Maria L. Banda

Associate Attorney

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Washington, D.C.



Maria L. Banda is an associate in the Washington, D.C. office of Gibson, Dunn & Crutcher. She is a member of Gibson Dunn's Litigation and International Arbitration Practice Groups and a member of the ESG: Risk, Litigation, and Reporting group.

Dr. Banda's practice focuses on complex cross-border disputes, including international arbitration, transnational litigation, and public international law. She has wide-ranging experience in international commercial arbitration and investor-state arbitrations across five continents and across different industries, including energy, mining, extractives and natural resources, financial services, and aerospace. She has represented and advised private companies, sovereign states, and individuals in a variety of arbitral and judicial proceedings. Dr. Banda also has experience in complex litigation involving questions of international law (including, *inter alia*, rights and obligations arising under international treaties, substantive protections offered by customary international law, foreign sovereign immunity, and jurisdiction and extraterritoriality) and has advised clients at all levels of U.S. federal courts.

Dr. Banda also maintains an active *pro bono* practice, advising clients on matters of public international law, international environmental law, climate change, and international human rights law. She has represented clients and advised on proceedings before the African Court on Human and Peoples' Rights and the Inter-American Court of Human Rights. Dr. Banda has particular expertise in international disputes, public international law, international environmental law, management of transboundary environmental resources, and climate change.

Prior to joining Gibson Dunn, Dr. Banda worked as part of another leading D.C. law firm, where she represented clients in complex international disputes. She was the William C. Graham Fellow at the University of Toronto Faculty of Law, where she focused on emerging issues in climate law and taught Public International Law. Previously, Dr. Banda worked with several international organizations, including the World Trade Organization, the Office of the High Commissioner for Human Rights, and the International Labour Organization, as well as with the Corporate Social Responsibility Initiative and the UN Secretary-General's Representative on Business & Human Rights at the Harvard Kennedy School (tasked with developing the U.N. Guiding Principles on Business and Human Rights).

She is a graduate of Harvard Law School (J.D.), the University of Toronto (Hon. B.A., International Relations, Economics, and History), and Oxford University (M.Phil., D.Phil., International Relations), where she studied as a Rhodes Scholar and a Trudeau Scholar. She clerked for the Hon. Mr. Justice Ian Binnie and the Hon. Mr. Justice Michael Moldaver at the Supreme Court of Canada.

She has published extensively on these issues in both academic journals and popular press and is a frequent speaker at international conferences. She has focused in particular

Capabilities

International Arbitration
Cleantech
ESG: Risk, Litigation, and Reporting
Energy and Infrastructure
Geopolitical Strategy and International Law
Judgment and Arbitral Award Enforcement
Litigation
Power and Renewables
Public Policy
Transnational Litigation

Credentials

Education

Balliol College - University of Oxford - 2011 Doctor of Philosophy
Harvard University - 2010 Juris Doctor
Balliol College - University of Oxford - 2006 Master of Philosophy
University of Toronto - 2004 Bachelor of Arts

Admissions

District of Columbia Bar
New York Bar

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on emerging issues in climate law and policy, such as managing climate risk exposure faced by businesses and the public sector, private climate governance, and climate-related disputes.

Dr. Banda is a Visiting Attorney at the Environmental Law Institute in Washington, D.C., a Member of the IUCN World Commission on Environmental Law, an Advisory Board Member of the Canadian Centre for the Responsibility to Protect, and a former World Economic Forum Global Shaper. Dr. Banda is fluent in English, French, Italian, Croatian, German, and Spanish and speaks basic Russian.

Dr. Banda is licensed to practice in New York and the District of Columbia and has been admitted to practice before the United States District Court for the Southern District of New York and the United States Court of Appeals for the Second Circuit.

