

122 Bruce (n. 26), 148.

123 ECtHR, *KlimaSeniorinnen* (n. 35).

124 Overall, see Helen Keller and Viktoriya Gurash, 'Expanding NGOs' Standing: Climate Justice Through Access to the European Court of Human Rights', Journal of Human Rights and the Environment 14 (2023), 194-218; Violetta Sefkow-Werner, 'Consistent Inconsistencies in the ECtHR's Approach to Victim Status and *Locus Standi*', European Journal of Risk Regulation (2025), 1-10.

125 Similar arguments are discussed at greater length in Keller and Gurash (n. 124).

c) *Ratione Temporis*

In terms of jurisdiction *ratione temporis*, two salient questions arise: the first concerns states' responsibility for their historic emissions, and the second addresses the disproportionate burden of climate change impacts on future generations. Central to our proposal is that a WCC should be entrusted with the competence to hear claims relating to harm inflicted on individuals both now and in the future, including those represented by an Ombudsperson for future generations or accredited environmental NGOs.

The prospect of establishing purely forward-looking new institutions raises complex questions, especially given states' widely disparate historic emissions and the resulting developmental inequalities in light of legacies of colonialism and distributive injustices. This includes regard for the '"slow violence" inflicted by the fossil fuel industry on racialised and poor communities throughout the world'.[126] A purely forward-looking institution or legal obligation would erase much of this reality, which must be seen – as held in the ground-breaking *Held et al. v. Montana* case – in the context of research on the 'greenhouse' effect dating back to the 1850s, and the clear international scientific consensus on the dangers and causes of climate change that has existed since the IPCC began issuing reports in the 1990s.[127]

The second temporal question concerns not the past, but the future. Many climate cases have included claims brought on behalf of future generations, thereby invoking the principle of 'intergenerational equity'.[128] International legal protections for future generations were recently summarised in the 2023 Maastricht Principles on the Human Rights of Future Generations, which draw on international law to 'affirm binding obligations of states and other actors as prescribed under international and human rights law'.[129] These

126 Carmen G. Gonzalez, 'Racial Capitalism, Climate Justice, and Climate Displacement', Oñati Socio-Legal Series, 11 (2021) 108-147, with reference to Rob Nixon, *Violence and the Environmentalism of the Poor* (Harvard University Press 2013) and Caiphas Soyapi and Louis J. Kotzé, 'Environmental Racism, Slow Violence and the Extractive Industry in Post-Apartheid South Africa: Marikana in Context', Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America 49 (2016), 393-415.

127 Montana First District Court for Lewis and Clark County, *Held and Others v. Montana* (n. 2), para. 20 and 72 (not yet final).

128 German Federal Constitutional Court, *Neubauer* (n. 62); CRC, *Sacchi* (n. 2); UN Human Rights Committee, *Daniel Billy* (n. 2); for a comprehensive analysis of the legal incarnations of the principle of 'intergenerational equity' see Daniel Bertram, '"For You Will (Still) Be Here Tomorrow": The Many Lives of Intergenerational Equality', Transnational Environmental Law 12 (2023), 121-149.

129 'Maastricht Principles on the Human Rights of Future Generations', 3 February 2023, <https://www.ohchr.org/sites/default/files/documents/new-york/events/hr75-future-generations/Maastricht-Principles-on-The-Human-Rights-of-Future-Generations.pdf>, last access 15 May 2025.

 DOI 10.17104/0044-2348-2025-3-725

principles set out that the enjoyment of human rights cannot be interpreted as limited to those currently living, but must always include future generations. They resonate with the fact that climate policy has serious impacts on the world's future, not just now or next year, but also 10, 30, 50, and 100+ years from now. Accordingly, climate policy decisions impact the enjoyment of rights by future generations, and contain assumptions as to their needs and interests when making ethical choices.[130] To this end, the legal framework of 'intergenerational equity' is conducive to addressing the long-term implications of the climate crisis. The question that arises here, however, is whether the rights of future generations can already be litigated today.

