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The role of strategic climate litigation in enforcing the Paris Agreement: findings from the District Court of the Hague

O papel da litigância climática estratégica na implementação do Acordo de Paris: resultados do Tribunal Distrital de Haia

El papel de la litigación climática estratégica en la implementación del Acuerdo de París: resultados del Tribunal de Distrito de La Haya

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Abstract

Climate change has become a global issue requiring coordinated responses. In this context, the Paris Agreement plays a central role in addressing this transnational challenge, alongside other mechanisms such as strategic climate litigation. This paper investigates how strategic climate litigation can contribute to the implementation of the Paris Agreement, ensuring the protection of the climate and, by extension, of human rights, through an analysis centered on the cases of the District Court of The Hague. It begins by discussing the international climate regime, with particular focus on the Paris Agreement and the challenges of implementing it, to lay the foundation for subsequent analysis. It then examines the main dimensions of climate litigation, especially the increasing number of climate-related lawsuits globally, and its strategic modality. Finally, it analyzes key cases before the District Court of The Hague to explore how judicial action can support the effective implementation of commitments undertaken by nearly 200 countries. The research adopts an empirical and qualitative methodology, analyzing cases brought before the court between 2015 and the first half of 2025. It follows an inductive reasoning structure, bridging theory and practice. In conclusion, strategic climate litigation emerges as a vital mechanism for enforcing the Paris Agreement, given the inadequacy of current state and corporate actions. Resorting to the judiciary becomes essential to hold states accountable to their international obligations and to compel private actors to adjust to the urgent demands of climate governance.

Keywords: Climate change. Paris Agreement. The District Court of the Hague. Strategic climate litigation.

Resumo

A mudança climática tornou-se uma questão global que exige respostas coordenadas. Nesse contexto, o Acordo de Paris desempenha um papel central no enfrentamento desse desafio transnacional, ao lado de outros mecanismos, como a litigância climática estratégica. Este artigo analisa como a litigância climática estratégica pode contribuir para a implementação do Acordo de Paris, assegurando a proteção do clima e, por extensão, dos direitos humanos, por meio de uma análise centrada nos casos do Tribunal Distrital de Haia. Inicia-se com uma discussão sobre o regime climático internacional, com foco no Acordo de Paris e nos desafios de sua implementação, para estabelecer a base para a análise subsequente. Em seguida, examina as principais dimensões da litigância climática, especialmente o número crescente de processos relacionados ao clima globalmente, e sua modalidade estratégica. Finalmente, analisa casos-chave perante o Tribunal Distrital de Haia para explorar como a atuação judicial pode apoiar a implementação efetiva dos compromissos assumidos por quase 200 países. A pesquisa adota uma metodologia empírica e qualitativa, analisando casos levados ao tribunal entre 2015 e o primeiro semestre de 2025. Segue uma estrutura de raciocínio indutivo, conectando teoria e prática. Conclui-se que a litigância climática estratégica emerge como um mecanismo importante para a aplicação do Acordo de Paris, dada a inadequação das ações atuais dos Estados e das corporações. O recurso ao Judiciário torna-se essencial para responsabilizar os Estados por suas obrigações internacionais e para compelir atores privados a se ajustarem às demandas urgentes da governança climática.

Palavras-chave: *Mudança climática. Acordo de Paris. Tribunal Distrital de Haia. Litigância climática estratégica.*

Resumen

El cambio climático se ha convertido en una cuestión global que exige respuestas coordinadas. En este contexto, el Acuerdo de París desempeña un papel central en el enfrentamiento de este desafío transnacional, junto con otros mecanismos como la litigación climática estratégica. Este artículo analiza cómo la litigación climática estratégica puede contribuir a la implementación del Acuerdo de París, asegurando la protección del clima y, por extensión, de los derechos humanos, a través de un análisis

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centrado en los casos del Tribunal de Distrito de La Haya. Se inicia con una discusión sobre el régimen climático internacional, con énfasis en el Acuerdo de París y en los desafíos de su implementación, para establecer las bases del análisis posterior. Luego, se examinan las principales dimensiones de la litigación climática, especialmente el creciente número de procesos relacionados con el clima a nivel mundial, y su modalidad estratégica. Finalmente, se analizan casos clave ante el Tribunal de Distrito de La Haya para explorar cómo la actuación judicial puede apoyar la implementación efectiva de los compromisos asumidos por casi 200 países. La investigación adopta una metodología empírica y cualitativa, analizando casos presentados ante el tribunal entre 2015 y el primer semestre de 2025. Se sigue una estructura de razonamiento inductivo, conectando teoría y práctica. Se concluye que la litigación climática estratégica emerge como un mecanismo importante para la aplicación del Acuerdo de París, dada la insuficiencia de las acciones actuales de los Estados y de las corporaciones. El recurso al Poder Judicial se vuelve esencial para responsabilizar a los Estados por sus obligaciones internacionales y para obligar a los actores privados a adaptarse a las demandas urgentes de la gobernanza climática.

Palabras clave: *cambio climático; Acuerdo de París; Tribunal de Distrito de La Haya; litigación climática estratégica.*

1 Introduction

Over the past decades, human activities have caused significant harm to the environment (Tong *et al.,* 2022). Climate change, for instance, is increasingly recognized as an urgent transnational issue due to its cascading consequences for society (Lawrence; Blackett; Cradock-Henry, 2020). In response, international agreements have been established to mitigate these damages, such as the Paris Agreement, which aims to combat the rise in global temperature caused by global warming and keep the increase well below 2°C above pre-industrial levels (United Nations Framework Convention on Climate Change [UNFCCC], 2015).

