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ILS International Law and Practice Course 2020 Lecture Two

The Impact of the Paris Agreement on Climate Litigation

Tuesday, 18 August 2020

5:00pm – 6:30pm

Event hosted online via Zoom

Join the International Law Section for the second ILS International Law and Practice Course lecture for 2020, featuring the The Hon. Justice Brian J Preston FRSN SC, and Ms Mary Walker, Chair of the International Law Section.

Ms Mary Walker will open the session on the impact of the Paris Agreement on climate change litigation.

The Paris Agreement is the first universal climate change agreement requiring all parties to communicate ambitious greenhouse gas (GHG) reduction targets to achieve a long-term global temperature goal. The Paris Agreement is a game-changer at the international level, but has it been at the national (and sub-national) level? What has been the impact of the Paris Agreement on litigation to improve mitigation of and adaption to climate change?

The presentation first examines the obligations created by the Paris Agreement under international law and under domestic law through incorporation of the Paris Agreement or a country's nationally determined contributions into domestic law and policy.

Secondly, the presentation examines how the Paris Agreement has influenced the courts' application of norms. These include recognition of the globalisation and universality of the problem of climate change and solutions to the problem (a global norm to take action), the maximum permissible global temperature rise considered acceptable (the temperature target), the need for net zero emissions by 2050 (the time target) and the relevance of climate change and its consequences as matters to be considered in administrative and judicial decision-making.

Thirdly, the presentation will explore how the Paris Agreement is influencing the factual considerations of anthropogenic climate change. The Paris Agreement assists in causally linking the emissions of a country and climate change, failure to take regulatory action and climate change, proposed development and climate change, and emissions of a country and extreme weather events.

Fourthly, the presentation will illustrate how the Paris Agreement is affecting the law and legal responsibilities by focusing on the impact of the Paris Agreement on corporate directors' liabilities.

Finally, the presentation will note the ripple effect that climate change litigation in one country, influenced by the Paris Agreement, has on litigation in other countries.

All International Law and Practice Course webinars are free for ILS members, with login details provided upon registration below.

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The Hon. Justice Brian J Preston FRSN SC

The Hon. Justice Preston FRSN SC is the Chief Judge of the Land and Environment Court of New South Wales. Prior to being appointed in November 2005, he was a senior counsel practising primarily in New South Wales in environmental, planning, administrative and property law. He has lectured in post-graduate environmental law for nearly 30 years. He is the author of Australia's first book on environmental litigation and 132 articles, book chapters and reviews on environmental law, administrative and criminal law. He holds numerous editorial positions in environmental law publications and has been involved in a number of international environmental consultancies and capacity-building programs, including for judiciaries throughout Asia.

Justice Preston is an Official Member of the Judicial Commission of NSW, Fellow of the Australian Academy of Law, Fellow of the Royal Society of NSW and Honorary Fellow of the Environment Institute of the Australia and New Zealand. He was awarded an honorary Doctor of Letters by Macquarie University in 2018. He is a member of various international environmental law committees and advisory boards, including the interim governing council of the Global

Judicial Institute on the Environment. He is currently an Adjunct Professor at the University of Sydney, Western Sydney University and Southern Cross University.

In 2019, Justice Preston was a Visiting Fellow at Corpus Christi College, University of Oxford, and in 2020 was the Robert S Campbell Jr Visiting Fellow at Magdalen College, University of Oxford.



Ms Mary Walker

Chair, Law Council of Australia International Law Section



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