



The Responsibility of States Regarding Climate Change: International Cooperation to Reduce Toxic Emissions that Harm the Atmosphere

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ABSTRACT

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Carbon dioxide emissions from the usage of fossil fuels contribute to anthropogenic climate change. The Climate Change International Legal Regime, which consists of primary principles outlined in international treaties, was designed to minimize greenhouse gas emissions. According to customary international law, governments are prohibited from causing harm to one another. A nation breaches this principle when an action within its jurisdiction causes harm to another nation, either intentionally or as a result of negligence. With limited efforts to address climate change, there is a significant likelihood that the damages caused by climate change would escalate in terms of quantity, intensity, and frequency. Amidst the era of climate change, it is imperative for States to take resolute action. Nevertheless, it is disheartening to observe the absence of aggressive endeavors in climate treaty discussions, which is manifested in the vague character of non-binding or lenient mitigation commitments. From this perspective, this paper contends that courts have the potential to act as catalysts for change and exert pressure on States, albeit with some caution, to implement decisive measures.

1. INTRODUCTION

Climate change is currently an undeniable reality that affects all regions of the planet without exception. The anticipated repercussions of increased greenhouse gas emissions on human populations have proven to be catastrophic [1].

The perception of climate change as a problem has significantly shifted over the past two or three decades. What was formerly not seen as a concern is now regarded as an urgent issue. The most significant problems in the twenty-first century for attaining climate change justice include the need to address and adapt to climate change, as well as the emergence of new social and moral challenges that impact intergenerational relationships [2].

Climate negotiations have been initiated for over three decades, although they have not made any significant progress in this critical domain. Now is the time to attempt a different approach, where governments should not have exclusive control over the means of altering their direction [3].

There is an ongoing need for climate justice, as well as the active involvement of citizens and civil society. These organizations should not remain passive in addressing the climate goals set by national authorities. Instead, they should take legal action to protect their fundamental rights in order to combat the lack of action on climate change by the government. Meanwhile, these legal procedures, which

necessitate specific climate legislation, should focus on firms that are opposing these legislations [4].

These judicial actions reflect the dissatisfaction of the civil community, which believes that the state is not implementing aggressive plans to address climate change [5].

Based on data from the Sabin Centre for Climate Change Law, a total of 1,587 climate-related lawsuits were brought between 1986 and the end of May 2020. The breakdown of these cases is as follows: 1,213 cases were submitted in the United States, while 374 cases were filed in 36 other countries. Among these cases, Australia had the highest number with 98 cases, followed by the United Kingdom with 62 cases, and the European Union with 57 cases.

Successful litigation cases in various nations such as Holland, Colombia, and Pakistan have led to an increase in the number of lawsuits filed against both the government and commercial firms in countries affected by the consequences of climate change [1].

The research focuses on climate cases and related cases that are heard by administrative courts. In this research, we will examine the legal cases brought before the French administrative courts, namely those pertaining to either climate-related issues or the accountability of the state for the increase in greenhouse gas emissions and global warming. We will address the responsibility aspects of the damages caused by emissions of these gases.

This research article aims to illustrate the process of

international law establishes the foundation for holding individuals accountable for the consequences of climate change, while there are still numerous areas that lack regulation. This foundation is rooted on universally recognized customary law, such as the principle of non-harm. This is supported by affirmations and past instances, as well as by global accords, some of which have been accepted by practically all nations, such the United Nations Framework Convention on Climate Change (UNFCCC).

2. LITERATURE REVIEW

The subject of this study is one of the new because it is a specialized topic on the Responsibility of States Regarding Climate Change: International Cooperation to Reduce Toxic Emissions that Harm the Atmosphere; several studies will be referred to, including:

"Allocation of Institutional Responsibility for Climate Change Mitigation: Judicial Application of Constitutional Environmental Provisions in the European Climate Cases Arctic Oil, Neubauer, and l’Affaire du siècle"

This study shows the Norwegian, German, and French constitutional environmental provisions being discussed in the studied cases do not establish legally binding rights to a healthy environment. Instead, these laws primarily target the non-judicial departments of government and are mandatory in nature. Upon analyzing the three cases, it was found that the constitutional environmental provisions were construed in a way that grants the legislature a significant role in determining the constitutional importance of environmental protection [6].

In addition to a study entitled: "Privatization and Climate Change: a Question of Duties?"

This research article aims to climate change pertains to enduring alterations in temperature and weather patterns and is caused by human activities. The EU characterizes climate change as a dynamic phenomenon that can result in various consequences, including but not limited to biodiversity depletion, forest fires, elevated temperatures, and adverse impacts on human health. Climate change in Europe has been characterized as having significant impacts on humans, the economy, and the environment. Europe is the continent seeing the most rapid increase in temperature [7].

3. MATERIALS AND METHODS

Climate change is widely recognized as a significant global concern in the 21st century, affecting both the environment and development. Simultaneously, it is considered a peril to the terrestrial world and its inhabitants. This threat, in turn, is manifested by the increase in atmospheric temperature and the rapid decline in biological diversity. Furthermore, climate change is regarded as a catalyst exacerbating both the threat and conflict on national and worldwide scales [2].

