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# CLIMATE LITIGATION: FORGING A NEW ERA IN INTERNATIONAL LAW

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## ABSTRACT

In recent years, climate litigation has emerged as a powerful tool in the global fight against climate change, driving significant developments in international law. This paper examines the evolving landscape of climate litigation and its implications for shaping international legal norms. As the climate crisis intensifies, individuals, communities, and even nations are increasingly turning to the courts to hold governments and corporations accountable for their contributions to climate change. This surge in climate-related lawsuits is not only addressing immediate environmental concerns but is also setting critical precedents that are reshaping the contours of international law.

The paper explores key cases from different jurisdictions that have pushed the boundaries of existing legal frameworks, compelling states and private entities to align their actions with international climate commitments. It highlights landmark rulings, such as the Uganda case in the Netherlands and the Juliana case in the United States, and examines their influence on global legal standards. Additionally, the paper delves into the role of international tribunals and human rights bodies in advancing climate justice, particularly in relation to vulnerable populations disproportionately affected by climate change.

By analysing the intersection of climate litigation and international law, this research underscores the potential for legal actions to enforce global climate obligations and promote accountability. The paper also considers the challenges and opportunities presented by this dynamic field, including the need for coherent legal principles and the role of international cooperation in addressing transboundary environmental harm. Ultimately, this study aims to provide a comprehensive understanding of how climate litigation is driving the evolution of international law, paving the way for a more resilient and just global legal order in the face of the climate crisis.

**Keywords:** Climate Litigation, International Law, Climate Crisis, Environmental Justice Legal Precedents, Human Rights, Global Climate Governance, Accountability, Transboundary Environmental Harm,

International Tribunals.

## I. Introduction

Climate change is not merely an environmental challenge; it is a profound legal and human rights issue that is reshaping the global legal landscape. As the impacts of climate change become increasingly severe and undeniable, the international community has witnessed a surge in climate litigation. Individuals, communities, non-governmental organizations, and even governments are turning to courts to seek redress for the harms caused by climate change, to hold polluters accountable, and to urge states to fulfill their international obligations. This wave of climate litigation is not just a reflection of the growing public awareness of climate issues; it is a critical driver of the evolution of international law.

The surge in climate-related lawsuits is unprecedented in scale and scope, spanning across jurisdictions and involving a diverse array of actors. From landmark cases like *Juliana v. United States*,<sup>1</sup> where young plaintiffs sued the U.S. government for failing to protect their constitutional right to a stable climate, to the historic ruling in *Urgenda Foundation v. State of the Netherlands*,<sup>2</sup> where the Dutch government was ordered to cut greenhouse gas emissions, climate litigation is forging new legal precedents. These cases are not only challenging existing national policies but also prompting the development of international legal principles that could reshape the relationship between states, corporations, and the environment.

At the heart of climate litigation is the recognition that climate change transcends national borders, posing a threat to fundamental human rights, including the rights to life, health, food, water, and an adequate standard of living. This recognition has led to the increasing use of human rights frameworks in climate litigation, as seen in cases like *Leghari v. Federation of Pakistan*,<sup>3</sup> where the Pakistani judiciary declared the government's inaction on climate change a violation of fundamental rights. By invoking human rights, litigants are not only seeking remedies for specific harms but also challenging the adequacy of global responses to the climate crisis.

Moreover, climate litigation is emerging as a key mechanism for enforcing international environmental agreements, such as the Paris Agreement. In the absence of a strong global

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<sup>1</sup> 947 F. 3d 1159, 1167 (9th Cir. 2020)

<sup>2</sup> ECLI:NL:HR:2019:2007

<sup>3</sup> (2015) W.P. No. 25501/201

enforcement mechanism, courts have become venues where the commitments made under these agreements are tested. Litigants are increasingly invoking international law principles, such as the duty of states to prevent transboundary environmental harm, to argue for stronger climate action.<sup>4</sup> The growing body of case law from climate litigation is gradually contributing to the crystallization of new norms in international law, particularly around state responsibility and the legal duties of private actors in addressing climate change.

However, the global nature of climate change poses significant challenges for climate litigation. Issues of jurisdiction, the extraterritorial application of human rights, and the varying legal frameworks across countries complicate the litigation process. Despite these challenges, climate litigation continues to grow, driven by the urgent need to address the climate crisis and the inadequacies of current political and legal responses.

Climate litigation is at the forefront of shaping international law in the face of the climate crisis. As courts around the world grapple with complex questions of liability, justice, and human rights in the context of climate change, they are not only delivering justice in individual cases but also contributing to the development of a more robust and responsive international legal framework. The outcomes of these cases will likely have profound implications for the future of climate governance and the protection of human rights in the era of climate change.

### **Overview of Climate Change as a Global Crisis**

Climate change is primarily driven by human activities, particularly the burning of fossil fuels, deforestation, and industrial processes, which lead to increased greenhouse gas emissions in the atmosphere. According to the Intergovernmental Panel on Climate Change (IPCC)<sup>5</sup>, global temperatures have risen by approximately 1.2°C above pre-industrial levels, with dire consequences anticipated if temperatures continue to rise unchecked. The 2021 IPCC report highlighted that without immediate and substantial reductions in greenhouse gas emissions, the world could face a temperature increase of 1.5°C as early as 2030, leading to catastrophic impacts on natural and human systems.

