

CONFERENCE REPORT

**HOW TO ACT RESPONSIBLY  
TODAY? POLITICS OF LAW IN  
EUROPE AND JAPAN**

Saturday April 26, 2025

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# HOW TO ACT RESPONSIBLY TODAY? POLITICS OF LAW IN EUROPE AND JAPAN

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Organizing Institution: Nippon Institute for Research Advancement (NIRA)

Organizers / Originators: Gilles Campagnolo | Adrienne Sala

Panel 1 Moderators: Gilles Campagnolo | Adrienne Sala

Presenters: Raphaël Languillon | Kanako Takae | Marie Eliphe

Panel 2 Moderator: Yasushi Watanabe

Presenters: Maiko Ichihara | Hirohide Takikawa | Isabelle Giraudou

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<https://english.nira.or.jp>

Report Authors: Gilles Campagnolo | Adrienne Sala | Yasushi Watanabe

Report Editors: Kazuko Kawamoto | Jonathan Webb

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**PANEL I**

**RESPONSIBILITY IN ACTION: LAW,  
ECONOMICS, AND SOCIETY FACING GLOBAL  
CHALLENGES**

**MODERATORS**

**GILLES CAMPAGNOLO**

RESEARCH PROFESSOR, FRENCH NATIONAL CENTER FOR  
SCIENTIFIC RESEARCH AND PARIS PANTHEON-SORBONNE  
UNIVERSITY

**ADRIENNE SALA**

ASSISTANT PROFESSOR, WASEDA UNIVERSITY

**PANELISTS**

**RAPHAËL LANGUILLON**

RESEARCHER, FRIJ-MFJ

**KANAKO TAKAE**

RESEARCH ASSOCIATE, WASEDA UNIVERSITY

**MARIE ELIPHE**

ASSISTANT PROFESSOR, PARIS PANTHEON-ASSAS UNIVERSITY

# Responsibility in Action - Law, Economics, and Society Facing Global Challenges

Gilles CAMPAGNOLO\* & Adrienne SALA\*

## Introduction

How to act responsibly? This question, at the heart of much of our discourse today, is the foundational idea for this conference, which we conceptualized and hosted in collaboration with the Nippon Institute for Research Advancement.

We believe responsibility emerges from the intersection of three processes: the self-help inherent to our personal and collective survival, personal and collective decision-making, and the coordination of collective action. This is particularly relevant for Panel 1, which focuses on three major concepts: responsibility, choice, and coordination. This is also relevant to ongoing research being conducted at our home institution, which we lead as both principal investigator (Campagnolo) and day-to-day operations manager (Sala). A key takeaway from that work is that responsibility demands freedom, even if freedom can engender irresponsibility. Without freedom, choice becomes meaningless; without choice, responsibility cannot exist. The principal aim of coordinating action, then, is to ensure a common denominator of orientation between all the intersecting individual choices, while also protecting the spontaneity inherent to free human interaction.

This burden falls particularly heavily on the "adults in the room," in other words the thinkers, lawyers, economists, political scientists, geographers, philosophers, and other experts who are tasked with safeguarding the truth and knowledge necessary for responsible action, even when that action may appear or may indeed be unpopular. This concept of responsibility naturally extends to the basic material human interaction, namely economic systems. Thus, free trade has relied heavily throughout modern history on the theoretical foundations first laid by Adam Smith and David Ricardo, and then illustrated by so many notable figures, among them Carl Menger, Stanley Jevons and Leon Walras, Eli Heckscher, Bertil Ohlin and Paul Samuelson, Milton Friedman and many others, from early Classics to the present day.

As well as theories, free trade relies on institutions, creating market structures that enforce a baseline of responsibility through contracting, legal frameworks, and established practices. Yet when systems and actors stray from responsible behavior, intellectuals and policymakers must act responsibly to restore accountability.

While the modern concept of responsibility developed primarily in Europe before spreading globally, its implementation has varied markedly across different

civilizations. For example, Japan's distinct developmental experience has produced alternative understandings of responsibility that differ from European frameworks. Responsible behavior can thus be framed as charting a shared course for the future by adapting and taking into account these divergent views on responsibility.

The three presentations in Panel 1 explored this challenge across different domains, unified by a common question: "who decides for whom?" In the first presentation, Raphaël Languillon examined climate responsibility in local planning, followed by Kanako Takae, who explored moving beyond anthropocentrism in legal frameworks, and concluding with Marie Eliphe, who analyzed corporate responsibility for humanitarian disasters.

Using diverse approaches from varied domains, these presentations revealed how existing conceptions of responsibility have become increasingly inadequate both over time and with the advent of new challenges, often failing to keep pace with the rapidly expanding scope and consequences of human economic activity, where local decisions can increasingly have global consequences.

**(\*) Acknowledgment:**

*The work leading up to Panel 1 received support from the French National Center for Scientific Research - Humanities and Social Sciences (France) within the framework of the "Responsibility, Choice and Coordination (ReCCord)" International Research Network (IRN/J&I/2025-2029).*

## **1. Raphaël LANGUILLON: Climate Responsibility and Local Planning**

Languillon's presentation opened with a striking observation: despite responsibility being at the heart of urban planning, academic literature on the topic remains surprisingly limited. His analysis revealed three distinct layers of planning responsibility operating simultaneously in contemporary governance.

Traditional planning responsibility operates across multiple scales. State and public authorities bear moral responsibility for equipping territories to create wealth, protecting vulnerable areas and populations, and ensuring equitable distribution of resources and services. Individual property owners face legal and even sometimes criminal responsibility through land ownership and real estate development requirements. Finally, what Languillon termed "post-welfare state responsibility" places the burden on individuals in the choices they made to acquire assets—particularly housing—as financial insurance in an era of declining social safety nets.

Urban planning also plays a significant role in climate change and has a great responsibility in it. Urban sprawl and land artificialization directly contribute to global warming by reducing arable land and consuming forests and natural resources, which release CO<sup>2</sup> in the atmosphere. The data illustrate the scale of this challenge: France artificialized more than 2,700 square kilometers between 2009 and 2019, with housing accounting for two-thirds of this conversion. More striking still, over half of current artificialization occurs not in major cities but in rural municipalities with fewer than 2,000 residents, most of them even losing inhabitants.

