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# CLIMATE CHANGE BEFORE NATIONAL AND INTERNATIONAL JUSTICE

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## ABSTRACT

*This article deals with the roles of national and international courts in reducing the impact of climate change on human society and on the environment, and highlights the rules of national and international law that address climate change. Issues raised before international and national courts in the field of climate change are discussed, and the contribution of these provisions and decisions to reduce the effects of climate change on the environmental and human areas are considered. The article uses an analytical approach to study climate change cases. The research also highlights the directing and changing of the general policies of countries in the field of climate change. It also emphasizes the need for international cooperation in the field of climate change issues, as the resulting damage to the environment transcends national boundaries.*

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**KEYWORDS:** Climate Change Impacts; Law; Courts; Limitation; International Convention.

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## 1. INTRODUCTION

The issue of climate change is one of the most important topics presented today. Given its devastating effects and the damages resulting from it, it is now a vital subject of academic legal debate. Global warming is one of the most important reasons for climate change. Its reason is due to the accumulation of greenhouse gases in the air, such as carbon dioxide, methane, nitrous oxide, and water vapor. Perhaps the most prominent manifestations of climate change are the world's hurricanes and floods; and changes in the wind speeds and temperatures of the earth. These natural manifestations vary from geographical region to another. It can be said that the emissions of these gases are usually caused by activities such as fossil fuel extraction, forest removal and others. (Pielke, 2004; Di Stefano et al, 2025; Albakjaji, 2024).

Most scientific studies in this field agree that the main reason for climate change is the increasing usage and production of fossil fuels, which are the most important source of the increase in greenhouse gas emissions. (Verma, 2021). These have natural effects such as hurricanes, storms and drought (Tarawneh & Chowdhury, 2018). This has an impact on human health (Paavola, 2017), the decline of biodiversity (Bellard et al, 2012) and, last but not least, the rise in sea levels (Lindsey, 2021).

The international legal efforts in climate change seek to impose two types of obligations on countries. The main part of these obligations focuses on efforts to alleviate climate change. While the secondary part focuses on efforts to adapt to the manifestations of climate change. It can be said that the efforts made to alleviate the manifestations of climate change are based on reducing emissions (especially in the country's most polluting the environment), and compensating these emissions with environmentally friendly sources. These mitigating measures include the protection and promotion of vital systems, foremost of which are the forest systems, wetlands and others. But international efforts in this context will not be effective if they are not supported by effective national policies to alleviate emissions and fight greenhouse gases. (Steg, 2018).

Our article examines the role of national and international courts in this area. We aim to analyze whether this role serves primarily climate change mitigation efforts or climate change adaptation efforts, or whether there is a balance between the two roles.

In this article we focus on how courts can contribute to the limitations of climate change impacts on territories, people and nature.

## 2. LITERATURE REVIEW

We refer to an article titled: "Climate change litigation: A review of research on courts and litigants in climate governance" (Setzer, J. and Vanhala, L.C). This is a review of 130 articles on climate change litigation published in English in the law and social sciences between 2000 and 2018. Since its publication there have been many new developments in this field. In their article titled "Regulating climate change in the courts", Setzer Joana and Mook Bangalore point out how courts can contribute to national policy in climate change matters. Mention should also be made of Jolene Lin's article "Climate change and the courts." In this paper the author concluded that courts play a key role in national policy in Australia and EU, but the article was published in 2012 (Lin, 2012). Once again, there have been many new developments in the following decade (for example, the Paris agreement on climate change was concluded in 2015). Our article aims to identify the barriers to court intervention in climate change limitations efforts. We should refer to the Preston study titled: "The contribution of the courts in tackling climate change." The author suggests that courts can contribute to addressing climate change by: Providing equal access to justice for all parties, including marginalized communities and future generations; Determining climate change claims based on the law and the evidence presented, rather than deferring to political considerations or administrative decisions; Upholding the rule of law, including international law and the principles of environmental protection; Encouraging and enforcing action on climate change by the executive, legislature, and private sector, as well as promoting public awareness and understanding of the issue; Explaining and upholding the fundamental values that underpin the law, including justice, fairness, and sustainability; Promoting environmental values and putting a price on them, to encourage sustainable behavior and discourage environmentally harmful practices; and Assisting in the progressive and principled development of climate change law and policy, through reasoned and evidence-based decisions (Preston, 2016).