Recent data indicates alarming trends: the frequency of extreme weather events, such as hurricanes, floods, and wildfires, has increased significantly. For example, the National

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<sup>4</sup> United Nations Framework Convention on Climate Change (UNFCCC). (1997). Kyoto

<sup>5</sup> Intergovernmental Panel on Climate Change (IPCC). (2021). Sixth Assessment Report.

Oceanic and Atmospheric Administration (NOAA)<sup>6</sup> reported that the United States experienced 22 separate billion-dollar weather and climate disasters in 2021 alone, resulting in economic damages exceeding \$145 billion. These events not only threaten human life and property but also exacerbate existing inequalities, particularly affecting vulnerable populations in developing countries.

### **The Role of Law in Addressing Climate Change**

Law plays a critical role in addressing climate change by establishing frameworks for reducing greenhouse gas emissions, promoting sustainable practices, and protecting the environment. International treaties, national legislation, and local regulations are essential tools in the fight against climate change. The Paris Agreement, adopted in 2015, represents a landmark commitment by nearly 200 countries to limit global warming to well below 2°C, with efforts to limit the temperature increase to 1.5°C. The agreement sets binding targets for greenhouse gas emissions and requires countries to submit nationally determined contributions (NDCs) outlining their climate action plans.

However, the effectiveness of these legal frameworks often hinges on enforcement mechanisms and compliance. Many countries struggle to meet their emissions reduction targets due to political, economic, and social barriers. This is where climate litigation becomes a pivotal tool, as it allows individuals, communities, and organizations to challenge government inaction and corporate negligence through legal channels.

### **Importance of Climate Litigation in Shaping International Law**

Climate litigation has emerged as a vital mechanism for enforcing environmental laws, holding polluters accountable, and advancing climate justice. In recent years, there has been a marked increase in climate-related lawsuits across the globe, reflecting a growing recognition of the legal rights associated with environmental protection and the urgent need for action against climate change. Climate litigation takes various forms, including cases against governments for failing to take adequate action, lawsuits against corporations for contributing to climate change, and legal actions seeking the recognition of environmental rights. **Urgenda Foundation v. State of the Netherlands**: In 2019, the Dutch Supreme Court upheld a landmark

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<sup>6</sup> Abdul Ghafoor Awan, Relationship Between Environment And Sustainable Economic Development:

ruling that ordered the Dutch government to reduce greenhouse gas emissions by at least 25% by 2020 compared to 1990 levels. The court ruled that the government had a legal obligation to protect its citizens from the dangers of climate change, marking a significant victory for climate litigation. This case underscored the role of the judiciary in enforcing environmental laws and holding governments accountable for their climate commitments. **Juliana v. United States:** In this ongoing case, a group of young plaintiffs sued the U.S. government for failing to take adequate action to combat climate change, claiming that the government's inaction violated their constitutional rights to life, liberty, and property. Although the case has faced numerous legal challenges, it has garnered significant public attention and sparked a national conversation about the responsibility of governments to protect future generations from climate change. **Leghari v. Federation of Pakistan:** In 2015, the Lahore High Court ruled that the Pakistani government had violated the fundamental rights of its citizens by failing to take effective measures to address climate change. The court ordered the establishment of a climate change commission to ensure compliance with the country's climate commitments. This case highlights the growing trend of integrating human rights considerations into climate litigation, demonstrating that the impacts of climate change are inherently tied to the protection of individual rights. **The Shell Climate Case:** In May 2021, a Dutch court ruled that Royal Dutch Shell must cut its carbon emissions by 45% by 2030 compared to 2019 levels. The court found that the company had a duty of care to reduce its contribution to climate change, setting a precedent for holding corporations accountable for their role in the climate crisis. This case exemplifies the potential of climate litigation to influence corporate behavior and drive systemic change.

climate change represents a complex and multifaceted crisis that necessitates urgent and coordinated legal responses. Climate litigation has emerged as a crucial tool for enforcing environmental laws, holding governments and corporations accountable, and shaping international legal norms in the face of this crisis. Landmark cases such as *Urgenda*, *Juliana*, and the *Shell Climate Case* illustrate the power of the judiciary to effect change and promote climate justice. As the impacts of climate change continue to escalate, the role of law in addressing these challenges will remain paramount, and climate litigation will undoubtedly play an increasingly important role in shaping the global legal landscape in the years to come. Through strategic legal action, it is possible to drive the systemic changes necessary to mitigate the impacts of climate change and protect the rights of present and future generations.

## **II. Understanding Climate Litigation**

### **Definition and Scope of Climate Litigation**

Climate litigation refers to the legal actions taken to address the issues arising from climate change. This can encompass a wide range of cases, including lawsuits aimed at enforcing environmental laws, holding governments accountable for inaction, and seeking damages from corporations for their contributions to climate change. At its core, climate litigation seeks to bridge the gap between legal frameworks and the urgent need for climate action by using the judicial system to compel compliance with environmental standards, enforce accountability, and protect public health and welfare.

The scope of climate litigation is broad, covering various legal areas such as tort law, constitutional law, international law, and human rights law. Climate cases may involve individual plaintiffs, community groups, non-governmental organizations (NGOs), or even state actors challenging the actions or inactions of governments and corporations. These cases can be initiated in domestic courts, regional human rights tribunals, or international courts, depending on the legal framework and jurisdiction involved.