In order to address the responsibility for the harm caused by thermal emissions and climate change, it is necessary to establish the essential elements of a climate liability claim. This research seeks to examine the criteria for establishing culpability, including blame, damage, causation, and damages. Upon examining the responsibility clauses, it becomes evident that establishing fault and causation in the realm of climate liability is a challenging task.

The ongoing judicial proceedings in the French

administrative courts have created several significant problems, with the most notable being inquiries into the potential effects of these actions on the principle of "separation of powers". However, the primary legal challenges in these judicial actions may involve determining the blame elements on the part of the state and establishing causation between the fault and the damages claimed in relation to climate. This challenge becomes more pronounced when considering the fact that climate change is connected to numerous legal regulations at the national, European, and international levels, particularly following the Paris Agreements in 2015. It raises the question of whether the state is being negligent in addressing global warming and its repercussions, or if it has taken the required measures for climate protection.

In order to effectively address the research topic, it is necessary to examine the legal proceedings pertaining to climate change in the United States and other nations. This will provide insight into the origins and underlying principles of these judicial actions, as well as the specific characteristics and initial challenges faced by climate litigation. Furthermore, it will allow for a deeper understanding of the legal foundations upon which liability for climate change is determined [8].

4. WHAT IS CLIMATE LAW?

Climate change legislation, also known as climate legislation, encompasses the laws and regulations that provide the legal basis for addressing climate change. The phrase encompasses acts, decrees, and policies promulgated by the legislative and executive arms of government. These laws and regulations pertain to efforts including the reduction of disaster risks, adaptation to climate change, and mitigation of its effects. Regulations regarding agriculture, land use, transportation, energy, waste, environment, tourism, industry, buildings, water, and health can be either broad or specific to a particular sector [9].

4.1 Climate change law definition

The climate change law can be characterized as a collection of legal regulations that address the management of climate change phenomena by addressing, reducing, or modifying the effects of global warming. Climate change can be defined as the release of gases, known as greenhouse gases, into the atmosphere [10].

The initial development of climate-related law, namely climate change law, occurred in 1992 during the Land Summit meeting held in the Brazilian capital, Rio de Janeiro. This conference led to the establishment of the United Nations Framework Convention on Climate Change, which focuses on addressing the issue of climate change. Several writers observed that this agreement lacks enforceability. Nevertheless, due to the lack of an international court to determine the accountability of nations, climate law serves as the foundation for disputes that arise in national courts throughout the majority of countries worldwide [5].

This trend can be considered valid because climate-related legislation is derived from a diverse range of legal sources. These sources encompass the comprehensive study of climate change phenomena, including both soft law, which consists of non-binding rules established through international agreements, and hard law, which comprises binding rules and penalties that are incorporated into national legislation [11].

Despite these regulations, the climate legislation has significantly evolved due to the intervention of the national judiciary in several nations to resolve legal challenges related to climate change [12].

4.2 Relation between climate law and environment law

The regulations governing climate issues are classified as part of environmental law, which encompasses a collection of rules pertaining to the protection of the environment. The environment is defined as the combination of natural elements on Earth, including water, soil, air, atmosphere layers, living organisms, and natural processes that sustain them, as well as organic and inorganic matter. The environment is comprised of essential components necessary for sustaining life, collectively known as the biosphere [13].

The environment refers to a collection of essential materials that are necessary for life on Earth. These fundamental elements together make up what is known as the biosphere.

The regulations pertaining to air quality and climate are outlined in the French Environment Law, namely in the Second Chapter, encompassing sections 1-220 through 54-229. These articles mostly focus on the plans and strategies regarding carbon, energy, air quality, climate maintenance, and reduction of pollution emissions. Additionally, these regulations encompass the phenomenon of global warming.

The regulations governing the implementation of measures to mitigate climate change are outlined in various laws within the French legal system, including the Environmental Rationing Law, Building and Energy Laws, and Transport Systems Law. These arrangements are utilized in this domain as well as in other domains. This elucidates the rationale behind the convergence of the climate law and several other diverse fields of law.

According to Article (16/a) of the Jordanian Environment Law, the Minister has the authority to take immediate action to address urgent or hazardous pollution. This includes temporarily closing down a company or suspending its activities, based on the recommendation of an environmental inspector. The duration of such measures cannot exceed two weeks, unless the pollution causes are resolved and the conditions are remedied as determined by the Ministry.

5. INTERNATIONAL ORGANIZATION OF THE CLIMATE CHANGES

The United Nations Framework Convention on Climate Change, adopted in 1992, the Kyoto Protocol, adopted in 1997, and the Paris Agreement, adopted in 2015, are among the earliest and most important international documents addressing climate change [14].

