

Vilnius University Faculty of Law
Department of Private Law

Name Surname-Muneya Akther
International and European Law Study Programme
2nd Study Year Student

MASTER'S THESIS

**The Role of Climate Change Litigation in Shaping Environmental Policy: A
Comparative Analysis of Global Case Law**

**Klimato kaitos bylinėjimosi vaidmuo formuojant aplinkosaugos politiką:
lyginamoji pasaulinės teismų praktikos analizė**

Supervisor: Assoc. Prof. Dr Indre Zvaigzdiene

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ABSTRACT AND KEYWORDS

Climate litigation emerged as a powerful and increasingly utilized mechanism for influencing environmental governance and compelling state and corporate accountability in addressing climate change. This study provided a comprehensive analysis of global climate litigation trends by classifying cases into strategic versus defensive, and mitigation versus adaptation categories. Strategic litigation aimed to enforce or expand climate action through legal precedent, often by invoking human rights, constitutional obligations, and international commitments. Defensive litigation, on the other hand, resisted the implementation of new climate policies, often citing economic or political constraints. Mitigation-based cases targeted the root causes of climate change particularly greenhouse gas emissions while adaptation cases addressed the effects already being experienced, such as sea-level rise and extreme weather events. Through an in-depth comparative analysis of landmark cases including *Urgenda v. The Netherlands*, *Neubauer v. Germany*, *Shell v. Milieudefensie*, *Juliana v. United States*, *Lliuya v. RWE*, *Smith v. Denmark*, and *Verein KlimaSeniorinnen v. Switzerland* this study demonstrated how litigation shaped national climate laws and international discourse. These cases highlighted how courts increasingly interpreted climate inaction as a breach of fundamental rights and an unlawful failure to meet legal obligations under both domestic and international law. Civil law jurisdictions tended to rely more heavily on statutory interpretation and codified rights, while common law systems allowed for broader judicial discretion and precedent-setting. Nevertheless, both systems proved effective in mobilizing litigation to advance climate action. The study further explored how litigation influenced policy reform, government and corporate behavior, and institutional change. Courts were no longer passive actors but became central to environmental governance, with rulings compelling governments to strengthen legal frameworks, amend legislation, and establish clearer emissions targets. Regulatory agencies were also forced to update enforcement mechanisms, while legislatures faced growing pressure to align climate policies with international standards. In the corporate sector, litigation prompted a shift toward climate-conscious business models due to increased legal risks and investor scrutiny. Additionally, the research underscored the role of soft power in climate litigation. High-profile court cases received widespread media attention, raised public awareness, and shaped narratives around climate justice and accountability. Investors, increasingly guided by Environmental, Social, and Governance (ESG) considerations, applied pressure on companies to reduce their environmental impact, thereby reinforcing the ripple effects of litigation beyond the courtroom. The thesis concluded with recommendations for future research, emphasizing the need for empirical studies on policy implementation post-litigation, comparative analyses of legal systems, and deeper investigation into the human rights dimensions of climate law. As the climate crisis continued to intensify, litigation was likely to remain a pivotal tool in enforcing obligations, mobilizing action, and transforming policy frameworks at both national and global levels.

Keywords: Climate litigation, Human rights, Environmental policy, Strategic litigation, Climate governance, Legal accountability, Mitigation and adaptation.

Klimato bylos tapo galingu ir vis dažniau naudojamu mechanizmu, siekiant daryti įtaką aplinkos valdymui ir priversti valstybes bei korporacijas atsiskaityti už veiksmus, susijusius su klimato kaitos sprendimu. Šiame tyrime buvo pateikta išsami pasaulinių klimato bylinėjimosi tendencijų analizė, klasifikuojant bylas į strategines ir gynybines, taip pat į švelninimo (mitigacijos) ir prisitaikymo (adaptacijos) kategorijas. Strateginės bylos siekė įgyvendinti ar išplėsti klimato veiksmus pasitelkiant teisinius precedencius, dažnai remiantis žmogaus teisėmis, konstitucinėmis pareigomis ir tarptautiniais įsipareigojimais. Tuo tarpu gynybinės bylos priešinosi naujų klimato politikų įgyvendinimui, dažnai remdamosi ekonominiais ar politiniais argumentais. Švelninimo bylos nukreiptos į pagrindines klimato kaitos priežastis ypač šiltnamio efektą sukeliančių dujų emisijas o prisitaikymo bylos sprendė jau patiriamus padarinius, tokius kaip jūros lygio kilimas ar ekstremalūs orų reiškiniai. Remiantis išsamia lyginamąja analizė žymių bylų *Urgenda prieš Nyderlandus*, *Neubauer prieš Vokietiją*, *Shell prieš Milieudedefensie*, *Juliana prieš Jungtines Valstijas*, *Lliuya prieš RWE*, *Smith prieš Daniją* ir *Verein KlimaSeniorinnen prieš Šveicariją* šiame tyrime parodyta, kaip bylinėjimasis formavo nacionalinius klimato teisės aktus ir tarptautinį diskursą. Šios bylos parodė, kad teismai vis dažniau traktuoja klimato neveiklumą kaip pagrindinių teisių pažeidimą ir neteisėtą teisinės pareigos nevykdymą pagal nacionalinę ir tarptautinę teisę. Civilinės teisės jurisdikcijos labiau rėmėsi įstatymų aiškinimu ir kodifikuotomis teisėmis, o bendrosios teisės sistemos suteikė platesnes galimybes teisėjų diskrecijai ir precedentų kūrimui. Vis dėlto abi sistemos pasirodė esančios veiksmingos, skatinant bylinėjimąsi klimato veiksmy labui. Tyrimas taip pat išnagrino, kaip bylinėjimasis paveikė politikos reformą, vyriausybių ir įmonių elgesį bei institucinius pokyčius. Teismai nebebuvo pasyvūs stebėtojai – jie tapo centriniiais aplinkos valdymo veikėjais, priimdami sprendimus, kurie priverstė vyriausybes stiprinti teisinę sistemą, keisti įstatymus ir nustatyti aiškesnius emisijų mažinimo tikslus. Reguliavimo agentūros taip pat buvo priverstos atnaujinti priežiūros mechanizmus, o teisėkūros institucijos patyrė vis didesnę spaudimą suderinti klimato politiką su tarptautiniais standartais. Verslo sektoriuje bylos skatino perėjimą prie klimato atžvilgiu atsakingesnių verslo modelių, reaguojant į didėjančią teisinę riziką ir investuotojų kontrolę. Be to, tyrimas pabrėžė „minkštosios galios“ vaidmenį klimato bylinėjimosi kontekste. Daug dėmesio sulaukiančios bylos pritraukė plačiosios žiniasklaidos dėmesį, didino visuomenės informuotumą ir formavo pasakojimus apie klimato teisingumą bei atskaitomybę. Investuotojai, vis dažniau vadovaudamiesi Aplinkos, Socialiniais ir Valdymo (ESG) kriterijais, darė spaudimą įmonėms mažinti jų poveikį aplinkai, taip sustiprindami bylinėjimosi poveikį už teismo salės ribų. Darbe pateikta rekomendacijų būsimiesiems tyrimams, pabrėžiant poreikį atlikti empirinius tyrimus apie politikos įgyvendinimą po bylinėjimosi, lyginamąją teisinių sistemų analizę bei giliau tirti žmogaus teisių aspektus klimato teisėje. Kadangi klimato krizė toliau stiprėjo, tikėtina, kad bylinėjimasis išliks pagrindiniu įrankiu įgyvendinant įsipareigojimus, skatinant veiksmus ir transformuojant politikos sistemas tiek nacionaliniu, tiek tarptautiniu mastu.

Raktažodžiai: klimato bylos, žmogaus teisės, aplinkos politika, strateginis bylinėjimasis, klimato valdymas, teisinė atskaitomybė, švelninimas ir prisitaikymas.

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List of Abbreviations

Abbreviation Full Form / Meaning

ADR	Alternative Dispute Resolution
CBDR-RC	Common but Differentiated Responsibilities and Respective Capabilities
CCL	Climate Change Litigation
CO ₂	Carbon Dioxide
COP	Conference of the Parties
CSR	Corporate Social Responsibility
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EJ	Environmental Justice
ESG	Environmental, Social and Governance
EU	European Union
GHG	Greenhouse Gas
HRL	Human Rights Law
ICJ	International Court of Justice
ILO	International Labour Organization
IPCC	Intergovernmental Panel on Climate Change
IPR	International Public Law / Intellectual Property Rights (context-dependent)
LDCs	Least Developed Countries
NDCs	Nationally Determined Contributions
NGO	Non-Governmental Organization
OECD	Organisation for Economic Co-operation and Development
PIL	Public Interest Litigation
SDGs	Sustainable Development Goals
UN	United Nations
UNDP	United Nations Development Programme

Abbreviation Full Form / Meaning

UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
US	United States
WHO	World Health Organization
WTO	World Trade Organization

INTRODUCTION

Relevance of the Topic: One of the challenges of present times is climate change. Governments in all parts of the world are being urged to act yet many states do not keep their commitments to others at the international level. Some causes of climate change keep on piling up yet the change that states require is never as imminent as policies and agreements would want. This has driven citizens to a new path; litigation. The use of litigation now becomes a pertinent method of demanding to act accordingly on climate. This thesis focuses on the role that the courts have played in the creation of climatic policy.¹ The question considered is how does judicial ruling in climate cases impact government action? In most past incidents, judges have had to force governments to take accountability of saving the environment. That is new, since this portrays the role, but the judiciary is picking where the governments have been failing.²

Among the key features of the up-to-date climate litigation practice, there are human rights arguments. Courts are now being asked to consider climate change not simply a matter of environment, but also of human rights, in which the right to life, health and clean environment are threatened. The famous example is the one of the Urgenda foundation v. Netherlands case. According to the claims made in courts in the Netherlands, the soft approach of the government towards climate change was a violation of the fundamental rights of the people. It was also a good sample case indicating how human rights could be used to force governments to act. This has also been replicated elsewhere like in Australia.³ However, the aspect of such climate suits is not only about law, but it is also interlaced with much politics and judicial autonomy. In countries with judicial independence, e.g. the Netherlands and the United States, courts have more consequential power and necessitate government action. On the other hand, in nations that are being more political, when the litigation is not likely to have much, it tends to have minimal many times even where the environment is in danger.⁴ The second barrier is the opposition of the government.

¹ Setzer, J., & Vanhala, L. C. (2019). Climate change litigation: A review of research on courts and litigants in climate governance. *Wiley Interdisciplinary Reviews: Climate Change*, 10(3), e580.

² Okedele, P. O., Aziza, O. R., Oduro, P., & Ishola, A. O. (2024). Climate change litigation as a tool for global environmental policy reform: A comparative study of international case law. *Global Environmental Policy Review*.

³ Vanhala, L. (2013). The comparative politics of courts and climate change. *Environmental Politics*, 22(3), 447-474.

⁴ Pozzo, B. (2021). Climate change litigation in a comparative law perspective. In *Comparative climate change litigation: beyond the usual suspects* (pp. 593-619). Cham: Springer International Publishing.

Governments are more likely to retaliate on the ruling on climate, as it does not only affect their interests politically but also economically.⁵ As an example, courts can require governments to reduce emissions or protect settlements, but governments can defer or evade it, through inviting worrying decisions or procrastinating the move. This was evident in the Earth life Africa case in Australia where the government limited the implication of the court case.⁶

The proposed research is timely and useful in that it will test the intricate relationship between law and human rights as well as international policy and judicial independence.⁷ The handling of the cases in the non-similar countries will prove how jurisprudence is influencing the policymaking choices in the cause of Climate change litigation, and authentication of the effect brought about by political and governmental opposition. This compelled the study to argue that the economic place of the courts in the arena of environmental policy cannot be overlooked in the effort to address the climate change ailment.⁸

Problem: Climate change lawsuits have also been considered one of the main vehicles of holding the governments and businesses accountable, but we have yet to discover the effects of this on environmental policy. This study will be anchored in a quarrel of the powers of judicial adjudications, and human societies and foreign agreements in effecting the modification of the policy. The question of the research is as follows: What impact does the litigation on climate change have on the drafting and application of the environmental policy?

Object: This research examines the impact of climate change litigation on environmental policy development and implementation, focusing on judicial influence and the role of human rights in driving change.

⁵ He, X. (2018). Legal and policy pathways of climate change adaptation: Comparative analysis of the adaptation practices in the United States, Australia and China. *Transnational Environmental Law*, 7(2), 347-373.

⁶ Peel, J., & Osofsky, H. M. (2013). Climate Change Litigation's Regulatory Pathways: A Comparative Analysis of the United States and Australia. *Law & Policy*, 35(3), 150-183.

⁷ Alogna, I., & Clifford, E. (2020). Climate Change Litigation: Comparative and International Perspectives. *British Institute of International and Comparative Law*, 9, 1-21.

⁸ Colombo, E., & Giadrossi, A. (2019). Comparative international litigation and climate change: A case study on access to justice in adaptation matters. *U. Pitt. L. Rev.*, 81, 527.

Aim: The aim of this research is to analyze the impact of climate change litigation on the development of environmental policy.

Objectives

- To examine key climate change litigation cases and their outcomes.
- To explore the role of human rights and international treaties in climate litigation.
- To assess how judicial decisions influence national and global climate policies.

Research Methods: The research design is qualitative to analyze consequential examples of climate change litigation. It will also require carrying out comparative research of law which will also have an aim to establish the common themes and distinctness in the laws. The paper will also cover the importance of human rights and international treaties to these cases, and impact of the ruling on the judicial position on environmental policy.

Originality: This study presents a new approach, as it examines the role of litigation as a climate policy approach, specifically with human rights litigation arguments. It integrates comparative case studies in different legal systems, which gives an insight on how courts can affect climate governance. The research addresses a gap in the knowledge of the efficacy of litigation as a policy change tool across different jurisdictions.

PART 1

1.1. Theoretical and Legal Framework for Climate Litigation

No actions have come as a significant strategy to hold governments and corporations accountable in causing climate change and the jury is coming to be regarded as a considerable actor in climate policymaking.⁹ This kind of lawsuit has become a more popular case because of the awakening of the idea that the lack of political development and bad, in most cases, how the problem of climate change is tackled, may damage susceptible people and the planet. Notably, cases like *Urgenda v. The judicial power* has been experienced where the state of the Netherlands has threatened governments to fulfill their international obligations and limit the releases of carbon. These judicial encroachments on environmental policy matter greatly about climate complaints: the judiciary ability to encroach in areas where nearly the legislative and executive branches have failed to encroach. But, regardless of these cases being an interesting piece of judicial activism, it also raises other basic issues about how far and how difficult the courts can get in trying to forge environmental policy.¹⁰ The biggest disadvantage is that the governments tend to oppose the court orders and especially when the interpretation of the situation would otherwise be seen to impact on the economic or political interests of the governments. To illustrate, it may include the government delaying the imposition of court rulings or acting to prevent its imposition by appealing the rulings or amending the policies that weaken the authority of court rulings. Governments are also unable to take the necessary actions necessary to comply with the judicial ruling as has been experienced in various cases across the world. It directs to the heart of the dilemma as to whether courts, as much as they can make legally binding decisions, their power to take any action that appears to mean anything and particularly when it is not in the political will of governments is generally undermined by the greater political environment.¹¹ Moreover, the legal validity of climate litigation typically depends on the quality and integrity of the judiciary system, and in jurisdictions with a weak or partisan judiciary, climate litigation is unlikely to lead

⁹ Zhang, Y. (2025). Developing a Climate Litigation Framework: China's Contribution to International Environmental Law. *arXiv preprint arXiv:2502.03906*.

¹⁰ Keele, D. M. (2018). Climate change litigation and the national environmental policy act. *Journal of Environmental Law*, 30(2), 285-309.

¹¹ Karim, M. R. (2025). Pursuing climate justice through public interest litigation: Theories, practices, and prospects. *International Journal of Innovative Research and Scientific Studies*.

to environmental policy changes. In this respect, although the judicial system has no doubt an extremely important role in creating demands to act on climate, the implementation of these alterations is usually hindered by extrinsic political factors that render the existing litigation a comparatively inefficient instrument for adjusting the policy.¹²

The congruence of the human rights law and environmental law is what complicates the climate change litigation landscape even more. Human rights protections, such as the right to life, health, and a clean environment, have been the most effective in most of the most successful climate litigation cases to compel governments to act on climate change.¹³ This type of human rights reasoning has become especially dominant in various landmark cases in areas of jurisdiction like the Netherlands as well as the United States, where the plaintiffs have argued that climate inaction is such a direct threat to the very rights of the plaintiff. One of the winning strategies in such cases has been the human rights appeal since it provides moral and legal justification of judicial intervention. The argument has proven to be compelling before the courts of countries that have proper human rights systems that have led to rulings that force governments to improve their climate policies. However, the flaws of the use of human rights arguments in climate litigation also exist. First and foremost, not all legal systems recognize a direct connection between climate change and human rights, and the legal system of most countries lacks the provisions to support claims. Human rights may not be mentioned in climate litigation so successfully with legal successes in places where the human rights law is weak or where the judiciary has not been properly designed to address the issue. There is also the risk that human rights litigation is relevant and overshadows the more direct environmental litigation claims that could be effective in reference to a specific jurisdiction. The structural environmental issues, such as the failure to reduce the emissions or sustain the ecosystems, can be relegated with the focus on human rights. This can limit the broader application of human rights-based implications of climate litigation, especially in countries that have a more hostile legal system to human rights claims. So, it is possible to regard human rights law as a useful tool in the framework of climate litigation, yet it

¹² Preston, B. J. (2018). The evolving role of environmental rights in climate change litigation. *Chinese Journal of Environmental Law*, 2(2), 131-164.

¹³ Fornasari, R. (2024). The legal form of climate change litigation. *Journal of law and political economy*.

may not be sufficient to address the full scope of the impact of climate change in those regions where the foundations of fundamental rights are weaker in terms of law.¹⁴

The other material factor of climate litigation is the increased use of scientific findings, particularly of the attribution science which points climate change to specific environmental harms. This has been a critical element of many high-profiled climate cases as it makes plaintiffs identify direct causal relationship between man-made climate change and extreme weather or harm to the environment. The situation of the attainment of compensation connected to the damages of the climate-related processes, such as wildfires, floods, droughts, is particularly relevant to attribution science. When the courts receive scientific evidence that proves that climate change has increased the severity of these events, then they will be in a better position to determine the level of liability and damages to be paid to the plaintiffs. However, it is not only science that has not been adopted without resistance into the legal process. To start with, climate change, in its scientific understanding, is complex and the courts are not always knowledgeable enough to understand and judge the complexities of climate science.¹⁵ Applying expert testimony to explain the correlation between climatic changes and specific incidents in legal proceedings may lead to some uncertainty during court proceedings as expert opinions are not always consistent, and scientific information may be subject to bias. Such reliance on scientific evidence also results in imbalance of the legal procedure as it tends to put the focus of attention in the scientific debates which are not always aligned with the legal requirements of litigation. The scientific complexities can at times also compel the courts to act without the expertise needed to do so and thus create inconsistency in law application. Also, the application of attribution science may not be practical in jurisdictions that strongly oppose the fact that human actions cause climate change. In this case, the scientific evidence may be put aside or challenged, and this complicates the litigation process even further. Even though the integration of science into climate change litigation is an essential

¹⁴ Peel, J., & Osofsky, H. M. (2020). Climate change litigation. *Annual Review of Law and Social Science*, 16(1), 21-38.