In recent years, the scope of climate litigation has expanded significantly, with numerous highprofile cases emerging globally. According to the Climate Change Litigation Database maintained by the Sabin Center for Climate Change Law at Columbia University, as of 2023, over 2,000 climate litigation cases had been filed in various jurisdictions around the world. This represents a substantial increase in climate-related lawsuits, reflecting a growing awareness of the legal dimensions of climate change and the potential for litigation to effect change.

### **Historical Context and Evolution of Climate Litigation**

The origins of climate litigation can be traced back to the early 1990s when the recognition of climate change as a global crisis began to gain traction. The 1992 United Nations Framework Convention on Climate Change (UNFCCC)<sup>7</sup> established a legal framework for addressing climate change and laid the groundwork for future international agreements. However, it was

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<sup>7</sup> Protocol. Retrieved from [https://unfccc.int/kyoto\\_protocol](https://unfccc.int/kyoto_protocol)  
United Nations Framework Convention on Climate Change (UNFCCC). (2015). Paris

not until the early 2000s that climate litigation began to emerge as a distinct legal phenomenon.

One of the first significant climate litigation cases was *Massachusetts v. Environmental Protection Agency* (2007), in which the U.S. Supreme Court ruled that the Environmental Protection Agency (EPA) had the authority to regulate greenhouse gas emissions under the Clean Air Act. This landmark decision paved the way for subsequent lawsuits aimed at enforcing environmental regulations and holding governments accountable for their climate commitments.

The 2010s witnessed a surge in climate litigation, driven by a combination of factors, including increasing public awareness of climate change, growing scientific evidence of its impacts, and a sense of urgency to act. In particular, the rise of social movements advocating for climate justice, such as the youth-led Fridays for Future movement, has galvanized public support for legal action against perceived inaction by governments and corporations.

In the years following the adoption of the Paris Agreement in 2015, climate litigation has further evolved to encompass a broader range of issues, including the protection of human rights, environmental justice, and corporate accountability. The landmark 2019 ruling in *Urgenda Foundation v. State of the Netherlands*, which ordered the Dutch government to reduce emissions by at least 25% by 2020, exemplifies this evolution and highlights the increasing willingness of courts to engage with climate-related claims.

## **Key Actors in Climate Litigation**

### **Plaintiffs**

Plaintiffs in climate litigation can take various forms, including individuals, community groups, NGOs, and state actors. Each type of plaintiff brings unique perspectives and motivations to the legal process. For instance, individual plaintiffs often have personal stakes in climate-related issues, such as the health impacts of pollution or the destruction of their homes due to extreme weather events. These individuals may seek justice and compensation for the harms they have suffered as a result of climate change.

Community groups, often representing marginalized or vulnerable populations, play a critical role in climate litigation by advocating for environmental justice and highlighting the disproportionate impacts of climate change on disadvantaged communities. For example, the

case of *Leghari v. Federation of Pakistan* saw a farmer suing the government for its failure to address climate change, underscoring how climate litigation can empower communities to seek accountability for environmental degradation.

NGOs have become increasingly prominent in climate litigation, serving as plaintiffs or supporting litigants through legal advocacy, funding, and public awareness campaigns. Organizations like Greenpeace and the Sierra Club have played pivotal roles in various climate litigation efforts, utilizing their resources and expertise to challenge governmental and corporate inaction. These NGOs often frame their cases within broader narratives of social justice and human rights, thereby appealing to public sentiment and garnering support for their causes.

## Governments

Governments also play a crucial role in climate litigation, both as defendants and as potential allies in the fight against climate change. On one hand, governments are often the targets of climate lawsuits when they fail to meet their climate commitments or enforce environmental regulations. For instance, in the case of *Youth v. State of Oregon*, a group of young plaintiffs filed a lawsuit against the state government for its inaction on climate change, arguing that the government's failure to take sufficient action violates their constitutional rights.

On the other hand, some governments actively<sup>8</sup> participate in climate litigation to defend their policies or challenge the actions of other countries or corporations. For example, in 2022, several states in the United States filed lawsuits against oil companies, seeking damages for the costs associated with climate change and holding these companies accountable for their contributions to global warming. These cases illustrate the growing recognition among government actors of the need to address climate change through legal means.

## Recent Trends and Developments in Climate Litigation

The landscape of climate litigation is continuously evolving, with several notable trends emerging in recent years. One significant trend is the increasing use of human rights arguments in climate lawsuits. Many plaintiffs are now framing their cases around the violation of

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<sup>8</sup> Research for Sustainable Development Framework Programme of the German Federal Ministry of Education and Research (BMBF), FEDERAL MINISTRY OF EDUCATION AND RESEARCH (BMBF)



fundamental rights, such as the right to life, health, and a clean environment.<sup>9</sup> This approach has gained traction in cases such as *Juliana v. United States*, where young plaintiffs argue that the government's failure to address climate change endangers their future and violates their constitutional rights.

Another trend is the growing focus on corporate accountability in climate litigation. As public awareness of corporate contributions to climate change increases, more lawsuits are being filed against companies for their role in exacerbating the crisis. The *Shell Climate Case* in the Netherlands is a prime example, where a court ordered the oil giant to significantly reduce its emissions. This case sets a precedent for holding corporations accountable for their climate impact and may encourage similar lawsuits in other jurisdictions.

