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International Climate Change Law and the Role of States: A Review of the 1992 United Nations Framework Convention on Climate Change (Scott)

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Abstract

This paper provides a comprehensive review of the 1992 United Nations Framework Convention on Climate Change (Scott) and examines the critical role of states in addressing global climate challenges. The UNFCCC, as the cornerstone of international climate change law, sets the framework for cooperative global efforts to combat climate change and its adverse impacts. Through its principles of equity, common but differentiated responsibilities, and respective capabilities, the Convention highlights the role of both developed and developing nations in taking action to reduce greenhouse gas emissions and adapt to the changing climate. This paper analyzes the evolution of the UNFCCC over the past decades, assessing its effectiveness in fostering international cooperation, the implementation of mitigation and adaptation strategies, and the challenges faced by states in aligning their national policies with global climate goals. The review underscores the need for enhanced international cooperation, greater accountability, and a renewed commitment from states to ensure the achievement of climate targets, particularly in the context of the Paris Agreement and the urgent need to limit global warming. Through this analysis, the paper also reflects on the evolving responsibilities of states in the face of a growing climate crisis and the legal mechanisms in place to hold them accountable for their actions and omissions in the climate change discourse.

Keywords: UNFCCC, Climate Change Mitigation, States' Responsibilities.

Introduction

The United Nations Framework Convention on Climate Change (Scott), established in 1992, is an international environmental treaty aimed at addressing the global issue of climate change. Adopted at the Earth Summit in Rio de Janeiro, the UNFCCC represents one of the earliest and most significant steps taken by the global community to combat climate change by stabilizing greenhouse gas concentrations in the atmosphere. Its primary objective is to prevent dangerous anthropogenic (human-induced) interference with the climate system. With nearly universal membership, the UNFCCC has become the foundational framework for subsequent climate agreements, including the Kyoto Protocol in 1997 and the Paris Agreement in 2015. The convention has fostered global cooperation by establishing guidelines for developed and developing



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nations to collectively limit emissions, enhance climate resilience, and support sustainable development efforts. (Ashe, Van Lierop, & Cherian, 1999)

The principle of state responsibility in international law holds that states are accountable for breaching their legal obligations. This principle is fundamental for maintaining global peace and stability, compelling states to uphold their duties and respect the rights of others. When a state violates international law, either through negligence or deliberate action, and causes harm to another state or the international community, it becomes liable. This accountability, rooted in sovereignty and equality, means that each state has responsibilities alongside its rights within the global order. (Von Stein, 2008) The International Law Commission (ILC) developed the 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts, establishing that two conditions must be met to invoke state responsibility: (1) a violation of an international norm and (2) attribution of the act to the state. A wrongful act, either by action or omission, can be attributed to the state through its officials, military, or any authorized entity. Legal consequences for such violations include stopping the wrongful act, compensating the injured party, and offering restitution, which may range from monetary payments to apologies or acknowledgments of wrongdoing.

State responsibility extends to breaches that harm the global community, such as genocide or environmental destruction, where all nations have an interest in holding offending states accountable. However, enforcement is challenging as international law lacks a central authority. Most enforcement relies on diplomacy, economic sanctions, or, in severe cases, force (e.g., under UN Charter Article 51). Exceptions, like force majeure, necessity, and self-defense, are strictly regulated and cannot justify breaches of fundamental norms like the prohibition of genocide.

Duty of States to Prevent Environmental Harm

Also referred to as the principle of non-harm, it prevents states from causing harm to their own lands or peripheral areas. As time has passed, this obligation has changed considerably, notably in response to current problems such as climate change, contamination of the other country's environment, and the decline of natural resources. This principle makes it clear that a state has a legal obligation not to authorize in its region or sphere of influence any actions that could affect the environment of other states or the world.

