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“Eradicating hunger through climate litigation?” – An assessment of the opportunities and challenges of enforcing the human right to food through courts

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Abstract

Globally, hunger and malnutrition have been on the rise, with climate change exacerbating food insecurity by affecting food production and accessibility. In international law, the human right to food provides a legal protection for individuals. It emphasises that food should not just meet minimal nutritional needs but ensure the ability to obtain food in a dignified manner. In order to achieve this goal, the text discusses the role of climate litigation in addressing global hunger by focusing on the right to food in the context of increasing climate change impacts. It outlines the legal foundations and challenges associated with enforcing this right through various legal systems and the potential of using climate litigation as a tool to ensure food security.

Keywords Climate change, Right to food, Human rights, Food security, Climate change litigation, Sustainability

Introduction

While the world is getting richer by the minute, the amount of hungry and food insecure people has equally been on the rise for years. In recent years, the amount of people unable to access a healthy diet has risen from 589 million in 2015 to 768 million in 2021 [1]. This means that around 1 in 10 people are affected by hunger, which is defined by the Food and Agricultural Organization of the United Nations (FAO) as “an uncomfortable or painful physical sensation caused by insufficient consumption of dietary energy. It becomes chronic when the person does not consume a sufficient amount of calories (dietary energy) on a regular basis to lead a normal, active and healthy life” [1]. In addition, nearly 1 in 3 people were moderately or severely food insecure in 2021, meaning they lacked regular access to adequate food [2]. Ongoing

crisis and climate change continue to worsen the global situation [3]. Achieving a world with “Zero Hunger” seems to move even further away [4]. Without effective adaptation to the challenges of climate change, some estimate that global yields in food production will decline by 30% in 2050 [5], while the global demand for food will rise about 70% between 2005/07 and 2050 [6].

In international law, the designated tool to combat hunger and malnutrition is the human right to food. But what does the right to food entail and is it the right tool to achieve food security in a heating world? Can we bring governments to court if they stay inactive in enforcing policies and actions that can alleviate the current and future impacts of climate change and thus, guarantee food security?

The following chapters will provide an introduction to the right to food in international law, an overview over the existing case law of the right to food, an explanation about (European) climate change litigation and concluding remarks on the chances and challenges of human rights in climate change litigation.

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Main text

The right to food

To ensure a full comprehension of the topic, the following chapter will provide an introduction to the (international) system of human rights, the way of enforcing those rights before courts and tribunals, the interconnection between human rights and climate change and finally the contents of the right to food.

Introduction to human rights

Human rights are individual rights and inherent to us all simply because we exist as human beings [7]. In contrast to general international law, which poses obligations to States vis-à-vis other States, human rights are owed by States to the individuals under their jurisdiction [8]. Human rights impose rights for legal goods – such as the right to life, the right to a fair trial or the right to freedom of movement. States have an obligation to respect, protect and to fulfil human rights. Under the obligation to respect, States must refrain from interfering with or impairing the enjoyment of human rights. Under the obligation to protect, States are obligated to protect individuals and groups against human rights abuses. Under the obligation to fulfil, States must take positive action to facilitate the enjoyment of basic human rights [9]. Human rights are inalienable, thus they should only be taken away in specific situations and according to due process [10]. They are also indivisible and interdependent – the full enjoyment of one set of rights is dependent on the realisation of another set of rights [7]. One example is the interconnection between the right to adequate housing and the right to privacy. Adequate housing does not merely protect having a roof over one's head but encompasses – among other factors – security of tenure, affordability and accessibility [11]. The right to adequate housing consequently ensures that individuals have a safe and secure place where they can live in peace and dignity. The right to privacy, on the other hand, involves the right to live without unwarranted interference by others, including the State.

There are several sources of human rights treaties, national human rights treaties, regional human rights treaties and international human rights treaties. Regional human rights treaties encompass a certain part of the world, such as Europe, Africa, America. It has to be noted that to enforce a human right, the document needs to be of binding character and the concerned State needs to have signed and ratified the document. Ratification is the process following the signature of a document: A State grants approval through its own domestic procedures and will inform the other parties of its consent to be bound by the treaty. With the ratification, States show their consent to be bound by the treaty [12]. It is not

uncommon that States sign a treaty but never ratify it and will thus not be bound by this international treaty.

The first milestone document which enshrines the rights and freedoms of all human beings on a global scale is the Universal Declaration of Human Rights (UDHR) [13]. The two main binding instruments are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) [14, 15]. On the regional level, there are several treaties, such as the European Charter of Human Rights (ECHR), the American Convention of Human Rights (ACHR) or the African Charter on Human and Peoples' Rights (Banjul Charter). Moreover, there are several international human rights documents that address specific vulnerable groups, such as children [16], women [17], migrant workers [18] or persons with disabilities [19].

Justiciability of human rights

Now that we have established human rights obligations for individuals or groups, we need a legal remedy to assert those rights: Justiciability. Justiciability ensures the availability of mechanisms that uphold acknowledged rights. It provides a legal means to enforce these rights whenever the responsible party fails to fulfil their obligations. On a national level, human rights violations can usually be brought before some kind of constitutional court, if they are enshrined in the national constitution. On the regional level, there are for example the European Court of Human Rights (ECtHR) for violations of the ECHR, the Inter-American Court of Human Rights (IACtHR) for claims arising from the ACHR or the African Commission on Human & Peoples' Rights (ACHPR) and the African Court of Human and Peoples' Rights for violations of the Banjul Charter. For violations of human rights from the ICCPR, complaints can be made to the Human Rights Committee [20]. Traditionally, there has been some scepticism regarding the justiciability of economic, social and cultural rights as opposed to civil and political rights, because they have long been less accepted [21]. This discussion was finally dissolved by the adoption of an Optional Protocol to the ICESCR in 2013, which established a complaint mechanism for violations of rights from the ICESCR [22]. As rights without effective remedies are an empty shell, human rights on economic, social and cultural rights have to be justiciable. However, this is only possible if States have ratified the Optional Protocol which establishes the respective complaint mechanism. We remember: Ratification is the process after States sign a treaty. They have to implement the international obligations into their domestic system and notify other States about it. Thereby, States show the will to actually be bound by the international document.