Languillon grounded this analysis in the broader Anthropocene framework, the geological concept formalized in 2000 by Paul Joseph Crutzen and Eugene Stoermer. The Anthropocene—literally "the era of Man"—designates the period when humanity acquired unprecedented capacity to act as a geological force, leaving permanent marks on the Earth's lithosphere. Languillon identified three sub-periods: the modern/colonial period marked by industrial revolution, the nuclear age identifiable through radioactive isotope deposits, and the current "great acceleration" characterized by exponential anthropogenic environmental impacts including what he termed the "Four Major Anthropocene Mutations": global warming, biodiversity crisis, resource depletion, and altered biotic systems.

The structural drivers of this paradox lie in capitalism itself. As Languillon regarded this economic system, that is a system based on profit through wage labor exploitation and natural resource appropriation, capitalism creates what neo-Marxist scholars term a "spatial fix"—the geographic expansion needed to resolve periodic crises of accumulation. This process, Languillon argued, directly enables the inequalities and spatial exploitation that characterize the Anthropocene.

This analysis led to Languillon's central thesis: the "Anthropocene City Hypothesis." Rather than viewing cities as existing within the Anthropocene era, this framework positions global urbanization as the primary driver of the Anthropocene itself. Urbanization doesn't simply occur during the Anthropocene—it creates the Anthropocene through its connection to all four major planetary transformations. If urbanization drives the Anthropocene, then responsibility for climate change lies directly with cities and global urbanization processes. This shifts the focus from individual consumer choices or national policies to the fundamental patterns of spatial development that organize modern life.

Languillon's research agenda addresses these challenges through two complementary approaches. First, he seeks to explore whether responsibility itself constitutes a spatial notion—whether it can be "spatialized" across different scales of governance. Second, he plans to examine how responsibility as a concept influences planning regimes, laws, procedures, and forms across Japan, Europe, and Asia, potentially revealing alternative approaches to the democratic-climate paradox.

The central question emerging from this analysis—"who plans for whom?"—would prove to resonate across all three presentations, highlighting the broader challenge of defining what it means to behave responsibly today.

## **2. Kanako TAKAE: Beyond Anthropocentrism: Rethinking Ethical Framework for the Future**

Takae's presentation examined a fundamental puzzle in contemporary legal reform: why do some attempts to expand rights beyond humans succeed while others fail? Her analysis began with the historical dominance of anthropocentrism—the focus on human interests that has defined traditional ethical systems. Exemplified by Kantian ethics, this perspective draws sharp boundaries between humans and non-humans, treating both animals and nature as mere resources or property.

This anthropocentric consensus remained largely unchallenged until the 1960s, when emerging animal welfare and environmental movements began exposing its limitations. Ruth Harrison's *Animal Machines* revealed the deplorable conditions of factory farming, while Rachel Carson's *Silent Spring* highlighted widespread environmental degradation. These works catalyzed broader public awareness of anthropocentrism's harmful consequences.

Academic responses followed societal shifts. Peter Singer challenged what he termed "speciesism"—the unjustified privileging of human interests over those of other sentient beings—advocating instead for equal consideration based on sentience rather than species membership. Aldo Leopold emphasized ecological interdependence, calling for extending ethical concerns to entire land communities and redefining land not as property but as a community to which humans belong.

The results, however, have been decidedly mixed. While these arguments significantly influenced public discourse and policy—expanding animal welfare legislation particularly in Europe and incorporating ecological interdependence into legal frameworks—the practices that originally spurred these movements persist. Factory farming, fossil fuel extraction, and deforestation remain legal, widespread, and sometimes subsidized globally.

Will Kymlicka's assessment captures this impasse: animals remain legally categorized as property, fundamentally limiting meaningful reform possibilities. This reveals what Takae identified as a persistent gap between ethics and law. While ethicists successfully challenged anthropocentrism by emphasizing non-human entities' intrinsic value, translating this ethical vision into legal frameworks grounded in the rigid person-thing dichotomy has proven exceedingly difficult.

Takae's research explores legal personhood as a tool for breaking this impasse. Unlike corporations—the most notable example of non-human legal persons—which serve primarily instrumental purposes within anthropocentric frameworks, applying legal personhood to non-human entities could recognize them as more than mere property. As an existing legal mechanism, legal personhood offers reform possibilities within current systems, potentially moving beyond rigid person-thing dichotomies to incorporate non-human perspectives into legal reasoning.

An examination of existing cases reveals a counterintuitive pattern. Successful applications of legal personhood typically involve natural entities like New Zealand's Te Urewera (formerly a national park) and Whanganui River, both sacred to Māori people. Meanwhile, attempts to grant personhood to animals—such as the Non-Human Rights Project's efforts for captive chimpanzees and elephants—have largely failed, with courts arguing that animals cannot qualify as legal persons because they cannot bear legal responsibilities.

The irony, as Takae noted, is striking: chimpanzees and elephants are familiar, intelligent animals sharing far more with humans than rivers or parks, yet landscape personhood proves more legally achievable than animal personhood.

This puzzle led Takae to analyze what differentiates successful from unsuccessful cases. She identified four types of legal personhood: fictional, realist, symbolic/expressive, and functional/instrumental.

Figure 1: Towards Relational Personhood

Type	Key Features	Function	Examples
<b>Fictional</b>	Personhood is a legal invention; not based on moral or biological reality	Strategic tool for assigning legal roles without requiring moral status	Whanganui River, Te Urewera
<b>Realist</b>	Entity is a person because of its <b>intrinsic moral or cognitive traits</b>	Seeks legal recognition based on <b>pre-existing moral worth</b>	<b>NhRP</b>
<b>Symbolic / Expressive</b>	Personhood used to express <b>societal or cultural values</b>	Signals moral importance or relational respect without enforcing full legal standing	Whanganui River
<b>Functional / Instrumental</b>	Personhood granted for practical, <b>governance-related reasons (not moral claim)</b>	Enables legal standing, guardianship, non-ownership, or administrative utility	Te Urewera, Whanganui River

(Kanakanaka Takae, "Beyond Anthropocentrism: Rethinking Ethical Frameworks for the Future," presentation at "How to Act Responsibly Today? Politics of Law in Europe and Japan" conference, April 26, 2025)

The pattern is clear: cases seeking the "realist" type, which focuses on intrinsic value found within entities, tend to fail, while symbolic/expressive types reflecting social or cultural values, along with fictional and functional/instrumental types serving practical legal purposes, typically succeed.

