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Climate Injustice and the Rule of Law: Litigating a Livable Future in International Fora

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Abstract

Climate change represents an "existential problem of planetary proportions" that imperils all forms of life and threatens the very foundations of human rights and the rule of law. This article examines the transformative role of climate litigation as a mechanism for advancing climate justice and holding states and corporations accountable for their contributions to the climate crisis. Drawing on the unprecedented wave of climate cases filed globally—over 3,000 as of June 2025—and the landmark advisory opinions of the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and the Inter-American Court of Human Rights (IACtHR), this article argues that international law has caught up with climate science. These judicial developments have crystallized states' stringent due diligence obligations to protect the climate system, affirmed the human right to a clean, healthy, and sustainable environment as a "precondition" for all other rights, and established that failure to take adequate climate action—including continued fossil fuel production, subsidies, and exploration—may constitute an internationally wrongful act. Through analysis of seminal cases including *Urgenda*, *KlimaSeniorinnen*, *Neubauer*, *Leghari*, and *Lliuya v. RWE*, this article demonstrates how courts are becoming essential arenas for addressing climate injustice, particularly for vulnerable communities in the Global South. It concludes by identifying pathways for leveraging these judicial developments in diplomacy and litigation to pursue fairer, more inclusive, and more respectful climate outcomes, while

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acknowledging the persistent challenges of implementation, enforcement, and the fundamental tension between judicial intervention and democratic governance.

Introduction

Climate change has been described as a "super-wicked" problem that defies traditional governance mechanisms. The urgency of the climate crisis—characterized by accelerating warming, intensifying extreme weather events, and the crossing of planetary tipping points—has outpaced the capacity of political and regulatory systems to respond adequately². In the face of what the ICJ has termed an "existential problem of planetary proportions,"³ communities, civil society organizations, and individuals have increasingly turned to courts as fora for compelling climate action.

Climate litigation has emerged as a powerful supplement to climate change negotiations, particularly where political and regulatory responses have proven insufficient⁴. As of June 2025, a cumulative 3,099 climate-related cases have been filed in 55 national jurisdictions and 24 international or regional courts, tribunals, or quasi-judicial bodies⁵. Over 80% of 2024 case filings were considered strategic, with more than 120 climate cases filed since 2015 challenging the ambition or implementation of government climate targets and policies⁶.

This "judicialization of climate governance" raises profound questions about the rule of law, the separation of powers, and the role of courts versus legislators and governments⁷. Yet it also offers a pathway to hold governments and corporations accountable for their contributions to climate change, to enforce existing legal

² International Bar Association, "Summary of the IBA Webinar: 'Ten Years since Leghari v Pakistan: The State of Play in International Climate Litigation,'" Oct. 2025.

³ UN Office of the High Commissioner for Human Rights, "UN Experts Welcome Recognition from International Court of Justice That All States Must Protect the Climate System," July 2025.

⁴ "Climate Change Litigation: International Legal Perspectives," Netherlands International Law Review, vol. 72, pp. 291-299, 2025.

⁵ United Nations Environment Program, "Global Climate Litigation Report: 2025 Status Review," Sept. 2025.

⁶ International Bar Association, "Summary of the IBA Webinar: 'Ten Years since Leghari v Pakistan: The State of Play in International Climate Litigation,'" Oct. 2025.

⁷ "Climate Change Litigation: International Legal Perspectives," Netherlands International Law Review, vol. 72, pp. 291-299, 2025.

obligations, and to articulate new understandings of responsibility, causation, and intergenerational equity⁸.

This article explores the evolving landscape of climate litigation through the lens of international law. It examines how courts and tribunals—international, national, and regional—interpret international legal obligations, develop new principles, and push the boundaries of existing legal frameworks to respond to the climate crisis. It argues that the recent advisory opinions of the ICJ, ITLOS, and IACtHR have fundamentally reshaped the legal landscape, establishing clear legal obligations for states and creating new avenues for climate accountability. However, it also acknowledges the persistent challenges of implementation and enforcement, and the tension between judicial intervention and democratic governance.

