CLIMATE CHANGE AND CLIMATE LITIGATION: LEARNING THE PAST, UNDERSTANDING THE PRESENT AND ANALYZING THE FUTURE

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INTRODUCTION

The words "Climate Change" ring in the unfavoured thoughts of greenhouse gases, global warming, rising sea levels, and the likely heading of the world towards unliveable conditions. But, along with these images, the words "Climate Change" also ring in the need for change, action and innovation. The United Nations' Framework Convention on Climate Change (hereinafter referred to as UNFCCC), defines the term "Climate Change" as the change in climatic conditions that can be attributed directly or indirectly to Human Activity, changing the composition of Global Atmosphere, in addition to the varying of Climate naturally, that can be observed over long time periods.[1] Climate Change has occupied the limelight of all environmental discussions for well over two decades now, after it was first accepted as an "Environmental Threat" in the year 1992, at the Rio de Janerio summit, while the UNFCCC Charter was adopted. However, it is evident that the concentration of Greenhouse Gases present in the atmosphere, have far crossed the levels that are considered scientifically safe. Moreover, rising sea levels, causing an increased destruction during coastal storms and an ever-receding coastline are threatening to submerge island nations and their communities.[2] On an international platform, Climate Change has been termed as a "*Super-Wicked Problem*", as it has the power to resist even the most substantial efforts by the world's policymakers. There are three reasons why this problem is considered "*Super Wicked*". The first reason is that Climate Change becomes lesser and lesser traceable over time. This means that, with an endlessly

[1] United Nations Framework Convention on Climate Change, FCCC/INFORMAL/84, (9/05/1992), available at https://unfccc.int/resource/docs/convkp/conveng.pdf, last seen on 30/05/2018
[2] John A Church & Peter U Clark, *Sea Level Change*, Fifth Assessment Report Intergovernmental Panel on Climate Change, Ch 13 (2014)

increasing emission of Greenhouse Gases, people become committed to continue doing the same, and after a point in time when the problem reaches an acute intensity, are at a loss to find a solution that is effective and acceptable. The second reason is that the people who are the best equipped to combat Climate Change, are the ones who are the primary cause for the problem, and these people lack the incentive to take any steps towards combatting the same. Furthermore, those people who lack the incentives to mitigate Climate Change, for example, coal mine owners, are the people with the best access to primary information, whereas, those people who are more likely to bear the brunt of the issue, have diffuse incentives because these are the people who generally lack primary information. Thirdly, there exists no internationally recognized legal authority that has the sole goal of tackling this issue. This leads to the general lethargic belief that Climate Change Mitigation efforts are futile, expensive processes that have no fruitful results, and a much lesser quantity of economic benefits and results.[3] These claims can further be substantiated with statistics from various sources. The National Aeronautics and Space Association (NASA), estimates that there exist 407.62 parts per million (ppm) of Carbon Dioxide in the atmosphere, that global temperatures have risen by 1.8ºF since the year 1880, that the Arctic Ice Minimum drops 13.2% per decade, and that sea levels are rising by 3.2 millimetres every year.[4] It is therefore, clear that the efforts of the world to mitigate climate change has at best been mediocre, if not unfruitful.

DEALING WITH CLIMATE CHANGE

Climate Advocates propose two means of warding off the threats posed by Climate Change. One aims at achieving the needed change through conventions, treaties, and agreements that countries become party to, sign and ratify voluntarily, to achieve goals for the betterment of the world. The second, more novel way of dealing with Climate Change is via the means of Climate Litigation. To substantiate the need to adopt the second means of dealing with Climate Change, one needs to understand two things, the limitations and failures of the first method, and what climate litigation essentially is, and how it can cope up with the failures and the limitations of the first mechanism. Before understanding the definition, advent and need of

[3] Richard J Lazarus, *Super Wicked Problems and Climate Change: Restraining the Present to Liberate the Future*, 94 Cornell Law Review, 1153, 1160 (2009)
[4] Global Climate Change- Vital Signs of the Planet Climate.nasa.gov, https://climate.nasa.gov/ (last visited Jan 31, 2018)

Climate Litigation, it is necessary for one to understand the already existing system of treaties and conventions. This can be achieved by analysing a few of the treaties that have served the world in the past.

