

CLIMATE INEQUALITIES AND THE IMPACT OF A LOW-CARBON ECONOMY: CASE STUDIES ON JUST TRANSITION AND ACCESS TO ENVIRONMENTAL JUSTICE IN THE UK

Presented by:

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BRIEF INTRODUCTION / BACKGROUND

Lecturer in Law, from 1st of August at York St John University

- Recent Graduate of the University of Central Lancashire with a PhD Thesis focused on Human Rights Law, Criminal Law and Access to Justice.
- Starting a new position with York St John University, York as a Lecturer in Law teaching Employment Law modules, European Union Law and Law of Torts
- Research interests includes Environmental Law and Access to Justice, the non-prosecution principle and victims of human trafficking.
- PhD thesis titled *“State Obligations in International Law and the Application of the Non-Prosecution Principle: The case of Victims of Human Trafficking Prosecuted in England and Wales”* focuses on the laws in England and Wales as it relates to protecting victims of human trafficking from criminal prosecution.

OUTLINE

Areas of Focus

- Just Transition: *Moving to a Sustainable Economy*
- Key Elements to make transition work
- Case Study: Scotland
- Litigating a just transition: Cases involving Client Earth, Friends of the Earth and Good Law Project
- Conclusion

A JUST TRANSITION

Moving to a Sustainable Economy

- A ‘just transition’ means moving to a more sustainable economy in a way that’s fair to everyone – including people working in polluting industries.
- Floods, droughts, forest fires and tropical storms are happening more often, they are becoming more intense, putting millions of people’s homes and livelihoods at risk. We are facing a climate and nature emergency that’s costing thousands of lives around the world.
- Reliance on fossil fuels must end. Countries will have to cut their planet-heating emissions down to zero. Sustainable living will have to be encourage as soon as possible, countries and societies will have to change their lifestyle on a massive scale.

AN ENVIRONMENTALLY SUSTAINABLE ECONOMY

Transitioning without leaving workers in polluting industries behind

- Moving towards an environmentally sustainable economy (that's the 'transition' part) without leaving workers in polluting industries behind. It aims to support good quality jobs and decent livelihoods when polluting industries decline and others expand, creating a fairer and more equal society – that's what makes it 'just'.
- This is where it gets challenging. Currently, lots of people's livelihoods are tied to polluting industries. This includes oil and gas workers, aviation engineers, factory workers making petrol and diesel vehicles.
- If we want to avoid catastrophic climate change, these polluting industries are going to have to change completely. Some of them will have to shrink. And these changes will impact the lives of these workers and their communities.
- This doesn't have to be a bad thing – but it is a huge challenge, and it can't be taken lightly. People use the term 'just transition' to describe what we need to do.

GREEN HOUSE GAS EMISSIONS

The Impact on Low Income Countries

A decarbonized economy or low-carbon economy is one based on energy sources that produce low levels of greenhouse gas (GHG) emissions.

According to the World Bank Reports, only one-tenth of the world's greenhouse gases are emitted by 74 lowest income countries, but they will be the most affected by the effects of climate change.

These low-income countries have already experienced approximately eight times as many natural disasters in the past 10 years, compared to the 1980s when there were less cases in comparison.

By 2050, unchecked climate change might force more than 200 million people to migrate within their own countries, pushing up to 130 million people into poverty and unravelling decades of hard-won development achievements.

KEY ELEMENTS TO MAKE TRANSITION WORK

Collaboration



Regional and national governments may need to work closely with stakeholders, unions, employers, workers, local authorities. Build trust, to get things done.

Economic Transitions in Regions



A clear Transition for each specific region. For example, re-train oil and gas workers with new skills. Serious potential for new employment in offshore wind energy and other renewables. Over a third of the UK's offshore wind engineers used to work in the oil and gas industry. They've carried their existing skills over from the oil fields to the wind farms.

Adequate Funding



To properly fund a just transition in the UK, the government may need to spend at least 5 billion pounds per year. Funding also required for communities affected by the ill effects of the oil and gas industry

CASE STUDY: SCOTLAND

A successful Transition in Scotland

- Due to falling oil prices causing increased unemployment in Scotland's oil and gas industry, in 2014 the Scottish government decided to invest in renewable energy. To help create long-term sustainable jobs and reduce the country's carbon emissions.
- The Scottish government invested 1.2 billion pounds in Transition Training Fund. The fund supports unemployed individuals and provides opportunities to retrain and upskill workers. In 2018, over 3000 job seekers applied for access to the fund and 85 percent of them found new jobs.
- Scotland has also set up a Just Transition Commission, with the goal of collating data and insights on how best to address climate change without leaving people behind.
- These policies have started to work well, for example the Orkney Islands used to import their energy. Now, they produce all their own energy using wave and tidal energy. This transition created new jobs and has led to one of the lowest rates of unemployment in Scotland.