Furthermore, climate litigation is becoming more globalized, with cases being filed in various countries and jurisdictions. This trend reflects the recognition that climate change is a transboundary issue that requires coordinated legal responses. The *Global Climate Litigation Report* by the UN Environment Programme indicates that litigation is increasing across regions, with notable cases emerging in countries like India, Australia, and Brazil. This growing diversity in climate litigation highlights the need for collaboration and sharing of legal strategies among different jurisdictions.

Understanding climate litigation involves recognizing its definition, historical context, and the key actors involved in this evolving legal landscape. Climate litigation serves as a critical mechanism for addressing the climate crisis, holding governments and corporations accountable, and advancing environmental justice. As the impacts of climate change continue to escalate, the role of climate litigation in shaping international law and promoting effective climate action will only become more significant. The increasing number of cases, diverse plaintiff profiles, and emerging legal strategies reflect the growing urgency of addressing climate change through legal channels, paving the way for a more sustainable and equitable future.

### **III. The Interaction Between Climate Litigation and International Law**

#### **International Treaties and Agreements**

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<sup>9</sup> Green Climate Fund (GCF). Retrieved from <https://www.greenclimate.fund/>

The international legal framework addressing climate change is anchored in treaties and agreements that establish binding obligations for states to reduce greenhouse gas emissions and promote sustainable development. Among the most significant of these is the Paris Agreement, adopted in 2015 as a result of the United Nations Framework Convention on Climate Change (UNFCCC). The Paris Agreement aims to limit global warming to well below 2°C, with efforts to restrict the temperature increase to 1.5°C above pre-industrial levels. This ambitious target necessitates substantial reductions in greenhouse gas emissions, requiring nations to commit to legally binding climate action plans known as Nationally Determined Contributions (NDCs).

The Paris Agreement represents a paradigm shift in international climate governance, transitioning from a top-down approach to a more flexible, bottom-up model that allows countries to set their own climate targets. This flexibility, however, raises questions about accountability and enforcement, particularly when states fail to meet their commitments. The agreement includes provisions for transparency and accountability, mandating that countries regularly report on their progress and undergo a global stocktake every five years to assess collective efforts toward achieving the agreement's goals.

However, while the Paris Agreement sets forth ambitious climate objectives, its effectiveness hinges on compliance and implementation at the national level. This is where climate litigation plays a crucial role. As domestic courts increasingly engage with the obligations outlined in international agreements, climate litigation serves as a mechanism for holding governments accountable for their commitments under international law. For instance, in 2020, a Dutch court ruled in the *Urgenda Foundation v. State of the Netherlands* case that the government must reduce emissions by at least 25% by 2020 compared to 1990 levels, citing its obligation under the Paris Agreement to protect citizens from the adverse impacts of climate change.

Additionally, regional agreements, such as the European Union's Green Deal and the Latin American and Caribbean Climate Change Strategy, complement the global framework established by the Paris Agreement. These regional initiatives enhance the enforcement of international climate commitments and promote collaborative efforts among states. Climate litigation has increasingly targeted governments for failing to uphold their obligations under these regional frameworks, emphasizing the interconnectedness of international, regional, and domestic legal obligations in addressing climate change.

## The Role of National Courts in Enforcing International Obligations

National courts play a pivotal role in enforcing international obligations related to climate change, acting as forums for individuals and organizations to seek redress for violations of environmental laws and international agreements. The ability of domestic courts to interpret and apply international law is crucial in ensuring that states fulfill their commitments under treaties like the Paris Agreement and the UNFCCC<sup>10</sup>.

One of the most significant functions of national courts in climate litigation is the interpretation of constitutional provisions and statutory laws that align with international obligations. Many countries have constitutional provisions that recognize the right to a healthy environment, which provides a legal basis for climate litigation. For example, in *Leghari v. Federation of Pakistan*, the Lahore High Court ruled that the government had violated the fundamental rights of its citizens by failing to implement its climate policy effectively. The court emphasized the government's obligation to protect the environment and ensure the well-being of its citizens, thereby reinforcing the connection between national law and international climate commitments.

Similarly, in the *Shell Climate Case* in the Netherlands, the District Court of The Hague ordered the oil giant to reduce its greenhouse gas emissions by 45% by 2030 compared to 2019 levels. The court ruled that Shell's current climate strategy was inconsistent with the Netherlands' international obligations under the Paris Agreement, illustrating how national courts can hold corporations accountable for their contributions to climate change while reinforcing the obligations of states under international law.

The increasing willingness of national courts to engage with international obligations reflects a broader trend in climate litigation, wherein courts are recognizing the importance of aligning domestic laws with global climate goals. This judicial engagement not only promotes accountability but also serves to fill the enforcement gaps that often exist within international treaties, particularly when states fail to meet their commitments. As national courts continue to interpret and apply international climate obligations, their decisions can significantly influence

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<sup>10</sup> Protocol. Retrieved from [https://unfccc.int/kyoto\\_protocol](https://unfccc.int/kyoto_protocol)  
United Nations Framework Convention on Climate Change (UNFCCC). (2015). Paris Agreement.  
Retrieved from <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

the development of international law and norms.