## 3. METHOD

The article adopts a scientific approach consistent with legal and judicial sciences. It primarily relies on an analytical approach, analyzing state legislation and international agreements related to mitigating and adapting to climate change. It also utilizes a statistical approach by conducting a quantitative study of climate change cases across the world.

Furthermore, it employs a critical approach by examining the role of these courts in these cases. The study discusses data about the topic published by the UN Environment Program Report (2020) and London School of Economics (LSE) report on global trends in climate litigation (2022).

## 4. RESULTS

### 4.1. *The International Law on Climate Change Limitation Is a Part of National Law*

International climate change law is a branch of international environmental law, which is the body of international rules concerned with environmental protection. International environmental law is therefore a set of international agreements and customs that define obligations towards states. As a branch of public international law, it is characterized as treaty-based rather than legislative law, meaning it arises from an agreement between states. When a state becomes a party to an international agreement, that agreement becomes part of its legal system. It is important to note that there are two types of agreements: the first enters directly into the domestic legal system of states without the need for any formal procedures, while the second type is international agreements that require additional procedures, such as the enactment of national legislation, amendment of a national law, or the implementation of administrative measures (Koh, 2004; Teem, 2022; Mahmood, 2022; Albakjaji, 2025). For both categories, the treaty becomes binding on the state and can be invoked before its national courts, provided its provisions are justiciable, meaning that individuals can file lawsuits based on them to ensure that state's compliance. It is important to note that international agreements sometimes include non-justiciable provisions, such as provisions expressing states' intentions to preserve the environment. In short, some states value international agreements more highly than national legal texts, while others value the national constitution more highly than international agreements (Kumm, 2003; Denza, 2006).

### 4.2. *Contribution of the International Court to the Limitation of Climate Change Impacts*

There are three major cases at the international

level, all of which involve advisory opinions: the first before the Law of the Sea Tribunal, the second before the Inter-American Court of Human Rights, and the third before the International Court of Justice. Before the ICJ a group of countries at the United Nations General Assembly submitted a draft request for an advisory opinion from the International Court of Justice regarding the obligations of states in the field of climate change. On March 29, 2023, the General Assembly approved this request at its 64th session. The request included a set of questions centered on the Court's definition of the set of obligations incumbent upon states under international law to protect the global climate system from greenhouse gas emissions. What is new about the matter is that the obligations relate not only to the current impact of these obligations, but also to future generations. This initiative was initiated by some small countries suffering from the effects of climate change, particularly those experiencing sea level rise and consequently losing their land area (Priess, 2025; Gehring & Cordonier Segger, 2025). The International Court of Justice issued its opinion on July 23, 2025. The opinion included a detailed explanation of the applicable law on the matter, which included the United Nations Charter, climate change agreements, the United Nations Convention on the Law of the Sea, environmental agreements, and customary international law. The Court also discussed in detail the duties of states, including the obligation to avoid significant harm to the environment and the duty to cooperate for the protection of the environment. The Court also dedicated itself to the principle of intergenerational justice.

### 4.3. *Contribution of National Courts to the Limitation of Climate Change Impacts*

Table N 01 clarifies the growth of causes related to climate change before the national judicial authorities, and these cases deal with many issues such as environmental damage or some of the gaps in national government policies or even the practices of some companies that threaten climate.

These issues show the effective role of eliminating and reducing climate change issues.

