SOCIAL SCIENCE REVIEW ARCHIVES
ISSN Online: 3006-4708
ISSN Print: 3006-4694
https://policyjournalofms.com

Coloniality of International Climate Litigation and Climate (In-)Justice: Exploring Challenges and Perspectives from the Global South

Mehak Ali[1], Muhammad Manzoor Elahi[2], Muhammad Azeem Farooqi[3]

[1] Lecturer, Dr. Muhammad Iqbal Law School, Government College University (GCU), Lahore, mehak.ali@gcu.edu.pk
[2] Lecturer, Department of Political Science, Government College University (GCU), Lahore. mmelahi@gcu.edu.Pk
[3] In charge/ Assistant Professor, Dr. Muhammad Iqbal Law School, Government College University (GCU), Lahore, azeem.farooqi@gcu.edu.pk

DOI: https://doi.org/10.70670/sra.v3i1.395

Abstract
This research delves into the intersection of coloniality and climate (in-)justice vis-a-vis litigation efforts by the Global South. The objective is to mainly explore how historical and ongoing patterns of neo-colonialism shape legal framework of climate governance and often cause marginalization and climate injustice to poor nations of the Global South. A qualitative exploratory-cum-analytical approach is applied under critical lens of post-colonial framework to analyse the litigation case studies, historical inequalities and legal frameworks. The findings uncovers the significant barriers in seeking climate justice i.e., structural biases, north-dominated litigations, inaccessibility to resources, political marginalization, *locus standi* and causation, and advisory opinion for small island states. The study concludes with a way forward that decoloniality of climate litigation is essential to seek equitable and inclusive global climate justice.

Keywords: Climate Justice, Global South, Climate litigation, Climate coloniality, ICJ, UNFCCC

Introduction
Climate change is not only a scientific issue but it also has political, moral and ethical considerations. It has become one of the major challenges to humanity in the present century. Industrialization, population growth, ill-planned expansion of cities, deforestation and plastic pollution are the major causes of climate change. Surprisingly, the communities who are contributing more are the least affected while poor and vulnerable communities are at the front line. Global North, referred as Western countries or developed countries, is the centuries old major contributor to the environmental pollutions whereas, the Global South, commonly known as the third-world or developing countries, is the most affected. There is a historic pattern of disparity between South and North when it comes to distribution of resources, capital, technology etc. Due to this imbalance between the two poles, attempts of solving climate change issues are still a conundrum (Sachs et al., 2007). The discourse of climate justice, therefore, aims to ensure equitable position for all the stake holders of the planet. It is evident from the history that all those nations that started industrialization in eighteenth century and have been polluting this planet for more than two hundred years have less or no responsibility in sharing the burden of environmental issues. This decade old rhetoric of self-proclaimed innocence and shifting the burden to non-polluters creates a linkage between climate injustice and climate coloniality. The recent studies

reveal that Global North is responsible for roughly 80% of carbon emission of the world (Sen, 2023), whereas, unfortunately, the Global South is mainly bearing their burden in the shape of frequent floods, drought, hurricanes and extreme weather changes. This makes it evident that climate crises is not just an environmental issue rather it often perpetuates imperial and colonial patterns in the global climate governance As nations exercise influence over one another in the political, economic, and military domains, these linkages and exchanges also have strong influence on climate action policies. It is also predicted that this power dynamic may support or hinder the global response towards climate change (Ullah & Mehmood, 2017). Moreover, inadequate emissions reduction efforts are also witnessing failure in closing the gaps between wealthy and poor countries' top priorities (Latin, 2012). In order to obtain Climate Justice many efforts have been made at global level, including multiple rounds of debate, negotiations and conferences etc., but such attempts are often not meeting the desired ends (William, 2021). No doubt there have been extensive study done on the causes of climate injustices yet the specific pathway to climate justice remained underdeveloped. However, climate litigation is a systematic institutional process to seek equity and to acknowledge the historic responsibility of the Global North regarding global warming (Boom et al., 2016). International Climate justice litigations are not only a ray of hope for the Global South, it even establish equitable standards for marginalized communities in the Global North. Although states are required by treaties to limit and minimize emission of greenhouse gases (GHGs) in their operations, these agreements are often negated. Hence, it is argued that after the failure of treaties and agreements, the litigation process may compel governments to implement more eco-friendly policies and to adhere treaties to make it more inclusive, equitable and just, especially for the Global South, who is more vulnerable (Posner, 2007). Additionally, climate justice litigations generate media attention and public interest in securing victim reparations. The growing trend towards litigation is a cogent solution to climate injustice in various forms (Setzer & Vanhala, 2018). The findings of 'Global Climate Litigation Report: 2023 Status Review' mentions significant increase in climate litigation cases from 884 in 2017 to 2,180 in 2022. Overall number of cases has more than doubled since its first report was published (UNEP & Sabin Center for Climate Change Law at Columbia University, 2023). These litigations generally include the cases of human rights violations, environmental conflict and state responsibility. Nonetheless, there are still jurisdictional and enforcement concerns in the global politics that need to be addressed in climate litigations.