5.1 United nations framework convention on climate change

The International Committee responsible for negotiating the accord has accepted the United Nations Framework Convention on Climate Change during the second part of its session in New York State on May 09, 1992. The opportunity to sign the agreement was presented to nations and international organizations during the Earth Summit Conference in Rio de Janeiro from June 4 to 14, 1992, and subsequently at the UN headquarters from June 19 to 20, 1993.

Despite the divergent interests of the states involved in the negotiations, particularly in terms of finance and economics, this agreement is highly significant because it applies to an area that was previously not governed by international legal norms [15].

As stated in article (2) of the Framework Agreement, its ultimate goal is to stabilize the concentration of greenhouse gases in the atmosphere at a level that prevents any human involvement in the climate system. It is important to attain this limit within a reasonable timeframe so that the environmental system may naturally adjust to climate change. This will ensure that food items are not at risk and that economic development can be sustained indefinitely.

This agreement establishes the commitment of a group of countries to a set of principles in international environmental law. Article (3) of the agreement obliges member states to preserve the climate system for the benefit of present and future generations, by adhering to the principle of shared and differentiated responsibilities. Additionally, this article presented, in brief, the precautionary principle.

Furthermore, the agreement outlined several other principles, including the necessity of implementing actions and policies that build a positive correlation between efficiency and cost. This approach ensures that the overall advantages of addressing climate change are achieved at the most cost-effective level. The open economy principle requires all parties to make significant efforts to promote the global economic system's expansion and openness to other nations.

This agreement establishes an institutional framework, represented by a conference of parties, which is the highest authority responsible for effectively implementing the agreement. The conference also works towards establishing a specialized financial programmer that provides financial assistance for the dissemination of technology and supports developing countries in this area [16].

The agreement includes a "binding condition" that requires all states to commit to conducting national research on greenhouse gases, developing a national plan to mitigate the impacts of climate change, implementing adaptation measures, supporting scientific research and technology transfer, promoting education and training, and raising public awareness about climate change.

The parties in the first appendix, which include the member states of the Economic Cooperation and Development Organization (including EU countries) and countries in the process of economic transition, are obligated to collaborate in reducing global greenhouse gas emissions. This will be achieved through the implementation of rules and measures aimed at mitigating climate change [11].

The framework agreement establishes broad objectives, granting states the discretion to determine the implementation method based on their specific circumstances. It does not impose penalties for non-compliance and allows for the creation of more specific obligations through subsequent treaties. Consequently, this agreement falls under the category of non-binding or soft law.

5.2 Keto Protocol

The Keto Protocol received approval at the third conference of the parties to the framework agreement. The protocol came into effect on February 16, 2005 following Russia's ratification. However, the USA consistently refused to ratify this

convention, despite the fact that the USA alone is accountable for 25% of global greenhouse gas emissions.

This agreement seeks to strengthen the legal framework for climate protection by imposing various duties on industrialized nations. In order to achieve this goal, specific targets have been set to restrict the release of greenhouse gases on a worldwide scale. As per the stipulations outlined in article (3) of the Protocol, the states listed in appendix (b) are required to reduce six types of greenhouse gases that contribute to global warming.

5.3 Paris Agreement

The Paris Agreement was finalized on December 12, 2015 and came into force in November 2016. Egypt entered into this agreement on April 22, 2016 and officially approved it on June 29, 2017. Currently, there are a total of 189 member states included in this pact.

The agreement stipulates that the developed nations should proactively take the lead by signing a statement to provide the necessary resources and support in many areas. Additionally, all parties are required to develop a comprehensive strategy to adapt to climate change. Nevertheless, it is crucial that the efforts made by governments in this matter are appropriate, even though the purpose itself is global in nature.

All parties are obligated to furnish an account statement for this sharing, particularly with the potential for verifying technical expertise to prevent any effort to cause delay, until a system of transparency is implemented in a suitable manner, without penalties, without external interference, ensuring the national respect for national sovereignty, and without imposing unwarranted burdens on member states [17].

Similar to the Kyoto Protocol, the Paris Agreements also raise concerns about their enforceability. Some argue that the fundamental value of the Paris Agreements is unclear because it lacks specific commitments for each country to restrict greenhouse gas emissions, as outlined in the Kyoto Protocol. The sole purpose of the agreement is to ensure that the average increase in global temperature remains below 2% compared to pre-industrial levels, with ongoing attempts to further lower it to 1.5%. Additionally, the agreement aims to determine the specific contributions of each member state [18].

6. SUBSTANTIVE RULES FOR CLIMATE PROTECTION

A growing number of nations, regions, and cities are implementing climate legislation. These laws share common features such as emission budgets, legally binding reduction goals, review procedures, and independent institutions to aid in decision making. The efficacy of climate controls is contingent upon these attributes. They are also crucial for the implementation of the Paris Agreement. The European Union currently possesses comprehensive and intricate rules pertaining to climate action. However, they lack many of these qualities. The existing approach of the EU in this matter is less satisfactory compared to the measures used by individual nations and regions. Furthermore, it does not meet the whole requirements of the Paris Agreement's implementation. The Regulation on Governance for the Energy Union and Climate Action tackles many shortcomings [19].