In both cases, for the ICCPR as well as for the ICESCR, the Optional Protocols – which establish the complaint mechanisms – have been ratified by significantly less States than the original documents [23]. Additionally, the various human rights committees within the UN have a serious problem with little funding by States, which are reluctant to fund the tracing of their human rights compliance [24].

The human right to food

The existence of the right to food in international law is crucial, because “[n]o human right [is] worth anything to a starving man” [25]. It is recognized in the UDHR as part of the right to an adequate standard of living and is enshrined in Art. 11 (2) ICESCR:

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed:

- (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

The right to adequate food and the right to be free from hunger are the two objectives entailed in Art. 11 ICESCR. The right to food has also been included in several other international instruments. It was included in international human rights treaties dealing with the rights of certain vulnerable groups, e.g. children [26], women [27] and persons with disabilities [28]. It is also (implicitly) recognised in national human rights documents, such as the Banjul Charter [29] or the 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) [30].

As mentioned above (II.2.), States have to implement the international right to food into their national system by adoption of a national strategy to ensure food and nutrition security [31]. As of 2011, the right to food was explicitly recognized in 23 national constitutions [32], 10 other constitutions recognize the right to food

for specific vulnerable groups [33], such as children and detainees/prisoners and five other constitutions recognize the right to food explicitly within the human right to an adequate standard of living, quality of life, or development [34]. Additionally, it was implicitly recognized in 33 countries [35], resulting in a total of 56 countries that recognize the right to food.

One might assume that the right to food constitutes a right to be fed. However, the right to food is primarily a right to feed oneself in dignity [36]. Individuals must be able to either produce or buy food. Consequently, persons must have land, seeds, water and other resources to grow food or money and access to the market to buy food [36]. The right to food is not only the right to a minimum standard of nutrients. As the General Comment to Art. 11 ICESCR highlights, the right to food is only “[...] realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. [...]” [37]. Food must be adequate and sustainable, meaning it must also be available for future generations [38]. Although States have to realize the right to food progressively, they have to use the maximum of their available resources to satisfy “at the very least, the minimum essential level required to be free from hunger” [39].

The right to food and climate change

In a drastically changing climate, almost no human right can be ensured without adaptation to climate change. It is expected that climate change will affect the availability, accessibility, stability and utilization of food [40]. To achieve food security – the access to safe, affordable, and nutritious food – a predictable climate and healthy ecosystems are crucial [41]. At the same time, without human rights protection, there cannot be effective climate protection. To be more vivid: If someone owns a plot of land, but the area is flooded, the crop will be lost and the person will likely end up hungry. This especially poses a problem, because if their right to property is not effectively ensured, they are less likely to engage in sustainable agriculture, but rather focus on a faster exploitation of their plot of land [42]. As the example highlights, the interconnectedness between food and climate change goes two ways. More theoretically described, on one hand, food has a considerable impact on global warming as an essential source of Greenhouse Gases (GHG) [43]. Human agricultural activities are responsible for almost half of methane (CH₄) emissions, two-thirds of nitrous oxide (N₂O) emissions and 3% of carbon dioxide (CO₂)

emissions worldwide [44]. Within the different diets, a meat focused diet has the largest environmental impact, whereas a vegan/vegetarian diet is not only healthier but also much less harmful to the environment [45]. On the other hand, global warming has an increasing impact on the way we produce our food. There are attempts to adjust food systems and make them sustainable [46], such as the European Farm to Fork initiative or the Feed the Future initiative by the U.S. Government's Global Hunger & Food Security Initiative. According to the World Bank however, "[a]bout 80% of the global population most at risk from crop failures and hunger from climate change are in Sub-Saharan Africa, South Asia, and Southeast Asia, where farming families are disproportionately poor and vulnerable" [47].

Case law on the right to food

In practice, courts around the world have increasingly adjudicated cases involving economic, social and cultural rights, recognising violations and sometimes ordering remedies that require specific actions by States. In the past, there were only a number of cases in which the right to food, as part of economic, social and cultural rights, was charged and enforced in court. The following chapter will give an overview of the most important cases concerning the right to food. The cases have been selected by their significance for the general jurisprudence on the right to food [48]. It will present cases from India, the African continent, cases of South American countries before the IACTHR and lastly a special case before the World Bank Inspection Panel, before the findings from these cases will be concluded.

India

In total, there were 5 cases brought before the Supreme Court of India and the High Court of Delhi. In 2001, the Supreme Court of India dealt with a case concerning famine deaths in the state of Rajasthan due to a drought, while state grain reserves were available, but not distributed [49]. The Supreme Court issued injunctions that the governmental food distribution programmes must be implemented, which were insufficiently followed by national and regional governments, leading to a second judgment in 2003, in which the Court classified the right to food as an essential aspect of the right to life [50]. In another case, the Supreme Court found that the tender notice awarding a contract for the supply of nutritional products to children as part of a programme to deliver Hot Cooked Meals to large corporations instead of women self-help groups as indicated in a Supreme Court order of 2004 was not allowed [51]. The case was a huge victory for women's groups in India, as their participation was recognised and provided legitimacy for these grass

root struggles. Additionally, the High Court of Delhi was engaged with three different proceedings after the death of pregnant women or young mothers, all concerning a violation of the Right to Life in Article 21 of the Indian Constitution, which includes the right to health and the right to food as "survival rights" [52]. In all cases, the social benefits services failed to reach the vulnerable women and resulted in health deficits or the death of these women.

Africa

In a case before the High Court of South Africa [53], a non-profit organization and school governing bodies of two schools sued the Department of Basic Education because schools closed during the Covid-19 pandemic and thus limited the availability to a daily meal from the National School Nutrition Programme. The Court found a violation of constitutional and statutory duties under the Right to Basic Education [54] and the Right of Children to Basic Nutrition [55], because all qualifying learners are entitled to a daily meal by the programme. Even in times of national and international crisis, the right to food must still be fulfilled and schools, as critical junction points for food access, must uphold their programs.