This burden is contingent upon the understanding "sic utere tuo ut alienum non laedas", (Scott, 2015 which means 'use your property so that it does not harm another's property'. Concerning the environment, it indicates that while states have a right to use their resources, they can't do so in ways that will hurt other states or parts of the world that lie outside of national jurisdiction including the high seas. This duty of non-coupled harm to the environment was further advanced as the same was integrated into several other VI negotiate individual international areas. This was defined in the Stockholm Declaration on the Human Environment in 1972 under Principle 21, which stated that while states have the sovereign right to utilize their resources to implement their environmental policies; states should also ensure that activities within their jurisdiction or control do not harm the environment of other states or geographical area beyond the state's territory (Kiss & Shelton, 2007). Unlike the Stockholm Principle 2, The Rio Principle 2 is almost word for word the same but



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it stresses on cooperation of states to deal with international environmental problems (Panjabi, 1992). This therefore resulted in the shift to a more worldly approach towards the conservation of the environment because most of the problems are felt across the world and hence need support from all the countries in the world. Besides such generalities, there are concrete conventions and treaties within which the affirmative duty not to harm the environment is identified. For instance, under the United Nations Framework Convention on Climate Change, the states are to agree to undertake obligations in terms of climate change mitigation and climate change response, including greenhouse gas emission reduction and the enhancement of climate change adaptation capacity. The CBD obliges the states to the duty to conserve biological diversity and undertake not to do anything that will jeopardize the achievement of the latter. (Hickmann, 202)

The duty of prevention is not only at the national level but also in the obligation to prevent harm to the environment in different countries. This is even more so the case in the high seas, the atmosphere, and in Antarctica where no nation can claim ownership, and yet all nations are bound by the duty to care for the environment. The current international law regulating the protection of the marine environment is the United Nations Convention on the Law of the Sea adopted in 1982 and according to the provisions of this Convention, states must undertake measures that will minimize pollution and other negative effects in the high seas. (Freestone, 2009)

Based on the principle of prevention of harm to the environment, the states are required to adopt different legal regulatory and administrative requirements. Such may encompass Environmental Auditing, Environmental Impact Assessment (EIA), and formulation of policies for the control of pollutants, formulation of measures for conservation, and formulation of laws and policies that restrict or control possibly destructive activities. They are also encouraged to watch the environment and report any threats perceived and to share this with other states hence mobilizing efforts for protection. 'Polluter pays principle' is one of the parts of the duty to refrain from causing harm to the environment in which states are to behave in such manner as to refrain from causing harm to the environment where such harm might not be scientifically proved and perhaps fully comprehended. This according to the Rio Declaration Principle 15 shall be a principle that where there are threats of serious and irreversible damage to the environment conclusive and scientific evidence should not be insisted on as the reason for non-action. It is mostly applied in climate change, loss of biological diversity, and pollution activities since the effects of activities being undertaken may not be realized for some time in the future. This means that there is a duty not to hurt the environment and that individuals and companies in a state should not pollute the environment (Menkes, 2009).

This ranges from corporate entities, companies, industries, and any other persons who may be involved in activities that may be hazardous to the environment. Governments are supposed to control such actors through the right legal frameworks such as environmental licensing, pollution control, and sanctions for noncompliance. Where private party contributes to transboundary environmental effects, the states may be held accountable for their inability to prohibit or control those actions.

Non-performance of the duty to avert pollution of the environment may give rise



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to state responsibility under international law. If a state's activities have an impact that degrades the environment of another state of an international common, the latter may address the issue in diplomatic, judicial, or arbitration form. In such cases, the state that occasioned the harm may be entitled to prevent further harm or may be under obligation to pay for the harm or undertake subsequent corrective measures towards redressing the harm. The prohibitive legal obligations of states not to pollute the environment are some of the principles of contemporary international law because of the recognition of environmental preservation as being essential to the welfare of the people and the sustainable development of the earth. This duty requires states to engage in sovereignty in the management, utilization, and exploitation of natural resources and also engage in their duties of protecting the environment from the negative effects as a result of utilization and management locally and internationally. These are the ways through which states can contribute to the protection of the environment for the present and future generations through preventive measures, legislation, and acts or cooperation internationally. (Hickmann, 2021)