### **Legal Precedents and Their Impact on International Norms**

Legal precedents established through climate litigation cases have the potential to shape international norms and influence the behavior of states and corporations in addressing climate change. These precedents contribute to the evolving legal landscape surrounding climate action and provide a framework for future litigation efforts.

The case of *Massachusetts v. Environmental Protection Agency* (2007) is a foundational legal precedent in climate litigation. In this landmark decision, the U.S. Supreme Court ruled that the EPA had the authority to regulate greenhouse gas emissions under the Clean Air Act. The Court's recognition of the dangers posed by climate change and the federal government's obligation to address these dangers set a powerful precedent for subsequent climate litigation in the United States and beyond. This ruling has been cited in various climate-related cases, demonstrating the influence of legal precedents in shaping judicial interpretation and encouraging further legal action.

Another notable case that has had a significant impact on international norms is *Urgenda Foundation v. State of the Netherlands*. The Dutch Supreme Court's ruling in 2019 upheld a lower court's decision mandating the government to reduce its emissions by 25% by 2020, thereby establishing a clear legal obligation for states to protect citizens from climate change. This case has inspired similar lawsuits in other countries, including *Carson v. Australia*, where plaintiffs argued that the Australian government's failure to take meaningful climate action violated their rights. The success of the *Urgenda* case has reinforced the notion that states are legally bound to adhere to international climate agreements and has prompted courts in various jurisdictions to consider similar arguments.

In addition to influencing national legal systems, legal precedents established in climate litigation can also shape international norms and standards. For instance, the recognition of the right to a healthy environment has gained traction in domestic and international legal frameworks, with several countries enshrining this right in their constitutions. The UN Human Rights Council passed a resolution in 2021 recognizing that a clean, healthy, and sustainable environment is a fundamental human right, reflecting the growing acknowledgment of the interconnectedness of human rights and environmental protection.

The role of international human rights law in climate litigation has also been increasingly recognized. Cases such as *Juliana v. United States* and the *Climate Crisis Case* filed by youth activists against various governments have emphasized the need to protect the rights of future generations from the impacts of climate change. These cases not only seek to hold governments accountable for their climate commitments but also advocate for the recognition of climate change as a violation of fundamental human rights. The outcomes of these cases could influence the development of international human rights norms and the legal responsibilities of states in addressing climate change.

The interaction between climate litigation and international law is multifaceted and dynamic, reflecting the urgent need for effective legal responses to the climate crisis. International treaties and agreements, such as the Paris Agreement and the UNFCCC<sup>11</sup>, provide a legal framework for addressing climate change, while national courts play a critical role in enforcing these international obligations and holding governments and corporations accountable. Legal precedents established through climate litigation have the potential to shape international norms, influence state behavior, and promote the recognition of fundamental rights related to environmental protection.

As climate litigation continues to evolve and gain prominence, it is essential for legal systems worldwide to recognize the importance of aligning domestic laws with international climate commitments. The growing number of successful climate litigation cases serves as a testament to the power of the judiciary in effecting change and reinforcing the legal obligations of states and corporations in addressing climate change. Ultimately, the interaction between climate litigation and international law represents a crucial avenue for advancing climate justice and promoting a sustainable future for all.

### **Intersection of Human Rights and Climate Change**

The intersection of human rights and climate change is an increasingly recognized area of concern within international law and human rights advocacy. As the impacts of climate change intensify, they threaten a range of fundamental human rights, including the right to life, health, food, water, and a clean environment. The United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement underscore the necessity of addressing climate

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<sup>11</sup> United Nations Environment Programme (UNEP). (2021). Emissions Gap Report 2021. Retrieved from <https://www.unep.org/resources/emissions-gap-report-2021>

change as a matter of human rights, particularly as vulnerable populations face disproportionate risks.

Climate change exacerbates existing inequalities and poses significant threats to human rights, particularly for marginalized communities. These communities often bear the brunt of climate-related impacts, such as extreme weather events, rising sea levels, and food insecurity. The UN Human Rights Council has recognized that climate change poses a severe risk to human rights, calling on states to take proactive measures to protect the rights of individuals and communities affected by climate impacts.

The relationship between human rights and climate change is multifaceted<sup>12</sup>. For instance, the right to health is jeopardized as climate change leads to increased heatwaves, respiratory illnesses, and vector-borne diseases. Additionally, the right to food is threatened by changing agricultural conditions and food supply chain disruptions. Furthermore, the right to water is at risk due to diminishing freshwater resources and pollution exacerbated by climate impacts. The Special Rapporteur on human rights and the environment has emphasized that environmental degradation, including climate change, undermines the enjoyment of human rights and has called for a comprehensive human rights-based approach to climate action.

As climate litigation gains traction globally, it increasingly incorporates human rights arguments, positioning the protection of human rights as central to the fight against climate change. By framing climate litigation within a human rights context, advocates aim to hold governments and corporations accountable for their contributions to climate change and the resulting human rights violations. This approach not only emphasizes the legal obligations of states under international human rights law but also seeks to empower individuals and communities to seek redress for climate-related harms.