Another South African case [56] dealt with the banning of informal traders from their trading activities in Johannesburg due to a citywide "Operation Clean Sweep". The Constitutional Court of South Africa found that the applicants' right to dignity [57], which includes the right to food and shelter as well as the right of children to basic nutrition, shelter and basic health care services [55] were violated.

In the famous *Ogoni v Nigeria* case [58], the applicant alleged that the Nigerian government facilitated environmental contamination in the Ogoni region. The applicants alleged that the government of Nigeria was responsible for various human rights violations, including the right to health, the right to utilize wealth and natural resources in the Banjul Charter [59], the right to a clean environment and family rights by allowing and facilitating the operations of oil corporations in Ogoniland. The African Commission on Human & Peoples' Rights *inter alia* held that the destruction and contamination of crops by government forces and non-State actors breached the duty to respect and protect the implied right to food. The case is of great significance because the Commission held that States have the duty to respect the right to food as well as protect it against non-State actors.

Another case from Kenya concerned the violent removal of petitioners from their land without previous notice or consultation. The petitioners had occupied the land since the 1940s. In its ruling, the High Court of Kenya highlighted the justiciability of economic, social

and cultural rights and recognised the interdependence among civil and political and economic, social and cultural rights [60]. The Court also found a violation of the right to be free from hunger, as enshrined in Art. 11 (2) ICESCR.

South-America

A case before the IACtHR held that Argentina violated the Indigenous communities' right in Article 26 and 1.1 ACHR in connection with the rights to a healthy environment, adequate food, water, and cultural identity of the ACHR [61], because Argentina failed to provide legal security to 133 indigenous communities while settlers resided on their lands. Another case of the IACtHR regarded the recognition and protection of the indigenous communities' traditional territory [62]. The Court declared that lack of access to their land and the impossibility to achieve self-sufficiency and autonomous sustainability, together with the State's failure to provide adequate access to water, education, health services and food, violated the communities' right to a life with dignity [62]. In a case concerning the ancestral property rights of the Yakya Axen, an indigenous community in Paraguay, the IACtHR found a violation of the rights of the Yakya Axen. The Court broadened its interpretation of the right to life in Art. 4 ACHR, considering standards of health, education and food as stipulated in the Protocol of San Salvador. In its interpretation, the Court also took the General Comments from the Committee on Economic, Social and Cultural Rights into account.

World-Bank Inspection Panel

In the Pro-Huerta Case [63], a proceeding before the World Bank Inspection Panel, the World Bank was asked to instruct the Argentinian government to review its budgetary allocations to the Pro-Huerta social program. In the 1990s, Argentina received a structural adjustment loan from the World Bank with a specific condition attached: the funding for certain social initiatives had to remain unchanged. The Pro Huerta program was one such initiative covered by this safeguard, aiming at support for agro ecological production and access to healthy products for adequate nutrition for socially vulnerable groups [64]. Despite this, in 1999 the Pro Huerta program's budget was cut by nearly 65 percent, jeopardizing the food security of those who depended on it. This case is an excellent example of the scope of protection of the right to food, as it shows that it is not the food on the plate that is protected, but above all the access to food.

Findings from the cases on the right to food

Looking at the aforementioned cases, the right to food has rarely been adjudicated by itself and rather co-decided among other human rights violations. We remember that the indivisibility of human rights is a key characteristic of these rights. Violations of the right to food usually occur in connection with a deprivation of land or access to health services, as seen in the Indian cases and the cases before the IACtHR. Only in the Pro-Huerta case, the violation of the right to food in Art. 11 (2) ICESCR itself was at question. This case is a good example for an unconventional strategy to protect economic, social and cultural rights. Through the Panel request, Argentina was prevented from avoiding its social commitment. As noted above, the case also emphasises the scope of protection for the right to food, which is the access to food and not the right to climate friendly food.

For the cases before the IACtHR, it is important to note that indigenous Peoples constitute about six percent of the global population and are responsible for sustainably managing approximately eighty percent of the world's remaining biodiversity [65]. Despite facing ongoing political, economic, and racial marginalisation and suffering from some of the most severe health disparities globally, Indigenous Peoples have persevered in preserving their cultures and languages under challenging circumstances [65]. In this respect, the human rights protection of cultural and traditional life has notably protected a more sustainable way of life, e.g. for indigenous communities.

Additionally, the cases highlight the obligation to protect the right to food and show the different approaches to justiciability. Although multiple States have not included the right to food in their national constitutions or integrated it explicitly in the regional human rights instruments, there are ways to protect this right "by detours". The most common approach is the protection of the right to food as a prerequisite of the right to life or as a part of the right to health. However, even if a violation can be found, the courts can only condemn the State's practice that violates the human rights obligation. The court cannot, however, order a State to act further than the applicant's request suggested.

To sum up, the prosecution of a violation of the right to food has a very limited scope and might not lead to a very comprehensive judgment, because the courts can only find a violation of a concrete situation and act within their mandate to adjudicate these violations of human rights. The following part will broaden the focus from cases concerning the right to food as such to cases in which the claim was based on insufficient climate protection and a resulting violation of human rights.

Climate change litigation

For the next part, the international climate change litigation and its significance will briefly be outlined, followed by an observation of the recent European climate change litigation and the findings from climate change litigation.

International climate change litigation

While climate action refers to a broad range of activities aimed at addressing and mitigating the impacts of climate change, climate change litigation refers to legal actions brought to address issues related to climate change. Climate change litigation is increasingly regarded as a strategic tool for advancing climate action and has been on the rise for several years now. According to a UN report, as of the end of 2022, the global number of cases on climate change litigation was at 2180. Cases were filed across 65 jurisdictions, including international and regional courts, tribunals, quasi-judicial bodies, and other adjudicatory bodies, including special procedures of the United Nations and arbitration tribunals. Of these, 1522 cases were filed in the United States of America, with the remaining 658 cases spread across other jurisdictions [66]. According to a 2023 UN report on Global Climate Change Litigation, current climate litigation typically falls into one or more of six categories: cases that invoke human rights, challenges against the inadequate enforcement of domestic climate-related laws and policies, legal actions aimed at preventing the extraction and use of fossil fuels, efforts pushing for enhanced climate disclosures and the cessation of greenwashing, lawsuits concerning corporate accountability and liability for climate-related damages and cases that deal with the insufficient measures taken to adapt to the effects of climate change. One prominent type of climate litigation involves cases where applicants argue that inadequate efforts in climate mitigation or adaptation infringe upon their fundamental rights [67]. These rights include the rights to life, healthy food, water, liberty, family, and others. It is important to note that there is no legally binding universal human right to a clean environment [68]. In a broader sense, climate rights cover how national constitutions, human rights law, and other general legal frameworks grant entitlements to climate change mitigation and adaptation measures. These rights encompass both international and domestic obligations to maintain a safe and stable climate, alongside other rights that, while not explicitly climate-focused, play a role in addressing climate change. One example are human rights and human rights obligations concerning the environment [69].