The Foundations of Climate Justice: Rights, Equity, and Intergenerational Responsibility

❖ Climate Change as a Human Rights Crisis

Climate justice has become a standard reference point in commentary on climate litigation, yet it is often invoked without conceptual precision, limiting nuanced assessment of how climate litigation can advance climate justice⁹. At its core, climate justice recognizes that the causes and effects of climate change are not distributed evenly—those who have contributed least to greenhouse gas emissions often suffer the most severe impacts, while those who have benefited most from fossil fuel-based development have the greatest capacity to respond.

The ICJ Advisory Opinion unequivocally concluded that international human rights law is part of the stringent obligations of States to protect the climate system and the environment, and that their violation entails State responsibility to provide reparations for harm¹⁰. The Court recognized that climate change affects a wide range of human rights, including the rights to life, health, an adequate standard of living, protection from arbitrary displacement, private life, and the human right to

⁸ *Id*

⁹ K. Siradze, K. McKenzie, and F. Sindico, "Turning the Tide? Interpreting the ICJ Advisory Opinion through a Pacific SIDS Climate Justice Lens," *Review of European, Comparative & International Environmental Law*, 2026.

¹⁰ See UN Office of the High Commissioner for Human Rights, *supra* note 3, at 13

a clean, healthy, and sustainable environment¹¹. The Court emphasized the disproportionate impacts on children, Indigenous Peoples, rural communities, women, migrants, persons with disabilities, and people in vulnerable situations¹².

In a groundbreaking development, the ICJ recognized that the human right to a clean, healthy, and sustainable environment is a "precondition," "inherent," and "essential" for the enjoyment of all other human rights¹³. This characterization elevates environmental protection to a foundational status within the international human rights framework, creating a powerful legal basis for climate action.

The Inter-American Court of Human Rights went further, declaring that the obligation not to cause irreversible harm to the climate and the environment is a jus cogens norm—a peremptory rule of international law from which no derogation is permitted¹⁴. The Court also recognized the autonomous right to defend human rights and the duty of States to protect environmental human rights defenders and nature as a subject of rights¹⁵.

❖ Intergenerational Justice and Temporal Stewardship

Intergenerational justice lies at the heart of climate litigation, forcing legal systems to adjudicate the right of future peoples to a habitable planet against current political and economic inertia¹⁶. This litigation challenges the temporal inequity embedded in present-day socio-economic systems, confronting the structural bias toward immediate returns over long-term planetary health¹⁷.

The underlying principle is one of temporal stewardship—the understanding that ecological capital is non-renewable on human timescales and that its rapid depletion represents a profound violation of distributive justice across the time

¹¹ Id

¹² Id

¹³ Id

¹⁴ UN Office of the High Commissioner for Human Rights, "Assistant Secretary-General Brands Kehris: We Need More International Cooperation and Resources to Power a Just Transition," Nov. 2025.

¹⁵ Id

¹⁶ "Intergenerational Justice Litigation," Sustainability Directory, Nov. 2025.

¹⁷ Id

axis¹⁸. This requires courts to move beyond established common law doctrines that often favor immediate, demonstrable harm, toward a recognition of systemic, probabilistic, and cumulative harm that will manifest over decades and centuries.

The German Constitutional Court's decision in *Neubauer v. Germany* exemplifies this intergenerational approach. The Court ruled that the Federal Climate Act was inadequate because it did not regulate post-2030 emission reduction processes effectively, shifting the burden of much more significant GHG reductions onto future generations¹⁹. The Court clarified that "the amount of time remaining is a key factor in determining how far freedom protected by fundamental rights will have to be restricted," and that present actions will determine the circumstances in which future generations can enjoy the same liberties (*intertemporale Freiheitssicherung*).

❖ Climate Justice and the Global South

For nations in the Global South, climate justice carries the added weight of historical inequality, colonialism, and economic dependency. The Pacific Small Island Developing States (SIDS) frame climate change as an existential threat to self-determination—political, cultural, and economic—shaped by colonial, racial, and economic inequality²⁰. Their submissions to the ICJ translated this diagnosis into six clusters of legal claims: stringent, fossil-fuel-focused mitigation based on due diligence and prevention; continuity of statehood and maritime entitlements despite sea-level rise; protection and cooperation in relation to climate-related displacement; human-rights-centred approaches; substantial and predictable financial support, including for loss and damage; and structural reforms to climate governance and related economic rules²¹.

