Addressing Conflicts between Historical Responsibility and Future-Oriented Climate Action

Transitional Justice and Climate Workshop

Venue
Meeting Room 1
Sophialaan 10
2514JR The Hague

Date & Time
September 21, 2015
09:00-17:00

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#climatereconciliation

This workshop is part of the project, funded by the KR Foundation
*Evaluating peace and reconciliation to address historical responsibility within international climate negotiations*
Event Information

Background
Questions about equity have long been central in UNFCCC negotiations. Within this, tensions about historical responsibility have been particularly difficult and could intensify as climate impacts become more severe, as developing countries face mounting pressure to take mitigation action, and as the UNFCCC work-stream on loss and damage is reviewed at COP 22 in 2016.

Over time, substantial policy experience has been gained through efforts to address other complex justice conflicts at the interface of historical responsibility and imperatives for new collective futures. Examples include a range of practices and experiences with transitional justice, including but not excluded to broad peace building, reparations, structural changes, and reconciliation efforts. In this workshop we will look beyond the immediate UNFCCC negotiations to ask if insights from other policy regimes or social transitions in which there have been deep justice conflicts could be useful in the climate context.

At first the climate context may seem profoundly different from the kinds of conflicts in which transitional justice efforts have been attempted but it could be argued that there are some core similarities. For instance, similarities could include: a) unavoidable interdependence and mutually harmful consequences of not finding an agreement; b) limited ability to address justice concerns through existing legal systems (national or international); c) profound disagreements about how the past and future should relate in a period of transition; d) lack of clarity or agreement about how best to address injustices, some of which may not be easily remedied.

This workshop is the first in a series of three designed to explore the potential utility of transitional justice insights in the climate regime and, to the extent.

Objectives of the Workshop:
There are three primary objectives for this workshop.
1. Initiate a broad, multi-party, multi-disciplinary discussion about the potential of a transitional justice approach in the climate context
2. Do an initial exploration of the application of transitional justice insights to the climate problem and international climate regime and identify those elements for which it has most and least potential
3. Identify potential next steps and/or areas for future exploration

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Initial Discussion Points and Questions for Exploration

This initial workshop is intended to serve as a broad scoping exercise but there are a range of specific elements which it may be worthwhile exploring in more detail. In order to spur thinking we have created a non-exhaustive list of initial areas in which further thinking may be useful.

- Reparation for deep loss: useful concept or not?
  - Reparations have been used in many transitional justice contexts. Sometimes these are financial, but they can also involve other kinds of exchanges, active supports, or processes. Does the concept of reparation make sense in the loss and damage context, and if so, what are some of the models or approaches to this that could be relevant?

- Managing limited liability: pros, cons, pitfalls and strategies?
  - Limiting the extent of liability for those who benefitted from past injustices is a relatively common element of transitional justice arrangements. While in several situations limiting liability has been part of the political deal that facilitated the transition, it is also a difficult issue to negotiate. Does this have utility in the climate context? If so, what might it look like?
  - Might there be some way of designing a loss and damage approach which responds to the actual on-the-ground needs and that is politically supportable by those concerned by setting a precedent of unlimited liability?

- Structural Change? What might this look like in the climate context?
  - In many situations in which transitional justice has been used the injustices have emerged not only specific acts (although these may also have been part of the situation) but from an entire system. This systemic nature of injustice can be difficult to address through individual punishment or retribution. One strategy to deal with this has been to propose broad changes in core structures to change the underlying power dynamics that allowed the system to result in profound injustice initially. If this logic was applied to the climate context, what would it look like?