In this regard, Stephen Gardiner argues that we face a serious intergenerational collective action problem, which he calls 'the tyranny of contemporary', and that existing institutions were not designed with the intergenerational threat in mind.[131] To confront this institutional inadequacy, Gardiner calls for a global constitutional convention focused on future generations, tasked with providing institutional recommendations to protect against the tyranny of the contemporary. This could include the creation of new institutions, modifications to existing ones, or, most likely, a combination of both.[132]

Discussions on protecting future generations have recently been initiated by Stephen Humphreys, who argues that focusing on these rights overlooks the inequalities and rights impacts facing those living today. He contends that the rights of current generations provide a sufficient basis for contesting emissions without turning to the concept of future generations.[133] Responses to Humphreys consider that his argument creates false binaries[134] or deprives indigenous populations and people in the Global South of an important platform for demanding their rights.[135] A WCC could elaborate on the precise content of 'intergenerational equity' and translate it into concrete obligations for governments to take both mitigation and adaptation actions in response to future climate crisis scenarios, while adopting a nuanced approach that avoids existing pitfalls.

---

130 Peter Lawrence, 'International Law Must Respond to the Reality of Future Generations: A Reply to Stephen Humphreys', EJIL 34 (2023), 669-682.

131 Stephen M. Gardiner, 'On the Scope of Institutions for Future Generations: Defending an Expansive Global Constitutional Convention that Protects Against Squandering Generations', Ethics & International Affairs 36 (2022), 157-178 (159).

132 Gardiner (n. 131), 162.

133 Stephen Humphreys, 'Against Future Generations', EJIL 33 (2023), 1061-1092.

134 Lawrence (n. 130).

135 Margaretha Wewerinke-Singh, Ayan Garg and Shubhangi Agarwalla, 'In Defence of Future Generations: A Reply to Stephen Humphreys', EJIL 34 (2023), 651-668.

Finally, the potential for a WCC to operate based on strict principles of liability for past emissions – for example, applying obligations of result rather than conduct or due diligence – raises an obvious hurdle. This would be a departure from existing regimes, given that obligations to compensate for climate change were explicitly excluded from the Paris Agreement.[136]

4. Remedies and Reparation

The question arises as to what remedies a WCC could offer to 'successful' applicants, what 'success' means here, and how individual and collective forms of redress interact. Despite the wide discretion of international courts and tribunals, they cannot award remedies beyond the scope of the substantive obligations that they are tasked with applying. Remedial awards will accordingly depend on the type of obligation violated.[137] In addition, the parties themselves suggest remedies they wish to see implemented by a court. For example, in climate cases before the ECtHR, applicants have claimed that domestic climate targets and measures are insufficient[138] or inadequate[139] to limit global warming to a safe level, and have asked the Court to order concrete reductions targets and compensation – to no avail.[140] Likewise, in the ICJ's *Costa Rica v. Nicaragua* compensation judgment, the Court was faced with two competing models for calculating the reparations demanded for the environmental harms at stake, requiring it to create its own methodology for conducting the calculation in question.[141]

Some authors argue that, in a climate change case, a pro-climate plaintiff must consider not only the usual elements of facts and law, but also whether winning the case will make any difference to our current predicament.[142] If the goal is to limit greenhouse gas emissions and the corresponding rise in global average temperatures, then it is necessary to reform the international legal regime, requiring more ambitious, binding, yet fair and evolving targets for each state. This involves difficult policy decisions that are arguably beyond the competence of any court. Courts, it is argued, are not the appro-

136 UN Secretary-General (n. 77), para. 28.

137 Justine Bendel, 'Chapter 6: Remedies' in: Justine Bendel, *Litigating the Environment* (Edward Elgar Publishing 2023), 180-212 (189).