### **Case Studies: Climate Litigation as a Tool for Protecting Human Rights**

Several prominent case studies illustrate the use of climate litigation as a tool for protecting human rights, highlighting the effectiveness of legal action in holding governments and corporations accountable for their roles in exacerbating climate change and its impacts on

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<sup>12</sup> World Resources Institute (WRI). (2021). Climate Watch: NDC Tracker. Retrieved from <https://www.climatewatchdata.org/ndcs>

vulnerable populations.

The court emphasized that climate change poses a significant threat to the rights of present and future generations, including the right to life and the right to respect for private and family life under the European Convention on Human Rights. The ruling marked a landmark victory for climate litigation and set a precedent for using human rights arguments in climate cases. The Dutch government subsequently appealed but ultimately accepted the ruling, demonstrating the potential of litigation to influence policy change and uphold human rights.

## **2. *Juliana v. United States***

In the United States, *Juliana v. United States* represents a pivotal case in climate litigation with significant implications for human rights. Filed in 2015 by a group of 21 young plaintiffs, the case asserts that the federal government's failure to take meaningful action on climate change violates their constitutional rights to life, liberty, and property. The plaintiffs argue that the government's actions and inactions contribute to climate change, which poses existential threats to their future.

While the case faced numerous legal challenges and has yet to reach a final resolution, it has garnered widespread attention and support. The plaintiffs have framed their arguments around the principles of intergenerational justice, emphasizing the need to protect the rights of future generations from the impacts of climate change. The case underscores the importance of integrating human rights considerations into climate litigation, as it highlights the moral and legal responsibilities of governments to safeguard the well-being of their citizens, particularly the youth.

## **3. *Milieudefensie et al. v. Royal Dutch Shell***

Another landmark case that demonstrates the intersection of climate litigation and human rights is *Milieudefensie et al. v. Royal Dutch Shell*. In 2020, the Dutch environmental organization Milieudefensie (Friends of the Earth Netherlands) filed a lawsuit against Shell, claiming that the company's greenhouse gas emissions contribute significantly to climate change and violate the rights of individuals and communities affected by climate impacts. The court ruled in 2021 that Shell must reduce its emissions by 45% by 2030 compared to 2019 levels, emphasizing the company's responsibility to align its activities with international climate commitments.

The ruling highlighted the importance of corporate accountability in climate litigation and reinforced the notion that corporations have obligations under human rights law. It set a significant precedent for holding companies accountable for their contributions to climate change and underscored the role of litigation in protecting the rights of vulnerable populations affected by corporate practices.

### **Implications for International Human Rights Law**

The growing integration of human rights arguments in climate litigation has far-reaching implications for international human rights law. As courts increasingly recognize the links between climate change and human rights, this trend is reshaping the legal landscape and influencing the development of international norms and standards.

#### **1. Recognition of the Right to a Healthy Environment**

The recognition<sup>13</sup> of the right to a healthy environment as a fundamental human right has gained momentum in recent years, driven in part by climate litigation. Various international and regional human rights bodies have acknowledged the significance of environmental protection for the realization of human rights. For example, the UN Human Rights Council adopted a resolution in 2021 recognizing the right to a clean, healthy, and sustainable environment, which establishes a legal basis for individuals and communities to seek protection from climate-related harms.

As more courts incorporate the right to a healthy environment into their rulings, the legal framework for climate litigation will continue to strengthen. This evolving recognition underscores the interconnectedness of human rights and environmental protection, reinforcing the obligation of states to take proactive measures to mitigate climate change and protect the rights of affected populations.

#### **2. Intergenerational Justice**

The emphasis on intergenerational justice in climate litigation has significant implications for international human rights law. By framing climate action as a responsibility to future generations, litigants are advocating for a legal framework that prioritizes long-term

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<sup>13</sup> (IIED). (2021). Financing climate action: Supporting developing countries. Retrieved from



sustainability and the protection of rights for those yet to be born. This perspective challenges traditional legal frameworks that often prioritize short-term interests, urging states to adopt policies that consider the impacts of climate change on future generations.

The concept of intergenerational justice is increasingly being recognized in international legal instruments and discussions. For instance, the 2030 Agenda for Sustainable Development emphasizes the need to “leave no one behind,” reflecting a commitment to ensuring that the rights of future generations are upheld in the face of climate change. As this concept gains traction in climate litigation, it may influence the development of international law and the responsibilities of states to protect the rights of future generations.

### 3. Accountability for Climate Inaction

The incorporation of human rights arguments in climate litigation has significant implications for holding governments and corporations accountable for their actions and inactions regarding climate change. By framing climate inaction as a violation of human rights,<sup>14</sup> litigants are challenging the notion of impunity for those who contribute to environmental degradation and exacerbate climate impacts. This shift in accountability may lead to greater scrutiny of state and corporate actions, encouraging more robust climate policies and practices.

As more courts recognize the link between climate change and human rights violations, the legal landscape will evolve to promote accountability. This accountability extends beyond national borders, as international human rights law increasingly recognizes the responsibilities of states and corporations in addressing global challenges like climate change. The recognition of climate-related human rights violations may lead to stronger enforcement mechanisms and remedies for affected communities.

