

Assessing The Role Of International Law While Addressing The Climate Change Disputes

BITTO*

*(Research Scholar, Department of Law), Kurukshetra University, Kurukshetra, VIRATKIRAR1389@GMAIL.COM

Citation: BITTO, (2024). Assessing The Role Of International Law While Addressing The Climate Change Disputes, *Educational Administration: Theory and Practice*, 30(7) 1378-1380
Doi: 10.53555/kuey.v30i7.10138

ARTICLE INFO	ABSTRACT
	<p>The concept of climate change represents a critical and unprecedented worldwide challenge which needs a coordinated response across legal, political, and institutional boundaries. International law particularly through environmental treaties and human rights frameworks has become increasingly central under the domain of climate change cases. That paper examines how international legal norms shape both domestic and transnational climate lawsuits, enabling individuals, civil society actors, and even states to contain states and corporations answerable for failing to mitigate or adapt to climate impacts. Key developments analysed include the growth use of “International Law for Human Rights”, the invocation of treaty obligations such as those in the Paris Agreement, and the growing judicial recognition of environment-climate related doctrines like ‘precautionary principle’ and multicultural equity. This paper concludes by addressing the challenges facing international climate litigation and analysing the eventuality of international law as a powerful mechanism for enforcing climate obligations in the future.</p> <p>Keywords: International Law, Environment Law, Climate Change Litigation, Paris Agreement</p>

Introduction

The global climate crisis has forced a rethinking of legal norms, responsibilities, and enforcement mechanisms across all levels of governance. As international negotiations continue to struggle in compelling swift mitigation and adaptation efforts, climate litigation has become an essential avenue for ensuring accountability. Courts are now more frequently called upon to evaluate the sufficiency of climate actions and to decipher legal duties of international under the domain of governmental inaction or corporate negligence. Although international law traditionally governs the relationships between states, its influence in climate litigation now extends into domestic courts, regional tribunals, and human rights bodies. "At the core of this trend are international legal instruments such as the **Paris Agreement** and the **UN Framework Convention on Climate Change (UNFCCC)**, complemented by customary international law principles and the growing intersection of environmental law and human rights." This paper examines how international law is incorporated into climate litigation, how courts interpret its principles, and how litigants invoke it to strengthen claims of climate related harm and injustice.

Climate change has evolved beyond a purely scientific or political issue it has become a prominent legal battleground. As its impacts intensify, the inadequate mitigation and adaptation efforts by states and corporations are increasingly being contested in courts. Although much of this litigation takes place within national jurisdictions, international law plays a vital and expanding role in shaping legal strategies and influencing outcomes across the globe. The rise of climate litigation rooted in international legal frameworks such as human rights law and multilateral environmental agreements represents a pivotal role in the structure of global climate governance.

International Legal Frameworks in Climate Litigation

- **The United Nations Framework Convention on Climate Change (UNFCCC):** Established in 1992, the UNFCCC addresses several actions towards the protection of environment change. Such convention also serves to strengthen the greenhouse gas to restrict the directly actions of human related with climate

change process. Although this Convention imposes few binding obligations, it has conferred the essential legitimate and institutional roots for later agreements, most notably the “*Kyoto Protocol (1997) and the Paris Agreement (2015)*.”

- **The Paris Agreement (2015):** Building on UNFCCC, such Agreement has become a central reference point in climate litigation. It places a longitudinal temperature object and introduces nationally determined contributions (NDCs), adopting a "bottom-up" approach that grants states flexibility while raising legal questions about accountability and compliance. In numerous legal cases, the Agreement has been cited to demonstrate states' commitments to reduce emissions and meet global climate targets.
- **Customary International Law and Human Rights Instruments:** In addition to treaty-based obligations, courts are increasingly relying on human laws and customary international law such as the ICCPR and the ECHR to support climate claims. These instruments provide a foundation asserting that climate change inflicts grave threats to basics rights, inclusion of health and right to life, and to keep safe sustainable environment.

Utilisation of International Law into Domestic and Cross-Border Climate Litigation

- **International Law under Domestic Courts:** Such courts are increasingly drawing on international climate commitments when deciding cases against governments and corporations. The case “*Urgenda Foundation v. The Netherlands*”, the Apex Court of Dutch invoked the principles for human rights to require the state to take stronger environmental steps. Court also referenced the Paris Agreement and prevailing widely view to interpret the obligations of government to keep climate protection.
- **Climate Litigation Against Private Actors:** Climate litigation targeting corporations is increasingly invoking international legal standards to establish duties of care and environmental responsibility. A notable example was drafted under the case “*Milieudefensie v. Royal Dutch Shell*”, where local court of Hague found Shell responsible for aligning its corporate regulations with the objectives of ‘Paris Agreement’.
- **Strategic Transnational Litigation:** Transnational litigation often uses international law to build cohesive legal strategies across jurisdictions. Plaintiffs may invoke treaty obligations or customary norms to create persuasive arguments in different legal systems. NGOs and legal networks collaborate internationally, sharing resources and precedents, thus amplifying the reach of international valid standards.