LITIGATING A JUST TRANSITION

Often Unsuccessful

- ‘Just Transition’ litigation entails cases that rely in whole or in part on human rights arguments to question the distribution of the benefits and burdens of the transition away from fossil fuels, towards net-zero emissions.
- Self-standing but may marginally overlap with anti-regulatory, anti climate litigation or defensive.
- Just transition litigation does not object to climate action *per se*, but rather to the way in which it is carried out and/or to its impact on the infringement of human rights.
- *Client Earth v Secretary of State Business* [2021] EWCA Civ 43 - Environmental group challenged government's decision to approve natural gas plant. On January 21, 2021, the Court of Appeal upheld the High Court's decision and rejected ClientEarth's appeal, finding that the government's approval of the plant was lawful. Secretary of State balanced the adverse effects of the project, including greenhouse gas emissions, with the positive effects, including socioeconomic outcomes and re-use of existing infrastructure, and lawfully concluded that the benefits outweighed the adverse impacts.

OTHER CASES

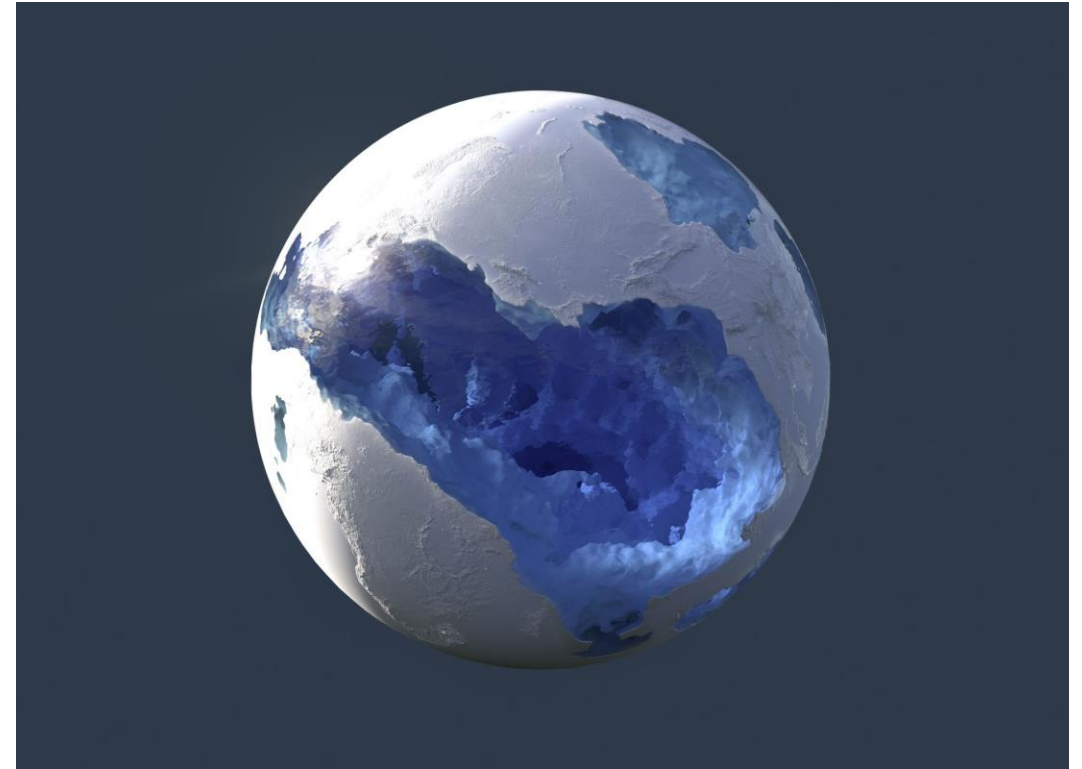
Friends of the Earth

- Friends of the Earth is a grassroots environmental campaigning community. From our campaigners and lawyers to local action groups and supporters across the country, we push for change for people and planet. And together we make change happen.
- *R (on the Application of Friends of the Earth Ltd) v Secretary of State for International Trade* [2022] EWHC 568 (Admin) – Greenhouse Gas Emissions, whether decision of secretary of state to provide export finance and support for liquefied natural gas project in Mozambique was unlawful. No policy or legal obligation to obtain an assessment on the quantity and effect of the emissions that would be generated by the project: it was for UKEF to weigh the advice, which they had done. Accordingly, the claim would fail.
