

Litigation and Dispute Resolution in Transnational Ecological Conflicts

The role of judicial and non-judicial mechanisms

Workshop

The ERC [Curiae Virides](#) Research Project hosted by the [Brussels School of Governance \(Vrije Universiteit Brussel \(VUB\)\)](#), and funded by the [European Research Council \(ERC\)](#) of the [European Union](#), in collaboration with the [Public Law Department of the Law & Criminology Faculty of the VUB](#), the [International Peace Information Service \(IPIS\)](#), [Avocats sans Frontières](#), the [Raoul Wallenberg Institute of Human Rights and Humanitarian Law \(RWI\)](#), the [Global Network of Human Rights and the Environment \(GNHRE\)](#) and the [Network of African National Human Rights Institutions \(NANHRI\)](#) are organising a hybrid workshop in Arusha (Tanzania) on the role of judicial and non-judicial mechanisms in solving transnational ecological conflicts. The workshop will take place on the **19th, 20th and 21st of November 2024**.

Background

The growth of litigation related to climate and ecosystems' protection (also framed in human rights terms) draws attention to the need of understanding the factors driving this development. It also underscores the need to assess the effectiveness of litigation in achieving its objectives, particularly concerning environmental justice and access to remedies for people, ecosystems and territories affected or threatened by environmental degradation.

The workshop will focus on transnational ecological conflicts and related litigation. These conflicts can occur at multiple scales or governance levels (from local to international and transnational), being the result of cross-border environmental impacts (such as biodiversity loss, water pollution, and global warming) or activities involving actors under multiple state and/or international jurisdictions (e.g., multinational corporations, international NGOs, or development/investment banks).

A central theme of inquiry and discussion will revolve around identifying the courts and dispute resolution mechanisms that serve as forums for the tentative resolution of these conflicts. The workshop seeks to understand what kinds of mechanisms are used (judicial or non-judicial), what are their main advantages and drawbacks, as well as whether transnational litigation (bringing cases to other territorial jurisdictions) has granted effective remedies for victims who have been unable to obtain redress in the country where the harm occurred.

Participants

We invite experts, researchers, citizens, civil society representatives, social movements and associations, and other stakeholders (including governments, development banks, companies, multistakeholder initiatives) etc. interested in assessing how ecological conflicts transform into litigation and what are the results of triggering courts. We encourage the participation of members of judicial and quasi-judicial bodies such as members of the Human Rights Commissions, National Courts, National Contact Points of the OECD, or representatives of Accountability Mechanisms. Each panelist will bring a unique perspective and expertise to the discussion, ensuring a comprehensive exploration of the topics.

Suggested Academic Panels

Theme 1: Assessing the Role of Alternative Dispute Resolution

In an era where transnational ecological conflicts are increasingly prevalent, non-judicial grievance mechanisms (NJGMs) and other forms of alternative dispute resolution (ADR) have emerged as vital tools for resolving disputes outside traditional court systems. These mechanisms, which include mediation, arbitration, and multistakeholder initiatives, offer flexible and relatively accessible options for stakeholders seeking to address environmental and social grievances. This panel seeks to explore the effectiveness of these mechanisms in providing justice and remedies for communities affected by environmental harm. We will examine the advantages and limitations of these mechanisms, particularly in contexts where judicial avenues may be inaccessible or ineffective. Key areas of discussion will include the legitimacy and accountability of ADR mechanisms, their capacity to address complex ecological issues, and their role in ensuring access to justice for marginalized groups. Through a comparative analysis of various ADR mechanisms and case studies, we aim to identify best practices and areas for improvement in the resolution of transnational ecological conflicts.

Call for Papers:

We invite researchers, practitioners, and stakeholders to submit papers on topics including but not limited to:

- Comparative studies of different ADR mechanisms in resolving transnational ecological disputes
- Case studies highlighting the outcomes and effectiveness of ADR established by development and investment banks or by National Contact Points of the OECD, among others.
- The role of ADR in providing access to justice for vulnerable communities
- Evaluations of the legitimacy, accountability, and transparency of ADR mechanisms
- Challenges and opportunities in implementing ADR in diverse socio-legal contexts
- Analysis of the out-of-court settlements in cases of serious environmental harms

Theme 2: The Role and Capacity of National Courts in addressing Transnational Ecological Conflicts