¹⁵ Simou, S. (2023). THE EMERGENCE AND POTENTIAL OF CLIMATE CHANGE LITIGATION: METHODOLOGICAL AND THEORETICAL LEGAL CHALLENGES. *European Review of Public Law*, 35(1).

step in the right direction, the idea cannot deliver legal results due to the challenges of interpreting complex data in a legal framework.¹⁶

The climate protection laws are important in influencing the domestic and global policies in mitigation of climate change. The objectives of these laws are to control greenhouse gas emissions, renewable energy sources as well as to ensure sustainable development practices. In most countries, laws stipulate emission abatement levels and establish compliance structures, in most cases according to international undertakings. As an example, some nations such as Germany and the United Kingdom have adopted strict national laws on climate protection stipulating binding reduction targets in the coming decades, frequently as a reaction to scientific deliberation as well as political compulsion to perform on climate change. The most important aspect of climate protection laws is limiting global warming to not more than 2degC this is what the Paris Agreement establishes. The law provides a platform on which governments can take tangible action in the form of carbon taxation, cap and trade and incentives to renewable energy. Although this is difficult to enforce and comply with in certain areas, these laws give the framework through which the regulators and the business community can improve their carbon footprint in a systematic manner with the goal of having a carbon-neutral society by the mid-century.¹⁷

In 1992, the United Nations Framework Convention on Climate Change (UNFCCC) set the legal and institutional basis of the world climate change effort. It offers a wide global arena of governments to negotiate and take actions that are meant to curb climate change, even though it lacks legally binding quotas of emission levels. The end goal of the Convention is to stabilize the level of greenhouse gases in the atmosphere to a level that would not pose any threat to the human intrusion in to the climatic system. After the UNFCCC, various protocols have been created to enhance and make its objectives clear.¹⁸ In the year 1997, the Kyoto Protocol took a significant step in the establishment of a global carbon regulation system by the introduction of legally binding emissions reduction targets by the developed countries, which was the first of its kind. Its

¹⁶ Eskander, S., Fankhauser, S., & Setzer, J. (2021). Global lessons from climate change legislation and litigation. *Environmental and Energy Policy and the Economy*, 2(1), 44-82.

¹⁷ Mehling, M. (2015). The comparative law of climate change: a research agenda. *Review of European, Comparative & International Environmental Law*, 24(3), 341-352.

¹⁸ Van Loon, H. (2018). Principles and building blocks for a global legal framework for transnational civil litigation in environmental matters. *Uniform Law Review*, 23(2), 298-318.

shortcomings however, including unfirm binding commitments to developing countries and difficulties in enforcement, made the need to have an inclusive and flexible approach which culminated into the Paris Agreement.¹⁹

The most important global treaty that seeks to deal with the issue of climate change is the Paris agreement adopted in 2015 under UNFCCC. The Paris Agreement is not only a legally binding treaty, unlike its predecessors, but binds all the parties to reduce the global temperature level by less than 2degC above pre-industrial levels, and seek to reduce it to 1.5degC. The bottom-up approach is one of its salient characteristics wherein every country provides its own nationally determined contributions (NDCs) in the reduction of emissions and thus, flexibilities are given to countries which are dependent on their national circumstances and abilities.²⁰ The Paris Agreement also promotes frequent revision of NDCs after every five years to make sure that nations constantly intensify their activities in relation to climate. One of the main features of the Agreement is the global stocktake mechanism that enables conducting the overall evaluation of the achievements in regards to the global climate goal. Besides this, the Paris Agreement pays extra attention to funding developing nations so that they could reduce and adapt to climate change. In spite of difficulties in achieving the emission targets, the Agreement is a landmark move towards the worldwide community towards a sustainable future.²¹

1.2. Theories

1.2.1 Public Interest Litigation Theory

The Public Interest Litigation (PIL) theory refers to the theory of law that seeks to enable individuals, groups or communities to launch court actions in the best interest of the good of the population even when they may not be directly affected by the ill-effect of a particular problem. As legal action, PIL increases the availability of a justice system by allowing organizations to

¹⁹ McCormick, S., Glicksman, R. L., Simmens, S. J., Paddock, L., Kim, D., & Whited, B. (2018). Strategies in and outcomes of climate change litigation in the United States. *Nature Climate Change*, 8(9), 829-833.

²⁰ Zhu, M. (2024). Human Rights Approach to Climate Change Litigation and Its Limits. In *Chinese Yearbook of Human Rights, Volume 6 (2024)* (pp. 137-162). Brill Nijhoff.

²¹ Botman, M. (2024). *A COMPARATIVE STUDY OF CLIMATE LAWSUITS* (Doctoral dissertation, Ghent University).

represent the general will or interests, and not a personal complaint.²² Such a general strategy has played a significant role in solving complex and systemic problems, including climate change, where the effects of environmental degradation and governmental inaction impact society as a whole, and where the impacts of these processes are sometimes immeasurable and unprovable by individual people. The addition of PIL to the law suits dealing with climate change has facilitated a broader scope of litigation where courts are now avenues of enforcement of wider environmental policy that serves the interests of the present and future generations. PIL, in its nature, is based on the principle that the law must be in the service of the public good, especially where there are environmental harm or risks to the general health, and where individuals or groups, particularly the marginalized ones, might not be able to afford to bring case to court on their own.²³ This theory therefore stresses that the legal system must possess the ability to respond to harms that affect a peripheral level of the population although the individuals who are suffering may not be the ones that are directly involved in the case. This is a theoretical revolution in climate change litigation the harm frequently is diffuse in nature, and it is difficult to identify individual direct injuries to be filed by any litigant. PIL would enable the courts to appreciate that the issue of climate change is international in nature and has complex social, environmental and economic consequences and therefore should be addressed by a legal solution that outweighs the interest of the individual as an individual, but that of the community. Here, PIL has played a central role in activating governments to act on climate, pushing them to adopt and enforce environmental laws or doing more to meet the global climate commitments.²⁴

Another objection to PIL as applied to climate change litigation is its dependence on the broadening of legal standing, which, though necessary to the provision of access to justice, may also be problematic about the number and heterogeneity of cases presented to the courts. The traditional legal system requires plaintiffs to demonstrate they have a personal interest in the case which may be an obstacle to plaintiffs who wish to tackle large scale social problems like climate

²² Karim, M. R. (2025). Pursuing climate justice through public interest litigation: Theories, practices, and prospects. *International Journal of Innovative Research and Scientific Studies*.

²³ Zhang, H. (2021, September). Discussion on the Determination of “Risk” in Preventive Environment Public Interest Litigation. In *2021 International Conference on Social Science: Public Administration, Law and International Relations (SSPALIR 2021)* (pp. 128-131). Atlantis Press.

²⁴ Rose, C. (2022). Enforcing the ‘community interest’ in combating transnational crimes: the potential for public interest litigation. *Netherlands International Law Review*, 69(1), 57-82.

change. PIL helps people or businesses to do with matters even when the act or omission they claim to have suffered by does not harm them or the activity they are in which they are involved. It is a titanic change of the further democratization of the access to courts and to the greater diversity of voices to challenge the environmental policy of the government and of the corporations, of the environmental NGO, the groups of citizens and of the activists that is a natural home. However, it is accompanied by the negative aspects of standing that can be traced to increased case of PIL.²⁵ Individually even of cases listed, as in a judicial system where litigants are the least-resource endowed or unduly create a drain on the judicial system, this would prove daunting. As a steady stream of cases permeates the hands of the court, a court can seem either at cross purposes or difficulty locate when cases to set aside and perhaps invite query whether the circuits of the judicium as a system are well above managing the sheer quantity and intricacy of cases about climate. One also bears the risk of the courts being overwhelmed seventeen cases that have no lasting solution but symbolic cases. Another issue is that increased legal standing can blur the distinction between judicial activism and lawmaking when courts might be obligated to design policies that are not in their remit, and may end up producing judicial solutions that cannot be easily put into practice without political goodwill or enforcement by the executive.²⁶

In addition, there is overlapping between the use of PIL theory and the frameworks of human rights in environmental law, making it a potent method of litigating the environment and guaranteeing the availability of natural resources to future generations. In numerous cases of climate change, plaintiffs have argued using human rights grounds that include the right to a clean environment, the right to life, or the right to health, to argue governmental inaction in addressing climate change. PIL establishes a direct connection between the destruction of the environment and the legal safeguards that are ensured under the national and international human rights law by establishing environmental damage as a gross infringement of fundamental human rights. PIL as opted through the prism of human rights has effectively enabled the change of policy, especially in places where the court is more favorable to constitutional and human rights challenges. This is what has occurred in places such as the Netherlands and Colombia where courts ruled in favor of plaintiffs who

²⁵ Züger, T., & Asghari, H. (2023). AI for the public. How public interest theory shifts the discourse on AI. *AI & SOCIETY*, 38(2), 815-828.

²⁶ Braun, C., & Stolk, R. (2023). Litigation As Collective Action Strategy a Political-Legal Perspective on Public-Interest Litigation. Available at SSRN 5407042.

claimed that not preserving the environment would erode basic human rights of the citizens including the right to live and the right to health. The most susceptible groups to climate change also are the focus of this framework: low-income groups, indigenous people, and women are disproportionately involved in environmental degradation, and so the intersectionality between social justice and environmental degradation is made apparent. However, as was observed though this has not been universal, teguments-based litigation has succeeded nearly everywhere. And in a nation where the rule of law does not exist or rather a nation where the black art of political reservation toward the litigation of human rights is customary a human right based PIL will be like a god send to a court. Equally the over-large scale of the extension of the applicability of human rights to environmental PIL, may also prove the necessary evil of prudently restricting the concept of handling the human-action issues of such emergent significance as the need to care about the ecosystems and their long-term survival. This tunnel vision can unwillingly confine the process of litigating climate change to too simple a view, and its capacity to remedy structural factors leading to the destruction of the environment.²⁷

Furthermore, PIL plays a significant role in preventative environmental management, which is a significant concept to the climate change litigation scenario. One of the common ways in which courts are employing PIL to respond to environmental harm is that they are not simply responding to harm but are promoting proactive law-making in the effort to prevent future harm. This proactive strategy is crucial in the instance of climate change, with the outcomes of the lack of action being devastating, to the ecosystems, economies, and human societies.²⁸ PIL asks the courts to make decisions that require governments and companies to take precautionary actions to avert a situation that cannot be undone, i.e. by making strong goals of reduction of emissions or even by putting in place climate adaptation policies. The preventive mechanisms implemented by PIL are, however, not always effective in providing sustainable climate action. Climate change is a long-term phenomenon, and the effects are slow moving, and it is hard to develop quick remedies to the issue by suing. Despite courts making strong orders to curb emissions or provide climate policies, courts usually may lack the institutional means and political backing to make this happen

²⁷ Xie, L., & Xu, L. (2022). Environmental public interest litigation in China: findings from 570 court cases brought by NGOs, public prosecutors and local government. *Journal of Environmental Law*, 34(1), 53-81.

²⁸ Li, T., & Xie, J. (2025). Marine Environmental Administrative Public-Interest Litigation in China: Institutional Development and Practical Challenges. *Chinese Journal of Environmental Law*, 9(2), 321-334.

over time. As an example, the government actions in response to PIL orders can be inconsistent or ineffective, because political shifts, economic limitation, or other priority policies can compromise enforcement activities. In other instances, governments can, as well, merely postpone or alter the compensation of the policy to alleviate the consequences of unpleasant climate policies on the economy. Such inefficiency in responding to the policy action in a timely court action has raised this incapability of using litigation as the only answer to addressing climate change. It also emphasizes the necessity of a thorough approach, which must involve certain legislation, executive, and judicial intervention, which would allow making the environment more sustainable.²⁹

To sum up, the construction of climate justice and environmental protection through climate change litigation could also employ the Public Interest Litigation theory. Through the empowerment of a wider range of plaintiffs to initiate actions, the extension of legal standing and the incorporation of human rights values, PIL allows the courts to target environmental damage that extends beyond secondary claimants and to individual claimants.³⁰ Nevertheless, though PIL is a potent instrument, there are no challenges in its use in addressing climate change litigation. Furthermore, PIL has the danger of judicial overreach in the policy areas that should have been taken more actively by legislatures and executive bodies, and it might not be effective in avoiding future environmental degradation due to the sluggishness and complexity of climate change. In this way, PIL is a viable tool of facilitation of climatic action and environmental safety, and it must be regarded as a multi-polar approach to the crisis at the climate, as well as legislative reform, political determination, and governance.³¹

1.2.2 Environmental Justice Theory

The fact that the poor communities are disproportionately affected by the environmental damage constitutes a critical theory, which requires the Environmental Justice (EJ) theory to be critical in terms of elucidating the cross-section mechanisms of environmental degradation. The

²⁹ Fatima, S. (2023). Analysis on judicial activism focusing on public interest litigation in India: Inception, contribution and strengthening in promoting public justice. *Issue 2 Indian JL & Legal Rsch.*, 5, 1.

³⁰ Zhao, X., & McNamara, N. (2023). Environmental Public Interest Litigation in China: An Overview. *Environmental Public Interest Litigation in China*, 3-19.

³¹ Wei, L., & Li, M. (2022). RETRACTED: Defining the Environmental Public Interest Litigation in the Era of Artificial Intelligence. *Mobile Information Systems*, 2022(1), 5823552.

logic behind the Environmental Justice theory is that it determined the desire to ensure that no individual irrespective of his/her race, status, ethnicity or place of living is shared in healthful environment, and eligible to participate in environmental decision-making process. It emphasizes the necessity to rectify the structural and historical disparities that contributed to the fact that the burden of environmental damage is disproportionately experienced by low-income communities, people of color, and indigenous people.³² The theory has arisen as a reaction to the fact that in capitalistic economic systems, harm to the environment is usually externalized, i.e., vulnerable individuals are ones that suffer the ecological losses of the actions taken by the government and industries, although the activities themselves do not make these people wealthier and cause the generation of wealth. One of the most significant things about EJ is that such a concept as distributional justice assumes that the adverse effect of the environment must not be internally distributed among some groups of people with the more privileged ones enjoying the perks of nature. EJ theory thus requires partial treatment and material input towards environmental regulation across all columns of the socio fabric, particularly those historically marginalized and marginalised in environmental decision making. It is an effective conceptual framework of understanding how social inequalities intersect with environmental degradation as well as lobbying legal and policy changes in support of equity, fairness, and sustainable environmental protection.³³

The use of EJ theory in climate change litigation has experienced substantial advancement especially in cases where there is a concept of sacrifice zones, which has been a commonly debated theme in EJ literature. Sacrifice zones are those which absorb the environmental implications of industrial and governmental actions that are disproportionate such as hazardous waste disposal, industrial pollution, and fossil fuel mining. Such communities residing in such areas are most likely victims of toxic exposures, and environmental degradations, but they possess little to none input in the making of decisions leading to such environmental abuse. EJ theory, then, requires acknowledgement and redress of sacrifice zones, where environmental policies are not further used to benefit the richer or stronger stakeholders at the expense of these communities. This emphasis on sacrifice zones is particularly relevant in the case of litigation over climate change, since climate

³² Figueroa, R. M. (2022). Environmental justice. In *The Routledge companion to environmental ethics* (pp. 767-782). Routledge.

³³ Faber, D., Levy, B., & Schlegel, C. (2021). Not all people are polluted equally in capitalist society: An eco-socialist commentary on liberal environmental justice theory. *Capitalism Nature Socialism*, 32(4), 1-16.

change itself is generating new types of environmental injustice, especially to those already facing poverty, pollution, and marginalization. Regardless of who dwell in coastal communities that are prone to higher sea levels or those who dwell in the neighborhoods near those industries that cause elevated concentrations of greenhouse gases, these populations do not have the political voice to insist that any alteration in counterproductive policies is enforced. EJ theory urges legal approaches to reversing the historical trend of environmental injustice by making sure that some of the most vulnerable to climate change and those most impacted, including low-income communities, people of colors, and indigenous communities, are not left to bear the cost of inaction or poor policies.³⁴

One of the best, and most valuable contributions of the Environmental Justice theory to climate change litigation is participation and empowerment. EJ has an interest in seeing the outcome of lawsuits equally the mechanisms of handling environment. One of the most important details of EJ should be the fact that a disadvantaged neighborhood should be one element of the active process of building the policy of environmental arrangements working on it. This principle of participation is the target of criticism within which this theory criticizes top-down environmental governance that has the propensity to disenfranchise vulnerable communities in the process of making decisions. In practice, it means that there is a democratic rule, in which the members of the community receive a table voice and can decide to make policies and law options, which impact them and the environment where they find themselves. To challenge the conventional and power wraparound of the environmental law, and demand that the to be factored to complex processes, voices hitherto forced silent or not to speak at all, are made to the forefront, is this participatory issue in the frame of climate change litigation. The concept of the EJ theory enriches the rationale and effectiveness of the climatic change aptitudes in the affairs of providing the right of the populations to the regulation of the procedure that present the provisions to climatic disasters that are free and conscious to the demand of the most affected individuals. Still, the most serious issue of the endeavor to implement the given principle is the fact power asymmetry will always exist between the groups that cannot receive a privilege, and those that occupy the lowermost economic and political positions in the hierarchy. The politics of EJ can likely touch the heart of courts rather positively but without resolving such structural injustices unless the political/economic power formation ceases to statutes bottler. It emphasizes how environmental

³⁴ Juskus, R. (2023). Sacrifice zones: A genealogy and analysis of an environmental justice concept. *Environmental Humanities*, 15(1), 3-24.

governance as a practice should be restructured, not merely by legal sceptules, but also by the means of the digitalizing of the policy, which will lead to more involvement and participation in improved decision making of environment.³⁵

Furthermore, the Environmental Justice theory recommends recidivation and restorative justice in salvaging the evils of the past such as effects of climate change. Greener since historical wrongs like colonialism, slave trade and institutional racism are involved in the development of environmental harm and exploitation of the less fortunate. The EJ theory fosters reparation approaches to justice that are not found on repairing the existing harms but rather based on redressing the past injustices that resulted in disproportionality in environmental effects that face some groups of the population.³⁶ This emphasis on remediation in climate change litigation has been associated with climate reparations, in which the richer and historically high-emitting countries would offer compensation to countries and communities most impacted by climate change, particularly those who have contributed the least to the issue. This framework of reparation in EJ theory disputes the prevailing discourses of climate responsibility and equity, putting the debate beyond mitigating climate change to the unfairness that exist across the globe that have aggravated its effects. Nonetheless, reparative justice has been a controversial idea, particularly at the international political scene, where influential countries might oppose reparations or compensation through legal procedures. Therefore, although EJ theory provides an attractive model of tackling the past and current wrongs, its enforcement on climate litigation needs strong political determination and collaboration atom global scale, which is a challenging task considering the economic self-interest of influential nations and corporations.³⁷

The critique is especially relevant when it comes to climate change litigation, in which large multinational companies have historically contributed a substantial part of global greenhouse gas emissions, notably fossil fuel companies. The Environmental Justice theory presents the idea

³⁵ Pellow, D. N. (2023). Environmental justice. In *Handbook on Inequality and the Environment* (pp. 71-85). Edward Elgar Publishing.

³⁶ Alavi, S. A., Esfandi, S., Khavarian-Garmsir, A. R., Tayebi, S., Shamsipour, A., & Sharifi, A. (2024). Assessing the connectivity of urban green spaces for enhanced environmental justice and ecosystem service flow: a study of tehran using graph theory and least-cost analysis. *Urban Science*, 8(1), 14.

³⁷ Ottinger, G. (2024). Careful knowing as an aspect of environmental justice. *Environmental Politics*, 33(2), 199-218.

that environmental policies or policies that benefit corporate interests frequently disadvantage vulnerable communities and result in a system of exploitation and inequality. In climate litigation, this criticism is applied to take on the role of corporations in the continuation of environmental injustice, agitating towards greater corporate responsibility and accountability towards the ecological harm they do. Nevertheless, the political processes are increasingly compromised by corporate interests, and multinational corporations are increasingly involved in environmental policy development, something that usually makes it difficult to take them to task in court. Although a court can make a decision that compels corporations to lower their emissions or more actively work towards a sustainable solution, the systems of the economy that promote profit instead of environmental sustainability are relatively stable and it is hard to find a lasting solution to environmental injustice.³⁸

To conclude, Environmental Justice theory provides a crucial framework when it comes to interpreting and addressing the comorbidity of social and environmental injustices in terms of climate change. By offering an intersectional, participatory, remedial, and corporate responsibility perspective on climate change litigation, EJ offers a holistic approach to the process that guarantees the marginalized vulnerable population is heard and the resulting burden of environmental harm is shared fairly. Although EJ theory has played an important role in the conceptualization of climate justice, its implementation is usually limited by political and economic forces that create inequality and environmental degradation. The difficulty, however, has not been to apply EJ as a legal system but to incorporate its principles in more systematic and structural transformation of environmental policies that do not lie within the scope of single litigation cases.³⁹

1.2.3 Legal Mobilization Model

The Legal Mobilization Model is an enhanced model of accountability of the ability of social movements, associations that cross and activists to attain strategic advantage with the help of the law system as an instrument of social reform were ineffective or unproductive about political

³⁸ Ashcraft, L. E., Cabrera, K. I., Lane-Fall, M. B., & South, E. C. (2024). Leveraging implementation science to advance environmental justice research and achieve health equity through neighborhood and policy interventions. *Annual Review of Public Health, 45*.