Rational of the Research

This study, primarily, focuses on climate litigation cases of the Global South against the climate coloniality of the Global North and aims to highlight the unintended challenges faced by the developing nations in seeking climate justice vis-à-vis international climate litigations. Therefore, it analyses the link of climate justice and coloniality of the Global North. In doing so, it highlights complex and historical inequalities of power dynamics that widen the gulf of North-South divide along with the role of international institutions. It asserts that international conventions and negotiations are producing less positive results, hence, Global South is now opting litigation as a tool for the redressal of climate induced damage caused to them. This article aims at explaining the challenges faced by Global South in litigation while filing climate justice suits at international forums against Global North. Moreover, this work critically analyses the advisory opinion by international court of justice in small island cases. It examines that though the ICJ's ruling seems an important link towards climate justice, these are less savior for vulnerable small island nations.

Research Methodology

This research applies qualitative research design along with an exploratory-cum-analytical method. It mainly focuses on uncovering the institutional, legal and historical challenges faced by

the Global South in international climate justice litigations against the Global North. Furthermore, the study works with content analysis approach to critically analyse the legal role of international treaties, conventions and international organizations in solving the cases of climate justice, with an enhanced focus on the advisory opinions for the Small Island States (SIS) by International Court of Justice (ICJ). To highlight the patters of challenges to the Global South in international climate justice litigations, the study takes some case studies of lawsuits filed by Global South against the Global North. In addition to primary data sources, the study reviews scholarly articles, books and reports by international organizations. In the end, the study proposes a set of policy recommendations with special reference to climate justice litigation (Global South vs Global North) by applying the theoretical lens of Climate justice framework and post-colonial theory.

Literature Review

Climate crisis has exacerbated the existing political, social, and economic inequalities among the nations. Samadhu and Cameroz in their work highlight the reasons of dependence of Global South in addressing climate change. They maintain that the Global South is viewed as underdeveloped due to their centuries-old history of being denied free will that forced them to work as slaves for the Global North. After gaining their independence, many Asian, African, and South American nations are striving to prioritize their economic growth, poverty alleviation, and energy security despite having widespread effects of climate change (Atapattu & Gonzalez, 2015). Sachs et al., (2007) also highlight the patterns of historic disparity between South and North connecting it to climate colonialism. However, the recent studies define the patterns in climate justice litigation cases. Linsa and Jounie used several frameworks for climate justice to discovered four new country groups. They classified countries as evaders, opportunist, hypocrites and radicals. By doing so, they evaluate the case of United States who falls under the said grouping and has the potential to frame policies of climate action in the world (Lefstad et al., 2024). Jacquline and Hari proposed a 'right turn' in human right based climate action litigations. According to this article, new case laws—such as the *Leghari* and *Urgenda* rulings—shows that petitioners are increasingly using rights grounds in climate change cases, and judges are becoming more open to this interpretation (Peel et al., 2018). Moreover, Marry Robinson Foundation in its work discussed the geographical dimension of climate justice. It maintains that climate action has different impact on variable physical geography, different histories and uneven development within nations (Royal Irish Acadmy, n.d.). Anand while highlighting the hegemony of North, the objectives and concerns of wealthy nations have frequently dominated the global environmental agenda, despite the fact that international cooperation is required to overcome global environmental degradation. The voice of underdeveloped nations is usually goes unheard (Anand, 2017). The United Nations Environment Programme (UNEP) report cautions that current climate action is woefully insufficient to meet the Paris Agreement's temperature and adaptation targets (UNEP, 2023). As stated in the World Economic Forum's Global Risks Report 2023, the biggest concern for the next ten years is inaction on the climate catastrophe. Consequently, in order to enforce climate action, climate activists are increasingly turning to the legal actions (World Economic Forum, 2023). Melanie, Nesa and Murcott in their scholarly research talked about the idea of climate (in)justice and how important it is for deciding climate cases. They focused on transboundary cases and concerned legislation (Murcott et al., 2023). Sandrine Dubois has clarified in his work that how states have attempted to evade lawsuits at the international level by ignoring the problem of climate change in terms of their responsibility (Dubois, 2018). Parakash in his essay gave an insight of climate justice litigation in the Global North. He negated the idea that all climate litigation are climate justice litigations and explained climate justice in the context of various forms of justices (Kashwan, 2021) With reference to challenges to climate litigations, Nyinevi points out the obstacles of climate litigation. There have been significant challenges on both at national and international

levels, such as determining legal causes of action, identifying capable defendants, and defining appropriate judicial remedies. In addition to that finding forums, where complaints could be filed in the first place, is an extra challenge on a global scale. Therefore, he proposed an idea of universal civil jurisdiction for international climate justice (Nyinevi, 2015). Additionally, Peel and Osofsky worked on the legal standing in climate cases. They explained that due to the numerous procedural obstacles that plaintiffs have historically faced when presenting their claims, legal standing or *locus standi* is notorious one, especially because it prevents many private parties from claiming their damages (Peel & Osofsky, 2015). Kotzé while highlighting the trend of litigation in the South maintains that the Global North or wealthy nations frequently experienced climate-related lawsuits. Although, the Global South is also seeing an increase in climate litigation, both in terms of volume and quality but the literature hasn't given enough attention to climate lawsuits in the Global South (Kotzé, 2015).