A representative sample of Dr. Banda's experience includes:*

International Arbitration

- Representing an energy company in an ICC arbitration against an African State in relation to a wrongfully terminated concession agreement.
- Representing a local subsidiary of Liberty Mutual, an insurance company, in an investment treaty arbitration against the Bolivarian Republic of Venezuela.
- Representing a U.S. mining company in relation to potential investment treaty claims against a Latin American State.
- Represented a leading U.S. aerospace and defense technology company in a dispute under a contract to develop and supply military aircraft
- Represented a leading U.S. pharmaceutical company in an arbitration seated in Switzerland involving an intellectual property license
- Represented a major European natural gas supplier in price review arbitration against a European company
- Represented a leading U.S. mining company in an ICSID arbitration against an Asian state
- Represented leading European banks in investment arbitrations against a Central European State

Transnational Litigation

- Advising a client on parallel litigation proceedings across three jurisdictions, including the United States, in relation to a sovereign State and state-owned companies.
- Represented a leading U.S. oil and gas drilling company in complex litigation against the Republic of Venezuela and Venezuela's national oil company in D.C. Circuit and U.S. Supreme Court for an unlawful expropriation and breach of contract under the Foreign Sovereign Immunities Act (FSIA)
- Represented *pro bono* a domestic violence victim in a case described by the Second Circuit as involving "novel and significant issues" of "first impression" under the Hague Convention on the Civil Aspects of International Child Abduction (the legal team was honored in 2013 and 2014 with the Above & Beyond Award for Excellence in Pro Bono Advocacy by Sanctuary for Families)

Public International Law

- Represented an African State in a boundary mediation with a neighboring State
- Represented a *pro bono* claimant as part of a team that won a landmark decision in the first freedom of expression case in the African Court on Human and Peoples' Rights in *Issa Loha Konaté v Burkina Faso*

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- Represented IUCN WCEL in a joint written submission with the Organization of American States (OAS) and IUCN WCEL) and delivered oral argument in the Inter-American Court of Human Rights' landmark advisory proceeding on *The Environment and Human Rights* (Advisory Opinion OC-23/18)

Publications

Dr. Banda has been a frequent presenter on international, environmental, and climate law and policy, and has written widely on these topics in law reviews and popular press:

- Climate Science in the Courts: A Review of U.S. and International Judicial Pronouncements (Environmental Law Institute: April 2020) (Publisher | SSRN);
- *Emerging Models of Environmental Dispute Resolution: International Human Rights Law and Transboundary Environmental Harm*, book chapter in Environmental Dispute Resolution and Small States (forthcoming 2020);
- *Regime Congruence: Rethinking the Scope of State Responsibility for Transboundary Environmental Harm*, 103 Minnesota Law Review 1879 (2019);
- *The Bottom-Up Alternative: The Mitigation Potential of Private Climate Governance after the Paris Agreement*, 42 Harvard Environmental Law Review 325 (2018) (Publisher | SSRN);
- *Climate Adaptation Law: Optimizing Legal Design for Multi-Level Public Goods,* 48 Vanderbilt Journal of Transnational Law 1027 (2018);
- *Litigating Climate Change in National Courts: Recent Trends and Developments in Global Climate Law* (with Scott Fulton), 47 Environmental Law Reporter 10121 (2017);
- *Building a Latin American Coalition on Forests: Negotiation Barriers and Opportunities* (with John Oppermann), 44 Vanderbilt Journal of Transnational Law 526 (2011);
- *International Law and the Responsibility to Protect: Clarifying or Expanding States' Responsibilities?* (with Jennifer M. Welsh), 2 Global Responsibility to Protect 213 (2010);
- *International Law and the Responsibility to Protect: Clarifying or Expanding States' Responsibilities?* (with Jennifer M. Welsh, The Responsibility to Protect and International Law (Alex J. Bellamy et al. , 2011);
- *On the Water's Edge? A Comparative Study of the Influence of International Law and the Extraterritorial Reach of Domestic Laws in the War on Terror Jurisprudence*, 41 Georgetown Journal of International Law 525 (2010)'
- *Summers v. Earth Island*, 34 Harvard Environmental Law Review 321 (2010).