National courts are crucial in adjudicating transnational ecological conflicts, which often involve multiple jurisdictions and complex legal issues. These conflicts, ranging from pollution incidents to resource exploitation, frequently transcend national borders, necessitating an effective legal framework to ensure accountability and justice. This panel will investigate the capacity of national courts to address these challenges, examining their jurisdictional reach, the effectiveness of their rulings, and their ability to enforce international environmental norms. We will explore how national courts navigate the intricacies of transnational environmental cases, including issues related to cross-border pollution, biodiversity loss, and climate change impacts. The discussion will also cover the interplay between national legal systems and international environmental law, highlighting how national courts contribute to the enforcement of global environmental and human rights standards and the protection of social-ecological systems. Key areas of focus will include the challenges faced by national courts in addressing transnational ecological conflicts, such as jurisdictional limitations, legal standing, resource constraints, and political pressures. We will also consider the role of national courts in fostering environmental justice and their potential to drive policy changes at both the national and international levels. By examining case studies and legal precedents, this panel aims to identify best practices for enhancing the effectiveness of national courts in dealing with transnational environmental issues and ensuring that justice is served for affected communities and ecosystems.

Call for Papers:

- We welcome submissions on the following topics:
- Jurisdictional challenges in national courts addressing transnational ecological disputes
- Case studies of national court rulings on transnational environmental conflicts
- The role of national courts in enforcing international environmental agreements
- The role of national courts in enforcing international and regional human rights agreements with social-ecological implications
- Comparative analyses of national court capacities in different jurisdictions
- Legal and procedural innovations for strengthening national court responses to transnational ecological issues
- The impact of national court decisions on international environmental policy and governance

Panel 3: The Protection of Environmental and Human Rights Defenders

Environmental human rights defenders (EHRD)/biosphere defenders play a crucial role in advocating for the protection of ecosystems and communities affected by ecological degradation and environmental injustice. However, these defenders who are vital agents of change for healthy ecosystems and climate action often face significant risks, including threats, harassment, and violence, which hinder their ability to effectively carry out their work. This panel will focus on the legal and non-legal measures in place to respect, protect and fulfil the rights of biosphere defenders. We will explore the effectiveness of international, regional, and national frameworks in safeguarding the rights of these individuals, groups and organizations. Discussions will also cover the roles of civil society, international organizations, and governments in supporting defenders' initiatives on healthy ecosystems and biodiversity and climate adaptation. By examining case studies and discussing strategies for an enabling environment for Earth stewardship, we aim to identify actionable recommendations for strengthening the support systems for environmental and human rights defenders globally.

Call for Papers:

We invite submissions on the following topics:

- Analysis of international and national legal frameworks relevant for the rights of biosphere defenders
- Case studies of defenders facing threats or violence
- Innovative approaches to enhancing the safety and effectiveness of defenders
- Case studies on the contributions of defenders for healthy biodiversity and ecosystems and/or climate adaptation
- The role of civil society and international organizations in supporting the initiatives of defenders
- Challenges and strategies in advocating for and securing the rights of defenders

Theme 4: Role of Regional and Sub-Regional Bodies in Managing Environmental Conflicts

Regional or sub-regional bodies, such as the African Court on Human and Peoples' Rights, the African Commission on Human and People's Rights, the East African Court of Justice, or the Court of the Economic Community of West African States play a significant role in the adjudication of environmental disputes that transcend national borders. These courts provide forums for addressing violations of environmental and human rights and contribute to the development of international environmental law. This panel will delve into the jurisdiction, capacity, and effectiveness of regional bodies in managing and resolving environmental conflicts. We will discuss the impact of landmark decisions on national policies, the challenges faced by these courts in handling complex environmental cases, and their role in ensuring justice for affected communities. Through a comparative analysis of various regional judicial approaches, this panel aims to shed light on the evolving landscape of regional environmental adjudication and its implications for global environmental governance.

Call for Papers:

We welcome papers on topics such as:

- The jurisdiction and capacity of regional courts in environmental matters
- Landmark decisions by regional judicial bodies and their impact on national policies
- Challenges and opportunities in regional environmental adjudication
- Comparative analysis of regional approaches to environmental justice
- The role of regional courts in advancing international environmental law

Theme 5: Implementation of Judicial Decisions – Post-Decision Dynamics

The implementation of judicial decisions is a critical phase in the litigation process, particularly in transnational environmental cases where compliance and enforcement can be challenging. This panel will focus on the post-decision dynamics that influence the successful enforcement of judicial rulings in environmental disputes. We will explore mechanisms for ensuring compliance, the role of monitoring bodies, and the challenges associated with enforcing court orders across different jurisdictions. By examining case studies and discussing the practical aspects of post-decision processes, we aim to identify best practices for enhancing the effectiveness of judicial decisions in achieving environmental justice. This panel will provide valuable insights into the practical realities of implementing judicial decisions and the factors that contribute to or hinder their success.