Conceptualizing Coloniality and Climate Justice Litigations

Colonialism and climate justice are intersecting fields of the contemporary research agenda that highlight how historical injustices continue to frame contemporary environmental considerations. It is pertinent to mention here that north-south power gap in environmental politics is not only the failure factor of global climate justice movements but also hinder other solutions from progress (Bond, 2012). Although, Climate change is often framed as a global issue, but its roots lie within the long legacy of colonialism, having disproportionate impact on indigenous people and marginalized communities of developing nations. This relationship is observed in several academic production that stress the necessity for claims on the political recognition of indigenous epistemologies and rights in climate governance. The phenomenon of coloniality of international climate litigation can be classified into different perspectives.

- Firstly, the dominance of Global North in international institutional structures and legal frameworks widens the gap between theory and practice of climate justice. Though umpteen pledges have been made to reduce carbon emission, the net-zero ambition still seems unsuccessful.
- Secondly, despite acknowledging principles like “common but differentiated responsibilities” the burden of reducing carbon emission is often put on the developing economies of the Global South.
- Thirdly, capital-intensive nature of climate litigation cases further put financial burden on the poor nations of the Global South. Additionally, they also lack high level legal expertise and top-tier legal team in charging against the Global North to seek climate justice.
- Fourthly, existing international legal system itself undermines climate justice. For instance, the principle of *locus standi* often brings challenges to the Global South in recognizing as a legitimate petitioner in the international courts.
- Fifthly, strong actors (dominant States) exercise their dominance during decision-making processes leading to decisions that favor Global North and its interest. The interpretation of international law done at global judicial forums especially in context of environmental or climate law may reflect the element of (In)Justice with Global South.

Parling defined the phrase "climate litigation" essentially as any legal proceedings that in some way deal with climate change or its repercussions (Parling, 2021). The first monograph on climate litigation in the Global South was released by Lin and Peel. They analyze the legal strategies used as well as the outcomes of such litigation that originates in the Global South (Lin & Peel, 2024). In the pursuit of climate decoloniality, Anne Grear suggests that the idea of climate justice is founded on the corrective justice principle, which states that the biggest emitters of greenhouse gases should make up for the harm caused by their past and present emissions. (Grear, 2014).

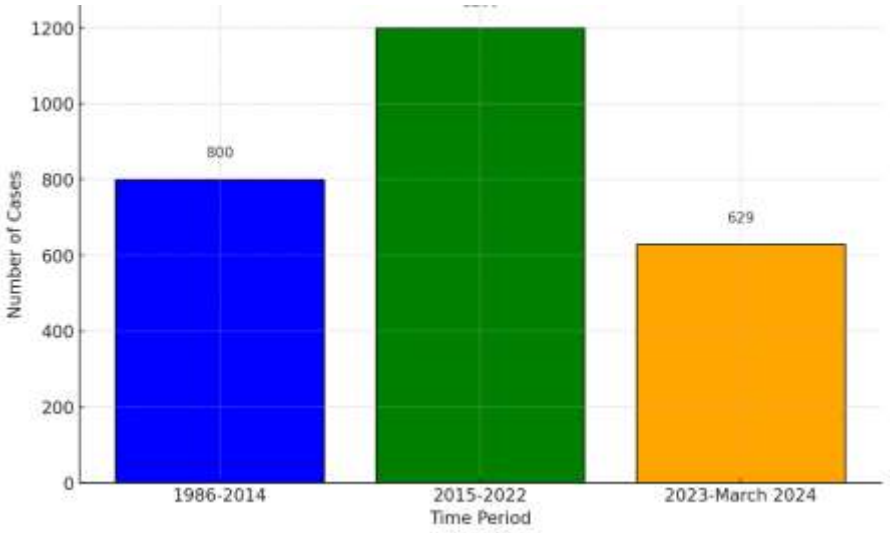
Farhana Sultana (2022a, 2022b, 2024) is one of the contemporary leading voices on climate coloniality and injustice. She argues that on-going climate crisis is the result of centuries old expansion of the West in the name of development and industrialization. On one side, the Global South is victim of persistent exploitation of its own indigenous resources and on the other hand the poor nations are bearing the brunt of climate change as well as facing challenges of climate injustice.

Findings and Discussion:

Structural Inequalities & North Dominated Litigations

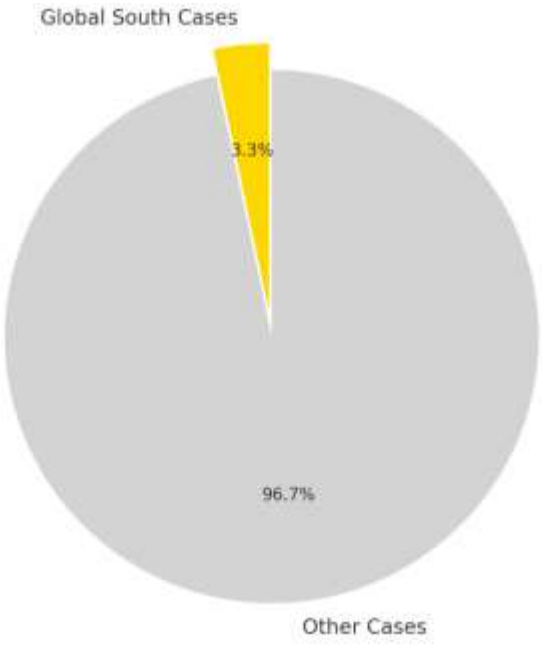
The international legal framework on climate justice are predominantly (re-)shaped by the Global North that often exclude the needs and voices of the Global South. Global institutions operate within legal systems that favor state-centric and Eurocentric perspectives, neglecting the historical injustices faced by the South. Several nations have started litigation aimed at mitigating or adapting to climate change, which includes a wide range of legal challenges. Since 2015, the total number of lawsuits pertaining to climate change have been doubled on a global scale. Around 800 lawsuits were submitted between 1986 and 2014 and in the subsequent eight years, more than 1,200 cases have been filed, increasing the total in the databases up to 2000. Approximately 25% of these were submitted between 2020 and 2022. There are currently 88 cases from the Global South, and new lawsuits are being filed there at a comparatively constant pace (Setzer & Higham, 2022). Nearly 2,629 cases from 54 jurisdictions (not including international or regional courts, tribunals, quasi-judicial bodies, or other adjudicatory bodies) are included in the databases as of March 2024. Twenty-one of these jurisdictions, or 40.7% of those covered, are from the Global South. Nevertheless, the number of Global South cases in the database is comparatively smaller, even with this representation. Just 8.3% of all cases reported are from the Global South (Tigre, 2024). The cases in the Global South may be classified as individual vs state and state vs state. However, this study focuses on the cases in which a Global South state files a suit against Global North state. Plaintiffs who are bringing climate-based claims before the international courts face a number of persistent problems or obstacles. These problems demonstrate the complexity of the climate change issue and the difficulty.

Figure 01: Climate Change Lawsuits 1986-2024



Source: Setzer, J., & Higham, C. (2022). Global trends in climate change litigation: 2022 snapshot.

Figure 02: Distribution of Global South Lawsuits (as of March 2024)



Source: Tigre, M. A. (2024). Climate Litigation in the Global South: Mapping Report.

Fragmentary and Non-binding Global Legal Frameworks:

The Paris Agreement and other current international legal frameworks frequently lack enforceable procedures that may push wealthy countries to take significant action. Even though these accords offer guidance, they don't often have the legal force needed to hold the Global North responsible. In almost all the legal frameworks like UNFCCC, Koyoto Protocol and Montreal Protocol the binding fore or enforcement mechanism is peer pressure and voluntary commitments. According to UNFCCC, a responsibility claim can be theoretically supported by Article 14 resolution of disputes clause (UNFCCC 1992). According to Article 14 (1), the Parties shall attempt to resolve the conflict by negotiation or any other amicable method of their choosing. If this doesn't work, there is an optional jurisdictional settlement clause. Additionally, Article 14(2) may declare in advance, either during ratification or at any point after, that parties accept the submission of the dispute to the ICJ or to arbitration (in line with procedures that the COP was supposed to adopt but didn't). However, is not possible to use the UNFCCC dispute settlement clause. The reality is that it did not remained unsuccessful: Solomon Islands and Tuvalu have accepted mandatory arbitration under Article 14(2) UNFCCC, while the Netherlands is the only nation among the 197 Parties to the Convention to acknowledge the ICJ's jurisdiction and the potential for arbitration proceedings, hence a suit may arise only between Tuvalu and the Solomon Islands or between the Netherlands. Hence, generating issue of *Locus Standi*. States may, of course, always submit their dispute to such jurisdiction after it has occurred, but this is again an extremely improbable scenario (Dubois, 2018) Therefore, small islands states requested for the advisory jurisdiction of ICJ. However, Art. 4(2) UNFCCC imposes an obligation on the Parties to limit their anthropogenic emissions of greenhouse gases and implement national policies and associated actions to mitigate climate change. Although vague but it can still be the basis of bringing a claim (Faure & Nollkaemper, 2007). Whereas, Koyoto Protocol which is said to has a 'top-down approach' (Stankovic et al., 2023), makes commitments mandatory in the subsequent commitment period, if it emits more than its allotted amount during the first commitment period. Here again one cannot find any binding commitment or mechanism of strict sanctions. Furthermore, there is no

enforcement mechanism for the Paris Agreement. For instance, The Agreement's Article 8 does not involve or establish any liability or compensation (Paris Agreement 2015). Some scholars argue that flexibility of self-determined pledges to cut emissions is an essential feature of the Paris Agreement while other criticize it a tool used by dominant countries to avoid their responsibilities. Additionally, nations will probably be less inclined to use societal pressure to enact laws because it could unintentionally highlight their own implementation history (Stankovic et al., 2023). In the light of above discussion, it has been made clear that those treaties and conventions which can be the legal framework of climate justice litigation are themselves silent when it comes to taking a responsible state to international litigations and arbitrations proceedings. It would not be wrong to say that a systematic pattern of soft or no penalties demonstrates the control of Global North countries over international law making.