Speaking Engagements

- Invited Speaker, International Climate Litigation: Recent Trends and Developments, General Session on The Proliferation and Implications of Climate Litigation, Virtual 67th Annual Rocky Mountain Mineral Law Institute (July 19, 2021);
- Invited Speaker, Shareholder Activism on Environmental and Social Issues, panel convened by the Securities Litigation Practice Group of The Advocates Society (Toronto, Canada, April 8, 2021);
- Invited Speaker, Climate Science in the Courts, *Clean Energy Group Webinar* (Washington, D.C., 17/06/2020);
- Climate Science in the Courts, *People Places Planet Podcast*, Season 2, Episode 8 (Environmental Law Institute, Washington, D.C., 22/04/2020);
- Invited Speaker, Presentation on Environmental Dispute Resolution, *Conference on Environmental Dispute Resolution and Small States* (London, UK, 08/09/2018);

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- Speaker, “Rethinking the Scope of State Responsibility for Transboundary Environmental Harm,” presentation at *2018 Institute for Global Law Policy Conference* (Harvard Law School, Cambridge, MA, 03/06/2018);
- Speaker, “Rethinking the Scope of State Responsibility for Transboundary Environmental Harm,” presentation at *International Legal Theory Interest Group Roundtable, American Society of International Law Annual Meeting* (Washington, D.C., 06/06/2018);
- Invited Keynote, “R2P in the Anthropocene,” Model United Nations, Don Mills Collegiate Institute, (Toronto, Canada, 29/03/2018)
- Invited Speaker, “Climate Action after Paris: Closing the Ambition Deficit,” presentation at *Shaping Global Summitry Anniversary Conference*, Munk School of Global Affairs, University of Toronto (Toronto, Canada, 12/03/2018);
- Speaker, “Rethinking the Scope of State Responsibility for Transboundary Environmental Harm,” presentation at Faculty Workshop, University of Toronto, Faculty of Law (12/03/2018);
- Moderator, Panel on Energy, Environment and Climate Change, *Confederation of Tomorrow 2.0 Conference*, Mowat Centre (Toronto, Canada, 12/12/2017);
- Invited Panelist, “What’s to be done in the next 50 years?”, Conference on *The First and Next 150 Years of Canadian Federalism: What’s Been Done? What’s to be Done?*, hosted by Idée fédérale and the Institute for 21st Century Questions (Toronto, Canada, 22/11/2017);
- Invited Panelist, “Global Adaptation Goal and Borderless Climate Risks: Strengths and Limits of the Paris Agreement,” UNFCCC Official Side-Event at the 23rd Conference of the Parties (COP23) to the United Nations Framework Convention on Climate Change, hosted by Fiji (Bonn, Germany, 15/11/2017);
- Invited Speaker, “Protecting the Paris Bargain: Defining the Scope of Transparency Obligations under the Paris Agreement,” presentation at the *Climate Law and Governance Day 2017: Advancing Law & Governance Contributions to Climate Action under the Paris Agreement* (Bonn, Germany, 10/11/2017);
- Invited Speaker, “Navigating the New World Disorder: Risks and Opportunities for Canada,” presentation at the Canadian International Council, Research Program Launch (Toronto, Canada, 24/10/2017) (invited lecture);
- Invited Public Lecture, “The Climate-Security Nexus,” *Environment*, *Sustainability and Society Lecture Series*, College of Sustainability, Dalhousie University (Halifax, Canada, 04/10/2017) (public lecture);
- Invited Guest Speaker, “Navigating the New World Disorder: Risks and Opportunities for Canada,” presentation to the Canadian International Council (Halifax, Canada, 04/10/2017) (public lecture);
- Speaker, “Global Climate Adaptation: Governing Adaptation Across State Boundaries,” workshop presentation at Environmental Governance Lab, Munk School of Global Affairs, University of Toronto (Toronto, Canada, 29/09/2017);
- Invited Keynote, “R2P in the Anthropocene,” the Canadian Centre for the Responsibility to Protect (CCR2P) Youth Summit (Toronto, Canada, 27/09/2017);
- Speaker, “The Food-Water Nexus and International Law: Climate Change Adaptation Across State Boundaries,” presentation at International Conference on *Water-Energy-Food Nexus and Environmental Sustainability: Choices, Compromises, and Priorities*, held on the occasion of the 13th Annual Conference of the European Society of International Law on *Global Public Goods, Global Commons and Fundamental Values: The Responses of International Law* (Naples, Italy, 06/09/2017);
- Speaker, “The Bottom-Up Alternative: Private Options for the Implementation of the Paris Agreement,” presentation at 6th Annual Journal of Environmental Practice Conference on *Climate Change Law & Policy following the Paris*