The *Leghari v. Pakistan* decision, now a decade old, was a turning point in this regard, humanizing climate litigation and inspiring a surge of climate litigation that continues to this day²². The Lahore High Court recognized that the Pakistan government's inaction threatened the fundamental constitutional rights of its

¹⁸ *Id*

¹⁹ "AmbienteDiritto," *Rivista Giuridico AmbienteDiritto.it*, vol. 24, no. 1, pp. 329-330, 2024.

²⁰ K. Siradze, K. McKenzie, and F. Sindico, "Turning the Tide? Interpreting the ICJ Advisory Opinion through a Pacific SIDS Climate Justice Lens," *Review of European, Comparative & International Environmental Law*, 2026.

²¹ *Id*

²² See International Bar Association, *supra* note 6, at 13

citizens and directed the establishment of Pakistan's Climate Change Commission, setting in motion actions that have shaped Pakistan's approaches to climate mitigation and adaptation²³. This case has proven significant as an early example of climate litigation in the Global South, presiding over a significant increase in cases, with almost 60% of cases recorded in the Global South filed since 2020²⁴.

The International Legal Framework: From Treaties to Judicial Interpretation

❖ The Treaty Regime: UNFCCC and Paris Agreement

The foundational climate treaties—the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement—articulate States' commitments to address climate change and reflect core environmental law principles. However, these instruments are characterized by open-textured provisions, soft language, and a reliance on nationally determined contributions (NDCs) that lack legally binding specificity.

The ICJ Advisory Opinion has provided crucial clarity, interpreting these treaties in light of customary international law, human rights law, and other relevant legal sources. The Court clarified that States have multiple obligations under climate change treaties, environmental treaties including the Convention on Biological Diversity and the Convention against Desertification, the law of the sea, and customary international law²⁵. This interpretation weaves together various legal sources to create a coherent tapestry of complementary mitigation-related obligations²⁶.

❖ Customary International Law and Due Diligence

The ICJ found that States have an obligation under customary international law to protect the climate system and other parts of the environment from anthropogenic greenhouse gas emissions through regulation of public and private actors. This represents a significant clarification, as customary international law obligations apply to all States regardless of treaty ratification.

²³ Id

²⁴ Id

²⁵ See UN Office of the High Commissioner for Human Rights, *supra* note 3, at 13

²⁶ See "Climate Change Litigation: International Legal Perspectives," *supra* note 4, at 13

The Court emphasized the stringent due diligence obligations arising from this, given the high risks of serious and irreversible harm to the climate system from greenhouse gas emissions²⁷. The European Court of Human Rights, in *KlimaSeniorinnen v. Switzerland*, provided details on how the failure to adopt and effectively implement a climate mitigation plan would lead to a breach of human rights obligations, effectively raising the due diligence standard²⁸.

❖ The Principle of Common but Differentiated Responsibilities

The ICJ explicitly linked the principle of common but differentiated responsibilities to the discharge of legal obligations²⁹. States have duties of cooperation, both generally in addressing the climate crisis, and specifically, consistent with their respective capacities, in the form of finance, technology, and capacity-building support³⁰.

However, this principle has been a source of tension. The ICJ's treatment of the principle—co-applying treaty law and customary international law and reintroducing the logic of state responsibility—places pressure on the institutional balance of the Paris Agreement and modifies the way in which common but differentiated responsibilities operates in practice. This "judicialization" calls for careful and cautious assessment, as it may complicate the coordination between the climate regime and other legal regimes³¹.

Landmark Advisory Opinions: The Judicial Clarification of Climate Obligations

❖ The ITLOS Advisory Opinion: Oceans and Climate

In its Advisory Opinion requested by the Commission of Small Island States on Climate Change and International Law, ITLOS clarified that States Parties have obligations under the UN Convention on the Law of the Sea (UNCLOS) to adopt

²⁷ Id

²⁸ Id

²⁹ UN Office of the High Commissioner for Human Rights, "Assistant Secretary-General Brands Kehris: We Need More International Cooperation and Resources to Power a Just Transition," Nov. 2025.

³⁰ Id

³¹ H. Tiantian, "Reflections on the Judicialization of Global Climate Governance," *Journal of International Law*, vol. 6, 2025.

and enforce laws and regulations to prevent, reduce, and control marine pollution resulting from greenhouse gas emissions. The Tribunal recognized the obligation to protect and preserve the marine environment from the effects of climate change and ocean acidification.