³⁹ Haq, K., Miles, M., & Ditto, A. (2024). Tuscarora nation lands and the New York State Power authority: an environmental justice education approach to decolonizing curriculum. *The Journal of Environmental Education, 55*(5), 414-426.

or legislative tactics. This paradigm holds factual value that litigation could be employed as a mode of generating awareness regarding social issues, generating interest into large scale issues and putting pressure on governments and corporations to amend or create policies.⁴⁰ It, to be more exact, is a high degree of legal mobilization of that of climate change litigation in some cases, when the traditional political systems fail to acquire their very potent goals of struggling against the cataclysmic environmental catastrophes which global warming causes. Through the litigation tool, individuals, environmental organisations and even civil society can blackmail the discourse and government intervention to climate change hence the advancements in the policy. The model emphasizes that different actors such as grassroots organizations, transnational networks, etc. can use legal strategies to affect the results of environmental governance. Notably, this model changes the emphasis of the framework on how to win legal cases to how litigation can be used to confront and transform current power systems, especially concerning climate justice. It enables a more participatory practice of environmental protection where the law is perceived as a tool of dealing with systemic problems of environmental destruction, as opposed to merely settling disputes. Legal mobilization in the place of climate change means that plaintiffs can use the national and international law to destabilize the status quo, and require more aggressive measures of the government, especially in the enforcement of climate policies, which otherwise may be not implemented or postponed.⁴¹

One of the main benefits of the Legal Mobilization Model to climate change litigation is that it can expand access to justice to environmental causes that disproportionately impact vulnerable and marginalized groups. The conventional types of political advocacy appear less potent to many who are victims of climate change, including low-income groups, indigenous peoples, and in some cases, the residents of small island countries, as they have limited resources, political influence, or legal status. Legal mobilization, in its turn, enables these groups to make use of the court system to solve harms related to climate, usually by combating a lack of action on the part of a government, environmental harm on the part of a company, or human rights breach. This method highlights the activity of the public interest groups and NGOs, the significant actors in the

⁴⁰ Chiamonte, X. (2022). The case for legal technique: A tentative map for legal mobilization. *Oñati Socio-Legal Series*, 12(5), 1246-1266.

⁴¹ Buckel, S., Pichl, M., & Vestena, C. A. (2024). Legal struggles: a social theory perspective on strategic litigation and legal mobilisation. *Social & Legal Studies*, 33(1), 21-41.

organization and presentation of these cases to the courts. The paradigm suggests a detachment of the legal process as elitist to a more democratized approach to access to justice, in which the emphasis is on shared goods, e.g. more resilient environmental rules or fairer allocations of climate-related risks. It also brings our attention to strategic litigation, in which environmental organizations could focus on high-profile litigation that could establish meaningful legal precedents. On example, such cases as *Urgenda* in the Netherlands and *Juliana v. Examples* of such mobilization of the law in the U.S. include *United States against the government to act openly on climate change by both constitutional and international requirements*. These are not fantasies, in which people can do something about climatic change, which pitches them before the law courts to make a pretense of climatic change having its own legal crisis and what must be done. Nevertheless, even with the successful outcomes of some cases, access to justice is still a major issue faced by most communities, especially in developing nations or other instances when legal systems are overstretched and under-funded or lack the autonomy to enforce cases involving climate-related litigation.⁴²

The Legal Mobilization Model Is also important in the changing of the political discourse on climate change especially in those countries where the opposition to climate action is present. One of the methods is legal mobilization, which would bring the climate crisis into the limelight of political discourse, such that the policymakers are compelled to address the issue on a legal level. This model may be especially efficient in the areas where the governments are not ready to implement the policies under political pressure or because of economic reasons or the effects of corporations. By calling on the courts to contest the weak climate laws or non-adherence to international climate agreements when environmental organizations or civil society groups engage in the latter, governments are pushed to the periphery, which often leads to political compromise or radical policy changes. In other instances, as in the Netherlands and other European nations, courts have ruled expressly that governments need to take more aggressive action on climate, as to cut carbon emissions, or to adhere to stricter rules on polluting sectors. Nevertheless, the capacity of litigation to change the political discourse may be hampered by the politicization of courts, especially in states in which the court system is regarded as part of the political counterpart. When political influence on the courts is allowed, rulings of the courts can be postponed or

⁴² Akbar, A. A., Ashar, S. M., & Simonson, J. (2021). Movement law. *Stan. L. Rev.*, 73, 821.

undermined, which diminishes the possible effect of legal mobilization on the climate policy. Another important conflict presented by the model is legal mobilization and political resistance where governments are not willing to meet international commitments related to climate change or are economically tied to fossil fuel industries which show the weakness of litigation to alter the overall climate policy.⁴³

Another feature of Legal Mobilization in climate change litigation is the transnational character of climate crisis. Climate change is a global problem that requires mobilization of law across national boundaries, which requires working with international law, including the Paris Agreement, to exert pressure on governments and corporations. Legal mobilization may be characterized as a transnational movement where legal suits in a country can still have some transnational considerations with other areas in climate litigation. The relationship between the national cases is legal mobilization in that it views climate change as an international issue and a local impact, but it involves broader global practices, which demand governments to comply with international climate laws and protection. The international attorneys general i.e. *Milieudefensie v. Royal Dutch Shell*, challenge multinational corporations which account to the global emissions, so they mitigate their corporate act in agreement with climate science and internationally commitments. This is the transnational aspect of legal mobilization which will bring countries and corporations to account for their global effect on climate. Nevertheless, international law is rather complicated, and the enforcement mechanism is not centralized, which makes it challenging to establish legally binding decisions on the international scale. This implies that transnational climate laws may exert considerable pressure, but it is frequently symbolic rather than binding because it does not have the authority of international courts, with explicit jurisdiction over global climate issues.⁴⁴

Among the most significant critiques of the Legal Mobilization Model in relation to climate change is that it will become a reactionary instrument, instead of a proactivity-inducing instrument. Although legal mobilization can produce substantial policy changes, especially when a group

⁴³ Ofori, R. O., & Abrokwah, E. (2025). Policy entrepreneurs and mobilization strategies: case studies of energy and natural resource policy reforms in Ghana. *Transforming Government: People, Process and Policy*.

⁴⁴ Nurjanah, S., & Nur, I. (2022). Gender Fiqh: Mobilization of Gender-Responsive Movement on Social Media. *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 22(1), 1-18.

litigates against the government or a company, it is still heavily reliant on how the legal system responds to the issues raised in court. To the extent that climate change is concerned, litigation is usually a system to react to harm, not to prevent harm. The plaintiffs may win a case in court, and the court may require adjustments in the climate policy, but climate change has global and systemic consequences implying that the decision may be too late to cause irreversible harm. Limited by the reactivity of the legal process, the Legal Mobilization Model, nonetheless, is effective. On its own, it is incapable of responding to the necessity of proactive, preventative response to climate change that matches the severity of the crisis. Moreover, legal mobilization is also reactive and, therefore, the courts find themselves incapable of effecting the structural changes required to fight climate change, which includes the global transformation of the economy and the redesign of energy systems.

Overall, the Legal Mobilization Model is a strong model by which to remember the process by which social movements and advocacy organizations can pursue the action on climate and requalified changes in the law through litigation when the political processes are blocked or have failed to work. A distinct means of compelling governments, companies and other interested stakeholders to act on climate change and pursue more aggressive environmental policies is through legal mobilization through the courts, respectively. Legal mobilization, however, has been seen to be very effective in promoting climate policy but has had its own weaknesses. Sensitivity of the judicial system of litigation, political need to rating the ruling, and absence of international execution framework all jeopardize the capability of the model to deal with climatic change wholesomely. To succeed legal mobilization should be accompanied by more robust legislative, regulatory and global intervention that will ensure that that systemic change that would be required to provide mitigation and adjustment to climate change already has a place. In such a manner, litigation can become an applicable measure in countering climate change, but it should be considered an element of the holistic approach that would comprise litigious and political, as well as economic change, to mitigate the culprits of environmental degradation.⁴⁵

⁴⁵ Lo, H. Y., Yu, C. K. C., Wong, M. H. L., & Davey, G. (2025). Political mobilization, trauma, delusional dream themes, and nightmare distress in Hong Kong. *Dreaming*.

1.2.4 International Climate Governance Model

The International Climate Governance Model is an analysis framework that attempts to understand the way global climate policies and strategies are made, negotiated, and implemented by various actors at different levels between international institutions and national governments and local actors. This model acknowledges that climate change is a multi-national phenomenon and therefore an individual state or region cannot properly respond to this issue. Instead, in its turn, it entails the concerted efforts of all parties' stakeholders, including state actors, non-governmental organizations (NGOs), international agencies and business world, etc. The contribution of the role of the involvement of the international agreement should not be overlooked that the theory proposes that, the international front sensualization membership should be encouraged and that there should be discouragement of emission of the greenhouse gas and global warming. At the heart of the model is the notion that global climate governance is defined by a multi-layered and complex system of governance that encompasses top-down structures of governance (such as the United Nations Framework Convention on Climate Change, or UNFCCC) and bottom-up involvement of multiple non-state actors.⁴⁶ These actors include civil societies organisations, multinational companies, local governments, indigenous people, and they play a very important role both in shaping climate policy and acting on the ground. It is also communicated by the model that climate governance not only is the outcome and activity of the state but rather a dynamic and sustained interaction among the various actors in various levels and sectors such that it is a very collaborative and multilateral practice.⁴⁷

The very basis of the international climate governance model development is the idea of the multilevel governance based on which the offer of the climate action will be allowed to be delivered not only at the international level but the successful efficiency of incorporation and linkage where the international, regional, and local levels will be concerned. This will allow the input of alternative positions and ambitions of policies that will best respond to the unique circumstances and needs of different areas to be made at the same time consistent with the overall global commitments. The second outstanding fact of this governance model is that the

⁴⁶ Teng, F., & Wang, P. (2021). The evolution of climate governance in China: drivers, features, and effectiveness. *Environmental Politics*, 30(sup1), 141-161.

⁴⁷ Guy, J., Shears, E., & Meckling, J. (2023). National models of climate governance among major emitters. *Nature Climate Change*, 13(2), 189-195.

transnational networks and non-state actors or environmental non-governmental organizations (NGOs), business alliances and research organizations also contribute to climate-related action. Such non-state actors can help close the political governance gaps, to march into their inventions, to exert pressures on governments and the international bodies to make much bolder decisions towards the enforcement of their climate policies.⁴⁸ Furthermore, the model emphasizes the importance of institutional flexibility in climate governance, which exists when different actors are already positioned in a position of collaboration with others, where hierarchy can be forgotten and tolerance of experiments and a local being modulated response. Probably, to foster such a situation, a powerful position in the subsequent tries to excite weather activity has been strengthened by subnational governments, such as those of cities or a region of government, where the national governments have previously failed to do so. They have been on the frontline, making stretching climate targets and establishing net-zero goals; and they have rallied their political capital as a way to make the world commitments to more aggressive action. The emergence of city networks, such as the C40 Cities Climate Leadership Group is another example of how local efforts can be used to make a more significant impact on climate governance. Although the consideration of non-state actors and subnational governments increases the efficacy of climate governance by moving local knowledge and innovation to the center stage, it also creates new challenges, such as the challenge of aligning different actors with different interests, resources, and power. Thus, although the International Climate Governance Model offers a model of cooperation, it also suffers a serious problem in the context of building cohesion and accountability in such a wide scope of participants.

The International Climate Governance Model also investigates the issue of balance between the bottom-up participation and top-down authority. This is one of the main conflicts in international climate governance, namely, the desire to create the necessary balance between international agreements that offer binding limits on emission reductions and the need of local and national governments to act in accordance with their own conditions. One of the key domains within which this is needed is in the Paris Agreement. The signed agreement in 2016 places a duty on every party to ensure that the global warming is contained to levels that are less than 2degC above the attainments made before the industrial era, and reduced to 1.5degC. However, Paris

⁴⁸ Dubash, N. K. (2021). Varieties of climate governance: the emergence and functioning of climate institutions. *Environmental Politics*, 30(sup1), 1-25.

Agreement, being a global framework, is not a legally enforceable decision but, as with nationally identified contributions (NDCs), wherein individual countries should set their emission reduction targets. The strength and weakness of this model of climate action lies in this flexibility and self-determination. On the one hand, it enables the countries to shape their commitments to their own developmental priorities and capabilities, making climate policies ambitious and possible at the same time. Conversely, it brings the risk that nations may fail to achieve their targets or that some nations may have too low targets hence compromising the effectiveness of the international framework. The absence of legally binding national commitments and the fact that it is based on voluntary commitments has attracted criticisms of the Paris Agreement as being too soft, especially as the impacts of climate continue to intensify. Due to this, numerous professionals believe that even though the bottom-up, self-determined governance has the potential to achieve higher participation and buy-international climate governance must also include more effective means to enforce the rules and hold non-compliant countries accountable, including periodic review mechanisms or more severe punishment imposed on non-adherents.⁴⁹

The conflict between climate justice and reality of climate action is one of the most acute problems in international climate governance. The universal aspect of climate change, and the varying economic capacities of various countries, has contributed to the existence of a wide gap between developed and developing countries in climate talks. The developing countries, which have long been less significant contributors to global greenhouse gas emissions, claim to have no equal contribution to mitigation as the industrialized countries. They also argue that the developed nations, which possess the funds and technologies, must be at the forefront of cutting down on emissions and offering funds to the developing nations to support adaptation strategies as well as mitigation. This is a dynamic that can be seen in the principle of common but differentiated responsibilities of the UNFCCC and the Paris Agreement, which recognizes that all countries must participate, but their contributions to climate action should be determined by their capabilities and historical emissions.⁵⁰

⁴⁹ Ross, A., Van Alstine, J., Cotton, M., & Middlemiss, L. (2021). Deliberative democracy and environmental justice: evaluating the role of citizens' juries in urban climate governance. *Local Environment*, 26(12), 1512-1531.

⁵⁰ Dilling, P. F., Harris, P., & Caykoylu, S. (2024). The impact of corporate characteristics on climate governance disclosure. *Sustainability*, 16(5), 1962.

1.2.5 The Policy Window Model

The Policy Window Model, which was created by John Kingdon, offers a conceptual framework through which the emergence of the public policies can be explained, especially at the point of opportunity when the conditions are favorable to change the situation. Kingdon states that the probability of policy change is greatest when three independent streams, problems, policies and political conditions combine in what is known as a policy window. The problem stream is those issues of the public which are perceived to be problems of the government. These concerns become momentum when they attain the agenda setting level of policymaking; usually through popular opinion, media attention, or lobbying by interest groups. The policy stream is made up of the number of solutions that are put forward to solve the problem. These are solutions that are typically produced and perfected by professionals, think tanks, and political elites. Political stream plays domestically the politics surrounding the entire environment, such as political climate, priorities of political leaders, political party, and support of the population to certain policy solutions. The coming together of these three streams implies a policy window, in which there is a special opportunity to change policy, since policymakers are more likely to drive through reforms when they see the environment as conducive. Policy Window Model emphasizes the dynamic and contingent nature of the policy-making process, demonstrating that it does not take place in a linear and predictable way, but it is instead a situational process that relies on the convergence of several factors, such as timing, the will of the political powers, and the congruence of popular support.⁵¹

The Policy Window Model Is quite applicable in the context of climate change governance since it provides an opportunity to cognize the emergence of the moment of policy opportunity in the environment of environmental crises. Climate change is a worldwide issue that has long been unable to be given the political attention that it deserves. Although there is strong scientific belief in the sense that there is a need to take the problem of climate change seriously, the problem has in most cases been marginalized in favor of other competing political interests such as economic growth, national security or even health of the people. Nevertheless, historical turning points, like severe weather events, growing popular interest in the consequences of climate change, or political pressure by climate campaigners, have intermittently generated windows of opportunity to take a

⁵¹ Park, C., Won, S., & Ahn, K. (2024). The Analysis of the Policy Changes through Kingdon's Policy Window Model: Focused on South Korea's Population Policy. *한국공공관리학보*, 38(4), 145-171.

step towards climate action. To illustrate, climate change has been added to the political agenda through the publication of the Intergovernmental Panel on Climate Change (IPCC) reports or the growing frequency of natural disasters triggered by climate change (such as hurricanes, floods, and wildfires), which has created a sense of urgency and led to the need to take policy actions. Such incidents are usually accompanied by points in the political cycle, like electoral campaigns or changes in political parties, which provide the perfect environment to launch bold climate policies.⁵² When viewed as a result of a policy window, the Paris Agreement in 2015, which forged global commitments to reduce warming to below 2 deg C, may be viewed to be influenced by the global consciousness surrounding the issue of climate change coupled with the effort of global institutions and the convergence of political intent to create a moment to act. Nonetheless, the opening of a policy window does not mean that change would take place since the window might close before any serious policy reforms are implemented. Climate policies are sometimes prevented by political opposition or entrenched economic motivations or institutional inertia even when the issue is apparent (solutions to the problem are there) and the people are on board.⁵³

The Policy Window Model⁵⁴ puts emphasis on timing in relation to climate policy development. Climate change is a slow-moving, complicated issue that does not usually develop the immediate, societal or political crisis to initiate action. Nevertheless, the emergence of crises like destructive hurricanes, heatwaves or floods produces an urgent feeling and draws attention to the necessity of climate mitigation and adaptation measures. Such occurrences can trigger political changes in priorities whereby climate change becomes the number one priority on the policy agenda. Indicatively, California wildfires in the recent past have compelled the state to implement more aggressive climate policies including a mix of mitigation (reduction of emissions) and adaptation (greater resilience to future climate effects). Nevertheless, policy change can be short lived because of the changing politics and shifting publicity. The climate change clock might run out before enough is done to combat it, especially when political circumstances or the concern of

⁵² Galligan, A. M., & Burgess, C. N. (2005). Moving rivers, shifting streams: Perspectives on the existence of a policy window. *Arts Education Policy Review*, 107(2), 3-11.

⁵³ Exworthy, M., & Powell, M. (2004). Big windows and little windows: implementation in the 'congested state'. *Public administration*, 82(2), 263-281.

⁵⁴ Khorami, G. (2024). An Analysis of the Rise and Fall of Developmentalism in the Fifth Islamic Republic Administration from the Perspective of John Kingdon's Policy Window Model. *International Political Economy Studies*, 7(2), 225-248.

citizens is diminished. An example of how a global crisis can change political priorities, pushing the climate crisis to the policy agenda at least temporarily, is the COVID-19 pandemic. This highlights the impermanence of policy windows and the difficulties with keeping climate action going despite the seemingly positive conditions of the latter.

1.3 Judicial review and separation of powers

Courts of law have been progressively relied on in climate change litigation cases, to provide a foundation in remaking environmental policy, as well as requiring climate action where political mechanisms and policy making processes are seen as lagging or inadequate to respond to the global climate crisis. The role of courts in this regard cannot be overstated as the judicial decisions have triggered significant changes in national climate policy, especially in those countries with a strong legal culture when the judicial branch actively takes up the role of holding the governments responsible to their environmental policies.⁵⁵ The very famous case *Urgenda v. Juliana v. State of the Netherlands* Case of United States have disclosed that courts can pressure binding actions on the governments to press them to reduce greenhouse gases and even make them follow their international treaties to limit climate change. These judicial interferences also indicate one more important property of climate litigation the ability of the judiciary to establish a space in the scientific fact of climate change and legislative inertia that frequently includes an impediment to strong climate policy. Courts are becoming an increasingly important part of climate policy by enforcing the law to hold governments accountable to their responsibilities to preserve the health of people, the environment, and future generations. Nevertheless, these triumphs have limitations in the ability of judicial decisions to impact because of multiple very important aspects. One of the greatest challenges experienced by courts in deciding cases concerning climate change is political resistance. Governments particularly those whose economic activities are dependent on fossil fuel sectors might be opposed to judicial directives, procrastinate their enforcement, or even seek to undermine environmental laws through a change in legislation. Political goodwill, especially in the states where economic factors are more relevant than the is a major obstacle to the success of judicial ruling in the long term. Although the judicial system is strong in its decision making, it is nevertheless restrained by the wider political and economic systems in which it resides. This demonstrates a fundamental criticism of the place of litigation in environmental regulation:

⁵⁵ Bowie, N., & Renan, D. (2021). The Separation-of-Powers Counterrevolution. *Yale LJ*, 131, 2020.

although judicial rulings may establish a legal framework within which climate action can be undertaken, it is often difficult to make judicial rulings politically viable, particularly when they are regarded by some states as secondary to their economic or political goals.⁵⁶

Moreover, case decisions in climate change also played a role in introducing climate justice into the climate change environmental policy debate. This incorporation of climate justice has further expanded the field of legal struggle, not only to technical environmental law, but also to social, economic, and ethical aspects. The increasing climate litigation highlights the unevenness of the effects of climate change on the vulnerable and marginalized communities, who are usually the least contributors of global emissions but face the brunt of its effects. These differences have gained popularity in the eyes of the courts and there is an assurance that the environmental policies do not address solely the science of climate change but also address the social aspects of climate action. Indicatively, plaintiffs have in other situations cited that government failure to act on climate change is a breach of fundamental human rights, including the right to life, health and safe environment. These cases have proven to be significant in compelling governments to implement more accommodative and fair climate policies that put into consideration the demands of vulnerable groups of people, such as those in the Global South, when they are based on human rights law. Specifically, judicial activism in promoting climate justice has played a primary role in enhancing the gendered effects of climate change, with courts finding that the lack of action on climate change increases the inequalities that exist, particularly towards women and indigenous groups. These decisions have led to major policy reforms, such as giving more attention to the rights of vulnerable populations in climate policies and financial instruments to respond to climate-related loss and damage. However, although these court rulings have led to substantial policy changes, we have also posted significant questions about the constraints of the application of human rights arguments in climate litigation. The general use of human rights-based approaches in cases of climate change presupposes that the rights are universally accepted, which is not necessarily true in countries with low human rights protection or in jurisdictions where climate change is not yet regarded as a human rights problem. This human rights-based litigation dependency can also serve unintentionally to undermine the wider environmental legal discussion which may be more suitable in some jurisdictions especially where strong environmental legal

⁵⁶ Marshfield, J. L. (2023). America's other separation of powers tradition. *Duke LJ*, 73, 545.

frameworks are in place but these are not actively enforced. Therefore, even though climate justice arguments in litigation could play an important part in implementing equitable policy outcomes, their effectiveness depends on the legal and political context within which they are implemented.

