



---

ADDRESSING THE CLIMATE EMERGENCY:  
THE ROLE OF HUMAN RIGHTS LAW

Dr Annalisa Savaresi

Senior Lecturer, University of Stirling

[Annalisa.savaresi@stir.ac.uk](mailto:Annalisa.savaresi@stir.ac.uk)

# Summary

**Climate emergency and human rights**

**The use of HRS remedies**

# What is the role of human rights law in the climate emergency?

```
graph TD; A[What is the role of human rights law in the climate emergency?] --> B[HRS as a paradigm to address CC and its impacts]; A --> C[HRS as a remedy for the impacts of CC and CC action];
```

**HRS as a paradigm to address CC and its impacts**

Savaresi A. et al, 'Human Rights and the Paris Agreement's Implementation Guidelines: Opportunities to Develop a Rights-Based Approach' (2018) 12 *CCLR* 191

**HRS as a remedy for the impacts of CC and CC action**

Savaresi A. and Auz J. 'Climate Change Litigation and Human Rights: Pushing the Boundaries' (2019) 9 *Climate Law* 244

# What is the relationship between climate change and human rights law?

**All States** have ratified some human rights treaties and **virtually all States** have ratified climate change treaties



When implementing climate treaties, States must **take into account their human rights** obligations



These obligations **depend upon which HRs treaties each State has ratified** and on **domestic law**

Savaresi, 'Climate Change and Human Rights: Fragmentation, Interplay and Institutional Linkages' in Routledge Handbook of Human Rights and Climate Governance (2018)  
Available at SSRN: <https://ssrn.com/abstract=2902662>

## Human Rights and the Paris Agreement

**‘Human rights occupy much of the space of justice discourse and therefore represent an ‘essential term of reference’ to address justice and equity questions in the context of climate change’**  
(Humphreys, *Competing Claims: Human Rights and Climate Harms*, 2009)

### Preamble

*Acknowledging* that climate change is a common concern of humankind, **Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights**, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity

## What are the advantages of looking at the climate change in human rights terms?

1. **Advocacy** grounded in human rights can spur stronger action
2. Human rights norms **clarify** how States should respond to climate change
3. Human rights bodies can inform and improve climate policy by providing forums for issues concerning climate change and human rights that might **otherwise be overlooked**

UN Special Rapporteur on human rights and the environment,  
Report on climate change (2016) A/HRC/31/52

# The implications of States' human rights obligations in relation to climate change

## Impacts of climate change

Harm to persons

Harm to property

Harm to the environment

## Impacts of climate change response measures

Mitigation

Adaptation

Finance

# The implications of States' human rights obligations in relation to climate change

## Procedural obligations

- Assess and **provide information** about the effects of climate change
- Ensure that climate decisions are made with the **informed participation of the public**
- Provide for **effective remedies** for climate-related violations of human rights, including by third parties
- Protect the **rights of freedom of expression and association in relation to all climate actions**

## Substantive obligations

- Fully **implement** all commitments made under the Paris Agreement
- **Strengthen** their commitments in the future
- Adopt a **legal and institutional framework adapt** to climate change.
- Take care to **protect the rights** of the most vulnerable
- **Cooperate** with one another to address climate change

UNSR (2016) A/HRC/31/52



# A rights-based approach to climate change and climate change action

‘The foreseeable and potentially catastrophic adverse effects of climate change on the enjoyment of a wide range of human rights give rise to extensive duties of States to **take immediate actions to prevent those harms**. To comply with their international human rights obligations, States should **apply a rights-based approach to all aspects of climate change and climate action**. Applying a rights-based approach clarifies the obligations of States and businesses; catalyses ambitious action; highlights the **plight of the poorest and most vulnerable**; and empowers **people to become involved in designing and implementing solutions**’