Climate treaties and conventions provide two basic ideologies to battle Climate Change, mitigation and adaptation[5]. It is not an option to choose between the both, because different issues need to be dealt with different means, and therefore, both these styles need to be able to work together, towards a common goal, fighting off the evils of Climate Change. Mitigation focusses on reducing the effects of Climate Change, and aims at reducing the flow of Greenhouse Gases in the atmosphere. Its objectives lie in standardizing the Greenhouse Gases in the atmosphere for a given timeframe, enough to allow the ecosystems to naturally adapt themselves to Climate Change, and become accustomed to it. Adaptation on the other hand, focusses on adapting to the future expected climate conditions. Its goal is to reduce the vulnerability of the world and prevent it from suffering excessive damage caused by the harmful conditions expected in the future. Three major conventions that are discussed about when one speaks about climate change are the Kyoto Protocol, Montreal Protocol, and the latest Paris Convention in the year 2016.

CLIMATE CONVENTIONS: A CASE STUDY (KYOTO PROTOCOL)

The Kyoto Protocol was the first convention that made combatting climate change its primary, if not sole objective. Moreover, it was the only convention that was binding upon countries. It provides for a legally enforceable set of rules and regulations for the countries to follow in order to meet world standards. The countries that were legally bound to follow the same were mentioned in Annexure 1 of the convention. It was an extension to the UNFCCC charter adopted in 1992, and was first adopted in Kyoto in the year 1997, and it came into force in 2005. Its method of fighting Climate Change was by reducing the emission of Greenhouse Gases by reducing their concentrations in the atmosphere to *"a level that would prevent dangerous anthropogenic interference with the climate system"*[6]. The Kyoto Protocol

[5] Global climate change adaptation and mitigation Climate Change: Vital Signs of the Planet, https://climate.nasa.gov/solutions/adaptation-mitigation/ (last visited Feb 1, 2018)
[6] United Nations framework Convention on Climate Change, *KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE*, (11/12/1997), available at https://unfccc.int/sites/default/files/kpeng.pdf , last seen on 25/05/2018

consisted of two commitment periods. The first commitment period commenced in the year 2008, elapsed in 2012; and the second commenced in 2012 after the Doha amendment to the Protocol was made. The second commitment period enunciated binding targets for thirty-seven countries, namely Australia, the European Union and its 28 countries, Belarus, Iceland, Kazakhstan, Liechtenstein, Norway, Switzerland and Ukraine.

The Kyoto Protocol also had various compliance elements, which when added to the UNFCCC Charter improves the mechanism of the Convention in many ways[7], these include:

- Increasing the strength of the commitments to the status of being binding, legally;
- Increasing the quality and the frequency of submission of reports of the implementation of the commitments, and the status of Greenhouse Gases in the atmosphere;
- Coming up with an increasingly rigorous and comprehensive review process;
- Advocating the establishment of mechanisms, procedures and methods to deal with the parties that are found to be in noncompliance of these goals, and targets.

There lies a fundamental difference distinguishing the UNFCCC Convention from the Kyoto Protocol, i.e. the nature in which the commitments of reducing the Greenhouse Gases are mandated. In the former, the parties mentioned in Annex-1 do not necessarily have to return to the 1990 levels of emissions, instead they have to formulate measures, policies, and mechanisms to mitigate Climate Change and reduce Greenhouse Emissions. Further, they undertake to submit timely reports containing detailed information regarding the various policies and measures in place to combat the same. There were also no consequences to those parties that were found to be in noncompliance with the same. On the contrary, the Kyoto Protocol establishes a binding set of targets that are clear and crisp. Unlike the former convention, the Protocol in Article 3 sets clear that there would be legal implications if there is found to be any noncompliance, any of the targets. Article 3 further enshrines various steps that are to be taken in order to fight climate change, and since Annex 1 countries have this Protocol legally binding upon them, they must comply with them. For example, in Article 3(4) the Protocol asks the parties to provide sufficient data to the Subsidiary Body for Scientific and Technological Advice, in order for the body to estimate the carbon stocks of the country in the