- Forward-Looking Technology Mechanism: Issues and Design?
  - In multiple transitions a core element of the agreement is a forward-oriented component (possibly linked to reparations and/or structural change) that promises to improve the situation of those who have or are facing injustices. In the climate context technology seems like one area in which there could be some forward-oriented components. What could this look like? How might it work?
Speakers/Facilitators

Dr. Robert Cohen
(Faculty member, Bennington University)

Dr. Heleen de Coninck
(Associate Professor, University of Nijmegen)

Mr. Henry Derwent
(Senior Advisor, Climate Strategies)

Ms. Joy Hyvarinen
(Director, Foundation for International Environmental Law and Development)

Dr. Sonja Klinsky
(Assistant Professor, School of Sustainability, Arizona State University)

Prof. Catriona McKinnon
(Professor, Department of Politics and International Relations, University of Reading)

Dr. Bert Metz
(Fellow, European Climate Foundation)

Prof. Dr. Susan Opotow
(Professor, Sociology Department, John Jay College of Criminal Justice, City University of New York)

Richard Ponzio
(Head of Global Governance Program, The Hague Institute for Global Justice)

Ms. Marija Ristic
(Assistant Editor, Balkan Investigative Reporting)

Dr. Lyal Sunga
(Head of Rule of Law Program, The Hague Institute for Global Justice)

Prof. Doreen Stabinsky
(Professor of Global Environmental Politics at College of the Atlantic)

Dr. Abiodun Williams
(President, The Hague Institute for Global Justice)
# Program

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<td>08:30 – 09:00</td>
<td>Registration</td>
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<td>09:00 – 09:05</td>
<td>Welcome Remarks</td>
<td>Dr. Abiodun Williams</td>
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<td>09:05–09:45</td>
<td>Workshop and Participant introductions</td>
<td>Dr. Sonja Klinsky</td>
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| 09:45 – 10:45| **Setting the Stage:** Historical Responsibility, Loss and Damage, and Global Climate Negotiations  
- Outlining Mitigation  
- Philosophical approaches to historical responsibility:  
- Loss and Damage in the negotiations | Dr. Bert Metz, Prof. Catriona McKinnon, Prof. Doreen Stabinsky  
Facilitator: Mr. Henry Derwent |                     |
| 10:45 – 11:00| Tea / Coffee Break                                                              |                                 |                     |
| 11:00 – 12:30| **Navigating Justice Conflicts: Lessons and Approaches from Other Contexts**    | Prof. Susan Opotow, Dr. Ronald Cohen, Ms. Marija Ristic  
Facilitator: Dr. Sonja Klinsky |                     |
<p>| 12:30 – 13:30| Lunch Break                                                                     |                                 |                     |</p>
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<td>13:30 – 14:30</td>
<td>Transitional Justice in the Climate Regime? Pros, Cons, Opportunities and Dangers</td>
<td>- Dr. Sonja Klinksy - Ms. Joy Hyavrinen</td>
<td>Facilitator: Dr. Lyal Sunga</td>
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<td>- Introductory Proposition: Could transitional justice have utility in the climate context?</td>
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<td>- Initial Legal Landscapes</td>
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<td>14:30 – 15:15</td>
<td>Topical Exploration 1</td>
<td>Interactive session</td>
<td>Facilitator: Dr. Heleen de Coninck</td>
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<td>- Reparation for Deep Loss: useful concept or not?</td>
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<td>- Models or issues to explore?</td>
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<td>- Managing limited liability: pros, cons, pitfalls and strategies?</td>
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<td>15:15 – 15:30</td>
<td>Tea/Coffee break</td>
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<td>15:30 – 16:15</td>
<td>Topical Exploration 2</td>
<td>Interactive session</td>
<td>Facilitator: Dr. Richard Ponzio</td>
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<td>- If 'structural change' is part of an overarching deal, what is this and what might it look like?</td>
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<td>- Forward-Looking Technology Mechanism: Issues and Design?</td>
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<td>16:15 – 17:00</td>
<td>Fitting it Together: Final Session</td>
<td>Interactive session</td>
<td>Facilitator: Sonja Klinsky</td>
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<td>- How might this fit together?</td>
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<td>- What are the key ideas for further exploration?</td>
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<td>- Final thoughts</td>
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<td>17:00</td>
<td>Concluding Remarks</td>
<td>Mr. Henry Derwent</td>
<td>Followed by networking reception</td>
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Biographies

Robert Byrne

Dr Rob Byrne is a lecturer in the Science Policy Research Unit (SPRU) at the University of Sussex. He convenes the Energy and Climate Change work of the Social, Technological and Environmental Pathways to Sustainability (STEPS) Centre, a collaboration between SPRU and the Institute of Development Studies, also at the University of Sussex. Rob represents Sussex on the management committee of the Low Carbon Energy for Development Network, which is an international network of academics, policy makers, practitioners and others active or interested in using low carbon energy sources for development. Rob is also a member of the Tyndall Centre for Climate Change Research.

