

**Confronting Global Climate Change:
Using the Law to Protect Future Generations**
2008 Symposium of the Vermont Journal of Environmental Law (VJEL)
and the Vermont Law Review (VLR)
February, 22-23, 2008

This symposium focuses the climate change debate on intergenerational justice. As Nobel Peace Prize winner Al Gore put it, “[t]his is a moral issue, one that affects the survival of human civilization. . . . Put simply, it is wrong to destroy the habitability of our planet and ruin the prospects of every generation that follows ours.” Philosophers and ethicists have long framed the moral issue. This symposium takes the next step and explores the law’s role in protecting future generations. Whether looking at law in the United States and other countries or international law, we seek to understand the legal obligations of present generations and the rights of future ones to mitigate the impact of climate change. In mid-November, 2007, as the Intergovernmental Panel on Climate Change issued its Fourth Assessment report, Chair Rajendra Pachauri warned “[i]f there is no action before 2012, that’s too late. What we do in the next two or three years will determine our future. This is the defining moment.”

Friday, February 22

4:00 p.m. – 6:00 p.m.:
Opening Keynote Address

Bruce Babbitt

Chairman of the Board of Directors of the World Wildlife Fund
Former Secretary of the Interior under President Bill Clinton

Other Speakers:

Senator Peter Shumlin

Vermont State Senate President Pro Tempore

Paul Burns

Executive Director of the Vermont Public Interest Research Group
(VPIRG)

Question and Answer session to follow.

6:00 p.m. – 7:00 p.m.: Reception

Saturday, February 23

8:00 a.m. – 9:00 a.m.: Breakfast

9:00 a.m. – 9:30 a.m.: Opening speech by Professor Bruce Duthu

9:30 a.m. - 10:55 a.m.:

Panel 1: Rights Not Yet Realized: Climate Change and the Rights of Future Generations

Speakers:

Dr. John Christy

Director of the Earth System Science Center at the University of Alabama,
Huntsville
Lead author of 2001 U.N. report by the Intergovernmental Panel on Climate
Change, contributor for the years 1992, 1994, 1996, and 2007.

Dr. Svitlana Kravchenko

Professor of Environmental Law and Director of the L.L.M. program at the
University of Oregon School of Law,
Founder and President of Environment-People-Law, Ukraine's first public interest
environmental law firm
Vice-Chair of the Compliance Committee of the Aarhus Convention on Access to
Information, Public Participation in Decision-Making and Access to Justice in
Environmental Matters
Regional Governor of the International Council of Environmental Law

Carolyn Raffensperger

Executive Director of the Science and Environmental Health Network
Co-editor of *Precautionary Tools for Reshaping Environmental Policy* (2006) and
*Protecting Public Health and the Environment: Implementing the
Precautionary Principle* (1999)

Moderator: Professor Burns Weston

Synopsis:

What are the rights of future generations? If climate change predictions are correct it is our children and grandchildren who will suffer the consequences of our current actions. To that end, does contemporary society have an obligation to protect those rights that will not be realized for decades? The dilemma of intergenerational rights is not easy to solve. Yet, when it comes to climate change our every action or inaction might impact the rights of future generations. There is little doubt that we have a great responsibility to be stewards of the earth so that future generations can continue to enjoy economic prosperity in a clean environment. This panel will investigate how future rights to a clean and safe planet might drive our policy decisions today.

11:05 a.m. – 12:30 p.m.:

Panel 2: American Jurisprudence and Climate Change: Pathways to Future Action

Speakers:

Matthew Pawa

Adjunct Professor of Law at Boston College Law School
Lead Counsel for non-profit plaintiffs in the *AEP cases*

John Fahsbender

Of Counsel at McMahon DeGulis in Cleveland, Ohio
Litigation in environmental and real-property-related disputes
Named "Rising Star" in Ohio environmental law by the "Law and Politics"
journal

Dr. Joseph Guth

Legal Director of the Science & Environmental Health Network (SEHN)
Legal work based upon the precautionary principle theory, the public trust
doctrine, law of the commons, ecological economics, environmental justice,
and cost-benefit analysis.

Moderator: Professor Tracy Bach

Synopsis:

American legal decisions have only recently begun to recognize the potential hazards posed by global warming. One example includes *EPA v. Massachusetts*, where the Supreme Court held that carbon dioxide is a pollutant that can be regulated under the Clean Air Act. Another example is the recent decision by the Kansas Department of Health and Environment to deny a regulatory permit for the building of two new coal fired power plants. On both the state and federal level, American jurisprudence is changing in a manner that will allow regulatory agencies and the public to initiate actions to stop emission of greenhouse gases. This panel will examine the current state of American jurisprudence in regards to climate change and what possible legal doctrines might apply to future litigation.

12:30 p.m. – 1:30 p.m.: Lunch

1:30 p.m. – 2:55 p.m.: (Time subject to change)

Panel 3: International Frameworks to Combat Climate Change

Speakers:

Professor Tseming Yang

Professor of Law at Vermont Law School

Director of the Vermont Law School / Sun Yat-sen University Partnership for
Environmental Law in China

Dr. Michael Dorsey

Assistant Professor of Environmental Studies at Dartmouth College
Areas of expertise include political economy of global biodiversity and climate
change policies and conventions, as well as justice and equity in multilateral
environmental agreements and other multilateral agreements.

Moderator: Professor Mark Latham

Synopsis:

International agreements to prevent climate change offer one of the most important legal structures to protect the rights of future generations. Indeed, the Kyoto Protocol represents the largest international collective action to avert an environmental problem that the world has ever undertaken. However, many critiques have argued that the agreement has not accomplished its goals of reducing greenhouse gas emissions in a fair and equal manner. What is more, the final commitment period for the Kyoto Protocol will quickly come to an end in 2012. What will come next? This panel will explore the lessons, the hopes and prospects for future international agreements to combat climate change.

2:55 p.m. – 4:30 p.m.: (Time Subject to Change)

Panel 4: Finding Ways Forward: Global Responses to Climate Change

Speakers:

Dr. Robert Bailis

Professor of at the Yale School of Forestry & Environmental Studies
Researching environmental sustainability and access to energy resources in sub-
Saharan Africa, as well as vulnerability and adaptation to climate change
primarily in Mexico.

Professor Patrick McGinley

Professor of Law at West Virginia College of Law
Co-editor of the multi-volume treatise Coal Law & Regulation

Professor John Bonine

Professor of Law at the University of Oregon School of Law
Founder of the Environmental Law Alliance Worldwide (ELAW).

**Moderator: Professor Michael Dworkin, Director of the Institute for Energy and the
Environment**

Synopsis:

Climate change is a global phenomenon that affects all parts of the world. However, there is no one answer as to how societies should or will respond. Indeed, cultural, political and economic differences are shaping the manner in which nations and communities are able to prevent and cope with rising temperatures. This panel will investigate the comparative methodologies used across the world to combat climate change. Examples from both the developed and the developing world will elucidate how communities are developing solutions for protecting the rights of future generations.

Schedule tentative and subject to minor modifications.