[7] Clare Breidenich et al., *The Kyoto Protocol to the United Nations Framework Convention on Climate Change*, 92 The American Journal of International Law (1998), http://www.jstor.org/stable/2998044 (last visited Jan 9, 2018)

year 1990, and then project the estimates for future years. It also calls for various measures of transparency and measures to take in uncertainties, and ensure the proper execution of the measures advocated by the body to the country.[8]

Even though the Protocol seems to be one of a very stringent and hard to comply with, it allows for some flexibility in implementation at a national and international level.[9] At the internal national level, policies, frameworks, and implementations are left to the individual countries to handle. At the international level, it provides various measures because of the market-based approach it envisages. The Protocol aims to encourage enthusiastic compliance of the parties and implementation of various as it gives the parties freedom to develop their own strategies in order to achieve a common goal based upon their individual socio-economic and political conditions. The Protocol further provides directions as to how, when and where to report their progress and the mechanisms that they should be using to measure their emissions.

On the face value, the Protocol seems like one that has the capacity to make parties actually achieve their goals, and can further make the world a better place to live in. But like the fate every convention has faced till date, it did not achieve the great qualms of success it aimed at.

Since then, there have been many such treaties and protocols such as the Bali Roadmap (2007), the various Copenhagen Accords, the Durban Agreement (2011), etc. All of the aforementioned treaties and conventions focus on tackling Climate Change through policy changes, legislations, and diplomatic engagement between countries, more than internally trying to seek solutions on a country to country basis. It is evident from international surveys and statistics conducted by various organisations that climate change agreements have delivered very few successes in the past.[10] The only legally binding agreement in the ambit of Climate issues has been the Kyoto Protocol, but even it has witnessed indifferent achievements to Climate Change.

Climate advocates as previously stated, propose two methods of dealing with climate change. The first method, is through treaties and conventions as already discussed, and the second

[8] United Nations framework Convention on Climate Change, *KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE*, (11/12/1997), available at https://unfccc.int/sites/default/files/kpeng.pdf , last seen on 25/05/2018

[9] Clare Breidenich et al., *The Kyoto Protocol to the United Nations Framework Convention on Climate Change*, 92 The American Journal of International Law (1998), http://www.jstor.org/stable/2998044 (last visited Jan 9, 2018

[10] Chandra Lal Pandey, *the limits of climate change agreements: from past to present*, 6 International Journal of Climate Change Strategies and Management (2014)

mechanism is a newer, more innovative and efficient method to deal with Climate Change, known as Climate Litigation. To understand what, how and why countries need to move on to focussing on Climate Litigation as a method of deterring climate change, it becomes necessary to try and gauge and widely define the term climate litigation. Climate litigation aims at ensuring that communities, individuals and governments have procedural and legal rights in substantive amount to enjoy a clean, safe, sustainable, and healthy environment, and the means to take recourse legally when this right has been infringed, within their legal framework, legislations and statutes, and wherever necessary at a regional, national, and international level.

INTERNATIONAL MATRIX OF CLIMATE LITIGATION

To understand better the ambit of what Climate Litigation aims at achieving, it becomes important to understand the means that it will adopt to act as a deterrent. It aims at three means, Legislation, Implementation, and Enforcement (hereinafter referred to as LIE). LIE focusses on giving the locus standi in courts to individuals, non-governmental organisations, and states as claimants in cases of climate change. This leads to a shift in paradigm of viewpoints in the arena. Till date, the focus of helping curb climate change has been on an international level, with a far reaching, future based approach, whereas, Climate Litigation resorts to a more efficient, and composite victim-based approach. This method of litigation puts forth the same ideology, but on a more personal, and injury-based mechanism asserted by plaintiffs and claimants. To understand this better, one can observe the case of *Connecticut v American Electric Power*[11]. The case, while being between a state and a company, the New England states addressed several environmental issues, and documented the impacts of declining snow packs and ice, increased loss of life and public health threats that arose from heat related illnesses, smog etc, the impacts on the San Francisco bay, amongst other issues.

