

Ivano Alogna, Christine Bakker, Jean-Pierre Gauci (eds). **Climate Change Litigation: Global Perspectives**. Leiden: Brill Nijhoff, 2021. Pp. 543. €315.88. ISBN: 9789004447608.

In early April 2024, the Grand Chamber of the European Court of Human Rights (ECtHR) decided on three highly anticipated climate cases, marking a significant moment in the global climate change landscape. The claims of *Duarte Agostinho and Others v. Portugal and Others*<sup>1</sup> as well as *Carême v. France*<sup>2</sup> were deemed inadmissible. However, in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, the Court found a violation of Article 8 of the European Convention on Human Rights (ECHR), which protects the right to private and family life, holding that Switzerland was not taking the necessary steps to combat global warming.<sup>3</sup> This landmark ruling affirmed that the ECHR protects individuals against climate change and imposes a positive obligation on states to mitigate its effects. The aftermath of this trio of decisions triggered a fervent reaction, igniting lively discussions across the blogosphere with a broad variety of opinions. While some hailed *KlimaSeniorinnen* as ‘revolutionary’,<sup>4</sup> ‘bold’,<sup>5</sup> ‘ground-breaking’<sup>6</sup> and ‘a milestone’,<sup>7</sup> others approached the admissibility decisions more cautiously, describing them as ‘proceduralist and modest’,<sup>8</sup> with ‘restrictive findings’<sup>9</sup> and even as ‘regression in environmental matters’.<sup>10</sup> This variance in evaluation prompts questions about the ECtHR’s present position on climate-related issues within the

<sup>1</sup> ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Others*, Appl. no. 39371/20, Judgment of 9 April 2024. All ECtHR decisions are available at <http://hudoc.echr.coe.int/>.

<sup>2</sup> ECtHR, *Carême v. France*, Appl. no. 7189/21, Judgment of 9 April 2024.

<sup>3</sup> ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Appl. no. 53600/20, Judgment of 9 April 2024.

<sup>4</sup> C. Heri, ‘Strasbourg’s “Case of the Century”: Revolutionary Climate Judgment from the European Court of Human Rights’, *Just Security* (10 April 2024), available at <https://www.justsecurity.org/94489/revolutionary-climate-judgment/>.

<sup>5</sup> C. Blattner, ‘Separation of Powers and KlimaSeniorinnen’, *Verfassungsblog* (30 April 2024), available at <https://verfassungsblog.de/separation-of-powers-and-klimaseniorinnen/>.

<sup>6</sup> A. Nolan, ‘Inter-generational Equity, Future Generations and Democracy in the European Court of Human Rights’ *Klimaseniorinnen Decision*, *EJIL: Talk!* (15 April 2024), available at <https://www.ejiltalk.org/inter-generational-equity-future-generations-and-democracy-in-the-european-court-of-human-rights-klimaseniorinnen-decision/>.

<sup>7</sup> M. Bönnemann and M. A. Tigre, ‘The Transformation of European Climate Change Litigation. Introduction to the Blog Symposium’, *Verfassungsblog* (9 April 2024), available at <https://verfassungsblog.de/the-transformation-of-european-climate-change-litigation/>.

<sup>8</sup> M. Milanovic, ‘A Quick Take on the European Court’s Climate Change Judgments’, *EJIL: Talk!* (9 April 2024), available at <https://www.ejiltalk.org/a-quick-take-on-the-european-courts-climate-change-judgments/>.

<sup>9</sup> L. Raible, ‘Priorities for Climate Litigation at the European Court of Human Rights’, *EJIL: Talk!* (2 May 2024), available at <https://www.ejiltalk.org/priorities-for-climate-litigation-at-the-european-court-of-human-rights/>.

<sup>10</sup> M. Torre-Schaub, ‘The European Court of Human Rights’ Kick into Touch: Some Comments under *Carême v. France*’, *Verfassungsblog* (19 April 2024), available at <https://verfassungsblog.de/the-european-court-of-human-rights-kick-into-touch/>.

wider landscape of climate change litigation. More specifically, the *KlimaSeniorinnen* judgment extensively referenced scientific evidence, legal documents and decisions from both national and international courts and tribunals. But does this mean that the Court endorsed their findings and is now spearheading climate change litigation? Or is it lagging behind other courts and tribunals? Essentially, where does the ECtHR position itself on the global ‘map’ of climate change litigation?