Traditional ethical arguments create their own obstacles. By grounding claims in individual capacities—sentience, cognitive ability, autonomy—they establish high thresholds that courts view as unworkable within existing legal

contexts. Takae proposes shifting toward relational frameworks similar to successful symbolic and expressive approaches. Rather than focusing on individual traits, this approach emphasizes ecological, cultural, and social relationships, building on cases where personhood emerged from relational embeddedness rather than human-like capacities.

This relational approach would reimagine non-human beings as "relational subjects"—beings constituted entirely through human-shaped relationships of vulnerability. Factory farming persists partly because animals lack legal recognition beyond functional or economic value. By reimagining animals as embedded in webs of relationships involving production, care, and harm, relational legal personhood could establish new frameworks acknowledging obligations to protect and care for beings humans have made vulnerable.

Such frameworks would shift legal focus from ownership to responsibility and care, establishing constraints on systemic domination and providing pathways beyond property status narratives. As Takae concluded, law can serve as a vehicle for ethical change, reorienting societal understanding of relationships with non-human others. Ethics and law together can move toward relational personhood frameworks—part of contemporary responsibility for both present and future worlds.

The question implicit in Takae's analysis—"who ascribes rights to whom or what?"—would prove central to broader conference discussions about authority and representation in democratic governance.

### **3. Marie ELIPHE: The Liability of Companies: The Solution to Humanitarian Disaster?**

Eliphe's presentation opened with two stark reminders of the devastating potential of unchecked corporate power: the 1984 Bhopal chemical accident, in which an explosion at a pesticide factory released 40 tons of methyl isocyanate into the atmosphere, and the 1999 Erika oil spill that resulted from the sinking of a Japanese-built tanker off Brittany's coast. While the legal reaction to such catastrophes is to seek liability, Eliphe noted that this proves more difficult than it initially appears, with most traditional liability frameworks struggling to adequately deal with these challenges.

For example, French accident-based law, like most legal systems, requires proof of damage, tort, and causality. While damage is easily demonstrated in cases like Bhopal and Erika, establishing tort and causality proves far more difficult. Tort requires either clear legal violations or behavior falling outside of so-called "reasonable standards." Eliphe was quick to point out, however, that many

humanitarian disasters occur precisely because people followed "average" corporate behavior.

This paradox led Eliphe to invoke Iris Marion Young's theory of structural injustice: the very practices that cause systemic harm often conform to legal requirements and industry standards. If acting responsibly means following laws and average behavior, then such "responsible" conduct becomes the cause of humanitarian disasters—a troubling circularity that traditional liability frameworks cannot address.

Generational change, however, is shifting these dynamics. Younger generations, raised amidst the threat of terrorism and an awareness of climate change, increasingly recognize the devastating consequences of existing paradigms and demand greater accountability. This is interrelated with how law often evolves alongside morality, as demonstrated when France's Supreme Court found Total liable for Erica's environmental damage, leading to legislation making tort easier to prove.

Within this context, corporate social responsibility represents a most significant transformation. Initially dismissed as performative marketing—ethics charts and voluntary commitments without legal backing—public pressure has gradually enhanced its effectiveness. What began as corporate window-dressing has evolved into an important legal mechanism for preventing humanitarian disasters.

International frameworks laid crucial groundwork. The OECD's 1976 principles encouraged responsible multinational behavior regarding human rights and environment. The UN's 1992 Rio Summit promoted precautionary environmental approaches and technology diffusion, followed by the 2000 Global Compact requiring companies to follow ten universal principles and report annually on implementation. While not always domestically enforceable, these agreements build moral and quasi-legal frameworks against environmental abuse, paving the way for domestic legal development.

French legal evolution exemplifies this progression. The 2016 Civil Code modification added "ecological damage" concepts, allowing environmental associations to pursue corporate liability. The 2017 Duty of Care Law established legal obligations for prudent environmental behavior, requiring large companies to elaborate "vigilance plans" ensuring both their own compliance and that of their suppliers. The 2019 modification of Civil Code Article 1833 mandated that companies be managed according to "best interests" accounting for social and environmental challenges. Most recently, the 2024 EU Directive on Duty of Care awaits translation into French law.

These legal developments face significant limitations. Vague terminology complicates judicial application, causality remains difficult to prove across complex supply chains, and jurisdictional issues arise when damage occurs outside France. Yet French judges have proven resourceful, using legal ambiguity to pursue broad interpretations encompassing expanded duty of care. Notable examples include the 2023 La Poste case, where a Paris tribunal found the company liable for a

lack of adequate vigilance planning, and the 2024 Total case, where courts ruled environmental associations' actions under duty of care law admissible.

However, a fundamental problem persists, liability rules repair damage after it occurs, while responsible action demands anticipating and preventing harm.

Toward this end, the evolution of companies' internal corporate governance offers some potential hope. After shifting away from what were initially just marketing gestures, two tools have emerged that have dramatically enhanced corporate social responsibility's importance. The first is collective agreements between companies and unions which create binding commitments at the parent company level, enabling pressure on subsidiaries. The second and more effective measure is the way in which supplier contracts increasingly specify that agreements remain valid only if suppliers respect human rights and environmental principles.

Articles of association provide another mechanism. While not mandatory, the Civil Code encourages companies to specify purposes guiding resource allocation. By 2024, 107-123 French companies included environmental protection in their purposes, with energy companies like Veolia and GDF Suez incorporating ecological transition goals. Yet enforceability remains questionable: while contracts and articles should be binding, unclear beneficiary designation raises fundamental questions about who can enforce these commitments.

Administrative oversight partly addresses these gaps. The multiplication of governance systems provides consistency, with companies managed according to stated purposes or facing liability before courts and administrative control bodies imposing significant penalties. The French Prudential Supervision and Resolution Authority, for instance, monitors corporate climate risk activities.

Contemporary threats highlight persistent vulnerabilities. The Trump administration's decrees against positive discrimination force French companies working with American institutions into impossible choices. These decrees directly contradict policies adopted by many French companies, creating fundamental conflicts between economic interests and environmental values. As Eliphe observed, companies face a choice "between worldwide sales and the world itself."

