

Effectiveness of the International Judiciary in Climate Issues and the Preservation of Future Generations Rights

Wael Mahmoud Fakhry¹, Maher Ibrahim Ebed Emam² and Hussain Said Saif Al Ghafri³

Abstract

Wars and conflicts and the resulting human and property victims that pollute the environment, has negative effects on the future of the universe and even threatens its existence. The role of international law and judiciary in resolving conflicts related to changes, climate and sustainability must therefore be defined by highlighting the impact of the law's effectiveness and international elimination on the reduction of carbon emissions and the achievement of sustainable development goals, as well as the importance of their implementation from Practically speaking. A series of conclusions and recommendations were reached, the most important of which was that international courts should play their hoped-for role in climate litigation in order to save international law. and that climate litigation has helped to develop a deeper understanding, promote climate management, and support governance, Climate litigation has contributed to the national operationalization of international treaties.

Keywords: *Climate Litigation, Climate Change, Future Generations' Rights, Sustainability, Courts*

INTRODUCTION

Judgements of international courts on climate change and sustainability are few, especially those implemented in practice. There is ambiguity in the legality of climate litigation and States' adherence to climate sentences.

Ancient religions and civilizations have taken care of human hygiene and the environment in which they live. Having begun to recognize the catastrophic threats related to the environment, States have endeavored to uphold their domestic laws in these areas, as well as adopting programs and plans to protect and preserve the environment within their national and regional competence (Fisher, 2013).

The importance of national laws is to regulate and meet the needs of society and individuals for public benefit in a framework of balance between the material and moral needs of individuals and society. Therefore, laws regulating transactions that achieve sustainable development goals are key mechanisms that lead to the achievement of goals that are compatible with the needs and requirements of members of society. So, these laws are the cornerstone of achieving sustainable development goals that have a distinct identity for society (Sultanate of Oman Vision 2040, Egypt Vision 2030).

However, efforts to protect and preserve the environment at the domestic level cannot achieve their objectives unless they are accompanied by efforts at another level, namely international relations, because the environment is one of the areas in which domestic and international law appear to be most closely linked, as well as developing countries' limited budgets to deal with these significant challenges (Janig, Heyns, 2022).

This Requires for concerted efforts and international cooperation, where States differ in historical emission levels of environmentally polluting gases, developed countries have over time contributed the largest share to the global greenhouse gas emissions stock While all countries must strive to reduce global emissions, let us not forget their wars and nuclear tests. Not all countries will achieve zero emissions at the same time, this is due to their varying material and logistical capabilities (Amer, 2020).

The shared benefits of climate change mitigation and adaptation are enhancing the effectiveness and sustainability of climate change actions, assisting Governments to decarbonize while achieving other key societal objectives, such as health, energy, water, food, and agriculture, despite the existence of international

¹ Ph.D., Assistant Professor at the dept. of public law, faculty of law., Arab open University, OMAN, E-mail, wael.f@aou.edu.om

² Ph.D., Assistant Professor at the dept. of public law, faculty of law., Arab open University, OMAN, E-mail, maher.e@aou.edu.om

³ Ph.D., Associate Professor at the dept. of public law, Dean faculty of law., Arab open University, OMAN,

environmental law, treaties and conventions and the confirmation of the United Nations Convention on Climate Change- Framework for climate change UNFC, 1992 -The principle of State sovereignty in international cooperation to counter climate change and the right to exploit natural resources in accordance with States' environmental and development policies, as well as the Convention on the Prohibition of the Use of Environmental Modification Convention ENMOD, which stipulates in Article 1/1 the obligation of each State Party to the Convention not to use environmental change techniques with widespread, long-lasting or severe effects, and other treaties, However, we will review the effectiveness of the application and the competence of the courts to ensure the implementation of their judgment (Chougrani, 2022). as follows: The literature commonly describes this 'climate litigation' as Study Climate Litigation as a Tool for Accountability of State Governments Study Climate Litigation Based on Human Rights in State Constitutions and International Charters.submitted by Ibrahim Mohamed Abdullah, Arab Republic of Egypt Faculty of Law, University of Sadat, summarized in the following:

By analysing, extrapolating, and criticizing jurisprudence and jurisprudence related to these rights and commitments, it can be said that climate litigation becomes an essential and central tool for determining the responsibility of the world's Governments for climate change and that compensation mechanisms and ways to finance losses and climate damage become binding on these Governments.

Study entitled Constitutional protection of the rights of future generations Comparative study submitted by Abdullah Hanafi Abdelaziz Assistant Professor of Law Faculty of Monovia University and its summary.

Some civil society organizations have tried to emphasize the idea and try to highlight it from time to time. To date, the idea has not been entrenched in a regulated legal framework. Implementation action by Governments had not been taken to put them into effect and not only so, but some States had set up administrative structures and long-term plans covering all aspects of life to create a good climate in all areas for future generations.

Associate Professor, Center for Climate Change, Energy and Environmental Law, University of Eastern

Finland and Senior Research Associate, University of Stirling (UK)Joana Setzer**Assistant Professorial Research Fellow, Grantham Research Institute on Climate Change Change and the Environment, London School of Economics and Political Science' Rights-based litigation in the climate emergency: mapping the landscape and new knowledge frontiers.