Call for Papers:

We invite submissions on topics including:

- Mechanisms for ensuring compliance with judicial decisions in environmental cases
- Challenges in the enforcement of court orders across jurisdictions
- The role of monitoring and enforcement bodies in post-decision dynamics
- Case studies on the effectiveness of post-decision processes
- Strategies for improving the implementation of judicial rulings

Theme 6: Climate Litigation in Africa

Climate litigation is emerging as a powerful tool for addressing climate change and holding actors accountable for their contributions to environmental degradation. In Africa, where climate impacts are particularly severe, litigation is increasingly being used to seek justice and promote climate resilience. This panel will examine the landscape of climate litigation in Africa, focusing on key cases, the role of regional and international legal frameworks, and the unique challenges and opportunities faced by litigants on the continent. We will discuss the strategies employed by African communities and organizations to leverage litigation for climate justice and explore the implications of these efforts for global climate governance. By highlighting the diverse experiences and innovative approaches in African climate litigation, this panel aims to foster a deeper understanding of the potential and limitations of litigation as a tool for climate action in the region.

Call for Papers:

We invite papers on topics such as:

- Analysis of key climate litigation cases in African jurisdictions
- The role of regional and international legal frameworks in African climate litigation
- Challenges and opportunities in pursuing climate justice in Africa
- Comparative studies of climate litigation trends across African countries
- Innovative legal strategies for climate litigation in Africa
- What are the prospects and opportunities for victims of global warming in relation to the Loss and Damage Fund?

Theme 7: Multilateralism to Advance the Right to a Healthy Environment and Environmental Democracy

This theme aims to facilitate a cross-regional dialogue on the right to a healthy environment and related procedural environmental rights, as recognised in Principle 10 of the Rio Declaration. We seek to assess how regional human rights treaties might interact with treaties protecting environmental rights. How the path taken by the Escazu and Aarhus Conventions, adopted within the UN regional economic organisations ECLAC and UNECE, can inform the debate in Africa. Some of the important issues to be discussed are: the possibilities of developing a regional instrument that develops Principle 10 of the Rio Declaration in Africa and the views of UNECA on this; the synergies that could exist between these regional initiatives and the regional human rights treaties, commissions and courts; how the Compliance Committees of the Escazu and Aarhus Conventions can play a role in their effective enforcement, among other related topics.

Call for Papers:

Proposed issues to cover:

- Cross-regional lessons learned between the implementation of the African Charter on Human and Peoples' Rights - the first treaty to internationally recognize the right of peoples to “a general satisfactory environment” and the Escazu Agreement on access to information, public participation and access to justice in Latin America and the Caribbean recognising the right to a healthy environment and to sustainable development
- Exploring the possibilities of developing a regional instrument on the right to a healthy environment and Principle 10 of the Rio Declaration on access rights in Africa, and the views of UNECA about it
- Lessons learned from UN international human rights review mechanisms (Universal Periodic Review (UPR), Special Rapporteurs) that can be useful for compliance mechanisms on human rights and environment such as the Compliance Committee of the Escazu Agreement and the Aarhus Convention, respectively.
- Opportunities and challenges of more African countries becoming parties to the Aarhus Convention [on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters](#)
- How regional human rights bodies and the UN's regional economic commissions interact on topics related to environmental rights (and democracy).

Apply to the call for Papers/ Presentations

SUBMISSION INFORMATION:

Submissions should include an abstract of no more than 300 words and a short bio of the author(s)/ presenter(s). Abstracts may relate to one of the proposed themes, or may develop other questions related to these themes. Panel proposals are welcome, in that case, the submission form should include an abstract of the panel and an abstract of each presentation. Please submit your abstracts and bios via the [form](#) below by 10th September. Accepted authors/ presenters will be notified by September 15th.

IMPORTANT DATES:

Deadline for applications: 10th September 2024

Deadline for formal decisions on acceptance: 15th September 2024

Deadline for registrations (after acceptance): 30th September 2024

Final Programme Available: 5th October 2024

Event Date: 19th-21st November 2024

DISCLAIMER:

The filling of this form does not guarantee the enrolment of a prospective speakers or presenters in the conference. The formal acceptance of candidates may occur on a rolling basis to expedite their ability of securing travel and accommodation arrangements in Arusha. The conference organisers charge an administrative fee of **50€*** to in-person participants to help support conference costs such as venue rental, the conference materials, coffee, tea & snacks, lunches throughout the conference, and dinner on one of the days of the conference. **Travel and accommodation are not covered by the fee and need to be arranged by participants.**

*Participants affiliated to an institution or organisation in a low, lower-income or upper-middle-income country may request a fee waiver. The country where the participant works determines eligibility for the reduced fee for participants in a low, lower-middle, or upper-middle-income economy according to [World Bank classification 2022](#). If you need a fee waiver kindly indicate your requirement in the enrolment form.

Application link: <https://www.curiaevirides.eu/arushaworkshop>