Ronald Cohen

Ronald L. Cohen is a social psychologist whose research is focused on justice, silence, and their intersections. He is a faculty member at Bennington College and the co-author or editor of several books and numerous peer-reviewed journal articles. In addition to his work as a researcher and teacher, Cohen has served as a dean Dean of Faculty at Bennington College, as a co-founder of the Bennington Community Justice Center, and as a member of the Bennington County Reparative Board. He is a Fellow of the American Psychological Association and the Society for the Psychological Study of Social Issues (SPSSI), as well as the recipient of SPSSI’s Award for Outstanding Teaching and Mentoring. A native of Chicago, he holds an undergraduate degree from the University of Minnesota and a Ph.D. from the University of Michigan.

Heleen de Coninck

Heleen de Coninck is associate professor in innovation studies and sustainability at the Department of Environmental Science at Radboud University Nijmegen’s Faculty of Science. Heleen is currently Chair of the Board of Climate Strategies. Before joining Radboud University, she worked for over 10 years on international energy and climate policy at the Energy research Centre of the Netherlands (ECN), the largest energy research institute in the country, and on Carbon dioxide Capture and Storage as part of the IPCC Working Group III Technical Support Unit. Her current research focus is the role of innovation and technology in the international climate negotiations.

Henry Derwent

Henry Derwent is Senior Advisor at Climate Strategies. He was CEO of the International Emissions Trading Association for five years before joining CS, and remains Honorary Vice-President there. Before IETA, he was international climate change Director for the UK Government, he oversaw the UK’s role in the international negotiations, in the G8 (especially as Prime Minister's special representative during the UK G8 Presidency in 2005) and in other forums. Henry has been closely associated with the development of greenhouse gas
trading in the UK and Europe from its earliest days. He previously had responsibilities for all aspects of climate change and sustainable energy in the UK as well as air quality and industrial pollution control. Before that, he was an international corporate finance executive at a major investment bank.

**Kerstin Duell**

Based in Southeast Asia since 2002, Dr. Kerstin Duell has worked in and on Burma/Myanmar in various capacities and moved. She specialised on Burmese politics within the context of Asian geopolitics and security for her BA, MA and PHD in Berlin, London and Singapore respectively. Her thesis focused on Burmese transnational activism, armed ethnic movements and their dependencies on donors before the backdrop of the region's non-traditional security issues and geopolitics. The field research was conducted among the Burmese political exiles as well as refugees and migrants in Thailand, India, Northeast India and Malaysia, especially in the borderlands. The Indian Centre for Security Analysis commissioned a 40-page summary in 2010. Her latest publications look at the roles of the returning diaspora in Myanmar's reforms. She is part of the francophone research circle convened by the French Embassy and Institut Français in Yangon. Having previously worked as the Konrad-Adenauer Foundation's Myanmar programme manager from 2012-2014, earlier as a photojournalist and activist with Burmese exiles in Thailand, she currently runs her own consultancy in Yangon, mainly doing political risk assessments, research projects for INGOs and the occasional guest lectures. For the past year, she also wrote political analyses for Hannes Siebert, one of the chief architects of the current peace process, and the ethnic nationality Pyidaungsu Institute.

**Wytze van der Gaast**

Wytze van der Gaast MSc. is senior researcher at JIN and editor of the JIQ. He has participated in the research projects carried out by JIN on Activities Implemented Jointly and the Kyoto mechanisms and was one of the coordinators of the PROBASE research project (2002). From 2003 to 2005, he participated in the SYNERGY project "Business Opportunities for CDM Project Development in the Mediterranean." From 2004 to 2006, he was involved in the Asia pro-Eco programme project on "Establishing an EU-Asian dialogue on the CDM: capacity building and identification of project opportunities." In 2006, he participated in a study project within the context of the EU-Thailand Economic Cooperation SPF on the impact of the CDM Linking Directive for Thailand (coordinated by ERI, Thailand). During 2006-07, he is member of the coordinating team of ENTTRANS - a project on the diffusion of sustainable energy technologies to developing countries via the CDM (EU Sixth Framework Programme) and is a Ph.D candidate at the Faculty of Economics of the University of Groningen.