**Table 1: Increase In Climate Litigation.**

Year	Number of cases around the world
2017	884
2020	1550
2022	2002

Table N 01 prepared by authors based on the UN environment program report (2020), and London

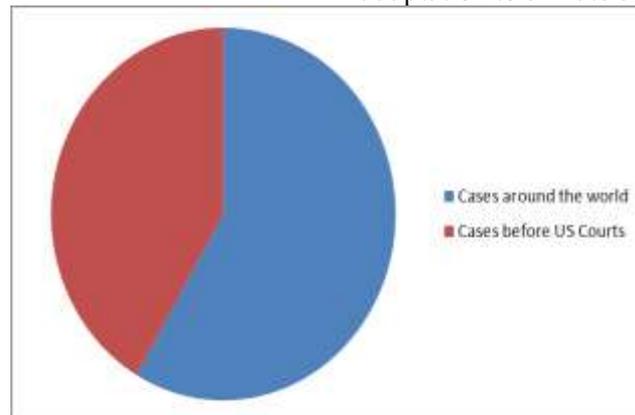
School of Economics (LSE) report on global trends in climate litigation (2022).

Table N 01 shows that there have been many cases related to climate change in courts around the world. Some examples include:

#### A. In the United States

Petroleum companies are often referred to by researchers and activists in the environmental fields in general, and climate change in particular, as one of

the largest shareholders in increasing emissions in the environment. Therefore, these companies were often the focus of many issues that are raised before the judiciary. In the United States of America, for example, we find many cases in this regard. Many parties raised issues against these companies for actions of these petroleum companies which contributed to climate change, trying to force them to take responsibility for the damage that they caused, and also seeking compensation for the effects of adaptation to climate change.



*Figure 1: Distribution of Climate Change Cases Between the United States and The Rest of the World.*

**Figure N1 prepared by authors base on London School of Economics (LSE) report on global trends in climate litigation (2022).**

Figure N 1 show that 1426 cases are before US Courts, the total cases around the world are 2002. Furthermore, there are many cases demanding that petroleum companies be held responsible for climate damage in cities such as New York and San Francisco, and states such as Rhode Island and Colorado. The legal basis on which many of these issues are based is the direct relationship between emissions and the harm that they do to the environment. It is noticeable that this type of issue is often complex. Sometimes these cases are accepted by the courts, and at other times it refused. Perhaps this is due to the various policies pursued by the different states in this field (Sindico and Makane, 2021).

Perhaps the most prominent cases that can be mentioned in the context of discussing the contribution of the American judiciary to climate change issues, especially those involving oil companies, are the following: the first case is the Rhode Island case against oil companies in 2017; the second and third cases are City of New York cases against oil companies in 2018, as well as the San Francisco and Marin County case against oil companies. The fourth case is the Colorado case against Suncor Energy and ExxonMobil in 2019.

These cases sought costs for adapting to the effects of climate change. The first case dates back to when Rhode Island filed a lawsuit against 21 oil companies, including Chevron, ExxonMobil, BP, and Royal Dutch Shell. Rhode Island claimed that fossil fuel companies were aware of the risks of greenhouse gas emissions but sought to promote them (Lyness, 2021). The second case involved New York City suing ExxonMobil, Chevron, BP, and Royal Dutch Shell, alleging that the companies misled investors and the public about the risks of climate change (Ganguly et al, 2018). The third case involved the city of San Francisco and Marin County suing 37 fossil fuel companies, alleging that their actions contributed to climate change (Dellinger, 2017). The fourth and final case involved Colorado suing Suncor Energy and ExxonMobil, alleging that the companies' actions contributed to climate change (Burger and Jessica, 2018).

From our review of previous cases, it appears that the judiciary's position on climate change cases involving oil companies reflects the extent of the US commitment to international climate change law. This can be described as fluid and unstable. This is perhaps due to the influence of US foreign policy on changes in the ruling administration and its political and economic orientations. The US joined the United Nations Framework Convention on Climate Change in 1992, then refused to ratify the Kyoto Protocol in

1997, joined the Paris Agreement in 2015, withdrew in 2020, and rejoined in 2021, all under the pretext of protecting the national economy. This vacillation in adherence to international law is primarily due to the administration's relationship with oil companies and the pressure it faces from major fossil fuel companies (Bigerna & Micheli, 2025).