Political Marginalization of the Global South:

The North-South tension is not a new phenomenon when it comes to states liability for environmental harm. This has generated a deadlock in implementation of climate change negotiations and compliance of set standards in those negotiations (Gonzalez, 2015). Southern countries demand that North should accept the responsibility of its humongous contribution to climate vulnerability whereas North claims common but differentiated responsibility (Natarajan, & Khoday, 2014). Taking about the economic hegemony, major portion of world's economy is regulated through World Bank and IMF. Global North countries like United States, Canada, Western Europe, Japan, and Australia; dominate global trade flows and investment patterns. The countries of the Global North control global trade flows and investment patterns and have extensive trade agreements with numerous nations, establishing the terms of global commerce (Odeh, 2010). Resultantly, global North is major investor of Green Climate Fund and other climate related finances. Once again US can be quoted as the best example. These Evader states utilize their ability to retain and improve their social standing, power, and position to overshow the harsh realities (Gonzalez, 2015). It is also vital to look into the aftermaths, that litigation, if decided in the favor of Global South will bring for the Global South countries. The Global South's top trading partners continue to be the G7 nations (Gordon, 2023). There is fear that Global North, which has considerable clout in international organizations, may coerce or diplomatically isolate the Global South for filling a suit against its carbon or greenhouse emissions. In addition, to diplomatic cut off, a threat of formal or informal financial pressure in the form of withdrawal of foreign investment and trade barriers may be expected. Conversely, Countries in the Global South frequently have little influence in international politics and finance and are therefore still struggling for their right in climate regime as well.

Lack of Judicial Precedents

Legal precedent for climate litigation involving nations from the Global South suing nations from the Global North is scarce. Since most climate lawsuits have been filed against corporations or inside nations rather than directly between states, it is challenging to forecast the course or possible results of such a case. It would be unfair to say that no international courts have never decided any case regarding state obligation or responsibility. Most of these cases fall in the category of environmental justice. No doubt environmental justice and climate justice are studied as two distinct terms yet according to some academics; climate justice can be included under the environmental justice paradigm (Atapattu et al., 2021). But again, the states (parties to suit) are usually from Global North and if not from the Global North, they qualify as relatively developed countries and while deciding a suit ICJ usually focus on the contractual obligations rather than the interpretation of environmental harm. For example, in *Argentina v Uruguay* case, the ICJ ruled that Uruguay has breached its contractual obligation under bilateral treaty; but at the same time

ICJ also decided that Uruguay had not violated its substantive environmental protection responsibilities. (*Argentina v Uruguay*, 2006). It is pertinent to mention here that such type of cases usually end up in some kind of settlement usually in the form of compensation. For example in *Costa Rica vs. Nicaragua* the ICJ's ruled that Nicaragua must pay Costa Rica $120,000 USD to make up for the loss or damage to the affected area's environmental goods and services (*Costa Rica vs. Nicaragua*, 2018). In another important case *Australia vs. Nauru* where Nauru sought compensation from Australia for phosphate mining that had occurred before to its independence. ICJ allowed the claims of Nauru but in 1993, Australia and Nauru finally signed a settlement agreement, and the court once again avoided to answer the complex question of environmental or climate damage. (*Australia vs. Nauru,* 1993). Another reason of lack of judicial precedent in the environmental regime is difficulty of establishing responsibility by the states. It is evident from the above stated precedents too that states are rarely held accountable for wrongdoing in the context of international environmental law. The reason for this is that most treaties don't include environmental standards that may be deemed unlawful or their breach may be termed as illegal. Conversely, many environmental agreements allow for several exclusions and derogations and are rather broad in their language. (Pischke, 2007) There is scarcity of judicial precedents in the realm of state vs state climate justice litigation yet the above stated precedents can be used as precedents while deciding the global climate justice litigation. But for that cases have to arise first.

Advisory Opinions vis-à-vis Small Island Developing States (SIDS): Silent Extinction

Small Island Developing States (SIDS) are on the brink of extinction, therefore, necessitates a call for legal action beyond advisory opinions. Small island states have been leading the charge on climate change initiatives, but due to their limited ability to negotiate on their own, they have partnered to engage in international negotiations. Small Island Developing States (SIDS), the Alliance of Small Island States (AOSIS), and the Pacific Islands Forum are the three main alliances that are prominent at international discussions (Atapattu et al., 2021). Now being at the verge of extinction, SIDS have finally approached the apex judicial organ of the world ICJ. With around 100 submissions from 96 states and 11 international organizations (ICJ, 2024), this case at ICJ may qualify as the world's biggest case at ICJ lead by Vanuatu on behalf of small islands and developing countries for climate justice holding the world responsible for their loss. In April 2023 UN General Assembly requested ICJ to render its advisory opinion under Art 65 of ICJ statute regarding obligations of states, on the following two questions:

a) What responsibilities do states have under international law to protect the climate system and overall environment from human-induced or human created greenhouse gas emissions for both present and future generations?
b) What are the legal ramifications under these obligations for states that have seriously harmed the climate system and other parts of the environment by their actions and omissions with special reference to future generations and small islands developing states? (ICJ, 2023)