These questions lead us to the collected volume *Climate Change Litigation: Global Perspectives*, which could serve as a helpful navigator for this mapping exercise. The book ‘aims to contribute to the discussion on how climate change litigation evolves, and how it should be further developed, in a global perspective’ (at 1). To that effect, it sketches out a world map of climate change litigation covering all continents, and a variety of jurisdictions and cases as well as areas of law. This map is by no means static; the book illustrates climate change litigation as a dynamic field comprising countless small pieces of cases, jurisdictions and legal approaches – like a mosaic in flux. The editors have refrained from imposing a narrow definition of climate change litigation, allowing authors to include cases they deem significant, whether directly related to climate change or with indirect implications, and including civil law, public law and criminal law cases. This allows readers to trace diverse facets of the phenomenon of climate change litigation in order to eventually identify common arguments, cross-fertilization in legal reasoning and legal trends. At the same time, highlighting different attitudes of courts and outcomes of cases, the book illustrates that the relationship between law, human rights and climate change can be viewed very differently; it depends considerably on the respective circumstances obtained in a particular legal system or jurisdiction. While that is a legal truism, one might have hoped for more guidance from the editors on the factors that account for the failure or success of climate change litigation and the trajectory of the field as a whole.

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With its broad approach, the book offers glimpses of the many pieces of the ‘mosaic’ of climate change litigation taking place in many different places in the world. Part 1 is devoted to the domestic pieces of the mosaic: its 10 chapters analyse the climate change litigation landscape in different countries – that is, the United Kingdom (UK), France and the Netherlands (representing Europe); Russia, Pakistan, India and China (Asia); the USA and Brazil (the Americas); Australia (Oceania); and South Africa (Africa). These 10 chapters cover a lot of ground. There would be little point in summarizing their content, which is typically dense yet accessible. But the following illustrations give a flavour of what is on offer.

Michael B. Gerrard delves into the vast world of cases litigated in the USA, which is still the jurisdiction with the most climate-related cases as of today. His chapter

introduces readers to the maze of legal bases and topics, which he divides into federal statutory litigation, common law cases, public trust doctrine cases, securities cases and ‘failure to adapt’ cases. Reporting from the ‘sunburnt country’, Laura Schuijers and Margaret A. Young explain that, despite its particular vulnerability, Australia has not traditionally been a forerunner in the field of climate change litigation and, notwithstanding recent changes, continues to lack a ‘significant rights-based jurisprudence’, caused by the absence of a bill of rights. In their chapter on the UK, Nigel Pleming and Ruth Keating offer a clear account of *R. v. Heathrow Airport Ltd.*, in which the UK Supreme Court confirmed the compatibility of a third runway for Heathrow Airport with the United Nations Framework Convention on Climate Change and the Paris Agreement – and present it as a ‘reminder of the remaining gulf between “policy commitment” on climate change and “Government policy” on climate change in the UK context’ (at 90).<sup>11</sup> *The State of the Netherlands v. Urgenda*, which is at the heart of Christine Bakker’s treatment of Dutch legal developments, indicates how courts can contribute to closing such a gap: as is well known, the Hoge Raad ordered the government to reduce Dutch carbon dioxide emissions, if only by at least 25 per cent below 1990 levels.<sup>12</sup> In the chapter on India and Pakistan, Birsha Ohdedar presents another transformative case, *Leghari v. Federation of Pakistan*, in which the Lahore High Court ordered Pakistan to establish a Standing Committee on Climate Change to oversee the implementation of Pakistan’s climate policies.<sup>13</sup> Other chapters highlight signature legislative projects or challenges faced in particular jurisdictions: Marta Torre-Schaub’s accessible chapter introduces particular features of ‘French-style climate change litigation’, such as the (at the time unique) French *loi de vigilance* imposing climate due diligence obligations on companies (used against TotalEnergies). The focus of the ‘Brazilian’ chapter, authored by Joana Setzer, Guilherme J.S. Leal and Caio Borges, is on land-use change and deforestation. In contrast, Tracy-Linn Field’s chapter points readers to the mainstreaming process of climate change in South Africa’s jurisprudence.

Of particular interest, at least to readers whose attentions may have been focused elsewhere, are the chapters addressing Russia and China. Anatoly Yakovlevich Kapustin notes that, despite the strong position of international treaties within the Russian legal system (where they are accorded precedence over national statutes) and the normative emphasis on environmental protection in general,<sup>14</sup> climate change

<sup>11</sup> *R (on the application of Friends of the Earth Ltd and others) (Respondents) v Heathrow Airport Ltd (Appellant)*, [2020] UKSC 52, 16 December 2020; United Nations Framework Convention on Climate Change 1992, 1171 UNTS 107; Paris Agreement on Climate Change 2015, 3156 UNTS 79.