Beyond this, judicial rulings in climate change case law have played a major role in the global climate policy, especially with the increased integration of international treaties such as the Paris Agreement into national laws. International climate agreements have played a central role in establishing world goals of emissions reductions yet most of their implementation is usually dependent on country-wide enforcement procedures. Courts have become a vital instrument in seeing governments adhere to their international climate bindings, making international climate ambitions impact the national policy reforms. Where governments do not fulfill their duties under international treaties, courts may intervene to impose their duties, as is true of some climate change lawsuits that have used the Paris Agreement as a legal basis to enforce their requirements upon governments to take more forceful policies on cutting emissions. Also in this respect is the courts bearing the responsibility of putting into effect the international environmental law in which the states are bound to on the enclosure of the international climatic regimes being enacted under the international commitment. The importance of this role is particularly significant In the context of the increasing awareness that climate change is a planetary problem that should be addressed by all countries and that the legal systems should act collaboratively to guarantee the adherence to the international regulations. Nevertheless, this international treaty and domestic court interaction does not necessarily flow smoothly. Although the courts might be able to force governments to act, the political opposition to international law in some jurisdictions can weaken the effects of the actions. Governments that are highly politically or economically connected with fossil fuel sectors might act against or ignore any judicial decision that places them under the obligation to adhere to the international climate regulations. These instances are also demonstrative of the discrepancy between judicial decisions and the real policy reform to the extent of governments opting to either procrastinate or even disobey court dispositions that require them to exercise more restrictive climate policy. Thus, although international treaties in climate litigation are an essential instrument in implementing climate action, they have limitations due to the political context of domestic regulation and different degrees of adherence to international climate law.⁵⁷

⁵⁷ Beske, E. E. (2021). Litigating the Separation of Powers. *Ala. L. Rev.*, 73, 823.

The judicial review in the climate change litigation has gained a crucial role in holding governments responsible to their environmental practices. It is the responsibility of the courts, primarily those in nations with well established legal systems, to seek to compel governments to pursue more stringent climate policies. This judicial activism has been fundamental in the enforcement of international treaties such as the Paris Agreement, as well as in the enforcement of the agreement where governments have been requested to comply with the international commitments on the climate. Nevertheless, the courts may be restricted to change the policy as political opposition, particularly in countries where economic interests, e.g., the dependence on fossil fuels, have a higher priority over the ecological issues. This tension brings out one of the key weaknesses of judicial decisions, in as much as they form a legal system, its effectiveness can be derailed by a governmental unwillingness or slow paces in implementing such decisions.

Regarding climate justice, the courts have started to consider the human rights arguments in court cases and address the disproportional impact of climate change on the vulnerable groups. In this way, they have broadened the area of the environmental law to cover social, financial, and ethical aspects. This strategy has seen significant changes being made in the sense that policies are not only limited in addressing the science of climate change but also in terms of equity especially among the marginalized groups. Nonetheless, the application of human rights rationale cannot be used in all areas, and in states where human rights are poorly secured, these appeals will not be so successful. Finally, although judicial decisions can become the force to make major shifts in policies, their effectiveness is subject to the political environment and the power of the legal system to enforce them. Courts have to balance the challenges of the international law with the challenges of the domestic politics, and this aspect tends to complicate the achievement of a successful change.⁵⁸

1.4 Climate governance under the Paris Agreement

Paris Agreement is said to be a breakthrough in global climate regulation since it succeeded in getting close to universal attendance and setting a global image of what should be done with climate. Nonetheless, its system of government is a voluntary concession between aspiration and political reality. The movement towards a less normative but more pragmatic system of Nationally

⁵⁸ Lawrence, M. B. (2021). Subordination and Separation of Powers. *The Yale Law Journal*, 78-174.

Determined Contributions (NDCs) as opposed to legally binding limits on emissions as was the case in the Kyoto Protocol is more of an adaptation to geopolitical reality than a normative development in the field of environmental law. Although the flexibility adds inclusivity to the process, as developed and developing nations are able to commit in their individual capacities, it does so by eroding the enforceability of the commitments. NDCs being voluntary has resulted in varying rates of ambition with most states making promises that are not enough to achieve the 1.5degC, or even 2degC goal. Therefore, the system of governance of the Paris Agreement, as cooperative in nature, can easily give rise to a culture of aspiration compliance as opposed to mandatory compliance. In this regard, it is a victory of diplomatic agreement in place of legalism.⁵⁹

One of the most significant innovations of the Paris Agreement is the transparency and accountability systems which are aimed to offset the lack of binding emission reduction targets. The Enhanced Transparency Framework and the Global Stocktake are supposed to establish the peer-pressure mechanism that would facilitate compliance due to international scrutiny. But more importantly, such mechanisms rely on political goodwill and good faith rather than on law enforcement. The non-compliance does not have a mechanism of sanction, rather it is motivated through naming and shaming of states. This also begs the question of whether soft law instruments are capable of producing hard outcomes in the environment of established economic and political interests. Moreover, the data and methodologies of quantifying the emission levels are still not balanced among countries whereby there are discrepancies in data quality and reliability of reporting. Capacity and resource constraints especially in developing countries hamper the ability of countries to perform to reporting standards. As a result, although transparency is encouraged by the Paris Agreement, the absence of standard enforcement undermines the potential to transform the document in terms of developing a consistent and verifiable climate action among all parties.⁶⁰

In a critical governance sense the Paris Agreement recreates the structural inequalities that have always been present in the international environmental law. Even though it reiterates the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC), its

⁵⁹ Dubash, N. K. (2021). Varieties of climate governance: the emergence and functioning of climate institutions. *Environmental Politics*, 30(sup1), 1-25.

⁶⁰ Marquardt, J., Fast, C., & Grimm, J. (2022). Non-and sub-state climate action after Paris: From a facilitative regime to a contested governance landscape. *Wiley Interdisciplinary Reviews: Climate Change*, 13(5), e791.

application has been short of clarity. The developed countries, which have historically been the largest emitters, tend to make their obligations on future innovation not on short-term emission reductions but on developing countries which have weak financial and technological capabilities. Trust and cooperation have not been realized because the promised climate finance, including the pledged 100 billion dollars yearly by the developed nations, has been partial. Moreover, the voluntary commitments used in the Agreement enable the major economies to define the global agenda at the expense of weak countries that are most impacted by climate change. Critics point out that this continues some kind of climate neoliberalism, in which market forces and national choice substitute binding global solidarity. Therefore, although the Paris Agreement is progressive in terms of the dialogue and inclusiveness in global climate governance, its success is still hampered through asymmetry in power, lack of enforcement, and the conflict between national interest and collective responsibility.⁶¹

⁶¹ Obergassel, W., Hermwille, L., & Oberthür, S. (2021). Harnessing international climate governance to drive a sustainable recovery from the COVID-19 pandemic. *Climate Policy*, 21(10), 1298-1306.

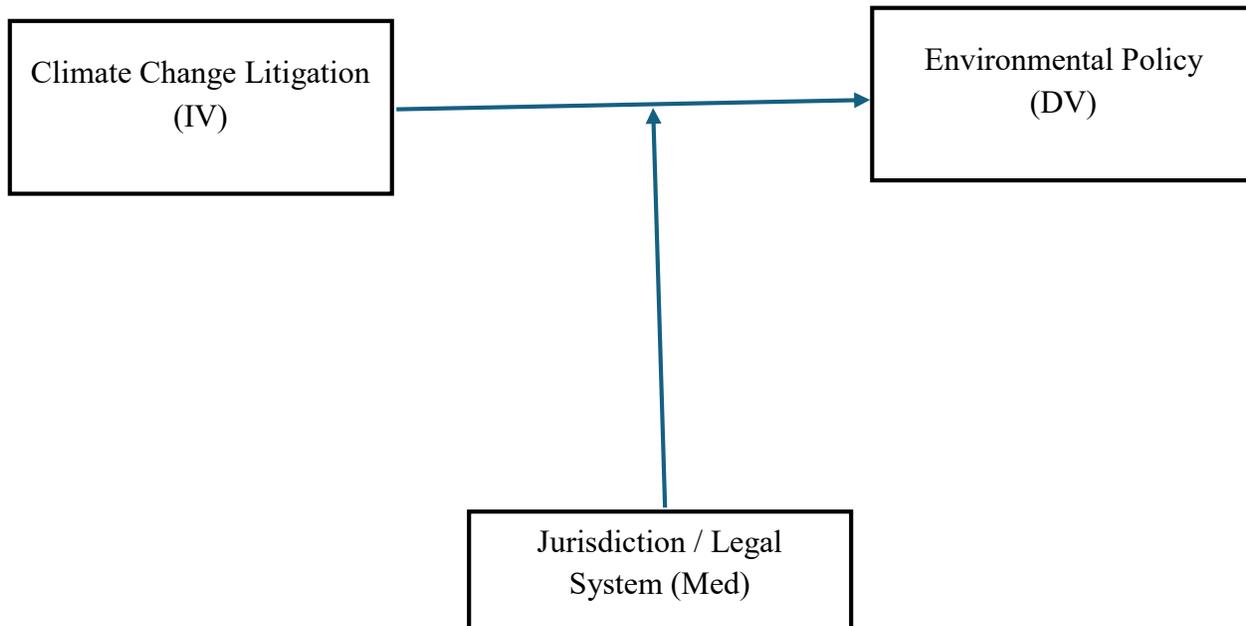


Figure 1: Conceptual Framework

When it comes to the different theories discussed, it appears that the Public Interest Litigation Theory is the one that can be used to progress climate change litigation. This theory underlines the significance of the use of law in serving the collective interests of society like protection of the environment even in cases where the individuals are not directly affected. I agree with this theory since it conforms to the increasing realization that climate change is a communal international problem that needs judicial intervention to make governments and corporations to keep their environmental responsibility. This theory will enable the courts to keep companies responsible and implement policies that safeguard the generations to come by focusing on the common good.⁶²

⁶² Wilkens, J., & Datchoua-Tirvaudey, A. R. (2022). Researching climate justice: a decolonial approach to global climate governance. *International Affairs*, 98(1), 125-143.

PART II

2: Comparative Case Law Analysis

2.1. Classifying climate cases: strategic vs defensive, mitigation vs adaptation

The litigation on climate change is also gaining prominence as one of the important instruments to counter climate change. It is a strategic process through which individuals, organizations and groups can hold governments and corporations responsible in their contribution to or doing nothing to reduce climate change. The increasing prevalence of climate litigation has also led to the creation of a classification system according to which the cases of climate change are divided into various groups, depending on their purpose and the strategies they are based on. These cases fall into strategic or defensive and mitigation or adaptation cases. These differences not only contribute to the clarification of the goals of climate litigation but also explain how the legal responses toward climate change will change.⁶³

The difference between strategic and defensive climate situations displays the wider picture of the use of litigation to either advance or fight the introduction of climate change measures. Strategic litigation is usually associated with cases that are developed to bring about a systemic change. These are proactive cases that seek to set legal precedents that would compel governments or corporations to put in place a stronger climate policy or meet their current obligations. Non-governmental organizations (NGOs), citizens or even states sometimes bring strategic litigation in attempts to pressure governments to achieve climate targets or to do more with climatic change. The *Urgenda Foundation v. will* remain a prominent example of strategic litigation. The case of Netherlands where the Dutch government was asked to abate its greenhouse gas emissions at least by 25 percent by the year 2020 in comparison to 1990 levels. It was a landmark case where human rights were concerned, specifically the right to life, the right to a healthy environment to argue that the government should do more aggressive action on climate. *Urgenda* is one of the prime

⁶³ Boucher, O., Forster, P. M., Gruber, N., Ha-Duong, M., Lawrence, M. G., Lenton, T. M., ... & Vaughan, N. E. (2014). Rethinking climate engineering categorization in the context of climate change mitigation and adaptation. *Wiley Interdisciplinary Reviews: Climate Change*, 5(1), 23-35.

examples of how strategic litigation can not only question the inactivity of governments but may also establish a legal allegory to be followed by other countries with the same issues.⁶⁴

Defensive litigation on the other hand will almost always contain cases where governments or corporations are trying to oppose or defend against any alterations in their policies. These instances usually arise in the litigation scenario where the plaintiffs are requesting the government to initiate action yet the government in some cases with some encouragement of the private interest blocks the action. One type of defensive litigation is when a government or a corporation questions a court order demanding more stringent environmental requirements or hikes in emissions based on the grounds that the requirements or hikes would place undue financial strain on the government or corporation or that they might go against current regulations or policies. As an example, in the *Earthlife Africa v. South Africa* case, the South African government was trying to evade the action of reducing the amount of emissions immediately but was later to postpone the action of a ruling that required reduction of carbon emission. Defensive litigation is therefore usually defined as the attempts to inhibit or postpone judicial decisions that can result in severe climate policies.

Strategic cases are usually identified with the need to take the legal system towards acceptance of climate change as a core problem that needs immediate policy intervention, but the defensive cases are more about fighting against such reforms especially where they touch on the deep-rooted political and economic lines of interests. The existence of this gap highlights the tension between judicial activism where courts action to advance political reform, and judicial restraint where courts do not challenge political decisions particularly when the latter involve significant changes in the economy and the policy.⁶⁵

The other remarkable categorization of climate litigation is the division of mitigation and adaptation cases that focus on different facets of the climate change issue. Mitigation is the act of minimizing or eliminating the emission of greenhouse gases (GHGs) which are contributing to climate change. The general aim of mitigation-oriented litigation is to force governments and businesses to decrease the level of their carbon emissions, implement renewable energy

⁶⁴ Hinkel, J., & Bisaro, A. (2015). A review and classification of analytical methods for climate change adaptation. *Wiley Interdisciplinary Reviews: Climate Change*, 6(2), 171-188.

⁶⁵ Wende, W., Bond, A., Bobylev, N., & Stratmann, L. (2012). Climate change mitigation and adaptation in strategic environmental assessment. *Environmental Impact Assessment Review*, 32(1), 88-93.

technologies, and change their practices towards more sustainable ones. The *Juliana v.* is one of the main examples of mitigation litigation cases. Case of the United States, in which young defendants filed a suit against the U.S. government because of its inadequate efforts in combating climate change and safeguarding their constitutional rights. The plaintiffs of this case claimed that the government acted in a way that aggravated climate change and its act of promoting the development of fossil fuels was a violation of the rights of plaintiffs to life, liberty and property. The cases that are mitigation-oriented, such as *Juliana*, intend to challenge and advocate radical reforms in government policies to achieve the global climate goals and minimize carbon emissions.

Mitigation litigation is especially interested in mitigating the causes of climate change through insisting that governments take action to cut emissions, invent low-carbon technologies, and adhere to international treaties on climate change, including the Paris Agreement. Such instances are usually accompanied by considerations on whether the governments are meeting their obligation under the international law to ensure that global warming is not more than 1.5 or 2 degrees Celsius over pre-industrial levels. The strategic mitigation cases normally target the cases of demanding particular emissions reductions or the problematic government policies that either encourage or fail to ensure a control of the carbon-intensive industries.⁶⁶

Conversely, adaptation litigation is based on mitigation of the unavoidable effects of climate change. Adaptation initiatives involve the actions of communities, ecosystems and economies to cushion the effects of climate change including rise in sea level, occurrence of extreme weather conditions and changing agricultural situations. Adaptation litigation can be claims that are made in the form of compensation or even that governments and corporations are responsible to assume the expenses of damages related to the climate. An example is that the communities living on vulnerable areas on the coast, in case of rising sea levels, may advance an action of an adaptation nature case in court and have the government move to build a protective structure against this phenomenon like seawalls or flood defenses. In *Kivalina* case⁶⁷ was filed against ExxonMobil, a small Alaskan village to claim against ExxonMobil and other oil

⁶⁶ Cooper, J. A. G., & Pile, J. (2014). The adaptation-resistance spectrum: A classification of contemporary adaptation approaches to climate-related coastal change. *Ocean & Coastal Management*, 94, 90-98.

⁶⁷ Péloffy, K. (2013). *Kivalina v. Exxonmobil: a comparative case comment*. *McGill International Journal of Sustainable Development Law and Policy/Revue internationale de droit et politique du développement durable de McGill*, 119-144.

companies, who have contributed to climate change, which has seen the village suffer as a result of coastal erosion. The case is considered an example of adaptation litigation because the plaintiffs wanted to be compensated by the expense of preserving their community against climate change impacts.

The process of adaptation litigation can be more reactive compared to mitigation litigation, because it covers the effects of the already existing climate change. Nevertheless, there can also be a prospective aspect of adaptation cases where governments can be pushed to take adaptive actions in order to minimize future risks. An example of this could be the litigants asserting that governments are not planning properly to address the impacts of climate change like constructing resilient infrastructure or supporting vulnerable populations.

The relationship between mitigation and adaptation to climate change litigation indicates that climate change is a worldwide challenge and a localized problem. Whereas mitigation tries to avoid the increased climate change, the adaptation tries to prepare against it to occur. These two purposes can be mixed together in most jurisdictions as governments and litigants strive to provide holistic solutions to the complex climate crisis. Nevertheless, legal actions that are aimed at mitigation and adjustment tend to incorporate alternative legal approaches and concerns. Mitigation litigation is usually more concerned with curbing future emissions and adherence to international climate targets, whereas adaptation litigation is aimed at compensation of the harm inflicted and action by the government to protect the vulnerable population.⁶⁸

Trying to divide climate change litigation into strategic and defensive as well as mitigation and adaptation subcategories, the classification provides fruitful insights into the legal dynamics informing the global climate policy. The objective of strategic litigation is to further climate action, and the defensive litigation is frequently used in order to fight or postpone such changes. On the same note, mitigation litigation aims at averting the causes of climate change, and on the other hand, adaptation litigation aims at mitigating its effects. Both types of litigation play a vital role in the larger fight against the problem of climate change and the strategic cases established significant legal precedents, and the defensive cases underscored the desire of the political and economic opposition to the broadening of climate policies. In the end, the success of climate litigation will

⁶⁸ Beermann, M. (2011). Linking corporate climate adaptation strategies with resilience thinking. *Journal of Cleaner Production*, 19(8), 836-842.

be affected by the capacity of courts to strike a balance between the need to act on climate urgently and the reality of the practicality of such actions as set forth in different legal, political, and economic situations.⁶⁹

2.2 Landmark Cases and Their Influence on Climate Change Litigation and Environmental Policy

2.2.1. Urgenda Foundation v. The Netherlands (2015)

The *Urgenda Foundation v. The Netherlands*⁷⁰ is one of the most important climate litigation cases in the recent history. The Urgenda Foundation is an environmental NGO that filed it, and 900 Dutch citizens, who claimed that the Dutch government was not doing its part in ensuring the environment and citizens were not put under harmful climate change circumstances. The plaintiffs stated that the carbon emissions reduction target that the government had set at 17 percent by 2020 relative to per 1990 levels was inadequate and was not enough to fulfill the international obligation of the country to in the Paris Agreement and the United Nations Framework Convention on Climate Change (UNFCCC). The main issue in this case was the general issue of whether governments have a legal responsibility to act sufficiently and promptly to deal with the climate crisis and whether the judiciary could impose such demands. Plaintiffs argued that the Dutch government was infringing upon the fundamental human rights of citizens, namely the right to live, health, and a sustainable environment because it did not take more effective steps regarding climate matters.

