

# Practical workshop on climate justice!

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# Introduction



# Practical case

Seizing justice for climate

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India/Australia facing droughts  
threatening lives and nature:

“A lack of will”



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Ashgar Leghari vs. Federation of Pakistan - 2015, High Court of Justice of Lahore

A son of farmers seized justice in a public and collective action in order to get reparations from the government for the destruction of their land by climate change



In Pakistan or in India, the doctrines of “**public trust**”, **continuous mandamus and public interest litigation**

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The state is trusted for protecting and not possessing some of the natural resources.

It is also trusted to deal with unexpected law suits.



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Environment and its protection have taken a central role in the appreciation of the right to a **healthy life and a healthy environment**. We shall apprehend the doctrine of 'public trust' in a manner that can be shaped to answer the **most urgent and the gravest needs** facing with climate change.



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## **Fondation Urgenda et Pays Bas - 2015, The Hague Tribunal**

The NGO Urgenda and 900 citizens seize justice. Only the NGO will be able to get to court.

However, this is a success: the tribunal condemns the dutch government to curve its greenhouse gas emissions up to 25% until 2020.



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**Fondation Urgenda ct Pays Bas -  
2015, Tribunal de la Hague**

A duty of care

A collective interest





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The prevention principle

And the differentiated  
responsibilities of the States



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'The current goals and measures are inferior to the necessary engagement of the **most developed countries**, under the light of the **recent evolutions of science** and international climate data.'



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'The state should not pretend that climate change is global and does not depend only on our national efforts. **Each reduction** of greenhouse gas emissions is participating to the **prevention of climate change** and as a developed country, the Netherlands should be precursor.'



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## Washington, 2015

Eight youth plaintiffs obtain the recognition of a constitutional right for the protection of the common goods beyond which the protection of the atmosphere for present and future generations.



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The protection of **future generations**

The precaution principle

The personal prejudices



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'The future and survival of the next generations depend on the will of current generations to **act immediately** to avoid climate change before it gets both too expensive and too late'.



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**Our Children's trust, November  
10<sup>th</sup> 2016, Juliana VS US**

It was not about how the State respected the rules settled, but about the way the State was respecting the constitutional rights...



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A constitutional right to health  
and private life

The discrimination

Ann Aiken: a right to a stable  
climate





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SWITZERLAND: vulnerable populations

BELGIUM: collective interest and duty of caution

SWEDEN: 178 youth on the selling of Vattenfall's activities in Germany

NEW ZEALAND: Sarah Thomson and the Maori about the respect of the Paris agreement



# And in France?

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International principles

A series of duties

The 'carence fautive'

A moral prejudice



# A little bit of prospective...

## What could be our tools?

A Court to watch on the application of the Paris Agreement  
An International binding treaty to respect the environment  
Towards the recognition of climate change as an ecocide, and the  
recognition of objective liability  
Upgrading the duty of care by the State: a more ambitious *parens  
patriae* and a duty to be pro-active  
Law suits against companies  
The principle of the unity of life  
Giving rights to nature...



# DES DROITS POUR LA TERRE

