



Canadian Council on International Law
Conseil canadien de droit international



Call for Papers:

The Sixth International Four Societies Conference

Hosted by:

**Canadian Council on International Law (CCIL) and the
International Law Research Program, Center for International Governance Innovation**

21-22 July, 2016

Waterloo, Ontario, Canada

The international law societies of Australia and New Zealand, Canada, Japan, and the United States of America (the “Four Societies”) have held five conferences bringing together early career scholars around a common theme, generally leading to an edited conference volume. The goal of this initiative is to foster a scholarly network between members of the four sponsoring societies. The first cycle of meetings of the Four Societies were hosted by: the Australian and New Zealand Society of International Law (ANZSIL) at University of Wellington in 2006; the Canadian Council on International Law (CCIL) at Edmonton in 2008; the Japanese Society of International Law (JSIL) on Awajishima Island in 2010; and the American Society of International Law (ASIL) at Berkeley Law School in 2012. The second cycle of the Four Societies Project began with ANZSIL hosting events at the Australian National University in 2014. CCIL will host the Sixth International Four Societies Conference at the Center for International Governance Innovation in Waterloo, Ontario on **21-22 July, 2016**, on the theme of “**International law, Innovation, and the Environment.**” The Steering Committee for the Sixth Conference now invites paper proposals from members of the Four Societies.

Submission details:

The 2016 Four Societies conference will provide an opportunity to examine the relationship between innovation and international law in the Anthropocene. A decade ago, the Millennium Ecosystem Assessment concluded that humans have made unprecedented changes to global ecosystems, leading to a “massive wave of species extinctions” among other dire harms.¹ Indeed, it is increasingly said that we have transitioned into the Anthropocene, a new geological epoch defined by increasingly unstable environmental conditions that can be tackled only if we respect planetary boundaries that “delineate a “safe operating space” for humanity.”² A driving force in the Anthropocene is human activity, and social and technological innovations have been identified as having the potential to “reverse the trends that are challenging critical thresholds and creating tipping points in the earth system.”³ This call for papers

¹ Millennium Ecosystem Assessment Board, “Living Beyond Our Means” (March 2005), online: <http://www.unep.org/maweb/documents/document.429.aspx.pdf>.

² Will Steffen, Johan Rockström, and Robert Costanza, “How Defining Planetary Boundaries Can Transform Our Approach To Growth” (2011) 2:3 Solutions 1, online: <http://thesolutionsjournal.anu.edu.au/node/935>.

³ Frances Westley, et al, “Tipping Toward Sustainability: Emerging Pathways of Transformation” (2011) 40 AMBIO 762-780. See also K Levin, B Cashore, S Bernstein, and G Auld, “Overcoming the tragedy of super wicked problems: constraining our future selves to ameliorate global climate change” (2012) 45 Policy Sciences 123-152.



considers the role of international law in fostering innovation in the Anthropocene, and the relationship between innovation and justice. Questions to consider include:

- What role might international law play in the processes of social innovation essential for restructuring/decarbonizing the global economy?
- Is international law inherently conservative, protecting entrenched power relations and so destined to contribute to the problem rather than be transformative of the social practices and social values necessary to solve global problems?
- What new legal institutions might be required to address innovation in international law? Can centralized international institutions succeed, or is a more multi-level or panarchical approach required?⁴
- Is international law up to the challenge of governing new global technologies, such as geoengineering, that are increasingly being considered as part of the broader discourses around global climate responses?
- What might be the relationship between innovation, technology, and international law?⁵
- How might trade and investment law better facilitate the development of innovative solutions to environmental problems?
- How might innovations in international intellectual property law contribute to – or inhibit – solutions to environmental problems?
- How can international law promote innovative solutions to environmental problems while also respecting concerns for equity and differentiated responsibilities and environmental justice?
- Can innovation in international law help to address peace and security concerns arising from environmental threats? Could it assist climate refugees?
- How might further elaboration international environmental rights and climate justice contribute to innovative solutions to global and local problems?
- Could innovation in international law capture the rights of nature and protect the global atmospheric trust?
- Can innovation help alleviate some of the reluctance to implement the polluter pays principle or to address causation concerns?
- How can different theoretical approaches to international legal analysis (interactional theory,⁶ TWAIL,⁷ feminist theory, etc) contribute to our understanding of innovative and effective solutions to international environmental problems?
- Is innovation in international legal theory necessary for international law to better account for innovative solutions involving non-state and subnational actors?

