

Index

- accountability
 - carbon majors, 247–48, 319–20
- attributing emissions, 248–53
 - deforestation, 263
 - lack of damaging narratives, 297–300
 - private parties, 246–47
 - supply-side accountability gap, 321–22, 334
 - common but differentiated responsibilities principle, 332–33
 - Gloucester Resources case, 328
 - Gray case, 328
 - no-harm principle, 332
 - People v. Arctic Oil*, 324–27, 334
 - perfect substitution principle, 329–31
 - visual evidence, importance of, 273, 284
- adequacy of efforts to reduce emissions. *See* assessment of climate change
 - policies; failure to adequately mitigate
- administrative due process claims, 127
- administrative law cases, 120, 122–24
- airport expansion, 124
 - climate litigation currents, 126–27
 - coal power stations, development of, 124
 - precedents, 117–29
- Africa
 - balancing development and environmental rights, 377–79
 - failures of legal systems, 379–80
 - Indigenous peoples' movements, 380–81
 - inequalities and injustices, 376–77
 - exacerbation through climate change, 377
 - See also* Kenya; South Africa
- air travel
 - balancing impact of emissions and rights of others, 179–80
 - offset or compensation for emissions, 179, 358
 - tax credits, 32
- airport expansion, 2, 124, 130
 - judicial deference, 309
- Alaska Inter-Tribal Council (AITC)
 - global warming, impact on Indigenous peoples, 282
- Alston, Philip, 267–68
- Amazon (corporation)
 - corporate liability for climate change, 139
- Amazon rainforest
 - deforestation, 2, 12–13, 99, 350
 - Kichwa Indigenous People of Sarayaku* case, 276–80
- assessment of climate change policies
 - “all appropriate measures”, 171
 - consistency, 173
 - due diligence obligation. *See* due diligence obligation
 - due process, 173
 - good faith, 173
 - “highest possible ambition”, 171
 - “maximum available resources”, 172
 - proportionality, 173
 - attribution research, 223–24, 238
 - failure-to-adapt claims, 234–38
 - failure-to-mitigate claims, 231–34
 - individual versus collective rights, 224–30
 - source attribution, 232–34
- Australia, 328–29
 - administrative climate litigation
 - Bushfire Survivors* case. *See* *Bushfire Survivors for Climate Action Incorporated v. Environment Protection Authority*

- Gloucester Resources Limited* case, 328
Gray case, 328
Greenpeace Australia case, 124
 National Environmental Policy Act, 124
 Torres Strait. *See* Torres Strait islanders
 wildfires, 227
 visual evidence, importance of, 285–87
- balancing competing priorities, 32, 257, 340, 343
 Africa, 377–79
 Amazon rainforest, 360
 India, 364, 370–75
 Bangladesh
 climate change inequalities, 134–35, 144
 baseline rights and duties
 common ground doctrine, 25–27
 bioenergy with carbon capture and storage
 (BECCS), 185
 Brazil
 challenges to environmental policy, 359–61
 “direct” climate actions, 355
 environmental and climate crisis
 criminalization of environmental
 activism, 349
 fires and deforestation, 349–50
 illegal logging, 350
 weakening of institutional framework,
 350–52, 361–62
 human rights defenders, 350–52
 illegal drainage of mangrove forests, 357–58
 illegal use of fire, 358
 “indirect” climate actions, 355, 357–58
 “isolated” court actions, 355
 public civil actions, 358–59
 racial inequalities
 disproportionate impacts of climate
 change, 352–53, 363
 release of carbon dioxide, 358
 “structural” court actions, 355
*Bushfire Survivors for Climate Action
 Incorporated v. Environment
 Protection Authority*, 285–87
- Canada
 forced displacement as a result of climate
 change, 226
 public interest standing, 316
 wildfires, 227
 carbon dioxide (CO₂), 240–41
 oil and gas extraction, impact of, 241, 248,
 320
 sources, 241–44, 242
- carbon majors, 2
 accountability, 319–20
 attribution, 250–53, 251
 supply-side accountability gap, 321–22
 advancements in climate science, 209
 aims of litigation, 210
 attributing source emissions, 250
 attribution
 accountability, 250–53, 251
 direct financial impacts of litigation
 defendants, 215
 direct regulatory impacts of litigation, 214
 impacts of litigation, 207, 218–19
 financial impacts, 215–18
 regulatory impacts, 214–15
 indirect financial impacts of litigation
 devaluation of shares, 216–18
 increasing capital costs, 216
 investors, 216
 liability insurance, 216
 indirect regulatory impacts
 of litigation, 215
 land lost to sea level rises, 251
 negligence, 119, 211
 number of cases, 209
 private nuisance, 119, 211
 production gap, 321
 public nuisance, 211
 responsibility for emissions, 239, 242, 247–50
 strategic litigation, 208
 tort law, 211
- causality and human rights–based climate
 litigation, 15, 36, 308
 asbestos litigation, 314
 attribution research, 224
 failure-to-adapt claims, 234–38
 Fairchild principle, 339–41
 liability model of responsibility, 36
 wildfire litigation, 227
- Center for Climate Crime Analysis (CCCA),
 256, 260
 cooperation, 265
 core principles, 261–62
 illegal logging and deforestation, 265
- Children’s Investment Fund Foundation
 (CIFF), 196, 201
- children’s rights, 142, 224. *See also* *Future
 Generations v. Colombia*; *Juliana
 v. United States*; ICCPR complaint;
 UN Committee on the Rights of the
 Child; UN Convention on the
 Rights of the Child