Jacqueline Peel¹ and Hari M. Osofsky² ¹Melbourne Law School, University of Melbourne, Parkville, Victoria 3010, Australia; email: j.peel@unimelb.edu.au ²Penn State Law, The Pennsylvania State University, University Park, Pennsylvania 16802, USA' Climate Change Litigation.

Climate Change Litigation

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Author Abdullah Hanafi Abdulaziz Assistant Professor, Faculty of Law, University of Menoufia, Egypt

Climate litigation as a tool for accountability of State Governments is a study of human rights-based climate litigation in States' constitutions and international instruments.

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Author Mohamed Abdullah Faculty of Law Sadat City University.

The importance of research is reflected in highlighting the impact of international law and eradication on reducing carbon emissions and achieving sustainable development goals, as well as the need to implement them in practice.

We divided our research into two parts that included, the effectiveness of international law under climate change, and international and national climate eradication.

This paper aims to identify the role of international law and justice in resolving conflicts related to changes, climate, and sustainability by:

Focus on the mechanisms needed by international judiciary to be effective in achieving sustainable development goals in general and addressing climate change in particular.

Review the difficulties and constraints in the efficient and effective application of international law.

The most important proposals for the practical application of its provisions at the international and national levels, not just in terms, literature, and theoretical decisions.

In this research, we have adopted two approaches:

The comparative approach is based on the examination of States' mechanism for dealing with climate issues' Analytical curriculum by studying sustainability and how to deal internationally in practice to achieve its objectives.

Effectiveness of International Law in the Context of Climate Change

International law today plays an important role in almost every aspect of our lives, and practically everything we deal with, such as selling and buying around the world, and even extends to the health of the environment that surrounds us, to our ability to communicate seamlessly around the world. "Almost all States abide by all principles of international law and almost all of their obligations all the time (Hathaway, Johnson, NíAolain.2017).

There are lots and lots of disruptions during international relations, which have had a profound impact on international law and governing those relations. The view was expressed that all external features of genuine rules of international law suggested that they were not binding as non-binding law abounded in all areas even States that have the power that cannot be resisted to pass a truly binding law, they often prefer to be limited to advertising, codes of conduct or others (Tomuschat, 2017).

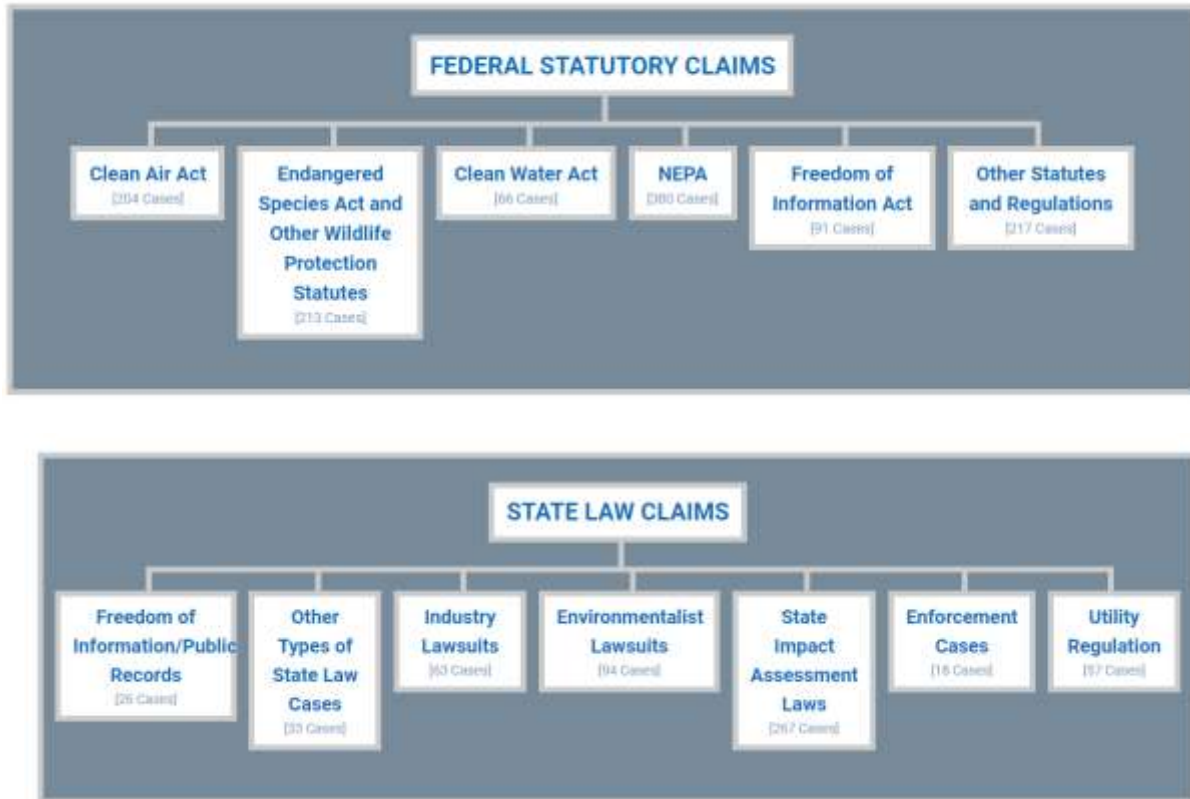
The most significant of those disturbances are wars, the bloody resurgence of occupation and aggression, the fundamental transformation of international law in what has become globalization and the bizarre attitude of some States towards international law, and their continuing attempts against the United Nations Organization, its objectives and principles in order to undermine the legal and institutional framework of today's international community and replace it with a new system that suits suitability in this troubled world.