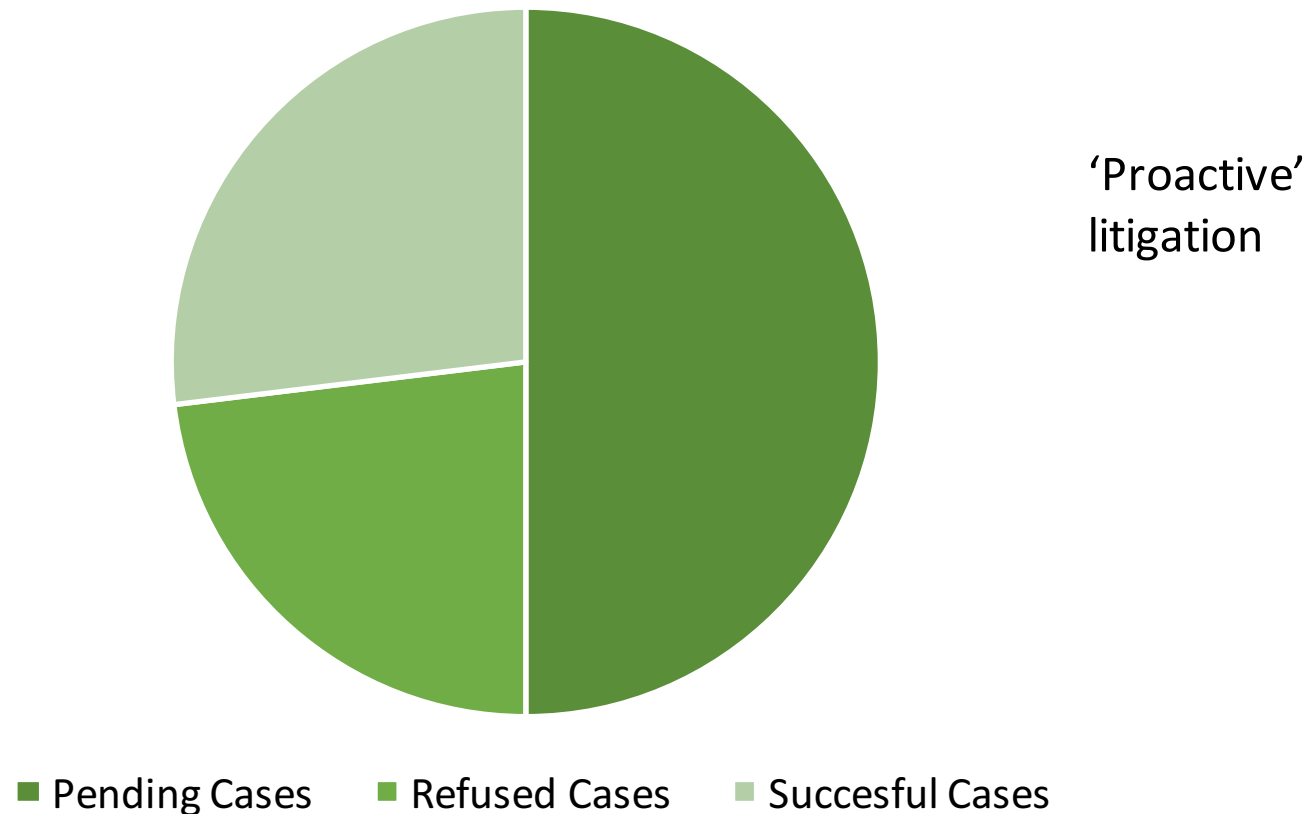
UNSR (2019) A/74/161, at 62

## Business' human rights responsibilities associated with climate change

- Reduce GHG **emissions** from their own **activities** and their **subsidiaries**
- Reduce GHG emissions from their **products** and **services**
- Minimize GHG emissions from their **suppliers**
- Publicly **disclose** their emissions, climate vulnerability and the risk of stranded assets
- Ensure that people affected by business-related human rights violations have **access to effective remedies**
- **Support**, rather than oppose, public policies intended to effectively address climate change.