By highlighting the stringent due diligence obligation arising from this, given the high risks of serious and irreversible harm to the marine environment, ITLOS established the protection of the oceans as an essential element in the toolbox that petitioners can deploy in climate change litigation.

❖ **The IACtHR Advisory Opinion: A Jus Cogens Obligation**

The Inter-American Court of Human Rights rendered an Advisory Opinion on the Climate Emergency and Human Rights, deriving from the fundamental rights to life, personal integrity, and health a jus cogens prohibition on anthropogenic conducts that could irreversibly harm the equilibrium of our planetary ecosystem that makes human life possible.

This is a remarkable development in international law. Jus cogens norms are peremptory rules from which no derogation is permitted, representing the highest category of international legal obligation. The Court's declaration elevates the protection of the climate system to the level of prohibitions against genocide, torture, and slavery—a position that carries profound implications for state responsibility and accountability³².

The Court also affirmed that States must act with enhanced due diligence, taking into account measures to protect threatened rights and possible situations of vulnerability, and reaffirmed that States must allocate the maximum available resources to achieve progressively the realization of economic, social, and cultural rights in the context of climate action.

❖ **The ICJ Advisory Opinion: The Crown Jewel**

The ICJ Advisory Opinion on the Obligations of States in Relation to Climate Change represents the most comprehensive judicial clarification of climate obligations to date. The Court characterized climate change as an "existential problem of planetary proportions" and found that "States have obligations under international human

³² See UN Office of the High Commissioner for Human Rights, *supra* note 29, at 18

rights law to respect and ensure the effective enjoyment of human rights by taking necessary measures to protect the climate system and other parts of the environment."

The Court provided a powerful elucidation that, in addition to international human rights law, States have multiple obligations under climate change treaties, environmental treaties, the law of the sea, and customary international law. It warned that violating obligations to protect the climate system and the environment from greenhouse gas emissions are binding for all States and require effective regulation of private actors and meaningful international cooperation.

Significantly, the Court stated explicitly that fossil fuel production, consumption, exploration licenses, and subsidies may constitute an internationally wrongful act. As one observer noted, "it is impossible to justify the legality under international law of new or expanding old fossil fuel operations" in light of these findings.

❖ **Convergence and Complementarity**

Despite differences in the questions put before each court, the legal instruments they addressed, the participants before them, and each court's legal tradition, the advisory opinions show significant convergence. The courts concluded that international law imposes stringent yet differentiated mitigation obligations on all States to address climate change, both individually and collectively. The high level of substantive convergence across the three advisory opinions—including the lack of dissenting opinions—reinforces their authority and suggests that States, in order to meet their international obligations, will have to adopt and enforce ambitious mitigation action.

Domestic Climate Litigation: The Engine Room of Climate Accountability

❖ **Europe: From Urgenda to KlimaSeniorinnen**

The European climate lawsuits share common features, including the active role taken by the judiciary power even in civil law systems, despite the diversity of each legal system and tradition. The Urgenda case provided a concrete model for a Climate Litigation Network used by various environmental associations, bringing to light the role of "lawyers formants" aimed at producing a global result through "pre-judicial dialogue."

In *Urgenda Foundation v. State of the Netherlands*, the Dutch Supreme Court upheld the lower court's finding that the State had acted unlawfully by failing to reduce emissions by at least 25% by 2020 compared to 1990 levels. The Court found that the European Convention on Human Rights could be directly invoked because the State has a positive obligation to protect the "right to life" and the "right to respect for private and family life."

The *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* decision of the European Court of Human Rights marked another milestone, affirming states' obligations to protect human rights against climate impacts. The Court recognized that inadequate climate action can amount to a violation of human rights, in particular the right to private and family life.

The *Neubauer v. Germany* decision of the German Federal Constitutional Court exemplifies how constitutional adjudication can address climate obligations. The Court found that the Federal Climate Act was unconstitutional because it failed to adequately regulate emissions reductions beyond 2030, thereby impermissibly shifting burdens to future generations. The Court clarified that the protection mandate in Article 20a of the German Constitution (which obliges the state to protect the natural foundations of life) is justiciable, even if it does not create subjective rights.