- civil law cases, 119–20
- claims against corporations, 16, 35, 120, 246–47
 Amazon (corporation), 139
 corporate veil, 362
 strategic litigation, 99
- ClientEarth, 201–2, 212
- Climate Accountability Institute, 249
- Climate Action and Low Carbon
 Development Act 2015 (Ireland),
 305–6
- Climate Action Tracker (CAT), 341
- Climate Change Act 2016 (Kenya), 382
- Climate Change Act 2017 (Pakistan), 393–94
- Climate Change Advisory Council (Ireland),
 305
- climate change science, 240
 sources of greenhouse gases,
 241–44
- climate justice
 disproportionate impacts of global warming,
 132–33
 political inequalities, 137–38, 374–75
 racial inequalities, 136–37, 352–53, 363
 wealth versus poverty, 133–35, 138–40, 371–72
 women, 135–36
 ethics and moral responsibility,
 140–41
- Climate Litigation Accelerator (CLX), 5
- climate refugees. *See Teitiota v. New Zealand*
- Climate Warrior Campaign (India), 374
- coal mining, 2, 17, 164
 India, 364, 371, 375
Urgenda case. *See Urgenda v. the Netherlands* see also oil and gas
 extraction
- coal-fired power stations, 17, 22, 37
 Australia, 328
 Kenya, 381–82
 South Africa, 382–83
- collective rights, 226–27
 Indigenous communities, 226, 280, 379
 self-determination, right to, 226–27
- Colombia
 deforestation in the Amazon region, 350
 incorporation of human rights arguments,
 102. *See also* deforestation; *Future Generations v. Colombia*
- Committee on the Elimination of
 Discrimination against Women
 (CEDAW)
 climate change as a human rights duty,
 153–54. *See also* women,
- common but differentiated responsibility
 (CBDR) principle, 151, 245, 332, 337
 ambiguity, 344
- common ground as a baseline for human rights
 claims, 25–27
- community rights versus individual rights,
 224–30. *See also* collective rights;
 individual rights
- construction of new airport runways. *See*
 airport expansion
- corporate responsibility for emissions. *See*
 claims against corporations
- corporate veil, 362
- courts. *See* judicial proceedings
- COVID-19 pandemic
 impact of, 180, 219, 333, 352, 359, 376, 381
- criminal and corporate liability law cases, 120
- dam construction
Narmada Bachao Andolan case, 370
- dam disasters, 236, 350–51
- deforestation, 13, 99
 cattle ranching, impact of, 2
 Center for Climate Crime Analysis,
 265
 foreign enforcement targeting illegal
 commodities, 263–64
 foreign enforcement, lack of information
 for, 264
 illegal logging, 262, 350
 Intergovernmental Panel on Climate
 Change, 262
 link to other illegal activities, 263
 local enforcement, lack of, 263. *See also*
 illegal logging,
- delay enacting national climate change law, 12,
 37–38, 111, 186, 239, 247–48, 334, 337,
 394
- democratic legitimacy
 open standing, 315–18
 subsidiarity principle, 343
- “direct” climate actions, 355
 Brazil, 355, 360
- disillusionment with multilateral processes, 101
- diversity of legal actions
 range of acts, policies, and practices, 98
 range of legal principles, 98
 range of parties, 908
- drug dealer defense
 market substitution assumption, 329–30
- Duarte Agostinho v. Portugal*
 minimum fair share norm, 31