A significant number of countries have signed the treaty, taking on the responsibility of meeting established targets and contributing to climate neutrality. However, according to the Organization for Economic Co-operation and Development (OECD) and International Monetary Fund (IMF), the measures adopted by most countries fall short of the internationally agreed-upon goals. The report further highlights that if current lifestyles remain unchanged, CO_2 emissions could reach approximately 37 billion tons by 2030, whereas the ideal would be a maximum of 26 billion tons to keep the temperature rise below 2°C (IMF; OECD, 2021).

In light of this context, the number of climate-related lawsuits has grown considerably (Setzer; Higham, 2024). Non-state actors, governments, and citizens have increasingly turned to the courts, seeking judicial orders to compel defendants to observe environmental protection standards and, consequently, respect human rights (Didi, 2023). A growing part of these lawsuits has been categorized as strategic climate litigation, bringing about broader societal, legal, or policy changes, rather than focusing solely on individual compensation or localized harms (Luporini, 2023). Strategic climate litigation often seeks to hold governments or corporations accountable for their climate-related responsibilities, advancing climate justice, an essential topic when dealing with climate change, and strengthening the implementation of international environmental commitments, such as those outlined in the Paris Agreement (Aristova; Lim, 2024; Ogunbode *et al.*, 2024).

Therefore, this paper investigates strategic climate litigation in the context of the District Court of The Hague, examining how and to what extent judicial action can promote the alignment of states and companies with the requirements of the Paris Agreement, thereby ensuring an ecologically balanced environment for present and future generations. Accordingly, this study aims to answer the following research question: How can strategic climate litigation contribute to the enforcement of the Paris Agreement and to the mitigation of climate change?

To allow for a more in-depth analysis of the topic, this study adopts a qualitative research approach, using bibliographic research as its main technique, along with the analysis of reports and international documents. It is an exploratory study based on the collection of data concerning climate litigation, with the aim of highlighting its growing scope. The research was developed using one of the largest databases on the topic, a project by the Sabin Center for Climate Change Law, which monitors litigation and administrative proceedings related to climate change.

The "Global Litigation" database was accessed, and the "By Jurisdiction" option was selected. From there, "Netherlands," "The Hague," and "District Court" were chosen. Three cases were identified that were ongoing or concluded between 2015 and the first half of 2025: *Urgenda Foundation v. State of the Netherlands*, *Milieudefensie et al. v. Royal Dutch Shell*, and *Greenpeace Netherlands v. State of the Netherlands*. This jurisdiction was chosen due to the paradigmatic decisions issued and the broad impact of these cases.

The article begins with a discussion on the international climate regime, initially presenting the general framework and then focusing on the Paris Agreement to provide a solid understanding of its foundations and implementation challenges. It then addresses climate litigation, examining its general aspects and the concept of strategic litigation,

supported by data on the growing number of cases. Finally, the article analyzes key decisions of the District Court of The Hague, exploring how strategic climate litigation can enhance the effectiveness of commitments made by nearly 200 countries under the Paris Agreement.

2 From international commitments to legal obligations: the Paris agreement and its enforcement challenges

With the worsening of global warming, the climate legal regime has evolved in an attempt to address the new global needs. Despite the progress made over the last few decades and the international commitments made, including ambitious ones such as the Paris Agreement, the climate issue remains one of the greatest challenges today on a global scale, indicating, among other aspects, failures in the implementation of these agreed-upon instruments (Bodansky, 2016).

In light of this, this section explores the transition of the international climate regime, initially reflecting primarily political and voluntary commitments, to a more structured framework, representing a stronger demand and a greater commitment from the signatory countries, especially considering the Paris Agreement. Furthermore, it discusses its implementation, focusing on the main challenges surrounding its enforcement, serving as a basis for subsequent analysis on the need for its joint action with other instruments, such as strategic climate litigation, to achieve progress in addressing climate change mitigation.

2.1 The Evolution of the Climate Change International Legal Regime

Naturally, the climate has undergone changes over the centuries. However, in recent decades, humans have become a geological force, and their actions and activities have also altered the climate (Kotzé; Kim, 2019). The awareness of the damages caused by these changes led to the establishment of the international climate regime within the United Nations System. Consisting of a dynamic and continuously evolving institutional framework designed to facilitate cooperation among signatory countries, its primary objective is to stabilize greenhouse gas concentrations in the atmosphere, preventing harmful human interference with the climate system (Rei; Gonçalves; Souza, 2017).

Concerns about the climate were first introduced into the international agenda in the second half of the 1980s. This can be evidenced, for example, by the founding of the Intergovernmental Panel on Climate Change (IPCC), established within the United Nations system in 1988. It is worth highlighting that three aspects served as drivers of the initial concern mentioned: the widespread dissemination of scientific knowledge regarding climate change; the discovery of the ozone layer depletion in 1985, and other environmental issues; and finally, the 1988 drought in North America, which triggered concerns in Canada and the U.S. (Bodansky; Brunnée; Rajamani, 2017). In relation to the ozone layer issue, in the same year, 1985, the Vienna Convention for the Protection of the Ozone Layer was held, which contributed to the formulation of the Montreal Protocol on Climate Change (Campello; Lima, 2018).