International Legal Instruments and State Accountability

International legal sources therefore have a significant function in the development of state legal responsibility for environmental degradation, especially in climate change. These instruments establish legal requirements, guidance, and expectations by which states are expected to respond to international environmental concerns such as climate change and the prevention of environmental pollution. State responsibility in climate change is mainly based on treaty law, international customary law, and soft law legal instruments that create imperative and voluntary obligations of states. Among those, the most important one is the United Nations Framework Convention on Climate Change (UNFCCC) signed in 1992, which became the starting point of the international action against climate change. The UNFCCC has placed certain instrumentalities to the countries to prevent the emissions of greenhouse gases to restore the concentration of GHGs in the atmosphere, though keeping in mind the CBDR. Within this context, the developed countries are expected to take the responsibility of cutting emissions while the developing countries are given some leeway on how they can meet this obligation due to their low level of contribution to climate change. The Convention also creates procedural structures for observation and for identifying and documenting the actions of states so that the states can be held to their word. The UNFCCC was followed by the Kyoto Protocol (1997) which provided legally binding emission reduction targets for the developed nations (Yamin, 1998). As we have seen in the analysis of the Protocol, the agreement created a compliance mechanism that is the Compliance Committee with a facilitative branch and an enforcement arm. There are measures that the enforcement branch can use against states that do not fulfill their emission reduction pledge, for example, additional cuts in the next commitment period or penalties. This mechanism is somewhat helpful in addressing the problem of missing state-level climate action.

Another step forward in the formation of the international legal framework for climate accountability was made in 2015 with the acceptance of the Paris Agreement. NDCs represent the measures that have been committed to by states under the Paris Agreement and include both emission reduction targets and



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climate change. Even though the Agreement does not contain legal obligations to reduce emissions, it sets a mechanism for the states to report about their activities in achieving the goals of their NDCs. The Agreement also provides for the “global stock take” to take place every five years, where collective contribution toward the implementation of the Agreement as well as accountability of the states will be evaluated. Besides the mentioned major treaties, other sources of international environmental law define environmental liability in particular sectors. The universal agreements of the CBD, UNCLOS, and other pieces of international environmental law also contribute to the general framework of the laws by enacting the duties of environmental management, sustainable use of resources, and prohibition of marine pollution. These instruments require states to abstain from affecting harm to the environment and to undertake measures for sustainable development and thus serve to enhance the principle of state responsibility in international environmental law. (Hassan, 2023)

A further source of international legal duty is customary international law for environmental responsibility. Using the 'no harm' principle has its basis in the 1938 Trail Smelter case, which defines a legal obligation for states to avert harm to other states' environments that originate from within their jurisdictions or territories. Through its expansion to incorporate a range of situations, including the ICJ's advisory opinion on the Legality of the Threat or Use of Nuclear Weapons and the Pulp Mills case, the idea has grown into a crucial standard in international environmental law. While the state obligation to accept liability for not inflicting transboundary harm is mandated by the no-harm principle, that principle simultaneously supports the concept of state responsibility. International environmental law also includes provisions for solving disputes and for the control of states. In legal processes, states can bring an action before judicial organs such as the ICJ, and ITLOS, or before arbitration forums for compensation for loss of environment by another state. Though these mechanisms are comparatively scarce regarding climate change, there is a rising likelihood of suing states for their inaction on climate. For instance, legal actions that were filed before national courts like the Uganda case in the Netherlands can be used to force states to increase their climate actions. Other forms of state accountability include soft law instruments including declarations, guidelines, and action plans put in place by international organizations. While these instruments are not legal as such, they give important directions for the action of States and contribute to the formation of the custom international law. For instance, the Rio Declaration on Environment and Development (1992), which is the declaration of the UN Conference on Environment and Development, enunciated principles of international environmental law, the principles contain, for example, the precautionary principle, the principle of sustainable development and the principle of public participation and considerably contributed the further development of following legal instruments and state practice. (Deresse, 2023)

Case Studies of State Responsibility in Environmental Law Trail Smelter Arbitration (1938-1941) (Zarei, 2023)

A dispute between the U.S. and Canada over pollution from a smelter in Canada affecting agricultural land in the U.S. Principle of "no harm" - states must



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prevent activities within their jurisdiction from causing significant harm to other states. The Tribunal ruled that Canada was responsible for the pollution and must compensate the U.S. and prevent further harm. This case established the principle of state responsibility for transboundary environmental harm.

Corfu Channel Case (1949) (Haider, Iqbal, & Zeb, 2024)

A dispute between the U.K. and Albania regarding the mining of the Corfu Channel caused damage to British warships. Duty to notify and consult - states must inform other states about potential hazards in international waterways. The International Court of Justice (ICJ) found Albania liable for failing to notify the U.K. of the mines and ordered Albania to pay reparations. This case reinforced the duty to notify and consult in international environmental law.