In *Greenpeace Nordic and Others v. Norway*, the European Court of Human Rights issued a judgment that reshapes climate responsibility. Although the Court found no rights violation in the specific case, it ruled that future oil and gas projects must evaluate their full global climate impact, including emissions from fuel burned abroad, before any new drilling begins³³. This sets a powerful precedent: governments cannot approve projects causing irreversible climate harm without judicial scrutiny, and non-governmental organizations and individuals now have stronger legal grounds to challenge fossil fuel projects globally³⁴.

❖ Asia and the Global South: Expanding the Frontiers

³³ F. Z. Solmaz, "European Court of Human Rights Sets Key Climate Precedent in Norway Oil Case," Anadolu Agency, Oct. 2025.

³⁴ Id

The Leghari v. Pakistan decision was a watershed moment for climate litigation in the Global South. The Lahore High Court recognized that climate change threatens fundamental constitutional rights and established Pakistan's Climate Change Commission³⁵. The case has inspired similar litigation across the region and served as a powerful example of using human rights as a tool for advancing climate accountability.

Pakistan's constitutional framework now recognizes a standalone right to a clean, healthy, and sustainable environment under Article 9A, incorporated through the 26th Amendment in 2024³⁶. This constitutional evolution began with the Shehla Zia case, in which the Supreme Court held that the constitutional right to life encompasses the right to a clean and healthy environment³⁷. While constitutional recognition alone does not guarantee effective climate protection, it creates a binding obligation on the legislature and executive to integrate environmental protection into law-making and administrative action³⁸.

In Korea, the Constitutional Court ruling in 2024 marked Asia's first victory against a national climate target. The Court recognized violations of fundamental rights but left the determination of specific targets to the elected power³⁹. The ruling has significant implications for the region, demonstrating that courts can review the adequacy of national climate policies even in jurisdictions with traditionally limited judicial intervention.

❖ The United States: A Mixed Landscape

The United States has been the site of some of the earliest and most ambitious climate litigation, yet also faces significant judicial obstacles. The 2007 Massachusetts v. EPA decision established that the Environmental Protection Agency could not invoke policy preferences to refuse to regulate greenhouse gases. The Juliana v. United States case, filed by youth plaintiffs, sought a declaratory judgment that the U.S. government's actions and policies violated their

³⁵ S. Hayat, "Governing Climate Rights in Practice," UNDP Development Advocate Pakistan, vol. 13, no. 1, 2025.

³⁶ Id

³⁷ Id

³⁸ Id

³⁹ Seoul National University Human Rights Center, "Climate Rights as Human Rights: Advancing Justice Through Litigation," Nov. 2025.

constitutional rights to life, liberty, and property, as well as their right to a stable climate system. While the Ninth Circuit ultimately dismissed the case on standing grounds, it generated significant attention and inspired similar cases globally.

More recently, *Held v. State of Montana* represents a victory for youth climate plaintiffs, with the Montana Supreme Court affirming that the state's constitutional right to a clean and healthful environment requires consideration of climate impacts. These cases demonstrate the potential and limits of climate litigation in the U.S. context, where federal courts have been less receptive to climate claims than their European or international counterparts.

Corporate Accountability: The Frontier of Climate Litigation

❖ Lliuya v. RWE: A Landmark for Corporate Liability

After a decade of litigation, Peruvian mountain guide Saúl Luciano Lliuya's lawsuit against German energy company RWE reached a conclusion: a loss for Lliuya, but a landmark ruling for climate litigators⁴⁰. The Higher Regional Court of Hamm concluded that greenhouse gas-emitting corporations could be held liable for climate change-induced damages—even those suffered continents away⁴¹.

Lliuya sued for 0.5% of the cost of protective measures against a glacial lake outburst flood, representing RWE's proportionate contribution to worldwide emissions. While the court dismissed the specific claim due to insufficient risk certainty, it spelled out in detail that RWE could be held liable for emission-induced climate change damages⁴². This was the first time a court affirmed corporate accountability for climate damages, changing the climate litigation landscape forever.

The transboundary nature of the case looked to the international historical precedent of the *Trail Smelter* case, in which Canadian polluters had to pay for damage caused in the United States. Climate change "doesn't respect borders. It goes beyond jurisdictions"⁴³.