During the United Nations Conference on Environment and Development (Eco 92 or Rio 92) in 1992, a global agenda aimed at minimizing environmental problems at the global level was established, based on the concept of sustainable development. In this context, the climate issue began to be negotiated, leading to the drafting of the United Nations Framework Convention on Climate Change (UNFCCC), with commitments and obligations for the parties to the Convention (Guimarães; Fontoura, 2012).

The UNFCCC was opened for signature in 1992 and entered into force in 1994. Initially, more than 150 states adhered to it. However, today, the adherence is nearly universal. Its goal is to stabilize the concentrations of greenhouse gases (GHGs) in the atmosphere to prevent human-induced damage to the climate system, also seeking to establish a comprehensive framework for intergovernmental efforts necessary to address the challenges posed by climate change (Tilio Neto, 2010). Thus, the Convention intertwines the climate regime with global environmental governance, which constitutes the direction to be followed in achieving the goal of stabilizing the climate (Rei; Gonçalves; Souza , 2017).

The parties to the UNFCCC meet annually at the Conference of the Parties (COP), where they assess the progress of the Convention's implementation and deepen the discussion on climate. Thus, at COP 3 in 1997, the Kyoto Protocol was established, setting emission reduction and mitigation targets for developed countries included in Annex I, for the period from 2005 to 2012. These nations were historically responsible for accumulated CO2 emissions. Therefore, the Kyoto Protocol was established to assign them responsibility in a fair manner (Souza; Corazza, 2017).

Despite the climate issue being a problem of global magnitude, the contribution of countries is not equal, so the Principle of Common but Differentiated Responsibility (CBDR) is one of the foundational principles of the Kyoto Protocol, which, according to, originated from negotiations conducted during the UN Conference on Environment and Development in 1992, culminating in its inclusion in four essential documents originating from the meeting. During the validity of the Protocol, the concern regarding the post-2012 climate agenda began (Campello; Lima, 2018; Sampaio; Wold; Nardy, 2003). Thus, at COP 11 in 2005, and simultaneously with the first Meeting of the Parties to the Kyoto Protocol (MOP 1), negotiations on the post-protocol period began.

In subsequent COPs, discussions on the topic were also held, leading to the establishment of important documents such as the Copenhagen Accord at COP 15 and the Cancun Agreement at COP 16, until the Paris Agreement was adopted in 2015, representing a significant achievement in multilateral diplomacy, considering it as an ambitious treaty regarding the climate regime, with a series of obligations for all countries (Bodansky; Brunnée; Rajamani, 2017). Due to its current importance, it will be further explored in the following section.

2.2 The Paris Agreement: Ambitions and Enforcement Challenges

Adopted by 196 Parties at COP21, the Paris Agreement is an international treaty of a legally binding nature. It aims to enhance the global response to the threat of climate change, emphasizing sustainable development and poverty eradication, emphasizing keeping the global average temperature increase well below 2ºC above pre-industrial levels, and striving to limit the increase to 1.5ºC, based on the same levels; increasing the ability to adapt to the negative impacts of climate change, also promoting low greenhouse gas emission development, in a way that food production is not threatened, and finally, reaching financial flows compatible with a trajectory toward low GHG emissions development and resilience to climate change (UNFCCC, 2015).

Although the Paris Agreement has established obligations for the signatory countries, it is important to note that its provisions include the application of the principle of common but differentiated responsibilities, so that its implementation will observe equity, considering the differing national circumstances. For instance, there are the Nationally Determined Contributions (NDCs), in which each State sets its own contribution to the reduction of greenhouse gas emissions, in a way that is tailored to its national context (Oliveira, 2019). In Brazil, for example, the commitment was to reduce GHG emissions by 37% below 2005 levels by 2025 and 43% by 2030 (Brasil, 2015). Contributions must be communicated every five years,[1] providing necessary information for clarity, transparency, and understanding,[2] allowing for tracking the progress of each State.

It is a document that found a middle ground by adopting a hybrid structure, which simultaneously includes both bottom-up and top-down elements. The first promotes flexibility and participation, identified through NDCs. The second offers rules to generate ambition and responsibility, establishing expectations and evaluating collective progress every five years toward the goals and deadlines of the same contributions. Despite the wide adoption of the Paris Agreement and the urgency of meeting its goals, at the risk of reaching a global tipping point, the contributions of the parties and the promises made are inconsistent with the primary goal of limiting the temperature rise to 2ºC (Bodansky; Brunnée; Rajamani, 2017).

The enforcement of the Paris Agreement has faced some challenges. Although the international document is understood as legally binding, not all of its provisions create legal obligations. NDCs, for instance, which are central measures under the Paris Agreement, do not have their implementation mandated, given that the document only requires parties to adopt domestic mitigation measures.[3] As a result, countries can set and adjust their own targets without legal consequences for non-compliance. One consequence of this is that parties can withdraw from the agreement without any international penalty, as occurred with the United States during both Trump administrations (Lazarou; Leclerc, 2015).

The absence of sanctions for non-compliance is a challenge to the proper implementation of measures to tackle climate change. In 2020, for example, Brazil, under the Bolsonaro government, presented less ambitious targets in its revised NDC, which did not result in any penalty (Climate Action Tracker, 2021). Thus, by presenting less ambitious climate targets or simply failing to meet their climate goals, the signatory states do not face sanctions, a context that creates room for them to also present weaker targets or fail to implement effective climate policies. The adoption of a vague language is also an issue. This creates loopholes in the international agreement. This

1 Paris Agreement, 2015, Article 4.9.
2 Paris Agreement, 2015, Article 4.8.
3 Paris Agreement, 2015, Article 4.4.

can be identified, for instance, in the use of the term “net zero,” which can lead to different interpretations, creating confusion and the adoption of less efficient measures, resulting in lower emission reductions (Day *et al.*, 2020).