138 ECtHR, *KlimaSeniorinnen* (n. 35).

139 ECtHR, *Duarte Agostinho* (n. 67).

140 In *KlimaSeniorinnen*, the Court refused to grant a general measures order under Article 46 ECHR (n. 35).

141 ICJ, *Certain Activities* (n. 47), para. 34.

142 Zahar (n. 103).

priate actors for proposing solutions to problems affecting society as a whole.[143]

While acknowledging the limitations of the role of courts and the legitimacy challenges that arise from them, it is also important to recognise that courts can and often do consider structural or controversial issues of societal importance.[144] We believe that a court with an explicit mandate to evaluate the adequacy of individual states' climate commitments would not only be feasible, but would represent the only practicable way to ensure transparent, equitable, and fair climate action. This includes using scientific methodologies that can and do establish each state's fair share, using fair share ranges that account for different understandings of fairness, and evaluating each state's reductions commitments.[145] In any case, a WCC could play a role by addressing specific questions and by clarifying norms of international (environmental) law and human rights law that are important for legislators and governments.

A significant degree of climate change is unavoidable and indeed has already taken place, with the World Meteorological Organization calculating an 80 % chance that at least one year between 2024 and 2028 will cross the 1.5°C temperature limit.[146] A WCC should be an avenue to remedy climate-related harms, including unavoidable loss and damage through mitigation and adaptation measures. For example, some authors draw parallels to the UN Compensation Commission (UNCC), established in the aftermath of the first Gulf War to remedy environmental damage, to discuss ways to share the burden of compensating for climate harms.[147] Other scholars have also proposed the creation of a Global Climate Reparations Fund to redistribute resources and fund climate reparations.[148] In this regard, the WCC could

143 Guy Dwyer, 'Climate Litigation: A Red Herring Among Climate Mitigation Tools' in: Benoit Mayer and Alexander Zahar (eds), *Debating Climate Law* (Cambridge University Press 2021), 128-144.

144 E. g. ECtHR (Grand Chamber), *A, B and C v. Ireland*, judgment of 16 December 2010, no. 25579/05; ECtHR, *D. B. and Others v. Switzerland*, judgment of 22 November 2022, nos 58817/15 and 58252/15.

145 See e. g. Climate Action Tracker, 'CAT Rating Methodology: Fair Share' (2023), <https://climateactiontracker.org/methodology/cat-rating-methodology/fair-share/>, last access 15 May 2025.

146 World Meteorological Organization, 'Global Annual to Decadal Climate Update, 2024-2028' (2024), available at: <https://library.wmo.int/records/item/68910-wmo-global-annual-to-decadal-climate-update>, last access 15 May 2025.

147 Daniel Farber, 'The UNCC as a Model for Climate Compensation' in: Cymie Payne and Peter Sand (eds), *Gulf War Reparations and the UN Compensation Commission: Environmental Liability* (Oxford University Press 2011), 242-257.

148 Audrey Chapman and Karim Ahmed, 'Climate Justice, Humans Rights, and the Case for Reparations', Health and Human Rights 23 (2021), 81-94.

build on and solidify the patchwork of funding mechanisms established under the international climate regime, including the Warsaw International Mechanism for Loss and Damage, which has struggled to make progress due to the lack of clear definitions and legally binding obligations under the Paris Agreement.[149] It could further strengthen the Loss and Damage Fund agreed upon at COP27[150] and operationalised at COP28,[151] which is still severely underfunded.[152]

An important task for a WCC would be to clearly define the harm arising from loss and damage due to climate change. One challenge will be to separate harm linked to anthropogenic climate change from other sources of harm. For example, while extreme weather events will be amplified by climate change, the resulting impacts will not be solely attributable to it, with unrelated vulnerabilities also playing a role.[153] Another question concerns whether loss and damage will include only those impacts with economic consequences, or whether it will also extend to non-economic impacts, including cultural harm to indigenous people. A WCC would also need to determine whether claims for loss and damage should include the loss of state territory due to sea level rises, or even the loss of statehood, and what reparations for these would look like.[154]