**Fergus Green**

Fergus Green is a researcher and policy analyst whose work focuses on the ethics, politics and economics of major policy transitions, with a current focus on climate change policy. He is currently a Policy Analyst and Research Advisor to Professor Nicholas Stern at the
Grantham Research Institute on Climate Change and the Environment and the Centre for Climate Change Economics and Policy at the London School of Economics and Political Science, where he has worked on international climate cooperation, climate policy in China, and various theoretical topics relating to climate change mitigation. He is currently leading a comparative policy project analysing the factors affecting the development and implementation of climate policy in the EU, US and China — a collaboration with three other research institutes in each of those regions. He will shortly be commencing PhD studies in the LSE Department of Government, where his research will focus on distributive justice in policy transitions. From 2009–2012, before moving to London, Fergus was a lawyer in the Melbourne office of a large Australasian firm where he specialised in climate, energy, water and environmental regulation.

Joy Hyvarinen

Joy Hyvarinen is Adviser to the Verification Research, Training and Information Centre (VERTIC). She was Executive Director of the Foundation for International Environmental Law and Development (FIELD), working to strengthen international law for people and the environment, from 2007 to 2015. The UNFCCC negotiations were a main focus of her work. Before joining FIELD Joy was International Treaties Adviser to the Royal Society for the Protection of Birds, focusing on the UN Convention on Biodiversity. She was a FIELD Associate and an Associate Fellow with Chatham House for many years. Joy has worked for the Institute for European Environmental Policy, WWF International, Greenpeace International and the International Maritime Organization.

Sylvia Karlsson-Vinkhuyzen

Sylvia Karlsson-Vinkhuyzen is Assistant Professor with the Public Administration and Policy Group of Wageningen University, the Netherlands and Adjunct Professor in global environmental governance at Helsinki University, Finland. In her research Sylvia seeks to understand the key determinants of what makes global energy and climate change governance processes exert influence and build legitimacy among different actors. Among such determinants are participation, transparency, accountability and equity. On this track she has compared different global governance arenas that address climate change mitigation from the energy sector, both within the UN system and outside it. She has also analysed the particular history and dynamics of addressing energy in global governance and proposed normative frameworks for making such governance less of a taboo for states. Sylvia is particularly interested in the role of international norms in their diversity (legal and non-legal, vague and precise etc.) as a governance tool. She is a senior research fellow of the international Earth System Governance Project and a member of the editorial board of the journal International Environmental Agreements.

Sonja Klinsky

Sonja Klinsky is Senior Sustainability Scientist, at the Julie Ann Wrigley Global Institute of Sustainability at Arizona State University. Sonja was formerly a researcher in the Cambridge Centre for Climate Change Mitigation Research at the University of Cambridge. Dr. Klinsky is
particular interest in the dilemmas inherent in attempts to address complex, multi-scalar, sustainability public policy issues. Within this, she is working on two major research trajectories. First, she is continuing to investigate how climate change policy has been developed and perceived in both domestic and international arenas. This work focuses on the development of cap and trade mechanisms, ongoing debates about justice, and the role of economic modelling in policy decision-making. Second, she is engaged in research that explores methodologies for exploring public opinion about sustainability issues. This has included work on public understandings of "pro-environmental" behaviour, public perceptions of justice, and communication strategies for sustainability.