<sup>12</sup> Hoge Raad (Supreme Court of the Netherlands), *State of the Netherlands v. Urgenda Foundation*, ECLI:NL:HR:2019:2007, 20 December 2019.

<sup>13</sup> Lahore High Court (Pakistan), *Leghari v. Federation of Pakistan*, W.P. no. 25501/201, 25 January 2018.

<sup>14</sup> Anatoly Yakovlevich Kapustin, for example, draws attention to the constitutional right to ‘a favourable environment’, to the adoption in 2002 of a comprehensive ‘Law on Environmental Protection Fundamental’ (at 232ff) and specific statutes for the protection of the atmosphere and to the fact that non-governmental organizations (NGOs) and public associations of citizens enjoy legal standing according to Article 12 of the Law on Environmental Protection.

litigation has yet to make a real impact on Russian decision-making. That said, as Kapustin further notes, the gradual move to admit class actions may make such proceedings more likely in the future. Finally, Chen Zhou and Tianbao Qin stress China's commitment to climate change litigation within a broader framework of 'ecological civilization reform': this has prompted a move towards public interest litigation, the recognition of the 'green principle' in China's Civil Code, new forms of 'eco-damages compensation litigation' and the establishment of specialized environmental courts, which have already made decisions in several important cases.<sup>15</sup> According to the authors, '[c]ourts play an ever-greater role in strengthening environmental governance' (at 246).<sup>16</sup>

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Part 2 of the book discusses climate change litigation beyond the domestic level. Its 10 chapters cover regional human rights courts in Africa, Europe and South America, the universal human rights treaty bodies, the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), the World Trade Organization's (WTO) dispute settlement, international arbitration, and prospects for climate change-related charges before the International Criminal Court (ICC). Where the domestic chapters of part 1 had mostly looked at completed cases, part 2 offers thoughts – and, occasionally, creative ideas – on the future use of litigation opportunities that were still unutilized by the time of the book's publication.

The discussion starts with Sam Adelman's chapter on African legal developments, which acknowledges the absence of robust jurisprudence on climate change litigation on the continent but notes that change may be underway. Adelman highlights the strong emphasis on environmental protection in the African Charter on Human and Peoples' Rights.<sup>17</sup> He draws attention to specific decisions that are reflective of this feature, among them *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria* in the Niger Delta<sup>18</sup> as well as rulings from domestic courts from, amongst others, Kenya, Uganda and South Africa, which deal with the central role of environmental impact assessments, public trust and the duty of vigilance. These findings may all become relevant in future climate cases. In the chapter on Europe, Marc Willers presents major cases litigated before the European Union's (EU) courts and the ECtHR, including the three proceedings decided recently. In contrast to the ECtHR, whose approach was open at the time, it is well known that

<sup>15</sup> The case brought by the Green NGO Friends of Nature against the Gansu Branch of the State Power Grid seems particularly relevant (at 259).

<sup>16</sup> Today, three cases are listed by the Sabin Center for Climate Change Law. see 'Climate Change Litigation Databases', <https://climatecasechart.com/>.

<sup>17</sup> African Charter on Human and Peoples' Rights 1981, 1520 UNTS 217.

<sup>18</sup> ACHPR, *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*, Communication no. 155/96 (2001) (background and further information at 280ff).

the Luxemburg Court has already kept its restrictions on standing in the so-called *Peoples' Climate* and *EU Biomass* cases.<sup>19</sup>

