
INTERNATIONAL CLIMATE LAW OBLIGATIONS AND THE EMERGENCE OF CROSS-JURISDICTIONAL CLIMATE LITIGATION

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ABSTRACT

The intensification of climate change has catalyzed a profound transformation in international and domestic legal systems. What was once perceived as a predominantly diplomatic domain governed by soft commitments has progressively entered courtrooms across jurisdictions. This paper examines how international climate law obligations emanating from the UNFCCC, the Kyoto Protocol, the Paris Agreement, customary international law principles, and evolving human rights norms—are being invoked and operationalized in cross-jurisdictional climate litigation. It argues that courts are no longer passive recipients of international environmental norms but active agents in their interpretation and progressive development. The paper analyses doctrinal pathways through which treaty commitments and customary principles are translated into domestic duties of care, constitutional protections, and corporate accountability standards. It further explores the emergence of cross-border litigation involving multinational corporations, transnational supply chains, extraterritorial emissions, and climate-related human rights claims. Special attention is given to European jurisprudence and the emerging Indian judicial approach under constitutional environmentalism. The paper concludes that cross-jurisdictional climate litigation is narrowing the enforcement deficit within international climate governance by transforming political commitments into judicially examinable standards of responsibility.

Keywords: International Climate Law; Cross-Jurisdictional Litigation; Paris Agreement; Climate Accountability; Human Rights; Corporate Liability; India; Transnational Environmental Governance.

I. Reframing Climate Change as a Legal Accountability Question

Climate change governance has historically been dominated by diplomatic negotiation and political compromise. International climate instruments were designed as frameworks for cooperation rather than enforcement-heavy regulatory regimes. However, the accelerating frequency of climate-induced disasters, scientific certainty regarding anthropogenic emissions, and persistent mitigation gaps have altered the landscape.

Litigants ranging from civil society organizations and youth groups to subnational governments and affected individuals have increasingly turned to courts to demand accountability. Climate litigation now operates at multiple levels: domestic constitutional challenges, administrative law claims, corporate tort actions, and transnational proceedings.

The contemporary shift is not merely quantitative but qualitative. Courts are being asked to interpret international climate obligations, assess long-term mitigation pathways, and determine the adequacy of national contributions under the Paris Agreement. In doing so, they are reshaping the interface between international law and domestic enforcement.

This paper contends that cross-jurisdictional climate litigation represents a structural evolution in global environmental governance. It bridges the enforcement deficit of international climate agreements by embedding them within domestic legal systems.

II. Normative Architecture of International Climate Obligations

A. Treaty-Based Obligations

The United Nations Framework Convention on Climate Change (UNFCCC) establishes the objective of stabilizing greenhouse gas concentrations to prevent dangerous anthropogenic interference with the climate system.¹ It embeds foundational principles such as equity, common but differentiated responsibilities (CBDR), precaution, and sustainable development.²

The Kyoto Protocol marked the first attempt to impose quantified emission reduction obligations on developed states.³ Although limited in participation, it institutionalized compliance mechanisms and emissions accounting standards.

The Paris Agreement fundamentally restructured the regime. Rather than imposing uniform

binding targets, it introduced nationally determined contributions (NDCs), requiring states to prepare, communicate, and maintain progressively ambitious commitments.⁴ While mitigation targets themselves are nationally defined, the obligation to pursue domestic measures toward their achievement constitutes a binding duty of conduct.⁵

B. Customary International Law and General Principles

Beyond treaty law, climate obligations are increasingly linked to customary principles. The no-harm rule obliges states to prevent activities within their jurisdiction from causing transboundary environmental damage.⁶ The precautionary principle supports anticipatory action despite scientific uncertainty. Intergenerational equity underscores obligations owed to future generations.

Although climate change presents complex causation challenges due to cumulative emissions, litigants argue that excessive national emissions breach these established principles. Courts have begun to engage with this reasoning indirectly through human rights and constitutional doctrines.

III. Pathways of Domestic Incorporation

International climate law rarely operates through direct enforcement mechanisms. Instead, it exerts influence through interpretive incorporation into domestic legal systems.

A. Monist and Dualist Systems

In monist jurisdictions, ratified treaties may acquire automatic domestic effect. In dualist systems, legislative implementation is required. However, even where treaties lack direct enforceability, courts frequently use them as interpretive aids in construing constitutional rights and statutory duties.