This law suit highlights the limitations of international law with special reference to litigation because the advisory opinion of ICJ is not binding in nature and states can sue other states if they agree to it (Statute of the ICJ, 1945). The decision of ICJ is expected in 2025, yet its oral hearing has been concluded. Now small island states along with many Global South countries are demanding climate justice whereas, developed countries are taking a different, yet expected stance. For example, UK asserted that Paris Agreement and other accords are the most efficient means of combating climate change. Additionally, it dismissed the ICJ's second question, which dealt with legal ramifications, claiming that this was already covered by the Paris Agreement. (Smith, 2024). Surprisingly, this is the not the first attempt made by small islands. Till date, they have obtained advisory opinion of International Tribunal for the Law of the Sea (ITLOS) 2024, where ITLOS

confirmed that greenhouse gas emissions constitute marine pollution and states are required to adopt "*all necessary measures*" to cut emissions. (International Tribunal for the Law of the Sea, 2024). But world has not witnessed any measure taken. Even if we have ICJ's opinion in the favour of global south, the important question would be how effective would be this opinion in binding the nations when it comes to forcing developed nations like China, US and Russia for their obligations? More importantly, when powerful nations are not ready to comply for instance China, Japan, Australia, and Mexico are even missing from the U.N.'s most recent schedules for leaders' addresses at COP-29 (Reuters, 2024).

Conclusion and Recommendations:

In contemporary global politics, the Global South is not only bearing the adverse effects of climate change rather also facing challenges in seeking climate justice and unequal development. The continuation of neo-colonial patterns are putting much pressure on to the poor nations to take extra measures to reduce carbon emission whereas, indeed, global warming is embedded with the centuries' old industrialization and capitalization of the Western countries. The study reveals that institutional biases, north-dominated policy structure, non-binding nature of climate treaties, fragmentary environmental frameworks, underrepresentation of the global south, epidemic supremacy, dehumanizing local knowledge system, absence of significant legal precedents, and advisory opinions for small island states are critical barriers in seeking climate justice for the Global South. Additionally, the Global North has strong influence on climate action policies, exercising its influence primarily through colonialism and economic dominance. Moreover, the flow of finances, technology, mitigation and adaptation techniques often assure dominance of the North and perpetuate climate coloniality around the globe. The study recommends the following measures to ensure equitable and just climate governance irrespective of resource disparities.

- There is need to decolonizing global institutional structure by challenging the structural hierarchies that often aids developed nations.
- It is important to redefine climate litigation as a mechanism for empowerment rather than perpetuating colonial settings and existing inequalities.
- Integrate the voices of marginalized communities by acknowledging the indigenous practices into legal arguments.
- In order to get a better interpretation and wide range of viewpoints, international courts like ICJ must invite *amicus curiae* from NGOs having scientific and legal expertise on environmental governance. A mandatory member from the Global South must also be the part of this.
- There is need to establish regional and global legal aid organizations to provide financial and technical support for litigants in the Global South.
- Innovation is the need of hour- innovation in legal theories, new climate legal theories must be formulated to challenge the status quo.
- Policy-Science nexus is an empirical way forward. Special importance to scientific evidence must be given and a systematic change must be brought in climate action frameworks like Paris convention, Kyoto protocol and UNFCCC, while including the special clause of global commons to ensure sovereignty and equality of global south in litigation.
- Courts must ensure climate accountability for developed nations through strict actions broadening the scope of international human rights in addition to establishing new climate actions rights.

References:

Anand, R. (2017). *International Environmental Justice*. Routledge. Retrieved from https://doi.org/10.4324/9781315252049

International Court of Justice. (2006). *Pulp mills on the river Uruguay (Argentina v. Uruguay)*, ICJ GL No. 135. *International Court of Justice Reports*, 113. *International Legal Materials*, 45, 1025.

Atapattu, S. A., Gonzalez, C. G., & Seck, S. L. (Eds.). (2021). *The Cambridge Handbook of Environmental Justice and Sustainable Development*. Cambridge University Press. https://doi.org/10.1017/9781108555791

Atapattu, S. A., Gonzalez, C. G., & Seck, S. L. (Eds.). (2021). *The Cambridge Handbook of Environmental Justice and Sustainable Development*. Cambridge University Press. https://doi.org/10.1017/9781108555791

Atapattu, S., & Gonzalez, C. G. (2015). The North-South divide in international environmental law: Framing the issues. In S. Alam, S. Atapattu, C. G. Gonzalez, & J. Razzaque (Eds.), *International environmental law and the global South*. Cambridge University Press.

Australia & Nauru. (1993). *Agreement between Australia and the Republic of Nauru for the settlement of the case in the International Court of Justice concerning certain phosphate lands in Nauru* (Australian Treaty Series No. 26).

Benzie, M., & Persson, Å. (2019). Governing borderless climate risks: moving beyond the territorial framing of adaptation. *International Environmental Agreements: Politics, Law and Economics*, *19*(4–5), 369–393. https://doi.org/10.1007/s10784-019-09441-y.

Bond, P. (2012). *Politics of climate justice : paralysis above, movement below*. University of Kwazulu-Natal Press.