Monica Feria-Tinta turns the spotlight on the Inter-American System of Human Rights and the Human Rights Committee and, in her particularly rich chapter, also comments on the cross-fertilization between both systems. She stresses the importance of Advisory Opinion 23 of the Inter-American Court of Human Rights (IACtHR) (described as a 'quantum leap'), which confirmed the responsibility of states for trans-boundary damage based on effective control over the damaging activity.<sup>20</sup> Following her argument, the Court's recognition of the close relationship between human rights and environmental damage is directly relevant (and transferable) to the climate context. In their chapter on intergenerational climate change litigation, Ingrid Gubbay and Claus Wenzler offer an insider account of the first communication to the United Nations (UN) Committee on the Rights of the Child,<sup>21</sup> which recognized the particular effects of climate change on children, similar to *KlimaSeniorinnen* with regard to the elderly. Annalisa Savaresi's focus, by contrast, is on interstate proceedings concerning climate change: her chapter introduces three litigation scenarios – namely, disputes over breaches of international obligations, climate change harm and advisory opinions – and describes interstate litigation as 'one means at our disposal' and (adapting James Brierly) 'neither a chimera nor panacea' (at 366). Margaretha Wewerinke-Singh, Julian Aguon and Julie Hunter zoom in on interstate litigation before the ICJ (commenting on the Court's rulings in human rights and environmental matters, including in *Pulp Mills on the River Uruguay*,<sup>22</sup> *Gabčíkovo Nagymaros Project*,<sup>23</sup> *Barcelona Traction, Light and Power Company Limited*<sup>24</sup> or the *Whaling in the Antarctic*<sup>25</sup>). James Harrison discusses the impact of litigation based on the UN Convention on the Law of the Sea (UNCLOS), and interrogates the effects of climate change on the oceans, marine ecosystems and the marine environment more generally.

Harro van Asselt's chapter – covering trade and climate disputes before the WTO – looks at interstate litigation before another forum but changes perspective; whereas most other chapters had looked at the use of litigation to support environmental causes, van Asselt begins by asking whether WTO law hampers climate change measures. His analysis highlights the long-standing difficulties in balancing trade and non-trade issues before the WTO's dispute settlement mechanism. However, van Asselt also asks whether world trade law could become an ally in the fight against climate change, especially in cases against harmful fossil fuel subsidies. In addition, he argues in favour of a 'peace clause' that would free WTO members from challenges directed

<sup>19</sup> Case T-330/18, *Armando Carvalho and Others v. European Parliament and Council* (EU:T:2019:324); Case T-141/19, *Sabo and Others v. European Parliament and Council* (EU:T:2020:179).

<sup>20</sup> IACtHR, *The Environment and Human Rights*, Advisory Opinion, 15 November 2017.

<sup>21</sup> CRC, Chiara Sacchi, Caterina Lorenzo, et al v. Argentina, Brazil, France, Germany and Turkey, Communication nos. CRC 104/2019 – 108/2019, 22 September 2021.

<sup>22</sup> ICJ, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, ICJ Reports 2010, at 14.

<sup>23</sup> ICJ, *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, ICJ Reports 1997, at 7.

<sup>24</sup> ICJ, *Barcelona Traction, Light and Power Company, Limited*, Judgment, ICJ Reports 1970, at 3.

<sup>25</sup> ICJ, *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, ICJ Reports 2014, at 226.

against climate-related measures so that they ‘could feel at liberty to ramp up climate action without the threat of a WTO dispute hanging over their heads’ (at 460). Patrick Thieffry’s chapter completes the book’s coverage of economic aspects by presenting investment and commercial arbitration as both ‘shield’ and ‘sword’ in climate change cases. Thieffry notably assesses the limited case law on counter-claims brought by states based on alleged environmental damages caused by investors.

In the book’s final chapter, Nema Milaninia and Jelena Aparac turn to international criminal law and examine possibilities of holding ‘climate polluters’ (at 481) accountable before the ICC. Their analysis is based on the perception that ‘[c]haracterizing certain climate change contributions – human activities that result in the emission of greenhouse gases – as international crimes would send a strong message that the protection of the climate is fundamental for the well-being of humanity and to preserving international peace and security’ (at 482). They see limited room for prosecuting climate-related crimes as core crimes under the current ICC Statute but consider whether there is room to award reparations to victims.

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The mosaic of climate change litigation presented in this volume thus provides a useful backdrop to the mapping exercise mentioned earlier. The book offers a valuable resource for understanding the evolving landscape of climate change litigation. It is serious about providing a global perspective, confirming that climate change litigation has global ramifications and is pursued in parallel across jurisdictional divides. By tracing cases from a broad range of jurisdictions and from all corners of the world, it illustrates how widespread the practice has become despite all differences and particularities. The authors generally succeed in introducing readers to the respective context, legal framework and particularities of these jurisdictions. As a result, there is a lot to learn about where individual countries or systems stand (at the time), what potential they may have, what obstacles may exist or which progressive steps courts have taken thus far. The chapters are a mostly successful exercise in extracting legal arguments tested in individual cases: they will certainly help in understanding climate change litigation within the respective jurisdictions. The incorporation of the Paris Agreement (the ‘Paris effect’)<sup>26</sup> serves to harmonise these cases, and it is striking to observe similarities in arguments and approaches across vastly diverse jurisdictions and legal systems.