In April 2024, the ECtHR has published its first judgment on climate change, which will likely have a significant impact on climate change litigation worldwide. Due

to its topicality, the following chapter will give an overview of the climate change litigation of the ECtHR.

European climate change litigation

The ECtHR has ruled on around 300 environment related cases so far, which concerned a wide range of issues such as pollution, environmental information and man-made or natural disasters [70]. However, the ECtHR has found that there is no explicit right in the ECHR to a clean and quiet environment [71]. It adjourned its examination of six other climate change cases [72] and declared three other cases inadmissible on the grounds that the applicants were not sufficiently affected to be victims of an alleged violation [73]. While these cases all affected environmental matters, the ECtHR has only decided upon three climate cases so far, namely Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [74], Carême v. France [75] and Duarte Agostinho and Others v. Portugal and 32 Other States [76]. They all have in common that the applicants alleged human rights violations due to insufficient climate protection measures by governments. Before the cases will be summarized, the next part provides an introduction to two main problems of the ECHR, namely its scope of application and the admissibility criteria.

Extraterritoriality One main issue is the scope of application of the ECHR. The ECHR can have extraterritorial effect, meaning that it can apply outside the territories of the States that have ratified the Convention under certain conditions, which have been developed through the case law of the ECtHR. Article 1 ECHR states that “The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention”. It is important to establish the jurisdiction of a particular State, because jurisdiction “is a threshold criterion. The exercise of jurisdiction is a necessary condition for a Contracting State to be able to be held responsible for acts or omissions imputable to it” [77]. Extraterritorial jurisdiction of a State party to the ECHR may arise when such State exercises effective control over an area outside its national territory [78] or if such activities are executed by State officials and agents [79]. In other words – there can be jurisdiction outside a State’s territory on the basis of control exercised over the person of the applicant or over the foreign territory in question [80].

Admissibility However, most cases of climate action fail due to their inadmissibility. Admissibility (before the ECtHR) concerns the question whether an application will be accepted for consideration on the merits (the “actual content” of the case) and progresses to a full case.

The victim-status criteria

One of the most important admissibility criteria for proceedings before the ECtHR is the status as a victim of the alleged human rights violation under Article 34 ECHR. Only if this standard of being a victim is established, the Court will decide on the substantial matter of the case. To establish victim status in a case, there can be a direct, indirect or potential victim status. Firstly, persons can become a direct victim if they are able to establish that they are “directly affected” by the measures complained about [81]. Secondly, they can be indirectly affected by the violation of the Convention, if they either have a close relationship to the deceased or disappeared direct victim [82]. Thirdly, one can be a potential victim, if he or she is able to produce reasonable and convincing evidence that a violation affecting him or her personally will occur [83]. However, in any case, the Court established that there must be a link between the applicant and the harm which they claim to have sustained as a result of the alleged violation [84]. In established case law, the Court has found that the Convention does not provide for the institution of an *actio popularis*, meaning that it cannot abstractly review the relevant law and practice [85]. In the following three cases, the problems arising from the victim-status criteria can be observed in practice.

KlimaSeniorinnen v. Schweiz An association of Swiss senior women brought a case against the Swiss government before the ECtHR, claiming that their health is threatened by increasing heatwaves due to the climate crisis. Aside from procedural complaints, the application was aimed at a violation of the women’s right to life and health under Articles 2 and 8 of the ECHR. The applicants submitted in particular that the respondent State had failed to fulfil its positive obligations to protect life effectively and to ensure respect for their private and family life, including their home. They further complained that they had not had access to a court and argued that no effective domestic remedy had been available to them for the purpose of submitting their complaints relating to Art. 2 ECHR (the right to life) and to Art. 8 ECHR (the right to respect for private and family life) [86]. In its judgment, the ECtHR found that positive obligations to combat climate change follow from the right to private and family life in Art. 8 ECHR [87]. The ECtHR relied on the facts by the Intergovernmental Panel on Climate Change (IPCC) and has emphasised that “The IPCC had also found with high confidence that there was a near-linear relationship between cumulative anthropogenic GHG emissions and global warming; human-induced global warming resulted in more frequent and more intense

heatwaves” [88]. Thus, the responsibility lays upon States and their reduction to determine whether global warming can stay below 1.5 °C-2.0 °C [89].

Moreover, the Court established two victim-status criteria for the applicant to meet in the case of human rights violations in the climate context: (i) The applicant must experience a substantial level of exposure to the negative effects of climate change, and (ii) there is an urgent need to provide protection to the applicant, due to the lack or insufficiency of effective measures to mitigate harm [90]. The Court pointed out that the threshold to fulfil these criteria is “especially high” [91].

Duarte Agostinho and others against Portugal and 32 others This climate lawsuit brought by six Portuguese children against 33 countries (all European Union countries plus Norway, Russia, Great Britain, Turkey, Switzerland and Ukraine) has been upheld by the ECtHR in 2020 [76]. The six Portuguese climate activists claimed that the European States were not doing enough in order to uphold the target of staying below a 1.5 °C warming in line with the 2015 Paris Agreement. They raised their claim as a reaction to the wildfires resulting from intense heatwaves in Portugal in August 2017 [76]. The Paris Agreement is a legally binding international treaty, which has been adopted at the UN Climate Change Conference in 2015 [92]. As of today, it has 195 Parties, 194 of which are State parties plus the European Union [93]. The Agreement aims at

“Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; [...]” [94]

The Paris Agreement is a so-called framework agreement, meaning that it sets a common goal for the parties but the implementation methods are left to the States. Thus, States have a wide discretion to implement the agreement. According to Art. 4 (2) of the Agreement, “[e]ach Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions”. Moreover, every five years, the Parties shall communicate a nationally determined contribution [95].