B. Judicial Translation of Climate Commitments

In *Urgenda Foundation v. State of the Netherlands*, the Dutch Supreme Court relied on human rights obligations under the European Convention on Human Rights to mandate stronger emission reductions.⁷ Although the Paris Agreement did not provide a direct cause of action, it informed the standard of reasonable state conduct.

Similarly, the German Federal Constitutional Court held that insufficient emission reduction pathways violated constitutional rights by shifting disproportionate burdens to future generations.⁸ The judgment explicitly referenced Germany's international climate commitments to contextualize constitutional obligations.

These cases illustrate a doctrinal pattern: courts convert international commitments into enforceable domestic standards through constitutional interpretation.

IV. Corporate Climate Responsibility Across Borders

A defining feature of recent climate litigation is the shift toward corporate accountability. Multinational enterprises contribute substantially to global emissions through direct operations and supply chains.

In *Milieudefensie v. Royal Dutch Shell plc*, the Hague District Court imposed a duty of care on Shell to reduce its global emissions, including Scope 3 supply chain emissions.⁹ The Court interpreted Dutch tort law in light of international climate norms and human rights standards.

This decision signifies a departure from purely state-centric responsibility. It recognizes that corporations exercising global operational control may bear independent obligations consistent with international climate objectives.

A. Supply Chain and Scope 3 Emissions

The extension of liability to value-chain emissions reflects judicial recognition of systemic climate impact. It also aligns corporate governance with science-based targets consistent with limiting warming to 1.5°C.

B. Foreign Direct Liability

In *Lliuya v. RWE AG*, a Peruvian claimant sought proportional damages from a German energy company for glacial melt-related risks.¹⁰ Although still ongoing, the German court allowed evidentiary proceedings, implicitly acknowledging the plausibility of transnational climate tort claims.

This development suggests increasing judicial openness to cross-border attribution claims grounded in proportional contribution.

V. Human Rights as a Vehicle for Climate Accountability

Human rights law has emerged as a powerful vehicle for climate claims. Courts and treaty bodies increasingly recognize environmental degradation as implicating rights to life, health, dignity, and private life.

The Inter-American Court of Human Rights has affirmed that environmental harm can constitute a violation of human rights even without direct cross-border physical presence.¹¹

Youth-led petitions before international bodies have framed climate inaction as a breach of children's rights.¹² These developments reinforce the conceptual shift from environmental harm as policy failure to environmental harm as rights violation.

Human rights-based climate litigation strengthens cross-jurisdictional claims by invoking universally recognized norms.

Climate change is no longer only an environmental issue; it is a profound human rights challenge. Rising temperatures, extreme weather events, sea-level rise, droughts, and floods are affecting millions of people worldwide. These impacts threaten basic rights such as the right to life, health, food, water, housing, and livelihood. As the consequences of climate change intensify, human rights frameworks have emerged as powerful tools for demanding climate accountability from governments and corporations.

At its core, the human rights approach reframes climate change from a scientific or economic debate into a matter of justice and responsibility. When communities lose their homes due to flooding or face food shortages because of prolonged drought, their fundamental rights are compromised. International instruments such as the United Nations human rights treaties and national constitutions recognize these rights and impose legal obligations on states to respect, protect, and fulfill them. This creates a basis for holding authorities accountable when they fail to take adequate climate action.

In recent years, courts around the world have increasingly recognized the connection between environmental protection and human rights. Landmark cases have demonstrated that governments can be legally required to adopt stronger climate policies. For example, in the Netherlands, the Supreme Court ruled in favor of citizens demanding more ambitious emissions reductions, emphasizing the state's duty to safeguard the rights to life and well-being. Such

decisions show that climate inaction can constitute a violation of human rights obligations, not merely a policy failure.

Human rights mechanisms also amplify the voices of vulnerable groups who are disproportionately affected by climate change. Indigenous peoples, small island communities, children, and low-income populations often contribute the least to greenhouse gas emissions yet suffer the most severe consequences. By invoking human rights principles—such as equality, non-discrimination, and participation these communities can demand inclusive decision-making processes and equitable climate solutions. This approach ensures that climate policies are not only environmentally effective but also socially just.

At the international level, the recognition of the right to a clean, healthy, and sustainable environment has strengthened the link between human rights and climate accountability. In 2022, the United Nations General Assembly adopted a resolution acknowledging this right. While not legally binding on its own, the resolution carries significant moral and political weight. It reinforces the idea that environmental harm, including climate change, undermines universally recognized human rights.