6.1 Protection of stable climate and climate care

The courts in the United States and France have received cases alleging that the government has violated its duty to uphold individuals' rights to preserve and safeguard a stable climatic system. The United States Supreme Court has chosen not to recognize the right to a stable climate system, despite the fact that the French Judiciary is known for its preparedness and anticipation.

The constitutions of various countries have provisions connected to the environment. The Italian constitution, particularly in 1974, was the first to establish specific regulations regarding the environment, as outlined in Article 9, which focuses on the conservation of natural life. The 2014 Egyptian constitution is notable for its significant focus on the environment. It recognizes the right to a safe environment and establishes the state's responsibility to protect and preserve it. The constitution also includes enforceable regulations that promote the sustainable use of natural resources and safeguard the rights of future generations. Article 46 of the Egyptian constitution emphasizes the state's obligation to protect natural resources and promote the optimal utilization of renewable energy sources. This commitment is also reflected in articles 29, 30, 32, 43, 44, and 45 of the Egyptian constitution.

Although the constitution addresses the environmental system, its dedication to addressing climate change through specific provisions has only recently been implemented in a few constitutions. Among these, only Bolivia, Nepal, Republic of Dominican, Thailand, Tunisia, Ecuador, Venezuela, Cote d'Ivoire, and Vietnam have included clauses related to climate change in their constitutions.

According to Article 414 of the Ecuadorian constitution, the state is required to take appropriate actions to address climate change, reduce greenhouse gas emissions that contribute to global warming, combat water pollution, and prevent deforestation. The constitution of Cote d'Ivoire mandates that residents must demonstrate their dedication and responsibilities in safeguarding a sustainable environment for future generations.

There is no question about the capacity to adhere to the constitutional provisions pertaining to addressing or lessening climate change, provided that these provisions are formulated in a manner that ensures active engagement from state authorities rather than mere aspirations within their capacities and capabilities. In the latter scenario, the effectiveness of the provision remains limited and challenging to enforce directly in a legal setting [20].

With the exception of the prevailing case that the constitution does not explicitly address climate change, there is a growing trend to establish the principle of environmental stability or address climate change through other provisions in the constitution. However, this trend has faced criticism from various quarters.

The issue of recognizing a new principle, specifically the right to a stable climate system, has been brought up in the Juliana Case before the US Supreme Court. The plaintiffs argue that this right is protected under the ninth amendment of the US Constitution, which safeguards rights not explicitly stated in the Constitution. The significant update in this case is that the right under claim has never been before asserted.

Although the High Court has addressed the matter of recognizing new rights in its decisions, it has only accepted a limited number of them throughout the past two and a half centuries. These include the recognition of abortion rights, the

right to marriage for all, and several other rights. Despite previous acknowledgements, the USA Constitution has the potential to be construed in a more sophisticated manner in response to the difficulties and goals of American society.

The respondents raised objections regarding the nature of the right claimed by the plaintiffs. However, the first level court rejected this defense and recognized the right to a stable climate system, which is essential for protecting human life. The court emphasized that this right cannot be terminated in a well-regulated and democratic society.

The court affirms that a stable climate system is the fundamental basis of any society, and without it, progress and the establishment of civilization would not be possible. The court is determined to establish that this right is fundamental, to the point that it does not require an explicit provision within the Constitution, but rather is connected to other preexisting rights [21].

The court determined that the revised risks lawsuit is relevant to the ongoing court proceedings. Positive obligations may be placed upon the state if its implementation could potentially expose individuals to harm, particularly in cases of deliberate negligence [22].

Despite initiating this favorable progress, it was abruptly halted when the High Court suspended the proceedings and referred the government's move for non-acceptance of the case to the Court of Appeal. Simultaneously, this entails the escalation of global temperatures due to human activity, while the government has not acknowledged its responsibility for these actions. It is important to note that the High Court definitively determined that there is no legal entitlement to climate systems that could potentially protect human lives.

The Court of Appeal convened in June 2019 to consider the case and subsequently dismissed it in January 2020. Furthermore, it is noteworthy to mention that the Court of Appeal has determined to reconsider the political nature of climate change lawsuits and has concluded that such cases are not within the purview of the court.

The Constitutional Court of Colombia has recognized the constitutionality of obligating the state to address climate change through compacts. On February 16, 2015, the Constitution Court in Colombia issued a major verdict regarding the protection of Paramus Mountain areas. This ruling was in response to the district attorney's allegation that the protection of these places is unconstitutional, as stated in article 241 of the Colombian Constitution.

The government has implemented legislation that restrict mining and the exploitation of fuel in certain areas. However, it did not impose this rule without any limitations, but rather included some exceptions. The 2015 law allowed for exemptions to be granted to individuals who held mining licenses previous to 2010, as well as to those who possessed fuel licenses prior to 2010.

The protestors contended that these exceptions contravene the constitutional provisions pertaining to the right to a healthy environment, as stipulated in Article 79 of the Constitution, as well as the right to use water sources, as established by prior rulings of the Constitution Court.

