

Climate change litigation in a comparative law perspective

Research Keywords:	Comparative law, Climate change, Litigation
Reference ERCs (*):	SH2_8 Legal studies, constitutions, comparative law, human rights, SH3_3 Environmental regulations and climate negotiations, SH3_1 Environment, resources and sustainability
Reference SDGs (**):	GOAL 5: Gender Equality, GOAL 13: Climate Action, GOAL 16: Peace and Justice Strong Institutions
Reference person:	Pozzo Barbara (barbara.pozzo@uninsubria.it)
Host University:	University of Insubria <i>Department of Law, Economics and Cultures</i>

Research topic

Climate change has undergone a process of international regulation, which has experienced its ups and downs, with international diplomacy devoting more and more attention to the phenomenon.

From the 1992 United Nations Framework Convention on Climate Change (UNFCCC), to the Kyoto Protocol, which came into force in February 2005, the alternating phases of the institutional debate have established an international binding legislative framework for action, setting the objectives (mitigation and adaptation), and the tools (emissions trading, clean development mechanism, joint implementation) for facing the challenge of climate change.

After the 18th Conference of the Parties (COP) held in Doha, Qatar, the complex structure taken on by international negotiations has become self-evident. The idea of a single binding international agreement, which would have favored the prorogation and extension of the Kyoto Protocol has been given up. After that, an attempt was made to cope with the various problems arising out of climate change on the different working tables, but the outcome of these efforts is not easily assessed.

International negotiations have very likely become so complex because of the will to encourage the participation and involvement of all the industrialised and newly industrialised countries as much as possible.

The complex evolution of the international regulation has led to the development of alternative policy architectures for addressing the threat of global climate change, and to very heterogeneous results in the various regions, which highlights the existing tension between local law and global law.

In the last decades, we are witnessing the development of a body of rules, which tend towards a progressive approaching in the development of principles addressing environmental problems. This certainly derives from the fact that environmental problems have affected all legal systems in an almost contemporary way, and at the same time - is suitable to involve by its very nature multiple countries.

Nonetheless, although climate change protection is a global issue, the implementation of climate change policies remains a local issue, giving rise to different protection regimes that render comparative law analysis a suitable tool to investigate on the differences existing in the various legal systems.

The research project aims at investigating the different approaches of the United States and the European Union as far as climate change is concerned, tackling the different perspectives on litigation and regulation. The core of the research will concern the recent wave of climate change litigation, originated in the U.S., which seems to have gained terrain also in the European context, where Courts in several national jurisdictions have upheld the action brought by environmental associations and other NGOs in order to induce States and agencies to adopt major mitigation and adaptation measures.

In this perspective, the research project will also take into consideration the various actors involved, with a particular attention to gender issues.

The spreading out of climate change litigation appears to be an interesting field of comparative law research. In this perspective, comparative law tools could enhance the understanding of legal transplants in environmental law and provide a new approach to the development of global environmental law.

Research team and environment

The Department of Law, Economics and Cultures has established the ENVIRONMENTAL AND TERRITORIAL POLITICS STUDIES CENTRE (<https://www.Uninsubria.it/siti-tematici-o-federati/centri-di-ricerca/centro-di-ricerca>)

ricerca-centro-studi-sulle-politiche-ambientali), to promote research, teaching and dissemination of knowledge, including scientific divulgation in the field of environmental and climate change policies (in all operational areas: public law, private law, comparative law, European law, international law, criminal law, procedural law, economics, philosophy), carrying out and promoting interdisciplinary research and training activities and projects aiming at such purposes. Further, every year, the Department of Law, Economics and Cultures also promotes the International Summer School in Comparative Environmental Law, organized in Como with the collaboration of the University of Marseille/Aix-en-Provence (F), Opole University (PL) and Utrecht University (NL). Finally, since 2019 the Department of Law, Economics and Cultures has been awarded an UNESCO Chair on Gender Equality and Women's Rights, which aims at studying gender equality and women rights, including challenges arising from violation of human rights that might derive also from climate change. The team will be composed by comparative lawyers acting at the Department: Prof. Pozzo, Prof. Jacometti, Dr. Fanetti.

Suggested skills

Legal background, with some knowledge of comparative law.