- Chief Executive Officer of UK Export Finance (UKEF), a department of the Secretary of State, formally exercising his delegated power under section 1 of the Export and Investment Guarantees Act 1991.
- *R (on the application of Friends of the Earth Ltd and others) v Secretary of State for Business, Energy and Industrial Strategy* [2022] EWHC 1841 (Admin)

CLIENT EARTH AND THE UK GOVERNMENT

The Climate Change Act 2008

- On 18 July 2022 the High Court ruled in favour of Client Earth against the UK Government's inadequate net zero strategy, concluding that it breaches the Climate Change Act 2008, and needs to be strengthened.
- Friends of the Earth, Client Earth and Good Law Project
- The Climate Change Act of 2008 legally binds the Government to carbon budgets that set limits on the UK's greenhouse gas emissions during five-year periods. They include a target to be over three quarters of the way to net zero in the next 13 years. 'Net zero' means that the amount of greenhouse gas emissions in the UK is equal to or lower than the amount of greenhouse gases removed from the atmosphere in the UK. The UK has also committed internationally to reduce its emissions by at least 68% by 2030 from 1990 levels, as part of its 'Nationally Determined Contribution' (NDC) under the Paris Agreement. The Paris Agreement is a **legally binding international treaty on climate change**. It was adopted by 196 Parties at the UN Climate Change Conference (COP21) in Paris, France, on 12 December 2015. It entered into force on 4 November 2016.



INADEQUATE ACTION PLANS

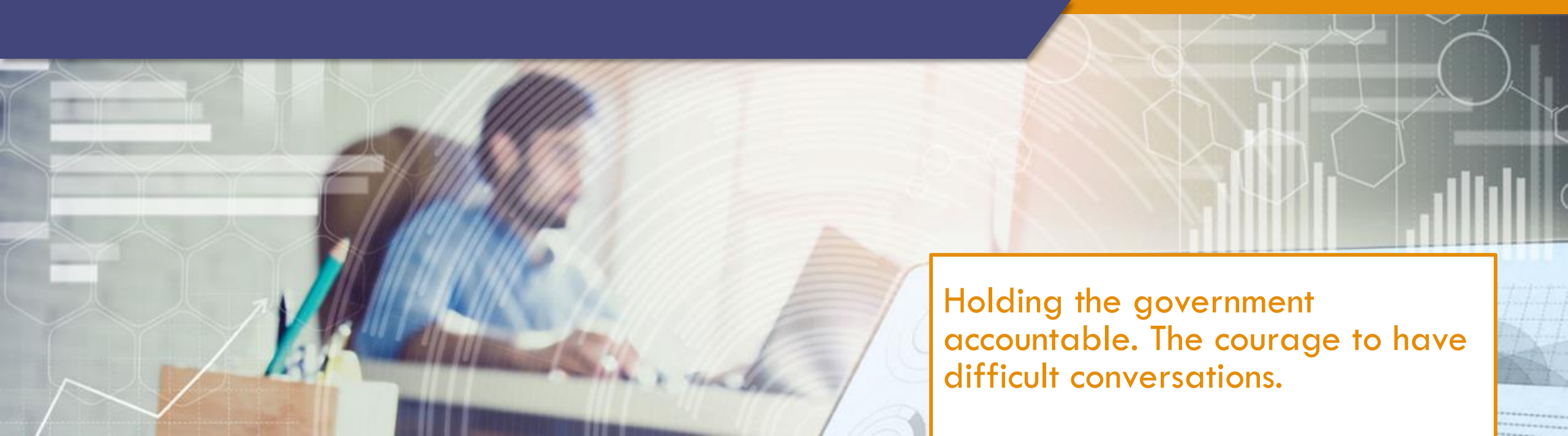
Friends of the Earth and others to institute legal action again, July 2023

Friends of the Earth, Client Earth and Good Law Project: the government's revised net zero strategy – the Carbon Budget Delivery Plan, published 30 March – is unlawful and have filed papers at the High Court requesting a judicial review.