Adopting climate Litigation strategies would pose to be a cause for change in the study of climate science as a whole. Every litigation strategy needs collection, synthesis, and presentation of some form of science in its support to prove its case in a court of law. Climate

[11] Complaint, Connecticut v. Am. Elec. Power Co., 564 U.S. 410, (2011, United States Court of Appeals,Second Circuit)

litigation strategies are in no way different. A shift into climate litigation would mean that the science shifts into looking at more specific impacts and statistics related to the same, rather than a global outage caused due to a specific issue. This would lead to better abilities to assess the laws and legislation in place, as it deals with direct application of the same. Another area of focus would be the change in climate negotiations. Climate litigation and the treaties and conventions such as the Kyoto Protocol, and the UNFCCC's 2016 Paris Treaty should not be viewed in isolation from one another, instead, they need to be viewed as a combination of tools to ward off the threat that is caused by climate change.

CHASSIS OF CLIMATE LITIGATION

To bind Climate Litigation as a uniform mechanism, an international umbrella must exist to cope with questions of law that arise of international claims, and internal disturbances that might prove to be causes for international outrage. This international umbrella can focus on giving a broad idea on how to go about giving legal recourse to nations, and individuals. There need to be ideal legal organisations to be able to deal with the right type of cases. Suits in climate litigation can broadly be classified under two subheadings:

1) Suits Against Governments: Cases against governments can further be subdivided into two topics-
    a) Individual v Government: where the cases are filed by a private party or a private entity against the government of the state. These are suits that can be handled by a body of law within the state; or
    b) Government v Government: where the cases are filed by one state against another. These cases cannot be handled by either of a state's judicial body as they do not have a jurisdiction to do so, and need to be handled by an international body.
2) Suits Against Private Parties: Cases against private parties too, can further be subdivided similarly into:
    (a) Government v Individual; and
    (b) Individual v Individual

Both these kinds of cases can be handled by bodies internal to a state, and international bodies have hardly any role to play in these cases. These kinds of cases can however be specifically identified only with countries and states having extensive legislation for litigation. However, in countries where there exist no legislation focussing on climate change litigation, different methods have to be used to identify what climate litigation exists in that country.

In various countries wherein there exist no extensive climate legislations focussing on litigation, other means can be used to identify what form of climate litigation exists. Cases that are brought to judicial authorities and other administrative bodies in the country that question the facts, issues and regulations relating to climate change, climatic conditions, or any other science that is related to climate change[12]. These cases are identified with the help of keywords, such as *"Greenhouse Gases"*, or "*Climate Change"*. However, one cannot completely rely on finding out cases through the keywords used, or the main law in question in the case. For example, the case *Ralph Lauren 57 v. Byron Shire Council*[13], an Australian case, talks about the highly germane topic of a local government's liability with regards to its decisions relating to its policy on sea level rise. However, it becomes important to notice the fact that this case never makes a mention of any of the typical "key words" that one would search for while looking at these cases. Moreover, cases that seek to fight climate change without actually addressing any of the so-called core issues are not considered to be climate litigation, going by this current explanation. For instance, if a case is dealing with air pollution issues caused from a coal plant as a major question, would not fall under the purview of climate litigation under the current explanation that is being analysed. Cases of Climate Change have been filed in over twenty-four different nations as of March 2017, with a maximum of six hundred fifty-four cases being filed in the United States of America. It also becomes important to note that a majority of cases that are filed are against governmental bodies, whereas a smaller quantity of cases focus on particular projects, schemes or companies. While the larger cases, being filed against the government focus on nationally applicable laws governing general climate change conditions, the smaller cases deal with other planning assessment issues and other requirements.