### ***B. In the Netherlands***

When discussing climate change issues in the Netherlands, we cannot fail to mention the case of the Urgenda Foundation against the Dutch state. This non-governmental organization filed a lawsuit against the Netherlands, alleging its failure to fulfill its international obligations to combat climate change (Meguro, 2020). The case dates back to 2013, when the organization filed a lawsuit against the Netherlands, accusing the country of failing to reduce greenhouse gas emissions. In 2015, a ruling was issued in favor of Urgenda, ordering the Dutch government to reduce greenhouse gas emissions by 25% by 2020 compared to 1990 levels. The Dutch judiciary has adhered to the same ruling and the same opinion at various levels. This decision was upheld on appeal in 2018 as a second stage. It was also upheld by cessation in 2019 as a third stage. The Netherlands had no choice but to comply with this decision and adopted measures to reduce greenhouse gas emissions, as part of a shift in its national policy on climate change issues (Wewerinke-Singhand and Ashleigh, 2021). In this particular case, the Dutch judiciary has set a unique precedent in the field of climate change issues, opening the door to the possibility of changing national climate policies based on judicial rulings.

### ***C. In Pakistan***

Similar to what we previously saw regarding the successful experience of the Dutch judiciary in changing national climate change policy, we will examine the experience of the Pakistani judiciary. Pakistan is among the countries in South Asia most affected by climate change, despite its low contribution to greenhouse gas emissions compared to the countries examined in this study, such as the United States.

When discussing the role of the Pakistani judiciary in addressing climate issues, we cannot fail to mention the case filed by Asghar Leghari, a Pakistani farmer, against the Pakistani government. Leghari alleged that the government had failed to meet its climate change adaptation targets. According to Leghari, these impacts apparently included his basic right to life. A Pakistani court ruled in this case in 2015, concluding that the

government had not taken any serious action on climate change. Based on the court's ruling, a climate change committee was established that same year to monitor the government's progress (Leghari v. Federation of Pakistan, 2015).

Climate change issues are sensitive environmental issues that require special measures consistent with the international obligations imposed on states in this regard. The Pakistani judiciary, as we have previously discussed, has contributed to pushing the state towards taking serious steps to change its internal policies on climate change issues (Barritt and Boitumelo, 2019).

## **5. DISCUSSION**

### ***5.1. Obstacles To the Role of the Courts in the Field of Climate Change Reduction***

There are several obstacles to the development of climate change issues, but the most common reason is the lack of a legal basis for initiating any climate change-related lawsuit, whether by individuals or associations working in this field. This lack of a legal basis is due to the fact that many countries have neglected to join international agreements related to climate change or have withdrawn from them at some point. This has resulted in the lack of an effective national legal framework, unlike adherence to international rules, which can be relied upon when initiating these cases (Peel, 2007). Even a national legal framework that reflects a commitment to international principles and laws in the field of climate change may not be sufficient. This is due to the continuous evolution of this type of case and its multiple, transboundary impacts. This makes it difficult for courts to hear these cases effectively and accurately. One of the factors affecting the development of climate change cases before national courts is the lack of financial and technical resources to address these cases. These cases require extensive technical expertise from experts in the field to identify and monitor the impacts on human health and the environment. They also require significant financial resources, which may hinder individuals and environmental organizations from resorting to the courts, particularly in developing or emerging countries.

Legal capacity to initiate lawsuits may also be an obstacle to the development of climate change issues. Although the right to initiate lawsuits of any kind is constitutionally and legally guaranteed in most countries, this capacity granted to individuals and environmental associations may be restricted by law in some countries or may not be granted at all (Eliantonio, 2020). Legal capacity to file lawsuits in

general, and climate change cases in particular, varies depending on the country's legal system. Given the importance of this issue in determining whether a lawsuit is accepted or rejected, particularly for individuals and environmental organizations with limited financial resources, legal advice is essential before bringing a lawsuit before the courts.