This contemporary challenge crystallizes the broader question underlying Eliphe's analysis: when multinational corporations operate across jurisdictions with conflicting values, who ultimately determines corporate responsibility? The tension between sovereignty and transnational corporate power remains unresolved, highlighting the need for new governance mechanisms that can hold private power accountable to public values across borders.

## **4. Discussion, Question & Answer Session**

The conference's central question—"how to act responsibly today?"—proves more complex than is initially apparent. It requires attention to the actors who are being

asked to behave responsibly and to the frame within which they operate. Since institutions are manifold, especially when considered through diverse cultural frames, clarification is highly desirable, and it is exactly this clarification that lawyers, economists, political scientists, geographers, and philosophers aim for.. The opening framework identified "acting responsibly" as emerging from the intersection of responsibility, choice, and coordination, requiring freedom as its foundation. Then the three presentations revealed how strained and inadequate our existing systems of responsibility often are.

Across the three domains of urban planning, legal frameworks, and corporate governance, similar challenges emerged in defining and implementing responsibility across different scales. Languillon's analysis revealed how local planning decisions contribute to global climate consequences through processes such as land artificialization. Takae's research highlighted the limitations of traditional person-thing dichotomies in addressing non-human entities, whereby rivers can gain legal personhood while animals cannot. Meanwhile, Eliphe's work on corporate liability demonstrates the clear inability to adequately address the transnational harm that can be caused by seemingly "average" and "responsible" corporate behavior.

The recurring question emerging across domains, "who decides for whom?" captures these overlapping challenges. As Campagnolo and Sala emphasized during the Q&A session, traditional answers prove inadequate when "the few" are making decisions that affect "all" and the scale of decision making fails to match the scope of its potential consequences for our shared future.

Yet the presentations also revealed innovative responses emerging from these challenges. Languillon's research into "spatializing" responsibility suggests new frameworks for coordinating across scales. Takae's relational personhood concept offers alternatives to rigid person-thing dichotomies that could incorporate non-human perspectives into legal reasoning. Eliphe's analysis of evolving corporate accountability demonstrates how law adapts to moral pressure, even when enforcement mechanisms remain imperfect.

The contemporary urgency of how we respond to these challenges was reinforced during the Q&A session. As Eliphe observed, French companies now face an impossible choice "between worldwide sales and the world itself" as their business interests intersect with the clash between the French regulatory state and the push for deregulation by the Trump Administration in the US. When pressed about weak institutions and individual responsibility, Languillon emphasized that "even if the political regime fails, through planning, a lot of social and political construction will continue to exist"—suggesting that institutional innovations, once embedded in spatial arrangements, can outlast particular political moments.

While the road ahead will be long, "we are not alone, this is about international relationships," let us remember that partnerships among nations sharing similar values must be strengthened. Economic freedom and responsibility

can be mutually reinforcing rather than contradictory, notably through coordinated action among "people of goodwill."

The dialogue between European and Japanese academics underlying this conference suggests one model for such enhanced cooperation. While "Europe is the source" of many concepts discussed, from democracy and responsibility to the rule of law, other civilizations like Japan offer alternative understandings of these concepts that can aid in the construction of our shared future. Exchanging ideas across cultural boundaries represents not merely academic obligation but practical necessity for addressing challenges that transcend any single nation's capacity.

Perhaps most significantly, the presentations demonstrated that responsibility itself requires a reconceptualization for contemporary challenges. Traditional models focusing on individual agency and clear causation prove inadequate for addressing systemic challenges involving multiple actors across space and time. The alternative frameworks emerging from all three presentations—spatial responsibility, relational personhood, and transnational corporate accountability—suggest movement toward what might be called "systemic responsibility": acknowledging obligations that arise from participation in interconnected systems rather than from isolated individual choices.

The path forward will require the coordination of "different understandings," not the triumph of any single approach but the creative synthesis of multiple frameworks for responsible action. Whether this synthesis can emerge quickly enough to address today's challenges remains an open question. But as the conference demonstrated, the work of "exchanging ideas" and "thinking how we will go together" in a willfully free yet coordinated world has already begun.

**PANEL II**

**FRAMING RESPONSIBILITY: GLOBAL  
JUSTICE, AND DEMOCRATIC CHALLENGES**

**MODERATORS**

**YASUSHI WATANABE**

PROFESSOR AT KEIO UNIVERSITY  
/ SENIOR RESEARCH FELLOW AT NIRA

**PANELISTS**

**MAIKO ICHIHARA**

PROFESSOR, HITOTSUBASHI UNIVERSITY

**HIROHIDE TAKIKAWA**

PROFESSOR, UNIVERSITY OF TOKYO

**ISABELLE GIRAUDOU**

PROFESSOR, UNIVERSITY OF TOKYO

# **Framing Responsibility: Global Justice, and Democratic Challenges**

Yasushi WATANABE

## **Introduction**

In Panel 1, each speaker addressed the legal, economic, and social challenges arising as the world grapples with increasingly severe environmental problems, driven in large part by climate change. They reflected on the measures taken so far and explored potential avenues for responsible action. Panel 2, titled “Challenges for Global Justice and Democracy,” approached the conference’s overarching theme of “responsibility” from the perspectives of democracy and justice.

Democracy today faces significant challenges. The decline of the middle class, widening inequality, and the rise of exclusionary nationalism have contributed to deep divisions in many democratic societies. These divisions extend beyond conventional political disagreement; they reflect fundamentally incompatible worldviews, in which opposing sides view each other as existential threats. This can lead people to justify authoritarian measures to protect ‘our’ democracy from ‘them’, ironically undermining the very values they claim to protect. Alarmingly, there is growing concern that democratic processes themselves, particularly elections, may be exploited to entrench authoritarianism, fostering a climate of polarization reminiscent of Weimar Germany in the 1930s.

On the global stage, authoritarian regimes are gaining influence, while the narrative championed by democratic nations appears to be losing its appeal. Former colonial powers, in particular, are increasingly questioned about what moral authority they possess to advocate for democracy. Their perceived hypocrisy—espousing democratic principles while failing to consistently uphold them—undermines trust and credibility. Meanwhile, even within democratic countries, contradictions abound, with reality often falling far short of the values they claim to uphold. Consequently, their promotion of democratic ideals can ring hollow and even provoke resistance, no matter how eloquently articulated. Such sentiment is especially common across the countries of the Global South, where people often recognize the importance of democratic values in the abstract, yet struggle to fully embrace the Western-centric framing of those ideals.

