

A Climate Lawyers Wishlist for impact science

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Dutch Climate Case (24 June 2015)



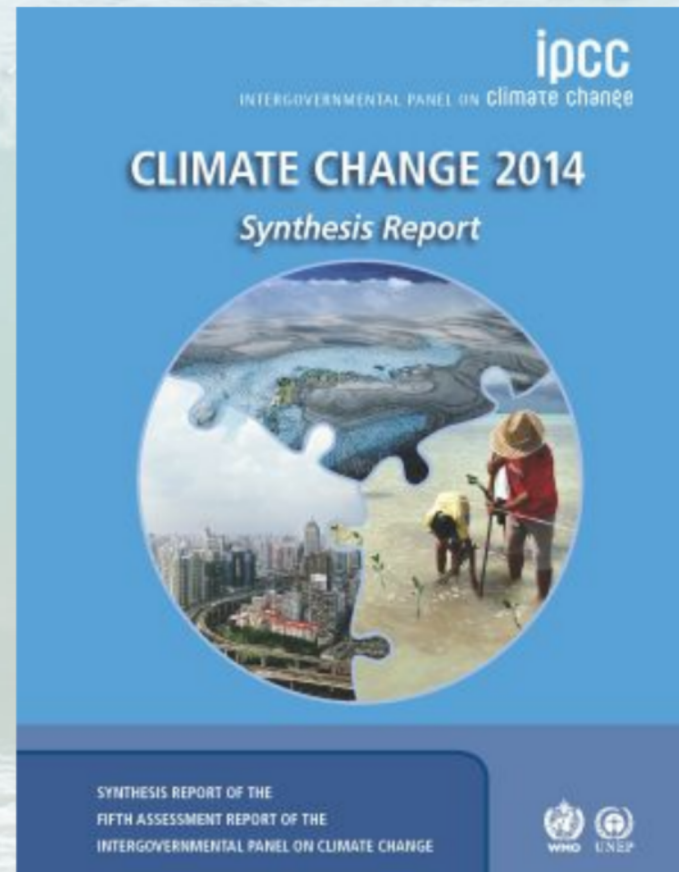
THEY WON!

**LANDMARK COURT RULING ORDERS
DUTCH STATE TO CUT CLIMATE EMISSIONS**

- “Orders the State to reduce it’s emissions by a **minimum of 25%** before 2020 compared to 1990.”

Legal Status of the IPCC

- “No court of law could possibly deviate from IPCC findings since any expertise put before the court would never be as inclusive as that inherent in the IPCC.”



Article 2 UNFCCC 1992

‘The ultimate objective of this Convention....is to achieve....stabilization of greenhouse gas concentrations in the atmosphere at a level that would **prevent dangerous anthropogenic interference** with the climate system.’

Copenhagen Summit 2009



- “[T]o achieve the ultimate objective of the Convention to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, we shall, recognizing the scientific view that the increase in global temperature should be below 2 degrees Celsius....enhance our long-term cooperative action to combat climate change...”

National case based on Tort Law

- Open norm of “Duty of Care”
- Reasonable Man Standard
- No direct application of international law
- But: Interpretation of Duty of Care in line with International Law & Principles.
- These ‘open norms’ are also present in administrative, constitutional and human rights laws of countries around the world

Important findings of the Court

- On danger of climate change and the States' duty:

“These factors lead the court to the opinion that, given the high risk of hazardous climate change, the State has a serious duty of care to take measures to prevent it.”

Important findings of the Court

- On the individual responsibility of the Netherlands:

‘The fact that the amount of the Dutch emissions is small compared to other countries does not affect the obligation to take precautionary measures in view of the State’s obligation to exercise care. After all, it has been established that any anthropogenic greenhouse gas emission, no matter how minor, contributes to an increase of CO2 levels in the atmosphere and therefore to hazardous climate change.’

Climate Change is an issue for the courts

- Separation of Powers:
 - However no power is absolute. All are bound by the law.
- Prevention against this danger is a legal question
 - Political controversy does not make a legal question a political question.

What Changed?