Since the applicants are residents of Portugal, the claim against Portugal was territorial, whereas the claims against the other States were extraterritorial. A critical

issue in the case was thus whether the respondent States, other than Portugal, could be held accountable for the climate-related effects of their emissions, which contributed to impacts felt beyond their borders [96]. The ECtHR declared the case inadmissible due to a lack of extraterritorial jurisdiction of the remaining respondent States [97]. With respect to the six Portuguese applicants, the case was declared inadmissible, because they have not exhausted local remedies before bringing their complaint to the ECtHR. This reaffirms that only Portugal is responsible for the protection and infringements of human rights arising from the ECHR towards the applicants.

Carême v. France In *Carême v. France* [75], the former mayor of Grand-Synthe, a French town, filed an application against France, acting in his capacity of Grande-Synthe Mayor and of a private resident. He based his application on the Government's refusal to take additional measures to meet the objective of reducing GHG emissions by 40% in 2030 pursuant to the Paris Agreement. Carême, both as a resident and mayor of Grande-Synthe, based his application on the violation of his right to private and family life in Art. 8 ECHR and the right to life in Art. 2 ECHR. Due to a change in residency—the applicant no longer lived in France—the ECtHR found that Carême could not claim victim status under Art. 84 of the Convention of the Court. Consequently, the ECtHR declared the application inadmissible.

Findings from climate change litigation

In these rulings, the Court confirmed that States have a duty to implement and rigorously uphold measures that address the present and potentially irreversible impacts of climate change in the future. The overwhelming success of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* could give way to a number of similar climate actions by other actors [98].

The case of Duarte Agostinho confirmed that the ECHR is essentially territorial. Only under special circumstances [99], States owe protection of human rights towards people outside the State's jurisdiction. Climate change however is not territorial but the biggest global problem of our time. The compliance of one State with its climate obligations cannot offset another State's non-compliance.

The question as to whether these rulings mark the beginning of an era of climate justice may have an impact on how we avert human rights violations in the future. While some have doubts about the enforceability of climate justice, claiming that “[t]he courts as institutions aimed at individual justice are neither institutionally nor

intellectually suitable for dealing with the incomparably complex climate crisis” [100], the ECtHR rulings will likely have effects beyond the European context.

One of the most important developments in the judgments of the ECHR is the impact on the role of environmental associations. With the *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* judgment, the Court allowed for legal action by association in relation to climate change. Most importantly, the association – unlike the affected individual – does not need to show that it or its members acting on its behalf meet the victim status criteria individually. Using the 1998 Aarhus Convention (Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters) as a connecting factor, the Court significantly strengthened the standing of environmental associations.

Conclusions

So far, there is no human right to effective climate protection. Although the Supreme Court of India has delivered a historic judgment on climate change and human rights just days ago, establishing a new constitutional right to be free from the adverse effects of climate change [101], this is only a national right. Current influences show a tendency to establish such a right on a national level, but to combat climate change on a global level, these tendencies are too slow and reluctant. Climate change is an international matter and even if some States show good will and act to stay within their goals to keep global warming below 1.5 °C, emissions do not stop at national borders. The global nature of climate change poses significant challenges for traditional human rights litigation, which is primarily territorial. Cases like those heard by the ECtHR show the difficulty in establishing jurisdiction and victim status in climate litigation, limiting the scope for addressing global issues like climate change through regional human rights frameworks.

It is also important to emphasise the pending advisory opinions before the International Court of Justice and [102] the IACtHR [103] as well as the recently published advisory opinion by the International Tribunal of the Law of the Sea [104], all of which address the obligations of States in relation to climate change. An advisory opinion can be requested by State parties to a certain adjudicating body, for example to the International Court of Justice. In contrast to a judgment, which has a binding effect *inter partes* (between the parties to the dispute), the advisory opinion has no binding force. Nevertheless, an advisory opinion carries great legal weight and moral authority.

The right to food is recognised globally in Art. 11 (2) ICESCR, but enforcing this right through judicial systems is complex. Legal processes are slow and often already

fail due to admissibility criteria. They can only determine the existing infringement of a right, sometimes years after the right has been violated. It also remains to say that judgments do not bind everyone. A judgment will bind the parties to the dispute and can function as precedent but it will not oblige other States to implement the judgment. Combatting hunger requires comprehensive international cooperation and the willingness of all States to support the most affected areas in the world. To combat hunger through courts, courts and tribunals have found ways to protect our human right to food through other rights, such as the right to life, health and property. Hunger might not be eradicated through courts, but through international cooperation. Still, the emergence of climate litigation and the progressive approaches of the ECHR regarding the role of environmental associations yield hope for a more climate oriented approach to human rights and other legal issues. While climate litigation is not a miracle cure to the adverse effects of climate change, it is a first step to put pressure on those responsible for the effects of climate change and to raise awareness on the versatile effects of climate change.

Abbreviations

ACHR	American Convention on Human Rights
ACHPR	African Commission on Human & Peoples' Rights
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FAO	Food and Agricultural Organization of the United Nations
GHG	Greenhouse Gases
IACtHR	Inter-American Court of Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
IPCC	Intergovernmental Panel on Climate Change
UDHR	Universal Declaration of Human Rights