These States consider that international law is part of their national law, and that international law is part of the country's law, and that its competent authorities may enforce the provisions of this international law as part of its national law. in the case of former Panamanian President Noriega, arrested in Panama, transferred to the United States of America, tried and convicted, They also refrain from acceding to, ratifying and adhering to numerous international treaties and conventions, such as Additional Protocol I to the Geneva Conventions of 1949, which defends and protects national liberation movements and the internationalization of freedom fighters, as well as the law of the sea because of the aspirations of these States' companies to the wealth of these seas and their development of appropriate technology to explore, extract and extract them from such wealth (Amer, 2003).

Many countries also announced withdrawal from the Paris Climate Agreement signed by most of the world at the end of the 2015 Climate Summit to work to reduce greenhouse gas emissions, contain global warming for less than 2 degrees Celsius and seek to become at 1.5 degrees. climate change ", compared to the pre-industrial era, to reduce climate change and its catastrophic consequences ", such as heatwaves, droughts, rainfall and unprecedented storms, which have led to rising water levels, as well as linking climate change to human rights (Mayer, B 2016).

Like the conflict of U.S. economic interests with these commitments, President Obama's administration signed the agreement in 2015, pledging to cut U.S. greenhouse emissions by 26% to 28% by 2025 from 2005 levels' (Poposh, 2020).

There have been many cases at both federal and state levels (US climate litigation database 2024).Its topic relates to climate change and environmental conservation, and the following statistics illustrate this (U.S. Climate Change Litigation,2024).



So, it's the world order where there are, of course, lots and lots of violations like Russia's occupation of Crimea in 2014, which is the first major territorial takeover of its kind in decades. ", the practical reality thus shows that some States play by and flout the norms of international law, essentially out of a power that they uphold, and out of a desire for injustice that is not condemned by any desire (U.S. Climate Change Litigation,2024).

The problem of the application and effectiveness of public international law is not limited to other branches of law. If the law is related to society, so that there is no law without the existence of a society or vice versa, we also note that the problem of the effectiveness of the law is always linked to the integrity of society's social, economic, political, and organizational structure There is no doubt that the extrapolation of conditions in many internal societies leads us to realize that we often encounter an ideal domestic law in drafting it, in order to ensure that the penalty is imposed for violating its provisions. If we look at the reality governed by that law, and wonder how effective it is, it shows us that its rules are often violated and that it is not applied in the face of all, That origin is almost the derogation from, and non-compliance with, its rules, and the predominant cause of such situations is the social, economic or political imbalance of the society governed by that law. Where a social group is dominated and armed with a range of legal or factual privileges, or where there is some economic or political imbalance in the society's system, in any way, this is reflected in the effectiveness of the law governing society, and we find that the law appears to be weak in its effectiveness, if not totally lost. Where society achieves its social, economic, and political cohesion, that cohesion is necessarily reflected in the law governing that society, it seems effective, legal norms that are compatible with the nature and needs of society

are secreted, and the effectiveness of the law does not arise, although it has already raised problems of derogation from some of its provision (Larson, A (1968).

Remarkable that international events, especially after the development of the media, its publications, and its spread around the world, have made the world a small village that cannot conceal any acts of brutality or breach of the norms of international law, especially in wars, attacks on the provisions of international humanitarian law, developments in cyberwarfare and deadly robots such as the situation now in the Gaza Strip, There is a current global shift in regional power competitions and the renewal of arms races, and the application of international law is intended to achieve the greatest possible effectiveness of the legal norm in question, including for the reason for which it found, by implementing its provisions, the positions and disputes that arise (Abouloufa, 2016).

Most of the rules of international law do not raise problems of ineffectiveness. Rather, States take the initiative to abide by their provisions. If they are derogated from, it is a derogation in exceptional cases that does not negate the characterization of effectiveness such as the rules on diplomatic immunities and privileges, how it receives application and the full respect of different States, Without particular problems, and since a limited number of cases in which those rules had been violated, they could not negate the description of effectiveness in application, which we could also confirm for a large number of international norms, there were no doubt that there were too many international obligations, which States accepted to fulfil voluntarily, and opted for. States often seem keen to abide by the rules of international law, to respect them fully and to impose such respect on their citizens, through the rules of domestic law, for their assertive interests, many examples of which are international rules on the regulation of international civil aviation traffic, or those relating to health control, etc., and international bodies and organizations also play their role in the application of international law; It has a certain degree of autonomy that separates it from participating States or their founders, as well as its ability to act on its own behalf within the limits of international law (Masoud, D. F 2019).

Definition Of Climate Change and Sustainability

This research discusses one of the fundamental human rights, the right to the environment; It is increasingly important; Especially as pollution risks grow, our climate is changing, while emissions and carbon dioxide reabsorption are a natural phenomenon, humans have been instrumental in creating our atmosphere by burning fossil fuels on a large scale (Cox, R. H 2012).

The United Nations Organization has identified the United Nations through its organs and agencies as medicines and disease, which threaten the world and affect climate change (Abouloufa, 2016) The most important is greenhouse gases, which I defined as those gases that absorb infrared light and radiate heat in all directions (ESCWA,2003).