Balancing the private interests of states with the collective interest of humanity may seem paramount and is considered one of the most significant challenges facing the judiciary in the field of climate change. Some states view climate change issues as an internal matter subject to the state's jurisdiction, even though its effects may be transboundary and thus extend to other states, particularly neighboring countries. Some states may also be concerned with domestic considerations regarding environmental health and safety. International cooperation in this context enables states to provide the necessary resources to address climate change issues (Ferrari and Maria, 2021).

It is also worth noting an important issue: the principle of the rule of law, which is one of the most important democratic principles that must be present in a state. In totalitarian regimes, individuals and environmental organizations are unable to pursue these cases, especially against the government, let alone obtain judicial justice (Sands, 2016). The constitutional principle of the separation of powers may also constitute an obstacle to the development of climate change-related cases before national courts. In countries where this principle is firmly established, courts are more independent and capable of confronting governments and lobbying groups, such as major oil companies, that pressure them to comply with climate change-related lawsuits (Nedevska, 2020). Democratic principles of the rule of law and the independence of the judiciary within the state give individuals and associations the ability to hold the state accountable on issues related to climate change.

## **5.2. Methods of Courts Intervention in Climate Change Limitation**

It is important to note that the development of climate change litigation has occurred in both civil law and common law countries, as national judiciaries have shown increasing interest in playing a role in addressing and mitigating climate change. Furthermore, national judiciaries may address climate change issues for several reasons. Individuals or civil society organizations may file lawsuits before national courts demanding changes to government policies or reducing emissions from large companies,

for example, all of which contribute to efforts to combat climate change. Another reason for resorting to the courts is to review the constitutionality of laws issued by countries in the area of climate change. The judiciary may have a fundamental role in this regard, depending on the country's domestic law. National judiciaries may also resort to interpreting countries' legal obligations in the area of climate change. This role, which consists of interpreting legal rules, is considered among the fundamental roles played by national judiciaries in most countries. It can be said that when interpreting a legal rule in the area of climate change, judges take several factors into account. Among these factors are the following: 1- The objective of the law: When interpreting a legal rule, judges consider the primary objective of the legislator or the entity that issued it. 2- The literal meaning of the law: Judges usually take the literal and clear meaning of the law as written. 3- The legislative history of the law: The judge considers the legislative history of the law, including the circumstances in which it was enacted and the commentaries thereon. 4- The framework within which the law is applied: The judge also considers the economic and political context within which it is applied when interpreting the legal rule. 5- Principles of environmental law and other legal rules: Finally, 6- When interpreting legal rules related to climate change, the judge may consider the basic principles of environmental law or even other legal rules such as health law, industrial laws, construction laws, and, most importantly, international law rules in the field of climate change (Heinzerling, 2022).

National courts, regardless of their form—whether criminal, administrative, or civil—play a significant role in combating environmental crimes in general, and climate change issues in particular. They do so by imposing penalties commensurate with the seriousness of the act affecting the environment or climate. These penalties may range from financial compensation, restitution, or even prison sentences (Farber, 2007). Compensation in environmental cases in general, and climate change cases in particular, is often based on one of the most fundamental principles of environmental law: the polluter pays principle. We have seen in the majority of cases brought before national courts, particularly those against major polluting corporations, which were discussed in this article, that they aim to provide financial compensation to address the damages resulting from the actions of these corporations, which contribute to climate change (Khan, 2007).

## **6. CONCLUSION**

In conclusion, based on our study of previous cases, it appears that the judiciary is capable of establishing legal precedents in addressing climate change. Although judicial bodies have been accused of violating the principle of separation of powers by issuing these rulings, which aim to compel the government to change its national policy or take more serious measures to address climate change, judicial oversight of the actions of the executive branch in this context represents a form of flexible separation of powers aimed at preventing a

particular authority from abusing its powers and being subject to oversight.

It can be said that despite the obstacles facing the judiciary, particularly those related to the incomplete legal framework for climate change in some countries, or even the financial difficulties that individuals and environmental organizations may encounter in pursuing legal action, cooperation between countries, whether financial or technical, remains one of the most important solutions to overcome these obstacles.

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