⁴⁰ Columbia Climate School, "Ten-Year Climate Lawsuit Ends in Loss for One Man, But a Win for Climate," July 2025.

⁴¹ *Id*

⁴² *Id*

⁴³ *Id*

❖ The Expanding Circle of Corporate Defendants

Building on the Lliuya precedent, similar cases have emerged globally. In *Asmani et al. v. Holcim*, four residents of the island of Pari, Indonesia, are suing the historically large carbon emitter Holcim, a Swiss building materials company⁴⁴. This case requests damages for climate harm and emissions reductions.

In the Netherlands, *Milieudefensie v. Royal Dutch Shell* represents a significant victory against a private corporation. The Dutch court ordered Shell to reduce its emissions by 45% by 2030 compared to 2019 levels, holding that Shell's climate policy was insufficient and that the company had a duty of care to protect against dangerous climate change⁴⁵.

The Role of Financial Institutions

The next frontier in corporate climate litigation targets financial institutions and asset managers, asserting that funding high-carbon projects constitutes aiding and abetting the violation of future rights. This "Transition Finance Accountability" approach seeks to redirect capital flows by establishing liability for investment decisions that support fossil fuel expansion.

The Challenges and Limits of Climate Litigation

❖ Implementation and Enforcement

A fundamental challenge of climate litigation is the gap between judicial pronouncements and real-world implementation. The practical realization of climate rights ultimately depends on governance, enforcement of environmental legislation, institutional capacity, availability of climate finance, and coordination between levels of government.

In Pakistan, the Supreme Court directed the establishment of the Climate Change Authority and Climate Change Fund as mandated by the Climate Change Act 2017, yet enforcement remains weak, constrained by corruption, limited accountability, political instability, inadequate institutional capacity, insufficient financing, and

⁴⁴ Id

⁴⁵ "Climate Change Litigation: International Legal Perspectives," *Netherlands International Law Review*, vol. 72, pp. 291-299, 2025.

fragmented governance. The central challenge lies not in constitutional recognition, but in translating rights into enforceable administrative practice.

❖ **The Separation of Powers Dilemma**

Climate litigation raises fundamental questions about the "trias politica" and the role of courts versus legislators and governments. When courts impose specific emission reduction targets or other climate obligations, they engage in what critics describe as judicial overreach—substituting judicial judgment for democratic decision-making.

Yet proponents argue that courts are not substituting their judgment but rather enforcing existing legal obligations and ensuring the consistency of laws and policies with constitutional rights, international law, and human rights. As the German Constitutional Court clarified, the legislature must consider the future and not only current conditions, because present actions will determine the circumstances in which future generations can enjoy the same liberties.

❖ **The Global North-South Divide**

Climate litigation is predominantly concentrated in the Global North, with the United States and Europe accounting for the majority of cases. While the Leghari decision inspired a significant increase in cases in the Global South, barriers to access remain, including limited legal resources, institutional capacity, and political constraints.

The ICJ Advisory Opinion's explicit recognition of the disproportionate impacts on vulnerable communities offers a powerful tool for advancing climate justice in the Global South. However, the full realization of these rights depends on the translation of international legal principles into domestic law and practice, and the mobilization of resources and capacity to pursue litigation effectively.

The Way Forward: Integrating Litigation, Diplomacy, and Policy

❖ **Leveraging Advisory Opinions in Diplomacy and Litigation**

The recent advisory opinions provide concrete pathways for Pacific SIDS and other vulnerable nations to use international legal pronouncements in diplomacy and

litigation to pursue fairer and more inclusive climate outcomes⁴⁶. The opinions clarify sources of obligation, sharpen standards of diligence and cooperation, and link climate harm to human rights and remedies, providing a robust legal framework for advocacy.

The ICJ opinion "raises the floor for climate ambition in a substantial way," telling States that weak NDCs, fossil fuel subsidies, and inadequate finance can constitute a breach of their obligations under international law, including human rights law. This legal clarity can be leveraged in negotiations, policy-making, and litigation.