The United Nations has formulated a strategy for development in all its forms (environmental, social and economic) at the global level, with a view to improving the living conditions of everyone in society, developing the means and methods of production and managing them in ways that meet the needs of the current generation without wasting the rights of future generations and without depleting the remaining natural resources on our planet, Today, there are some 140 developing countries looking for ways to meet their development needs, but this is accompanied by a growing threat to climate change, so extensive efforts must be made to ensure that today's development does not negatively affect future generations (Boyd, D. R 2018).

The Sustainable Development Goals constitute a framework for improving the lives of people around the world and mitigating the man-made risks affecting climate change. The thirteenth Sustainable Development Goal, which is climate action, calls for integrated action to avoid climate change within development frameworks, as well as the fourteenth Sustainable Development Goal, which is life under the sea, The fifteenth Sustainable Development Goal, which is to live on land, also calls for more sustainable development practices using the Earth's natural resources (Arora, N. K., & Mishra, I. 2019).

At the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, entitled "Environment and development for sustainable development", and the 2002 Johannesburg Symposium on

tackling poverty, and the need for concerted efforts and cooperation by Governments in coordinating, consulting, and working in an unprecedented manner to achieve sustainable development, Practical application faces significant obstacles: the need to overcome the traditional approach to policymaking in order to create a comprehensive governmental and institutional approach to sustainable development’.

Although the belief that sustainable development has reacted to the environmental problems that have arisen in the world because of the application of development practices is not complete because environmental problems are an outcome and cannot be dealt with regardless of the circumstances that led to these problems, i.e. economic, social, and cultural conditions, Policies and strategies adopted by States in all economic and social sectors have caused the environmental imbalance that has in turn led to poverty and inequality, i.e., addressing the outcome without changing the conditions that have led to it is irrational (Ismail, 2015).

The Definition And Objectives Of Sustainable Development Are As Follows

Defined by the World Commission on Environment and Sustainable Development in 1978 as "development that meets the needs of the present generation without compromising the ability of future generations to meet their needs, and development that meets the needs of the present without compromising the ability of future generations to meet their own needs and presupposes the conservation of natural assets for future growth and development (United Nations publication Series, 2017).

and the World Conservation Union's 1987 definition of sustainable development as "development that takes into account the environment, the economy and society" (Mohamed, 2022).

It was argued that during their tenure within the framework of the United Nations Development Program (UNDP), Pakistani researcher Habib Haq Al-Haq and Indian researcher Amar Tya Sen were credited with the creation and rooting of this concept, as sustainable development for them is economic and social development rather than just economic, that makes the human being its purpose,

It treats the human or social dimensions of development as the dominant element and views material energies as a prerequisite for such development. Prime Minister Gro Harlem Brundtland of Norway has played an important role in entrenching this concept and defining its major features. Sustainable development has been defined as development based on the logic of equitable distribution of wealth, improving services and rooting the climate of freedoms and rights, in full balance with the development of structures and equipment without prejudice to natural and environmental data and resources, this is a community-oriented development that takes into account the needs and rights of future generations and is characterized by sustainability (Al-Gharbawi, 2020).

We believe that the tariffs adopted by the relevant official bodies are the most accurate, and in the subject of our research, the United Nations is the official sponsor of the world's sustainability' (United Nations Office for Sustainable Development, 2024). The United Nations Brundtland Commission has defined sustainability as "meeting the needs of the present without compromising the ability of future generations to meet their own needs (United Nations Office for Sustainable Development, 2024)

Preserving the rights of future generations requires a compulsory accumulation of sufficient wealth to ensure minimum stability for fair bodies and institutions in the future. and then the accumulation is no longer a duty of present generations and begins a phase of stability. The fair savings approach is because the primary duty of future generations is to save sufficient material capital to maintain fair institutions or equitable governance systems, such as saving in means of production, in education, and preserving gains in culture and society (John, R 1971).

Based on previous definitions, the objectives of sustainable development are based on several elements, the most important of which is environmental protection. The continuous increase in the population puts a strain on and depletes resources, and thus the environment's unsustainability, which in turn requires a balance between population size and resources, The best technology required for a sustainable human development strategy is one that relies on renewal, successful discussion, and useful use of scarce resources. Sustainable human development depends on combating environmental degradation, In fact, the adoption of environmental

and social considerations was not part of the data taken into account in developing economic development plans, including an assessment of the environmental impacts of the project prior to its commencement, which gives new dimensions to the value and use of resources based on cost/benefit analysis, The resulting economic benefits, as well as environmental conservation, have been adopted by all States Members of the United Nations in 2015 by the 17 Sustainable Development Goals, also known as the Global Goals, which balances social, economic and environmental sustainability as previously reviewed, and sets out a road map for a better world, as a global call to work to end poverty, protect the planet and ensure peace and prosperity for all the world's people by 2030(United Nations Sustainable Development Goals in Action, 2024).

Effectiveness Of International and National Climate Justice

Most of the world's countries have recognized the imminent threat of climate change, as climate change forces the world to confront and respond to difficult new issues and develop appropriate solutions. In the Intergovernmental Panel on Climate Change's 2014 assessment report climate change ", it was emphasized that current climate changes were unprecedented, and that the human impact on climate was clear and that the adverse effects of climate change have a significant impact on the environment (Climate change 2014 synthesis report,2014).

the countries were convinced that more needed to be done to conclude an international treaty to combat that phenomenon. the Paris Climate Agreement of 2015, which aimed to keep the Earth's average temperature rise well below 2 degrees Celsius above pre-industrial levels and to continue efforts to limit temperature rise to no greater than 1.5 degrees Celsius above pre-industrial levels (Robinson, M 2018).