Juliana v. United States (2015) (Pezeshkian, 2024)

A lawsuit by a group of young plaintiffs against the U.S. government, alleging that inadequate climate policies violate their constitutional rights. Intergenerational justice and state responsibility - governments must protect future generations from climate harm. The case is continuing, with mixed results at various court levels. It raises issues of constitutional rights and the government's obligation to address climate change, reflecting emerging trends in climate litigation. This table highlights important cases that add to the advancement of state responsibility in international environmental law. Each case demonstrates unlike aspects of state accountability, such as the duty to prevent harm, procedural obligations, and the balance between development and environmental protection.

Legal and Political Challenges in Climate Change Enforcement

The application of the UNFCCC has met several legal and political hurdles that have compromised the effectiveness of worldwide climate action. The limited scope of emission targets and the static categorization of industrialized and developing countries by the UNFCCC have shown to be ineffective, and it needs to broaden its contributions to climate protection for better results (Hermwille et al., 2017). A key legal problem is that numerous undertakings made through the UNFCCC are not binding in law, especially in the initial versions of the treaty (Kuyper et al., 2018). The Convention aimed to reach the stabilization of atmospheric concentrations of greenhouse gases and set several 'common but differentiated' principles for all the convention members, but it did not create quantifiable, legally enforceable emission reduction targets for all countries. Due to the absence of legally binding obligations for each participant, there is a possibility that commitments can vary at multiple levels, which hampers the creation of effective worldwide collaboration to fight climate change. Another legal problem relates to the differentiation of obligations between the developed and the developing countries referred to as the principle of CBDR. CBDR has never become collectively shared and coherently applied due to factors such as developed countries failing to internalize it and developing countries not uniting behind it (Kolmaš, 2023). The developed countries that contributed the most to the emission of greenhouse gases in the past are expected to reduce emissions and also financially support the developing countries. But problems may appear



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as to how far one should be held responsible and in what degree of financial assistance or technology transfer especially when the new genre of emerging economies such as China and India have emerged to become significant emitters. This complexity in responsibility-sharing has remained to be a challenge legally and politically. On a political level, the conflict of interest among the member states of the EU has affected the implementation process. Such countries as those with oil-based economies, for instance, are less inclined to adopt strict climate policies that would slow down an economy's growth. In countries that have embraced the need to address the climate change challenge, domestic politics including pressure from industries, political upheavals, and short-term economic interests, tend to prevail over long-term climate policy. National sovereignty also hinders the implementation of international agreements, especially in the case of climate as states maintain control of their environmental policies, and thus, overall, there is little guarantee that they will adhere to the international commitments they sign.

In addition to worries about the UNFCCC's design and the general organization of the climate change regime, there are other challenges present in the field of climate finance. Countries in the third world are most impacted by climate change, and they are calling for large funding amounts to lower their emissions and provide insulation from climate change impacts. The wealthy countries involved have committed to raising climate finance, including \$100 billion each year since 2020, but the results do not match the pledges. The failure of high-income countries to meet their commitment of mobilizing \$100 billion annually by 2020, coupled with loans instead of grants, has the potential to raise the debt burden for the countries they are trying to benefit (Steier et al., 2023). Failing to ensure and supply ample funding hampers the ability of developing countries to implement effective climate policies and at the same time undermines the confidence between developed and developing states in the UNFCCC system. Apart from these challenges, the slow pace of bargaining and the challenging task of attaining consensus with almost 200 countries has often created diluted agreements. Although the UNFCCC decision-making structure is based on consensus, the system has been rigid in dealing with the emergent and sensitive issue of climate change. Most of these critical negotiations including the Kyoto Protocol and Paris Agreement had huge setbacks and compromises that watered down the effect of the agreements.

Political and legal issues are compounded by technological concerns. Currently, the shift from traditional energy resources to green energy technologies and products is an arduous and capital-intensive process. However, in many countries, and particularly in the developing world, the ingredients for the transition do not exist, including technology, skills, and facilities. It is also compounded by intellectual property rights and the cost of technology transfer as more often than not developing countries require a lot of encouragement from the developed nations in their quest to pip them in technology.