- due diligence obligation
- climate change policies, 173–75, 341
 - compliance, 175
 - consistency, 175–76
 - methodology, 176
 - policy gaps, 176
 - policy implementation/effectiveness, 176
 - progression, 176
 - targets and monitoring, 175
 - timelines, 176
 - transparency, 176
 - Milieudefensie* case, 212
 - no-harm principle, 332
 - Notre Affaire à Tous* case, 213
- due process, 34, 127, 173
- duty of care
- Milieudefensie* case, 212
 - Notre Affaire à Tous* case, 213
 - Urgenda* case, 128, 142
- duty to take precautionary measures, 127.
- See also* precautionary principle
- Earthlife Africa Johannesburg v. Minister of Environmental Affairs & Others*, 382–83
- Ecuador
- illegal mining operations, 274–76. *See also* *Kofan Indigenous People of Sinangoe v. Ecuador Ministry of Mining*
 - illegal oil exploration, 277–80. *See also* *Kichwa Indigenous People of Sarayaku v. Ecuador*
- emissions reduction plans
- assessment of state human rights obligations, 178
 - CESCR assessment of state human rights obligations
 - whether avoiding regression, 182–83
 - whether climate plan appropriately ambitious, 181–82
 - whether emissions reductions consistent with human rights, 185
 - whether progressive increase in ambition, 182–83
 - whether state giving adequate priority to human rights, 181
 - whether state has taken/is taking all rights-respecting steps, 178–80
 - whether state planning to reduce emissions in line with global target, 183–85
- challenges
- mitigation targets, 18
 - rights-based challenges, 19
 - rulings, 22–24
 - specific projects and policies, 19
- challenges to corporations, 16
- challenges to states, 16, 166–70
- Family Farmers and Greenpeace Germany* case, 168
- Juliana* case, 166–67
- Neubauer* case, 9
- Norwegian Constitution, 167–68
- reasonable minimum obligation, 339–40
- Urgenda* case, 9, 167
- enforcement lawsuits, 193–94
- balancing competing priorities, 257
 - evidence, 257
 - inadequate enforcement, 257
 - lack of coordination, 257
 - legal competence of courts, 27–28, 255–56
 - technological advancements
 - information sharing, 258–60
- environmental impact assessments
- licenses granted by local planning authorities, 123, 125, 355, 381
 - obligations of States, 165
 - omission of climate impacts, 29, 123, 193, 328, 382, 384
 - People v. Arctic Oil*, 326–27
 - strategic litigation, 374
- equality-focused climate litigation, 140–41
- benefits, 141–42
 - proliferation, 142–44
- Europe
- human rights-based climate litigation, 9–11
- European Convention on Human Rights (ECHR) claims, 305, 309–11
- prohibition on inhuman or degrading treatment, 336
 - respect for private and family life, 236, 336, 343
 - right to life, 236, 336. *See also* European Court of Human Rights (ECtHR)
- European Court of Human Rights (ECtHR)
- Budayeva and Others v. Russia*, 236
 - common ground doctrine, 25
 - Duarte Agostinho v. Portugal*, 31–32
 - failure-to-adapt claims, 235–36
 - Family Farmers and Greenpeace Germany v. Germany*, 168
 - Kolyadenko v. Russia*, 236

- European Court of Human Rights (ECtHR) (cont.)
Önerildiz v. Turkey, 236
Six Portuguese Youth v. 33 Governments of Europe, 335–38, 347–48
 state's positive obligations in respect of natural disasters, 236
Urgenda case. *See Urgenda v. the Netherlands*
- European Court of Justice (CJEU)
 duty to carry out environmental impact assessments, 326
- European Union
 mitigation targets, 29, 37
- evidence
 enforcement lawsuits, 257
See also visual evidence, importance of
- Extinction Rebellion, 1. *See also* social justice movements
- extraction and development projects
 economic considerations, primacy of, 125
See also balancing competing priorities
- failure to adapt
 attribution science, 223, 234–38
 causation analysis, 235
 source attribution, 235
 human rights–based climate litigation, lack of, 34
Sacchi case, 225
Shehla Zia case, 391
- failure to adequately mitigate, 177
 attribution science, 223, 231–34
Sacchi case, 225
Shehla Zia case, 391
- Fairchild v. Glenhaven Funeral Services*, 339–40
 causation, 339–41
- Family Farmers and Greenpeace Germany v. Germany*, 168
- Ferrão Carvalho v. Europe*, 29, 37
- foreseeability of climate impacts, 232, 235, 237–38
- forest-dwelling communities
 stewardship rights, 366–67, 369, 372–75
- fossil fuel companies. *See* carbon majors
- Framework for Implementation of Climate Change Policy 2014–2030 (Pakistan), 390
- France
 climate change inequalities, 140
 failure to adequately mitigate, 226
- fraud and misrepresentation
 misleading public opinion and investors, 120, 208, 210–12, 217
- #FridaysforFuture, 1, 205. *See also* social justice movements
- Friends of the Irish Environment v. Government of Ireland & Ors*, 168, 305, 318
 deference, 308–12
 judicial deference, 306
 justiciability arguments, 307–8
 policy discretion, 306–7
 retrogressive steps, 314
 right to a healthy environment, 305, 312–15
 right to bodily integrity, 305, 312
 separation of powers, 306–7
- Future Generations v. Colombia*, 191, 299
 attribution science, 232, 237
 government responsibility for adequate mitigation, 128
 state and non-state collaboration, 148
- Germany, 9
 domestic climate litigation
 incorporation of human rights arguments, 102
 lawyer-activists, 200
 standing, 37
See also Neubauer v. Germany
- Global South
 common but differentiated responsibility principle, 151
 constitutional and human rights arguments, 147–48
 development of climate litigation, 146, 189–91
 enforcement of existing laws, 193–94
 rights-based claims, prevalence of, 191–93
 stealthy climate litigation, 194–95
 implement mitigation projects, 155–56
 implementation of climate law frameworks, 146–47
 modes of legal action, 187–89, 195–205
 remedies in climate cases, 148–49
 polluter pays principle, 151
 reparations for climate-related harms, 149
restitutio in integrum, 150
- Gloucester Resources Limited v. Minister for Planning*
 market substitution assumption, 330
- Golder v. United Kingdom*, 344