The intersection of human rights and climate litigation represents a crucial development in the fight against climate change. By framing climate action within a human rights context, litigants are not only seeking accountability for climate-related harms but also advancing the recognition of fundamental rights in the face of environmental degradation. Prominent cases, such as *Urgenda Foundation v. State of the Netherlands*, *Juliana v. United States*, and *Milieudefensie et al. v. Royal Dutch Shell*, illustrate the effectiveness of climate litigation as a tool for

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<sup>14</sup> United Nations Educational, Scientific, and Cultural Organisation, Water Portal, Water Security, (Mar. 5, 2022)

protecting human rights and holding governments and corporations accountable. As the legal landscape continues to evolve, the implications for international human rights law are profound. The growing recognition of the right to a healthy environment, the emphasis on intergenerational justice, and the push for accountability for climate inaction are reshaping the responsibilities of states and corporations in addressing climate change. The integration of human rights arguments in climate litigation not only reinforces the legal obligations of governments but also empowers individuals and communities to seek redress for climate-related harms. Ultimately, the intersection of human rights and climate litigation is vital for advancing climate justice and ensuring a sustainable and equitable future for all.

#### **IV. Future Directions for Climate Litigation and Conclusion**

##### **Emerging Trends in Climate Litigation**

Climate litigation is evolving rapidly, reflecting the urgent need for legal mechanisms to address the climate crisis and hold governments and corporations accountable for their contributions to greenhouse gas emissions. Several emerging trends characterize the current landscape of climate litigation, signalling a shift towards more strategic, impactful, and expansive legal action.

##### **1. Expansion of Legal Theories and Frameworks**

One notable trend is the diversification of legal theories and frameworks employed in climate litigation. Historically, climate lawsuits primarily focused on traditional tort claims, such as negligence and nuisance. However, there has been a marked shift towards integrating human rights arguments, constitutional provisions, and environmental rights into climate litigation strategies. This evolution is exemplified by cases that assert the right to a healthy environment or the right to future generations, as seen in *Juliana v. United States* and *Urgenda Foundation v. State of the Netherlands*. By expanding the legal basis for climate claims, litigants can leverage a broader array of legal protections and hold entities accountable on multiple fronts.

##### **2. Increased Participation of Diverse Actors**

The landscape of climate litigation is also witnessing increased<sup>15</sup> participation from a diverse

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<sup>15</sup> United Nations Convention to Combat Desertification, About the Convention, (Mar. 22, 2022), <https://www.unccd.int/convention/about-convention>; <https://www.unccd.int/>

range of actors, including individuals, non-governmental organizations (NGOs), indigenous communities, and youth activists. This trend is evident in cases such as *Youth v. Germany*, where young plaintiffs sued the German government for insufficient climate action, asserting that inadequate policies violate their rights. The engagement of diverse stakeholders not only amplifies voices that are often marginalized but also fosters a sense of collective responsibility and urgency in addressing climate change.

Additionally, indigenous communities are increasingly using climate litigation as a means to protect their land and resources from environmental degradation. For example, the case of *Juliana v. United States* includes claims from youth activists representing indigenous perspectives, emphasizing the disproportionate impacts of climate change on vulnerable populations. This growing participation enhances the legitimacy of climate litigation and strengthens the call for systemic change.

### **3. Increased Focus on Corporate Accountability**

Another emerging trend in climate litigation is the heightened focus on holding corporations accountable for their contributions to climate change. The landmark ruling in *Milieudefensie et al. v. Royal Dutch Shell*, where a Dutch court ordered Shell to reduce its emissions significantly, reflects this shift towards corporate responsibility. Such cases underscore the recognition that corporations, particularly fossil fuel companies, play a pivotal role in exacerbating climate change and have a legal and ethical obligation to align their practices with climate commitments.

The trend towards corporate accountability is expected to grow, as stakeholders increasingly scrutinize the climate practices of businesses. Litigation against corporations not only serves as a deterrent but also pressures them to adopt more sustainable practices, thereby driving systemic change in the private sector.

### **4. Climate Litigation as a Catalyst for Policy Change**

Climate litigation is increasingly recognized as a catalyst for policy change, influencing legislative action and executive decision-making at national and international levels. Successful cases have led to significant shifts in climate policy, compelling governments to adopt more ambitious emissions reduction targets and implement stronger climate regulations.

For example, the *Urgenda* ruling prompted the Dutch government to enhance its climate action plan and has inspired similar legal actions in other countries.

The influence of climate litigation extends beyond the courtroom; it serves as a powerful tool for raising public awareness and mobilizing grassroots movements. Legal victories can galvanize public support for climate action, creating a political environment conducive to policy reform. As the momentum of climate litigation builds, it is likely to play an increasingly prominent role in shaping climate policy agendas.

### **The Potential for Global Cooperation and Transnational Litigation**

As climate change is a global issue that transcends national borders<sup>16</sup>, the potential for global cooperation and transnational litigation is a crucial aspect of the future of climate litigation.

The interconnected nature of the climate crisis necessitates collaborative efforts among states, international organizations, and civil society to address the challenges posed by climate change.

#### **1. Strengthening International Legal Frameworks**

One avenue for fostering global cooperation in climate litigation is the strengthening of international legal frameworks. Existing treaties, such as the Paris Agreement and the UNFCCC, provide a foundation for collaboration among nations, but additional legal instruments may be necessary to facilitate effective climate action. For instance, the establishment of a binding international treaty that explicitly addresses climate-related human rights obligations could enhance accountability and provide a legal basis for transnational litigation.