The Role of Developing vs. Developed Countries in Implementation

Developed countries and countries in the process of development implementing the UNFCCC are subject to economic demarcations, past emissions, and the ability to cope with climate change's negative outcomes. Differentiation has been a leading subject in international climate change dialogues and continues to be



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an important element in international climate policies and measures. Those developed countries known for their large emissions of greenhouse gases are required to undertake most of the mitigation actions and they need to extend financial and technical support to the developing world. This expectation is based on CBDR which is an understanding that each country has its responsibility in combating climate change but it should be proportionate to the country's historical emissions and its economic capacity. The developed countries are thus required to commit to high emission standards and enforce tough domestic measures to reduce their emitters of greenhouse gases. Also, they are required to deliver on climate finance and technology transfer which are meant to help developing nations in transition to low emission and climate resilience. CBDR has never become collectively shared and coherently applied due to developed countries failing to internalize it, developing countries not uniting behind it, and contested key tenets. However, meeting these responsibilities has been daunting, especially for developed countries. Climate policies may be working against the political and economic interests of industrialized nations sometimes. Some of the economic expenses, for example, those that imply emissions reduction, shifting to renewable energy, and technology investments in green projects can cause policy resistance among stakeholders and energy industries that are pegged on fossil energy sources. However, the rate at which climate financing has been raised has been considered to be slower than expected due to the complaints that developed countries have not provided sufficient support to fully fund developing countries' aid.

On the other hand, developing countries are bound to different challenges and responsibilities in the UNFCCC framework. These nations are usually affected by climate change more so by geographical location, low capacity to adapt as well as low levels of affluence. They are usually the least to blame for past emissions but are assumed to coordinate adaptation and mitigation in their capability. The developing countries are urged to adopt low-emission developmental tracks that will ensure that they achieve their economic and social objectives. However, in many developing countries, there is a lack of resources, an absence of adequate technologies, and poor physical facilities to manage climate change issues adequately. Developed countries on the other hand require financial and technical support for them to strengthen diversify and shift to a low-carbon economy. Organizations like the UNFCCC have provided such support through the Green Climate Fund; however, these mechanisms have not been very effective due to long delays in the disbursement of funds and complicated procedures for accessing the funds (Molitor, 2023). The commitment and involvement of developing countries do not only involve adaptation and mitigation but also entail negotiation and agreement at the international level. Bearing this in mind, it is vital to understand that developing nations are a major stakeholder in the climate change policy-making process because of their ability to act as a bargaining block that can influence the policy change process. Experience has shown that international climate agreements, to a great extent depend on the ability to balance between the self-interests of developed and developing countries. Such a balance entails consideration of the equity of the developing nations while at the same time promoting the developed countries to honor their financial and technological obligations.

The cooperation between the developing and developed world in the realization



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of the UNFCCC presents a clear picture of the difficulties involved in attaining the desired climate objectives. The developed countries are supposed to reduce emissions and provide support for climate action, whereas the developing countries need to walk on this path with challenges. It is a long-term process that needs constant collaboration, reconsideration of equity and efficiency of the obligations, and provision of stronger assistance to the distinct members of the global climate community.

Compliance Mechanisms under the UNFCCC

The compliance measures within the framework of the UNFCCC are aimed at the control of the parties' compliance with their obligations and commitments under the convention as well as the subsequent protocols and agreements including the Kyoto Protocol and the Paris Agreement. Such mechanisms are essential for ensuring that different stakeholders are held accountable and that the actions of all the parties are transparent, especially in the case of attaining climate objectives in the long term. The UNFCCC's first major climate agreement under the Kyoto Protocol framework is the Compliance Committee. This committee is divided into two branches: the Facilitative Branch, and the Enforcement Branch. The Facilitative Branch is established to help the parties fulfill their requirements by offering suitable recommendations, resources, and assistance in the enhancement of their capacities (Pereira & Viola, 2020). It is more constructive and seeks to assist the countries that face challenges in fulfilling obligations accordingly. On the other hand, the Enforcement Branch is in charge of ensuring compliance with binding targets by parties, especially regarding emissions reduction. If a country does not meet its targets, then the Enforcement Branch may force the country to make up for the shortfall in the following commitment period with an extra 30 percent or limit the countries emissions trading schemes. (Ullah, 2022)

Whereas, the compliance mechanism under the Kyoto Protocol was relatively strong. The Paris Agreement, which succeeded the Kyoto Protocol framework, adopted a more permissive and enabling approach. The Paris Agreement has no specific bottom-up emission reduction targets set for each country and is based on the concept of the Parties' NDCs. In compliance mechanisms of the Paris Agreement, there is an even stronger emphasis on transparency and reporting because it has to be understood whether countries are indeed moving forward with their obligations.