Political will and internal constraints end up hindering climate change mitigation and, consequently, the achievement of the Paris Agreement goals. In Germany, a climate action program was supposed to be presented at the end of 2022, but its approval only took place almost a year later due to political negotiations (Wettengel, 2023). Moreover, the German government decided to cut a significant amount that should have been allocated to climate protection due to a ruling by the Federal Constitutional Court in November 2023. This affects the adoption of domestic climate change mitigation measures (Packroff, 2023).

Inconsistent reporting makes it difficult to assess global progress toward climate goals, which might weaken international pressure toward compliance. Additionally, many countries delayed or failed to submit their Biennial Transparency Reports (BTRs), which were supposed to be published by December 21, 2024. By January 22, 2025, only 90 Parties to the Paris Agreement had submitted their BTRs, which are responsible for tracking progress on national climate plans, the NDCs (90 Parties […], 2025).

Finally, it should also be mentioned the problem of insufficient financial support. With the Paris Agreement, developed countries committed to mobilizing USD 100 billion per year until 2025 for developing countries, a goal that was only achieved in 2022 (Climate […], 2025). This negatively impacts climate actions in developing countries, which depend on such financial support for effective implementation. The situation also exacerbates the inequality between the Global North and South, failing to promote climate justice. While developing countries have historically contributed less to climate change, they are also the ones with the least support to address it.

In light of all these challenges, other measures to mitigate climate change have been adopted, such as climate litigation. In recent years, what is known as strategic climate litigation has gained prominence and will be discussed in the next session, serving as a basis for further analysis of how this legal mechanism can contribute to the implementation of the Paris Agreement.

3 Climate litigation: a growing phenomenon or a transformative mechanism?

The use of the judiciary in cases directly or indirectly related to climate change has grown significantly across the globe. The need to adopt measures addressing this issue has become more urgent in light of the worsening global warming and its devastating consequences, which affect everyone, albeit in unequal ways (People […], 2024).

This section addresses this legal approach, explaining its scope, global expansion, and key characteristics. It also delves into the discussion of so-called strategic climate litigation, which has notably achieved positive outcomes, indicating contributions to both climate change mitigation and adaptation, and potentially serving as an important tool for the implementation of the Paris Agreement.

3.1 Understanding the Role and Evolution of Climate Litigation

The climate issue presents different perspectives, three of them being the environmental, the economic and the ethical (Bodansky; Brunnée; Rajamani, 2017). Regardless of the focus, recourse to the judiciary to mitigate, adapt to, remedy, and/or manage climate risks has increased significantly in recent years.

Markell and Rhul view climate litigation as encompassing any legal case, whether administrative or judicial, at the federal, state, tribal, or local levels, where the parties involved or court decisions directly and explicitly address factual or legal issues related to the causes, impacts, or policies concerning climate change (Setzer; Cunha; Fabbri, 2019a).

Setzer, Cunha, and Fabbri, on the other hand, adopt a broader view of climate litigation, describing it as encompassing judicial and administrative actions related to reducing greenhouse gas (GHG) emissions, decreasing vulnerability to the effects of climate change, providing compensation for damages caused by these impacts, and managing climate risks (Setzer; Cunha; Fabrri, 2019b).

According to Carvalho and Barbosa, climate litigation aims to drive actions focused on controlling and reducing anthropogenic greenhouse gas emissions, as well as other measures to contain climate change. In this way, through the judiciary, public and private actors, whether national or international, who significantly emit or allow GHG emissions would be held accountable and/or compelled to adopt more active behaviors to achieve the global commitment to reducing the greenhouse effect (Carvalho; Barbosa, 2019).

Consulting the data provided by the Sabin Center,[4] it becomes clear that climate litigation includes not only administrative and judicial proceedings but also regulatory petitions, notices of intent to sue, subpoenas, among others. Thus, various conceptions exist regarding what constitutes climate litigation.

Although it may be defined in different ways, it is a mechanism that has increasingly expanded across multiple countries. Most cases are concentrated in the United States, which currently has 2,618 cases, while other countries collectively account for 1,219.[5] However, it is possible to observe that this type of litigation is expanding globally. Between 1986 and 2014, a span of 28 years, 834 climate-related cases were identified (Setzer; Higham, 2021). Currently,[6] that number has risen to 3,837. In other words, 3,003 new cases have emerged worldwide in just 11 years.

It is also evident that certain arguments and motivations are frequently used in these cases. Setzer and Higham identify six common strategies: 1) seeking compliance with climate commitments (notably rising after the Paris Agreement);[7] 2) challenging projects or policies;[8] 3) cases related to constitutional and human rights[9]; 4) liability claims;[10] 5) cases involving business and financial markets[11] and 6) adaptation-focused cases[12]. The authors emphasize that this list is not exhaustive and that many cases involve multiple strategies simultaneously.

It is important to highlight a new trend regarding cases against companies: the disclosure of information related to climate risk. The filing of such actions is still seen as a complementary measure to increase pressure on companies to be more transparent and adopt bolder measures (Grau Neto *et al.,* 2019). Thus, climate litigation can involve states, non-state actors such as private entities, and individuals as plaintiffs. As defendants, the same entities may appear, except for the last group mentioned (Mantelli; Nabuco; Borges, 2019).

