

2022

## Foreword: Probing the Intersection of Climate Change and Public Health

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### Recommended Citation

Ana Santos Rutschman, *Foreword: Probing the Intersection of Climate Change and Public Health*, 16 St. Louis U. J. Health L. & Pol'y (2022).

Available at: <https://scholarship.law.slu.edu/jhlp/vol16/iss1/3>

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## FOREWORD: PROBING THE INTERSECTION OF CLIMATE CHANGE AND PUBLIC HEALTH

ANA SANTOS RUTSCHMAN\*

The 34<sup>th</sup> Annual Health Law Symposium, entitled *Environmental Justice: At the Intersection of Climate Change and Public Health*, took place via Zoom in March 2022, as the COVID-19 pandemic was entering its third year. A few months later, NASA would declare 2022 the fifth warmest year on record.<sup>1</sup> The report “Climate Change 2022: Impacts, Adaptation and Vulnerability,” produced by one of the working groups at the United Nations’ Intergovernmental Panel on Climate Change, identified and described a plethora of “key risks” posed by a warming planet, including higher mortality and morbidity, severe strains to mental health, greater risk of epidemics, water and food insecurity, as well as several types of harms to economic systems.<sup>2</sup> The World Health Organization predicts that, at the current pace, climate change will cause approximately 250,000 additional deaths between 2030 and 2050 “from malnutrition, malaria, diarrhea and heat stress alone.”<sup>3</sup>

The Center for Health Law Studies at Saint Louis University has a long history of symposia interrogating some of the most pressing and complex issues in health law and policy. In fact, the Center has a long history, period. In 2022, it celebrated forty years of existence, and it seemed fitting that this Symposium honored that inquisitive tradition by probing the increasingly interconnected boundaries of climate change and public health. When the Center was founded in 1982, climate change was barely recognized as an operative concept—the Intergovernmental Panel on Climate Change would not be formed until 1988, for instance. Since then, health law—and especially the field of public health law—has expanded to accommodate new or newly recognized problems,

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1. NASA Says 2022 Fifth Warmest Year on Record, Warming Trend Continues, NAT’L AERONAUTICS & SPACE ADMIN., (Jan. 12, 2023), <https://climate.nasa.gov/news/3246/nasa-says-2022-fifth-warmest-year-on-record-warming-trend-continues/>.

2. HANS-O. PÖRTNER ET AL., INTERGOV’T PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2022: IMPACTS, ADAPTATION AND VULNERABILITY SUMMARY FOR POLICYMAKERS 16-17 (2022).

3. *Climate Change*, WORLD HEALTH ORG. (2023), [https://www.who.int/health-topics/climate-change#tab=tab\\_1](https://www.who.int/health-topics/climate-change#tab=tab_1).

including those that may once have been treated (if at all) as originating in, and belonging to, fields that seemed to have little to do with health law. On March 4, 2022, the Center brought together scholars and practitioners working both within and outside the conventional boundaries of health law to discuss some of the most salient implications of a warming planet for health law and policy. The Symposium placed a particular emphasis on the disparate impact of climate change on the health of minority and other long-marginalized populations. This Symposium Issue collects three of those contributions.

Professor Lance Gable's article, *Pursuing Climate Justice: Learning the Lessons of the COVID-19 Response*, suggests that the lessons drawn from the response(s) to COVID-19 "can illuminate a path forward to more effectively address the challenges of the climate crisis."<sup>4</sup> The article surveys the limitations of the COVID-19 response in the United States (underscoring the disparate toll of the pandemic on members of marginalized communities), as well as its successes, with a particular nod to the legal infrastructure allowing public health authorities to respond to emergencies, which Professor Gable argues "proved to be flexible, adaptive and mostly adequate to the task" during the COVID-19 pandemic.<sup>5</sup> The article then provides a blueprint for leveraging the positive takeaways from the response to the pandemic and retooling them for the long-term response to climate change. These include a "combination of legislative and regulatory action and targeted litigation" as a way to challenge entrenched interests standing in the way of climate-conscious reforms; the need to incentivize the development of adequate technology (vaccines and other health goods in the case of COVID-19, renewable energy and other green tech in the case of climate change); and the need to strengthen social support for the populations most affected by "health disparities, particularly those perpetuated by racial, ethnic, and socio-economic injustice."<sup>6</sup>