Georgios Kostakos

Georgios Kostakos holds MA and PhD degrees in International Relations (Kent, UK), and a Mechanical Engineering degree (NTUA, Greece). He served on various positions at the United Nations, including as Senior Adviser and Acting Deputy Executive Secretary of the UN Global Sustainability Panel (GSP), as climate change focal point in the Secretariat of the UN System Chief Executives Board for Coordination (CEB), and on peace, human rights and elections-related UN field missions to South Africa, Mexico, Haiti and Bosnia & Herzegovina. Georgios has also worked either as staff member or external advisor with the UN Framework Convention on Climate Change (UNFCCC) Secretariat, the European Commission, the Hellenic Foundation for European and Foreign Policy (ELIAMEP), the University of Athens, the University of Kent, The Hague Institute for Global Justice and Salzburg Global Seminar. He is currently serving as Executive Director of the Foundation for Global Governance and Sustainability (FOGGS), and is co-founder and publisher of Katoikos.eu

Catriona McKinnon

Catriona McKinnon is the Director of the Leverhulme Programme in Climate Justice at the University of Reading, and is a Professor of Political Theory in the Department of Politics and International Relations. She has published widely on issues of climate justice, on topics such as corrective justice and compensation for climate risks, the precautionary principle, triage in climate catastrophes, the ethical implications of the carbon budget, liberal approaches to climate justice, and the role of moral shame in motivating people to take action on climate change. Across all this work she has a particular interest in questions of intergenerational justice. She presently holds a Leverhulme Trust Research Fellowship grant for a project exploring international criminal law as a governance tool for climate change.

Bert Metz

Bert Metz is an ECF Fellow, focused on science and policy issues. He is a member of several scientific advisory boards of international institutes and projects, including the Green Growth Best Practice Initiative. Bert brings extensive experience as former co-chairman of the Climate Change Mitigation Working Group of the United Nations Intergovernmental Panel on Climate Change (IPCC) from 1997 to 2008. (The IPCC received the Nobel Peace Prize for its work in 2007.) He also was climate change coordinator of the Ministry of

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Richard Ponzio

Dr. Richard Ponzio joined The Hague Institute for Global Justice in March 2014 as Head of the Global Governance Program. He is formerly a Senior Adviser in the U.S. State Department’s Office of the Special Representative for Afghanistan and Pakistan, where he conceptualized and coordinated Secretary Hillary Clinton’s and later John Kerry’s New Silk Road regional economic cooperation initiative. From 1999-2009, Dr. Ponzio served in senior policy and strategic planning positions for the UN in Afghanistan, Kosovo, Pakistan, Sierra Leone, the Solomon Islands, and New York. Dr. Ponzio has published widely in academic journals, edited volumes, newspapers, UN policy reports, and monographs, including Democratic Peacebuilding: Aiding Afghanistan and other Fragile States (OUP, 2011). He completed his doctorate in politics and international relations at the University of Oxford on a Clarendon Scholarship and earlier studies at The Fletcher School of Law & Diplomacy, The Graduate Institute for International Studies-Geneva, and Columbia University.

Marija Ristic

Marija joined BIRN’s Transitional Justice Regional Journalistic Network after pursuing a traineeship at the Press and Information Unit at the Delegation of the European Union to Serbia. She has also worked as an assistant editor and science journalist at the Institute for Informatics Systems and Computer Media, at the Technical University of Graz. She has also interned as a journalist focusing on topics related to economics at the Politka daily newspaper. During her studies at the Faculty of Political Sciences in Belgrade she worked as a journalist for the student magazine Politokolog and as host for the Radio production “Slušaonica 6” for Radio Studio B in Belgrade. She also received additional education at the School of Investigative Journalism at the Center for Investigative Journalism in Serbia, the European Journalism Centre in the Netherlands, and other organizations.

Timmons Roberts

Timmons Roberts is Ittleson Professor of Environmental Studies and Sociology at Brown University, where he was Director of the Center for Environmental Studies from 2009 to 2012. He is a Non-Resident Senior Fellow at the Brookings Institution. He taught at the College of William and Mary and directed its Program in Environmental Science and Policy from 2001 to 2009, and before that he held a joint appointment in Latin American Studies and Sociology and co-directed the Environmental Studies program at Tulane University from 1991 to 2001. Timmons was a James Martin 21st Century Professor at Oxford University’s Environmental Change Institute in 2006-2007, and a Research Fellow at William and Mary’s Institute for the Theory and Practice of International Relations in 2008-2009.
Doreen Stabinsky