International human rights law can also play a pivotal role in shaping climate litigation. The recognition of the right to a healthy environment as a fundamental human right has gained traction globally, paving the way for international legal instruments that explicitly integrate environmental protection and climate justice. Such developments could facilitate cooperation

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<sup>16</sup> United Nations Convention on the Law of the Non-navigational Uses of International Watercourses General Assembly resolution 51/229, annex, Official Records of the General Assembly, Fifty-first Session, Supplement No. 49(A/51/49), United Nations, 2014

among countries and enable individuals and communities to seek redress for climate-related harms on a broader scale.

## **2. Promoting Transnational Litigation**

Transnational litigation is another promising avenue for addressing the global nature of climate change. By enabling individuals and communities to bring claims against corporations and governments across borders, transnational litigation can enhance accountability and promote climate justice on a global scale. For example, lawsuits against multinational corporations for their environmental practices can be filed in jurisdictions where they operate, regardless of the country in which they are headquartered.

Transnational litigation can also facilitate collaboration among NGOs and advocacy groups in different countries, allowing them to share resources, expertise, and strategies. Collaborative efforts can enhance the effectiveness of climate litigation by pooling knowledge and experience, thereby amplifying the voices of those most affected by climate change.

However, transnational litigation also presents challenges, such as jurisdictional issues and differing legal frameworks across countries. Addressing these challenges will require concerted efforts among legal practitioners, policymakers, and advocacy organizations to develop a cohesive approach to transnational climate litigation.

## **3. International Solidarity and Climate Justice Movements**

The potential for global cooperation in climate litigation is further reinforced by the emergence of international solidarity movements advocating for climate justice. Initiatives such as the Global Climate Strike, spearheaded by youth activists, have galvanized global awareness and mobilized collective action against climate change. Such movements highlight the interconnectedness of climate issues and emphasize the importance of solidarity among diverse stakeholders.

International solidarity can also strengthen the effectiveness of climate litigation by fostering collaboration among affected communities, activists, and legal advocates. For instance, global networks can facilitate knowledge-sharing and provide support to communities facing climate related challenges, enabling them to navigate legal processes more effectively.

## **Recommendations for Strengthening Climate Litigation as a Tool for Change**

To enhance the effectiveness of climate litigation as a tool for addressing the climate crisis and protecting human rights, several recommendations can be put forth:

### **1. Strengthening Legal Frameworks**

Governments should prioritize the establishment and enforcement of robust legal frameworks<sup>17</sup> that integrate climate obligations into national laws. This includes recognizing the right to a healthy environment as a fundamental human right, ensuring that individuals and communities have legal avenues to seek redress for climate-related harms. Legal frameworks should also facilitate the use of human rights arguments in climate litigation, empowering individuals to hold governments and corporations accountable for their actions.

### **2. Enhancing Access to Justice**

Access to justice is crucial for effective climate litigation. States should work to eliminate barriers that hinder individuals and communities from pursuing legal action, such as prohibitive costs, lack of legal representation, and complex legal processes. Providing legal aid and support for climate litigation can empower marginalized communities to seek justice and participate in the legal system effectively.

### **3. Fostering Collaboration and Knowledge Sharing**

Legal practitioners, NGOs, and <sup>18</sup>advocacy organizations should collaborate to share knowledge and best practices in climate litigation. Establishing networks that facilitate the exchange of information, strategies, and resources can enhance the effectiveness of legal action and empower communities to advocate for their rights. International conferences and workshops can serve as platforms for legal practitioners to learn from each other and develop innovative approaches to climate litigation.

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<sup>17</sup> Abdul Ghafoor Awan, Relationship Between Environment And Sustainable Economic Development: A Theoretical Approach To Environmental Problems, INTERNATIONAL JOURNAL OF ASIAN SOCIAL SCIENCE, 2013,

<sup>18</sup> EUROPEAN INSTITUTE OF THE MEDITERRANEAN, ISBN 978-84-393-8113-6 5. Post-15: Framing a New Approach to Sustainable development, Policy Paper, INDEPENDENT RESEARCH FORUM, March (2013)

#### **4. Promoting Public Awareness and Advocacy**

Public awareness is essential for building support for climate litigation and driving policy change. Advocacy campaigns that highlight the human rights implications of climate change can mobilize public support and encourage individuals to take action. Engaging the media, educational institutions, and community organizations can amplify the message and foster a culture of climate justice.

#### **5. Encouraging Global Cooperation**

States should actively engage in international dialogue and cooperation to address the global nature of climate change. Collaborative efforts should focus on strengthening international legal frameworks, enhancing accountability, and promoting climate justice on a global scale. By working together, nations can share resources, expertise, and best practices, leading to more effective climate litigation and policy outcomes.

The future of climate litigation is characterized by emerging trends that reflect the urgent need for legal action to address the climate crisis. As the landscape evolves, the potential for global cooperation and transnational litigation presents significant opportunities for advancing climate justice and holding governments and corporations accountable. By strengthening legal frameworks, enhancing access to justice, fostering collaboration, promoting public awareness, and encouraging global cooperation, climate litigation can serve as a powerful tool for driving change and protecting human rights in the face of climate change. As the impacts of climate change continue to escalate, the importance of effective legal mechanisms to address these challenges cannot be overstated. The integration of human rights considerations into climate litigation will play a critical role in shaping a sustainable and equitable future for all.