Editorial

One need not have seen *A Life on Our Planet*, a moving documentary narrated by and starring legendary naturalist David Attenborough, to know the dire state the global environment is in and to appreciate the need for integrative thinking to address what can only be described as a planetary crisis. Despite the efforts of the international community to limit global warming to 2°C and ideally 1.5°C as agreed under the Paris Agreement, we are presently on a trajectory of 3°C or higher. Vulnerable populations in exposed areas around the globe are already suffering the adverse consequences of insufficiently mitigated climate change – impacts that exceed our capacity to adapt. Only a few months ago, in May 2020, Cyclone Amphan caused severe devastation to Bangladesh and the Indian State of West Bengal. Coupled with a second wave of the COVID-19 pandemic and a projected global economic downturn, it may be difficult to stay optimistic. Yet, if there is any truth in the cliché that every crisis bears an opportunity, then the planetary crisis we currently face may also offer an opportunity for reinvention.

This raises some important questions as to the contribution that we as climate lawyers can make – as interlocutors in academia, government, international and non-governmental organisations, law firms and the courts – to leverage the transformative changes required to overcome the climate crisis. In the absence of sufficient global ambition to mitigate greenhouse gases, what legal innovations can we fashion, how can we use our legal tools and expertise, in order to turn the corner on the climate crisis? Going by the wealth of excellent contributions we received in response to our call for papers for this issue, I have reason to be optimistic.

I am proud to share with you this latest issue of *Carbon & Climate Law Review* which features six original articles covering the fields of REDD+ policy, climate litigation, adaptation, carbon markets, and the energy transition.

Gideon Fosoh Ngwome's contribution focuses on national ownership of REDD+ projects in Cameroon. Besides its role as a key mechanism to mitigate climate change by reducing emissions from deforestation and forest degradation, Ngwome highlights the importance of REDD+ as a lever for sustainable development in developing countries. Focusing on the Cameroonian context, he finds a lack of national ownership of REDD+ implementation which threatens to undermine both climate mitigation and socio-economic development gains of the country. His research not only explores the reasons behind weak national ownership as well as its implications for sustainable development, but also provides recommendations for strengthening national ownership of REDD+ projects in Cameroon in accordance with international guidelines.

In her article, **Charlotte Renglet** analyses the recent decision by the Irish Supreme Court in *Friends of the Irish Environment v Ireland* from a comparative perspective and critically appraises its potential impact on the advancement of climate litigation worldwide. She does this by examining the decision against two principal hurdles claimants seeking to

bring climate cases commonly face: legal standing and the separation of powers. With regards to the first, she finds that the Supreme Court took a strict and conservative approach to standing which suggests that it might be more strategic for environmental organisations to associate individuals to their lawsuits. On the second, Renglet argues the Court took a more innovative view that marks an important step towards establishing government accountability for climate change.

In a similar vein, **Jacqueline Peel** and **Rebekkah Markey-Towler** examine the prospects of *O'Donnell v Commonwealth*, a class action filed in Australia in July of this year against the Australian government and specific government officials for failing to disclose the risks of climate change to sovereign bond investments. Taking a comparative approach, Peel argues that the case has the potential to strengthen existing jurisprudence on climate risk disclosure while also extending that jurisprudence to the new field of investment in sovereign bonds.

In their contribution, **Alastair Marke** and **Marco Zolla** explore and assess one of the key trends identified by the UN Environment Programme (UNEP) in its 2017 report on climate litigation: lawsuits seeking to establish liability for climate adaptation failures. Their analysis focuses on two litigation scenarios, the first being cases where claimants seek redress for adaptation policies that either amplified the harm or failed to avert it; the second, where claimants seek injunctive relief or compensation for injury to their property rights resulting from adaptation measures themselves. Reviewing the global climate litigation landscape, the authors find that this litigation trend has gained some traction in recent decisions but not yet in a globally significant fashion. Their analysis further highlights some of the key legal bases that establish or clarify legal principles for adaptation-related cases.

Justin Macinante's contribution analyses the role of climate impact measurement in the design and regulation of climate finance and carbon markets. He argues that confidence in the design, operation, and governance of markets, and in the validity and environmental integrity of measurable mitigation outcomes are key elements to attract the level of private sector finance needed and envisaged by the Paris Agreement. Macinante further stresses that we need accurate, reliable, and comparable metrics that allow us to measure how climate finance investments contribute to the goals of the Paris Agreement. He finds that there has been a bifurcation in climate data analysis with stronger emphasis currently placed on the consequences for corporations, investments, projects or infrastructure resulting from climate impacts and measures to address it, rather than on the actual impact for the climate, whether positive or negative, of such activities.

In the final article of this issue, **Gökçe Mete** and **Leonie Reins** provide a detailed analysis of the European Commission's Hydrogen Strategy unveiled in July this year, assessing its wider implications for EU energy law. They identify three principal categories of regulatory challenges the EU has to grapple with in implementing its ambitious plans, among them the creation of an internal market and new lead markets for hydrogen, as well as the physical infrastructure required for hydrogen. Mete and Reins assess the Hydrogen Strategy against these regulatory challenges and provide policy recommendations on how these 'gaps' in the Commission's plans can be addressed at EU level, along with proposals for further research.

On an organisational note, I would like to welcome Lennart Wegener from the University of Göttingen as our new Associate Editor, taking up the mantle of Prof. Harro van Asselt. Lennart is in charge of coordinating the book reviews and recent publications section and has curated these sections for the present issue which will be open access from this issue onwards. Prof. van Asselt will continue to support CCLR as a Member of the Editorial Board. We owe him a deep gratitude for what has been over a decade of service in the name of our journal.

Finally, a few days ago our very first *Climate Law Insider* newsletter was launched. We are grateful to Anne Kling, Felix Schenuit and Juan Auz for their excellent work and look forward to future issues. You can subscribe to our monthly newsletter using this link: [<bit.ly/CLI-120>](https://bit.ly/CLI-120)

Patrick Toussaint
Managing Editor