The court acknowledged this position and conducted a precise assessment of the natural systems in the Bramuz area, as well as the enduring benefits that these areas offer to the local people. The court emphasizes that these lands have a fundamental role in water supplies, since they are the primary source of water drunk by 70% of the population and the main source of carbon absorption. Therefore, these regions play a

crucial role in the efforts to reduce the impact of climate change. Furthermore, the court emphasized the significant role that these locations play in serving the community [23].

The Court imposed various obligations on the government to safeguard biodiversity, such as preserving national water sources, maintaining environmentally significant areas, planning the management and utilization of natural resources to ensure sustainable development, and implementing measures to prevent and control environmental degradation. The Court also mandated the enactment of legislation to impose penalties and seek compensation for environmental damages.

According to certain scholars, these obligations are expressed in the constitutional duty to safeguard a clean and sustainable environment, as stated in the constitution. The court determined that the exceptions pertaining to the ban of the development of metal and petroleum resources are unconstitutional. This court ruling encompassed a contemporary and optimistic interpretation of the Constitutional regulations pertaining to the environment [24].

6.2 Protecting environment assessment and human rights

In July 2022, the UN General Assembly officially recognized the right to a healthy environment with the adoption of a resolution. The declaration had resemblance to a resolution passed by the HRC in 2021, acknowledging the entitlement to a salubrious environment and urging the General Assembly to deliberate on the issue. Both resolutions pertain to the involvement of companies and make reference to the UN Guiding Principles on commercial and Human Rights (UNGPs), which emphasize the obligation of all commercial entities to uphold human rights. The HRC resolution goes a step further by explicitly stating that this obligation included safeguarding the rights to life, freedom, and security of human rights activists who specifically advocate for environmental issues, also known as environmental human rights defenders.

6.2.1 Principle of accepting contest against the great corporations decisions because of violating environmental impact assessment

Major projects may have their decisions overturned if they do not meet the requirements of environmental assessments, especially if they contribute to climate change phenomena. The environmental impact assessment is commonly considered a potent tool in climate litigations. There is a distinct and evident trend to employ the environmental impact assessment as a crucial instrument in climate litigation. Nevertheless, this movement is currently in its nascent phase and has not yet reached its full maturity [25].

The United States had previously authorized the examination of the environmental impact assessment in 1969 under the National Environmental Policies Law. This means that such a process is conducted before commencing any projects that could potentially affect the environment. Subsequently, numerous countries adopted this procedure [6].

The inclusion of climate in environmental impact assessment was originally mandated by French Law No. (629), enacted on July 10, 1976, which pertains to environmental protection. It was presented before the national judiciary in numerous conflicts, as well as at the European and international levels. In its ruling on April 20, 2010, the International Justice Court determined that conducting an

environmental assessment is a necessary obligation under general international law when there is potential for significant negative consequences, particularly in terms of shared resources, resulting from proposed industrial activities.

6.2.2 Relation between climate change and its impact on human rights

The phenomenon of climate change has several effects that are currently observable or anticipated to happen in the future. These implications are associated with the increase in global temperatures. The implications can be summarized as: reduced temperatures in Polar Regions, decreased ice coverage, rising sea levels and water temperatures, increased maximum temperatures and heat waves, increased rainfall, intensified tropical cyclones, and expanded areas affected by drought [26].

The change in climate will have a detrimental impact on human life, as stated in the fourth report of the international expert's team (GIEC). This report identifies six areas that will be affected by climate change: environmental systems, food and water production, health, coasts, industry, human settlements, and society.

The 2009 report from the UN High Commissioner of Human Rights demonstrates that increased land surface temperatures can have adverse effects on the exercise of human rights, including the right to life, right to water, right to adequate food, right to health, right to adequate housing, and right to self-determination.

Climate change disproportionately impacts vulnerable populations due to factors such as gender, poverty, and age. It is the responsibility of the state to address these conditions in order to uphold the ideal of equality.

Scope of Climate Change Impacts as Breach of Human Rights:

If climate change affects human rights practices, the question to be asked is to what degree this influence is regarded as a detriment or violation of human rights. However, it is challenging to ascertain the extent to which this impact is legally classified as part of the attack.

There are other factors contributing to the challenge of characterizing this impact as a violation of human rights. The primary issue is that it is challenging, from a practical standpoint, to isolate the causal connections between the emissions of greenhouse gases in a particular country and the specific repercussions of climate change, as well as the direct and indirect effects on human rights [27].

Another argument is that global warming is simply one of the contributing aspects to climate change, which also encompasses hurricanes and environmental degradation. It is generally impossible to determine the extent to which a specific occurrence related to climate change, which affects human rights, can be attributable only to the increase in Earth's temperature.

The final explanation, pertaining to the adverse effects of rising planetary temperatures, remains speculative regarding future harm, because human rights violations are not generated but rather emerge after the occurrence of damage [28].

