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CLIMATE CHANGE LAW SPECIALIST GROUP BLOG SERIES

CORPORATE CLIMATE LITIGATION AND THE JUST TRANSITION: DELIVERING ACCOUNTABILITY IN THE NET ZERO ERA

As corporate climate litigation evolves, so too does our understanding of what a "just" transition to net zero really means. In a webinar held on 30 June 2025, Dr Kate McKenzie and Dr Ivano Alogna, Co-Leads of the Climate Litigation Cluster of the IUCN WCEL Climate Law Specialist Group explored this critical intersection, connecting legal strategies aimed at holding corporations accountable with the broader imperative of a just, inclusive energy transition. These two themes are often addressed separately, but they are deeply intertwined. In this blog post, they share key issues and insights from the discussion, to which IUCN WCEL CCLSG Members Dr Arman Sarvarian, Raja Sengupta and Prof Dr Warren Lavey kindly contributed their expertise.

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Climate Litigation: Trends and Shifts

According to the latest global climate litigation snapshot from the Grantham Research Institute at the London School of Economics, while the rate of new corporate climate cases may be stabilising, the diversity of industries and legal theories involved continues to expand. Litigation is targeting new sectors, testing novel legal arguments, and increasingly focusing on the adequacy and credibility of corporate climate strategies.

What's emerging is not just a legal reckoning with corporate emissions—but also a deeper examination of responsibility, equity, and justice in the net zero transition. These cases are no longer just about climate *action*—they are increasingly about climate *accountability*.

Article 6, Carbon Markets, and Legal Risk

A key driver of risk and opportunity in the corporate climate space is the growing role of carbon markets under Article 6 of the Paris Agreement. This mechanism allows countries—and by extension, companies—to engage in cross-border emissions reductions through carbon credits and emissions trading schemes.

But the architecture of these markets is complex. It is crucial to distinguish between **emissions allowances** (used in compliance markets like the EU Emissions Trading System) and **carbon credits** (often part of voluntary offsetting schemes). Allowances grant regulated industries permission to emit a certain amount of greenhouse gases. The goal is simple: shrink these allowances over time to steadily reduce emissions. Carbon credits, on the other hand, are generated by projects that reduce or remove emissions—such as reforestation or carbon capture—and are traded or retired. Each credit typically represents one tonne of CO_2 equivalent mitigated. Unlike allowances, carbon credits are usually associated with voluntary or offsetting schemes, whose credibility varies widely. While allowances are capped and shrink over time, credits depend on verifying real emissions reductions—something not always achieved in practice.

Legal challenges are emerging across sectors. Investor-State Dispute Settlement (ISDS) provisions—often used to protect foreign investments in carbon projects—are raising red flags about transparency and fairness. Communities affected by carbon offset projects are questioning their benefits, legitimacy, and consent. Whether it's failed forestry offsets, questionable carbon capture schemes, or poorly regulated enhancements, the risks of flooding the market with "bad" credits, greenwashing, and overpromising results are mounting, along with the potential for litigation.

From a just transition standpoint, these developments raise urgent questions: **Who benefits from these markets? Who bears the cost? And who participates in their design and governance?**

Corporate Net Zero and the Perils of "Outsourcing" Responsibility

While many companies have adopted net zero targets, the means of reaching them are under scrutiny. Increasingly, firms are relying on carbon credits to "offset" rather than reduce their emissions. This creates legal, reputational, and governance risks, particularly when these credits are used to delay or distract from real decarbonisation.

When a carbon offset project fails to deliver—as has happened with some forestry schemes or low-emissions transport initiatives—who should be held accountable? Courts are increasingly scrutinising corporate climate claims, especially where there is evidence of **greenwashing**, unrealistic targets, or insufficient due diligence. Corporate decision-makers, in turn, are beginning to search for guidance and best practices to mitigate these risks.

Importantly, the practice of offsetting raises deeper justice concerns. If corporations can meet their targets by funding projects in low-income countries or vulnerable communities—without meaningful oversight or consent—is the transition truly just? Or are we merely shifting the burden of climate action onto those least equipped to carry it?

The Role of Medical Evidence and Health Justice

Another emerging frontier in corporate climate litigation is the use of **medical and public health evidence** to document harm and build legal claims. Health data is now being used to establish standing, support claims on the merits, and even influence remedies in climate-related cases.

Climate change has direct and measurable impacts on human health—from respiratory diseases linked to air pollution to heatstroke during wildfires. Medical professionals are increasingly stepping up to provide expert testimony, assess the health effects of mitigation or adaptation failures, and advocate for systemic change.

This isn't just about documenting damage—it's about **reframing accountability**. Healthcare professionals are helping courts see climate change not as an abstract environmental issue, but as a **public health crisis**—one that demands urgent and equitable solutions.

A Just Transition: Guiding Questions for the Road Ahead

At the core of all these legal developments — carbon markets, net zero strategies, and medical testimony — lies the broader question: **What does a just transition to net zero actually require?**

A just transition demands more than carbon accounting. It requires an honest reckoning with power dynamics, historical responsibility and distributive equity. It compels us to ask:

1. **Who benefits, and who bears the cost of net zero activities?**
2. **Are the solutions equitable, inclusive, transparent, and subject to democratic oversight?**
3. **What level of responsibility should corporations assume — for past emissions and future impacts?**

Climate litigation is increasingly the arenas where these questions are tested *and contested*. Legal systems must not only hold corporations to their climate promises but also ensure those promises are **grounded in justice, transparency, and science**.

Conclusion: From Climate Claims to Climate Justice

Corporate climate litigation is no longer just about emissions—it is about **building systems of accountability**. It's about whether net zero pledges can be trusted, whether carbon markets can be made fair, and whether vulnerable communities have a meaningful voice in shaping climate solutions.

As legal theories evolve, so too must our understanding of justice. The road to net zero cannot be paved with poor oversight, regulatory loopholes, and vague promises. It must be grounded on transparency, responsibility, and a genuine commitment to shared prosperity.

Courtrooms are increasingly becoming critical arenas in the pursuit of a just transition—and the law, when shaped with integrity and inclusivity, may be among our most powerful tools for turning climate promises into meaningful action. The Climate Litigation Cluster plans to continue its work on climate law through more events, publications, and practical legal guidance.

This blog was written for the Climate Change Law Specialist Group, IUCN WCEL, as part of a series that aims to map activities, events, and panels related to Climate Change Law around the year.

Should you wish to learn more and join the Climate Litigation Cluster, please contact ***Marina Dutra Trindade****, executive assistant of the WCEL Climate Change Law Specialist Group.*