The compliance system of the Paris Agreement is as follows:

In the Enhanced Transparency Framework (ETF), every country is expected to report its emissions, its progress towards its NDCs, and its measures on climate change adaptation (Rocha, 2019). These reports are subjected to a technical expert's review and a positive and non-prosecution compliance committee to determine whether the countries met the commitments. Unlike legal regulation, this approach relies on support and development of the countries' abilities and conditions instead of punishment. The idea is to create an atmosphere that steers the countries to perform better in the subsequent periods rather than severely punishing them for their failure to adhere to the set standards. Another weakness associated with the compliance mechanisms of the UNFCCC especially in the Paris Agreement is the fact that there are no legal consequences for non-



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compliance. Although the system has been designed to increase transparency and accountability, some critics have argued that relying on compliance, as a mechanism that does not have powerful enforcement tools like fines and sanctions, weakens the procedure. While the Paris Agreement's compliance mechanism is the most facilitative to ensure the participation of all nations in the agreement, it can be argued that it comes at the cost of not being as stringent enough to deliver the necessary action required for the prohibition of the further rise of global temperatures.

The UNFCCC though has the following challenges in implementing compliance mechanisms, it has a significant role in enhancing trust and cooperation among the countries. They assist in making sure that the nations are on the right track in implementing their climate change policies while at the same time appreciating the fact that not all countries are in a similar capacity. As for the prospects of these mechanisms, further political commitment, transparency, and international cooperation are expected to improve the efficiency of these mechanisms. (Zangerolame Taroco, 2019)

Analysis of Global Commitments vs. Achievements

Analyzing the stated commitments about their performance under the UNFCCC shows the significant difference between what the international community wants to achieve and what has been attained in addressing climate change. Serving as the United Nations Framework Convention for Climate Change, the UNFCCC is rather significant in uniting actions about climate change, promoting cooperation, negotiation, and sustainable strategies for addressing the most pressing challenge of the modern world – climate change (Hassan & Tawfeeq, 2023). As measures to reduce greenhouse gas emissions and the progress of slowing down global warming since 1992 after the adoption of the UNFCCC demonstrate, the measures and strategies have strengths and weaknesses. Another crucial condition of the Kyoto Protocol was to establish smoothed goals of emissions reduction for the developed countries along with making an additional commitment. The victories made under Kyoto were not highly spectacular since many critical emitters, including the US, did not ratify the protocol, while other parties like Canada pulled out of the protocol. Historical accomplishment of goals by several countries enabled worldwide emissions to stay high during the duration of the protocol due largely to the fast industrialization of new emergent economies like China and India, which did not commit themselves to emission reductions under the Kyoto Protocol. The Paris Agreement that was signed in 2015 altered the character of the climate pledges where virtually all nations have pledged towards the INDCs (Dröge, 2016). The main objective of the Paris Agreement is to keep the global temperature rise this century below 2 degrees Celsius above pre-industrial level, preferably limiting the temperature increase to 1.5°C above pre-industrial levels (Sudipta et al., n.d.). Unlike the Kyoto Protocol, the Paris Agreement is not legally binding but is based on the country's intended nationally determined contributions which are however subject to registration and biennial updates. However, the difference between the commitments made in the Paris Agreement and what has been achieved still presents a worry despite the wide participation. Today's NDCs if fully implemented still do not meet the 1.5°C target. Different kinds of studies have indicated that the Global is heading towards a temperature level of



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approximately 2°C. This means that they will be seven degrees centigrade cooler by the end of the century, and greatly surpassing the Paris targets. This gap between words and deeds could be attributed to the following: First, the commitments are non-binding, and second, the enforcement systems are not very robust. (Shah Gilani, Ullah, & Zahoor, 2022)

The former global crisis has led to another problem of differences in achievements between developed and developing countries. Some of the developed countries have managed to shift to the use of renewable energy as well as reduce their emission levels while others failed to achieve their set goals. The emerging nations are not in a comfortable position to achieve economic growth and at the same time reduce greenhouse gas emissions. Most of these nations say that they have contributed little to global emissions and should be allowed to carry out development projects (Muhammad, 2019). Developed countries under their obligation to finance climate change mitigation in developing countries have also Failed. According to the UNFCCC, developed countries committed to delivering \$100 billion per year by 2020 towards helping developing countries with both mitigation and adaptation costs. But still, this target has not been achieved to the extent, that there are concerns about how effectively and efficiently the funds that have been mobilized are used. This has therefore been attributed to the fact that most of the developing nations are unable to get adequate financial support to implement their climate change goals.