The claims brought by states are often based on: diffuse interests, environmental law, climate legislation, and regulation. Claims by non-state actors are based on: civil liability, environmental law, consumer law, fundamental rights, and human rights[13]. Finally, claims by individuals are based on: constitutional law, public policy, environmental law, and climate law. Among these, it is worth highlighting a growing trend in climate litigation: the use of human rights arguments, often in combination with others (Peel; Osofsky, 2018).

The IPCC report states that there is no doubt human activities have caused global warming, impacting the entire climate system (Allan *et al.*, 2021). The relationship between climate change and human rights is very close. The consequences of climate change can be characterized as violations of human rights with an intergenerational dimension. Therefore, measures aimed at influencing or transforming behaviors to tackle climate change are essential. With that in mind, the discussion now turns to strategic litigation, which has been gaining global prominence.

3.2 Strategic Litigation: Enforcing Environmental Commitments?

A significant expansion in climate litigation cases has been observed over the past decade. However, it is important to highlight that among these cases are the so-called strategic climate cases, which have also shown notable growth, especially since 2015 (Peel; Markey-Towler, 2022). Inspired by strategic human rights litigation, climate-related strategic litigation can be understood as a tool used to influence public policies and promote changes in social and corporate behavior (Bouwer; Setzer, 2020; Silbert, 2022).

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4 It can be accessed at: https://climatecasechart.com

5 The data were collected on 04 May 2025 from the website http://climatecasechart.com/climate-change-litigation/.

6 May, 2025.

7 "Following the successful negotiation of the Paris Agreement in 2015, it was noted that the numbers of cases seeking to "show the potential force of NDCs [Nationally Determined Contributions] and domestic measures" were likely to rise (Carnwath, 2016). As we discuss in Part II of this report, among the non-US cases we have identified over 90 cases brought against governments seeking to enforce or enhance climate commitments.". SETZER, J; HIGHAM, C. Global trends in climate change litigation: 2021 snapshot. London: Grantham Research Institute on Climate Change and the Environment, 2021. p. 17. Available at: https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2021/07/Global-trends-in-climate-change-litigation_2021-snapshot.pdf. Accessed on: 08 May 2025.

8 "While these cases can provide a focal point for public debate, it has been noted that as they are based on procedural grounds (e.g. a failure to consider a relevant issue in an environmental impact assessment) they often result only in delays to the projects in question and may be subject to ministerial override or to the subsequent correction of procedural errors (Bouwer; Setzer, 2020).". *Ibdem*.

9 "Climate change is now widely recognised as the "greatest human rights issue of our time". The use of human rights arguments in climate cases continues to rise, with a record 29 cases filed in 2020 and at least five from January to May 2021." *Ibdem*.

10 "Although these cases remain relatively few outside the US, claimants continue to seek new legal arguments to hold governments and companies accountable for their past and ongoing contributions to climate change (Setzer, forthcoming)". *Ibdem*.

11 "Cases against private parties continue to be brought and the arguments and strategies continue to develop. Some challenge insufficient or inappropriate communication of climate change; others challenge corporate action, inaction and responsibility...". *Ibdem*.

12 "Although cases concerning adaptation remain less common than those concerning mitigation, we have identified over 180 cases that touch on this issue.". *Ibdem*.

13 *Ibdem*.

Although determining whether a case is "strategic" is subjective, Setzer and Higham identify four main components to classify a case as "strategic" or "semi-strategic." These are: the identity of the claimants, typically NGOs, activists, parliamentarians, or political parties; the identity of the defendants, usually actors closely tied to climate change, such as governments and major CO_2 emitters, who may also spread misinformation about climate risks, as well as less obvious actors like licensing authorities and financial institutions; the purpose of the lawsuit, which seeks both regulatory and broader political impact, aiming to increase climate ambition and adapt to each country's political context; and finally, the integration of the case within a broader strategy, involving political pressure, protests, media campaigns, and transnational climate litigation networks, indicating a wider advocacy effort (Setzer; Higham, 2023).

Thus, strategic litigation encompasses strategic planning, legal imagination, and also innovation, as this enables outcomes that can meaningfully contribute to climate change mitigation (Peel; Markey-Towler, 2022). To better understand what makes a strategic litigation case successful, Peel and Markey-Towler identify, based on prominent cases of this nature, six common dimensions to observe: thoughtfully choosing claimants who can help convey a strategic message through the lawsuit; assembling a skilled legal team with proven experience in advancing other impactful climate litigation efforts; focusing the case on defendants widely perceived as falling short in their climate responsibilities; grounding legal claims in the most up-to-date climate science; developing creative legal arguments, including those that highlight protective duties; and pursuing remedies that go beyond the individual plaintiffs and aim to influence broader policy and regulatory outcomes.[14]

Therefore, this mechanism has the potential to achieve broad results, enforcing environmental commitments, which may significantly contribute to addressing climate change, an issue that demands the adoption of various measures across different spheres. In light of this, following the presentation of strategic climate litigation cases filed before the District Court of The Hague, the discussion turns to its role in enforcing the Paris Agreement.

4 Strategic climate litigation as a mechanism to enforce the Paris agreement: an analysis of the district court of the hague

The District Court of The Hague has been responsible for landmark and highly influential rulings, particularly in cases involving strategic climate litigation. By accessing the database maintained by the Sabin Center for Climate Change Law, cases pending before this court between 2015 and the first half of 2025 were collected.[15] Three cases identified are of a strategic nature: *Urgenda Foundation v. State of the Netherlands; Milieudefensie et al. v. Royal Dutch Shell; and Greenpeace Netherlands v. State of the Netherlands.*

These three cases will be presented below, based on pre-litigation and litigation documents available in the referenced database, while also illustrating how climate litigation can serve as a mechanism to implement the Paris Agreement and, consequently, contribute to the mitigation of climate change, which has undermined the promotion of an ecologically balanced environment.