It is against this backdrop that we find the idea of a free and open world, built on democracy and the rule of law, at a critical crossroads. With a shared sense of the current moment’s urgency, each of Panel 2’s speakers drew on their respective areas of expertise, to examine the vulnerabilities of democracy in contemporary society, the contradictions inherent in democratic principles themselves, and the pursuit of global justice through environmental litigation.

## **1. Maiko ICHIHARA: Three Distinct Dimensions of Democracy: Values, Institutions, and Ideology**

Professor Ichihara addressed the challenges facing democracy from both domestic and international political perspectives, based on the panel's subtitle "Challenges of Global Justice and Democracy."

Democracy can be understood through three distinct dimensions: institutions, values, and ideology. The first two—institutions and values—are primarily domestic in nature. Institutions form the structural foundation of democracy, while values serve to protect and sustain those institutions. The third dimension, ideology, emerges in the realm of international politics.

For all the talk of democracy, there is no universally accepted definition, remaining instead a subject of ongoing debate. For the purposes of this discussion, however, democracy should be understood to encompass several widely accepted conditions: regular free and fair elections, broad electoral eligibility, and the protection of civil liberties necessary for such elections to take place. These civil liberties include the freedoms of speech, assembly, and association—rights that enable citizens to act freely. To safeguard these liberties, democratic countries establish systems such as the separation of powers, the rule of law, and legal protections for individual rights.

However, these institutions can be surprisingly fragile, in much the same way as the ice atop a frozen pond can be unpredictably thin. Even if the legal framework remains unchanged, sustained attacks on the values that uphold these institutions can gradually erode their effectiveness. For example, in the United States, recent developments include the use of temporary budgets that diminish Congress's authority over fiscal matters, disregard for Supreme Court rulings, restrictions on media access to the White House, and attacks on the rights of transgender individuals. While these actions may not directly alter the formal legal structure, they undermine the commitment to democratic values.

Therefore, protecting democracy requires not only defending its institutions but also actively upholding the values that support them. Actions taken to preserve these values function as "soft guardrails" for democracy (Levitsky & Ziblatt, 2018). For democracy to thrive, institutional design alone is insufficient— a deep commitment to democratic values is essential.

Turning to international politics, Ichihara examines democracy's role as an ideological construct, highlighting the complex interplay among three key entities: the state, war, and democracy.

The analysis begins with the argument that modern nation-states emerged through war as various territorial entities in Europe competed militarily. Those most capable of sustaining large armies and financing that warfare eventually evolved

into sovereign states (Tilly, 1975). These sovereign states would go on to form the Westphalian system which became the foundation of the modern international order.

Then, as these sovereign states adopted democratic governance, a social contract emerged between the states and their citizens. Citizens began to identify as members of the nation, and the state, in turn, provided public goods—such as democratic institutions and values—to maintain domestic order (Jackson, 1990).

This has come play an important role in times of war, with democratic states frequently mobilizing their populations by invoking moral principles, including democracy itself (Way, 2022). When cooperating with other countries, they frame their actions as an expression of solidarity among fellow democracies. In these international narratives, democracy is rarely addressed in terms of institutions or values (see Quadrant I in Figure 1). Instead, the concept of democracy functions ideologically—as a rhetorical tool to delineate adversarial relationships. This pattern was evident during World War II and the Cold War, and continues to shape political discourse in the 21st century.

It is important to recognize that what is often described as a “fight to protect democracy” may not, in practice, constitute a defense of democratic institutions or values. Rather, it may reflect an effort to defend states that possess democratic institutions. In such instances, the concept of democracy is invoked in a manner detached from its institutional and value-based meanings.

Figure 2: Threats to Democratic Systems and Ideals

	Democracies	Autocracies
International	<p>"Us" and "Them" as Mobilization Discourse:</p> <ul style="list-style-type: none"> <li>• World War II Era: Fascism vs. Democracy</li> <li>• Cold War Era: Communism vs. Democracy</li> <li>• 21st century: Authoritarianism vs. Democracy</li> </ul> <p>These are not battles to defend democracy itself; rather, they are battles to defend nations that possess democratic institutions.</p>	<p>Influence Operations:</p> <ul style="list-style-type: none"> <li>• Disseminate disinformation and malinformation to accelerate the fragmentation and destabilization of democratic societies.</li> <li>• Spread disinformation and malinformation to worsen relations between democratic nations.</li> </ul>
Domestic	Attacks on customs, values, and norms undermine and	Cynical use of concepts such as elections, human rights, the

	delegitimize institutions.	rule of law, and democracy— distorting their meaning to legitimize authoritarian rule while stripping these principles of their association with liberty.
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Sources: Prof. Ichihara's handout.

Today, democracy is under attack both domestically and internationally. Within democratic societies, sustained assaults on core democratic values are gradually eroding institutional integrity. Simultaneously, the very concept of democracy is increasingly perceived as hypocritical in both domestic and international discourse.

This is compounded by influence operations undertaken by authoritarian regimes to undermine the belief in, and commitment to, democratic values within free societies. These include disinformation campaigns and the deliberate spread of malicious content aimed at accelerating social fragmentation and destabilizing democratic societies. Similar tactics are also employed to damage relationships between democratic nations.

Manipulation also occurs within authoritarian regimes themselves. Foundational liberal concepts such as elections, human rights, the rule of law, and democracy are distorted and repurposed to legitimize authoritarian rule. Because these concepts carry international credibility, authoritarian governments selectively reinterpret them to reinforce their claims to legitimacy. For example, even blatantly fraudulent elections are presented as genuine expressions of popular will, with claims that the government was “elected” by the people. Regarding human rights, authoritarian regimes may emphasize social and developmental rights while deliberately sidelining civil liberties.

In this way, democracy finds itself under assault from all sides— undermined from within by domestic actors in democratic societies, and pressured from without by, authoritarian states internationally.