The District Court of The Hague In its verdict in 2015 in favor of Urgenda directed the Dutch government to lower its emission of greenhouse gases by at least 25% by 2020, relative to its level of 1990. The rationale behind this decision was that the government owed a legal obligation to safeguard the environment and its people and, therefore, resorted to the European Convention on Human Rights (ECHR). The court underlined that the right to life and health was under immediate threat due to climate change and the government had to take immediate action. The case was not only a success to the environmental activists but also the reaffirmation of the

⁶⁹ McInerney, D., Lempert, R., & Keller, K. (2012). What are robust strategies in the face of uncertain climate threshold responses? Robust climate strategies. *Climatic change*, 112(3), 547-568.

⁷⁰ Antonopoulos, I. (2020). The future of climate policymaking in light of *Urgenda Foundation v the Netherlands*. *Environmental Law Review*, 22(2), 119-124.

increasing role of the judiciary in keeping governments accountable to failure to act on climate.⁷¹ The court further held that the inaction of the Dutch government was unlawful because the international law of the state imposed by the UNFCCC imposes the duty of a state to act with due diligence to avert the harm caused by climate change.

The case was radical in several reasons. One, it became one of the first instances when a court decided that governments were positively obliged to cut emissions under human rights law. The court used the right to life and health to put climate change in the context of not only an environmental issue but also an urgent human rights concern. The case also highlighted the possibility of courts making governments act where the political inaction is the norm. The case of Urgenda has been perceived to be the trigger of climate litigation, as it has motivated other cases in different countries across the world, where citizens and non governmental organizations have been taking their governments to court to enact stricter policies with regards to climate. Nonetheless, the case also brought up significant issues regarding the role of judiciary in the making of environmental policy. Those who criticized it said that the court should not have established certain policy objectives since it has always been the role of the legislature to make such decisions.

In 2018, the Dutch Court of Appeals affirmed the decision in an appeal made by the Dutch government, supporting the idea that the governments have a role to play in protecting human rights, which is to prevent the impact of climate change. The ruling of the court was a forceful reinforcement of the judiciary in its capability to place binding liabilities on the states to fulfill their international commitments especially when the political leaders are unwilling or incapable to do so. The case was universally celebrated as a landmark in the law of the environment and it created judicial precedent to make governments responsible on the issue of climate change inaction.⁷²

Another issue that was brought to the fore by the ruling is the manner in which governments will react to the judicial ruling that mandates that they take action on climate. Although the decision

⁷¹ Mayer, B. (2019). The State of the Netherlands v. Urgenda Foundation: ruling of the court of appeal of The Hague (9 October 2018). *Transnational Environmental Law*, 8(1), 167-192.

⁷² Tabau, A. S., & Cournil, C. (2015). New perspectives for climate justice: District Court of the Hague, 24 June 2015, Urgenda Foundation versus the Netherlands. *Journal for European Environmental & Planning Law*, 12(3-4), 221-240.

of the court was important, the Dutch government has been slow in responding to the order despite the fact that it is clear that the court has been trying to apply environmental policies when it is confronted with such well-established political interests. It is also the question of whether other nations will follow the same patterns. As an example, the Urgenda case has led to other countries copying it, with climate litigation in the Netherlands (Urgenda) and Ireland (World Wide Climate Change litigation)⁷³ following the lead set by the case. The extent to which other jurisdiction courts can follow suit is however subject to their understanding of the human rights law and political will to implement climate promises.

Nevertheless, the Urgenda Foundation v. The Netherlands case is a watershed case in climate litigation. It established a precedent of applying human rights law to encourage government intervention on climate change especially when legislative action is unlikely to lead to any meaningful advancement on climate policy. Another key idea highlighted in the case is the independence of the judiciary in keeping governments responsible in their climate commitments and safeguarding the basic rights of the citizens. It is an important landmark of how courts might act as a check and balance to political inertia and institute significant change in environmental policy.⁷⁴

2.2.2. Neubauer v. Germany (2020)

Neubauer v. Germany⁷⁵ provided a key example that has promoted the use of climate litigation in the constitutional law, especially in the European context. A group of youth activists such as Fridays for Future members brought the case to the Federal Constitutional Court of Germany and questioned the German climate action plan, the Klimaschutzgesetz (Climate Protection Act). The plaintiffs claimed that the climate legislation of the country especially the aim to cut carbon emissions by 55 percent by the year 2030 relative to the 1990s level was not enough to achieve the targets of the Paris Agreement. The plaintiffs argued that the governmental strategy

⁷³ O'Neill, S., & Alblas, E. (2020). Climate litigation, politics and policy change: Lessons from Urgenda and Climate Case Ireland. In *Ireland and the climate crisis* (pp. 57-72). Cham: Springer International Publishing.

⁷⁴ Verschuuren, J. (2019). The State of the Netherlands v Urgenda Foundation: The Hague Court of Appeal upholds judgment requiring the Netherlands to further reduce its greenhouse gas emissions. *Review of European, Comparative & International Environmental Law*, 28(1), 94-98.

⁷⁵ Kotzé, L. J. (2021). Neubauer et al. versus Germany: planetary climate litigation for the anthropocene?. *German Law Journal*, 22(8), 1423-1444.

would not provide safeguarding against the tragic effects of the climate change on the future generation thereby infringing on their constitutional rights and in particular the right to life, liberty and the means of living.

The Federal Constitutional Court of Germany ruled In favor of the plaintiffs in its decision declaring that the climate legislation of the German government was unconstitutional since it failed to offer adequate protection to the future generations. The Court found that the law which permitted the substantial emission of gases to go on until 2030, in practice undercharged the future generation since not until then would some dramatic efforts be made to reduce emissions, and then it would be too late to avoid disastrous climate consequences. This ruling of the Court was based on the provisions of the German Basic Law (Grundgesetz)⁷⁶ especially those that guarantee a person basic rights which include the liberty, the right to life, and health. The decision pointed out that the government would not take any decisive and binding steps to ensure that the emission of carbon gases after the year 2030 is limited because this would infringe on the rights of young people who would be the main sufferers of climate change inaction.

The Court required the revisions of the German government on Its climate legislation to allow a bolder emissions reduction strategy and establish tangible goals of having carbon neutrality reaching 2050. Another part of the ruling was that a more detailed roadmap on the reduction of emissions should be taken in the next few years, especially after 2030. The case was a legal win to the climate activists, especially the youth and a reassertion of the role of the judiciary in ensuring that the government action on climate change is sufficient and to the extent of the international commitments. Another issue pointed out by the ruling was the growing power of climate litigation as a tool of making sure that governments uphold their duty to the Paris Agreement and defend citizen rights against climate change.⁷⁷

The Neubauer case too demonstrated the growing overlapping of the environment law with the human rights law. The plaintiffs were able to present an argument to the effect that the government was not doing enough to curb the effects of climate change, thus denying the plaintiffs their rights as stipulated by the German constitution which grants the right to the protection of

⁷⁶ Belvo, M., & Ehrstine, G. (2022). The Grundgesetz. *Iowa Historical Review*, 9(1).

⁷⁷ Peel, J., & Markey-Towler, R. (2021). Recipe for success? Lessons for strategic climate litigation from the Sharma, Neubauer, and Shell cases. *German Law Journal*, 22(8), 1484-1498.

human dignity and fundamental freedoms. The case also highlighted the importance of viewing the climate crisis as a constitutional right, and thus, climate change is not merely an environmental crisis but a very political and human rights crisis, and with severe consequences to the future generations. The decision of the Court has established a decisive legal precedent, not only in Germany but in other countries that are taking into account such issues as are their climate laws.⁷⁸

Opponents of the ruling though have challenged the judiciary on what it is doing in prescribing certain climate policy practices. It has also been said that judges should not intervene as they should leave policy making to the elected representatives and that those actions may derail the democratic process. Nevertheless, advocates of the decision claim that it is specifically because political leaders have not taken action regarding climate change that the intervention of the judiciary is required in order to safeguard the rights of the citizens. The case of Neubauer also highlights the increasing significance of judicial review in the assurance of the conformity of domestic policies with international climate agreements especially in nations where human rights and environmental sustainability are guaranteed by the constitution.

Following the decision, the German government changed its climate action strategy, committing to stricter emissions reduction goals and establishing a better process by which a carbon-neutral society could be achieved. Neubauer case is a good reminder of how courts can be instrumental in making governments responsible towards their climate commitments and how much the rights of citizens, especially the younger generation, can be safeguarded against the long-term effects of climate change. As evidenced in the case, in cases where there is an urgent need to address the climate change but political solutions are not able to fulfill their mandate, the judiciary may intervene to get the governments to take action seriously in order to safeguard the future of the planet and its inhabitants.⁷⁹

⁷⁸ Neubauer, J., Gklavas, K., Kortüm, F., Gosheva, M., Bartz-Schmidt, K. U., & Ziemssen, F. (2023). Legal obligation in the general population: face mask influence on endophthalmitis after intravitreal injection. *Graefes Archive for Clinical and Experimental Ophthalmology*, 261(1), 97-102.

⁷⁹ Krönke, C., & Neubauer, V. (2023). Contract changes in Germany and Austria. In *Contract Changes* (pp. 154-177). Edward Elgar Publishing.

2.2.3. Shell v. Milieudefensie (2021)

Milieudefensie v. Shell case⁸⁰ was a landmark case in climate litigation not only due to the fact that it was against one of the largest and multinational oil companies in the world but also due to corporate responsibility of climate change. Brought to court in 2019 by the environmental group Milieudefensie (Friends of the Earth Netherlands) and other non-governmental organizations, the case sought to make Shell responsible in terms of its role in the global carbon footprint and what the organization considered to be an insufficient response to the problem of climate change. The plaintiffs claimed that Shell was contributing to climate change by its activities and investment methods and that Shell had in legal obligation to cut its greenhouse gas emissions to the level stipulated by the Paris Agreement and other international climate objectives. In particular, they argued that the long-term plans of Shell that still incorporated investments in fossil fuels could not be reconciled with the acute need to cut down emissions and switch to the low-carbon economy.

In an innovative decision in May 2021, The Hague District Court concluded that Shell should cut its carbon performance by 45% by 2030, relative to 2019, and make its business plan reflect its objectives on the Paris Agreement. The court ruled that Shell owed a certain degree of care towards human rights and the environment which was applied to its business operations. It found that the emissions of the company were greatly causing climate change and that the current emission reduction plans by Shell were not adequate to achieve the Paris Agreement targets. Another aspect pointed out by the court was the failure of the company to make its business operations conform to the global climate objectives, which was in contravention of its human rights duties, especially the human rights to life, health, and clean environment.⁸¹

It marked a landmark case since It was among the first cases whereby a court had directly charged a corporation with its contribution to the aggravation of climate change, and established a highly important legal precedent on corporate responsibility in the face of the climate crisis. Their ruling was celebrated as a win in climate justice especially to the environmental groups and activists who have always championed against corporate responsibility in the battle against climate

⁸⁰ Macchi, C., & van Zeben, J. (2021). Business and human rights implications of climate change litigation: Milieudefensie et al. v Royal Dutch Shell. *Review of European, Comparative & International Environmental Law*, 30(3), 409-415.

⁸¹ Hösli, A. (2021). Milieudefensie et al. v. Shell: a tipping point in climate change litigation against corporations? *Climate Law*, 11(2), 195-209.

change. The decision made to other multinational corporations a very clear signal that they should take significant and direct response to lower their carbon footprint and move to more sustainable business models.⁸²

Although the environmental groups rejoiced over the ruling, Shell, in its turn, showed a very strong opposition and declared that the case was going to be appealed. The firm contended that it had already done what was possible to lower its carbon emissions and that the directive by the court to lower emissions by such magnitude would greatly harm in its business operations. Opponents of the ruling have also given issues on the possible economic impact of such strict requirements on multinational corporations of reducing its emissions claiming that this would result to loss of jobs and economic disturbance. However, the advocates of the move say that it is the very duty of companies such as Shell to abandon fossil fuels and invest in renewable energies to aid in curbing the effects of global warming.

The Shell v. The milestone of Milieudéfense case⁸³ was that It showed the increasing opportunity of using legal action to change multinational corporations to assume responsibility towards their environmental impact. The case may be a stepping stone towards pursuing more litigation against other corporations that contribute largely to the emission of greenhouse gases and also this provides a precedent on how companies can be held responsible through the human rights law. What the court has decided is that corporate accountability is critical in combating climate change and all sectors of the society, including governments and individual corporations, need to take action in line with the dire needs of the climate crisis.

2.2.4. Lliuya v. RWE (2015)

The Lliuya v. RWE⁸⁴ case is a precedent in climate litigation, especially in taking corporations responsible of the effects of global warming. Saul Luciano Lliuya, a Peruvian farmer,

⁸² Paiement, P. (2023). Reimagining the energy corporation: Milieudéfense and others v Royal Dutch Shell Plc. In *Netherlands Yearbook of International Law 2021: A Greener International Law—International Legal Responses to the Global Environmental Crisis* (pp. 281-299). The Hague: TMC Asser Press.

⁸³ Johannsen, B., Kotzé, L. J., & Macchi, C. (2025). An empty victory? Shell v. Milieudéfense et al 2024, the legal obligations of carbon majors, and the prospects for future climate litigation action. *Review of European, Comparative & International Environmental Law*, 34(1), 270-278.

⁸⁴ Ricciardi, P. P. (2025). Lliuya v. rwe: A Leap Forward for Private Climate Litigation? *Climate Law*, 15(1-2), 207-218.

filed a case against the German based energy company RWE. Lliuya is a resident of the town of Huaraz in the Peruvian Andes who wanted to receive compensation because of the danger that this glacial lake presented to his community owing to the melting of glaciers which was a direct consequence of the climate change. The case presented that RWE being a large contributor to greenhouse gases should have been held accountable in contributing to climate change which has compounded the dangers that the lake has towards his town and livelihood.

The argument that Lliuya had in her case was that RWE had contributed to the global emissions such that the risk of a disaster, such as even potential flooding through the destabilization of the glacial lake, had greatly increased. The plaintiffs requested RWE to contribute to the funding of protective measures including building an irrigation channel and placing early warning systems in place as a way of limiting the looming threat that climate change had already posed to the local people. The case marked a remarkable effort to make a corporation responsible to an action of the climate damage that are geographically far away and which are not directly related to the activities of the company.⁸⁵

The Higher Regional Court of Hamm declared in 2017 that the case would go to trial, and this ruling was an important breakthrough in climate litigation. The court acknowledged that it could be possible that there exists a connection between worldwide emissions and the local risks to the community of Lliuya, a fact that rendered the case innovative in regards to the liability of a corporation towards its portion of climate change effects. Nonetheless, it also recognized the difficulty of directly linking the emissions of RWE to the harm that was detrimentally caused by RWE to the village of Lliuya. To date, the case is still in progress and has not been decided on its conclusion. It poses some serious questions regarding how much corporations can be held liable to damages caused by climate particularly those occurring in a geographically distant area and also those attributed to international emissions. Other discussions have also been raised around the case on whether large scale emitters need to be made to pay off the damages they have caused to the environment and this therefore provides a precedent on how to do the same in the future.

Determining a direct legal and scientific linkage of the emissions of the defendant and the harm caused to the plaintiffs is one foil to this case. Although the case is innovative in its attempt

⁸⁵ Kumar, V., & Frank, W. (2018). Holding Private Emitters to Account for the Effects of Climate Change: Could a Case Like Lliuya Succeed under English Nuisance Laws. *CCLR*, 12, 110.

to intersect the corporate emissions with particular damages that relate to climate, it also reveals the intertwined nature of science, law, and corporate responsibility. This court fight highlights the increasingly increasing realization that climate change effects are not merely a problem of environmental concern, but also of law responsibility. Successfully, the case will leave a significant precedent to future climate litigation against multinational corporations, particularly with regard to their liability to the result of their emissions.⁸⁶

2.2.5. Smith v. Denmark (2018)

The Smith v. In response to the failure of Denmark⁸⁷ to fulfil its climate commitments in national law and under the international commitments as outlined in the Paris Agreement, Michael Smith, a citizen of Denmark filed Denmark case. Smith and other citizens were also the plaintiffs in a court of law where they claimed that the climate action plan of the country was not sufficient in addressing the climate crisis and that the government had failed to do sufficient acts to address the climate crisis which breached the constitutional rights of the Danish citizens to a healthy and safe environment. The plaintiffs with the help of a few environmental bodies argued that the emissions reduction goals of Denmark and the inability of the government to formulate a wholesome and binding policy infringed the rights of citizens to life, liberty, and health.

The case posed the Danish courts with a number of legal Issues such as whether the policies adopted by the government regarding climate were in line with international duties of Denmark under the Paris Agreement and whether the government lack of action led to the violation of the rights of its citizens. The plaintiffs claimed that the Danish government was failing to do sufficient measures to reduce carbon emission or fulfill on its part to reduce global warming. They described that the dependence of Denmark on fossil fuels and the lack of investments in renewable energy was weakening the capacity of the country to fulfill its international commitments.

⁸⁶ Wedy, G., & Wolfgang Sarlet, I. (2021). Notes on So-Called'Climate Litigation'in Germany: The Lliuya V. RWE Case. *RWE Case (February 12, 2021)*.

⁸⁷ Barker, V., & Smith, P. S. (2021). This is Denmark: Prison islands and the detention of immigrants. *The British Journal of Criminology*, 61(6), 1540-1556.

In a major case of 2018, the Supreme Court of Denmark⁸⁸ decided in favor of the plaintiffs, declaring the non-adoption by the Danish government of an ambitious and legally binding emissions reduction plan as a breach of the rights of citizens under the Danish Constitution. The court asked the government to change its climate policies and to implement more strict measures to decrease the amount of carbon emissions and invest more in renewable energy technologies. The decision made a strong statement that governments have a legal duty to take action, which will be meaningful and immediate to mitigate climate change and ensure the citizens the right to healthy environment.

Although the decision went down well with environmental activists, it also brought into question the judicial branch as the entity that decides on particular climate policy actions. The opponents of the decision claimed that the court had over encroached on its mandate to dictate on certain policy goals and that such moves should be left to be done by elected members of parliament. Nevertheless, the *Smith v. The case of Denmark* was a good illustration of the increasing role of courts in the interpretation and enforcement of the human rights facet of climate change. It was a particularly important case, as it marked a change in the way the law considers climate change, not as an environmental problem, but as a human rights problem that needs to be addressed immediately.⁸⁹

The decision of the case resulted in the substantial changes of the national climate policies in Denmark. The Danish government was determined to take a more ambitious action plan in the fight against climate and established legally binding emissions reduction targets after the ruling. The *Smith v. The case of Denmark* therefore shows the growing tendency of applying the argument of human rights in climate litigation, showing how courts can act as influential contributors in forcing governments to do more to combat climate change.⁹⁰

⁸⁸ Madsen, M. R., Olsen, H. P., & Šadl, U. (2017). Competing supremacies and clashing institutional rationalities: the Danish Supreme Court's decision in the AJOS case and the national limits of judicial cooperation. *European Law Journal*, 23(1-2), 140-150.

⁸⁹ Smith, P. S. (2007). 10. Prisons and Human Rights: The Case of Solitary Confinement in Denmark and the US from the 1820s until Today. In *Human Rights in Turmoil* (pp. 221-248). Brill Nijhoff.

⁹⁰ Fiala-Butora, J., Smith, M. S., & Stein, M. A. (2021). Stroybe and Rosenlind v Denmark: a surprising departure from the European Court of Human Rights' disability voting rights jurisprudence. *EUROPEAN HUMAN RIGHTS LAW REVIEW*, 27(2), 201-206.