The government was required by the High Court to publish a revised strategy following successful legal challenges by the three organisations in July 2022, in which the judge underlined the critical role of the Climate Change Committee (CCC) by stating their advice must be given “considerable weight”.

In last year's landmark judgment, the High Court ruled that the net zero strategy, which was supposed to set out plans to decarbonise the economy, didn't meet the government's obligations under the Climate Change Act to produce detailed climate policies that show how the UK's legally binding carbon budgets will be met.

After carefully studying the detail of the revised Carbon Budget Delivery Plan, lawyers for Friends of the Earth, Client Earth and Good Law Project say this revised plan breaches the Climate Change Act too.



CONCLUSION

ACHIEVING A JUST TRANSITION MAY BE ONE OF THE GREATEST ACHIEVEMENTS OF MANKIND.

ACT NOW OR FACE THE CONSEQUENCES IN THE FUTURE.

Holding the government accountable. The courage to have difficult conversations.

A vision for a better sustainable future, funding and investment, willingness to work with a wide range of people.

Encourage a move away from fossil fuels (non-renewable energy, formed from the decomposition of buried carbon-based organisms)



Implementing a Framework for the Just Energy Transition: Key Lessons from Scotland

Nnennaya Jennifer Nwali (University of Aberdeen)



Action must consider and plan for social impacts

SCOTLAND

- Forerunner in climate policy
- Climate change and planning devolved; energy reserved
- Ensure that no one is left behind, costs do not overburden those least able to pay and benefits are distributed widely (DESJTP)
- JT defined as both the outcome and process of a fairer, greener Scotland for all





One: A Seat At The Table

CCA 2009, s.35(c):

- undertaking climate action in a manner that supports ‘ environmentally and socially sustainable jobs; low carbon investment and infrastructure; decent, fair and high value work; social dialogue and consensus among workers, trade unions, communities, NGOs, businesses etc; and addresses inequality and poverty’
-

Two: Proactive and Collaborative Planning

- Connecting the 'what' to 'how'
- 'Evidence-led, co-designed, adaptable and iterative'
- 8 National just transition outcomes centre 'jobs, distribution of costs on basis of ability to pay, benefit sharing, fuel and child poverty, equality and human rights'.
- Plans reviewed and adapted every 5years; publicly accessible
- National Just Transition Planning Framework
- Commitment to provide Sectoral and Regional JT plans
- Draft Energy Strategy and Just Transition Plan (January 2023)
- JT Monitoring and Evaluation Framework underway*





Three: Just Transition Institution

- Just Transition Minister (2021 – 2023)
- Cabinet Secretary for Net Zero and Just Transition (2023 – Present)
- Accountable for planning, delivery and coordination of JT plans + funds, monitoring frameworks, environmental and climate justice, etc
- Annual progress report to parliament on progress of climate plans

Four: Independent Advisory Body

- Non-statutory; Inclusive and diverse membership across stakeholders

Phase One (2019-2021)

- Practical recommendations on how JT principles can be applied to Scottish climate action through extensive and broad engagement

Phase Two (2022 - Present)

- Independent scrutiny and advice on government JT plans, on-going engagement and dialogue with stakeholders, monitoring and evaluating progress.
- Publish annual report on Scotland's progress towards outcomes



Five: Just Transition Funding

- £500 million JTF to support North East and Moray
- Community-focused projects; participation via climate assemblies & participatory budgeting
- Digital offshore skills passport
- Creation of a skills hub in Altens
- £100,000 grant to support JT engagement in STUC
- Controversial awards*
- Scottish Climate Justice Fund





Six: Tackling Fuel Poverty

- Key priority within the Scottish just transition
- 'As far as reasonably practicable, no more than 5% of household are in fuel poverty by 2040' (FPA 2019, s.1)
- Enhanced heating needs pertaining to age, disability, etc, as well as an extreme fuel poverty target (FPA s.3)*
- Consultation of individuals with fuel poverty experiences + old and disabled people (FPA s.7)
- Supplementary welfare schemes e.g. warm home discount, fuel insecurity fund
- Energy efficiency standards for homes & appliances



THANKS FOR YOUR TIME AND ATTENTION