- governmental responsibility for adequate mitigation, 128
 source attribution, 232, 238
See also states' responsibilities to guarantee protection from climate change-related harms
- grassroots activism, 197–99
- greenhouse gas (GHG) emissions
 climate change science, 241–44
Neubauer case
 insufficient pledges, 9
Urgenda case
 insufficient pledges, 9
Greenpeace Australia Ltd v. Redbank Power Co, 124
Greenpeace Germany v. Germany, 26, 32, 169
 greenwashing, 208, 217, 239
 violations of OECD guidelines, 212
- Guiding Principles on Shared Responsibility
 indivisible injury, 338–39
- human rights–based climate change (HRCC)
 litigation, 1–2
 baseline rights and duties. *See* baseline rights and duties
 cases (2005–2021), 11–12, 22, 40–83
 failure to adapt. *See* failure to adapt
 failure to adequately mitigate. *See* failure to adequately mitigate
 legal mobilization theory. *See* legal mobilization theory
 limitations
 geographic reach, 34
 not an end in and of itself, 34
 “new wave”/“next generation” cases, 99–101
 post-Paris Agreement, 10–18
 common ground doctrine, 25–27
 compatibility of government policies with climate rights and duties, 29–33
 establishing baseline rights and duties, 25–27
 justiciability of legal obligations, 27–29
 pre-Paris Agreement, 10
 procedure, 24–25
 proliferation, 3, 10–14
 recent key legal challenges, 2–3
- ICT. *See* technological advancements
- illegal logging, 262–64, 350
 Center for Climate Crime Analysis, 265
- import embargoes, 264. *See also* deforestation
- illegal mining operations
Kofan Indigenous People of Sinangoe case, 274–76
- impacts of global warming
 climate litigation, 145–48
 disproportionate nature, 132–33
 gender inequality, 135–36
 Global South, 155–56
 political inequality, 137–38
 poor and marginalized people, 133–35, 371–72
 racial inequality, 136–37
See also climate justice
- international cooperation, 152–55
 remedies, 148–51
- India
 development policies
 balancing environmental protection, 370–71
 emissions, 364
 exclusionary conservation, 371–73
 international environmental law, 373
 judicial proceedings, 365–66
 environmental jurisprudence, 366–67
 land acquisition, 365
 non-implementation of environmental laws, 368
 public trust doctrine, 365, 368, 373
 standing, 364
 strategic litigation
 balancing development with environmental protection, 372–75
- Indigenous peoples' movements, 1, 226
Baleni case, 385
 constitutional obligation to manage shared natural resources, 280–83
 granting mining rights, 385
 illegal mining operations, 274–76
 illegal oil exploration, 276–80
 land grabs, 375
 public international law cases, 121
 rights of forest-dwellers, 372
 Torres Strait islanders, 158–65
 “indirect” climate actions, 355, 357–58
 Brazil, 355
- individual rights, 227
- insufficient pledges, 2, 32, 180
 greenhouse gas (GHG) emissions
Neubauer case, 9
Urgenda case, 9
 reducing deforestation, 12