Boom, K. and R. J.-A. and L. S. (2016). *Climate justice: The international momentum towards climate litigation*.

Burkett, M. (2022). Revolution or Collapse? In *Is the International Legal Order Unraveling?* 106–140. Oxford University PressNew York. https://doi.org/10.1093/oso/9780197652800.003.0005.

International Court of Justice. (2018). *Costa Rica v. Nicaragua, Compensation owed by Nicaragua to Costa Rica*, ICJ GL No. 150. *International Court of Justice Reports*, 15. *International Court of Justice Global Judicial Decisions*, ICGJ 520 (ICJ 2018)

Faure, M. G., & Nollkaemper, P. A. (2007). International Liability as an Instrument to Prevent and Compensate for Climate Change. Stanford Journal of International Law, 43A(S1), 123-179.

Gonzalez, C. G. (2015). Bridging the North-South Divide: International Environmental Law in the Anthropocene. *Pace Environmental Law Review*, *32*(2), 407. https://doi.org/10.58948/0738-6206.1765

Gonzalez, C. G. (2015). Bridging the North-South Divide: International Environmental Law in the Anthropocene. *Pace Environmental Law Review*, *32*(2), 407. https://doi.org/10.58948/0738-6206.1765

Gordon, J. (2023). *The brutal impact of sanctions on the Global South*. *Yale Journal of International Law*. (June 28, 2023). Retrieved from https://yjil.yale.edu/posts/2023-06-28-the-brutal-impact-of-sanctions-on-the-global-south

Grear, Anna M., Towards 'Climate Justice'? A Critical Reflection on Legal Subjectivity and Climate Injustice: Warning Signals, Patterned Hierarchies, Directions for Future Law and Policy (April 25, 2014). *Special Edition Journal of Human Rights and the Environment*, 103-133.

Herbert, S. (2023). *ICJ advisory opinion and small island states' access to climate justice*. SDG Knowledge Hub. Retrieved from https://sdg.iisd.org/commentary/guest-articles/icj-advisory-opinion-and-small-island-states-access-to-climate-justice/

International Court of Justice. (1945). *Statute of the International Court of Justice*, art. 35. Retrieved from https://www.icj-cij.org/en/statute

International Court of Justice. (2023a). *Application instituting proceedings: Allegations of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*. Retrieved from https://www.icj-cij.org/sites/default/files/case-related/187/187-20230412-app-01-00-en.pdf

International Court of Justice. (2023b). *Application instituting proceedings: Allegations of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*. Retrieved from https://www.icj-cij.org/sites/default/files/case-related/187/187-20230412-app-01-00-en.pdf

International Court of Justice. (2024). Obligations of States in respect of Climate Change (*Request for Advisory Opinion*) Conclusion of the public hearings held from 2 to 13 December 2024 https://www.icj-cij.org/sites/default/files/case-related/187/187-20241213-pre-01-00-en.pdf

International Tribunal for the Law of the Sea. (2024). *Advisory opinion on request of COSIS*. C31_Adv_Op_21.05.2024_orig.pdf.

Kashwan, P. (2021). Climate Justice in the Global North. *Case Studies in the Environment*, *5*(1). https://doi.org/10.1525/cse.2021.1125003

Kotzé, L. J. (2015). Human Rights, the Environment, and the GlobalSouth. In *International Environmental Law and the Global South* (171–191). Cambridge University Press. https://doi.org/10.1017/CBO9781107295414.009

Latin, H. A. (2012). *Climate change policy failures: why conventional mitigation approaches cannot succeed*. World Scientific. https://doi.org/10.1142/8194

Lazarus, R. J. (2009). Super Wicked Problems and Climate Change: Restraining the Present to Liberate the Future. *Georgetown Law Faculty Publications and Other Works*, *159*. https://scholarship.law.georgetown.edu/facpub/159

Lefstad, L., & Paavola, J. (2024). The evolution of climate justice claims in global climate change negotiations under the UNFCCC. *Critical Policy Studies*, *18*(3), 363–388. https://doi.org/10.1080/19460171.2023.2235405

Lin, J., & Peel, J. (2024). *Litigating Climate Change in the Global South*. Oxford University PressOxford. https://doi.org/10.1093/9780191926525.001.0001

Maljean Dubois, S. (2018). Climate change litigation. *Non-Governmental Actors in International Climate Change Law*.

Mary Robinson Foundation. (2021, July). *Principles of Climate Justice*. https://www.mrfcj.org/principles-of-climate-justice/

Murcott, M., Tigre, M. A., & Zimmermann, N. (2023). Transnational Insights for Climate Litigation at the European Court of Human Rights: A South-North Perspective in Pursuit of Climate Justice. *Verfassung in Recht Und Übersee*, *56*(2), 299–320. https://doi.org/10.5771/0506-7286-2023-2-299

Natarajan, U., & Khoday, K. (2014). Locating Nature: Making and Unmaking International Law. *Leiden Journal of International Law*, *27*(3), 573–593. https://doi.org/10.1017/S0922156514000211

Nordhaus William. (2021). "Why Climate Policy Has Failed." *Foreign Affairs*, October 12, 2021. *Foreign Affairs*.