## **2. Hirohide TAKIKAWA: Responsibility to Whom? The Limits and Hopes of Democracy**

“To whom are we responsible?” This was the question Professor Takikawa posed to the audience as a guiding thread with which to explore both the limitations and the potential of democracy.

The first port of call is the boundary problem in democratic theory. At its core, this issue concerns the question of who constitutes the demos—that is, the body of

individuals entitled to participate in democratic decision-making. A nation state is by definition, an entity that must define and enforce boundaries. A fundamental challenge then for democratic states is where and how to draw those lines, and thus who will, and will not, be included in the demos.

Logically speaking however, that challenge is actually a contradiction that cannot be resolved democratically. This is because, attempting to determine who should be included in a democratic process leads to a paradox: such a decision presupposes an already defined demos with the authority to make it. Any effort to resolve this democratically results in an infinite regress of prior decisions about who may decide what.

In practice, most democratic states adopt a pragmatic solution: they limit the demos to adult citizens. This vests decision-making authority in those with the requisite citizenship above a certain age, while excluding all others. Although this approach offers administrative clarity, it introduces its own problems—particularly when considering the two key limitations discussed below.

The first of these limitations on democracy is spatial. Because the demos is defined by national citizenship, democratic participation is limited to citizens, and excludes non-citizens—in effect the vast majority of those residing beyond the relevant national borders. Yet in today's interconnected world, decisions made within one country often have far-reaching consequences that impact those in other countries. However, no matter how great the transnational impact, those affected outside the demos have no formal means of influencing such decisions. This disconnect contributes to global injustice, with poverty and inequality serving as prime examples. As long as the demos remains confined to citizens, these challenges cannot be adequately addressed.

The second major limitation on democracy is temporal. Democracy empowers current voters to shape present-day policies, even though those decisions inevitably affect future generations. Take, for example, Japan's pension system: amid declining birthrates and a rapidly aging population, its long-term sustainability is in question. Yet the individuals who will bear the consequences—children and future citizens—are excluded from the decision-making process. Environmental issues present a similar dilemma. Democracy, as currently practiced, lacks the mechanisms to fully account for the interests of those who cannot yet participate.

These limitations expose a structural "responsibility deficit" inherent in democracy—namely, its lack of accountability to those positioned outside its boundaries. By design, democracy distinguishes between insiders and outsiders, systemically disregarding the interests of those outside it. Spatially, this refers to individuals in other countries who are affected by the decisions of that democracy but denied participation in it. Temporally, it refers to future generations whose lives will be shaped by choices they had no voice in.

To address this deficit, Takikawa outlines three possible responses. The first is to maintain the status quo, in deference to the perceived difficulty of reform. The second is to expand the demos, thereby reducing the number of those excluded and

enhancing democratic accountability to external stakeholders. The third is to abandon the expectation that democracy alone can resolve these issues, and instead pursue alternative institutional frameworks better suited to addressing the relevant challenges. In the following discussion, he focuses on the second and third approaches.

Beginning with the second option, Takikawa explores the possibility of expanding the demos through the all-affected principle—a prominent concept in philosophy of law. According to this principle, the boundaries of democratic inclusion should be determined by the extent to which individuals are affected by political decisions; all those impacted are entitled to participate in the decision-making process. This notion closely parallels the well-known American slogan, “No taxation without representation.”

Applying the all-affected principle to the demos would lead to a multitude of far-reaching changes. The right to vote likely would no longer be limited to citizens and would be conferred upon foreign nationals. This extension of voting rights would not be limited merely to those within a nation’s borders, but would instead extend to those living outside the country who are materially affected by its policies. Under such a framework, for example, non-citizens would likely be eligible to vote in U.S. presidential elections due to the global nature of that country’s influence.

Another likely consequence of applying the all-affected principle would be the potential inclusion of children in the electorate. Although no country currently grants voting rights to those under the age of majority, children are undeniably impacted by political decisions. On this basis, they too could be considered rightful participants in democratic processes. Some theorists go even further, arguing that future generations—those not yet born—should also be represented. However, from a practical standpoint, it is difficult to imagine how future generations could be legitimately included in the voting process. Those who do not yet exist by definition cannot express their preferences, and it remains unclear who could legitimately speak on their behalf. The question of how anyone can authentically claim to honestly represent the interests of future individuals is undoubtedly a difficult one.

Thus, while the all-affected principle offers a compelling framework for addressing the spatial exclusions of democracy, it falls short when attempting to resolve its temporal limitations.

As the preceding discussion illustrates, democracy possesses inherent limitations. By its very nature, it delineates boundaries—creating an “outside” and excluding those deemed outsiders. While democracy remains a vital framework for collective decision-making, it must be employed with a clear awareness of its constraints.

In light of these limitations, it is essential to explore institutional arrangements that extend beyond the democratic paradigm. One such approach involves constitutional recognition of children’s rights. This would empower courts to adjudicate cases concerning those rights, thereby introducing a form of accountability that operates outside traditional democratic mechanisms. Although

judicial review is not a strictly democratic process, it can nonetheless serve as an alternative means of fulfilling societal responsibilities.

Democracy is not a bad or fundamentally flawed system, but it is also, as discussed, not all-encompassing. To ensure that we do not abandon responsibility in those areas where democracy falls short, we must consider complementary institutional designs capable of addressing its blind spots.

### **3. Isabelle GIRAUDOU: The Reconceptualization of Responsibility as Response-ability in Times Called the Anthropocene: An Ultimate Thought Experiment for Lawyers?**

Professor Giraudou examines the complex challenges faced by lawyers engaged in international climate change litigation in the Anthropocene era, exploring how the notion of responsibility might be reconceptualized as “response-ability.” The Anthropocene, a geological concept, denotes an epoch in which human activity became the dominant force shaping the Earth’s environment and ecosystems.

By emphasizing the global scale of humanity’s collective impact—which threatens both ecological integrity and human survival—the Anthropocene concept offers an alternative framing to the traditional narrative of “ecological destruction” which posited the environment as something external to human society. Instead, the Anthropocene positions humans as embedded within and inseparable from ecological systems.

That said, applying the Anthropocene concept to human induced environmental change is not always a perfect fit. For example, the Anthropocene does not distinguish between humans, human activity, and the “more-than-human world,” and is unable to differentiate between actors with varying degrees of responsibility for climate change. As a result, it risks obscuring critical questions of accountability. Nonetheless, the concept has opened space for a reimagining of models of responsibility that move beyond conventional moral and legal frameworks.