7. PILLARS OF LIABILITY FOR CLIMATE RELATED DAMAGES

Courts face numerous scientific, legal, and political challenges when it comes to addressing the concerns of loss and injury caused by climate change. However, improving

existing extreme event attribution frameworks to account for the changing impacts of climate change across time will strengthen our understanding of the most significant scientific uncertainties [29].

7.1 Liability based on fault in climate frame

The method of establishing the fault element in a cancellation action is crucial in liability claims. The appellant in cancellation cases must clearly specify the legal action that is being appealed. If the appellant raises the issue of state negligence, they must provide evidence that the failure to pursue these legal processes is inherently unlawful. In order to establish the government's obligation to intervene, it is necessary to demonstrate the presence of a pre-existing commitment. This commitment must be derived from a legally obligatory framework and indicate the government's willingness to make administrative decisions [30].

Regarding liability claims brought against the state, the judiciary employs a broader framework to determine the definition of responsibility. In this context, culpability is not restricted to the actions of management in relation to violations of legality. However, it could encompass solely the observable actions. The fault might simply be attributed to inaction [31].

The default of the state encompasses all the regulations that are generally stated. The extent of the damage is determined in a clear and objective manner, which will help establish the state's liability for its inaction.

The significance of the fault concept in situations involving state culpability for climate change:

The administrative courts employ a broad notion of fault. The presence of a straightforward error could potentially complicate the responsibility of the state, particularly if this error is a consequence of legal proceedings. In this scenario, the term "fault" refers to a positive occurrence of an error or mistake while carrying out a task. Therefore, every significant violation resulting in an unlawful administrative decision can be regarded as a fault based on this premise. One practical use is the issuance of administrative permits for harmful products that do not comply with legal requirements.

Fault can also occur due to a failure to intervene or abstain from intervening. This is known as a negative fault, which can occur when individual administrative decisions are made, such as the decision made by the state council not to suspend or cancel the marketing license of a medicine product by the health administrations. This decision is based on the belief that the administration has made a mistake, given the information available to it since 1999 regarding the dangerous side effects of the medicine.

This type of defect might arise from neglect in exercising regulatory authority. The case pertains to Asbestos material, where the administrative judiciary has determined that the government is at fault for delaying the initiation of studies to accurately assess the hazards faced by workers exposed to products containing Asbestos material. Additionally, the government has been found lacking in establishing effective and adequate regulations to safeguard the workers.

Establishing the culpability of the state can be a challenging task. There are two types of default that can be distinguished: whole default and partial default. Proving blame is likely to be a straightforward matter in the case of entire negligence, as the government has not intervened in any way.

However, in the case of a partial default where the government has intervened but not enough, it becomes

challenging to establish culpability. In such situations, the court may impose a commitment on the state as a means to accomplish a certain outcome, rather than imposing a commitment to achieve the desired result directly. However, there is still a possibility to entirely overcome this difficulty. In the L'amiante case, the court determined that the state was at blame for not implementing any restrictions regarding this matter before 1977, and the regulations put in place after 1977 were inadequate.

Foundational grounds for liability in the Century case the appellants in the Century case are examining the state's liability by focusing on fault. In conclusion, it is imperative for the state to address climatic changes, and any failure to do so constitutes a significant flaw. The conclusion is based on the fact that the efforts of the French government to protect the climate are supported by many legal frameworks, including municipal, European, and international laws. The binding verdicts are particularly evident in the constitutional charter of the environment, enabling its provisions to be immediately invoked as arguments before the court.

The charter has provisions, particularly in articles 1, 2, 3, 4, and 6, that may require the state to adopt precautionary steps to address the evident and anticipated environmental and health impacts caused by climate change. Despite the lack of explicit attention to the climate issue, there is a commitment to addressing and reducing environmental violations. This is the decision rendered by the constitutional council.

The European regulations mandate the French authorities to fulfil the objectives of mitigating global warming and promoting the use of renewable energy sources in the electricity sector, as stipulated in national legislation. Therefore, the question remains as to whether the failure to implement the various objectives outlined in the law constitutes a breach and error. The judicial discretion recognizes that the verdict "Les miss de la Terre" could perhaps be funded entirely on a fault statement.

Furthermore, the level of state intervention in France involves a unique form of administrative control in a particular area, specifically addressing climate change. This reinforces the notion of the imperative need to implement appropriate measures to address the issue of climate change.

It is important to note that the state has not completely rejected interference, since there are numerous legal requirements and actions in this regard. The presence of unlawful default arising from complete non-intervention in climate change cannot be substantiated, but the postponement in creating essential measures to accomplish the goals. Moreover, it is undeniable that the available methods for attaining goals are inadequate. Essentially, the state's delay, lack of consensus, and inadequate actions constitute unlawful negligence.

The administrative courts utilize this analysis in the realm of safeguarding public health and the environment, which necessitates the state's intervention and the protection of fundamental individual rights. Thus, the determination of state liability for failing to prevent dangers caused to workers due to the L'amiante substance is a result of both the delayed response of the French authorities and the inadequate measures employed from 1977 onwards.