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References

1. FAO Interactive Story on The State of Food Security and Nutrition in the World 2022. <https://www.fao.org/interactive/state-of-food-security-nutrition/en/>. Accessed 17 Apr 2024
2. UN (2022) The sustainable goals development report. p 28
3. Although the world was beginning to recover from the COVID-19 pandemic in 2022, the war that broke out in Ukraine shook commodity and energy markets, see FAO, IFAD, UNICEF, WFP and WHO (2023) The state of food security and nutrition in the world. <https://www.fao.org/3/cc3017en/online/state-food-security-and-nutrition-2023/introduction.html>. Accessed 9 Apr 2024
4. In 2015, all the member states of the United Nations adopted the 2030 Agenda for Sustainable Development, which provided shared targets for peace and prosperity for people and the planet, now and into the future. Sustainable Development Goal 2 "Zero Hunger" calls to "End hunger, achieve food security and improved nutrition and promote sustainable agriculture", see UN (2015) Sustainable Development Goals (2015), Goal 2. <https://sdgs.un.org/goals/goal2>. Accessed 9 Apr 2024
5. UN (2020) Foundations, climate change and the future of food. <https://unfoundation.org/blog/post/climate-change-and-the-future-of-food/>. Accessed 9 Apr 2024
6. FAO (2009) Global agriculture towards 2050, p. 2. https://www.fao.org/fileadmin/templates/wsfs/docs/Issues_papers/HLEF2050_Global_Agriculture.pdf. Accessed 10 Apr 2024
7. OHCHR (2024) What are human rights?. <https://www.ohchr.org/en/what-are-human-rights>. Accessed 10 Apr 2024
8. Mégret F (2010) Nature of Obligations. In: Moeckli D (ed) International human rights law, 1st edn. Oxford University Press, Oxford, p 127
9. OHCHR (2024) International human rights law. <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>. Accessed 10 Apr 2024
10. A person can be deprived of their right to liberty in case of lawful imprisonment or the imposition of curfews during Covid-19. OHCHR (2024) What are human rights?. <https://www.ohchr.org/en/what-are-human-rights>. Accessed 10 Apr 2024
11. CESCR (1991) General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), § 8
12. There can also be other means of showing a will to be bound by a treaty, such as accession or acceptance, see UN (2024), Glossary of terms relating to Treaty actions. https://treaties.un.org/pages/Overview.aspx?path=overview/glossary/page1_en.xml#ratification. Accessed 23 Apr 2024
13. UN (1948) Universal Declaration of Human Rights, A/Res/217(III). It is however important to keep in mind that the UDHR is not a legally binding document
14. ICCPR: 174 State parties, UNTS, Status as of 28.04.2024. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en. Accessed 28 Apr 2024.
15. ICESCR: 172 State parties, UNTS, Status as of 28.04.2024. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en. Accessed 28 Apr 2024.
16. Convention on the Rights of the Child (1989) A/RES/44/25, 1577 UNTS 3
17. Convention on the Elimination of all Forms of Discrimination against Women (1979) 1249 UNTS 13
18. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) A/RES/45/158, 2220 UNTS 3
19. Convention on the Rights of Persons with Disabilities (2006) 2515 UNTS 3
20. First Optional Protocol to the International Covenant on Civil and Political Rights (1966) A/RES/2200A(XXI). 999 UNTS 171
21. Riedel E (2010) Committee on Economic, Social and Cultural Rights (CESCR). Max Planck Encyclopaedias of Public International Law. Oxford Public International Law, Oxford, p 19
22. Optional Protocol to International Covenant on Economic Social and Cultural Rights (2008) A/RES/63/425. 2922 UNTS 29
23. As of 28.04.2024, 30 States have ratified the Optional Protocol to the ICESCR, establishing a possible complaint mechanism for individual. Only 5 States have accepted the further inquiry mechanism, which allows the Committee to investigate grave or systematic economic,

