

Climate change justice



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Environmental law: Lawyers need to be aware of how climate change is impacting their clients' businesses. — 123rf.com

Climate change is a scientific and social phenomenon, mainly caused by a high concentration of greenhouse gases in the atmosphere; this concentration has resulted in aggregate global temperatures to increase in a way that is already proving to be detrimental.

The effects of climate change are likely to be socially pervasive yet societies continue to struggle with finding a common understanding about the problem and solutions to the complex confluence of factors that cause it.

In combating climate change, Malaysia has pledged to reduce its greenhouse gas emissions by 45% by 2030 and to reach net-zero emissions by 2050. To demonstrate its contributions and strong commitment to the broader global challenge, Malaysia passed the Energy Efficiency and Conservation Act, which will require the country's biggest energy consumers to implement power-saving measures, as it looks to slash its energy consumption and carbon emissions.



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At the global level, the worldwide response to climate change is sustained through multilateral negotiations. Major sources of international climate change law include the Paris Agreement, the Kyoto Protocol, the United Nations Framework Convention on Climate Change (UNFCCC), and the decisions made by the UNFCCC in implementing these treaties.

However, the implementation of the international regime will depend on states introducing laws and policies at domestic levels. The appreciation of this is progressively reflected in the law and policy literature about multilevel climate governance.

To understand the implications of climate change for legal study and practice, it is not enough to just know statutory rules and targets. There is also a need to consider how law will influence, and in turn be shaped by, society's response to climate change.

Historically, neither the Bar Council of Malaysia nor the Legal Profession Qualifying Board Malaysia has deemed education on sustainable development as important for future lawyers, with legal knowledge based on foundation courses and transferable skills.



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In other jurisdictions, such as in the United Kingdom, this is changing. For instance, the Climate Change Resolution of the Law Society of England and Wales commits to action on climate change by acknowledging that the climate crisis will fundamentally alter the profession and resolving to support solicitors with information and guidance for a climate-conscious practice.

In addition, it undertakes to provide educational materials to its members and to “influence the regime governing legal training and education on issues pertaining to climate change”, as well as urging members to engage in continuous professional education “on matters pertaining to climate change, in recognition of the pervasive impact of climate change on society and legal practice”.

Traditional lawyers tend to focus on new legislation and regulations. In an ongoing concerted effort to uphold climate justice, lawyers need to be aware of how climate change is impacting their clients in other ways and how applicable legal standards may change even where new statutes or regulations have not materialised. Companies represented by legal practitioners may face changing risk exposures and financial outcomes.

The role that legal practitioners and legal education play in the climate crisis is clearly acknowledged, as is the expectation that legal practitioners enter the profession equipped with sufficient knowledge and understanding of climate change issues and context. This raises the need on the introduction of climate law and climate consciousness in law schools worldwide, including in Malaysia.

Climate change is already affecting a wide range of areas in the legal practice and its impact on the law is only just being felt. Legal education must equip law students with extensive knowledge of climate change, which will impact their clients’ businesses, their supply chains, the contracts they draw up, their internal risk management and audit procedures, and board level governance.

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