Such commitments under the UNFCCC and its further protocols have created the base for international cooperation, however, the real results are still below the level of combating the climate change crisis. The gap between commitments and achievements therefore calls for more efforts, stringent measures, and increased funding, particularly for developing countries for the global community to meet the climate change targets. (Zangerolame Taroco, 2019)

Recommendations for Enhancing State Responsibility

Regarding the improvement of state responsibility for addressing climate change, the following recommendations can be suggested:

1. Strengthening the provisions of the international legal frameworks
2. Improving accountability measures
3. Promoting effective cooperation between the states.

First, they need a set of binding commitments under the climate treaties more qualitatively demanding. Due to the lack of binding measures, the current system of voluntary commitments and goals, most notably within the context of the Paris Agreement, is insufficient for achieving sufficient action by the states. As such, there is a need to strengthen additional legal norms for states or make them more stringent so that the states with the highest emissions and climate actions could be made more responsible for emissions and climate activities. This could entail going back to the CBDR principle and coming up with more elaborate and distinctive obligations for both industrialized and third-world nations.

Second, the need to ascertain a more coherent and efficient method of enforcing the laws is imperative. The current compliance mechanisms under the UNFCCC are not in a position to penalize any state that has defaulted in the implementation of commitments. Possible measures included providing penalties or sanctions for non-compliance, increasing the monitoring and



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reporting standards, and they would ensure the states complied with the set climate obligations. Further, enhanced transparency requirements may enhance the level of state responsibility and would enable the international community to monitor the actions and progress of states more effectively. (Gilani, 2020)

Third, more involvement of International Courts and Tribunals, especially the International Court of Justice (ICJ) in the resolution of climate change cases involving state responsibility. Palau and a coalition of nations are requesting the ICJ to issue an advisory opinion on state responsibility for transboundary harm caused by greenhouse gas emissions (Kysar, 2013). A stronger legal procedure for the affected states or individuals to sue the major polluters would also act as a better approach to supplement the application of the IEA. In addition, the jurisdiction of these courts may be extended to include climate change-related claims thus increasing the legal risk for high-emitting states.

Fourth, richer contributions and technological assistance to the developing nations are crucial to guarantee all nations fulfill their climate change obligations. The developed countries should meet the pledges they have made towards climate finance because the money has to be accessible, efficient, and appropriately disbursed through available funds such as GCF. However, efforts should be made to urge developing countries to apply efficient and transparent procedures and means to use these funds for combating and adapting to climate change.

Fifth, regional integration in environmental management should be enhanced as a way of dealing with cross-border environmental impacts. It was seen that states within the same region are quite likely to face similar ecosystems and environmental problems because they share common ecosystems and the problems therefore are likely to be more effective if they are region-specific. To this end, regional best practices from places that have successfully addressed climate change such as the EU should be adopted elsewhere where similar environmental issues are present. (Prasad & Sud, 2021)

Strengthening the UNFCCC Framework for Future Climate Action

The (UNFCCC) is the leading international treaty in the field of climate change, which forms the basis for the further development of such agreements as the Kyoto Protocol and the Paris Agreement (Cadman, 2019). However, the current climate crisis shows that there has been a need for significant reforms to the UNFCCC frameworks that have been achieved over the last three decades. Building up the UNFCCC architecture for future climate action is crucial so that the global society may successfully address the climate change issue, minimize its negative effects, and achieve the objectives set in the Paris Agreement. To achieve this there is a need for concerted programming strategies that involve legal, financial, and political angles of the UNFCCC in addition to technical support that enhances cooperation between states and non-state actors.