7.2 Liability based on damage in climate frame

It is self-evident that culpability cannot exist without damage, or at the very least, without the presence of tangible

dangers of its happening. It is not straightforward to determine such damage [32].

The climate-induced damages exhibit variability. The issue could pertain to the potential harm inflicted against individuals or their properties, as well as the potential harm inflicted upon the environment itself. Prior to 2016, the norm in France required the plaintiff to provide evidence of the personal harm caused to them in relation to environmental damages. Compensating for the environmental damage caused by the oil leaking from the sinking of the oil transport vessel "Erika" in 1999 was not conceivable because the damage to the environment does not necessarily affect persons, and there is no owner responsible for the affected stock birds.

However, starting from 2016, it is permissible to provide compensation for this particular form of damages, as long as the individuals responsible for it can be identified. The biodiversity legislation, enacted on August 08, 2016, stipulates that any individual accountable for environmental harm is obligated to offer compensation. Additionally, this article specifies the individuals who have the right to seek compensation for damages. It includes any person with a vested interest in the legal proceedings and establishes guidelines for various groups of individuals who possess this right, including environmentally authorized societies.

The recent verdict of the International Court of Justice at the international level permits the compensation for environmental damage.

Compensable damages may be limited to specific cases, indicating that not all damages are eligible for compensation. The law of March 27, 2017 specifically addresses damages resulting from a breach of the duty of due care. It focuses on grave abuses of human rights, basic freedoms, individual health and safety, and the environment.

The high administrative court in Jordan, in its order No. (33) Of case No. 104 for the year 2020, dismissed the appeal and upheld the court ruling being appealed. The court based its decision on the fact that the report provided by the technical committee did not include any evidence confirming that the suspended firm's activities caused immediate and hazardous pollution. The court's decision aimed to protect the freedom to engage in industrial activities without restrictions. This information was also contained in judgment No. 36 of case No. 331 for the year 2019, rendered by the Jordanian Administrative Court.

In addition to legal errors, the legislative body has also established compensations known as damages, which are chosen by the lawmaker.

This article represents an exception to the usual criteria, permitting compensation for any harm without posing a risk. However, all repercussions of significant financial and non-financial harm are carefully considered. Moreover, the intangible harm inflicted upon environmentally conscious civilizations could potentially be remedied [33].

The plaintiffs in climate responsibility actions may suffer damages in various forms, but the majority of claims seek compensation for actual damages to their assets. The costs associated with the impacts of climate change may arise from implementing measures to adapt to changing conditions and protect against the most severe effects, such as the deterioration of coastal areas due to rising sea levels. Other costs include mitigating risks associated with melting ice, as seen in the case of the Peroni citizen, and taking actions to address the consequences of extreme climate change, such as higher insurance premiums. Additionally, damages resulting

from events like tsunamis or hurricanes in affected areas contribute to these costs. Furthermore, drought and desertification may cause damage in several regions.

The court allowed the appeal in the case brought by the Peroni citizen against the German Electric Company (RWE) based on the principle of factoring in the expenses of implementing essential protective measures due to climate change. In addition, the court contended that the defendant bears responsibility for either constructing the dam or decreasing the capacity of the lake caused by the melting of ice.

Moreover, the consequences of climate change could be substantial, including the loss of financial resources, degradation of natural and economic services, and harm to individuals [34].

7.3 Relation between fault and damage in climate frame

Civil liability refers to the legal obligation of an individual to provide compensation for any harm or damage caused. In addition, the liability also requires the harmed party to provide proof establishing a causal relationship between the harm they received and the act attributed to the defendant, as well as a causal relationship between the defendant's fault and the damages. The causation relation is a necessary need for establishing liability [35].

Some individuals argue that the causal relationship, along with specific criteria, distinguishes civil culpability from alternative forms of compensation for damages caused by socially described hazards. The civil liability is based on the requirement to establish a causal relationship between the damages suffered by the injured party and the actions of the debtor. The debtor may only be found responsible if there is a direct link between their actions and the resulting damage. However, any uncertainty or lack of persuasion will impact these relationships and serve as a hindrance in liability-related issues [36].

The fundamental principle of this regulation is that, in cases involving environmental claims, the responsibility to provide evidence lies with the plaintiff. In France, there is a prevailing belief that excluding the plaintiff from the burden of proof for causation in environment-related cases is risky. This is because the goal of filing such cases is not to create conflict between the parties involved, but rather to update certain rules pertaining to the case in order to improve the enforcement of environmental laws. Additionally, the interests of all parties involved are taken into consideration. The reason for this is that the application of environmental law cannot be based solely on principles of just and equitable judicial procedures. However, if the legal causation does not align with the scientific causations, it is not permissible to invalidate it entirely, as some individuals argue [17].