[12] Meredith Wilensky, *Climate Change in the Courts: An Assessment of Non-U.S. Climate Litigation*, 131,134, available at https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1323&context=delpf (2015), last viewed on 21/04/2018

[13] Ralph Lauren 57 Pty Ltd v Bryon Shire Council [2014] NSWCA 107, (Supreme Court of New South Wales)

CURRENT TRENDS OF CLIMATE LITIGATION

Of late, there have been five major trends in Climate Litigation with regards to its purposes and what it aims at doing.[14] These five major trends are:

- Holding Nation States responsible for their commitments in relation to both legislation, and on policy;
- Linking the consequences of extraction of resources indiscriminately, to change in climate and its resilience;
- Establishing the connection between particular climate change causes and particular effects and impacts;
- Sanctioning accountability for failure to adapt to changing climatic conditions;
- Applying the doctrine of Public Trust to Climate Litigation.

The above five trends can be individually analysed using case laws that have arisen in various countries.

- Holding Nation States responsible for their commitments both legislative, and on policy: As there are more and more legislations, and policies adopted by the government and other administrative authorities, they are going to face more and more lawsuits, and cases in the courts. The advent of the Paris Convention in 2017 has led to there being an increased anchorage for lawsuits to gain the standing in courts as the system keeps in its check national commitments, and anchors it into an international instrument that work towards a common goal of not letting temperatures cross the threshold increase of 1.5 to 2 degrees Centigrade. This trend can further be analysed with the help of a case that occurred in the Netherlands, *Urgenda Foundation v Kingdom of the Netherlands*[15]. In this case, an environmental group of Dutch Origin called the Urgenda Foundation, along with approximately nine hundred citizens of the country, sued the government, alleging that the last imposed goals of Greenhouse Gas emissions were in violation of the Duty of Care that was imposed on the government constitutionally. The Court in its judgement said that the government has a duty of care to take charge of climate change mitigation measures thanks

[14] *THE STATUS OF CLIMATE CHANGE LITIGATION A GLOBAL REVIEW*, United Nations Environment Programme (2017), available at http://wedocs.unep.org/bitstream/handle/20.500.11822/20767/climate-change-litigation.pdf?sequence=1&isAllowed=y , last visited on 24/04/2018

[15] Urgenda Foundation v. Kingdom of the Netherlands, [2015] HAZA C/09/00456689, appeal filed

to the *"severity of the consequences of climate change and the great risk of climate change occurring."* While not clearly specifying how the government should decrease the thresholds of emission, they provided with many different means and measures to achieve the same via tax measures and trading etc. This decision was one of a kind at the time it was delivered and was path breaking, because it grounded the separation of powers, and held the government responsible for their duties, responsibilities and tasks.

- Link the consequences of extraction of resources indiscriminately, to change in climate and its resilience:

  Resource extraction is considered to be one of the major reasons for climate change. For example, the mining of coal and petrol, causes pollution of every form from air to water to noise in the near vicinity of the mine, and furthermore when consumed causes further destruction to the Climatic Conditions of a particular place. Therefore, it was thought to be imperative to question the government and the requisite party about the permissions given to them to carry on with the same activities that cause destruction under the disguise of resource extraction. To analyse this trend further one might use the case that has come up in the country of Norway, *Greenpeace Nordic Association and Nature & Youth v. Ministry of Petroleum and Energy*[16]. In this case, it was alleged by the petitioners, two environmental Non-Governmental Organisations, that the Ministry of Petroleum and Energy of Norway was violating their Constitution by issuing licenses of deep sea extraction of oil and petroleum. They said in their petition that these licenses would give companies uncalled for access to various undeveloped resources of oil, and this was not in compliance with the current mitigation efforts. They further said that these licenses were violative of Article 112 of the Norwegian Constitution that gave people the fundamental right to *"right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained"*.[17] In addition to this, the Courts also pointed out how the issuance of these licenses went against Norway's policy on the Paris Climate Treaty Commitments.