4.1 Landmark Cases or Isolated Successes?

Urgenda Foundation v. State of the Netherlands

The Urgenda Foundation v. State of the Netherlands case was the first successful climate lawsuit filed by citizens, represented by the Urgenda Foundation, against their own government. It is considered paradigmatic because, although the decision rendered by the District Court of The Hague on June 24, 2015, was limited to the Netherlands (*ratione personae*), and dealt with the mitigation of GHG emissions (*ratione materiae*) with a temporal scope until the year 2020 (*ratione temporis*), it has had transboundary impacts (Tabau; Cournil, 2020). This emblematic lawsuit brought visibility to the issue of climate change, turning it into a political and social matter. Consequently, the internal transformation that occurred in the Netherlands inspired new cases in countries such as Belgium, Ireland, Germany, France, Switzerland, among others, as well as against the European Union itself.

Urgenda's claim was based primarily on the severe impacts on the fundamental rights of Dutch citizens and also citizens of other States. As previously mentioned, climate change is strongly related to human rights (Rossi,

[14] *Ibdem*.

[15] Accessing the non-U.S. cases database, the search options "by jurisdiction," "Netherlands," "The Hague," and "District Court" were selected. Three cases were found, which were/are ongoing during the period between 2015 and the first half of 2025.

2019). Isso foi reforçado a partir da apresentação de importantes documentos do IPCC e do Banco Mundial, por exemplo. This was reinforced through the presentation of key documents by the IPCC and the World Bank, for example. General principles, European Union treaties, the Kyoto Protocol, the Bali Action Plan, and Dutch legislation, particularly concerning the duty of care,[16] were also addressed in the arguments.

The State of the Netherlands, however, asserted that it was pursuing an adequate climate policy, in accordance with European agreements, among other arguments, to demonstrate that the plaintiff's claims were unfounded. Nonetheless, these arguments did not convince the Court. In summary, the court granted Urgenda's request and ordered the Dutch government to reduce GHG emissions by at least 25% by the end of 2020 compared to 1990 levels, requiring the adoption of immediate and effective climate measures. The defendant appealed the ruling, but the decision was upheld by the Court of Appeal in 2018 and by the Supreme Court in 2019.

Although the lawsuit was filed before the adoption of the Paris Agreement, the Hague Court's decision referenced the expectation that a new international instrument on climate would be concluded by the end of 2015, thus highlighting the urgency of climate action. The subsequent rulings in 2018 and 2019 explicitly referred to the agreement's primary objective.

In this specific case, the judicialization of the climate issue was of evident importance, even though it was not directly aimed at implementing the Paris Agreement, because the resulting ruling effectively aligned with its provisions. The case's role in inspiring similar litigation across the EU and beyond has helped reaffirm and bring greater visibility to the intrinsic link between climate change and human rights, as recognized in the preamble to the Paris Agreement and other international instruments. It also enabled society to monitor and demand more ambitious and appropriate climate measures from governments, promoting enforcement. Therefore, it stands as a mechanism that fosters the implementation of the Paris Agreement.

Milieudefensie et al. v. Royal Dutch Shell

After the failure of an administrative procedure, in April 2019, the organization Milieudefensie, representing over seventeen thousand citizens, along with six NGOs[17] filed a lawsuit before the District Court of The Hague against Royal Dutch Shell (RDS). The Urgenda Foundation v. State of the Netherlands case was used as a precedent.

The main arguments included: IPCC data emphasizing the risk of irreversible changes if global temperatures rise above 1.5ºC; severe climate impacts in the Netherlands due to its geographical location; Shell's contribution to climate damage, being responsible for 1.8% of total historical CO□ emissions; the company's breach of its duty of care[18]; RDS's knowledge, since at least 1950, of the climate problem and its own contribution to worsening it; the inadequacy of Shell's current measures; the feasibility of aligning Shell's operations with climate targets; companies' obligation to respect human rights; and the insufficiency of the environmental ambition presented by Shell in 2017.[19]

In summary, the plaintiffs claimed that RDS was acting unlawfully through activities that worsen climate change, violate human rights, and run counter to established international policies, including the goals of the Paris Agreement, especially with regard to limiting the rise in global temperatures. Shell presented counterarguments, but the District Court of The Hague ruled in favor of the plaintiffs, ordering the Shell group to reduce its emissions by 45% by 2030, based on 2019 levels, across all activities and operations globally. Following the Urgenda precedent, the Court left the choice of measures to Shell (Climate Case Chart, 2021a).

This ruling is considered groundbreaking as it marked the first time a group of companies was held responsible for contributing to climate change and required to align with the Paris Agreement. The decision acknowledged that while Shell alone cannot solve the entire climate crisis, it must still bear its individual responsibility to reduce greenhouse gas emissions (CIEL, 2021).

The ruling addressed multiple important issues and, like the Urgenda case, is expected to encourage similar lawsuits worldwide against private companies, thereby advancing the objectives of the Paris Agreement, especially the goal of limiting global warming to between 1.5ºC and 2ºC above pre-industrial levels (Climate Case Chart, 2021a).

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16 Open-ended concept provided in the Dutch Civil Code (Book 6, Section 162), which must be applied according to the specific circumstances of each case.