The next two articles were presented at the Symposium as part of a panel dedicated to water law and policy. In *Tribal Water Rights and Tribal Health: The Klamath Tribes and the Navajo Nation During the COVID-19 Pandemic*, Professor Robin Kundis Craig contrasts access to water during the pandemic by the Klamath Tribes and the Diné (Navajo Nation).<sup>7</sup> The comparison illuminates the contributing role of access to water on positive health outcomes—as well as the practical hurdles long faced by Tribes in seeing their water rights actualized. The article describes how the Klamath Tribes were awarded senior water rights to the Diné's in the Klamath River Basin. Access to water, alongside relative

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4. Lance Gable, *Pursuing Climate Justice: Learning the Lessons of the COVID-19 Response*, 16 ST. LOUIS U. J. HEALTH L. & POL'Y Lance Gable, *Pursuing Climate Justice: Learning the Lessons of the COVID-19 Response*, 16 ST. LOUIS U. J. HEALTH L. & POL'Y 5, 8 (2022).

5. *Id.* at 15.

6. *Id.* at 25, 28–29.

7. Robin Kundis Craig, *Tribal Water Rights and Tribal Health: The Klamath Tribes and the Navajo Nation During the COVID-19 Pandemic*, 16 ST. LOUIS U. J. HEALTH L. & POL'Y 35 (2022).

“wealth and a well-financed and trained health care system” helped minimize the impact of COVID-19 among members of the Klamath Tribes.<sup>8</sup> The Diné Nation, by contrast, has long faced profound limitation in accessing fresh water, a problem that was recognized as “both an environmental justice and health issue” well before the pandemic.<sup>9</sup> Professor Craig shows how water insecurity “thoroughly undermined the Navajo Nation’s ability to undertake proper COVID-19 precautions.”<sup>10</sup>

Professor Amy Hardberger’s article, *Meeting Water Affordability Challenges in the Era of the Unexpected*, shifts the focus to problems of affordability faced by water customers—namely those with limited financial resources.<sup>11</sup> As a commodity accessed primarily through public infrastructure, water is becoming increasingly more expensive. Events like “pandemics and more frequent severe weather events” further exacerbate affordability issues, both by posing direct threats to water infrastructure and indirectly—by reducing the ability of customers to pay for water.<sup>12</sup> In light of these changes, Professor Hardberger lays a pathway for possible reform, suggesting that water utilities should (re)design customer assistance programs in ways that make them “highly inclusive, data-driven, and include straightforward enrollment obligations.”<sup>13</sup> The article also identifies other potential interventions, including rate and other cost-related relief strategies, and financial assistance for qualifying events, such as emergencies and or short-term relief.

The *Saint Louis University Journal of Health Law and Policy* is greatly enriched by these contributions to our evolving understanding of the intersection between climate change and public health. I thank Professors Gable, Craig and Hardberger for having shared their important work at the Symposium, as well as for these wonderful additions to the scholarship collected in the Journal.

As a member of the Center for Health Law Studies, I was involved in the organization of the Symposium, alongside the Associate Director of the Center, Professor Amy Sanders, and the Program Coordinator of the Center, Cheryl Cooper. I am very grateful to Amy and Cheryl for all their work, as well as to my colleagues at the Center, Professors Rob Gatter, Elizabeth Pendo, Sidney Watson and Ruqaiyah Yearby. I also wish to extend our collective thanks to the Symposium participants and to the editors of the *Saint Louis University Journal of Health Law and Policy*.

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8. *Id.* at 52.

9. The Diné Nation has legally recognized water rights, but as Professor Craig explains in the article, these rights remain largely unquantified, unlike the Klamath Tribes’ water rights, which have been quantified. *See id.* at 49, 54.

10. *See id.* at 59.

11. Amy Hardberger, *Meeting Water Affordability Challenges in the Era of the Unexpected*, 16 ST. LOUIS U. J. HEALTH L. & POL’Y 61 (2022).

12. *Id.* at 66.

13. *Id.* at 98.