Traditionally, environmental law has conceptualized nature primarily as a resource—an asset to be managed and regulated. Within this framework, humans are simultaneously positioned as both steward and sovereign of the natural world. This anthropocentric perspective continues to dominate much of international environmental legal thought, with many scholars having yet to meaningfully integrate the concept of the Anthropocene into their theoretical or normative frameworks.

Nonetheless, some scholars have begun to challenge the conventional, anthropocentric framework. The emergence of Anthropocene theory has thus

introduced significant shifts in international environmental law discourse. By interrogating what constitutes responsible action in the Anthropocene, the central premise of the theory becomes clear: the inextricable entanglement of humans and the more-than-human world. This recognition opens the door to a critical reassessment of conventional legal concepts such as state responsibility and environmental protection.

To illustrate these shifts, Giraudou focuses on international climate change litigation. Transnational climate change litigation has increasingly emerged as a strategic instrument for compelling both state and non-state actors to take meaningful action. Fundamentally, litigation functions as an opportunity to tell stories—stories about justice and harm. It also serves as a reflective mechanism that can expose contradictions within the law.

Climate change litigation, in particular, has illuminated deep-seated conflicts in legal reasoning. The following section explores the evolving strategies that have arisen through such litigation, assesses their effectiveness in responding to ecological vulnerability, and considers how their limitations might be addressed through legal innovation and institutional reform.

The traditional liberal approach focuses on actual harms—whether past or ongoing—experienced by human victims within a state’s territorial jurisdiction. States are held accountable for wrongful acts, if those acts or omissions fall within their territorial jurisdiction. However, because environmental damage can easily spread beyond the borders of a single state, it can quickly become difficult both to assign fault and hold those responsible accountable when the harm is transnational.

To address this, multilateral legal frameworks have emerged to facilitate preventive and managerial cooperation among states. Yet, the harm caused by fossil-fuel-based economies in the Anthropocene differs fundamentally from conventional pollution. Climate harms, unlike traditional cross-border pollution, involve causes and effects that are deeply entangled and spread across multiple spaces, time periods, and actors. Defendants often exploit this complexity to avoid responsibility, arguing that climate change is a global phenomenon beyond any single actor’s control.

Despite improvements in international regulations addressing the above issues, challenges remain. Existing human rights systems require a causal link between specific harm and rights violations, which makes litigation difficult—creating a procedural barrier. Claimants have pushed for looser links between individual perpetrators and victims of climate harm.

This has led to the rise of what can be called a progressive critical approach that expands the scope of responsibility—from actual harm to potential harm, from human rights to non-human rights, from territorial to extra-territorial obligations, and from present generations to future ones. This approach is increasingly entering mainstream legal discourse and practice.

However, this approach is not sufficient, for it still falls short of recognizing the entanglement of climate harms across space, time, and species. Scholars

advocating for a reparative approach take seriously the entangled nature of climate change's causes. This approach reconfigures traditional rights-based frameworks around questions of subjectivity, spatiality, and temporality (Petersmann, 2024). This includes shifting the scope of attention and accountability from potential harm to entangled harm, from non-human rights to a more-than-human ethic of care, from extra-territorial boundaries to terrestrial space, and from future generations to enduring temporalities. This approach allows claimants to seek repair across multiple spatiotemporal dimensions, offering a qualitative shift toward justice grounded in more-than-human care.

In conclusion, the transboundary and enduring nature of climate harms challenges existing environmental and human rights law. It calls for flexible, imaginative governance that attends to more-than-human concerns. The central question—what critical legal scholars call “response-ability” in the Anthropocene—should prompt us to look beyond conventional legal frameworks. We must explore legal mechanisms that account for entangled harms, more-than-human care, and the deep temporal and spatial dimensions of climate change. The Anthropocene narrative challenges not just the justiciability of climate harms, but also how we imagine and respond to ambiguous harms and disproportionate vulnerabilities in our time.

## **4. Discussion, Question & Answer Session**

Following the three presentations, a wide-ranging discussion unfolded with topics including the decline of democracy, its sustainability, and the implications for the global order.

### **Democratic Backsliding**

One of the primary concerns was the impact of democracy's retreat. Once regarded as the sole legitimate form of governance, democracy now faces internal threats—even from leaders within democratic nations. For example, U.S. President Donald Trump actively undermined democratic values, raising fears that democracy may soon be viewed as merely one political system among many, rather than an ideal type.

Ichihara responded by observing that President Trump demonstrated a lack of respect for democratic principles and predicted that such values would continue to be subject to relativization. She further warned that China has increasingly claimed to embody democratic principles, posing a risk of redefining and appropriating the concept of liberal democracy. As a countermeasure, she emphasized the importance of constantly articulating narratives centered on liberal values.

The discussion also explored the potential unraveling of the liberal international order as a consequence of democratic backsliding—most notably in the United States,

which, as the sole global superpower, has long supplied essential public goods to uphold that order. Should the U.S. disengage from its role as a steward of international norms, the current system could give way to a resurgence of 19th-century-style power politics. To prevent this, the international order must be rebuilt in a way that avoids the perception of imposing Western values—particularly among the nations of the Global South.

Ichihara proposed moving away from dependence on U.S. hegemony in favor of a multilateral approach to global governance. She called for shared leadership from both established powers—such as Japan, Europe, and Canada—and emerging actors, including South Korea, Taiwan, and India. Moreover, she emphasized the importance of engaging a broad spectrum of stakeholders, NGOs, media organizations, and academic researchers, in partnership with democratic governments through “Track 1.5 Diplomacy.”

### War and Democracy

While the concept of a “just war” has been extensively examined within both moral and legal frameworks, a more complex inquiry that deserves attention is: is it possible for war to embody democratic principles?

Ichihara cited Ukraine as a case in point. In the face of Russian aggression, Ukraine has been compelled to affirm its democratic credentials to secure support from fellow democracies. This has prompted the Ukrainian government to combat corruption. However, certain wartime measures—such as the banning of opposition parties alleged to have pro-Russian sympathies and the centralization of media under state control—complicate Ukrainian assertions of democratic governance.