Climate finance also forms one of the key building blocks of the UNFCCC framework since it allows developing countries to address the consequences of climate change through the implementation of mitigation and adaptation measures. However, the current climate finance structure has been criticized for having some key problems such as under-funding, slow disbursement, and not being very clear about the way it is disbursed and used. Enhancing the UNFCCC framework calls for a radical transformation of climate finance instruments so



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that funding is sufficient, accessible, and directed properly. (Gilani, 2023)
First of all, developed countries are to deliver on their pledges to mobilize \$100 billion per year in climate finance, which has not been done as of yet. Besides achieving this goal, the international community needs to look for other ways, sources, and means of climate finance. It may also involve increasing private sector financing, broadening carbon markets, and looking into novel sources of international taxation, including a global carbon price or an FTT for climate change.

With climate change effects intensifying and extending their reach, enhancing the scope of the UNFCCC framework to embrace adaptation and sustainability is essential. The developing countries, most of which are in the tropical region, are already feeling the impacts of climate change such as; increased flooding, droughts, and food scarcity. The current framework has to be further developed to offer better support to these countries in terms of development of the resilience and coping with these challenges. Some of these might include the enhancement of the coverage of commitments under the UNFCCC including the national adaptation plans (NAPs) and ensuring that adequate resources are provided and the plans are effectively executed. The framework should also promote increased partnerships between countries in sharing knowledge, technologies, and practices in the area of adaptation. Moreover, there is a scope for the UNFCCC to be more proactive in promoting the development and application of the climate-resilient infrastructure, especially in the climate-affected areas. (Zhao, 2024)

Conclusion

Non-state actors, such as corporations, cities, and civil society actors are gaining progressively more significant status within the climate law regulation. Future policy must include these actors in the international climate regime in an official capacity. In this way, international law can harness non-state actors for their creativity, activism, and on-the-ground enforcement of climate agreements in the form of implementation and monitoring. This also calls for the development of laws that make non-state actors including large corporations that produce many carbon emissions accountable.

References

- Ashe, J. W., Van Lierop, R., & Cherian, A. (1999). The role of the alliance of small island states (AOSIS) in the negotiation of the United Nations framework convention on climate change (UNFCCC). Natural Resources Forum,
- Deresse, T. (2023). International Legal and Policy Framework Related to Climate Change: A Systematic Review. *Available at SSRN 4669542*.
- Freestone, D. (2009). The international climate change legal and institutional framework: an overview. *Oxford University Press, Forthcoming, UNSW Law Research Paper*(2009-38).
- Haider, A., Iqbal, S., & Zeb, B. (2024). The Corfu Channel Case and the Limits of Self-Defense. *Journal of Islamic and Social Studies*, 1-9.
- Molitor, M. R. (2023). The United Nations climate change agreements. In *The Global Environment* (pp. 210-235). Routledge.
- Pereira, J. C., & Viola, E. (2020). Climate multilateralism within the United Nations framework convention on climate change. In *Oxford Research Encyclopedia of Climate Science*.



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- Pezeshkian, N. (2024). Juliana v. United States. *Davis Journal of Legal Studies*, 46.
- Prasad, R. S., & Sud, R. (2021). The pivotal role of UNFCCC in the international climate policy landscape: A developing country perspective. *Global Affairs*, 7(1), 67-78.
- Scott, S. V. (2015). Does the UNFCCC fulfil the functions required of a framework convention? Why abandoning the United Nations Framework Convention on Climate Change might constitute a long overdue step forward. *Journal of Environmental Law*, 27(1), 69-89.
- Shah Gilani, S. R., Ullah, Z., & Zahoor, S. (2022). Notions of Freedom of Expression and Religion in contemporary world: A Critical Analysis. *Journal of Religious Studies (UOCHJRS)*, 5(2).
- Steier, G., Ramdas, S., de Laire, C. M., Amescua, A., Verkest, A. G., & Boutilier, M. (2023). Editor Suggestions for Future Discussion: Juliana v. United States. In *Farm Animal Welfare Law* (pp. 51-52). CRC Press.
- Von Stein, J. (2008). The international law and politics of climate change: Ratification of the United Nations Framework Convention and the Kyoto Protocol. *Journal of Conflict Resolution*, 52(2), 243-268.
- Zhao, B. (2024). Granting legitimacy from non-state actor deliberation: An example of women's groups at the United Nations Framework Convention on Climate Change. *Environmental Policy and Governance*, 34(3), 236-255.