2.2.6. Verein Klimaseniorinnen Schweiz, vs. Others. Switzerland (2020)

Veinigseniorinnen Schweiz v. Verein Klimaseniorinnen Schweiz⁹¹ and Others. Switzerland is among the most novel and distinct cases of climate ever. The plaintiffs who pitted their case against the Swiss government consisted of a team of elderly citizens who went by the name Verein Klimaseniorinnen Schweiz (an association of climate-conscious older women), claiming that the federal policies governing the climate of the country were substandard and that it had infringed their constitutional rights to life, health, and a well-established environment. The plaintiffs held that due to lack of adoption of more aggressive emission cuts targets by Switzerland and reliance on fossil fuels, the plaintiffs believed that this would have a major impact on their future health and wellbeing. This case was also quite compelling as it has focused on the rights of older citizens, a population, which is the most susceptible to the effects of climate change, extreme heat, health hazards, and environmental degradation.

According to the plaintiffs, the fact that the government of Switzerland was not fulfilling its environmental commitments through the Paris Agreement and UNFCCC was a breach of human rights besides an environmental matter. They argued that the lack of action by the government regarding the climate change issue had disproportionate impact on their capacity to have a healthy and safe environment since they were more vulnerable to the physical and social effects of climatic change. The case represented an expansion of a larger trend of climate litigation in which human rights law is used more and more to challenge insufficient government action in climate change.

The Federal Administrative Court of Switzerland (2020) recognized that the climate policies of the Swiss government were inadequate regarding the efforts to fulfill the country-related obligations to the Paris Agreement and failed to safeguard the human rights of the plaintiffs. The Court requested the government to have further stricter emission limits and come up with a more detailed climate action plan which would comply with international requirements. Although the decision was unprecedented in its acknowledgement of the human rights aspect of climate change, it also brought up the issue of the role courts need to play in the climate policy and whether these judgments should be made by the electorate.⁹²

⁹¹ Keller, S., & Bornemann, B. (2021). New climate activism between politics and law: Analyzing the strategy of the KlimaSeniorinnen Schweiz. *Politics and Governance*, 9(2), 124-134.

⁹² Sulyok, K. (2025). Verein Klimaseniorinnen Schweiz and Others v. Switz. (Eur. Ct. HR). *International Legal Materials*, 64(1), 1-186.

The case was landmark not only since it entailed a human rights case against climate inaction, but it also introduced the voices of the older citizens to the climate discourse. It reiterated the need to safeguard the vulnerable populations who can be the worst hit by climate change. Another instance of the judiciary taking a more proactive role in encouraging governments to take action on climate change was the Verein Klimaseniorinnen Schweiz case, where the judiciary takes the position to ensure that the government takes action despite the absence of political will. Similar to other historic climate cases, it highlights the possible effectiveness of human rights-based litigation in holding governments responsible to their climate promises and to make the rights of citizens secure against the effects of climate change.

It is also an important case in the sense that it represents a wider trend of applying the legal system to make governments act more boldly in relation to climate. Although the case did not change the situation immediately by compelling the Swiss government to undertake certain policy measures, it established a significant case law on the continued application of human rights-based arguments in climate-related lawsuits. The case is a prime example of how the courts are increasingly being approached with the task of assuring that the climate policies are being done according to the international standards and that the fundamental rights of the citizens are being safeguarded, especially the citizens who are the most vulnerable to effects of climate change.⁹³

Justification of Case Selection: The choice of national and supranational cases on climate litigation in the analysis was motivated by the fact that national litigation cases vary in the world in their attempts to deal with climate change. Cases within the nations like *Urgenda v. The Netherlands* and *Shell v. Milieudefensie*, show how other case courts can make governments implement more effective policies on the climate. Supranational cases of the European Court of Human Rights (ECHR), which include *Verein KlimaSeniorinnen Schweiz v. Switzerland*, show how climate change is gradually gaining acceptance as a human right problem. This combination offers a broad outline of the manner in which various legal traditions such as civil and common law apply the judicial review to impact environmental policy. The addition of recent ECHR cases,

⁹³ Foster, S., & Cooper, A. (2024). *Verein Klimaseniorinnen Schweiz v Switzerland*. *Coventry Law Journal*, 29(1), 73-78.

such as Norway oil case, will make the analysis relevant to the new legal success stories in climate litigation.

Reflection: The comparison of the cases shows that the Interventions by the courts have resulted in considerable policy changes, but they are not always successful due to the political and economic opposition. Courts or at least courts in powerful jurisdictions have been useful in putting governments to task over their environmental pledges, but the decisions have been compromised by political goodwill or even economic concerns especially in fossil fuel reliant nations. The introduction of the human rights thesis into climate litigation, such as in the case of Verein KlimaSeniorinnen, adds to the field of the legal issues and contributes to the significance of climate justice. The success of these legal devices, however, is conditional on the wider political scenario and it is unclear how the definition of judicial rulings on national and global climate policy will have influence in the long-term.

2.3 Jurisdictional context: civil law vs common law

Such difference between the civil and common law systems is essential to defining the way in which climate change litigation is followed and the possible consequences of this case. The two significant legal traditions which overlie much of the legal systems of the world not only differ concerning their source of law, but also in their manner of the role of judges, drafting of the legal principles, and interpretation of the statutes. In relation to climate change litigation, the jurisdictional setting of either civil law or common law may have a considerable impact on the legal approaches of litigant, the type of arguments that will be most effective in court, and how the policies regarding climate change are applied via judicial adjudication. In that aspect, the interplay between these systems and the climate change law makes it an interesting dynamic of legal challenges and opportunities to both activists and governments, along with other actors in privacy such as corporations.⁹⁴

The civil law systems, commonly known as code-based systems are mainly practiced in France, Germany, Japan, and most of Latin America. In such systems, law is mostly based on a set of written statutes and codes that stipulate the legal principles and procedures. The codes are

⁹⁴ Tetley, W. (1999). Mixed jurisdictions: common law vs civil law (codified and uncoded) (Part I). *Uniform Law Review-Revue de Droit Uniforme*, 4(3), 591-618.

formulated to be exhaustive to the extent that the judiciary has fewer options to make new law or to adapt the principles of the law to new situations. Civil law courts, in most common law systems, have judges primarily charged with interpreting the law and applying it to particular cases as opposed to being considered as sources of law. They, rather, implement the ready codes, statutes and legal principles into the available facts. It implies that the litigation of civil law jurisdictions is strongly dependent on the statutory interpretation and that the courts lack the same level of freedom to make legal doctrines out of thin air as in the common law jurisdiction.

In legal system jurisdictions of climate change litigation, judicial activism could be more restrictive, and environmental laws are already enshrined in national law. One such example is the case of *Urgenda Foundation v. The Netherlands* (2015) illustrates the way in which the civil law systems can address the litigation on climate change. This case was largely influenced by the Dutch Civil Code and the European Convention on Human Rights in the sense that the court would have used the developed legal provisions to compel the Dutch government to raise its emissions reduction targets. This case did not compel the court to establish new laws rather, the court used extant provisions of human rights and environmental requirements under the United Nations Framework Convention on Climate Change (UNFCCC) to hold the government liable on its lack of policy on climate change.

The case of *Urgenda* demonstrates that the human rights law and environmental laws as codified in civil law countries can be utilized in the efforts of holding governments responsible in the failure to act in regards to climate change. This method is well adapted to systematic legal issues where the litigations revolve around the allegation that the government or corporation has broken certain clauses of the written law. This restrictive nature of judicial discretion of civil law jurisdiction, however, may occasionally lead to slower or narrower of judicial remedy in the presence of environmental degradation. Although judges are definitely able to draw on the existing legislative framework and apply it to new challenges such as climate change, they may not be able to be creative or adaptable due to their codified legal system.⁹⁵

The *Neubauer* which the plaintiffs were young people and they sued the country of Germany over its climate action plan is also an indication of how the use of civil law systems can

⁹⁵ Carney, G. (2015). Comparative Approaches to Statutory Interpretation in Civil Law and Common Law Jurisdictions. *Statute Law Review*, 36(1), 46-58.

deal with climate litigation. The argument centered on the German Basic Law, with its constitutional rights to life and health, demonstrating how principles set out in the codified provisions of the civil legal framework, here, constitutional protections, can be used in the legal game to seek more significant climate action. As these rulings show, civil law legal systems are more likely to examine the existence of a legal duty (whether under national law or international treaty) that the government or non-government actors have breached, and the resolution to the matter is often the judicial decision on the application of these laws to climate change matters.

The drawback of civil law systems is also that they are not as flexible as the common law systems. In civil law jurisdictions, the litigant may be limited in presenting a new claim or making the law respond to a new fact by having to shoehorn the case into a preexisting statutory rule. This may be a predicament in the climate change scenario, in which other laws in place might not be detailed or visionary enough to meet the urgency and complexity of the crisis. Nevertheless, a more careful and foreseeable process, with rights and liabilities being more plainly outlined and the role of the court being more easily to interpret the written law, can also be advantageous to the civil law systems.

Conversely, the United States, the United Kingdom, India and Australia are the common law jurisdictions which rely on judicial precedents as a source of law (a ruling made in a prior case). In such systems, courts are more involved in the creation of the law. Although statutes and regulations remain pivotal, courts in common law countries have the high degree of discretion to interpret legislation and build new legal principles by making use of case law, which in turn binds inferior courts. *Stare decisis* (the doctrine of courts adhering to the precedents set in earlier cases) provides uniformity of the law, but this also provides a considerable flexibility in the interpretation of the laws over time, especially in regard to certain societal shifts.

Common law systems are flexible and, in this regard, may benefit climate change litigation. The ability of judges to modify legal principles to emerging problems can be seen in the case of climate change, which has never been seen as huge in its scope, and in the intricacy of the interaction of human activity, environmental degradation, and global governance. Cases like *Juliana v. United States*⁹⁶ show how the common law system could offer a platform to take climate

⁹⁶ Powers, M. (2018). *Juliana v United States: the next frontier in US climate mitigation? Review of European, Comparative & International Environmental Law*, 27(2), 199-204.

litigation, despite the absence of an evident statutory framework to deal with the problem per se. A case in Juliana, a group of young plaintiffs sued the U. S. government over their constitutional rights to life, liberty and property due to the failure to do enough action on climate change. The case was based on constitutional ideals, and not on a particular law, and the flexibility of the common law to suit new social problems is demonstrated. Although the case has not been final adjudicated, it has been successful so far in the courts, and it has underscored the application of judicial interpretation and common law principles in developing a legal response to climate change.

The common law systems are also characterized by a more adversarial approach to litigation whereby parties bring in arguments and evidence in a more open platform. It is more dynamic because legal challenges can be made in this way as the parties can refer to a range of legal principles and past cases to prove their claims. With the climate change, this may enable more creative legal reasoning, including the one of the doctrine of public trust, of tort law or even novel interpretations of constitutional rights to environmental protection. The *Shell v. Whilst* the case of *Milieudefensie* in the Netherlands was in a civil law jurisdiction, it also indicates that common law-type reasoning can be employed, where the judiciary relied on general human rights frameworks and obligations to influence the obligation of the corporation to reduce emissions, by relying on case law precedents, which emphasize corporate responsibility.

Moreover, the jurisdictions of common law tend to be less strict in matters of standing, that is, more people and organizations can raise claims in the court, although they are not directly affected by the actions of the defendant. This has been a major benefit in the climate change litigation in that it gives a wider range of plaintiffs the ability to take on the government or corporate behavior i.e. vulnerable communities or future generations. Indicatively, the U.S Supreme Court has witnessed an increase in cases where the plaintiffs are seeking to compel action of climate change under tort law by claiming direct harm to them by the failure to reduce climate change, although there is no specific law. The *California v. The BP lawsuit* is one illustration of how accountability by the significant contributors of greenhouse gases is being sought through litigation by states and individuals residing in common law jurisdictions.⁹⁷

⁹⁷ Klerman, D. (2007). Jurisdictional competition and the evolution of the common law. *U. Chi. L. Rev.*, 74, 1179.

Availability of common law systems however, has its problems. Judges are more free to create the law, but it leads to lower predictability of climate cases resolution. On top of this, common law litigation is not only very expensive, its long proceedings also may prove to be a scare away to many would be plaintiffs, particularly those lacking the necessary means. The entry barrier in climate litigation in common law jurisdictions such as the U.S. could pose potentially be quite substantial, particularly when it comes to low-income populations or environmental non-governmental organizations. What is more, the increased dependence on previous cases implies that courts can be unwilling to deviate off the standard of legal norms except when there is an overwhelming popular or judicial opinion, and this fact can obstruct the use of proactive climate measures in the context of looming environmental challenges.

In total, the jurisdictional specificity of the climate change litigation, i.e. in the civil or in the common law tradition, determines the strategies, issues, and possible results of the litigation. The jurisdictions of civil law are likely to enforce codified statutes and regulations, which may provide a more rigorous yet more inflexible method of climate litigation. Common law systems, on the other hand, permit more dynamic legal argumentation and evolving precedent possibilities, which creates a more versatile platform on which new litigation can be brought, but with the disadvantages of not being predictable and being expensive. The two systems provide significant means of dealing with climate change, however, the success of litigation within the systems lies heavily in the legal infrastructure in place, political will and the legal arguments involved in either case. Due to the constant increase in climate change becoming a global concern, it is possible that the difference between civil law and common law will be critical in determining the future of climate litigation.⁹⁸

2.4. Legal basis: human rights, tort, constitutional, international law

Since the issue of climate change is emerging as a major legal concern, human rights law is becoming a more popular foundation of climate change litigation against governments and corporations, based on their contributions to climate change. The demand on better efforts to mitigate climate change is frequently based on the argument of human rights, in which it is said that a lack of action equates to infringing the basic rights to life, health, and clean environment.

⁹⁸ Weinstein, J. (2004). The federal common law origins of judicial jurisdiction: Implications for modern doctrine. *Virginia Law Review*, 169-300.

This strategy characterizes climate inaction not as a problem of the environment but as a crime against the individual right secured by the national and international human rights laws. As a case in point, some cases have held that the inability of governments to mitigate greenhouse gases emissions is a violation of the rights of citizens to safe and healthy environment which is being increasingly in the human rights platform, especially in jurisdictions where the right to life and health is characterized by strong constitutional rights.⁹⁹

Along with the human rights law, the tort law has also been adopted as an essential tool in climate litigation especially in the cases whereby plaintiffs are claiming compensation on damages occasioned by climate change. Tort law enables individuals and groups to sue to reclaim damages caused due to wrongful acts of other individuals, such as environmental degradation by other corporations or the state. Climate tort cases tend to center on the idea of negligence, in which the defendant is claimed to have failed to take reasonable measures to alleviate climate change which has in turn directly caused harm, i.e. flooding, wildfires or health effects. Such cases have generally been based on the argument that corporations or governments have violated an obligation to perform a duty of care to the populace through not sufficiently dealing with climate change or its effects.

In the climate litigation, constitutional law is relevant especially in the nations where legal provisions of environmental rights are well established. Plaintiffs frequently claim that inaction by the government concerning climate change contravenes clauses in the constitution on environmental protection, citizens and future generation welfare. Most constitutions do entrench the right to the healthy environment or right to life, which offers a legal foundation to oppose poor climate policies. Otherwise, more often than not international law has been quoted, especially when nations are alleged to have breached their obligations under the world climate treaties such as the Paris Agreement. The international environmental treaties provide binding legal responsibilities to the states to decrease the emissions and safeguard the global common good, and plaintiffs might contend that such a violation is a breach of international laws and shows that a government does not contribute to the effort to combat the effects of climate change.¹⁰⁰

⁹⁹ Wright, J. (2017). Tort law and human rights.

¹⁰⁰ Gardbaum, S. (2008). Human rights as international constitutional rights. *European Journal of International Law*, 19(4), 749-768.

2.5. Court reasoning and outcomes

The area of climate litigation can be seen as having judges adopt an intersectional approach to national law and international law in reaching their conclusions. Judges evaluate the compliance of governments or corporations with legal obligations in the human rights law, the constitutional law, and international agreements on climate. An example is that in the case where the court is dealing with human rights arguments, it tends to look at whether the harm caused by climate change like increased temperatures, extreme weather conditions, or degradation of the environment directly poses a threat to the fundamental rights, such as the right to life, health, or a clean environment. Scientific evidence is usually used by courts to prove the correlation between human activities (carbon emission) and the climate effects thereof, and this is the foundation of the decision. In such situations, the court could direct governments or companies to do more decisive actions in order to reduce climate change or provide damages to communities.

The results of climatic litigation are diverse and usually Important precedents in further lawsuits and policy adjustments. Courts in a few instances can decide on the side of the plaintiffs and command governments to implement stricter climate change policies, emit less, or pay damages to victims of climate change. Such decisions can result in national climate regulations being reformed where governments are obliged to reduce their emissions to heavier levels or come up with better comprehensive strategies to safeguard people against climate changes. In other instances, the courts might reject the claims or dismiss the case especially when the legal standing could not be proved as well as the causality or when the judges feel that policy making should be left to elected members instead of the court. Whatever happens, climate litigation tends to create a public discourse, sensitize more people to the legal aspects of climate change and demand the governments to do better.

The rationale used in litigation cases of climate can also be relevant in the future environmental issues of the court. Whenever courts pass judgements on cases that mandate governments or corporations to do something, the legal system that they come up with can guide other courts in other jurisdictions to follow suit, aiding to coordinate global climate policies. The consequences of the case in jurisdictions where the court has delivered judgment in favor of the plaintiffs can affect the legislative act because legislators can be made to enforce the ruling of the court on the national legislation. Moreover, political resistance can impede the implementation of

judicial orders making it usually difficult to enforce and comply. However, the decision of the climate litigation cases is a potent reminder that courts can become the essential change agents when the government is not doing anything to ameliorate climate change, that governments and corporations can be held responsible and held to task regarding their role in the climate change and its effects on the vulnerable populations.

2.6. Sri Lanka Supreme Court Climate Policy Case

A historic case was lodged in 2024 in the Supreme Court of Sri Lanka¹⁰¹ and it sought to implement effective practices of climate change in line with the Paris agreement and as stipulated in domestic law. The case brings out the growing influence of courts in pushing governments to go the extra mile in ensuring it addresses climate change through drawing and enforcing decisive actions in situations where the political and executive branches are not doing so. The petitioners, which include environmental organizations and civil society, have contended that the Sri Lankan government has not sufficiently observed its climate commitments under the global law, especially the Paris Agreement, which establishes the worldwide structure in restricting global warming to a level of below 2°C above 1990 levels, and endeavored to limit it to 1.5°C.

As observed by the petitioners in the case, Sri Lanka, among most developing countries, is under a major threat of climatic changes, such as upsurge in sea level, natural calamities, and alterations in agricultural trends. It is particularly humbling to the island countries such as Sri Lanka as the negativities of climate change are so pronounced to the extent that sea level rise and flooding of coastal areas is very high to the populace. In addition, the agriculture that constitutes a major portion of the economy in the country is already being interrupted with due to the alternating rain patterns and global warming. Nevertheless, these risks notwithstanding, the petitioners argue that the current policies towards climate in Sri Lanka are still inadequate and do not correlate with the interests of the international commitments of the state and the urgency of the climate crisis.¹⁰²

¹⁰¹ Wijesinha, S., & Antony, S. (2022). Judicial Reasoning in Cases Concerning the Environment in Sri Lanka: A Commentary. *S. Asian J. Env't L. & Pol'y*, 1, 95.

¹⁰² Dissanayake, C. T. R. (2024). Legal transplantation by Asian courts in environmental litigation Investigating the Sri Lankan Chunnakam case (2019) for insights into success. *Journal of Human Environmental Studies*, 22(2), 153-168.

In the first decision, the government was instructed to submit a detailed report to the Supreme Court of Sri Lanka on the measures it has done to conserve the environment and lessen climate change. Particularly, the court sought data on how the country implements its climate action plans, such as formulation of national policies to enhance adaptation and mitigation processes as well as whether the country is in compliance with its Nationally Determined Contributions (NDCs) according to the Paris Agreement. This guideline reflects the recognition of the need of judicial check on the government by the court in ensuring the government meets its environmental and climate obligations.

The case is likely to pose a considerable implication on the environment governance of Sri Lanka and could serve as a precedent to the other countries in the region. The result may define the effectiveness of the Sri Lankan government in incorporating the mitigation of climate change in the national policy and whether the government will assume more serious measures to comply with the international responsibilities.¹⁰³ The next hearing date is carried out to date, on March 2026, and the final decision is not yet made. But the active participation by the court to bring transparency and accountability in the governance of climate is an indication of a similar trend of judicial readiness to take immediate action on the urgency of climate.