Notwithstanding the importance of that Agreement, it did not contain the necessary elements for the achievement of its objectives, as it did not mention any control mechanisms to ensure that States parties' legal obligations were verified and, even more notably, did not provide for any sanctions to be imposed on States where such obligations were found not to be implemented, thereby giving them a non-mandatory character, This has led individuals and associations concerned with climate issues around the world to resort to each State party's national courts to urge their respective authorities and institutions to fulfil their climate obligations under the Paris Agreement, resulting in an increase in the number of climate cases worldwide(Said, 2023).

Climate litigation is defined as those aimed at taking more ambitious measures and policies in the face of climate change resulting from increased greenhouse gas emissions, with a view to urging Governments to take further action to address climate change, or to enact laws that ensure global warming (Salama, 2021).

Climate litigation is defined as actions by individuals and associations before a State's national courts to require that their legislative and executive authorities and various bodies or private enterprises such as commercial companies take measures to protect the climate (Said, 2023).

It was also defined as cases in which the plaintiffs sought the intervention of the court to impose the defendant's obligation under climate laws and regulations, or where the plaintiffs requested the court to affirm a right that might be established under such laws and regulations, oblige the defendant to respect and act on the basis of these laws and regulations, and to compensate for its violation and breach if required, When individuals believe that the Government or company does not comply with its legal responsibility to reduce greenhouse gas emissions in application or in implementation of a law or an international convention to which the State has acceded, in this case the Government or the respondent is bound by legal requirements that take into account climate protection, and in contravention of these requirements individuals may resort to climate litigation, These types of lawsuits are called pro-climate lawsuits ". The Intergovernmental Panel on Climate Change defined it as the use of legal mechanisms to promote action on climate change, to hold actors accountable for their contribution to this problem and to secure compensation for damage caused by climate change impacts, The United Nations Environment Program (UNEP) describes climate litigation as "a legal process in which plaintiffs seek to use the law as a tool for achieving specific policy objectives related to climate change, such as reducing greenhouse gas emissions, promoting climate change adaptation and resilience, or increasing access to climate finance (Abdulla, 2023).

The 2015 Paris Agreement identified ways to address climate change and reach net zero emissions by 2050, but does not provide sufficient means to hold government actors and companies accountable for failing to achieve emission reductions. The same can be said of many national climate legislations, which does not provide measures to hold public authorities accountable for failing to meet emission reduction targets (QIL-QDI Plugging the enforcement, 2024).

The Global Climate Change Litigation Database was established in 2011 and is regularly updated. It currently includes 858 cases, with links to the 1874 case documents. At present, the global database presents cases from more than 55 countries, which also includes climate litigation cases before international or regional courts or tribunals (Global Climate Change Litigation, 2024).



Below are examples of these climate issues at the international and national levels, through the following two parts:

Models Of Climate Cases Before International Courts

Most of the climate claims are raised by individuals, but the Charter of the United Nations and the Statute of the International Court of Justice do not provide for the Court's right to hear disputes involving individuals, since the United Nations was established only to settle international disputes to protect international peace and security. Individuals have the right to review their state courts for their rights (Al-Fatlawi, 2021).

A group of States is making a request in support of a request for advisory opinion from international tribunals such as the International Court of Justice, where the Court's power to interpret an ambiguous provision which States disagree on, By virtue of the statute, the General Assembly, the Security Council and the branches of the United Nations body and associated agencies authorized by the General Assembly of the United Nations may decide on any legal matter at the request of anybody authorized by the Charter of the United Nations or authorized to do so in accordance with the provisions of the Charter, In rendering the advisory opinion, the Court shall follow the procedure followed in making judicial decisions, shall issue its advisory opinion in public and shall inform it of the Secretary-General of the United Nations and delegates of States Members of the United Nations, since the Court's opinions have no compulsory force, but have political moral value, unless States agree to abide by them (Al-Fatlawi ,. 2021).

Other courts such as: Trail Smelter Factory Case 1941:

It was one of the first international climate issues between the United States of America and Canada, due to damage caused by the Trail Smelter to farmers in the United States of America and its emitters, such as carbon dioxide, dating back to 1892, A zinc and lead foundry was established in Canada 10 km from the US border, where American farmers were affected by the plant's emissions and smoke, containing sulfur of 10,000 tons per month, The company that manages and oversees the foundry has worked to award compensation to the victims of pollution in application and implementation of judicial rulings rendered by the domestic judiciary in accordance with bilateral settlements international arbitration ", the case was reopened so that there was an increase in pollution which led the Americans to file an action with the International Arbitral Tribunal so that the Court heard the case and issued its first provisional decision on 16 April 1938, In this decision, the Court discussed the geographical and economic conditions and the weather factors in the contaminated area, answering the question of the damage caused by the plant, namely, whether the foundry caused damage to the environment. In this decision, the Court distinguished between three types of damage suffered in this area,