⁴ See e.g. Elinor Ostrom, "A Polycentric Approach for Coping with Climate Change" A Background Paper to the 2010 World Development Report, Policy Research Working Paper 5095, online: <http://econ.worldbank.org>; see also JB Ruhl, "Panarchy and the Law" (2012) 17(3) *Ecology and Society* 31, online: <http://dx.doi.org/10.5751/ES-05109-170331>.

⁵ On technology and innovation, see e.g., Brian Arthur, *The Nature of Technology: What it Is and How it Evolves* (The Free Press, 2009); see also T Homer-Dixon, *The Ingenuity Gap: Can We Solve the Problems of the Future?* (Knopf Canada, 2000).

⁶ Jutta Brunnée and Stephen J Toope, *Legitimacy and Legality in International Law: An Interactional Account* (Cambridge University Press, 2010).

⁷ Karin Mickelson, "South, North, International Environmental Law, and International Environmental Lawyers" (2000) 11 *Yearbook of International Environmental Law* 52-81.



We encourage proposals from both theoretical and practical perspectives, and from all areas of international law. We equally welcome applications from those who are interested in working within the discipline of international law, as well as those taking an interdisciplinary approach to the theme.

Submission of Proposals and the Process of Selection

Applications to take part in the conference should include a paper description not exceeding 300 words and the applicant's curriculum vitae. Papers should cover work that has not been published. The Four Societies intend to publish the papers in an edited collection with a leading international publisher, as has been past practice (see below).

Submissions should be sent by e-mail to the Society of which the applicant is a member; applicants who are members of more than one participating Society should make a submission to only one Society. The deadline for submission of proposals is January 4, 2016.

Submissions should be made to the following e-mail addresses, and the subject line of the email should read as follows: "2016 Four Societies Conference Paper Proposal: [Your Name]"

ANZSIL: anzsil@anu.edu.au

ASIL: submissions@asil.org

CCIL: foursocieties@gmail.com

JSIL: Professor Shotaro Hamamoto, Kyoto University: hamamoto@law.kyoto-u.ac.jp

Each sponsoring society will select four papers, subject to the review and approval of the Steering Committee comprised of members from the Four Societies. Preference will be given to papers by those who are in the early stages of their careers. The selected participants will be notified in late January 2016. Each participant will submit a full paper to the organisers by 20 June 2016 for distribution to the other participants. Transportation to the venue will be subject to arrangement between each sponsoring organisation and its conference participants (and may include the seeking of internal university support or use of an existing grant). Lodging and meals at the venue during the conference will be provided by the organisers. The working language of the Conference will be English.

The theme: International Law, Innovation, and the Environment – the Climate Example

While there are numerous pressing issues at the intersection of law, innovation, and the environment, climate change is one prominent example. As the Intergovernmental Panel on Climate Change has confirmed, climate change is one of the most significant threats that humanity has ever faced.⁸ It is now well over 20 years since the United Nations Framework Convention on Climate Change⁹ ("UNFCCC") opened for signatures at the conclusion of The United Nations Conference on the Environment and Development in 1992. The UNFCCC's goal is the "stabilization of greenhouse gas concentrations in the

⁸ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability, Summary for Policymakers* (2014), online: http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/ar5_wgII_spm_en.pdf.

⁹ Dec. 31, 1992, 1771 U.N.T.S. 107.



atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development in a sustainable manner.”¹⁰ The UNFCCC entered into force in March of 1994 but its goal remains elusive.

Negotiated by the Conference of the Parties at its third meeting in 1997, the Kyoto Protocol to the UN Framework on Climate Change¹¹ (“Kyoto Protocol”) established hard reduction targets for developed nations and engaged a system of emission credits to achieve the reductions. Innovative mechanisms available pursuant to the Kyoto Protocol included, *inter alia*: credit trading; “clean development mechanisms”; and “joint implementation”. However, the United States never ratified Kyoto, and while Canada did, it subsequently withdrew. Both New Zealand and Australia met their reduction targets for the first commitment period¹² and have committed to new reductions moving towards 2020. Japan met its first commitment period targets using offsets and the purchase of foreign credits, but domestic reconsideration of the use of nuclear energy post-Fukushima has prompted a significant restructuring of progress towards 2020 goals.¹³ The Kyoto Protocol’s first commitment period has expired and while a modified second commitment period is now in place it is clear that we are entering a post-Kyoto world. The goal now is to negotiate a new comprehensive protocol in Paris in 2015 that is operational by 2020.