❖ **Implementing a Human Rights-Based Approach**

UN experts have called for COP30 to advance human rights-based climate action in accordance with the ICJ Advisory Opinion⁴⁷. This approach requires States to align national climate plans with the 1.5°C goal, take effective measures to regulate the private sector's contribution to climate change, and ensure that international cooperation meets the scale of the crisis.

The Inter-American Court's recognition of a *jus cogens* obligation not to cause irreversible harm to the climate system and environment establishes a non-derogable duty that applies to all States, regardless of their specific treaty commitments. This creates an "unprecedented degree of legal clarity" about what science and communities have long told us: climate change is not only an environmental emergency but a human rights crisis, and the law speaks directly to the need to act urgently and effectively in response.

❖ **Strengthening Legal Infrastructure and Access to Justice**

The challenges of establishing legal standing and overcoming procedural barriers underscore the importance of investing in legal infrastructure and access to scientific expertise. Climate litigation often requires complex scientific evidence, sophisticated legal arguments, and substantial resources, creating barriers for vulnerable communities and developing nations.

⁴⁶ K. Siradze, K. McKenzie, and F. Sindico, "Turning the Tide? Interpreting the ICJ Advisory Opinion through a Pacific SIDS Climate Justice Lens," *Review of European, Comparative & International Environmental Law*, 2026.

⁴⁷ UN Office of the High Commissioner for Human Rights, "COP30 Must Advance Human Rights-Based Climate Action in Accordance with International Court of Justice Advisory Opinion," Nov. 2025.

International cooperation, capacity-building, and technology transfer are essential to ensure that all States can effectively participate in climate governance, both through litigation and other mechanisms. The ICJ's emphasis on duties of cooperation, "both generally in addressing the climate crisis, and specifically, consistent with their respective capacities, in the form, for example, of finance, technology and capacity-building support," provides a legal basis for such cooperation.

❖ Acknowledging Limits and Embracing Multi-Dimensional Approaches

Climate litigation is not a panacea. Courts are just one piece of the puzzle; to have lasting impact, judgments require sustained implementation through political will and democratic engagement, and coordinated contributions from the judiciary, executive, and legislature. The impacts of climate change progress at a pace and scale misaligned with political systems, and litigation cannot fully substitute for effective governance.

However, beyond legal outcomes, climate litigation serves as a powerful tool for institutional change and civic mobilization, prompting reforms, pressuring governments, and amplifying public engagement. It helps to unravel the deficiencies and problems of law and governance in the new Anthropocene paradigm, bringing to attention critical inconsistencies in law and instances of injustice arising from the Anthropocene, and offering new accounts of how law could be transformed to better govern these challenges⁴⁸.

Conclusion

The law has caught up with the science. The recent advisory opinions of the ICJ, ITLOS, and IACtHR have established an unprecedented degree of legal clarity regarding States' obligations to address climate change. These developments affirm that climate action is not merely a matter of policy choice but a legal obligation grounded in international human rights law, customary international law, and treaty law.

⁴⁸ P. Paiement, "Climate Litigation in the Public Interest Helps to Unravel Deficiencies of Law and Governance," Tilburg University, Nov. 2024.

Climate litigation is playing a crucial role in bringing these obligations to the fore, holding governments and corporations accountable, and pushing the boundaries of existing legal frameworks. From the seminal *Leghari* decision in Pakistan to the groundbreaking *KlimaSeniorinnen* decision in Europe, courts are becoming essential arenas for addressing climate injustice and protecting the rights of present and future generations.

Yet implementation must catch up with the law. The challenge is no longer legal clarification but political mobilization, institutional capacity-building, and the translation of judicial pronouncements into real-world protection. As the International Bar Association webinar concluded, "everyone—including lawyers, governments, policymakers, corporations, and communities—has a role to play in translating climate litigation outcomes into real-world action."

The ultimate success of climate litigation will not be measured solely in court victories but in the measurable deceleration of unsustainable practices it forces through the credible threat of judicial intervention—an instrumental role in governing the Anthropocene transition. The hope is that by litigating a livable future, we may yet secure one.

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Treaties and International Instruments

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Declarations:

Author's Contribution:

- **Conceptualization, and intellectual revisions**
- **Data collection, interpretation, and drafting of manuscript**
- The author agrees to take responsibility for every facet of the work, making sure that any concerns about its integrity or veracity are thoroughly examined and addressed

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