[16] *Greenpeace Nordic Association and Nature & Youth v. Ministry of Petroleum and Energy* [2018], 16-166674TVI-OTIR/06 (District Court, Oslo)
[17] Constitution of Norway((1814), Article 112,

- Establishing the connection between particular climate change causes and particular effects and impacts:

  Even though Courts have, in the recent past tried to connect the release of anthropogenic substances and Greenhouse Gas emissions to Climate Change, no court has as of yet been able to relate the fact that the emission of a particular Greenhouse Gas relates to a particular Adverse Effect of Climate Change. The previously discussed case of Connecticut v American Electric Power discusses this trend under Climate Litigation.

- Sanctioning accountability for failure to adapt to changing climatic conditions:

  To fight off the impacts of Climate Change, governments and administrative authorities take certain decisions, and plaintiffs have filed cases against them in situations where this has been the cause of amplification of this issue or grievances faced by the parties. Sometimes adaptive measures that have a government at the forefront have also led to cases where there have been people seeking injunctive relief against the infringement of their property rights. In the case of *St. Bernard Parish Government v United States*[18] the case was filed against the government that had widened the Mississippi River Gulf Outlet and its role in amplifying the effects of Hurricane Katrina in the neighbourhoods of New Orleans. As with different cases, including the current case, rather than being brought up to the forefront, Climate Change was an issue that was left lingering around in the background of the case.

- Applying the doctrine of Public Trust to Climate Litigation:

  The Doctrine of Public Trust is one such doctrine that is very widely accepted under the principles of common law. It essentially means that at country's government must act as a caretaker for all future and present generations of people that are living and will live under their jurisdiction by maintaining the resources that are of public interest to that particular jurisdiction.[19] In the case of *Environmental People Law v Cabinet of Ministers of Ukraine*[20] the courts in Ukraine addressed the question as to whether the

[18] *St. Bernard Parish Government et al. v. United States*, Case No. 16-2301 (Fed. Cir.) (2015)
[19] Michael C. Blumm & Rachel D. Gturhrie, *Internationalizing the Public Trust Doctrine: Natural Law and Constitutional and Statutory Approaches*, 45 UC Davis Law Review (2011)
[20] *Environmental People Law v. Cabinet of Ministers of Ukraine* (Kyiv Dist. Admin. Ct. 2011)

government had the responsibility to maintain the quality of air in Ukraine and term it as a government liability to the future generations brought under the purview of the topic of sustainable development. In the judgement, the Courts said that the government in fact did have the liability to maintain the air as a responsibility to the future generations.

A NOVEL TREND: CLIMATE REFUGEES

As studied above one can see five major trends in the growth of Climate Litigation in Nation States around the world. However, there are also some other trends in Climate Litigation that are yet to come up to the forefront or are yet developing or undeveloped that are worth discussing. For instance, the issue of Climate Refugees. Climate Refugees are those people who are forced to seek asylum in other nation states because of climatic conditions or the impacts of climate change. These days, it often seen that the term "Climate Refugees" are used as a standard packaging for all climate issues, but to define it in exact terms, or to apply it legally becomes a grey area.[21] The definition of the term refugee under the United Nations' High Commission on Refugees does not include the condition of climate refugees, and therefore, they cannot be brought under the same ambit. There have been cases such as *Ioane Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment*,[22] wherein a citizen of the Kiribati islands had applied to the nation of New Zealand for the status of a refugee as his home country, The Kiribati Islands was sinking, and he therefore, needed asylum. The Court rejected his claims, noting how the current definition of the term "refugee" failed to encompass a person who is forced to seek asylum due to environmental or climatic factors. This just goes on to prove the importance of Climate Litigation in terms of the relocation, and the asylum application of these people. It also speaks in volumes about the need for climate litigation as a well-developed concept in the future, and the need for it to become an advanced topic of discussion in the world.