Therefore, Ukraine’s wartime measures cannot be unequivocally characterized as democratic. Nonetheless, democratic allies may be willing to tolerate certain illiberal actions, given that Russia initiated a unilateral invasion and operates under an authoritarian regime.

### The Future of Democracy

Although modern democracy appears to be in decline, it has served as an effective system of governance for 80 years since the end of World War II. Yet if democracy is to avoid becoming a historical artifact, we must consider what institutional reforms can be undertaken to ensure its continued survival and relevance for future generations.

One point of view is that there has always been a certain degree of skepticism surrounding democracy itself—specifically, whether citizens have ever truly been able to exercise their sovereign will in a meaningful way. Engaging with such criticisms in a thoughtful and substantive manner may require the contemplation of political frameworks that transcend conventional democratic models.

In response to the above, Takikawa cautioned against abandoning democracy or pursuing radical alternatives. Instead, he advocated for comparative analysis, emphasizing that even in its weakened state, democracy continues to outperform

authoritarianism in both procedural integrity and policy outcomes. Citizens in democratic societies retain a greater capacity to express their will than those living under authoritarian rule. For this reason, democracy should remain the system of choice.

Takikawa highlighted how incremental reform is generally more effective than the pursuit of new and novel approaches. He underscored the diversity of democratic systems and stressed the importance of diagnosing and categorizing their specific challenges in order to address them effectively. To support gradual improvement, he called for the use of complementary mechanisms—such as the rule of law and the democratic values and norms highlighted by Ichihara—as pillars that reinforce democracy.

### Defining the Demos

Even if democracy is preferable to authoritarianism, it still faces unresolved challenges—chief among them, the question of how to define the demos. As Takikawa noted, democracy cannot determine its own boundaries democratically. Yet boundaries must inevitably be drawn, for which defined criteria are necessary.

Future generations exemplify those systematically excluded from present-day democratic processes. Embracing the concept of generational sovereignty—where each generation is recognized as possessing sovereignty—implies that the current generation is infringing upon the sovereignty of future generations. This underscores the need for mechanisms to mitigate the negative effects of boundary-drawing.

Even if the drawing of boundaries is unavoidable, one may question their ethical legitimacy. As Takikawa noted, while the act of boundary-drawing may be inevitable, the rationales behind them must be subject to ongoing scrutiny. If these justifications are reassessed and found wanting, it follows that the boundaries themselves may need to be redrawn.

However, Takikawa noted that when defining the scope of the demos, non-human entities are inevitably excluded—particularly when the framework is based on the binary relationship between humans and non-humans. He argued that this approach contrasts with Giraudou's perspective, which emphasizes ethical responsibility toward non-human beings. In response, Giraudou proposed reimagining the very notion of the boundary between inside and outside. Rather than focusing on the dichotomy itself, she suggested shifting attention to the dynamics within the internal sphere, what she called "intra-relations." This conceptual transformation, she argued, could offer a vital foundation for rethinking the meaning and scope of responsibility.

### The Significance of the Anthropocene

The discussion also explored the origins and implications of the Anthropocene concept. According to Giraudou, the term is not new—it was discussed in 19th-century France and popularized in 2000 by atmospheric chemist Paul Crutzen.

Giraudou explained that environmental activists and legal scholars have embraced this concept as a valuable opportunity to develop their thinking from a critical perspective. The idea has since been further developed within the fields of environmental law and litigation. Lawyers involved in climate change litigation are increasingly attentive to theoretical advancements that can inform and strengthen their legal strategies. These strategies often draw upon academic discourse, which in turn incorporates practical legal considerations. As a result, the theory of the Anthropocene and legal practice have come to shape one another in a mutually reinforcing manner. Giraudou emphasized that the concept of the Anthropocene already exerts tangible influence—both intellectually and operationally—within the domain of international climate change litigation.

Panel 2 of the conference “How to Act Responsibly Today? Politics of Law in Europe and Japan” (held on April 26, 2025), titled “Frameworks of Responsibility: Challenges for Global Justice and Democracy,” addressed the overarching theme of “responsibility” by examining how we should respond to the various challenges confronting contemporary democracy. Although the three presentations were distinct in content, they shared interrelated perspectives.

Ichihara underscored the urgency of defending liberal democracy against ongoing assaults. Yet she did not advocate for protecting all aspects of democracy equally. Instead, her emphasis lay in preserving the values, norms, and customs that function as democracy’s “soft guardrails”—essential elements especially susceptible to erosion. This distinction illuminates both the foundational essence of democracy and its inherent vulnerability. Safeguarding formal institutions alone is insufficient; it demands a sustained sense of civic responsibility, expressed through everyday efforts to uphold the normative framework that gives those institutions meaning.

In doing so, we must acknowledge that democracy, by its nature, draws boundaries, excluding those outside its framework. Yet these excluded individuals may still be affected by decisions made within democratic systems, and their exclusion can foster resentment. The most difficult case, as Takikawa pointed out, involves future generations. Because their preferences cannot be adequately represented by the current generation, any decision we make risks encroaching upon their sovereignty. Neglecting their interests perpetuates a cycle in which burdens are passed down from one generation to the next, ultimately jeopardizing the sustainability of our society—and eventually democracy itself.

Takikawa and Giraudou offered contrasting approaches to addressing democracy’s boundary problem. Takikawa acknowledged democracy’s inherent boundaries but argued that, compared to other political systems, democracy remains superior. He advocated for responsible action within the existing democratic framework, suggesting that we either revise the boundaries or mitigate their negative effects through mechanisms other than democracy. In this view, democracy should be steadily improved rather than radically transformed.

In contrast, Giraudou highlighted emerging approaches in climate change litigation inspired by the Anthropocene concept—approaches that fundamentally

reject fixed boundaries. For her, responsible action or “response-ability” entails continuous search for novel, previously unimagined approaches. Rather than working within existing systems, she called for innovation that transcends traditional frameworks.

Ultimately, responsible action can take many forms. We may choose from existing models or create new ones. What matters is that we remain committed to acting responsibly in the face of complex and evolving global challenges.

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150-6034, Yebisu Garden Place Tower, 34th Floor

4-20-3 Ebisu, Shibuya-ku, Tokyo, Japan

Phone: +81 3-5448-1710

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