17 ActionAid NL, Both ENDS, Fossielvrij NL, Greenpeace NL, Young Friends of the Earth NL, Waddenvereniging.

18 Given that it is an open-ended concept established in the Dutch Civil Code (Book 6, Section 162), it must be applied according to the specific circumstances of each case.

19 A summary of the arguments presented by the claimant can be accessed at the following link: http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2019/20190405_8918_press-release.pdf

On July 20, 2022, Shell appealed the decision, and on November 12, 2024, the Court of Appeal in The Hague issued its judgment. It upheld that Shell has a legal duty of care to mitigate dangerous climate change under Dutch tort law, interpreted in light of international human rights instruments, as well as EU and international climate law. The Court of Appeal thus endorsed the legal reasoning of the Court of First Instance (Climate Case Chart, 2024).

However, the appeals court overturned the original judgment by refusing to impose a specific emission reduction target on Shell. It found that there is no sufficient scientific consensus on a specific percentage or trajectory that a company like Shell should follow. Therefore, it concluded that Shell cannot be legally required to reduce its emissions by 45% by 2030 compared to 2019 levels (Climate Case Chart, 2024).

It is worth noting that the obligation still encompasses Scope 1, 2, and 3 emissions. Yet, especially for Scope 3 emissions, the Appeals Court identified major legal and practical obstacles to imposing a specific reduction requirement or to legally mandate reductions in particular sectors (e.g., banning the sale of oil and gas products). For Scope 1 and 2 emissions, while no specific target was imposed, the Court acknowledged that Shell appears to be on track to meet its own, stricter target of 45% by 2035 compared to 2016 (Climate Case Chart, 2024). Regarding Scope 3, the Court expressed openness to the concern that limiting Shell's sales of certain products could result in other companies simply replacing Shell's share of emissions. However, it also hinted that investing in new fossil fuel projects may conflict with Shell's duty of care. Even so, the Court considered this issue peripheral to the case, which centered on whether Shell could be obligated to reduce its total emissions by a fixed percentage by 2035. The Court ultimately ruled that it could not (Climate Case Chart, 2024).

The imposition of climate obligations on corporations is essential, especially considering that they are responsible for a significant share of global greenhouse gas emissions[20]. Thus, obtaining rulings that compel companies to adopt appropriate measures aligned with climate policies can help mitigate the climate crisis[21], possible to affirm that litigation of this nature constitutes a mechanism for the implementation of the Paris Agreement.

Greenpeace Netherlands v. State of the Netherlands

The Dutch government granted the airline company KLM a €3.4 billion aid package in 2020 due to the pandemic context. In response, Greenpeace Netherlands filed a lawsuit, alleging that the said plan violates the State's duty of care, in the sense of failing to avoid the high risk of climate change, considering that no binding climate conditions were attached to it (Climate Case Chart, 2020b).

The allegation was based, among other aspects, on Dutch legislation, the European Convention on Human Rights, the Paris Agreement, and the case Urgenda Foundation v. State of the Netherlands. In this regard, the plaintiff addresses the State's duty of care that must exist in the face of the climate issue, as recognized in the cited precedent, in order to protect the lives and other rights of citizens. To fulfill this duty, the government must adopt measures to reduce CO_2 and other GHG emissions, in line with the provisions of the Paris Agreement (Climate Case Chart, 2020a).

However, the District Court of The Hague did not interpret it the same way, deciding that the State does not have a legally established obligation to attach climate conditions to the aid plan, and therefore the Judiciary cannot intervene in the matter. It is stated that there is no provision in the Paris Agreement or in other international treaties that commits the parties to specifically reduce cross-border aviation emissions (Climate Case Chart, 2020a). Furthermore, it is noted that the sustainability conditions included in the agreement were in accordance with the international climate obligations assumed by the Netherlands.

The decision, although it does not grant the requests made, is in line with the others presented, considering that the Court has not interfered in the manner of compliance with and observance of global climate policy, whether in relation to the State or to private companies. In the last two cases, it was seen that the Judiciary ordered mitigation without, however, establishing the "how," which was left to the defendants.

This case, as well as the other two discussed, are not merely isolated cases but are presented as reference cases. In fact, the case Urgenda Foundation v. State of the Netherlands served as a guide and essential basis for the lawsuits Milieudefensie et al. v. Royal Dutch Shell and Greenpeace Netherlands v. State of the Netherlands, in

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[20] A study conducted by the Climate Accountability Institute points out that large corporations are responsible for more than a third of all GHG emissions from 1965 to 2018. RDS, for example, emitted 3.49 billion tons, or 2.30%.
CLIMATE ACCOUNTABILITY INSTITUTE. **The climate responsibility of companies**, © 2024. Our vision is for a world protected from the social, economic, and environmental damages of climate change. Available at: https://climateaccountability.org. Accessed on: 11 may 2025.

[21] Based on the analysis of the cases, it is stated that climate litigation is characterized as a mechanism for the implementation of the Paris Agreement. However, it is emphasized that this research does not investigate to what extent the Judiciary should intervene in matters related to this content.

addition to many others around the world. These are three distinct cases, addressing different harms and actors (both in the public and private spheres), which are achieving noteworthy results, considering the influence they exert internationally and the gaps they fill due to the challenges faced by the Paris Agreement, an issue that will be further explored below.