[21] *Responses to Climate Migration*, 37 Harvard Environmental Law Review , 196-200 (2013)
[22] *Ioane Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment*, [2015] NZSC 107, *In re: AD (Tuvalu)*, [2014] Cases 501370-371 (New Zealand) (rejecting application for refugee status); RRT Case Number 0907346

CLIMATE LITIGATION, A FUTURE PERSPECTIVE

The topic of Climate Litigation currently faces many issues with relation to its proceedings and will continue to do so in the near future. These include the following problems:

- Justiciability: The concept of justiciability relates to the ability of someone to take judicial recourse to ask for remedies in case of an infringement of rights that has already occurred or is bound to occur. The doctrine of Justiciability varies across the globe and is different in different jurisdictions. For instance, in the United States of America, the Supreme Court considers a concept to be "Justiciable" when the concept *"must be definite and concrete, touching the legal relations of parties having adverse legal interests...It must be a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts"*[23]*;* whereas the English House of Lords considers a Justiciable Concept to be anything other than a case that has "no judicial or manageable standards by which to judge the case."[24] In the context of Climate Litigation, it becomes important to find out how and why a case is justiciable and then apply specific laws, or more general concepts in cases where there exist no specific climate legislations.
- International Law: The topic of Climate litigation is a complicated one to deal with because it is a haphazard mix of Refugee Laws, Human Rights Law, Sovereignty Laws, Various Conventions and treaties, and other forms of internal laws and legislations that exist within the country. Therefore, it becomes difficult for one to categorize it under one umbrella. Moreover, Climate Litigation in every State would be unique to its own state, and in the situation where a case arises dealing with two or more of these states or jurisdictions, there exists no single legal authority to be considered to derive a solution out of. This is one such topic that is going to face Climate Litigation with a lot of unintended harm.

[23] *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 240–41 (1937).
[24] *Buttes Gas and Oil Co. v Hammer* (No 3) [1982] AC 888, at 938.

- Rights Granted to People: While some countries grant the people living in that country the explicit right to a clean and healthy environment such as the Constitution of Norway[25], some other countries simply classify it to be under the purview of certain other primary fundamental rights, such as the right to life of a person, and the remaining are simply silent on the same. Therefore, when a case of this dynamic kind comes into the international arena, there exists virtually no measure to tackle these issues.

As seen from the above scenarios it becomes imperative that there exists some form of an international framework that helps in bringing some uniformity to the various jurisdictions around the world. This hopeful framework should aim at focusing on a broad set of guidelines that govern the concept of Climate Litigation from the perspective of it being a global issue than being a regionalized one.

CONCLUSION

Litigation has risen as a vital element of continuous endeavors to advance climate change alleviation and adjustment endeavors. This owes in huge part to the developing number of national laws that address climate change specifically thus giving footholds for claimants looking to hold governments liable, and cause private parties to represent commitments to alleviate or adjust. It additionally owes to the large role played by the Paris Agreement, which puts national laws and strategies into a worldwide setting and subsequently empowers prosecutors to interpret governments' responsibilities and activities as being satisfactory or then again deficient. As climate change litigation has multiplied manifold, it has tended to an enlarging extent of exercises, extending from waterfront improvement to foundation intending to asset extraction—in impact following through legitimate endeavors the long and shifted rundown of manners by which climate change influences biological communities, social orders, and people's rights and interests. It has likewise experienced a developing rundown of legitimate issues, for example, the causal demonstrating required to set up obligation and the significance of people in general trust tenet to governments' ways to deal with climate change relief and adjustment. Notwithstanding multiplying, climate change litigation likewise appears

[25] Constitution of Norway((1814), Article 112

to develop in desire and viability: cases over the world give cases of disputants considering governments responsible for the activities or inactions that bear upon those disputants' rights in the midst of changes to climate and coastlines.