Customary International Law and Doctrines of Environmental Protection

- **No-Harm doctrine:** Such doctrine of no-harm is a basic norm of environmental law under international statute requiring states to ensure those activities which do not harm climate change. *Trail Smelter Arbitration (United States v. Canada)*, was the first litigation where this dogma was recognised and hereafter this drafted as doctrine 21 of “Stockholm Declaration” (1972) and Principle 2 of the ‘Rio Declaration (1992)’.
- **Doctrine of Sustainable Development:** This dogma was first met under the Brundtland Report (1987) and reaffirmed in Agenda 21; the doctrine of sustainable development highlights the present requirements without settlement of potential of future generations to settle their own requirements. Courts have increasingly invoked this principle to inflict a balance securing the environment with the balancing of economic growth, particularly in cases involving land use and energy policy.
- **Precautionary Principle:** This doctrine established as Principle 15 in Rio Declaration, this doctrine asserts that if there are grave causes for environmental harm, "even in the face of scientific uncertainty, states is under responsibility to deliver cost-effective steps to prevent climate harm.
- **Polluter Pays Principle:** This principle enacted under Principle 16 of the Rio Declaration confers that polluters shall be answerable if they harm the environmental law. This principle is increasingly cited into climate liability cases targeting leading fossil fuel companies, widely recognised as “carbon majors” accountable. It was a key foundation in “*Milieudefensie v. Shell*”, court mandated the company to cut off emissions throughout its worldwide operations.

Challenges and Limitations

Despite its growing relevance, international law in climate litigation faces several challenges:

- **Enforceability:** Most international environmental agreements lack binding dispute resolution mechanisms. Even when courts make rulings, enforcing them especially against sovereign states can be difficult.
- **Sovereignty Concerns:** States may resist the imposition of external standards, especially when international norms are interpreted by domestic or regional courts.
- **Ambiguity in Legal Obligations:** Many international instruments use non-binding or ambiguous language, making it harder to establish clear legal duties or liability.
- **Access to Justice:** Vulnerable communities often lack the resources or legal capacity to pursue international claims.

Nevertheless, the creative use of international law has forced courts to grapple with these challenges and has begun to reshape the boundaries of climate responsibility.

Conclusion

International law plays a key, though complex, role in environment change litigation. It functions both as a normative framework and as a legal toolkit for claimants seeking accountability for climate-related harm. Once primarily focused on state-to-state relations, international law has evolved into a dynamic instrument increasingly embedded within domestic and transnational environment cases. Through environmental treaties, human rights law, and foundational legal principles, it provides mechanisms to keep states and corporations answerable, advance climate justice, and underscore the utmost require for climate act. Looking forward, the effectiveness of international law in climate litigation will hinge on stronger enforcement, deeper judicial integration of environmental principles, and wider recognition of environmental rights. As the climate crisis intensifies, international law must continue to adapt not only to keep pace with scientific developments but also to uphold justice and intergenerational equity.

References

Treaties, Agreements, and Legal Instruments

1. United Nations Framework Convention on Climate Change (UNFCCC), 1992.
2. Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1997.
3. International Covenant on Civil and Political Rights (ICCPR), 1966.
4. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
5. Paris Agreement, 2015.
6. European Convention on Human Rights (ECHR), 1950.
7. United Nations Human Rights Council Resolution 48/13, 2021 – Recognition of the Human Right to a Clean, Healthy and Sustainable Environment.

Case Law and Judicial Decisions

8. Urgenda Foundation v. The State of the Netherlands, Supreme Court of the Netherlands, 2019.
9. Leghari v. Federation of Pakistan, Lahore High Court, 2015.
10. Milieudefensie et al. v. Royal Dutch Shell, District Court of The Hague, 2021.
11. Sacchi et al. v. Argentina, Brazil, France, Germany, and Turkey, UN Committee on the Rights of the Child, 2021.
12. Portillo Cáceres and Others v. Paraguay, UN Human Rights Committee, 2022.
13. Notre Affaire à Tous et al. v. France, Paris Administrative Court, 3 February 2021.
14. Climate Case Ireland (Friends of the Irish Environment v. Government of Ireland), Irish Supreme Court, 31 July 2020.
15. Greenpeace Nordic and Nature and Youth v. Ministry of Petroleum and Energy, Supreme Court of Norway, 2020.
16. Advisory Opinion on Climate Change and Human Rights, Inter-American Court of Human Rights (requested by Chile and Colombia, 2023 – pending).
17. Advisory Opinion, International Tribunal for the Law of the Sea (ITLOS), Case No. 31, 2023.

Scholarly Articles and Books

18. Peel, J., & Osofsky, H. M. (2018). *Climate Change Litigation: Regulatory Pathways to Cleaner Energy*. Cambridge University Press.
19. Setzer, J., & Higham, C. (2022). *Global Trends in Climate Change Litigation: 2022 Snapshot*. Grantham Research Institute on Climate Change and the Environment, London School of Economics.
20. Voigt, C. (Ed.). (2017). *The Paris Agreement on Climate Change: A Commentary*. Oxford University Press.
21. Knox, J. H. (2018). Constructing the Human Right to a Healthy Environment. *Annual Review of Law and Social Science*, 15, 79–95.
22. Sands, P., Peel, J., Fabra, A., & Mackenzie, R. (2018). *Principles of International Environmental Law* (4th ed.). Cambridge University Press.
23. Rajamani, L., & Peel, J. (2021). “The Role of Courts in Advancing Climate Accountability: Global Trends,” *Journal of Environmental Law*, 33(1), 1–25.
24. Knox, J. H. (2017). Report of the Special Rapporteur on Human Rights and the Environment: Framework Principles on Human Rights and the Environment, UN Doc. A/HRC/37/59.
25. Bodansky, D., Brunnée, J., & Rajamani, L. (2017). *International Climate Change Law*. Oxford University Press.