In case the court decides in favor of the petitioners, the court might force the government to make stronger measurable efforts to achieve its climate goals, by tightening its law on emissions, the use of renewable energy, and even through improving its defences against climate-related disasters. What is more, a positive decision would highlight the importance of the judiciary regarding the promotion of climate justice especially in those nations that have stocked up the agendas of political or economic entities that hinder too late climate steps. The case has highlighted the growing role of the law system in climate governance by holding the government responsible as well as strengthening the role played by the courts in demanding better environmental policies.¹⁰⁴

2.7. Connecticut vs. ExxonMobil (USA).

¹⁰³ Sarveswaran, A. (2022). Judicial activism in environmental jurisprudence of Sri Lanka: A reflection in light of the Chunnakam Power Station case. *S. Asian J. Env't L. & Pol'y*, 1, 61.

¹⁰⁴ Konasinghe, K. (2021). The Role of the Judiciary in Promoting Sustainable Development in Sri Lanka. *International Journal of Governance and Public Policy Analysis*, 3(01).

The lawsuit was initiated by the state of Connecticut against ExxonMobil regarding misfortune by the oil giant to deceive people and play down the risks of climate change. The lawsuit in question is part of a larger initiative by multiple states in the U.S. to hold the fossil fuel companies responsible of their involvement in climate change causing misinformation. According to the lawsuit, ExxonMobil participated in a decades-long program of misinformation surrounding the study of climate change. The state asserts that ExxonMobil realized the detrimental impacts of fossil fuels on the climate over the decades but instead acted to deceive the masses and policy makers to ensure that no positive steps were taken to reduce climate consequences.¹⁰⁵

ExxonMobil tried hard to have the case dismissed but this failed to pass the test of law. The court ruled in favor of the case permitting it to move forward after claiming that Connecticut had sufficiently proven that there is possible harm caused by the deceptive actions that ExxonMobil was engaging in. Such ruling is crucial because it implies that the misinformation surrounding the topic of climate change committed by the corporate world may be legally contested in court with a clear precedent established.¹⁰⁶

The case is tentatively scheduled to be put before a trial sometime in June 2028, but the final verdict is not approaching any time soon. Should the case proceed and a positive outcome occur to Connecticut, it would have a far-reaching effect to other lawsuits involving climate change. A verdict against the ExxonMobil may become a precedent to hold corporations liable in relation to their involvement in misinformation regarding climate change as well as play a role in wider actions to plan the actions of fossil fuel firms in terms of their role on climate change.¹⁰⁷

The case belongs to an increasing tendency of climate litigation in order to hold corporates responsible in case of climate change, here the judicial system has a role to play to make sure that the companies are taken responsible of their activities that pollute the environment and endanger human health.

¹⁰⁵ Péloffy, K. (2013). Kivalina v. Exxonmobil: a comparative case comment. *McGill International Journal of Sustainable Development Law and Policy/Revue internationale de droit et politique du développement durable de McGill*, 119-144.

¹⁰⁶ Lawson, S. (2010). The conundrum of climate change causation: Using market share liability to satisfy the identification requirement in native village of Kivalina v. ExxonMobil Co. *Fordham Envtl. L. Rev.*, 22, 433.

¹⁰⁷ Flynn, J. (2013). Climate of Confusion: Climate Change Litigation in the wake of American Electric Power v. Connecticut. *Georgia State University Law Review*, 29(3), 5.

PART III

3. Litigation Impact on Environmental Policy

3.1 Tracing Policy Changes Post-Litigation

It has become more and more clear that climate litigation is a self-motivating force of change in policies, especially when a court holds governments or corporations to account due to a lack of sufficient climate action. Among the most immediate effects of litigation, the change in climate strategies or the introduction of new laws should be mentioned. One of the critical ones is the *Urgenda Foundation v. The case of Netherlands* where the Dutch court upheld that the government should reduce its target of emissions by 25% by 2020 than in 1990.¹⁰⁸ This decision compelled the Dutch government to amend its climate policies greatly, as it developed a more ambitious reduction goal in the pipeline than intended earlier. The decision provided an example of the direct effect of courts on the development of climate action in a country and control over the execution of government climate commitments in the context of the Paris Agreement. Similarly German government passed an amendment to its climate action law based on the case of Germany, where the Federal Constitutional Court instructed the government to become more binding in its set of emissions reductions and create a more transparent roadmap of how to become carbon neutral by 2050.¹⁰⁹

These court rulings are pushing legislators to reconsider and tighten the environmental laws to fall within the court warrant and international climate agreements. The case of *Urgenda* compelled the Dutch government to implement a more offensive and legally binding climate action agenda. Likewise, the *Neubauer* case in Germany asserted the significance of introducing human rights protection in climate action through protection of the constitution.¹¹⁰ The German Federal Constitutional Court was focused on the underlying rights of future generations and believed that the unavailability of stronger climate policies was a breach of their right to live and their freedom.

¹⁰⁸ Kavuri, S., & Ramanathan, A. (2022). Climate change litigation: Chronicles from the global south. A comparative study. *Comparative Law Review*, 28, 169-199.

¹⁰⁹ Peel, J., & Osofsky, H. M. (2020). Climate change litigation. *Annual Review of Law and Social Science*, 16(1), 21-38.

¹¹⁰ Jo, H. M. (2025). Rights-based Climate Change Litigation: A Comparative Study of Legal Foundations, Judicial Strategies, and the Expansion of the Role of Human Rights and Rights of Nature. *KnE Social Sciences*, 10(26), 1-25.

It led to the change of the legislative priorities, when the government had to act at once and to amend its climate legislation so that the descendants would not be inordinately affected by climate change. But the practical ways of carrying out these revised policies is complicated.¹¹¹ Although the legal decisions may result in the changes in legislation and policy, the process of these changes being implemented and their functioning in the reduction of the impact of the climate change is not always rapid. Governments can hold back or roll out softened policies, or lobby to be spared, which is a wider problem of trying to turn judicial requirements into actionable and immediate policy changes. As with the Urgenda case, the case took a long time to implement with the Dutch government failing to achieve the targets of the court despite having to do it by law. In this regard, although litigation can result into the adoption of stricter policies, the political goodwill to enforce them to the latter is usually dependent on the continued legal and societal forces.¹¹²

3.2 Government and Corporate Responses

The effect of climate litigation is being increasingly acknowledged by governments and corporations, but they react in an ambivalent way and are conditioned by political, economic, and legal factors. To the governments, the climate litigation is a reformist opportunity and a threat to the status quo. In cases such as Urgenda v. Neubauer v. Netherlands and Neubauer. Germany, governments were originally opposed to the decisions of the courts that compelled governments to take more ambitious steps in climate.¹¹³ An example to this is the appeal made by the Dutch government on the Urgenda ruling in a bid to stall its implementation because they said that the Urgenda ruling would impose an extra economic task to the nation. Equally, the German government was originally hesitant towards the adoption of more aggressive reduction goals on emissions because of the economic and social consequences, especially in those sectors that are heavy consumers of fossil fuels. Nevertheless, both examples showed how the courts may push

¹¹¹ Li, Z. (2025). What determines the success of NGO-initiated climate litigation in China? —A comparative study of two Chinese cases. *International Environmental Agreements: Politics, Law and Economics*, 1-18.

¹¹² Romaniszyn, A. (2020). Human rights climate litigation against governments: A comparative overview of current cases and the potential for regional approaches. *McGill International Journal of Sustainable Development Law and Policy*, 16(2), 229-269.

¹¹³ Toolan, N., Marcus, H., Hanna, E. G., & Wannous, C. (2022). Legal implications of the climate-health crisis: A case study analysis of the role of public health in climate litigation. *Plos one*, 17(6), e0268633.

the governments towards reforming their climate policies, particularly where the law is held responsible, the population puts pressure, and the international law intersects.¹¹⁴

Corporations especially those that produce a lot of greenhouse gases such as Shell are usually targeted in cases where the companies are sought to be held responsible of contributing towards climatic changes. In *Milieudefensie* case, ruled that Shell should cut its carbon emissions by 45 percent by 2030.¹¹⁵ This decision was a case in point of the increasing legal and moral pressure on multinational corporations to assume accountability of their effect on the environment. Shell at first countered the ruling by claiming that changing its business model that radically would be too disruptive and expensive. Nevertheless, the company later indicated that it was going to be sustainable and declared that by 2050, it would have reached net-zero emissions. The reaction of Shell underscores how the business world is increasingly becoming aware of the fact that lawsuits on the topic of climate change may result in huge financial and reputation losses and that firms have to consider sustainability as a core part of their business models.¹¹⁶

This is not always the case with the corporate sector, which is not always open to the results of climate litigation. Firms in industries that are highly reliant on carbon e.g. oil and gas tend to postpone or avoid adherence to decisions of the courts.¹¹⁷ It is not just a legal but a strategic resistance since these corporations will be losing significant revenue and market share once the low-carbon economy is implemented. Nevertheless, with the increase in the popularity of climate litigation, companies are changing their approaches to suit climate objectives more and more. The trend is not only fuelled by legal risk but is also being compounded by increasing pressure by investors, regulators and the general population, which is indication of a wider change in corporate responsibility to environmental sustainability. All in all, the legal, economic and political pressures on government and corporate reactions to climate litigation are characterized by opposition,

¹¹⁴ Alogna, I., Bakker, C., & Gauci, J. P. (Eds.). (2021). *Climate change litigation: global perspectives*. Brill.

¹¹⁵ Yiwen, X. A Comparative Analysis of the Urgenda Climate Case and Climate Case Ireland.

¹¹⁶ Peel, J., & Lin, J. (2019). Transnational climate litigation: The contribution of the global south. *American Journal of International Law*, 113(4), 679-726.

¹¹⁷ Peel, J., & Osofsky, H. M. (2018). A rights turn in climate change litigation. *Transnational environmental law*, 7(1), 37-67.

accommodation and in certain instances real policy changes, which underscores the fact that there is a complicated interplay of legal, economic and political forces.¹¹⁸

3.3. Institutional Change: Courts, Regulators, Legislatures

The effects of climate litigation go beyond the change of policy to elicit radical institutional transformations in the judiciary, regulatory agencies and legislature. Courts are becoming the key players in environmental policy formulation by their decisions that provide legal precedence that shapes decisions on future climate cases.¹¹⁹ For example, the case of *Urgenda* showed the ability of the judiciary to make governments responsible in their action regarding climate change by creating a legal responsibility towards the protection of citizens against the consequences of climate changes. The decision has been cited by other jurisdictions and it marks the contribution of the judiciary towards the implementation of the international climate commitments. With the climate litigation cases increasingly on the rise, courts will become even more assertive in crafting the climate action in cases where the political leaders are not keen to undertake decisive action against climate change. Nonetheless, this added judicial presence also has the problem of the separation of powers where critics consider that courts are stretching their authority too far into the process of decision making that could be left to the elected members of parliament.¹²⁰

Even regulatory agencies are changing their institutions dramatically due to climate litigation. Following judicial decisions, regulators sometimes have to act on the directive provided in court decisions and this may result in the tightening of environmental laws and the creation of new regulatory systems. For example, after the *Shell v. Milieudefensie* case, other European countries regulatory agencies were on the pressure to implement more stringent monitoring and enforcement protocols so that they could make sure that emissions reduction targets are met. The regulators may also be pressured to have a greater control over corporate operations, especially those of the fossil fuel industry, and formulate the policies that would help usher in an era of a

¹¹⁸ Мадаві, Н. (2023). Evolving Jurisprudence of Environmental Law: A Doctrinal Analysis. *Аналітично-порівняльне правознавство*, (6), 386-396.

¹¹⁹ Zhang, Y. (2025). Developing a Climate Litigation Framework: China's Contribution to International Environmental Law. *arXiv preprint arXiv:2502.03906*.

¹²⁰ Setzer, J., & Benjamin, L. (2020). Climate litigation in the Global South: constraints and innovations. *Transnational Environmental Law*, 9(1), 77-101.

more sustainable economy. Such changes are essential in the process of making sure that the decisions made by the judiciary are executed successfully and that the legal requirements are made to reflect in the actual environmental impacts of the same.¹²¹

Climate litigation also affects legislatures where in most cases courts have compelled governments to either make changes on existing laws or come up with new laws to meet the demands of the court order.¹²² An example where Germany ruling was used was that lawmakers needed to have stricter climate laws that would stipulate clear reduction targets of emissions and the pathways to be used to achieve carbon neutrality by the year 2050. This court requirement compels legislators to align national climate objectives with policy functionality on the ground which usually hastens the legislative proceedings. The growing role of climate litigation has rendered it harder to continue assigning responsibilities to the legislators to avoid enacting any action with regards to climate change because they are now under the pressure of the courts, the people, and the international organizations to launch strong climate tactics. In this regard, climate litigation becomes an effective tool in effecting institutional change both to the judiciary and legislative system as well as entrenching climate change as a crucial agenda in the policy-making process.¹²³

3.4 Soft Power Impact: Media, Public Awareness, Investor Pressure

The climate litigation has a high degree of soft power, which manifests in its ability to change the public awareness, media coverage, and investor behavior which are very important elements of the overall climate movement. The media can be critical in enhancing the messages of climate litigation especially on high profile cases that gain international coverage. Cases like *Urgenda v. The cases*¹²⁴ have been widely publicized by media sources all over the world, which has made climate change not only an environmental problem, but a hot legal and human rights

¹²¹ Peel, J., Godden, L., & Keenan, R. J. (2012). Climate change law in an era of multi-level governance. *Transnational Environmental Law*, 1(2), 245-280.

¹²² Fernando, I. (2018). Litigating climate change: Politics and political questions: A comparative analysis of justiciability of climate change in the United States and Canada. *Victoria U. Wellington L. Rev.*, 49, 315.

¹²³ Sekuła, A. M. Strategic litigation and reform in global legal pluralism. An (exploratory) empirical study of climate litigation cases in comparative perspective.

¹²⁴ Leijten, I. (2019). Human rights v. Insufficient climate action: The Urgenda case. *Netherlands Quarterly of Human Rights*, 37(2), 112-118.

case. The role of the media in reporting such cases is to inform the masses on the legal aspects of climate change and the increased involvement of the judiciary in making governments and corporate accountable over their activities. This attention has contributed to raising awareness among the population on the urgency of taking action on climate by mobilizing citizens to call on increased policies and corporate responsibility.¹²⁵

The media representation of the climate litigation contributes greatly to the development of public awareness as it tends to transform the popular perception of climate change as a distant or abstract problem to an urgent and solvable one. As the masses watch the courts putting governments and corporations on the hook, it sets the expectations of more climate action. This change in the general perception may put pressure on the policymakers and businesses to make their operations environmentally sustainable to keep up with the increasing demand of environmental sustainability. The increased involvement of the population in climate litigation has the potential to result in a higher level of political involvement, where citizens will call upon stronger and more active climate policies at the local, national, and international levels. The increased prominence of climate lawsuits is also shaping the perception of corporate responsibility among people, as the businesses need to take more serious the environmental consequences of their business.¹²⁶

The other strong aspect of the soft power Influence of climate litigation is the investor pressure. Due to the internationalization of lawsuits against corporations such as Shell, investors are becoming more and more concerned about the financial risk of companies with a bad environment record. The upsurge of Environmental, Social, and Governance (ESG) criteria implies that investors have a higher tendency to investigate the corporate sustainability practices and hold companies responsible in regard to their environmental contribution.¹²⁷ The outcome of litigation forcing corporations to take more aggressive emissions reduction goals or to transform to sustainable business gives a great message to the financial markets that failure to mitigate climate

¹²⁵ He, X. (2021). Mitigation and adaptation through environmental impact assessment litigation: Rethinking the prospect of climate change litigation in China. *Transnational Environmental Law*, 10(3), 413-439.

¹²⁶ Peel, J., Osofsky, H., & Foerster, A. (2017). Shaping the 'next generation' of climate change litigation in Australia. *Melb. UL Rev.*, 41, 793.

¹²⁷ Colby, H., Ebbesmeyer, A. S., Heim, L. M., & Røssaak, M. K. (2020). Judging climate change: the role of the judiciary in the fight against climate change. *Oslo Law Review*, 7(3), 168-185.

risks will have serious financial implications. With investors demanding improved performance of the corporate climate, the companies are motivated to minimize their carbon footprint and enhance openness of their environmental activities. This change in investor behavior is boosting the process of shifting to a low-carbon economy and strengthening the effectiveness of litigation based on climate to affect corporate and financial decision-making.¹²⁸

¹²⁸ Berebon, C. (2025). Evolving Trends and Challenges in International Environmental Law: A Case-Based Analysis. *International Journal of Environmental Pollution and Environmental Modelling*, 7(2), 96-106.

4. Conclusion, Recommendations & Implications

1. This thesis has discussed the contribution of the climate change litigation to the formation of the environmental policy, specifically, the way the judicial review processes can affect the governmental initiatives and the incorporation of climate change into human rights practices. It has been established that when national and supra-national courts have evolved to be very critical players in promotion of climate policies, they are usually limited by political opposition. Courts have been found to direct policy amendments and implement international obligations including those in the Paris Agreement and extensively these decisions are usually struck down or adjourned by governments who favor economic advantages mostly in economies which favor on the fossil fuel market. In spite of these shortcomings, climate litigation has been shown to be successful as a means of getting the state and corporate action especially where human rights arguments have been included in the litigation, as was the case with Urgenda or Verein KlimaSeniorinnen Schweiz.

2. One of the major results of the study is the growing use of climate justice in climate litigation. Courts have started to put climate inaction not only as an environmental concern but as a breach of fundamental human rights including the right to life, health and clean environment. The result of this has widened the range of climate litigation to be more inclusive of social, economic and ethical factors. This approach has been successful in causing more balanced climate policies that consider the needs of the most vulnerable and marginalized groups of people by highlighting the disproportionate effects of climate change among these groups. Nevertheless, this development is a major victory in the sphere, yet the success of the human rights-based climate litigation is still subject to the legal and political situation in the respective jurisdiction.

3. The contribution made by climate change litigation in environmental policy development has changed considerably though not realized to its full potential due to many hiccups. As much as it cannot be denied that courts have been playing an increasingly significant role in supporting the climate action, the impact of such judicial rulings remains restricted due to the political influence. Countries with fossil fuel economies, especially governments, have used economic interests and short term policy concerns to block or delay the realization of the judicial ruling regarding the action to be taken concerning the climate crisis. Political backlash in a nation where there is heavy reliance on fossil fuels tends to wash away the legislative ruling of the courts especially where they involve remodelling the economy towards shifting the priorities of the

economy. This political resistance forms a dichotomy between the economic benefits of fossil fuel markets and the alcoholic in character of climate action that the courts are promoting. Therefore, judicial decisions might possess sufficient legal purpose to change the policies but they have major challenges of ensuring the wider implementation without the congruence of political will.

4. Nevertheless, despite these obstacles, climate change litigation has turned out to be a successful mechanism of mobilizing state and corporate action with human rights arguments being included. The impact of human rights approach examination in climate litigation has seen climate inaction being no longer considered as an environmental problem only, but a crime against several fundamental human rights including the right to live, have healthy health, and clean environment. With this framing, the nature of the climate litigation has been extended to touch on the social, economic, and ethical impacts of global warming besides the environment. Consequently, climate litigation has been used to advance the rights of the vulnerable to the impacts of climate change and this is the case with indigenous people, the low-income population, and the future generations. Litigation has helped governments address the needs of the most vulnerable people in their climate policies enjoying a more inclusive and socially just climate action by raising awareness of the disproportionate effects of climate change on these groups.

5. The acknowledgment of climate change as a human rights Issue of the first importance is one of the most renowned results of the climate litigation that can transform the national and international environmental governance. The growing interest of focusing on human rights in climate litigation is not just a breakthrough in the legal field but a moral one need as well. It alters the frame on climate change away, as an environmental or an economic problem, to the challenge of climate change upon the principal rights of people and communities. Such a transformation of policy-making regarding climate change has the potential to bring more comprehensive and fair policies on climate that emphasize putting human life and dignity at the center stage when it comes to the effects of climate.

6. Regardless of the achievements made regarding incorporating human rights arguments in climate litigation, the usefulness of such decision-making remains under numerous legal and political questions. The lack of judicial authority to implement climate policies is dictated by the existing political world systems in most governments, and it is also more financial constraint of the governments that have industries dependent on fossil fuels, thus, the enforcement of climate

justice is impossible in most scenarios. Further, the legal climate related to climate litigation is still disjointed and, depending on the jurisdiction, some progress may or may not have been made. As certain nations have experienced tremendous achievements, others are yet to come to terms with that the law and politics are still opposing the adoption of climate policies due to the court ruling.

