

Lawyers for 1.5°C - Humanity's Lifeline

Introduction

We, the undersigned members of the legal profession, support the contents of this letter in the light of substantial evidence that breaching the 1.5°C temperature goal established by the Paris Agreement on Climate Change risks mass loss of life and threatens the conditions for a stable civilisation, including the rule of law.

The climate emergency, which [Parliament recognised on 1 May 2019](#), is not a natural disaster: to the contrary, it is human-made. The warming effect of greenhouse gases has been understood since the mid-nineteenth century. In [1965](#) the US Government warned of the “vast geophysical experiment” from burning fossil fuels, and by [1980](#) the oil industry’s own internal research was predicting “globally catastrophic effects” by the middle of this century. In short, the climate crisis is the result of informed human activities and decisions.

In April 2022, at the launch of the latest report of the Intergovernmental Panel on Climate Change, the gold-standard for climate research, the UN Secretary General [summarised the situation as follows](#):

“We are on a pathway to global warming of more than double the 1.5°C limit agreed in Paris. Some Government and business leaders are saying one thing, but doing another. Simply put, they are lying. And the results will be catastrophic.”

The science is clear (see [context document](#)): continuing on current trajectories will lead us to breach the 1.5°C temperature threshold and doing so presents intolerable risks. This has been recognised by courts across a wide range of jurisdictions emphasising the 1.5 °C limit as a key consideration to delineate the scope of human rights and other legal obligations. For instance, in *Urgenda Foundation v. State of the Netherlands* the [Dutch Supreme Court](#) invoked the 1.5°C limit as its benchmark for determining the scope of the rights to life and to family life:

“Climate science has ... arrived at the insight that a safe warming of the earth must not exceed 1.5°C and that this means that the concentration of greenhouse gases in the atmosphere must remain limited to a maximum of 430 ppm. Exceeding these concentrations would involve a serious degree of danger that the consequences referred to in 4.2 [which includes the loss of human life] will materialise on a large scale ...the Supreme Court finds that Articles 2 and 8 ECHR relating to the risk of climate change should be interpreted in such a way that these provisions oblige the contracting states to do ‘their part’ to counter that danger.”

In October 2021, the Law Society of England and Wales published its [Climate Change Resolution](#), resolving to take rapid action consistent with restricting global warming to 1.5°C compared to pre-industrial levels.

Within this resolution, the Law Society recognises “the pervasive impact of climate change on society and legal practice” and acknowledges the “essential role” of the legal profession in upholding the rule of law, human rights and access to justice, in order to advance efforts which “mitigate the climate crisis and strengthen climate justice.” Finally, it urges lawyers to engage in “climate conscious” legal practice, inter alia by “approaching any matter arising in the course of legal practice with regard to the likely impact of that matter upon the climate crisis.”

Lawyers contribute to the climate crisis

One month prior to the Law Society’s resolution, the US Law Students for Climate Accountability published their second [scorecard](#), issuing each of the top Vault Law 100 law firms with a climate score between A and F (where F represents the most damaging climate practices). Many City of London law firms are included in the list. Four of the five Magic Circle firms received an “F” score. The report reveals that the 100 firms facilitated \$1.36 [trillion](#) in fossil fuel transactions, a \$50 billion increase from the previous reported year. It also found that the top 100 firms litigated a total of 358 cases for fossil fuel clients in the past five years, compared to 275 cases from the previous year’s report.

The City is one of the largest global centres for financing fossil fuel projects, [assessed](#) in 2019 as supporting *at least* 15% of global emissions. It has been estimated by Aviva that investments in the FTSE100 are [driving us towards 4°C](#) warming (to understand what this implies see [here](#)). As noted, our lawyers advise on these deals and defend them in court, actively undermining the international community’s [commitment](#) to reduce carbon dioxide emissions as a matter of urgency (by around 50% by 2030).

Lawyers must be part of the solution

It is therefore unsurprising that the [Law Society](#) and an increasing number of professional and civil society organisations worldwide (including the [International Bar Association](#), the Australian [Legal Sector Alliance](#), [Lawyers for Climate Justice](#) in Canada, [Lawyers for Climate Action](#) in New Zealand, the [Chancery Lane Project](#) and the [Net Zero Lawyers Alliance](#)) are calling on lawyers to profoundly change their practices by engaging in climate conscious lawyering.

It is unconscionable to pursue a course of conduct for short-term profit knowing that it exposes the public to intolerable risks of disaster. And since it is widely recognised that younger generations, the economically disadvantaged, and racially marginalised communities are exposed to disproportionate impacts and risks, actions inconsistent with the 1.5°C limit are also inherently discriminatory. As highlighted by a [recent ruling in the US](#), companies which provide misleading information about the climate crisis or their own contribution to it may also face criminal prosecution.

Lawyers who support transactions inconsistent with the 1.5°C limit expose themselves and their clients to substantial legal risk, as well as the real-world risk of catastrophe. Instead, lawyers

must use their influence for good, supporting their clients in making the urgent transformation to business practices that is required to avert disaster.

Our three propositions

With the above in mind, we advance the following three propositions (which we urge regulators to support and enforce):

1. **SELF-EDUCATION**: All lawyers must ensure they acquire and maintain understanding of a) the extreme risks of breaching the 1.5°C limit; and b) the urgent action required by 2030 to prevent such breach, so that they can advise their clients accordingly.
2. **CLIENT ADVICE**: Lawyers, including in-house and government lawyers, should be ethically obliged to advise their clients, where relevant and appropriate, of the serious risks (legal and otherwise) of pursuing any investment, project or transaction that is inconsistent with the pathway to 1.5°C. Government lawyers should highlight the potential human rights violations not only of measures inconsistent with 1.5°C but also measures which disproportionately criminalise protestors who raise the alarm.
3. **DUTY TO THE COURT**: Lawyers should support efforts by the judiciary to develop climate literacy, and in appropriate cases, ensure courts have access to relevant evidence concerning the climate emergency and have due regard to the compatibility of any investment, project or transaction with the 1.5°C threshold. In prosecutions concerning climate protest, both prosecutors and defence lawyers should ensure the court is aware that a) breach of the 1.5°C limit risks mass loss of life and the end of the rule of law and that b) there is substantial evidence that governments and businesses, individually and collectively, continue to pursue courses of action which they know to be inconsistent with that limit. The courts must apply the law to such cases, but lawyers must ensure that they do so on the basis of the relevant facts.

These propositions will be challenging to some, but in the context of the extreme emergency we face, they are modest. The climate crisis is not just “another issue”. To the contrary, a stable climate is the foundation for a stable civilisation and the rule of law. Breaching the 1.5°C Paris temperature goal thus threatens disorder and the end of the rule of law.

We must take bold and proportionate measures to protect our young people, our country, our institutions and the wider international community. And we must take them now.

Signed:

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