To provide a comprehensive, harmonised, equitable, and legitimate response to climate change, a WCC cannot shy away from addressing reparations for loss and damage, including non-economic harms. It must take a holistic approach to the harms at stake, including those with individual, collective, and state-wide impacts. This requires a differentiated, structural and redistributive approach to remedies – one that goes beyond compensating individuals or states for material harm already suffered, and includes structural and future-oriented reparations that take into account all develop-

149 Article 8.3 of the Paris Agreement, and the non-binding 'should' obligation therein (n. 29).

150 Conference of the Parties to the UNFCCC, Decision 2/CP.27, 'Funding Arrangements for Responding to Loss and Damage Associated with the Adverse Effects of Climate Change, Including a Focus on Addressing Loss and Damage', UN Doc. FCCC/CP/2022/10/Add.1, 17 March 2023.

151 Conference of the Parties to the UNFCCC, Decision 1/CP.28, 'Operationalization of the New Funding Arrangements, Including a Fund, for Responding to Loss and Damage Referred to in Paragraphs 2-3 of Decisions 2/CP.27 and 2/CMA.4', UN Doc. FCCC/CP/2023/11/Add.1.

152 David W. South, 'Loss and Damage Fund – Operationalized at COP28 but Funding and Allocation Process Unresolved', Climate and Energy 40 (2024), 29-3.

153 Emmanuel Raju, Emily Boyd and Friederike Otto, 'Stop Blaming the Climate for Disasters', Communications Earth & Environment 3 (2022), 1-2.

154 Meinhard Doelle and Sara L. Seck, 'Loss & Damage from Climate Change: From Concept to Remedy?', Climate Policy 20 (2020), 669-680 (672).

mental and environmental interests and harms at stake. We envision that these reparation amounts, instead of being allocated to a single state, group, or individual, could instead be directed to a climate compensation and financing fund. This fund would ensure fair distribution from high-emitting to low-emitting states based on a 'fair shares' methodology.

IV. Conclusion

At this stage, an answer to the question posed in the title is both overdue and self-evident: we are convinced that a WCC is needed. In this, we follow the approach taken by Stuart Bruce, who has argued that '[i]t is the job of international lawyers to devise creative and meaningful solutions to real-world problems and to make the pieces of international law work as a system'.[155]

From the perspective of avoiding 'free-riders' and ensuring coordinated action by states to meet the Paris Agreement's warming targets, adapt to the effects of climate change, and repair unavoidable loss and damage, binding international legal obligations interpreted by an institution with mandatory jurisdiction offer many advantages. An important benefit that could distinguish the proposed WCC from existing mechanisms is its potential to ensure a coherent interpretation of international standards in climate cases, leading to greater systemic integration of international law, including international environmental law, general public international law, and human rights law. The efficiency and the authority of a WCC would depend on its specific design, and practical and technical legal challenges would need to be overcome. The WCC would need to offer added value over existing mechanisms, but it also cannot not depart too radically from the principles underlying the existing international legal system. As a result, the above must be tempered with a degree of caution against placing overly high expectations in any one institution, including this one.

The history of codifying human rights protections and international legal norms shows that large-scale catastrophes drawing international attention are often required for change to take place.[156] While irreversible climate tipping points have not yet been crossed and the situation can still get much worse, the climate crisis has already arrived. Scientists are observing dangerous

155 Bruce (n. 26), 135.

156 Hilary Charlesworth, 'International Law: A Discipline of Crisis', M. L. R. 65 (2022), 377-392.

changes in the climate now, in the form of a slow-burning crisis. Given the systemic nature of this looming threat, the time has come for the international community to take ambitious and meaningful action. The creation of a WCC would be a step in this direction.

 DOI 10.17104/0044-2348-2025-3-725