- Inter-American Court of Human Rights (IACtHR)
- Advisory Opinion on Human Rights and the Environment, 22, 88, 192
 - failure-to-adapt claims, 237
 - forms of evidence, 278
 - Kichwa Indigenous People of Sarayakur* case, 277–80
 - Velasquez Rodriguez* case, 150
- Intergovernmental Panel on Climate Change (IPCC), 1–2, 130, 244
- common ground doctrine, 26
 - GHG emissions reduction targets, 10
 - impacts of global warming, 132, 320
- international cooperation
- international law as persuasive authority, 153
 - judicial and quasi-judicial bodies, 152–55
 - teleological or purposive method of interpretation, 152
- International Covenant on Civil and Political Rights (ICCPR)
- right to life, 143
 - rights of Indigenous peoples
 - Torres Strait islanders, 158–65
 - Adaptation Claim, 162–63
 - Australia's human rights obligations, 164–65
 - Mitigation Claim, 163–64
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- adequacy of efforts to reduce emissions, 177
 - international cooperation, 153
 - international treaties, importance of, 131
- Ireland
- Climate Action and Low Carbon Development Act, 305–6
 - National Mitigation Plan, 305–6
 - See also *Friends of the Irish Environment v. Government of Ireland & Ors*
- “isolated” court actions, 355, 362
- Brazil, 355
- Israel
- climate change inequalities, 137–38
- judicial activism, 192, 307, 311, 393–95
- judicial and quasi-judicial bodies
- international cooperation, 152–55
- judicial deference, 27, 32
- Friends of the Irish Environment* case, 306, 308–10
- judicial proceedings, 255
- enforcement concerns, 255–56
 - Friends of the Irish Environment* case, 305–7
 - deference, 308–12
 - justiciability arguments, 306–8
 - right to a healthy environment, 312–15
 - standing, 315–18
- India, 365–66
- balancing development with environmental protection, 370–71
 - environmental jurisprudence, 366–67
 - right to a healthy environment, 312–15
 - technological advancements, impact of, 256
- Juliana v. United States*, 84, 99, 143, 166–67, 228, 299
- justiciability
- Friends of the Irish Environment* case, 306–8
- justiciable right to government climate action, 27–29
- non-justiciability doctrine, 93, 194, 307
- Kanuk v. State of Alaska*
- constitutional obligation to manage shared natural resources, 280–83
 - Public Trust doctrine, 280
- Kenya
- coal-fired power stations, 381–82
- Kichwa Indigenous People of Sarayaku v. Ecuador*, 276–80
- Kofan Indigenous People of Sinangoe v. Ecuador Ministry of Mining*, 274–76
- Kyoto Protocol, 16, 164
- India, 373
 - Netherlands, 346
- land acquisition
- India, 365, 375
 - lawyer-activists, 199–201
- legal certainty, 313–14
- legal challenges, nature of
- coal mining, 2
 - fossil fuel companies, 2
 - high-emission economic activities, 2
 - insufficient government pledges, 2
 - Neubauer* case, 9
 - Urgenda* case, 9, 32
 - UN Committee on the Right of the Child, 3
 - young plaintiffs and future generations, 2, 12

- legal mobilization theory, 85–86, 93–94
 group dynamics and collective mobilization, 89–92
 institutional and structural incentives and disincentives, 86–89
 micro-politics of disputing behaviour, 92–93
- legal transplant litigation, 203–4
- Leghari v. Pakistan*, 2, 11, 99, 191, 236
 attribution science, 232
 Climate Change Commission, 389–91
 continuing mandamus, 391
 failure to implement climate change policy, 390
 state and non-state collaboration, 148
- links between human activity and climate
 impact, 1, 320–22. *See also* attribution research
- locus standi. *See* standing
- low-profile climate litigation, 117
 administrative law cases, 120–21
 civil law cases, 119–20
 criminal and corporate liability law cases, 120
 public international law cases, 121
- major fossil fuel companies. *See* carbon majors
- Manushi Sangathan v. Government of Delhi*, 367
- margin of appreciation, 28–29, 173
 ECtHR, 310, 342–44
 emissions reductions
 choice of means, 342–43
Hatton case, 342–44
 respect for private and family life, 343–44
Taşkin case, 342
Urgenda case, 346–47
 use of its resources and rights obligations, 179
- margin of discretion, 155, 167, 173
- market incentives
 illegal deforestation, 264
 renewable energy projects, 125, 130
- market substitution assumption, 329–30. *See also* perfect substitution argument
- Massachusetts v. EPA*, 189, 193
 air pollutant, concept of, 128
 minimum fair share norm, 30–33, 37
 nationally determined contributions, 170–75
Urgenda case, 167, 175
- modes of litigation, 205
 “The Enforcer”, 197, 204–5
 “The Engineer”, 197, 203–4
 “The Farmer”, 197, 201–3
 “Grassroots Activist”, 197–99
 “Hero Litigators”, 197, 199–201
- Narmada Bachao Andolan v. Union of India*, 370–71
- narrative change strategies, 290–93
 climate litigation, 296–97, 300–1
 negative/damaging narratives, 297–300
Even it Up campaign, 294
 human stories, use of, 295–96
 Ley Pulpin, Peru, 293–94
- National Climate Change Fund (Brazil), 356
- National Climate Change Policy 2012 (Pakistan), 390
- National Environmental Policy Act (NEPA) (Australia), 124
- National Environmental Policy Act (NEPA) (USA), 124
- National Green Tribunal (India), 365
- National Policy on Climate Change (Brazil), 356
- nationally determined contributions (NDC)
 assessment of emissions reductions,
See assessment of climate change policies; emissions reduction plans
 Australia and Torres Strait, 163
 Global South, 195
 Paris Climate Agreement,
 170–75, 178, 245
- negative emissions, 184–85, 337
- negligence
 cases against carbon majors, 119, 211
- Netherlands, 9
 domestic climate litigation
 incorporation of human rights arguments, 102
See also Urgenda v. the Netherlands
- Neubauer v. Germany*, 2, 9–10
 failure to mitigate, 18
 justiciability, 27
 material incentives, 33
 standing, 37
 temporal dimensions of climate change, 38
 “new wave”/“next generation” cases, 99–101
 strategic litigation, 101–3
- New Zealand, 13. *See also Teitiota v. New Zealand*
- no-harm principle, 175, 332
- non-justiciability doctrine, 93, 194, 307