Despite the aforementioned factors, the judiciary occasionally attempts to surmount the challenge arising from the complexity of establishing causation. In order for the plaintiff to successfully claim compensation, it is not enough to simply establish general causation based on data or global scientific statistics that objectively explain the damage they are seeking reimbursement for. The fifth report of the International Experts Group on climate change in 2014 served as the primary standard reference for determining causes. The analysis concludes that over half of the increase in the average temperature of the Earth's surface from 1951 to 2010 may be attributed to the rise in concentrations of greenhouse gases of

human origin, as well as other contributing causes such as changes in cattle feed. The report strongly corroborates this outcome. Additionally, the paper concluded that these elements have varying degrees of impact on specific phenomena such as glacier melt, the rise of global sea surface levels, and significant increases in rainfall in continental regions, ranging from potential to highly likely. Although these studies are recognized, they do not contribute to the legal causality.

According to the information provided, the German courts have rejected Mr. Lliuya's request for compensation from the German Electricity Company (RWE) since there is no direct link between the company's actions and the losses being claimed. Despite relying on the expert report by Heeded, the court found that the Electricity Company was responsible for 47% of global greenhouse gas emissions and the increase in water quantity in the nearby ice lake from 4 million to over 17 million cubic meters between 2003 and 2009. However, these factors alone do not prove the direct causation of the defendant company.

It is important to acknowledge that, based on scientific studies on climate change, it is now not feasible to establish civil culpability for a single project or multiple projects. However, the state could establish a basis for intervening in order to mitigate and address climate change [21].

Attributing damage to a specific active creature poses genuine challenges. The reason climate change is a widespread and worldwide occurrence is due to its global character. This is a widely recognized concern in environmental law as well. The scientific causality, previously mentioned, does not meet the criteria to be regarded as a legal causation. Thus, the plaintiff must demonstrate the scientific law that he is relying on to have a practical and concrete relevance in his case. Implying that the alleged harm may have occurred if the defendant had not acted negligently. Only in this case, damages can be traced solely to the defendant's negligent conduct [13].

Consequently, even though some lower courts have acknowledged the scientific consensus regarding the causal relationship between warm petrol emissions, climate change, and the ensuing detrimental effects, none of these courts have established a legal causal relationship between particular emissions and detrimental climate changes in order to establish liability. As a result, liability cannot be established legally unless a specific emission can be linked to a specific effect.

Determining individual causation can be difficult since this evidence is also subject to civil liability laws. This is particularly problematic when multiple causes contribute to the damage, as multiple causes may be sequential or collective. Therefore, it is challenging to establish the prerequisites for the direct causal relationship [24].

However, human activity and initiatives related to energy, transportation, building, and oil are the primary causes of the phenomenon of climate change. It also involves natural and human factors, with no way to estimate how much of the former contributes to the latter in terms of damage causation [15].

Furthermore, the phenomena of climate change is characterized by a continual spread in space and time, which may result in harm thousands of kilometers away from the site of the emissions or years after the emissions first begin. Consequently, and in view of these circumstances. How could we demonstrate that the rise in ocean water levels and melting

of ice is due to the emissions produced by specific companies, like oil companies' defendant?

Based on this, the court of law dismissed the Liiula cases on the grounds that it had not established a written causal relationship connecting the alleged damages to the defendant company's emissions, even though a significant portion of those emissions were responsible for flooding in the plaintiff city. Thus, the defendant corporation in particular could be held accountable for the fundamental or core cause [35].

8. CONCLUSIONS

The challenges associated with the particularities of enforcing compensation culpability for climate harm seem to be conquerable in view of recent rulings by the International Court of Justice in environmental lawsuits. They provide guidance on the potential lines of argument in case of a disagreement over the responsibility of the state for climate-related harm. Concepts derived from the acquisition of the Convention on Biological Diversity, particularly the notion of ecosystem services, are expected to have a prominent role in such assertions.

Regarding liability cases filed against the state, the judiciary employs a broader definition of fault when determining what constitutes fault. In these cases, the administration's fault may involve more than just a violation of legitimacy; it may also involve pure tangible conduct, such as failing to take appropriate action. The entire set of regulations that are evaluated generally may be included in the state default. In order to provide culpability proof for not acting, the damage is evaluated in a factual, transparent manner later on.

In France, it is actually simple to determine that the government has a duty to address climate change, and that any infractions constitute blatant negligence as well. This outcome is related to the fact that numerous legal frameworks, including municipal, European, and international law, impose restrictions on state actions in France related to climate protection. Particularly under the constitutional charter for the environment, which permits challenging its regulations in court, are binding verdicts.

Consequently, the establishment of an international environment court is concerned with resolving environmental-related disputes on a global scale. The United Nations Environmental Protection Programme and the Sustainable Development Committee are the only two dependent subsidiary bodies that are allowed to participate in this process because there isn't an international agency dedicated to environmental protection. The UN should then establish a specialized international agency for environmental protection rather than depending on its subsidiary organizations. Ensuring that local development programmers and national development plans include mention of the need to safeguard the environment and maintain a stable climate.

Finally, the legislator should interfere in imposing commitment on the state to achieve results in the frame of compacting climate changes through achieving specific reduction percentage in war gases emissions which cause global warm.

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