

## Week 3: The concept of ‘Climate Change’ and International Climate Change Law

### Introduction

In this seminar we look at the definition of climate change in the context of international climate change law – primarily the United Nations (UN) Climate Change Regime, with a focus on the **1992 UN Framework Convention on Climate Change (UNFCCC)**.

The UNFCCC sets out the basic legal framework and principles for international climate change cooperation with the aim of stabilizing atmospheric concentrations of greenhouse gases (GHGs) to avoid “dangerous anthropogenic interference with the climate system.”

To boost the effectiveness of the 1992 UNFCCC, the **Kyoto Protocol** was adopted in December 1997. It committed industrialized countries and countries in transition to a market economy to achieve quantified emissions reduction targets for a basket of six GHGs.

In December 2015, parties adopted the **Paris Agreement**, which requires all parties to determine, plan, and regularly report on the nationally determined contribution (NDC) that it undertakes to mitigate climate change. Moreover, the **UN 2030 Sustainable Development Agenda** is an action programme with a universal vocation to people, the planet and prosperity. It sets out 17 Sustainable Development Goals (SDGs) involving 169 Targets. It provides a common basis for (re)-building a world where everyone can live in an environmentally, socially, economically and socially sustainable world.

The **aim of this seminar** is two-fold. The *first objective* is to gain a solid understanding of the concept of climate change. The *second objective* is to have a good appreciation of the evolving global climate change regime.

The **learning outcomes** of the seminar are aimed at providing the foundation for critically examining the intersection between international climate change law and other areas of international law with particular regard to international human rights law and international refugee law, and more generally, the complex relationship between the effects of climate change and human mobility.

In turn, this will help us return to our primary question of “who is a climate refugee?” and the co-related question as to whether such notion is apposite to frame the increasing phenomenon of climate-related migration given that climate change is a “risk amplifier” that interacts with other non-environmental factors, making it difficult to understand what causes displacement.

## What is climate change?

Climate change is the significant variation of average weather conditions becoming, for example, warmer, wetter, or drier—over several decades or longer. It is the longer-term trend that differentiates climate change from natural weather variability.

In this seminar we are going to look closely at climate change as:

- a. an intractable policy challenge > how to utilize scientific evidence for policy measures
- b. an environmental problem > slow-onset events *versus* sudden-onset events
- c. economic problem > environmental degradation consequences on local economies
- d. ethical problem > impacts those who are most vulnerable; Global North/Global South

## Key principles and notions of International Environmental Law relevant to International Climate Change Law

### Key notions

- Mitigation of climate change
- Adaptation of climate change

### Key principles

- The no-harm rule and related principles > harm prevention and due diligence; procedural obligations; prevention and precaution
- Establishing state responsibility for violation of the no-harm rule – what type of responsibility?
- Invoking state responsibility for harm to the global commons
- “Common concern of human kind” and *erga omnes* obligations – differentiated responsibilities and capabilities

## The evolution of the UN Climate Change Regime

The development of the UN climate regime can be subdivided into four phases:

*Phase 1* – agenda setting, extending throughout 1990.

*Phase 2* – constitutional phase; it corresponds to when the basic framework of the UN climate regime was put in place, beginning in 1991, when the UN General Assembly initiated the negotiation of a FCCC, and continuing through 1994, when the FCCC entered into force.

*Phase 3* – regulatory phase; this phase corresponds to the negotiation, elaboration, and operationalisation of the Kyoto Protocol, which required industrialised countries to reduce their GHGs emissions. It extended from 1995 to 2004, corresponding to the entry into force of the Kyoto Protocol.

*Phase 4* – It started in 2005 and it focuses on what to do after 2012, that is after the end of the first commitment period of the Kyoto Protocol; a key milestone of this period is the 2015 Paris Agreement, which addresses the period from 2020 onwards.

## Sources on climate change

### International Organisations

United Nations – Climate Action

<https://www.un.org/en/climatechange/what-is-climate-change>

World Bank Climate Change Knowledge Portal

<https://climateknowledgeportal.worldbank.org/overview#:~:text=Climate%20change%20is%20the%20significant,change%20from%20natural%20weather%20variability>

European Union – Causes of Climate Change

[https://climate.ec.europa.eu/climate-change/causes-climate-change\\_en](https://climate.ec.europa.eu/climate-change/causes-climate-change_en)

European Union – The Consequences of Climate Change

[https://climate.ec.europa.eu/climate-change/consequences-climate-change\\_en](https://climate.ec.europa.eu/climate-change/consequences-climate-change_en)

### Non-governmental organisations and scientific bodies

The Intergovernmental Panel on Climate Change (IPCC)

<https://www.ipcc.ch/>

Client Earth

<https://www.clientearth.org/what-we-do/why-we-fight/climate/>

Friends of the Earth

<https://friendsoftheearth.uk/climate-change#:~:text=What%20causes%20climate%20change%3F,gas%2C%20and%20cutting%20down%20forests.>

Greenpeace

<https://www.greenpeace.org.uk/challenges/climate-change/>

National Geographic Society

<https://education.nationalgeographic.org/resource/climate-change/>

### Videoclips

ClickView Learning Platform – What is climate change?

<https://www.youtube.com/watch?v=EuwMB1Dal-4>

National Geographic – Climate Change 101 with Bill Nye

<https://www.youtube.com/watch?v=EtW2rrLHs08>

## Source on international climate change law

The UN Framework Convention on Climate Change (UNFCCC)

What is the UNFCCC?

<https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change>

Text of the UNFCCC, see [here](#)

The 2030 Sustainable Development Agenda – what is it?

<https://www.un.org/sustainabledevelopment/development-agenda/>

## Literature on the Evolution of the UN Climate Change Regime

- D Bodansky, 'The UN Climate Change Regime Thirty Years on: A Retrospective and Assessment' *Environmental Policy and Law* 53 (2023) 19–33 DOI 10.3233/EPL-219047, available [here](#)
- J Kreienkamp, 'The Long Road to Paris. The History of the Global Climate Change Regime', Policy Brief November 2019, available [here](#)
- D Abreu Mejía, 'The Evolution of the Climate Change Regime: Beyond a North-South Divide?' ICIP Working Papers 2010/06 available [here](#)

## Further Reading (Optional)

- M. Brus, 'The Normative Status of Climate Change Obligations under International Law- "Yesterday's good enough has become today's unacceptable"' Study for the JURI Committee of the European Parliament, PE 749.395 - June 2023, available [here](#)