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Agreement (Halifax, Canada, 16/06/2017);

- Invited Speaker, "Climate Adaptation after Paris: A Multi-Level Governance Model," presentation at International Scientific Workshop on *The Emerging Complexity of Climate Adaptation Governance in a Globalising World* (Stockholm, Sweden, 22/05/2017);
- Panelist, Transformative Climate Mitigation Strategies and Initiatives, *CIGI Roundtable: The Way Forward on Climate Action* (Ottawa, 12/01/2017);
- Invited Speaker, "Climate Change and Human Security: The Way Forward for Canada," presentation at *The Ottawa Process Twenty Years Later: The Landmine Treaty, Human Security, and Canada in the Twenty-First Century*, conference convened by Canadian Landmine Foundation, Bill Graham Centre for Contemporary International History, and Canadian International Council (Toronto, 28/10/2016) (invited lecture);
- Invited Co-Presenter (with Scott Fulton), "Litigating Climate Change and Sea Level Rise: Recent Trends and Developments in National Courts," presentation at the *4th Biennial Conference on Law of the CCJ's Caribbean Academy for Law and Court Administration* (St. Marteen, 27/10/2016) (invited lecture);
- Invited Speaker, Environmental Law Institute's Monthly Briefing – Special Briefing on COP21 (Washington, D.C., 15/12/2015);
- Invited Speaker, "Advancing Access to Justice in Latin America and the Caribbean: Recent Trends and Developments in Environmental Access Rights," presentation at *1st Inter-American Congress on the Environmental Rule of Law*, held under the auspices of the Organization of American States (OAS), United Nations Environment Programme (UNEP), IUCN World Commission on Environmental Law, and the Caribbean Court of Justice (Montego Bay, Jamaica, 31/03/2015);
- Invited Panelist, "Improving Access to Justice: Recent Trends and Developments in Procedural Environmental Rights," presentation at the *3rd UNITAR-Yale Conference on Environmental Governance and Democracy*, "Human Rights, Environmental Sustainability, Post-2015 Development, and the Future Climate Regime" (Yale University, New Haven, Connecticut, USA, 06/09/2014);
- Invited Speaker, "Climate Adaptation Law and the Private Sector," presentation at the Legal Aspects of Sustainability Panel, *20th Annual International Sustainable Development Research Conference* (University of Trondheim, Norway, 19/06/2014);
- Invited Lecture, "The Responsibility to Protect and International Law: Between Normative Commitments and Political Realities," *Human Rights and Employment Law Conference*, The Commons Institute (Toronto, Canada, 25/02/2013);
- Speaker, "The Private Sector and Climate Change Adaptation: Incentives, Barriers, and the Law," prepared for the *Climate Change Law, Adaptation, and Sustainability Panel*, organized by CLEAR, ELI, and ASIL, 2012 The Rio + 20 Conference on Sustainable Development (Rio de Janeiro, Brazil, 15/06/2012);
- Invited Lecture, "R2P and Normative Change," Panel at the Canadian Centre for the Responsibility to Protect Conference on *Ten Years After the ICISS: Reflections for the Past and Future of the R2P*, University of Toronto Munk School of Global Affairs (Toronto, Canada, 11/2011);
- Invited Guest Lecture, "Governing Global Climate Change: From Rambouillet 1975 to Heiligendamm 2007," *ECLA-Oxford Conference on Climate Change, Energy and Security* (Berlin, Germany, 02/06/2007).

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