Doreen Stabinsky is professor of Global Environmental Politics at College of the Atlantic in Bar Harbor, Maine, USA, joining the faculty in 2001. She holds the first Zennström visiting professorship in Climate Change Leadership at Uppsala University, Sweden, in 2015-2016. Her research focuses on the impacts of climate change on agriculture and food security, adaptation and adaptation institutions under the UN Framework Convention on Climate Change (UNFCCC), and on the emerging issue of loss and damage from slow onset impacts of climate change. She is also an independent consultant and serves as advisor to a number of governments and international NGOs on issues related to agriculture, adaptation, and loss and damage under the UNFCCC, and is the author of a number of articles, reports, and policy briefs on these topics. Doreen serves as one of three members of the Independent Review Panel of the Adaptation Fund of the Kyoto Protocol to the UN Framework Convention on Climate Change, and as a civil society observer on the Adaptation Task Force of the UNFCCC Technology Executive Committee. She is co-editor, with Stephen Brush, of the book Valuing local knowledge: indigenous people and intellectual property rights. Doreen studied economics at the undergraduate level and has a Ph.D. in genetics from the University of California at Davis.

Lyal Sunga

Dr. Lyal S. Sunga joined the Institute as Head of the Rule of Law Program on 1 August 2015. Prior to joining the Institute, Dr. Sunga was Visiting Professor at the Raoul Wallenberg Institute for Human Rights and Humanitarian Law (RWI) in Lund, Sweden, and served as former Special Advisor on Human Rights and Humanitarian Law at the International Development Law Organization (IDLO) in Rome, Italy. Dr. Sunga, who is Canadian, holds a BA (Carleton), LLB (Osgoode Hall Law School), LLM (Essex) and PhD (The Graduate Institute of International Studies). He is an internationally recognized academic and practitioner specialized in international human rights law, humanitarian law and international criminal law and he has worked in some 55 countries teaching, training and providing technical assistance for the UN, IDLO, European Commission, Governments, the judiciary and non-governmental organizations. From 1994-2001, Dr. Sunga was Human Rights Officer at UNOHCHR in Geneva, first to work with the UN Security Council’s Commission of Experts on Rwanda to investigate facts and responsibilities for the genocide, and then to backstop the Human Rights Field Operation in Rwanda. In 1998, he became Coordinator for the Asia-Pacific Team in the Special Procedures Branch and served as OHCHR representative to the Rome Conference on the ICC, among many other responsibilities. He was also Associate Professor and Director, Human Rights LLM program at the University of Hong Kong Faculty of Law. In 2007, he served as Coordinator for the UN Human Rights Council’s Group of Experts on Darfur. Over the last 25 years, Dr. Sunga has worked with the UN Security Council, UNOHCHR, UNDP, UNDEF, UNU, UNHCR, UNITAR, UNODC, ILO, EU, IDLO, Swiss Development Cooperation, and National Human Rights Commissions in the Russian Federation, Ethiopia, Uganda, Nigeria, Bangladesh, Nepal and Turkey.
Abiodun Williams

Dr. Abiodun Williams was appointed the first President of The Hague Institute for Global Justice on January 1, 2013. From 2011 to 2012 he served as Senior Vice President of the Center for Conflict Management at the United States Institute of Peace (USIP) in Washington, DC. He led USIP’s work in major conflict zones such as Afghanistan, Pakistan, Iraq, Libya, Tunisia and Egypt. He served as Vice President of USIP’s Center for Conflict Analysis and Prevention from 2008 to 2011, and had primary responsibility for the Institute’s work on conflict prevention, Iran, and Northeast Asia. From 2001-2007, Dr. Williams served as Director of Strategic Planning in the Executive Office of the United Nations Secretary-General, where he was a principal adviser to Secretaries-General Ban Ki-moon and Kofi Annan. He served in three peacekeeping operations in Macedonia, Haiti, and Bosnia-Herzegovina from 1994 to 2000 as Special Assistant to the Special Representative of the Secretary-General, and Political and Humanitarian Affairs Officer. In 2012 Dr. Williams was elected Chair of the Academic Council on the United Nations System (ACUNS). He is a Member of the Executive Board of the Institute for Global Leadership at Tufts University. Previously he served as a Trustee of the Lester B. Pearson United World College of the Pacific in Canada, and a Member of the International Board of Directors of the United World Colleges.

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