Simultaneously, the book’s utility is diminished by the absence of clear categories and criteria against which developments in the different systems are to be judged. While the editors offer a valuable introductory chapter, they leave much to the individual chapters. These are valuable in their own right, but they do not form part of a broader whole: each of them approaches its subject almost ‘from scratch’ without any common ground provided by categories or criteria. Categories suggested by the editors

<sup>26</sup> J. Jahn, ‘The Paris Effect. Human Rights in Light of International Climate Goals and Commitments’, *Verfassungsblog* (25 April 2024), available at <https://verfassungsblog.de/the-paris-effect/>.

(for example, in terms of the circles as developed by Jacqueline Peel and Hari Osofsky) are not taken up. Other criteria, for example, in terms of failure/success factors in the procedural/merits phase or according to different claimants/respondents are not provided by the editors, which would have allowed for comparing, extracting and evaluating common criteria of climate litigation. It is perhaps telling that the book ends with the chapter on international criminal law, while one looks in vain for anything approaching a general conclusion of synthesis.

Given this lack of synthesis and the rapid changes in the world of climate change litigation, the book stands at risk of becoming outdated. Since its publication, *KlimaSeniorinnen* has not been the only to be decided. To name a few examples, the German Federal Constitutional Court has developed the concept of an 'advance interference-like effect' ('*eingriffsähnliche Vorwirkung*'), which the state would have to take into account for the benefit of future generations.<sup>27</sup> The *Royal Dutch Shell* case has reinforced the obligations of private companies concerning climate change and their role in mitigating environmental harm.<sup>28</sup> Brazil's decision to grant climate agreements a status equal to that of human rights conventions in the domestic legal system marks a significant step towards elevating climate change protection to the level of fundamental human rights protection.<sup>29</sup>

At the international level, climate change cases that might have appeared far-fetched when the book was written have become a reality. On 21 May 2024, ITLOS delivered a unanimous advisory opinion that recognized the legal obligations of states parties to protect and preserve the marine environment and, therefore, to prevent, reduce and control marine pollution from anthropogenic greenhouse gas emissions under UNCLOS.<sup>30</sup> Requests for climate-related advisory opinions are pending before the ICJ<sup>31</sup> and the IACtHR.<sup>32</sup> Furthermore, a WTO panel has delivered its report on the *Palm oil* case;<sup>33</sup> the UN Committee on the Rights of the Child has addressed the communication analysed in Gubbay and Wenzler's contribution to this volume;<sup>34</sup> and the Human Rights Committee has responded to the so-called *Torres Strait Islanders*

<sup>27</sup> BVerfG, Case no. 1, BvR 2656/18, Order of the First Senate, 24 March 2021, ECLI:DE:BVerfG:2021:r s20210324.1bvr265618; see also Aust, 'Climate Protection Act Case, Order of the First Senate', 116 *American Journal of International Law* (2022) 150.

<sup>28</sup> Hague District Court (The Netherlands), *Milieudefensie et al. v. Royal Dutch Shell plc*, NL:RBDHA:2021:5339, 26 May 2021.

<sup>29</sup> Supremo Tribunal Federal (Brasil), *Partido Socialista Brasileiro (PSB) v. Federal Union ('Climate Fund Case')*, 4 July 2022.

<sup>30</sup> ITLOS, *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law*, Case no. 31, Advisory Opinion, 21 May 2024.

<sup>31</sup> *Obligations of States in Respect of Climate Change*, Request for an Advisory Opinion, 12 April 2023, ICJ Reports 2023 General List No. 187, available at <https://www.icj-cij.org/case/187>.

<sup>32</sup> IACtHR, *Request for Advisory Opinion on the Climate Emergency and Human Rights Presented by the Republic of Colombia and the Republic of Chile*, 9 January 2023, available at [https://www.corteidh.or.cr/docs/opiniones/soc\\_1\\_2023\\_en.pdf](https://www.corteidh.or.cr/docs/opiniones/soc_1_2023_en.pdf).

<sup>33</sup> WTO, *European Union and Certain Member States – Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels – Report of the Panel*, 5 March 2024, WT/DS600/R.