Corporate accountability is another crucial dimension. Fossil fuel companies and other major emitters have historically contributed significantly to greenhouse gas emissions. Human rights-based litigation is increasingly being used to challenge corporate practices, demanding transparency, emissions reductions, and compensation for affected communities. By framing climate harm as a rights violation, plaintiffs can argue that businesses have a responsibility to prevent foreseeable damage to people and the planet.

Moreover, human rights frameworks promote transparency and access to information. Governments are expected to provide accurate data about environmental risks and to consult communities before approving projects that may exacerbate climate impacts. This strengthens democratic governance and ensures that climate policies are subject to public scrutiny.

In conclusion, human rights serve as a powerful vehicle for climate accountability by transforming climate change into a matter of legal obligation and moral responsibility. They provide affected individuals and communities with tools to seek justice, influence policy, and demand stronger action. As climate challenges grow more urgent, integrating human rights

principles into climate governance offers a path toward fairness, responsibility, and meaningful change.

VI. The Indian Constitutional Perspective

India presents a distinctive model grounded in constitutional environmentalism. Article 21 of the Constitution guarantees the right to life, which the Supreme Court has expansively interpreted to include the right to a healthy environment.¹³

Indian courts have applied principles such as the precautionary principle, polluter pays principle, and public trust doctrine.¹⁴ While India has not yet witnessed large-scale climate-specific constitutional litigation comparable to *Urgenda*, judicial reasoning in environmental cases suggests potential receptivity to climate claims.

India's commitments under the Paris Agreement, including its NDC targets, may increasingly influence domestic judicial review of environmental and energy policies. The National Green Tribunal (NGT) could also serve as a forum for climate-related adjudication.

Given India's vulnerability to climate impacts and its developmental imperatives, judicial balancing between equity and mitigation obligations will be crucial.

Climate change governance today operates at the intersection of international law, constitutional principles, and judicial innovation. For India, this intersection is particularly significant because its constitutional framework provides a fertile ground for integrating international climate commitments into domestic legal reasoning. As global climate litigation expands across borders, Indian constitutional jurisprudence increasingly interacts with international climate law, shaping an evolving landscape of cross-jurisdictional accountability.

India is a party to key international climate instruments, including the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement. These agreements impose varying obligations related to mitigation, adaptation, reporting, and international cooperation. While such treaties are binding at the international level, their domestic enforceability in India depends on constitutional mechanisms and legislative action. Unlike monist systems where treaties automatically become part of domestic law, India follows a dualist approach. International agreements generally require enabling legislation to have

direct effect within the country. However, Indian courts have developed creative interpretative strategies to bridge this gap.

The Constitution of India does not explicitly mention climate change, yet it provides a robust environmental foundation. Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the Supreme Court to include the right to a clean and healthy environment. Through judicial interpretation, environmental protection has become integral to the protection of fundamental rights. This doctrinal evolution allows courts to indirectly incorporate international environmental principles when interpreting constitutional guarantees.

Articles 48A and 51A(g) further strengthen this framework. Article 48A directs the State to protect and improve the environment, while Article 51A(g) imposes a fundamental duty on citizens to safeguard natural resources. Although these provisions are part of the Directive Principles and Fundamental Duties traditionally non-justiciable they have influenced judicial reasoning in environmental cases. Indian courts frequently rely on international environmental norms, such as sustainable development, the precautionary principle, and intergenerational equity, even when these norms are not codified in domestic statutes.

The Supreme Court of India has repeatedly affirmed that international conventions, if not inconsistent with domestic law, can inform constitutional interpretation. In environmental jurisprudence, the Court has drawn upon global principles to expand the scope of Article 21. This interpretative openness creates a pathway for integrating India's obligations under the Paris Agreement into constitutional discourse, particularly in matters concerning climate mitigation and adaptation.

The rise of cross-jurisdictional climate litigation has added a new dimension to this dynamic. Around the world, courts are increasingly being asked to review governmental climate policies against constitutional and human rights standards. Influential decisions such as the Dutch Urgenda case have inspired litigants in multiple jurisdictions. Although India has not yet witnessed a definitive climate-specific constitutional ruling of comparable scale, its judiciary's proactive environmental record suggests that such litigation is plausible.