- non-profit organization litigants, 188, 195, 201–3, 205
- Norway
carbon emissions, 323, 333
regulation of petroleum activities, 324
See also People v. Arctic Oil
- OECD Guidelines for Multinational Enterprises, 35, 212, 264
- oil and gas extraction, 122–25, 212–13, 322
CO₂ impact of, 241, 248, 320
enforcement concerns, 255
Norwegian Constitution, 167–68, 324
People v. Arctic Oil, 324–27
See also carbon majors; coal mining; extraction and development projects
- oil exploration, 2
Kichwa Indigenous People of Sarayaku case, 276–80
People v. Arctic Oil, 323, 324–27
See also coal mining; *Kichwa Indigenous People of Sarayaku v. Ecuador*; *People v. Arctic Oil*
- open standing regime, 315–18
- Oslo Principles on Global Climate Change (2015), 125
- “others do it too” defense, 234
- Pakistan, 11, 387
environmental justice, 391
environmental protection provisions, 387, 393–94
identity of polluters, 391
judicial activism, 393–95
judicially enforceable rights, 387
public interest litigation, 388–89
- Palestine
climate change inequalities, 137–38
- Pandey v. Union of India*, 193, 368, 373
- Paris Climate Agreement (2015), 1–2, 15–30, 373
adoption and implementation, 14, 245
Africa, 380
common but differentiated responsibilities, 332
common ground doctrine, 26
GHG emissions reduction targets, 10, 332
human rights impacts, recognition of, 2
international cooperation, 153, 333
People v. Arctic Oil, 333
- People v. Arctic Oil*, 320
oil drilling licenses, 324
- Paris Agreement, 333
- perfect substitution argument, 331
right to a healthy environment, 324–25
Supreme Court judgment
supply-side accountability, 325–27
See also market substitution assumption
- Philippi Horticultural Area v. MEC for Local Government, Environmental Affairs and Development Planning*, 383–84
- Philippines’ Human Rights Commission
impact of climate change on human rights, 17, 35, 99, 101, 213, 298–99
- Planning Act (UK)
airport expansion, 309
environmental assessments, 326
- policy discretion, 27–29, 166, 168, 174, 179
Friends of the Irish Environment case, 306–7
People v. Arctic Oil, 325–27
Urgenda case, 346
- political inequalities
disproportionate impacts of climate change, 137–38
- polluter pays principle, 151, 156, 368
- Portillo Cáceres v. Paraguay*, 149–50, 171
- Portugal, 31. *See also Duarte Agostinho v. Portugal*; *Six Portuguese Youth v. 33 Governments of Europe*
- precautionary principle, 90, 125, 128, 165, 174
Kofan Indigenous People of Sinangoe case, 276
Pandey case, 368
Save Lamu case, 382
- precedent and legal certainty, 313–15
- private nuisance
cases against carbon majors, 119, 211
prohibition on inhuman or degrading treatment, 336
- prosecutor/enforcement authority initiated litigation, 204–5
- public activism, 110–11
- public interest litigation (Pakistan)
limitations
lack of substantive action, 392
reluctance to appoint climate change experts, 392
statutory appeals, 392
right to a clean and healthy environment, 389
right to life, 388
Shehla Zia case, 389