Nyinevi, C. Y. (2015). Universal Civil Jurisdiction: An Option for Global Justice in Climate Change Litigation. *Journal of Politics and Law*, *8*(3). https://doi.org/10.5539/jpl.v8n3p135

Odeh, L. (2010). A comparative analysis of global north and global south economies. *Journal of Sustainable Development in Africa 12(3), 338-340*.

International Tribunal for the Law of the Sea. (2024). *Request for an advisory opinion submitted by the commission of small island states on climate change and international law*, ITLOS Case No. 123, ITLOS Reports 2024. https://www.itlos.org/cases

Paris Agreement (2015). *United Nations Framework Convention on Climate Change* (UNFCCC). December 12, 2015, T.I.A.S. No 16-1104, 3156 U.N.T.S.

Parling, I. (2021). *Climate Change Litigation Based on Human Rights-Challenges and Possibilities in Sweden*. (Dissertation) https://urn.kb.se/resolve?urn=urn:nbn:se:uu:diva-444217

Peel, J., & Osofsky, H. M. (2015). *Climate Change Litigation*. Cambridge University Press. https://doi.org/10.1017/CBO9781139565851

Peel, J., & Osofsky, H. M. (2018). A Rights Turn in Climate Change Litigation? *Transnational Environmental Law*, *7*(1), 37–67. https://doi.org/10.1017/S2047102517000292

Pischke, F. (2007). International Environmental Law: Fairness, Effectiveness, and World Order - by Elli Louka. Natural Resources Forum, 31(4), 324–325. https://doi.org/10.1111/j.1477-8947.2007.00159_3.x

Posner Eric A. (2007). Climate Change and International Human Rights Litigation: A Critical Appraisal. *Coase-Sandor Institute for Law & Economics*, 1–2.

Reuters. (2024, November 5). EU's von der Leyen to skip COP29 climate summit. *Reuters*. https://www.reuters.com/sustainability/cop/eus-von-der-leyen-skip-cop29-climate-summit-2024-11-05/

Royal Irish Academy. (n.d.). *The geography of climate justice*. Retrieved from https://www.ria.ie/grant-project-reports/the-geography-of-climate-justice/

Sachs, Wolfgang, S. T. I. für K. W. U. (2007). *Fair Future: Resource Conflicts, Security and Global Justice*. Zed Books.

Sen, Tapti. (2023). The Modern Form of Colonialism: Climate Change. *Inequality.Org*. https://inequality.org/article/climate-change-colonialism-bangladesh/

Setzer, J., & Higham, C. (2022). *Global trends in climate change litigation: 2022 snapshot*. Grantham Research Institute on Climate Change and the Environment & Centre for Climate Change Economics and Policy, London School of Economics and Political Science.

Setzer, J., & Vanhala, L. C. (2019). Climate change litigation: A review of research on courts and litigants in climate governance. *WIREs Climate Change*, *10*(3). https://doi.org/10.1002/wcc.580

Smith, J. (2024). 'We will not go quietly into the sea': Hearings for world's biggest climate case conclude at the ICJ. *The Guardian*. https://www.theguardian.com/world/2024/dec/15/icj-climate-case-hearings

Stankovic, T., Hovi, J., & Skodvin, T. (2023). The Paris Agreement's inherent tension between ambition and compliance. *Humanities and Social Sciences Communications*, *10*(1), 550. https://doi.org/10.1057/s41599-023-02054-6

Stankovic, T., Hovi, J., & Skodvin, T. (2023). The Paris Agreement's inherent tension between ambition and compliance. *Humanities and Social Sciences Communications*, *10*(1), 550. https://doi.org/10.1057/s41599-023-02054-6

Sultana, F. (2022a). Critical climate justice. *The Geographical Journal*, *188*(1), 118–124. https://doi.org/10.1111/geoj.12417

Sultana, F. (2022b) The Unbearable Heaviness of Climate Coloniality. *Political Geography* Volume 99, November. https://doi.org/10.1016/j.polgeo.2022.102638

Sultana, F. (2024). *Confronting Climate Coloniality: Decolonizing Pathways for Climate Justice*. Routledge: London and New York.

Tigre, M. A. (2024). *Climate Litigation in the Global South: Mapping Report.* Retrieved from: https://scholarship.law.columbia.edu/sabin_climate_change/230

Ullah, F., & Mahmood, M. (2017). Climate change, great power politics and global governance: Exploring the implications for developing countries. *Pakistan Horizon*, 70(3), 35–54.

UN Environment Programme (UNEP) & the Sabin Center for Climate Change Law at Columbia University. (2023). *Global Climate Litigation Report: 2023 Status Review*. Retrieved from https://www.unep.org/resources/report/global-climate-litigation-report-2023-status-review

UNEP. (2023). *Adaptation Gap Report 2023*. Retrieved from https://doi.org/10.59117/20.500.11822/43796

United Nations Framework Convention on Climate Change (1992), May 9, 1992, S. Treaty Doc No. 102-38, 1771 U.N.T.S. 107.

World Economic Forum. (2023). *The Global Risks Report 2023 18th Edition*. Retrieved from www.weforum.org