



POLICY AND PRACTICE RESEARCH LAB

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## Global Human Rights Clinic

Notre Dame Law School  
2150 Eck Hall of Law  
Notre Dame, Indiana 46556 USA

## Notre Dame Reparations Design and Compliance

### Side Event to the 4<sup>th</sup> International Conference on Small Island Developing States (SIDS4)

#### **“Litigation, Reparation, and Resilience: Realizing the Right to Development and the Right to a Clean, Healthy and Sustainable Environment for Small Island Developing States in the face of the Challenges of Climate Change”**

Organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Global Human Rights Clinic (GHRC Notre Dame Law School), and the Reparations Lab (Kellogg Institute for International Studies) of the University of Notre Dame

27 May 2024 at 9 hours EST

(Virtual format – 90 minutes)

### **Background**

The Earth Summit/United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro, Brazil, in 1992, was a watershed moment for Small Island Developing States (SIDS). It was during this historic event that SIDS were rightfully acknowledged as a 'special case' in both the environmental and developmental contexts. Despite comprising less than 1% of the global population, the approximately 65 million inhabitants of SIDS face a myriad of economic, social, cultural, and environmental challenges due to their distinctive geographical locations, rendering them disproportionately vulnerable to the impacts of the triple planetary crisis of climate change, biodiversity loss, and pollution. At the heart of these challenges lie fundamental issues related to human rights, environment and development. These include the right to the enjoyment of the highest attainable standard of physical and mental health, the right to an adequate standard of living, the right to a clean, healthy and sustainable environment, the right to decent work, and the right to adequate food and safe drinking water, among others. Regrettably, the negative repercussions stemming from the violation of these rights often pose formidable barriers that hinder the enjoyment of the right to development - an indispensable entitlement crucial for fostering the prosperous futures of individuals, groups, communities, and entire peoples and nations. Conversely, the absence of an enabling social and international order underscored by international solidarity to realize the right to development as well as the right to a clean, healthy and sustainable environment, poses an obstacle to realizing all other human rights and fundamental freedoms.

The Global Human Rights Clinic (GHRC) at Notre Dame Law School and the Reparations Lab at the Kellogg Institute for International Studies of the University of Notre Dame, in

consultation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), embarked on a groundbreaking initiative aimed at addressing the pressing challenges faced by SIDS. Recognizing the imperatives of upholding developmental and environmental justice to ensure a more just, inclusive, equitable and sustainable future for the peoples of SIDS and beyond, this collaborative effort represents a significant step towards meaningful action.

Following initial discussions with OHCHR, as a preliminary step, the project has carried out a comprehensive desk review, analyzing contemporary climate change challenges in relation to the right to development as well as the right to a clean, healthy and sustainable environment across 39 SIDS, with a view to support the work of OHCHR in future collaboration. This thorough examination has been conducted through the scrutiny of the Universal Periodic Review (UPR) reports from all 39 countries, providing invaluable insights into the multifaceted dynamics at play. The compiled findings of this desk review are intended to serve as a vital resource for policymakers, stakeholders, and advocates alike.

Based on the interdisciplinary research of both the Notre Dame Law School Global Human Rights Clinic (using the Human Rights Database and Analysis Project), and the latest completed dataset of the Notre Dame Reparations Design and Compliance Lab, we mapped legal, institutional, and operational spaces to further support the effectiveness of global and local climate actions affecting small island developing States.

Additionally, the desk review has placed particular emphasis on assessing the efficacy of law enforcement responses in advancing the rights to development and to a clean, healthy, and sustainable environment for SIDS in the face of the challenges posed by climate change.

### **Key findings**

- SIDS are among the most vulnerable nations and are far behind reaching the Sustainable Development Goals than the rest of the world.
- The human rights to development and to a clean, healthy and sustainable environment provide an underutilized opportunity to strengthen the legal and institutional claims of SIDS to development and climate financing and other forms of international cooperation, assistance, and action to enable them to prevent and minimize, cope with and respond to the human rights impacts of the worsening climate emergency.

In culmination of the comprehensive desk review conducted; the side event will entail an in-depth exploration of the diverse legal avenues available to address the pressing issues identified. This includes a thorough examination of litigation strategies and potential avenues for securing reparations aimed at advancing the rights to development and a clean, healthy, and sustainable environment for SIDS and their populations - present and future - in the context of climate change.

Regarding the Notre Dame Reparations Design and Compliance Lab Climate Change Dataset, the analysis was conducted through a comprehensive review of landmark cases adjudicated in international, regional, and national tribunals, with a view to elucidating key insights and trends. This includes 144 judgments related to climate change litigation reparations from various sources, an exhaustive classification of 382 reparation measures, and the operational provisions of the court or judicial body pertaining to these reparations.

### **Objectives**

- To evaluate the application of human rights, particularly the Right to Development and the Right to a Healthy Environment, in the context of SIDS.
- To investigate regulatory and policy measures in SIDS to advance these rights, in the context of the increasing challenges from climate change.
- To analyze available reparations and other accountability mechanisms through case studies for issues related to these rights in SIDS.
- To disseminate project findings globally to promote awareness and action for enhancing human rights, notably the Right to Development and the Right to a Healthy Environment worldwide.

**Moderator: Prof. Jean Marc Brissau**, Staff Attorney, NDLS Global Human Rights Clinic; Graduate Programs Manager and Term-Teaching Professor, Notre Dame Law School LLM Program in International Human Rights Law.

**Presentation of Desk Study Research and Data Set:** Presentation of the desk study research on “*Realizing the Rights to Development and to a Clean, Healthy and Sustainable Environment in Global and Local Climate Actions Affecting Small Island Developing States*” and the Climate Change Dataset by **Professor Dr. Diane A. Desierto**, Professor of Law and Global Affairs, Faculty Director of the LLM Program in International Human Rights Law, and Founding Director of the NDLS Global Human Rights Clinic, Notre Dame Law School; jointly appointed as tenured full Professor at the Keough School of Global Affairs, University of Notre Dame (Notre Dame, USA). Faculty Fellow (Klau Institute on Civil and Human Rights, Kellogg Institute on International Studies, Liu Institute on Asia and Asian Studies, Pulte Institute on Global Development, Nanovic Institute of European Studies), and Co-Principal Investigator, Notre Dame Reparations Design and Compliance Lab.

**Discussants:**

1. **Representative of the Office of the United Nations High Commissioner for Human Rights (TBC)**
2. **Representative of the Alliance of Small Island States (AOSIS) (TBC)**
3. **H.E. Dr. Walton Alfonso Webson**, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Antigua and Barbuda to the United Nations (TBC)
4. **Dr. Thalia Viveros Uehara**, Senior Research Fellow, Max Planck Institute for Comparative Public Law and International Law (Heidelberg, Germany) (TBC)
5. **Professor Dr. Marie-Claire Cordonier Segger**, Chair, Sustainable Development Law and Policy, and Director of Studies and Programme Director, Lucy Cavendish College, University of Cambridge; Senior Director, Centre for International Sustainable Development Law; Executive Secretary, Climate Law and Governance Initiative for the UN Framework Convention on Climate Change, and Chair, UN Convention on Biological Diversity - Biodiversity Law and Governance Initiative (TBC)

**Participants:**

Member States, UN agencies, international organizations, non-governmental organizations, academia, human rights advocates, development practitioners, climate and environmental activists and other relevant stakeholders.

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