4.2 Beyond the Courtroom: Strategic Litigation and the Paris Agreement's Effectiveness

Climate litigation brought before the District Court of The Hague demonstrates how strategic climate litigation emerges as an important legal instrument in a context in which traditional measures have not been sufficient to produce effects capable of mitigating climate change (Setzer; Higham, 2023). Although these cases are judged in the courtroom, their effects reach broader proportions, not limited to the specific judicial situation (Steinbach; Grießhammer, 2020). In addition to the imposition of obligations on public or private actors, strategic litigation has the capacity to influence public discourse and political agendas, thus also filling gaps identified in international documents, such as the Paris Agreement (Setzer; Higham, 2023).

At an earlier point, challenges in the implementation of the Paris Agreement were identified, one of them being the existence of provisions that do not create legal obligations. Because of this, the means for complying with the Paris Agreement are left to each signatory State, which have the discretion to review and reduce their own commitments. It is a context that relies considerably on moral and political incentives, which may be frustrated by factors such as changes in government, as demonstrated by the situation in Brazil and the United States.

From this, strategic litigation can be understood as a relevant instrument capable of promoting indirect accountability in such situations. In the cases analyzed, innovative legal arguments were used to transform international obligations into legally enforceable domestic duties, thereby addressing deficiencies of the Paris Agreement (Aristova; Lim, 2024).

Based on what was discussed, strategic litigation is identified as capable of setting more ambitious mitigation standards (Aristova; Lim, 2024). The analyzed decisions regarding the Dutch government illustrate the judicial imposition of more ambitious reduction obligations, considering the State's duty to protect against foreseeable and catastrophic risks. Moreover, by recognizing the relationship between climate change and human rights, courts can contribute to transforming abstract obligations of the Paris Agreement into enforceable duties 9 (Setzer; Higham, 2023). The Shell case, for example, indicates that even private actors can be held accountable based on standards of conduct aligned with the Paris Agreement and the Sustainable Development Goals.

Another challenge indicated throughout the research concerning the implementation of the Paris Agreement relates to international climate finance, which is essential, especially in the case of developing countries and the achievement of their targets (Dafermos, 2025). Tackling climate change indeed requires joint action from all actors, but the contribution to the worsening of this scenario occurred differently, just as the socioeconomic conditions of the Global South are evidently distinct from those of the North. To ensure observance of the principle of common but differentiated responsibilities, financing is a non-negotiable factor (UNFCCC, 2015). There is still a path to be followed for the establishment of adequate amounts and their effective implementation, but the expansion of the debate to include private actors, such as Shell, presents itself as a relevant measure by demanding that such actors also invest in and redirect their practices to contribute to climate change mitigation.

In addition, strategic climate litigation brings visibility to such structural problems, the flexibility of NDCs, and low internal political commitment, due to the vague language of the Paris Agreement in certain provisions, driving, or rather, pressuring, social and political changes (Luporini, 2023). The involvement of different actors, with civil society mobilization, promotes innovative legal interpretations and broad changes beyond the courtroom. Therefore, strategic climate litigation contributes to ensuring that climate commitments cease to be mere intentions and political promises and become legal obligations (Aristova; Lim, 2024).

This legal instrument has shown positive results, being characterized as an important mechanism for the implementation of the Paris Agreement. However, it must be emphasized that its role is not absolute, since not only is judicial inertia inherent, with the need for it to be triggered in a specific case, but also its limitation regarding interference. The Judiciary does not interfere in how the State or a private company will promote mitigation. Thus, it is reiterated that, despite the relevance of the instrument in question, there is a need for joint action with other mechanisms and different spheres so that the Paris Agreement may be effectively implemented.

5 Concluding remarks

The Paris Agreement represented a significant milestone in the international response to climate change. A considerable number of countries committed to adopting measures to mitigate this issue and, over the past few years, have been implementing them. However, a series of challenges to the effective implementation of the agreement have emerged, as well as legal instruments to address them, one of which is strategic climate litigation.

Climate litigation has expanded around the world, taking on major proportions. Its strategic modality has also been used more frequently, indicating that it is a mechanism capable of significantly contributing to the implementation of the Paris Agreement by addressing gaps and challenges in the international document that became evident as it was implemented by various countries.

Throughout this article, the focus was primarily on the following challenges to the effective implementation of the Paris Agreement: not all of its provisions create legal obligations, leaving room for signatory states to set and adjust their own targets, which may be altered even in the case of lowered ambition; the absence of sanctions for non-compliance; and insufficient financial support for developing countries. Although strategic litigation cannot fully resolve these issues, its expansion contributes to their mitigation by regulating specific situations that have international repercussions and encouraging the adoption of broader policies as a response to the problems addressed in the courtroom.

Therefore, strategic climate litigation emerges as an important tool for the implementation of the Paris Agreement by addressing structural problems and stimulating broader changes. Its more frequent use has the potential to transform the relationship between internationally assumed commitments and their domestic implementation. By establishing judicial precedents grounded in human rights and climate science, as evidenced in the cases analyzed from the District Court of The Hague, strategic litigation can pressure states to revise their national targets, making them more ambitious and aligned with the goals established in the Paris Agreement. Furthermore, such litigation enhances state accountability, even in the absence of formal sanctions in the international document, by generating legal and political consequences both domestically and internationally.

With regard to financial support, even though court rulings may not directly enforce its fulfillment, they contribute to the strengthening of climate equity and differentiated responsibilities, highlighting the commitments undertaken within the framework of the Paris Agreement. Thus, the advance of strategic climate litigation, beyond the courtroom, plays a role in promoting the consolidation of international climate governance and in strengthening the effectiveness of the Paris Agreement, which will only be properly achieved through the joint action of different mechanisms and actors.

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