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# **ADAPTING INTERNATIONAL ENVIRONMENTAL LAW TO CLIMATE CHANGE: INSTITUTIONAL EVOLUTION AND NORMATIVE CHALLENGES**

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## **ABSTRACT**

The climate crisis exposes fundamental inadequacies in existing environmental governance frameworks. This thesis examines structural and normative adaptations required to align international environmental law (IEL) with the unique characteristics of anthropogenic climate change. Through analysis of treaty evolution and emerging legal doctrines, this paper argues that effective climate governance necessitates paradigmatic shifts in how international law conceptualizes state responsibility, intergenerational equity, and planetary boundaries.

## **KEYWORDS**

International Environmental Law, Climate Change, Sovereignty, Intergenerational Equity, Planetary Boundaries, Compliance Mechanisms

## **1. Introduction**

International environmental law emerged to address transboundary pollution through principles including common but differentiated responsibilities, the precautionary principle, and the polluter-pays principle. Climate change, however, presents categorically distinct challenges: diffuse causation, delayed manifestation, irreversible tipping points, and existential stakes demand unprecedented legal coordination and intergenerational accountability.

The Paris Agreement (2015) represents the most ambitious adaptation of IEL to climate imperatives, yet its reliance on nationally determined contributions and absence of binding emissions targets reflects persistent tensions between state sovereignty and collective action (UNFCCC, 2015). Addressing these tensions requires strengthening compliance mechanisms, expanding legal standing for non-state actors, and developing frameworks recognizing climate stability as prerequisite for all other rights.

## **2. Structural Inadequacies of Traditional Frameworks**

Traditional environmental treaties assume rational state actors pursuing discrete national interests through reciprocal obligations. Climate change defies this model. The temporal lag between emissions and impacts incentivises free-riding; catastrophic projected outcomes render conventional cost-benefit analysis inadequate; and radical asymmetry between historical emitters and vulnerable nations generates equity disputes that paralyse negotiations.

The principle of permanent sovereignty over natural resources enables states to prioritise fossil fuel exploitation over atmospheric protection. While the UNFCCC recognises climate change as a common concern of humankind, this doctrine lacks enforcement mechanisms, creating a governance gap wherein international law acknowledges collective threats while preserving state prerogatives that perpetuate them.

## **3. Institutional Innovations and Compliance Mechanisms**

The Paris Agreement's transparency framework represents modest evolution through enhanced reporting and technical review, but deliberately omits sanctions for non-compliance. For example, the Agreement establishes the Paris Agreement Implementation and Compliance Committee (PAICC) under Article 15 as a non-adversarial, facilitative mechanism rather than a punitive one (Voigt, 2019; UNFCCC, n.d.).

More promising adaptations appear in regional regimes and domestic jurisprudence. The *Urgenda Foundation v. The State of the Netherlands* decision (2019) established that human rights law imposes positive obligations on governments to prevent dangerous climate change, suggesting that judicial adaptation of existing principles may prove more effective than diplomatic innovation (Hirt et al., 2021; LSE Grantham, 2019).

#### **4. Expanding Legal Personality and Intergenerational Equity**

A fundamental limitation of IEL is its restriction of legal personality primarily to states. Climate change implicates rights-holders—future generations, indigenous peoples, potentially ecosystems—who lack representation in negotiations. Procedural innovations such as the initiative by Vanuatu to pursue an advisory opinion from the International Court of Justice signal possible pathways for granting standing to territorially threatened states.

Intergenerational equity, though acknowledged, remains legally under-developed. Operationalising this principle demands institutional mechanisms—ombudspersons for future generations, weighted voting accounting for long-term impacts—that transcend electoral politics. Recognising rights of nature, as in Ecuador and New Zealand, offers pathways for reframing climate governance. The concept of atmospheric stability as a legal object shifts liability for its degradation from regulatory questions to rights violations.

#### **5. Normative Reorientation: From Protection to Planetary Boundaries**

The most fundamental adaptation required is conceptual. Traditional IEL treats environmental protection as one policy domain to be balanced against development and security. However, climate science demonstrates that planetary boundaries constitute non-negotiable constraints within which all human activity must occur (Du Toit, 2022; Kim, 2021).

This requires elevating climate stability from an environmental objective to a foundational precondition for international order. The emerging “climate necessity” doctrine argues that states possess positive obligations to take emergency measures preventing catastrophic change, even where such measures might otherwise infringe treaty obligations. The re-calibration of common but differentiated responsibilities is also urgent: while historical responsibility justifies differentiated burdens, the urgency of remaining carbon budgets means

that all major emitters must participate in aggressive decarbonisation (Lizarazo-Rodríguez, 2024).

## **6. Conclusion**

Adapting international environmental law to climate change demands reconceptualising sovereignty-survival relationships, expanding legal standing beyond states, and recognising planetary boundaries as foundational constraints. The Paris Agreement reflects political realism but falls short of required transformative innovation. Promising pathways include leveraging human rights law to impose climate obligations, empowering judicial review of inadequate state action, and developing compliance mechanisms that transcend diplomatic consensus. Ultimately, success depends on normative shifts in which climate stability is recognised not as one interest among many but as a prerequisite for all others — a recognition which requires translation into binding legal obligations if IEL is to fulfil its purpose of protecting the planetary systems upon which civilisation depends

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