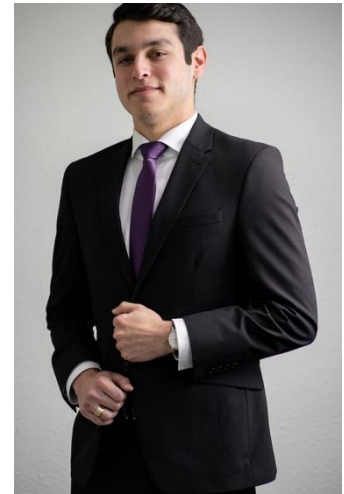


07 May 2023

## Can Human Rights stop Climate Change?

Climate change is a sensitive topic posing serious threats to both our environment and human well-being. Recently, there has been a global trend of raising Human Rights arguments in Climate Change lawsuits. Most of these cases are filed against governments, arguing that they have a constitutional duty to mitigate Climate Change. This trend also does not spare big corporations. A prominent Dutch case ([Milieudefensie v Royal Dutch Shell PLC](#)) might make it possible to hold industry giants accountable for their emissions.

Organisations and/or individuals are facing several legal challenges when filing Human Rights-based Climate Changes lawsuits against governments. Is there a duty for governments to reduce greenhouse gas emissions on the basis of Human Rights? ([Stichting Urgenda v The State of the Netherlands](#)). Are they individually affected by in/actions to mitigate climate change? ([Armando Carvalho and Others v. Parliament and Council](#)) Can they rely on the impact on future generations? ([Duarte Agostinho and Others v Portugal and 32 Other Member States](#) - pending) Can courts impose specific emission targets on states? ([VZW Klimaatzaak v. Belgium & Others](#)) Do states only have environmental duties within their territory or can they be obliged towards individuals outside of



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*No Comments.*

Discuss here  
it? ([Plan B Earth v. Prime Minister & Others](#)) Can one state be held accountable for harm potentially caused by a cumulation of many states' in/actions? Two of the most prominent cases of

Human Rights-based Climate Change Litigation, which might be influential for future lawsuits around the world are the *Urgenda* case against the State of the Netherlands, and the *Shell* case.

In 2019, the Dutch Supreme Court made a ground-breaking decision in a case brought by the *Urgenda* Foundation, which called for greater action to prevent global climate change. The case was about whether the Dutch government is required by law to reduce greenhouse gas emissions, and whether the courts can force the it to do so. The court ruled in favour of *Urgenda* stating that the government needs to reduce its emissions by at least 25% by the end of 2020 (from 1990 levels). It acknowledged that reducing emissions to the highest possible level is necessary to meet human rights obligations (under Articles 2 ([Right to Life](#)) and 8 ([Right to Privacy](#)) of the European Convention on Human Rights (ECHR)). This case is an example of how human rights arguments can be used to set due diligence standards for greenhouse gas emissions reductions, making it an example for future climate change cases.

A Dutch court ruled in favour of a Human Rights-based lawsuit filed by 17 non-governmental organizations and over 17,000 individuals against the multinational oil and gas company *Royal Dutch Shell plc* (now *Shell plc*) in May 2021. The court holding corporations accountable for their role in climate change and offers a potential ground for future cases.

So far, the European Union has been a pre-dominant actor in governing climate policy. It recently tightened its greenhouse gas reduction targets and is aiming for climate neutrality by 2050 ([European Green Deal](#)). This would make the European Court of Justice the optimal forum to litigate Human Rightsbased cases regarding state's compliance with these laws. There have been attempts of environmental groups to

ordered Shell to reduce its emissions by a net 45% by 2030, referring to the reasoning the *Urgenda* case. What is significant about this is that Articles 2 and 8 ECHR have previously just been applied to government climate protection duties and now also bind private actors. Even though there is still uncertainty of whether the judgment will actually be enforced, the Shell case marks an important step forward in

bring climate lawsuits before the European Court of Justice, which, however failed due to restrictive formal requirements. The European Court of Human Rights is currently dealing with several cases related to Climate Change ([Verein Klimaseniorinnen Schweiz and Others v Switzerland](#), [Duarte Agostinho and Others v Portugal and 32 Other Member States](#)) with hearings expected in 2023.

Overall, the global trend of Human Rights-based Climate Change Litigation is a positive development in today's fight against Global Warming and Green House Emissions. Organisations and/or individuals filing lawsuits to hold governments or corporations accountable for their in/actions raises awareness for the serious threats Climate Change has to both our environment and human well-being and the role governments and corporations play in this. However, single lawsuits cannot mitigate Global Warming by themselves. Even if they are successful, it does not mean that they are automatically enforced. Especially in lawsuits against the government, the interaction between the judiciary and the executive branch makes it difficult to impose specific emission targets (separation of powers). This shows that there is need for legislative action. It is the responsibility of the states to introduce laws governing the issues that courts face in litigation, and setting stricter standards in mitigating Climate Change. They can do so within their own territory or associate with other states. The fact that environmental organisations and individuals feel a violation of basic human rights by contributions to Climate Change illustrates that there is still a significant gap between international duties and national laws.

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**SUGGESTED CITATION** Smith, James: *Can Human Rights stop Climate Change*, The Environmental Dispatch,

2023/5/07, <https://environmentaldispatch.co.uk/can-humanrights-stop-climate-change>.