namely those caused to agricultural land, and non-agricultural land, livestock and property, and commercial damage, the Court found in its decision that damage had been caused to species I and II for which they must be compensated from January 1932 to October 1938, in order to clean up contaminated damage and therefore decided to complete the study of this issue by appointing a number of experts, setting up observation stations, establishing pollution control devices and establishing a temporary foundry system, It also installed equipment to control pollution from the plant and to refrain from damaging the State of Washington until 1 October 1940, and issued a second judgement on 11 March 1941, considering that the United States of America was originally dissatisfied with the amount of compensation awarded. It called for a review and the court had to examine whether the plant should limit the volatility of fumes? Is there a legal obligation for the plant not to pollute the environment? In its second judgment, the Court ruled that the topic of descent possessed the strength of the *res judicata*. The Court failed to answer the question of whether Canada had an obligation to limit potential damage from the Trail smelter, but cited certain criteria and procedures by which the smelter could not limit the volatility of the smoke, Making it clear that the International Court of Arbitration was considering finding an appropriate solution for the parties to reduce environmental pollution and to take into account the affected other party as well as the damage that may be caused to future generations, because the environment is not unilaterally bound but interfered with by all human parties, Because all beings need a clean and healthy environment for all international societies, and because any investment must be environmentally friendly and development-friendly (REPORTS OF INTERNATIONAL ARBITRAL AWARDS, 1905-1982).

Chile and Colombia's Request to the Inter-American Court of Human Rights: The request of the two countries focuses on several aspects of "climate change and human rights" and emphasizes the need for regional standards to accelerate action to address climate change, and seeks to identify and reflect States' obligations, if any, under the American Convention on Human Rights to Address the Climate Emergency.

This request is unique in terms of its overall breadth, classifying questions under six broad themes that we summarize in:

- a. the State's obligations deriving from the prevention and safeguarding of human rights violations in response to the climate crisis.
- b. the obligation of the State to preserve the right to life and access to information in the face of the climate emergency.
- c. States' obligations under the principles of intergenerational equity to protect the rights of children and future generations from climate change.
- d. The scope of judicial and administrative procedural obligations.
- e. protection of environmental and human rights defenders.
- f. cooperation among States to address climate change in the region.

In addition, the General Assembly adopted a resolution requesting an advisory opinion from the International Court of Justice on States' obligations about climate change, which it described as an unprecedented challenge. In its resolution, submitted by the Republic of Vanuatu and supported by many Member States, the Assembly stated that, That the well-being of present and future generations of mankind depends on an immediate and urgent response to climate change and its threats to human, national and international security, including the request for an advisory opinion from the International Court of Justice, where the General Assembly, in its resolution, affirmed, to the scientific consensus that anthropogenic greenhouse gas emissions are the main cause of global warming observed since the mid-twentieth century, and that man-made climate change has caused widespread damage to nature and people beyond natural climate variability with disproportionately vulnerable people and systems affected, In its resolution, the General Assembly stressed the urgent need to expand action and support, including financing, capacity-building and technology transfer, and expressed grave concern that the target of developed countries' participation in mobilizing US \$100 billion annually by 2020, to support developing countries in the field of climate, had not been met (Assembly, G 2023).

The International Court of Justice has ruled in certain climate-related cases such as:

Corfu Strait Case 1949: The case of the Corfu Channel (United Kingdom of Great Britain and Northern Ireland-Albania) arose from events on 22 October 1946, in the Strait of Corfu, where two British destroyers hit mines in Albanian waters and suffered damage in addition to pollution of the Strait due to the laying of mines, The Court ruled on 9 April that Albania was responsible in accordance with international law, for the explosions of 22 October 1946 in Albanian waters and for the damage and loss of life of the United Kingdom, and then considered the three points of compensation contained in the United Kingdom's claim respectively: For the provision of an alternative to the destroyer "Somarez", which was completely shattered by the Corfu Channel explosions, the damage to the destroyer "Folaj", and finally for the loss of life and injuries to the Navy, the Court rendered its judgement in favour of the United Kingdom's claim and ruled that Albania would pay that country compensation totaling 843947 Pound (INTERNATIONAL COURT OF JUSTICE, 1949).

Other cases in which the international judiciary has given its advisory opinion on other occasions, and its jurisprudence on other occasions, all of which reflect the importance of establishing international liability for environmental damage in the international legal and judicial arena (Eyadad, 2020).

The Tribunal is eligible to hear all cases brought by litigants up to environmental or climate change issues. Therefore, in 1993, the Tribunal established a 7-member body to deal with environmental issues falling within its jurisdiction, including: Case concerning the Gabčíkovo-Nagymaros Project (Hungary v. Slovakia):

In its judgment in the case concerning the Gabčíkovo-Nagymaros Project (Hungary v. Slovakia), the Court decided that Hungary had no right to suspend, and then in 1989 renounced work on its part of the dam project, It also decided that the newly developed environmental rules were relevant to the implementation of the Treaty and that the parties could, by agreement, include them in the application of several articles of the Treaty and decided that, in order for the parties to reconcile economic development with environmental protection, "they must look again at the effects of the operation of the Gabčíkovo power plant on the environment, In particular, they must find a satisfactory solution to the volume of water that will be released into the old stream of the Danube and into the river's side arms. and the Court decided, by 13 votes to 2, that the settlement of the construction and operation accounts of the works must be in accordance with the relevant provisions of the Treaty of 16 September 1977 and related instruments and taking into account the measures taken by the parties in relation to the protection of the environment, From the Court's point of view, the environment is not just a case, but the space in which we live, and it determines the quality of life, the health of the human species. In this case, the Court referred to the principles of vigilance and prudence as fundamental issues in the field of environmental protection, given the characteristic of environmental damage in its irreparability and the difficulty in repairing such damage (INTERNATIONAL COURT OF JUSTICE, 1992).