- standing requirements, 388
- public international law cases, 121
- public nuisance
 - cases against carbon majors, 211
- public trust doctrine, 284
 - India, 365, 368, 373
 - Kanuk* case, 280–83
- Punjab Environmental Protection Act 1997 (Pakistan), 394

- racial inequalities
 - disproportionate impacts of climate change, 136–37, 143–44
 - Brazil, 352–53, 363
- regulation-forcing litigation, 193–94
- remedies
 - balancing competing priorities, 32
 - duty to cooperate as a judicial remedy, 152–55
 - Global South
 - polluter-pays principle, 150
 - Portillo Cáceres* case, 149
- reparations, 149
- restitutio in integrum*, 150
 - Teitiota* case, 149
 - Velasquez Rodriguez* case, 150
 - injunctive relief, 211
 - international law, 153–55
 - strategic litigation, 111–13
- resource allocation
 - comparison to peer states, 181–82
 - margin of appreciation, 179
 - emissions reduction, 178–80
 - state subsidies, 181
- respect for private and family life, 224
 - ECHR, 236, 336, 343
- retrogressive steps, 182–83
 - Friends of Irish Environment* case, 314
- right to a healthy environment, 27, 319, 378
 - Friends of the Irish Environment* case, 305–6, 312–15, 318
 - IACHHR, 22
 - Norwegian Constitution, 324–25
 - Pakistan, 389
 - People v. Arctic Oil*, 324
- right to bodily integrity, 305
 - Friends of the Irish Environment* case, 305, 312
- right to health, 224, 319
- right to life, 38, 88, 165, 192, 224, 319
 - Africa, 378
 - ECHR, 236, 336
- Friends of the Irish Environment* case, 305, 312
- IACHHR, 311
- ICCPR, 143, 158
- Portillo Cáceres* case, 149
- Shehla Zia* case, 389
- Subhash Kumar* case, 369
- Teitiota* case, 149
- Rio Declaration (1992), 2
- risks associated with litigation, 113–15

- Sacchi v. Argentina*
 - children's rights, 225
 - failure to adapt, 225
 - failure to adequately mitigate, 225
 - UN Convention on the Rights of the Child, 225, 228–29
- Save Lamu & Five Others v. National Environmental Management Authority & Another*, 381–82
- separation of powers doctrine, 28, 155, 168, 232, 307, 309, 317, 347
- shared responsibility
 - causation, 340–41
 - common but differentiated responsibilities, 337 *See also* common but differentiated responsibility (CBDR) principle
 - ECHR obligations, 338–41
 - fair share, 337–38, 341
 - Guiding Principles on Shared Responsibility, 338–39
 - indivisible injury, 338–39
 - reasonable minimum obligation, 339–40
 - Urgenda* case, 347
- Shehla Zia and Others v. WAPDA*, 389, 391
- Six Portuguese Youth v. 33 Governments of Europe*, 335–36
 - ECHR claims, 336–38, 347–48
- social inequalities. *See* climate justice
- social justice movements, 1
 - India, 365
- South Africa
 - coal-fired power stations, 383
 - development impacts on aquifers, 383–84
 - international agreements, 381
 - See also Earthlife Africa Johannesburg v. Minister of Environmental Affairs & Others; Philippi Horticultural Area v. MEC for Local Government, Environmental Affairs and Development Planning*