This new agreement will have to build upon the foundation that has already been laid in a progressive, adaptive manner. Such advances will, by necessity, be interdisciplinary—incorporating scientific, economic, and technical advances—, engage both developed and developing states, and grapple with how to equitably secure technology transfer while respecting intellectual property rights. Furthermore, challenging questions of climate justice and equity must be addressed, the answers to which remain elusive.¹⁴ Further, any international “green fund” will have to turn its attention to addressing adaptation and mitigation of the consequences of climate change. Yet, whatever succeeds the Kyoto Protocol will not be a magic bullet capable on its own of solving the climate change problem forever. This conference will provide an opportunity to critically reflect on developments made in 2015.

While climate change is often viewed as an “environmental” issue, it in fact touches upon all areas of international law. For example, in April 2014, the International Law Association passed a “Declaration of Legal Principles Relating to Climate Change” out of concern that “climate change represents an urgent and potentially irreversible threat to human societies and the planet.”¹⁵ Draft Article 10 proposes a principle of inter-relationship whereby states are to “elaborate and implement international law relating to climate change in a mutually supportive manner with other relevant international law.” Areas of note identified in the report include international trade and investment law, international human rights law, and law of the sea.

¹⁰ UNFCCC, *supra* note 9 at Art. II.

¹¹ 10 Dec 1997, 37 I.L.M. 22.

¹² New Zealand Ministry for the Environment, “United Nations Framework Convention on Climate Change,” online: <http://www.mfe.govt.nz/issues/climate/international/kyoto-protocol.html>.

¹³ Osuma Tsukimori & John Mair, “Japan Uses Offsets to Meet Kyoto Emissions Goal: Media”, online: <http://www.reuters.com/article/2013/11/17/us-climate-japan-co-idUSBRE9AG02420131117>

¹⁴ Oonagh Fitzgerald, “Equity and Climate Change” (5 Dec, 2014), online: CIGI <https://www.cigionline.org/blogs/global-rule-of-law/equity-and-climate-change>.

¹⁵ International Law Association, “The Legal Principles relating to Climate Change”, online: <http://www.ila-hq.org/en/committees/index.cfm/cid/1029>.



In September 2014, the International Bar Association (“IBA”) task force on Climate Justice and Human Rights released a report entitled “Achieving Justice and Human Rights in an Era of Climate Change Disruption.”¹⁶ The adoption of a “justice and human rights-centred approach” was intentional, designed to “shift the focus of much-needed reform from purely economic and scientific considerations to the human rights and equity consequences of climate change.”¹⁷ Indeed, according to the IBA report, “failure to address the challenges posed by climate change will have devastating consequences for hundreds of millions around the globe, in both the industrialised and developing world, and that, in the drive to confront this potentially existential threat to our civilisation, not a moment should be lost.”¹⁸ Areas of law discussed in the IBA report include the areas noted in the ILA report, as well as state and corporate responsibility.

The problem of climate change is also the subject of study at the International Law Commission as part of the work of Special Rapporteur Shinya Murase on the international law on the protection of the atmosphere.¹⁹ Yet, the impact of climate change also extends into the realm of peace and security, and has even been the subject of debate at the UN Security Council.²⁰

The climate change example illustrates the complexity of the relationship between global environmental challenges, innovation, international law, and justice. Submissions addressing any issue relating to the theme of *International Law, Innovation, and the Environment* are welcome.

Outcomes of previous Four Societies Conferences:

2006 (Wellington, NZ) - Papers published in (2007) 38:2 Victoria University of Wellington Law Review

2008 (Edmonton, Canada) - Papers published in (2009) 46:4 Alberta Law Review

2010 (Awaji, Japan) - Papers published in Andrew Byrnes, et al, eds., *International Law in the New Age of Globalization*, Brill, 2013

2012 (Berkeley, USA) - Papers published in David D. Caron et al, eds., *The International Law of Disaster Relief*, Cambridge University Press, 2014

2014 - Papers currently undergoing peer review and editing to be published as a book

¹⁶ International Bar Association, *Achieving Justice and Human Rights in an Era of Climate Change Disruption* (2014), online: <http://www.ibanet.org/PresidentialTaskForceCCJHR2014.aspx>.

¹⁷ *Ibid* at 3.

¹⁸ *Ibid*.

¹⁹ International Law Commission, “Protection of the Atmosphere”, online: http://legal.un.org/ilc/guide/8_8.htm.

²⁰ United Nations Security Council, S/PRST/2011/15, 20 July 2011, at paras 6 and 7.