- social and cultural rights violations if the State has agreed to this process, thereby further supporting accountability, see Ratification Status for CESCR-OP. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CESCR-OP. Accessed 27 Apr 2024; OHCHR (2023) Toolkit to Ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), p 6
24. Shaw M (2021) *International law*, 9th edn. p 290
 25. Australian delegate at UNGA Third Committee, A/C.3/SR.1267 (1963), p 8
 26. Convention on the Rights of the Child (1989) A/RES/44/25, 1577 UNTS 3, Art 24
 27. Convention on the Elimination of All Forms of Discrimination against Women (1979) 1249 UNTS 13, Art 12
 28. Convention on the Rights of Persons with Disabilities (2006) 2515 UNTS 3, Art 28
 29. The Charter is understood to include a right to housing and a right to food implicitly through its provisions on the right to life (Art. 4), right to health (Art. 16) and right to development (Art. 22), see SERAC v. Nigeria, Decision, Comm. 155/96 (ACmHPR, Oct. 27, 2001)
 30. Organization of American States, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) A-52 16 November 1999, Art 12
 31. CESCR (1999) General Comment No. 12: The Right to Adequate Food (Art. 11), p 21
 32. 9 of these constitutions recognized the right to food as a stand-alone right: Bolivia, Brazil, Ecuador, Guyana, Haiti, Kenya and South Africa, Nepal and Nicaragua, see FAO (2011), *Constitutional and Legal Protection of the Right to Food around the World*, p. 21
 33. Brazil, Colombia, Cuba, Guatemala, Honduras, Mexico, Panama, Paraguay, South Africa, see FAO (2011) *Constitutional and legal protection of the right to food around the world*. p 21
 34. Belarus, the Congo, Malawi, see FAO (2011) *Constitutional and legal protection of the right to food around the world*. p 21
 35. FAO (2011) *Constitutional and legal protection of the right to food around the world*. pp 21–2
 36. Saul B, Kinley D, Mowbray J (2014) *The international covenant on economic, social and cultural rights: commentary, cases and materials*. Oxford University Press, Oxford, pp 869–870
 37. CESCR (1999) General Comment No. 12: The Right to Adequate Food (Art. 11), p 6
 38. CESCR (1999) General Comment No. 12: The Right to Adequate Food (Art. 11), p 7
 39. CESCR (1999) General Comment No. 12: The Right to Adequate Food (Art. 11), pp 6, 17
 40. UN Secretary General (2011) *Study of the Human Rights Council Advisory Committee on discrimination in the context of the right to food*, A/HRC/16/40
 41. UN Foundations (2020) *Climate change and the future of food (2020)*. <https://unfoundation.org/blog/post/climate-change-and-the-future-of-food/>. Accessed 25 Apr 2024
 42. UNECE (2022) *Sustainable development and security of property rights in the UNECE Region* p 1–2. <https://unece.org/sites/default/files/2022-05/Prindex%20ECE%20web%20E.pdf>. Accessed 25 Apr 2024
 43. Ivanovich C, Sun T, Gordon D, Ocko I (2023) Future warming from global food consumption. *Nat Clim Chang* 13:297–302. <https://doi.org/10.1038/s41558-023-01605-8>
 44. IPCC Climate Change (2021) *The physical science basis*. Cambridge University Press, Cambridge. <https://doi.org/10.1017/9781009157896>
 45. Willett W et al (2019) Food in the Anthropocene: the EAT–Lancet Commission on healthy diets from sustainable food systems. *Lancet* J 393:447–492. H. Charles H, Godfray J et al (2018) Meat consumption, health, and the environment. *Science* 361, 5324. doi:10.1126/science.aam5324
 46. European Union (2024) *Farm to fork strategy*. https://food.ec.europa.eu/horizontal-topics/farm-fork-strategy_en. Accessed 30 Apr 2024
 47. WorldBank (2024) *What you need to know about food security and climate change*. <https://www.worldbank.org/en/news/feature/2022/10/17/what-you-need-to-know-about-food-security-and-climate-change>. Accessed 23 Apr 2024
 48. Especially the right to food cases from India and the cases on the housing and health rights from South Africa pose a great influence to international and regional human rights law and policies, see Bourke Martignoni, *The Right to Food*, in Binder/Nowak/Hofbauer/Janig (eds.), *Elgar Encyclopedia of Human Rights* (2022), para. 27 with further references
 49. The claimant requested the implementation of the programmes and invoked the „Famine Code“, see Supreme Court of India, *People's Union for Civil Liberties v. Union of India & Ors*, Civil Original Jurisdiction, Writ Petition (Civil) No.196 of 2001
 50. Supreme Court of India, Interim Order of May 2, 2003 in the Case *People's Union for Civil Liberties v. Union of India & Ors*. Civil Original Jurisdiction, Writ Petition (Civil) No.196 of 2001
 51. Supreme Court of India, *Vaishnorani Mahila Bachat Gat vs State Of Maharashtra* 26 Feb 2019. From 2016 onwards, the State of Maharashtra fixed conditions that required the use of a highly mechanized and automated process to prepare the supplementary nutritional food even though the food should have been prepared by women self-help groups
 52. In High Court of Delhi, *Laxmi Mandal v. Deen Dayal Harinagar Hospital & Ors*, W.P.(C) Nos. 8853 of 2008, 6 Apr 2010, a pregnant woman died after being denied medical treatment because she could not prove her entitlement to free treatment for the poor. The High Court found that governments must facilitate access to medical treatment for the poor and it is unfair to impose bureaucratic burdens on them. Moreover, the High Court found that if there is a violation of one of the two survival rights, it constitutes a violation of the right to life, because they are linked. In High Court of Delhi, *Court on Its Own Motion v. Union of India* (W.P. 5913/2010) 25 May 2011, The Court instituted proceedings after a woman died on the street 4 days after giving birth, due to lack of medical treatment and issued a preliminary directive to the city government of Delhi to set up several care services to ensure maternal health. In High Court of Delhi, *Premalata w/o Ram Sagar & Ors. V. Govt. of NCT Delhi*, W.P.C. 7687 of 2010, 13 May 2011, 6 pregnant women in partnership with the Human Rights Law Network filed a Petition, that the denial of food and maternal health benefits, which they were entitled to under national benefit programs, violated constitutional and human rights, especially Art. 21 (Right to life) of the Indian Constitution
 53. High Court of South Africa, Gauteng Division, Pretoria (2020) *Equal Education and Others v. Minister of Basic Education and Others*, 22588/2020 17 July 2020
 54. South African Constitution, Section 29(1)(a)
 55. South African Constitution, Section 28(1)(c)
 56. Constitutional Court of South Africa, *South African Informal Traders Forum and Others v City of Johannesburg and Others; South African National Traders Retail Association and Others v City of Johannesburg and Others* (Case CCT 173/13 & 174/13) 5 Dec 2013
 57. South African Constitution, Section 10
 58. ACHPR, Decision regarding Social and Economic Rights Action Center & the Center for Economic and Social Rights v. Nigeria (Communication No. 155/96) 7 May 2002
 59. Banjul Charter, Arts. 2, 4, 14, 16, 18 (1), 21, 24
 60. Kenyan High Court (2011) Constitutional Petition No. 2 of 2011 (Garissa)
 61. IACtHR (2010) *Indigenous Community Members of the Lhaka Honhat (Our Land) Association vs. Argentina*, 6 Feb 2020. Summary of the case <https://www.escri-net.org/caselaw/2020/indigenous-community-members-lhaka-honhat-our-land-association-vs-argentina>. Accessed 20 Apr 2024. For the first time, the Court analysed the rights to a healthy environment, adequate food, water, and cultural identity under Article 26 ACHR. The Court found that activities like illegal logging carried out by the Creole settlers detrimentally affected the Indigenous communities' way of life and access to water, food, and a healthy environment. The detrimental effect on the communities' traditional diet and lifestyle impacted the cultural way of life and the Indigenous communities' cultural identities. The State was aware of these harmful activities and their impact on Indigenous way of life and did not effectively stop them
 62. IACtHR (2010) *Indigenous Community Xákmok Kásek v. Paraguay*
 63. Inspection Panel of the World Bank, Report and Recommendation on Request for Inspection, Re: Argentina – Special Structural Adjustment Loan 4405-AR, 16 Dec 1999