- standing, 37
 applicable standing rules, 315
Friends of the Irish Environment case, 315
 India, 364
 liberal approach
 government decision-making, 317
 rule of law, 315–16
 trend, 316
 rule of law, relationship with, 315–16
 separation of powers argument, 317
 traditional approach, 316
- states' responsibilities to guarantee protection
 from climate change-related harms,
 149–51, 156, 158–60. *See also* shared
 responsibility
- stealthy climate litigation
 Global South, 194–95
- strategic ambitions of climate change
 litigation, 97–98
 climate change in human rights terms, 101–3
 Juliana case, 99
 Leghari case, 99
 targeting corporations, 99
 Urgenda case, 99
 young plaintiffs and future generations, 99
 See also *Juliana v. United States*; *Leghari*
 v. Pakistan; *Urgenda v. the*
 Netherlands
- Strategic Environmental Assessment Directive
 (EU)
 airport expansion, 309
 environmental assessments, 326
- strategic litigation, 115–16, 386
 balancing development with environmental
 protection, 372–75
 broader plan for change, 108–10
 carbon majors, 208
 definition, 104–5
 history, 105–6
 impact assessment processes, 374
 implementation challenges, 111–13
 legal context, 108
 political context, 108
 public activism, 110–11
 risk assessment, importance of, 113–15
 social change, relationship with,
 105–6
 social context, 108, 353–55
 “structural” court actions, 355, 362
 Brazil, 355, 360
 Subhash Kumar v. State of Bihar, 369
- subsidiarity principle
 margin of appreciation, 342
- subsidies
 clean energy suppliers, 19, 181, 185
 fossil fuels, 181, 186, 248, 332
 resource allocation, 181
- supply-side accountability. *See* accountability:
 carbon majors
- taxation and tax exemption measures, 181
 air travel, 32
 carbon taxes, 185
- technological advancements
 bioenergy with carbon capture and storage,
 185
 judicial proceedings, impact on, 256
 law enforcement, 258–60, 266
Teitiota v. New Zealand, 2, 13, 143, 149
- temporal dimensions of climate change, 125
- temporality of human rights law, 37–39
- Thunberg, Greta, 2, 13, 247
- Torres Strait islanders, 158–60
 ICCPR complaint, 160–65
 Adaptation Claim, 162–63
 Australia's human rights obligations,
 164–65
 Mitigation Claim, 163–64
 loss of culture, 161–62
- tort law
 cases against carbon majors, 211
- trends in climate litigation
 strategic cases, 99–101
- UN Committee on Economic, Social and
 Cultural Rights (CESCR)
 adequacy of efforts to reduce emissions,
 186
 whether a state has taken/is taking all
 rights-respecting steps, 178–80
 whether avoiding regression, 182–83
 whether climate plan appropriately
 ambitious, 181–82
 whether emissions reductions consistent
 with human rights, 185
 whether progressive increase in ambition,
 182–83
 whether state giving adequate priority to
 human rights, 181
 whether state planning to reduce
 emissions in line with global target,
 183–85

- UN Committee on the Rights of the Child (CRC), 3, 13, 228–29, 234
 climate change as a human rights duty, 153–54
- UN Convention on Biological Diversity's (CBD), 380
- UN Convention on the Rights of the Child (CRC)
Sacchi v. Argentina, 225, 228–29
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP), 380
- UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018), 380
- UN Framework Convention on Climate Change (UNFCCC 1992), 30, 244–45, 332
- Africa, 380
- Brazil, 356
- good faith, 173
- India, 373
- international cooperation, 153
- Kenya, 382
- no-harm principle, 332
- South Africa, 381
- Torres Strait* case, 163–64
- Urgenda* case, 345
- UN Guiding Principles on Business and Human Rights, 35, 213
- UN Human Rights Committee
 harmonization of international law, 149–50
 physical integrity and climate harms, 2, 13
Portillo Cáceres case, 149–50
 right to life, 311
Teitiota case, 2, 13, 143, 149
 Torres Strait islanders, 160–65
- UNEP Emissions Gap Report, 321
- United Nations Charter
 international cooperation, 153
- United States
 administrative climate litigation
 National Environmental Policy Act (NEPA), 124
 civil law cases, 119–20
 climate change inequalities, 133–37, 143
 climate forced displacement, 235
 criminal and corporate liability law cases, 120
Juliana case. *See Juliana v. United States*
Kanuk case. *See Kanuk v. State of Alaska*
- Urgenda v. the Netherlands*, 2, 9, 84, 189, 191, 193, 203–4, 207, 227
 duty of care, 128, 142
 ECHR claims, 311, 345–47
 emissions reduction plans, 9, 167
 insufficient government pledges, 9, 32
 margin of appreciation, 346
 minimum fair share norm, 30, 167
 separation of powers argument, 155
 shared responsibility, 347
 strategic ambitions of climate change, 99
 temporal dimensions of climate change, 38
- Velasquez Rodriguez v. Honduras*, 150
- visual evidence, importance of, 287–88
Feather River Lumber Co. case, 273
Kanuk case, 280–83
Kichwa Indigenous People of Sarayaku case, 276–80
Kofan Indigenous People of Sinangoe case, 274–76
 public opinion, impact on, 270–73, 284–85
Bushfire Survivors case, 285–87
- Volkswagen
 Dieselgate scandal, 217
- We the People v. Union of India*, 368
- WildEarth Guardians v. United States Forest Service et al.*
 perfect substitution argument, 330
- wildfires
 Australia, 227, 285–87
 Canada, 227
 causality and human rights–based climate litigation, 227
 visual evidence, importance of
 Australia, 285–87
- Wildlife First and Others v. Ministry of Environment and Forests*, 369
- women
 African patriarchy, 379
 disproportionate impacts of climate change, 135–36 *See also* climate justice: disproportionate impacts of global warming; Committee on the Elimination of Discrimination against Women (CEDAW)
- Youth Climate Movement, 299