7. Conclusively, climate change litigation has gained importance to promote climate policies especially in its combination with the human rights law. Regardless of the strong political and economic challenges, judicial ruling has played a tremendous role in informing the course of climate action in both national and international ends. Nevertheless, in order to realize its maximum potential, there is need to ensure that political will is in line with judicial decisions, and also put in place mechanisms of enforcement in such a way that the climate policies are put into use. With climate change still being considered as a human rights concern of the global nature, climate litigation will take everlasting value as part of the climate justice struggle, as it will serve as a crucial legal avenue towards ensuring sustainable and fair future to everyone.

8. To sum up, even though judicial decisions have been effective in reforming policies and development of climate action, it is still unclear how climate litigation will affect global environmental governance in the long run. The feigned opposition of political forces and the economic concerns of states, particularly in the strong fossil fuel economy countries are significant hurdles to the successful implementation of judicial rulings. However, with climate change increasingly being addressed as a key human rights concern, litigation has remained a critical component to climate regulatory formulation. The observations made in this thesis indicate that even though the legal highways of climate litigation are yet to be fully developed, they can be used to provide significant transformation in both national and global governance of the climate, in the event political goodwill and enforcement mechanisms are coordinated with judicial decisions.

4.1. Summary of Findings

This research has found that climate litigation plays a crucial role in accelerating policy reform and shaping environmental governance. It has led to the revision of national climate laws, compelled governments to adopt clearer emissions reduction targets, and forced corporations to take greater responsibility for their environmental impact. The classification of cases into strategic and defensive, as well as mitigation and adaptation, has provided analytical clarity and revealed

the tactical diversity within climate litigation. The use of legal frameworks grounded in human rights, tort, constitutional provisions, and international treaties has expanded the legal toolkit available to climate litigants. Courts have increasingly recognized the link between climate inaction and violations of fundamental rights, such as the right to life, health, and a clean environment. This legal recognition has enabled plaintiffs to challenge both governments and corporations, often resulting in significant legal precedents.

The jurisdictional context—civil law versus common law—significantly shapes litigation outcomes. Civil law systems rely heavily on codified principles and statutory obligations, which can support strong rulings grounded in constitutional and international law. In contrast, common law systems offer greater flexibility for legal innovation and precedent-building but often face procedural and financial hurdles. Litigation has also led to institutional shifts. Courts are now seen as active players in environmental governance, regulators are adjusting their frameworks to enforce judicial mandates, and legislatures are increasingly under pressure to translate legal judgments into binding law. At the same time, the soft power of climate litigation—through media coverage, public awareness, and investor behavior—is transforming public discourse and corporate strategy, contributing to the normalization of environmental accountability.

However, challenges remain. Implementation of court rulings is often delayed or resisted, and political and economic interests continue to shape the pace and scale of climate action. Despite this, the study concludes that climate litigation is a powerful and evolving force that complements legislative and regulatory pathways. It offers not just legal remedies, but also contributes to social mobilization, norm creation, and institutional reform in the global fight against climate change.

4.2. Implications for Future Climate Policy

The analysis of landmark climate litigation and its impacts reveals several key implications for future climate policy. First, litigation has proven to be a critical driver in compelling governments to take more ambitious and clearly defined climate actions. Judicial decisions in cases like *Urgenda v. The Netherlands* and *Neubauer v. Germany* show that courts can enforce emissions reductions when governments fail to meet their own stated obligations or international commitments. Future climate policy will therefore need to be legally robust, transparent, and grounded in enforceable targets to withstand judicial scrutiny.

Second, the legal frameworks used in successful climate litigation—especially those based on human rights, constitutional protections, and international law—will likely influence the design and content of future policies. Governments may increasingly integrate human rights principles into climate law, recognizing that failure to act on climate change constitutes a violation of the rights to life, health, and a safe environment. This shift may also prompt the drafting of climate laws that explicitly reference international treaties such as the Paris Agreement, ensuring legal coherence and enforceability.

Third, the increasing role of courts in shaping environmental governance suggests that judicial oversight will remain central to climate policymaking. Legislatures will need to develop climate policies that are not only politically feasible but also legally defensible. This means policies must include specific reduction pathways, measurable targets, and accountability mechanisms to comply with potential judicial expectations. The pressure from courts is already pushing lawmakers to accelerate legislative processes and align national laws with broader climate goals.

Fourth, climate policy must also respond to the evolving role of regulatory bodies. As seen after cases like *Shell v. Milieudefensie*, regulators are expected to enhance their oversight of corporate practices and ensure compliance with emissions standards. This implies that future climate policies will likely include stronger regulatory frameworks, clearer enforcement mechanisms, and greater alignment between legal mandates and policy implementation.

Fifth, climate litigation's influence on corporate behavior highlights the need for policy to anticipate and support a just transition for industries. Policies must consider the economic impact on sectors heavily reliant on fossil fuels while simultaneously enforcing legal obligations to reduce emissions. Future regulations may also integrate Environmental, Social, and Governance (ESG) criteria more formally into corporate compliance requirements to reduce exposure to litigation risks.

Lastly, the broader soft power effects of climate litigation—through increased public awareness and investor pressure—signal that future climate policy cannot operate in isolation from societal expectations and market behavior. Policymakers will need to be proactive in engaging stakeholders, including the public, investors, and civil society, to build legitimacy and momentum for climate action. This comprehensive integration of legal, institutional, and societal forces

illustrates that climate litigation is not just a reactive tool, but a forward-driving mechanism shaping the future contours of climate policy.

4.3. Recommendations for Future Research

Given the complex and evolving nature of climate litigation and its influence on policy, several areas merit deeper scholarly inquiry to strengthen the legal and institutional responses to climate change.

First, future research should focus on the comparative effectiveness of climate litigation across different legal systems, particularly between civil law and common law jurisdictions. While both systems have produced landmark decisions, the mechanisms through which courts influence policy differ significantly. Investigating how legal traditions shape judicial reasoning, standing requirements, and remedies will provide valuable insights for global strategic litigation efforts.

Second, more empirical studies are needed to assess the actual implementation of court-ordered climate policies. Although rulings in cases like *Urgenda* and *Neubauer* were legally binding, the extent to which governments comply remains uncertain. Research should examine post-litigation policy outcomes, delays in implementation, and the role of political resistance, offering a clearer picture of litigation's practical effectiveness.

Third, future studies should analyze the growing role of human rights-based arguments in climate litigation. As courts increasingly accept the framing of climate inaction as a human rights violation, especially for vulnerable populations and future generations, there is a need to explore the legal limits, potentials, and cross-jurisdictional applicability of such arguments.

Fourth, further investigation is warranted into corporate accountability in climate change. Cases such as *Shell v. Milieudefensie* and *Lliuya v. RWE* have opened new legal territory regarding corporate liability for global emissions. Research should focus on the development of causation standards, attribution science, and the feasibility of holding transnational corporations accountable for climate-related damages across borders.

Fifth, interdisciplinary research should examine the intersection of litigation, public opinion, and investor behavior. As climate litigation gains media attention and influences investor decision-making, it is important to understand how legal actions affect broader societal and

economic systems. This includes evaluating the long-term reputational and financial impacts on governments and corporations involved in litigation.

Lastly, future research should explore the institutional capacity of courts to handle complex climate cases. This involves assessing judicial training, access to scientific expertise, and procedural reforms that may be necessary to ensure courts are equipped to adjudicate high-stakes environmental claims effectively. Strengthening judicial infrastructure will be essential as litigation continues to serve as a major driver of climate governance worldwide.

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ANNEX 1

Summary

Climate change litigation has emerged as a transformative mechanism for shaping environmental governance and enforcing accountability in the global fight against climate change. As governments and corporations often fail to meet international commitments or adopt effective mitigation strategies, courts have increasingly become arenas for climate action and instruments of policy reform. This thesis investigates how climate litigation contributes to the formulation, enforcement, and transformation of environmental policy through a comparative analysis of landmark global cases. It explores the ways in which judicial rulings influence national legislation, corporate conduct, and international climate governance, thereby redefining the intersection of law, human rights, and environmental responsibility.

The study adopts a qualitative and comparative research design, examining key cases such as *Urgenda Foundation v. The Netherlands* (2015), *Neubauer v. Germany* (2020), *Shell v. Milieudefensie* (2021), *Juliana v. United States* (2015), *Lliuya v. RWE* (2015), *Smith v. Denmark* (2018), and *Verein KlimaSeniorinnen v. Switzerland* (2020). These cases are analyzed within a theoretical framework integrating the Public Interest Litigation Theory, Environmental Justice Theory, Legal Mobilization Model, International Climate Governance Model, and Policy Window Model. Together, these frameworks elucidate the legal, political, and social dynamics driving the rise of climate litigation and its broader implications for policy reform.

The Public Interest Litigation (PIL) theory is central to this research, emphasizing the democratization of environmental law and the role of courts in protecting collective rights even where individual harm is diffuse or intangible. By expanding legal standing, PIL empowers citizens and organizations to demand governmental and corporate accountability for climate inaction. This theory explains how litigation can compel policy change by framing environmental protection as a shared public interest. Nevertheless, the thesis acknowledges that PIL's effectiveness depends heavily on judicial independence and the robustness of human rights protections across jurisdictions.

The Environmental Justice (EJ) theory complements PIL by linking climate litigation to equity and social justice. It highlights how vulnerable and marginalized groups—such as low-income communities, indigenous populations, and women—bear the brunt of environmental harm

despite contributing the least to global emissions. EJ situates climate litigation as a tool for redistributive justice, seeking to correct structural inequalities in environmental governance. Yet, the thesis notes that achieving true environmental justice remains constrained by economic interests and power asymmetries that favor corporate actors and industrialized nations.

The Legal Mobilization Model further explains how litigation serves as a strategic form of activism. Civil society organizations, NGOs, and youth movements have increasingly mobilized the law to compel governments to act where political processes have stagnated. Through high-profile cases, legal mobilization has raised awareness, reframed public discourse, and pressured institutions to prioritize climate action. However, the study observes that while such mobilization can shift narratives and create moral pressure, the enforcement of court rulings often depends on the political will of states and the integrity of their legal systems.

The International Climate Governance Model situates domestic litigation within a transnational framework. It demonstrates how national courts have invoked international treaties, especially the Paris Agreement (2015), to reinforce domestic environmental obligations. The integration of international norms into national jurisprudence signifies a new phase of “judicial globalization,” wherein domestic courts act as enforcers of international climate law. Yet, the model reveals a persistent challenge: the voluntary nature of Nationally Determined Contributions (NDCs) under the Paris Agreement often limits enforceability and uniform compliance. The absence of hard sanctions means that much of international climate governance relies on soft law mechanisms, transparency, and peer pressure rather than binding accountability.

The Policy Window Model provides insight into how judicial rulings interact with political opportunity structures. Climate litigation often succeeds during periods of heightened public concern, environmental crises, or political transition—moments when problem recognition, policy proposals, and political will align. Courts have capitalized on such windows to compel policy reform, as seen in *Urgenda v. The Netherlands*, where judicial intervention coincided with growing societal awareness and international advocacy for stronger climate commitments.

A comparative analysis of landmark cases demonstrates that litigation has generated both legal and policy transformations across jurisdictions. In civil law systems such as the Netherlands and Germany, courts have relied on statutory rights and constitutional provisions to enforce emissions reductions and strengthen environmental accountability. In contrast, common law

jurisdictions like the United States have depended on judicial precedent and interpretive flexibility to recognize a constitutional or public trust duty to protect the climate. Corporate accountability has also gained prominence through cases like *Shell v. Milieudefensie*, which extended legal responsibility for emissions to private enterprises, signaling a paradigm shift in environmental liability.

Beyond legal outcomes, the thesis identifies the soft power effects of climate litigation. High-profile court rulings attract significant media attention, raise public awareness, and influence social and corporate behavior through reputational and financial pressures. Investors increasingly incorporate Environmental, Social, and Governance (ESG) considerations into decision-making, compelling corporations to adopt climate-conscious strategies. Thus, litigation has produced a ripple effect that transcends the courtroom, shaping global narratives of climate justice, accountability, and sustainability.

However, the thesis also recognizes the limitations of litigation as a policy instrument. Judicial decisions, though powerful, are often constrained by political resistance, bureaucratic inertia, and economic dependence on fossil fuels. Implementation gaps remain, particularly in states with weak governance or politicized judiciaries. Furthermore, litigation is inherently reactive, addressing harms after they occur rather than fostering proactive climate governance. The study argues that litigation must operate in tandem with legislative, regulatory, and executive reforms to achieve lasting systemic change.

In conclusion, this thesis affirms that climate change litigation is a pivotal tool in modern environmental governance, bridging the gap between law, policy, and moral responsibility. Courts have evolved from passive adjudicators to active agents of climate accountability, influencing both domestic policy and international law. Yet, their effectiveness depends on political cooperation, institutional capacity, and global solidarity. The research recommends further empirical investigation into post-litigation policy implementation, comparative analyses of legal systems, and the human rights dimensions of climate law. As the climate crisis intensifies, litigation will remain central to enforcing obligations, mobilizing action, and transforming policy frameworks toward a more equitable and sustainable future.

Santrauka

Klimato kaitos bylinėjimasis pastaraisiais metais tapo vienu svarbiausių teisinių mechanizmų, padedančių formuoti aplinkosaugos politiką ir užtikrinti valstybių bei įmonių atsakomybę už veiksmus, susijusius su klimato krizės valdymu. Kai politiniai procesai dažnai nesugeba pasiekti tarptautinių įsipareigojimų, teismai tampa nauja politinės ir teisinės atsakomybės arena. Šiame magistro darbe nagrinėjama, kaip klimato bylinėjimasis keičia aplinkosaugos valdymo praktiką, kaip teismų sprendimai veikia nacionalinę teisėkūrą, įmonių elgesį bei tarptautinę klimato politiką.

Tyrimas paremtas kokybine ir lyginamąja analize, remiantis keliomis išskirtinėmis bylomis: *Urgenda Foundation prieš Nyderlandus (2015)*, *Neubauer prieš Vokietiją (2020)*, *Shell prieš Milieudefensie (2021)*, *Juliana prieš Jungtines Valstijas (2015)*, *Lliuya prieš RWE (2015)*, *Smith prieš Daniją (2018)* bei *Verein KlimaSeniorinnen prieš Šveicariją (2020)*. Šių bylų analizė leidžia įvertinti, kaip skirtingų teisinių tradicijų (civilinės ir bendrosios teisės) valstybėse teismai interpretuoja klimato įsipareigojimus ir žmogaus teises.

Tyrime taikomas teorinis pagrindas apima Viešojo intereso bylinėjimosi teoriją (Public Interest Litigation Theory), Aplinkos teisingumo teoriją (Environmental Justice Theory), Teisinės mobilizacijos modelį (Legal Mobilization Model), Tarptautinio klimato valdymo modelį (International Climate Governance Model) ir Politinių galimybių lango modelį (Policy Window Model). Šie teoriniai pagrindai leidžia suprasti, kaip teisiniai procesai, socialiniai judėjimai ir politiniai kontekstai sąveikauja, kad paskatintų klimato politikos pokyčius.

Viešojo intereso bylinėjimosi teorija pabrėžia, kad teisė gali būti naudojama visuomenės labai net tada, kai žalą patyrę asmenys nėra tiesiogiai nukentėję. Šis modelis demokratizuoja teisminį procesą ir leidžia piliečiams bei organizacijoms inicijuoti bylas valstybės neveiklumo atvejais. Tokios bylos, kaip *Urgenda prieš Nyderlandus*, parodė, kad teismai gali priversti vyriausybės imtis konkrečių klimato veiksmų, remiantis žmogaus teisių – gyvybės, sveikatos ir švarios aplinkos – apsauga. Tačiau efektyvumas priklauso nuo teismų nepriklausomumo ir žmogaus teisių apsaugos stiprumo.

Aplinkos teisingumo teorija papildomai paaiškina, kaip klimato kaita netolygiai veikia socialiai pažeidžiamas grupes. Ši teorija teigia, kad klimato politika turi būti grindžiama teisingumu, įtrauktimi ir dalyvavimu. Klimato bylinėjimasis čia tampa priemone siekti kompensacijų bei socialinės lygybės, ypač kalbant apie žemų pajamų bendruomenes, moteris ar vietos gyventojus, kurie patiria didžiausią klimato kaitos poveikį.

Teisinės mobilizacijos modelis rodo, kaip nevyriausybinės organizacijos, jaunimo judėjimai ir pilietinė visuomenė pasitelkia teisę kaip priemonę spausti vyriausybės imtis veiksmų. Tokios bylos, kaip *Juliana prieš JAV*, parodė, kad teisminis procesas gali mobilizuoti visuomenę ir įtraukti klimato klausimus į politinę darbotvarkę. Tačiau realus sprendimų įgyvendinimas dažnai priklauso nuo politinės valios ir institucinio pajėgumo.

Tarptautinio klimato valdymo modelis analizuoja, kaip nacionaliniai teismai remiasi tarptautiniais susitarimais – ypač Paryžiaus susitarimu (2015 m.) – siekdami priversti valstybes laikytis įsipareigojimų. Teismai vis dažniau veikia kaip „tarptautinės teisės vykdytojai“, įtvirtindami globalius klimato standartus nacionaliniu lygmeniu. Tačiau Paryžiaus susitarimo savanoriškas pobūdis riboja teisinių sprendimų privalomumą, o tikrasis efektyvumas dažnai priklauso nuo valstybių politinės valios ir tarptautinio spaudimo.

Politinių galimybių lango modelis aiškina, kad klimato politika keičiasi tada, kai sutampa trys elementai: visuomenės suvoktas problemos rimtumas, siūlomos politikos priemonės ir palankios politinės aplinkybės. Teismai dažnai išnaudoja tokius momentus, kad inicijuotų reikšmingus pokyčius – kaip *Urgenda* byloje, kai teismo sprendimas sutapo su augančiu visuomenės spaudimu ir tarptautiniu susitarimų kontekstu.

Analizė parodė, kad klimato bylinėjimasis daro didelę įtaką aplinkosaugos politikai. Teismų sprendimai paskatino vyriausybes griežtinti išmetamųjų dujų mažinimo tikslus, keisti teisės aktus ir derinti nacionalines strategijas su tarptautiniais įsipareigojimais. Verslo sektoriuje šios bylos skatino įmones pereiti prie tvaresnių veiklos modelių, atsižvelgiant į augančią teisinę riziką ir investuotojų spaudimą.

Be tiesioginių teisinių pasekmių, tyrimas pabrėžia ir „minkštosios galios“ (soft power) aspektą – kaip rezonansinės bylos formuoja viešąją nuomonę, didina visuomenės informuotumą ir daro reputacinį spaudimą tiek politikams, tiek įmonėms. Tokiu būdu klimato bylinėjimasis ne tik verčia laikytis teisinių įsipareigojimų, bet ir keičia socialines normas bei elgesio modelius.

Vis dėlto darbe pripažįstama, kad bylinėjimasis nėra visagalė priemonė. Jo veiksmingumas priklauso nuo politinės aplinkos, teismų nepriklausomumo ir vyriausybių pasirengimo vykdyti sprendimus. Be to, klimato bylos dažnai yra reaktyvios – jos sprendžia jau įvykusią žalą, o ne užkerta kelią būsimai. Todėl reikalingas kompleksinis požiūris, jungiantis teismines, įstatymų leidybos ir vykdomosios valdžios priemones siekiant ilgalaikių klimato tikslų.

Apibendrinant, darbas daro išvadą, kad klimato kaitos bylinėjimasis tapo pagrindiniu įrankiu įgyvendinant aplinkosaugos atsakomybę ir stiprinant klimato valdymą tiek nacionaliniu, tiek tarptautiniu mastu. Teismai iš pasyvių teisės taikytojų tapo aktyviais aplinkos politikos veikėjais, galinčiais priversti valstybę laikytis žmogaus teisių ir tarptautinių įsipareigojimų. Ateities tyrimams rekomenduojama giliau nagrinėti teisminių sprendimų įgyvendinimą, teisinių sistemų palyginimus ir žmogaus teisių vaidmenį klimato teisėje. Augant klimato krizės mastui, bylinėjimasis išliks vienu iš pagrindinių teisinės ir politinės atsakomybės instrumentų, padedančių transformuoti aplinkosaugos politiką į teisingesnę ir darnesnę sistemą.