

**MEDICI-COLOMBO, Gastón.** *La Litigación Climática sobre Proyectos: ¿Hacia un punto de inflexión en el control judicial sobre la autorización de actividades carbono-intensivas?*, (Tirant lo Blanch, Valencia, 2024)

Climate change litigation is a rather novel and amorphous puzzle with a laborious, but also stimulating, unravelling. It takes place in a complex context formed by the not always clear prerogatives and duties emanating from a dynamic international climate change regime, the multiplicity of different jurisdictions affecting the very same activities and the added difficulty of certain gaps discouraging or watering down the adoption of ambitious ecological measures. This overall picture gets more complicated with the increasing amount and variety of cases, wherein manifold legal arguments are mobilized by different actors, creating the perfect scenario to cherry-pick among those arguments in order to corroborate a pre-set diagnosis of (international) law's relation with climate change.

Dr. Gastón Medici-Colombo's book, built on his PhD dissertation, consciously engages with these two challenges. As to the latter, by focusing on the jurisprudence centered around the decision-making of public agencies to assess the (alleged) climate impact of planned carbon-intensive projects (p. 30), the book identifies an object of study that presents, and invites to, befitting comparability. This choice is more than well-supported in the light of the ongoing lack of commitment to a phasing out from major fuel-producing countries and companies' and the gap that specialized academic literature experiences with respect to a thorough and exclusive analysis of this type of cases. At the same time, regarding the former challenge, the author knowingly embraces the imprecise predictability that the aforementioned intricate elements pose in order to flesh out their legal role, while assessing their juridical evolution overtime, in the cases selected.

*La Litigación Climática sobre Proyectos*, in a clear example of the unavoidable intersection between science and the legal tackling of climate change, borrows the concept of *tipping point* from the IPCC with the objective to distinguish a jurisprudential change that goes beyond the mere general consideration of climate change in the decision-making of planned carbon-intensive projects (p. 498). This tipping point would occur through a process of sedimentation in so far as the accumulation of many juridical sentences would bring to the fore different legal arguments affecting the existent regulatory landscape. Namely, bearing in mind the multiplicity of jurisdictions where this network of climate change cases take place and the ensuing heterogeneous solutions they generate (p. 230), the author seeks a transversal shared core of legal arguments provoking the judicial internalization of a meticulous assessment of the climate stability dimension of planned projects.

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<sup>1</sup> United Nations Environment Programme (2024) "Emissions Gap Report 2024: No more hot air ... please! With a massive gap between rhetoric and reality, countries draft new climate commitments", p. 10.

The structure that this work follows to determine to what extent this tipping point can be assembled enriches the critical analysis of the cases selected. In this sense, the first and second chapters of the book – examining the regulatory answer to climate change and the many peculiarities of climate change litigation, respectively – do not have to be read as a mere contextualization that simply helps to get closer to the judicial decisions, for they strongly contribute to sharpen the toolbox through which many aspects of these decisions would otherwise be impossible to unveil. This is the case for the territorial accounting of greenhouse gas emissions under the international climate change regime and its relation with the concept of carbon budget (p. 149), as well as the counter-hegemonic democratic tinge behind many applications that also reaches some judiciaries (p. 250).

It is the third chapter where, throughout 240 pages, the bulk of the most relevant parts of climate change decisions can be found. Dr. Medici-Colombo unpacks the content of an enviable number of 93 judicial decisions out of the 116 cases that are fit to be part of the object of his study. More than 85% of those decisions are adjudicated in 13 Global North countries, whereas the remaining ones are found in 12 jurisdictions of the Global South. This clearly generates a partial representation of how carbon-intensive projects are authorized, and judicially approached, worldwide. Nevertheless, this cannot be blamed to the author due to the few cases that end up being decided before a judge in the Global South and the different geographically-dependent methods through which such projects are battled, which are not fully captured by judicial lenses.

The acceptance and attention devoted to the indirect effects and accumulative climate impacts of carbon intensive projects are central argumentative elements that the book strives to detect in the selected cases. In the United States of America and Australia, which account for more than half of the decisions assessed, judges have considered that these climate effects and impacts meet a causal nexus and test of reasonability so as to be part of the environmental domestic laws through which such projects ought to be assessed. Nevertheless, as it is skillfully nuanced on several occasions, this does not have to be confused with an outright rejection of the project assessed; for example, in the United States of America, none of the 30 analyzed decisions resulted in such rejection (p. 318). At the same time, it is also recalled that some countries, such as New Zealand, do not even recognize this causal nexus.

The final chapter returns to the ambitious initial objective behind this book and extensively problematizes the possibility to assemble a tipping point that forces public decision-makers to carefully scrutinize the climate dimension of decision-making by public agencies regarding carbon-intensive projects. While stressing that the accumulation of legal arguments is there – waiting to be connected – such moment has not arrived yet. The conclusion itself might seem, at first sight, foreseeable, but the innovation lies in how Dr. Medici-Colombo, by grouping together arguments from cases occurring in different jurisdictions, audaciously reveals the room for manoeuvre that the law confers to craft ambitious climate change measures. This is epitomized by two instruments, appearing in certain decisions, that are not mandatory for decision-making authorities under international law but which are not forbidden neither: the use of carbon budgets (p. 570) and the attribution of fossil fuel emissions to the country where they are produced albeit they are burned elsewhere (pp. 537-538). By adopting

this propositive stance, the final chapter initiates a dialogue with certain legal aspects, especially relevant from the standpoint of distribution of resources and democratic legitimacy, present in the first and second chapters. Simultaneously, this allows the author to warn that the judicial debunk of baseless arguments – such as the Marked Substitution Assumption – do not entail that their substitutes – certain energy market model techniques – are automatically free of normative assumptions with an inherent dubious socio-ecological ordering and impact (p. 548).

To conclude, *La Litigación Climática sobre Proyectos* is an indispensable book that exhaustively identifies the ins and outs of more than 100 climate change cases and, in a stimulant vein, maps how they progressively lean the law to play a decisive role in preventing the closure of the window of opportunity to avert a dangerous climate change. The analytical depth through which the author addresses the concrete, and timely-justified, focus on carbon-intensive projects highlights legal insights which are also, without any doubt, relevant for climate cases beyond the scope of his study.

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