



Climate Action 2016: Catalyzing a Sustainable Future

Plenary Session: ‘The Role of Law in Accelerating Climate Action’

SPEECH

David W. Rivkin

President, International Bar Association

Co-Chair, Debevoise & Plimpton International Dispute Resolution Group

Friday 6 May 2016

The Mayflower Hotel, 1127 Connecticut Avenue, NW, Washington DC, United States

Ladies and Gentlemen –

1. It is my great privilege to address this distinguished audience on behalf of the International Bar Association.
2. The International Bar Association is the world’s leading organization of international legal practitioners, bar associations and law societies, with a membership of over 80,000 lawyers from 170 countries and 200 bar associations.
3. The legal profession has a critical role to play in the fight to combat climate change, which I believe -- like most everyone here -- to be the greatest challenge of our time. From the articulation and adoption of the domestic and international laws necessary to mitigate and adapt to climate change, to the interpretation, implementation and enforcement of those rules, to advising governments, businesses and NGOs on creative solutions, the international legal community has been – and will continue to be – integrally involved at each step of the process.

4. The International Bar Association therefore plays a central role in both driving and coordinating the legal community's response to climate change. One of the greatest strengths of the IBA in meeting this challenge is the diversity that we represent: commercial practitioners, lawmakers, judges, corporate counsel, bar leaders, and civil society representatives. The IBA can therefore harness and reflect the myriad viewpoints and skills necessary to fight climate change, including the views of lawyers who represent the carbon majors to NGOs and government lawyers fighting for climate justice.
5. Indeed, the challenges posed by climate change have been one of the central focuses of the IBA in recent years, and I am proud to say that it has been one of the priorities of my tenure as IBA President.
6. A signature feature of the IBA's work in this field has been its adoption of a human rights and justice-based approach. The concept of 'climate change justice', first introduced by fellow lawyer Mary Robinson, recognizes that climate change will disproportionately affect those who have the least ability to prevent, adapt or otherwise respond to climate change, increasingly extreme weather events, rising sea levels and new resource constraints. Climate change justice, therefore, requires that the responses proposed incorporate considerations of equity, sustainable development and distributive justice.
7. In 2014, the IBA published a report -- *['Achieving Justice and Human Rights in an Era of Climate Disruption'](#)* -- that surveyed domestic and international legal regimes addressing climate change and made recommendations as to how they could be reformed to mitigate and adapt to climate change and, critically, to enhance climate change justice.
8. The Task Force Report contains over 50 specific and practical recommendations to achieve greater justice and human rights in the global response to climate change. The recommendations span domestic, regional and international legal regimes and include reforms of substantive and procedural law and trade and investment policies; promotion of capacity building, knowledge transfer and training; and transparency in decision making and dispute resolution provisions. The proposals are aimed at international organizations, states, individuals and also businesses. Mary Robinson quickly called it the 'flagship report' in the field, and it has become a reference tool and action plan for UN negotiators and others involved in the field.

9. One of the recommendations of the Report addressed to the international community was the incorporation of explicit language in the Paris Agreement for the protection of human rights during climate change activities and the development of a dispute settlement mechanism. I was heartened to see in the preamble of the Paris Agreement the recognition that States should respect and promote their human rights obligations – and in particular, the rights of local communities, migrants, children and young people, the vulnerable – when taking climate change action.
10. Since the adoption of the Task Force Report, the IBA has continued to push for the implementation of the Task Force’s recommendations, including the establishment of two Working Groups: One to explore the Legal Aspects of Adaptation, specifically the challenges presented by (1) climate change migration; (2) food security; (3) technology transfer; and the other to develop a Model Statute (or model law) on Legal Remedies for Climate Change to be used by States to reform domestic rules of court and procedural rules to allow plaintiffs to overcome some of the many obstacles and barriers faced by would-be climate change litigants seeking to enforce statutory obligations or to exercise their environmental rights before the domestic courts.
11. Lawyers have expertise in developing creative solutions to issues and in working to create certainty in framing parties’ expectations. Those are particularly important skills in the topic we address today: accelerating climate action. Implementing the Paris treaty and moving forward with many of the ideas expressed yesterday and today will require innovative, new forms of agreements, including public-private partnerships, intra-industry and inter-governmental agreements and agreements among governments, corporations and local stakeholders. Lawyers must assist in framing these agreements to serve their goals; as an international arbitration lawyer, we have already begun to think of new forms of dispute resolution that can be effective for such agreements. In doing so, lawyers must think of the broad goals of society as well as their clients’ interests. They must be broad-based ‘wise counselors’ and not view their job simply as advising on the strict dictates of the law.
12. As a result of this innovative conference, we have all learned how we can continue to work together towards the daunting but exciting task of realizing the commitments made in Paris. In order to succeed in accelerating climate action, we need thoughtful multi-disciplinary efforts. We must bring to bear the best experience and instincts of all the communities that have been represented here. The legal community and in particular the International Bar Association stand ready to work with all of you in meeting this challenge.