Cross-jurisdictional climate litigation involves the exchange of legal ideas across national boundaries. Courts refer to foreign judgments, international treaties, and comparative

constitutional principles when addressing complex environmental challenges. In this context, Indian courts may look to global precedents to assess the adequacy of national climate commitments or governmental inaction. Conversely, India's own jurisprudence on environmental rights can influence courts in other developing nations grappling with similar constitutional structures and socio-economic constraints.

Climate litigation in India has so far primarily emerged under the broader umbrella of environmental protection, rather than explicitly invoking international climate treaties. However, petitioners increasingly argue that inadequate climate action violates constitutional rights to life, health, and equality. Such arguments reflect a convergence between domestic constitutional guarantees and international climate obligations. As climate impacts intensify manifesting in extreme heatwaves, floods, and air pollution crises courts may face greater pressure to scrutinize state action in light of both constitutional mandates and international commitments.

Another important aspect is federalism. Climate governance in India involves both Union and State governments. International obligations are undertaken by the Union, but implementation often depends on state-level policies. This distribution of authority can complicate accountability. Cross-jurisdictional litigation may challenge not only national policies but also state-level inaction, potentially leading to constitutional disputes regarding competence and responsibility.

At the same time, Indian courts must balance climate ambition with developmental priorities. As a developing country with significant poverty alleviation goals, India often emphasizes the principle of common but differentiated responsibilities in international negotiations. Judicial engagement with climate obligations therefore requires sensitivity to economic realities while ensuring that environmental degradation does not undermine fundamental rights.

In conclusion, the Indian constitutional perspective provides a dynamic and adaptable framework for engaging with international climate law obligations. Through expansive interpretation of Article 21 and reliance on global environmental principles, Indian courts have created avenues for integrating climate commitments into domestic legal discourse. As cross-jurisdictional climate litigation continues to evolve, India stands at a critical juncture where constitutional values, international responsibilities, and judicial innovation may converge to shape the future of climate accountability.

VII. Jurisdictional and Evidentiary Complexities

Cross-jurisdictional climate litigation faces significant doctrinal challenges:

1. **Causation:** Climate harm results from cumulative global emissions. Courts increasingly rely on climate attribution science to establish probabilistic contribution.
2. **Standing:** Plaintiffs must demonstrate sufficient legal interest; youth and future-generation standing remains contested in many jurisdictions.
3. **Extraterritoriality:** Determining whether domestic courts may adjudicate harms occurring abroad requires careful jurisdictional analysis.
4. **Separation of Powers:** Governments frequently argue that climate policy is a political question unsuitable for judicial determination.

Despite these challenges, evolving scientific methodologies have strengthened evidentiary capacity to quantify contributions of specific emitters.¹⁵

VIII. Advisory Opinions and the Future of International Clarification

Pending advisory opinion requests before international tribunals including the International Court of Justice and the International Tribunal for the Law of the Sea may clarify states' obligations concerning climate change.¹⁶

Although advisory opinions are non-binding, they possess significant normative authority. A clear articulation of climate-related duties under customary international law could further empower domestic courts and strengthen cross-border claims.

IX. Courts as Catalysts in Climate Governance

Judicial engagement in climate governance reflects a broader transformation in international law. Courts are not replacing political negotiation but reinforcing normative coherence. By scrutinizing governmental inaction and corporate conduct, they enhance accountability mechanisms absent at the international level.

Cross-jurisdictional litigation also contributes to normative harmonization. Courts frequently

reference foreign judgments, creating transnational judicial dialogue. This phenomenon fosters convergence around science-aligned standards and reinforces the legitimacy of climate obligations.

While concerns regarding judicial overreach persist, courts generally intervene only where constitutional or statutory duties are demonstrably breached. In this sense, climate litigation represents an extension of rule-of-law principles rather than their disruption.

X. Conclusion

International climate law has evolved into a dynamic normative framework increasingly capable of judicial enforcement. Through constitutional interpretation, tort law development, and human rights reasoning, domestic courts are translating international commitments into concrete standards of responsibility.

Cross-jurisdictional climate litigation represents a decisive step toward closing the accountability gap in global climate governance. By holding both states and corporations answerable for inadequate mitigation efforts, courts are reinforcing the legal significance of international climate commitments.

As advisory opinions clarify customary obligations and attribution science strengthens evidentiary foundations, cross-border climate litigation is likely to expand. The resulting jurisprudence will shape not only national policy but the future trajectory of international climate law itself.

Endnotes (Bluebook 20th ed.)

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