# The use of HRS remedies

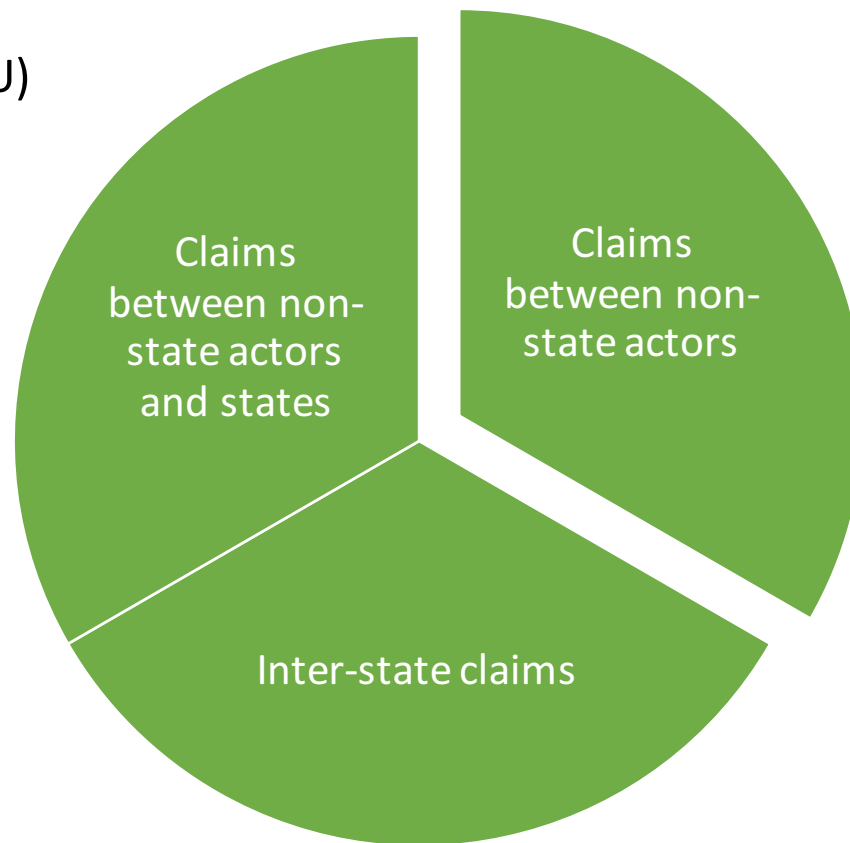
# Status of 'human-rights-based' climate litigation



Savaresi and Auz, **Climate Change and Human Rights Litigation: Pushing the Boundaries**, Climate Law, 2019  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3374730](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3374730)

# Who?

**Urgenda** (Netherlands)  
**DeJusticia** (Colombia)  
**People's climate case** (EU)  
**Torrens Islanders**  
(Australia)



- **Milieudefensie**  
(Netherlands)
- **Carbon Majors Inquiry**  
(Philippines)

# For what?

## Action

Applicants may complain that certain actions (e.g. permits or licenses to extract fossil fuels or log forests) have led to human rights violations

## Inaction

Applicants may complain that failure to act (e.g. a failure to adopt and/or implement climate change legislation) has resulted in human rights violations

# The so-called 'Carbon Majors inquiry'



---

## Who are the applicants?

Philipino individuals, as well as civil society organizations

---

## Who are the respondents?

Global corporations identified by scientists as the main culprits for GHGs emissions

---

## Which human rights instruments are invoked?

Human rights enshrined in the legal order of the Philippines, including through the implementation of international treaties

Savaresi and Hartmann, 'Using Human Rights Law to Address the Impacts of Climate Change: Early Reflections on the Carbon Majors Inquiry' in Lin and Kysar (eds), *Climate Change Litigation in Asia* (CUP 2020) <<https://papers.ssrn.com/abstract=3277568>>

# Climate emergency at home

A rights based  
approach to the  
climate  
emergency in  
Scotland

- Public participation in decision-making
- Access to information
- Access to remedies
- Justice implications of climate change response measures



# Conclusions

Human rights law as one of the key means to address the **justice** questions associated with climate change

Human rights law to provide **remedies, especially** where none are available, giving **voice** to the voiceless and starting a **truth telling** process

Human rights law can be used as an **interim gap filler** while better dedicated legal instruments to deal with climate change are devised

Human rights law instrumental in bringing about a **change in attitude** by courts and lawmakers

Savaresi A, 'Human Rights Responsibility for the Impacts of Climate Change: Revisiting the Assumptions' (2019) <https://papers.ssrn.com/abstract=3454099>