Case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay):

On 4 May 2006, the Argentine Republic submitted to the Registry an application instituting proceedings against the Eastern Republic of Uruguay in respect of a dispute concerning a violation allegedly committed by Uruguay when it built two mills for a dam on the River Uruguay and their start-up, Explaining the negative effects on the quality of the water of the River Uruguay and on the areas associated with the river (a change in the ecological balance and the control of pests and other harmful factors, resulting from liquid discharge, which in turn affects the quality of the water of the river), On 20 April 2012 the International Court of Justice rendered its judgment in the case concerning the Pulp Mills on the Uruguay River, where it decided first: 13 a vote to one that the Eastern Republic of Uruguay had violated its procedural obligations under articles 7 to 12 of the 1975 Statute of the Uruguay River and that the Court's declaration of such a violation constituted an appropriate discharge, Second: 11 voted against 3 vote, it decided that the Eastern Republic of Uruguay had not violated its substantive obligations under paragraphs 35, 36 and 41 of the 1975 Statute of the River Uruguay (Bekker, P. H. 2007).

Although these environmental issues are a qualitative shift in the history of the International Court of Justice and concern for the environment, these chambers cannot, depending on their possibilities, adjudicate on all environmental and climate issues because many States refrain from resorting to these chambers and chambers

in the corridors of the International Court of Justice, as well as the difficulty in determining the type of dispute, the extent to which it is classified as an environmental dispute or not, and the problems encountered by the International Court of Justice in the field of environmental protection remain the same as those faced by various other judicial bodies in this area, including the fact that their judgments may constitute a general pressure to determine States' rights and obligations (Lewis, B. 2018).

This makes States unwilling to submit their disputes to this body, which is difficult to control or direct, underscores Canada's refusal to allow the International Court of Justice to hear any dispute related to its legislation to prevent Arctic water pollution (Abdelkader, B, & Benatia, L. 2020).

Models of climate cases before national courts:

Climate issues vary before national courts, including those brought against Governments of States that have contributed significantly to climate change because of their failure to take adequate action to reduce greenhouse gas emissions, and therefore the purpose of mitigation proceedings is to compel Governments to take bolder action to reduce emissions or to support alternatives that do not cause greenhouse gas emissions, Such renewable energy as the Urgenda Foundation v Kingdom of the Netherlands where a Dutch environmental group and a number of citizens sued the Netherlands government for inadequate action to reduce greenhouse gas emissions, and the Supreme Court ruled in 2019 that the Dutch government must by 2020, To reduce greenhouse gas emissions by at least 25% of 1990 levels, the Dutch Supreme Court based its ruling on the Dutch Government's failure to reduce greenhouse gas emissions, which constitutes a violation of the right to private, family and protected life under the European Convention on Human Rights (SUPREME COURT OF THE NETHERLANDS, 2019).

Adaptation is related to reducing or avoiding the adverse impacts of climate change, such as addressing flood damage caused by sea level rise, and adapting to other surrounding circumstances, with the aim of forcing Governments to take adaptation measures to protect communities from climate change impacts that are already occurring or will be occurring in the future, and there are three types of such claims, namely, those related to failure to adapt and claims that environmental impact assessment must take into account the impacts of climate change on the project, and claims challenging adaptation actions. Examples of adaptation cases include Leghari v Republic of Pakistan, which was filed against government authorities in Pakistan by a local farmer for failing to take adequate adaptation measures, The Court ruled that Pakistan had violated citizens' rights to life, dignity and property and ordered the Government to take measures to reduce the effects of changing weather patterns, including the submission of a list of climate adaptation actions and the establishment of the "Committee on Climate Change" (Abdulla, 2023)

Climate litigation against carbon emissions projects (climate litigation against administrative decisions granted authorization or approval of a particular project) relates to challenging administrative decisions formed in the form of approval or authorization of a project that could affect climate change, since the greatest cause of climate change is known to be greenhouse gas emissions, Examples of such claims include fossil fuel claims "oil exploration and drilling" leave it in the ground, energy production, transport policies or decisions, etc., and issues related to this type include the Earth Life Africa Johannesburg v. Minister of Environmental Affairs and Others case, which represents the Basic Coal Development Plant's environmental review. (Project Thabamitsi) due to the failure to adequately consider the impacts of climate change, The Court cited many of the most important reasons, South Africa's commitments under the Paris Agreement, as well as the fact that climate change is indeed one of the considerations relevant to the environmental review of the Thabamitsi Project, and that the review approved by the Minister for Environmental Affairs effectively ignored climate change, so the Court considered it legally invalid, Following the decision of the Supreme Court of South Africa, the Minister of Environment reconsidered the project's licence application in the light of the assessment of the impact of climate change and again approved the station's environmental licence on 30 January 2018, and on 26 March 2018, Trustees for the Time Being of Groundwork Trust appealed against the Minister's decision (Abdulla, 2023).