64. Government of Argentina (2020) Programa ProHuerta. argentina.gob.ar/desarrollosocial/prohuerta Accessed 30 Apr 2024
65. Amnesty International (2024) Indigenous peoples' rights. <https://www.amnesty.org/en/what-we-do/indigenous-peoples/#:~:text=Although%20they%20comprise%20only%206.2,land%2C%20forests%20and%20biodiversity%20flourish.> Accessed 27 Apr 2024
66. UN Environment Programme (2023) Global climate litigation report: 2023 status review. p 12
67. UN Environment Programme (2023) Global climate litigation report: 2023 status review. pp 26–27
68. Even if the UN General Assembly declared that access to a clean, healthy and sustainable development is a universal human right in a resolution (A/RES/76/300) in 2022, the declaration is not legally binding. United Nations, <https://www.un.org/en/model-united-nations/how-decisions-are-made-un>. Accessed 11 July 2024
69. UN Environment Programme (2023) Global climate litigation report: 2023 status review. pp 26–27
70. ECtHR (2024) Environment and the European Convention on Human Rights, Fact Sheet. https://www.echr.coe.int/documents/d/echr/FS_Environment_ENG. Accessed 10 Apr 2024
71. ECtHR, *Hatton and Others v. the United Kingdom* [GC], 2003, para. 96
72. ECtHR, *Uricchiov v. Italy and 31 Other States*, 2021. ECtHR, *De Conto v. Italy and 32 Other States* 2021. ECtHR, *Müllner v. Austria*, 2021. ECtHR, *Greenpeace Nordic and Others v. Norway*, 2021. ECtHR, *The Norwegian Grandparents' Climate Campaign and Others v. Norway*, 2021. ECtHR, *Soubeste and four other applications v. Austria and 11 Other States*, 2022. ECtHR, *Engels v. Germany*, 2022
73. Applicants must qualify as victims pursuant to Article 34 ECHR; ECtHR, *Humane Being and Others v. the United Kingdom*, 2022. ECtHR, *Plan B. Earth and Others v. the United Kingdom*, 2022. ECtHR, *Asociacion Instituto Metabody v. Spain*, 2023
74. ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GC] (2024)
75. ECtHR, *Carême v. France* [GC] (2024)
76. ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Other States* [GC] (2024)
77. ECtHR, *Al-Skeini and Others v UK* [GC], 2011, § 130
78. ECtHR, *Loizidou v. Turkey* [GC], 1989, Preliminary Objections, § 63. ECtHR, *Cyprus v. Turkey*, 2001, §§ 75ff
79. ECtHR, *Al-Skeini and Others v. the United Kingdom* [GC], 2011, §§ 134ff
80. See also ECtHR (2022) Guide on Article 1 – Obligation to respect human rights – Concepts of “jurisdiction” and imputability. https://www.echr.coe.int/documents/d/echr/guide_art_1_eng. Accessed 30 Apr 2024
81. ECtHR, *Lambert and Others v. France* [GC], 2015, § 89. ECtHR, *Tănase v. Moldova* [GC], 2010, § 104. ECtHR, *Burden v. the United Kingdom* [GC], 2008, § 33
82. An indirect victim status can only be established in certain cases, such as an alleged violation of Art. 2 (right to life) of the Convention and can be invoked by close family members, ECtHR, *Van Colle v. the United Kingdom*, 2012, § 86. *Tsalikidis and Others v. Greece*, 2017, § 64. ECtHR, *Kotilainen and Others v. Finland*, 2020, §§ 51–52. The close link to the deceased victim includes married and unmarried partners, ECtHR, *McCann and Others v. the United Kingdom*, 1995. ECtHR, *Salman v. Turkey* [GC], 2000. ECtHR, *Velikova v. Bulgaria* (dec.), 1999. The Court has been more restrictive in other cases, when the alleged violation was not closely linked to the death or disappearance of the direct victim, ECtHR, *Karpylenko v. Ukraine*, 2016, § 104. ECtHR, *A and B v. Croatia*, 2019, §§ 88–91
83. ECtHR, *Senator Lines GmbH v. fifteen member States of the European Union* (dec.) [GC], 2004
84. ECtHR, *Mansur Yalçın and Others v. Turkey*, 2014, § 40
85. ECtHR, *Roman Zakharov v. Russia* [GC], 2015, § 164. ECtHR, *N.C. v. Italy* [GC], 2002, § 56. ECtHR, *Krone Verlag GmbH & Co. KG v. Austria*, 2006, § 26. ECtHR, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], 2014, § 101
86. ECtHR (2024) Climate change, fact sheet. https://www.echr.coe.int/documents/d/echr/fs_climate_change_eng. Accessed 22 Apr 2024
87. ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GC], 2024. §§ 538ff
88. ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GC], 2024. § 64
89. ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GC], 2024. § 65
90. ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GC], 2024. § 487
91. ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GC], 2024. § 488
92. Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016), 3156 UNTS 71. <https://www.un.org/en/climatechange/paris-agreement>. Accessed 27 Apr 2024
93. UNTS, The Paris Agreement, Status, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=XXVII-7-d&chapter=27&clang=en. Accessed 11 July 2024
94. Paris Agreement, Art. 2 (1) (a)
95. Paris Agreement, Art. 4 (9)
96. ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Other States* [GC], 2024. §§ 181–214
97. ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Other States* [GC], 2024. §§ 178–214
98. For an overview over the implications for domestic climate law in Europe see Abel, P (2024) Mixed Signals for Domestic Climate Law: The Climate Rulings of the European Court of Human Rights, *VerfBlog*, <https://verfassungsblog.de/mixed-signals-for-domestic-climate-law/>. Accessed 28 June 2024
99. Effective control over an area, State agent authority and control, Jurisdictional link as regards the procedural obligation under Article 2, „special features“ to establish the respondent States' jurisdiction. ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Other States* [GC], 2024. §§ 178–213
100. Wegener, B (2024) Homeopathic Globules for Environmental Lawyers: Thoughts on the Climate-Justice Movement on the Occasion of the ECtHR's Climate Judgement, *VerfBlog*. <https://verfassungsblog.de/homeopathic-globules-for-environmental-lawyers/>. Accessed 19 Apr 2024
101. The Supreme Court of India drew upon Article 21 (the fundamental right to life and personal liberty) and Article 14 (the fundamental right to equality) of the Indian Constitution. *M.K. Ranjitsinh and Others v. Union of India*, Judgment of 21 March 2024.
102. ICJ (2023) Obligations of States in respect of Climate Change, Request for an Advisory Opinion, transmitted to the Court pursuant to General Assembly resolution 77/271
103. IACtHR (2023) Request for an advisory opinion on the scope of the state obligations for responding to the climate emergency, available at https://www.corteidh.or.cr/docs/opiniones/soc_1_2023_en.pdf. Accessed 30 Jun 2024
104. International Tribunal of the Law of the Sea, Advisory Opinion of 21 May 2024 in Case No. 31, available at https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf. Accessed 28 June 2024

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