<sup>34</sup> CRC, *Decision adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure*, CRC/C/88/D/104/2019, 11 November 2021.

petition.<sup>35</sup> Lasting categories and criteria, as difficult as it may be to develop them in light of the vast variety of cases and jurisdictions, would indeed facilitate evaluating these advancements in connection to the comprehensive inventory conducted by the book, ensuring the broader perspective remains intact. The introduction and the book's individual chapters, however, will remain relevant to anyone interested in background information on a particular jurisdiction and the contextualization of a certain case; this will ensure its enduring value along with the world map that is sketched out by the book.

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This brings us back to the ECtHR's recent decisions on climate change and the question of where the ECtHR stands on the global 'map' of climate change litigation. Assessed against the yardstick of developments discussed in the book, it is clear that the ECtHR's inadmissibility decisions in *Carême* and *Duarte Agostinho* are certainly not at the forefront of developments but pale in comparison to rulings that underscored and bolstered individual standing to ensure effective human rights protection against broadly defined threats like climate change like in *Leghari* (Pakistan). Similarly, with respect to the territorial scope of obligations, the ECtHR's insistence that jurisdiction 'requires control over the person himself or herself rather than the person's interests' sets out a more cautious test than that adopted by the IACtHR.<sup>36</sup> A little more openness towards cross-fertilization could have aligned the approaches of both courts. By contrast, in addition to the strong position on the human rights' relevance regarding a state's obligation, there is a unique and progressive aspect to the *KlimaSeniorinnen* judgment that has received little attention from other courts so far: the concept of 'embedded emissions'.<sup>37</sup> The Court contends that, in assessing Switzerland's responsibility, it would be necessary to 'tak[e] into account the emissions generated through the import of goods and their consumption'.<sup>38</sup> This extraterritorial dimension is significant and intersects with various other fields, including trade and development policies.<sup>39</sup> It warrants further scrutiny for achieving climate justice and is vital for evaluating states' obligations and genuine steps towards climate neutrality. In this sense, *KlimaSeniorinnen* provides an important, new piece of the mosaic that demands further exploration and development.

<sup>35</sup> UN Human Rights Committee, *Daniel Billy and Others v Australia* ('Torres Strait Islanders Petition'), CCPR/C/135/D/3624/2019, 22 September 2022.

<sup>36</sup> See ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Others*, Appl. no. 39371/20, Judgment of 9 April 2024, para. 205.

<sup>37</sup> A. Buser, 'A Human Right to Carbon Import Restrictions? On the Notion of "Embedded Emissions" in *Klimaseniorinnen v Switzerland*', EJIL: TALK! (16 April 2024), available at <https://www.ejiltalk.org/a-human-right-to-carbon-import-restrictions-on-the-notion-of-embedded-emissions-in-klimaseniorinnen-v-switzerland/>.

<sup>38</sup> ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Appl. no. 53600/20, Judgment of 9 April 2024, para. 280.

<sup>39</sup> G. Vidigal, 'International Trade and "Embedded Emissions" after *KlimaSeniorinnen*: The Extraterritoriality of <https://verfassungsblog.de/international-trade-and-embedded-emissions-after-klimaseniorinnen/>.



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This leads me to a final observation that extends beyond *KlimaSeniorinnen* and attempts to view the broader landscape of climate change litigation worldwide from a more distant perspective: will the enormous effort that goes into litigation – as attested by the book’s many chapters – actually mitigate climate change? Or will that change continue unabated as litigation continues to become more detailed, differentiated and small-scaled? The book does not address this question directly, but the issues are touched upon occasionally and then prompt expressions that range from hope to despair. Leaning towards the former, Fleming and Keating conclude that ‘in the context of climate change, with some honourable exceptions, our responses are too few, too little and too late. We can hope some of our legal responses might come just in time’ (at 102). Less optimistically, Ohdedar wonders whether climate change litigation can ever have more than symbolic value.

Indeed, engaging with these cases and decisions can sometimes make it feel like we are ‘losing the forest for the trees’. While the multitude of cases and progressive arguments assessed in the book gives the impression of a vast movement engaged in a unified global effort against climate change, tangible changes brought about by that movement have so far remained limited, and significant political shifts are still to take place. Undoubtedly, climate change litigation has made significant strides. It has raised awareness, established a connection with human rights and emphasized the urgency of addressing climate change for present and future generations. However, the real battle must continue elsewhere. The fight against climate change will only be effective if democratic societies (also) use political processes to enact the necessary changes to effectively safeguard communities, both domestically and internationally, from the adverse impacts of climate change. *Climate Change Litigation: Global Perspectives* stands as a signpost for our understanding of climate change litigation as a global legal phenomenon, its prospects and its limits.

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