If the climate action is dismissed as in the case of Juliana, resulting in indirect effects on the right to climate litigation, the State has no obligation to remove environmental damage, for example Teitiota's claim concerning

a citizen of Kiribati seeking asylum in New Zealand, Due to climate change, the damage caused to him and his family, the Supreme Court of New Zealand, as well as the Human Rights Committee of the United Nations, rejected his request. In both cases, the resolutions included statements recognizing the risks posed by climate change, which did not close the door to future successes in different circumstances.

If climate litigation is accepted, climate litigants seek to oblige governments to comply with their human rights obligations by obliging States to reduce greenhouse gas emissions as high as possible, ensuring a stable and livable climate and a clean and healthy environment, When the courts have accepted such claims resulting in the imposition of a legal duty on Governments to prevent damage from climate change, by reducing greenhouse gas emissions. Decisions to accept climate claims follow a flexible approach in establishing the causal link between human activity and greenhouse gas emissions, It thus exceeds a major obstacle to which most climate liability litigation broke at the beginning of its inception. In the Urgenda case, the political resonance of this provision was very great, during COP 21 held in Paris, France, from 30th November to 12th December 2015, In the words of Christian Huglo, Urgenda's first decision resonated like the sound of thunder in a quiet sky "comme un coup de" tonnerre dans un ciel serein and urged participating delegations to pay attention to the real dimension of climate change .(Al-Talati, 2023).

The acceptance of climate litigation requires a breach of a legal obligation of climate error, resulting in environmental damage defined by French civil law in the Act of 8 August 2016 as significant damage to the elements or functions of ecosystems or to the collective benefits derived by humans from the environment in the sense that damage is required to be:1-Detective. 2- Directly.

The damage is divided into material, which affects the injured person's money or financial asset. or is a breach of a legitimate right or interest in harm of financial value, or moral, which is the harm that a person doesn't get in his money. Moral harm takes the form of harm to one's honour, reputation or moral rights. And many laws stipulate the legality of compensation for moral damage, Such as article 222 of the Egyptian Civil Code, which stipulates that "compensation shall also include moral damage, but in this case may not be transferred to others unless it is determined by an agreement, or claimed by the creditor before a court", and finally the existence of a causal link between climate error and environmental damage (Al-Talati, 2023).

One of the most important provisions in a judgement considered to be a landmark achievement in the field of environmental justice, which Kenya was required to settle for the equivalent of US \$13 million for damage to the environment and to society's health, A court in Mombasa awarded compensation to residents of the Oeno Uhuru settlement for deaths and health effects resulting from lead poisoning from a neighbouring smelting plant for battery recycling, and announced the verdict, handed down by the judge of the Land and Environment Court on July 16, 2020, That society's rights to a healthy environment, to the highest attainable standard of health, to clean and safe water and to life were violated, the Kenyan Government and two companies were ordered to pay appropriate compensation, and the Court mandated the Government and the companies to clean up the soil, water and sanitation, otherwise an additional \$7 million would be granted to the Centre for Justice, Governance and Environmental Action to coordinate environmental clean-up (United Nations, 2020).

Despite these issues, there are some challenges in some States' domestic regulations. The decisive factor in countries is the strong influence of the executive branch on the appointment and functioning of the judiciary, as in Latin America, including defamation of the Supreme Courts; Justice "reforms", which give the ruling party control over judicial dismissals and appointments; Arbitrary removal of judges from office (Walsh, J. 2016).

DISCUSSION

After reviewing the risks and repercussions of human interference in the surrounding environment, and the resulting climate changes, international solutions had to be provided before they were national, because of the nature of the topic of research. The climate is global and when an environmental offence is committed in a State affected by all States. The following are the findings and recommendations.

The international courts' hoped-for role in climate litigation is a salvation of international law and thus in enhancing its effectiveness, Each State has its own courts and legal system, different degrees of effectiveness and is familiar with the idea of judicial resolution of disputes, After systematic and unsurprising analysis, the

major problem was that there are many and many of the world's economies based on fossil fuels, and alternatives theoretically lacking, The number of climate-related cases in geographical areas with human rights institutions or organizations such as the Inter-American Commission on Human Rights is high, Climate litigation helped develop a deeper understanding, promote climate management, and support governance, and Climate litigation has contributed to the national operationalization of international treaties and conventions such as the Paris Agreement.

We recommended to ensure the effectiveness of international law, a compulsory and systematic international peaceful settlement and a practical transition to a binding international trial must be achieved, since realities testified to a consensus on the merits and centrality of the rule of international law in order to achieve the viability of the world order, Strengthening major international legal institutions on a holistic scale that have received largely insufficient attention in international policy circles and academia to date, It now seems that in the enlightened self-interest of the vast majority of States, it is to work towards an international order based on genuine rules of equality for all, The imposition of the rule of international law should not be a major leap in imagination.

Work on fossil fuel alternatives such as the use of solar, wind and other environmentally friendly sources in countries whose economy relies on fossil fuels, Provide support to States moving from traditional sources of polluting energy to environmentally friendly sources, A lasting understanding of climate litigation, encouraging prospects for future research, and more important is assessing the impact of both regulating and combating climate litigation, while trying to demonstrate some important issues as a model, and Civil society has important tasks on the issue of climate change, namely the need to prepare for and anticipate the economic risks of such changes by companies and investors and to deal with them in a professional manner.

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