- State appealed but started implementing min 25% in 2020
- Political landscape transformed
 - Parliament: phase out coal asap, all cars zero emission by 2025
 - Hotly debated during 2017 elections
 - New centre-right government
 - Climate act
 - EU 55% in 2030
 - NL 49% in 2030

Importance after Paris Agreement

- More ambitious target:
 - well below 2C and aiming for 1.5C
- No emission reduction obligations, but voluntary “ratcheting up” system
- No compliance mechanism
- Thus far, no increase in ambitions

Youth vs Trump



Law Student v New Zealand

Waikato law student Sarah Thomson takes Government to court over climate change

GED CANN

Last updated 17:41, June 26 2017



MONIQUE FORD/FAIRFAX NZ

University of Waikato law student Sarah Thomson is taking on the Government in court.



Climate Seniors v Switzerland



A group of elderly people, mostly women, are gathered for a climate protest. They are holding various signs with messages in French, German, and English. The signs include:

- LE TEMPS PRESSE IL EST URGENT D'AGIR
- Mein Lebensretter: Reduktion - nicht Erhöhen KLIMASCHUTZ
- STOP
- CLIMATE JUSTICE
- KLIMA DANK PRIMAR WEIBER (with a female symbol)
- FLEISCHKONS SENKEN Hilft dem Klim.
- Geht mal schauen im Röhrenleiter! Dort steht man schon die Katastrophe!
- unsere Enkelkinder haben das Recht auf späte
- NATUR SO
- Senken Kern Frage! KERN MIT K
- Klima?
- It will noch lange dauern und dafür KLAGEN ist!

The background shows a body of water with white foam, suggesting a coastal or lakeside setting.



uitgenood
samen sneller duurzaam



Lahore High Court in Pakistan

First the Netherlands, now Pakistan's high court comes to defence of climate

A minor revolution in climate justice has just taken place in one of the countries most affected by global warming, [reports Le Monde](#)



📷 Villagers clear flood water from their houses in Jhado near Hyderabad, Pakistan. Photograph: Fareed Khan/AP

The high court of justice in Lahore has ordered the creation of a “climate council” to force the Pakistani state to uphold its environmental commitments.

Peruvian Farmer v. RWE

Peruvian farmer demands climate compensation from German company

RWE asked to pay for costs of protecting home lying in the floodpath of a glacial lake as its historical emissions are linked to glacial retreat in the Andes



① The Palcacocha lake, above the city of Huaraz, dams the glacial melts but could flood due to ice avalanches. The drainage system in place is not sufficient to secure the lake. Photograph: GermanWatch

A Peruvian farmer is demanding that a German energy company pay him compensation for its role in causing historical climate change which, he claims,

San Fransisco v. Big Oil

Environment

San Francisco sues Big Oil for billions over climate change claiming they knew the dangers for decades

'Instead of owning up to it, they copied a page from the Big Tobacco playbook,' says San Francisco's city attorney

Ian Johnston Environment Correspondent | @montaukian | Thursday 21 September 2017 10:00 BST | 




Attribution science

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The rise in global atmospheric CO₂, surface temperature, and sea level from emissions traced to major carbon producers

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Abstract Researchers have quantified the contributions of industrialized and developing nations' historical emissions to global surface temperature rise. Recent findings that nearly two-thirds of total industrial CO₂ and CH₄ emissions can be traced to 90 major industrial carbon producers have drawn attention to their potential climate responsibilities. Here, we use a simple

What to prove in a climate case

- **Standing**
 - Who is affected? How? and When?
- **Duty of care**
 - How bad is it? Foreseeable? Can it be prevented?
How onerous would it be to prevent?
- **Causal connection**
 - Are the impacts the result of emissions (at what level)?
 - How much more likely is(was) the harm to take place?
- **Redress** (prevented/compensated?)
 - Would emission reductions lead to the prevention of the harm?

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1. Climate Science for dummies
2. State consensus before discussing the area's of disagreement (how certain are we?)
3. Be transparent
 - Emission scenario's
 - Methodology and results (assessment of credibility by a court)
 - Assumptions and uncertainties

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4. Impacts the result of anthropogenic emissions of other (human) factors?
5. Include Paris compatible scenario's as well as higher temperature ranges.
6. Tying impacts to years (2030, 2050, 2070..)
7. Who is most affected, how?

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8. Adaptation measures: how much do they cost, and what's the residual damage?
9. Impacts of delayed mitigation
10. How do ecosystems changes affect humans & the economy
11. The bigger picture: is sum of all impacts greater than its parts?
12. Doomsday Scenario: Why would 4C mean the end of civilisation?

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