

AN INTERNATIONAL LAW APPROACH TO CLIMATE JUSTICE: HUMAN DIGNITY AND THE RIGHTS OF FUTURE GENERATIONS

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Abstract: Climate justice today represents a high-level legal, ontological and axiological alarm signal, situated on the threshold between the present and the future, between existing rights and responsibility towards future generations. International law, responsible for the intersection of human rights, environmental law and sustainable development, must, in many situations, abandon the reactive paradigm and adopt the ethics of anticipation. Human dignity is the foundation of any climate regulation, implicitly extending to those who are unborn. The study re-examines the international legal regime, and argues for the reconceptualisation of state and non-state responsibility.

Key words: Climate justice, Human dignity, Anticipatory ethics, International law, Intergenerational responsibility.

1. Introduction

Climate justice is today at the centre of attention, perhaps more than ever before, by virtue of its status not only as an ecological or economic concern, but as a fundamental legal, ontological and axiological challenge. It constitutes a frontier zone between the present and the future, between existing rights and legal responsibility for that which is not yet fully realised – namely, future generations. From this perspective, contemporary international law, especially in its intersection with human rights, environmental law, and the law of sustainable development, is called upon to transcend the reactive paradigm and to embrace an ethics of anticipation, as envisioned by Hans Jonas in *Das Prinzip Verantwortung* (1979).

Human dignity, in its Kantian conception but also in the evolved sense within post-war international legal doctrine (see Article 1 of the Universal Declaration of Human Rights, 1948), must be recognised as the foundational axis of any climate regulatory endeavour. It is not confined to the present condition but implicitly projects itself towards the guarantee of a dignified life for the unborn. In this sense, international courts (such as the European Court of Human Rights in *KlimaSeniorinnen v. Switzerland*, 2024) are

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beginning to develop a jurisprudence that intricately links present-day rights with future climate impacts.

This paper brings into focus a reassessment of international legal structures concerning climate, from the Paris Agreement (2015) and the proposed Global Pact for the Environment (2017), to recent initiatives within the UN General Assembly regarding the recognition of a 'right to a healthy environment' (Resolution 76/300, 2022). At the heart of this analysis lies the necessity of reconceptualising both state and non-state legal responsibility, in order to establish a positive obligation to protect future human dignity. The contribution adopts a theoretical perspective, drawing inspiration from Martha Nussbaum's vision of the capability to live in relation with nature, and from Edith Brown Weiss's transgenerational interpretation of justice.

1.1. Objectives, Material and Methods

Methodologically, a doctrinal and comparative analysis of relevant instruments and jurisprudence (Paris Agreement, UN resolutions, ECtHR) was employed, integrated with philosophical grounding (Jonas, Nussbaum, Brown Weiss) and a systemic-teleological interpretation of legal norms.

This paper seeks to bring to the forefront a critical reassessment of international legal mechanisms on climate from the perspective of the human dignity of future generations. It examines recent normative developments, from the Paris Agreement (2015) and the Global Pact for the Environment initiative (2017) to the United Nations General Assembly's recent recognition of the right to a healthy environment (Resolution 76/300 of 2022). At the core of the analysis lies the need to broaden the concept of legal responsibility – both for state and non-state actors – towards the establishment of a positive obligation to protect future human dignity through ambitious climate action in the present. The approach is theoretical-doctrinal and interdisciplinary, combining international law with elements of moral philosophy. It draws inspiration from Martha Nussbaum's vision of the human capability to live in relationship with nature as part of human flourishing, as well as from Edith Brown Weiss's transgenerational interpretation of justice, which conceptualises the rights of future generations in legal terms.

The structure of the paper begins with a section clarifying the philosophical and legal foundations of the principle of human dignity in relation to climate justice, followed by a discussion of the concept of intergenerational equity in international environmental and sustainable development law, an analysis of the evolution of international human rights law towards the recognition of a right to a healthy environment and the corresponding obligations. The penultimate chapter dissects the issue of liability for both states and non-state actors (such as companies). Finally, the conclusions synthesise the arguments.

2. Discussion and Findings

2.1. An International Law Approach to Climate Justice – Human Dignity and the Rights of Future Generations

Climate justice has clearly moved to the centre of global attention, representing far

more than a merely ecological or economic issue: its characteristics announce it as a fundamental legal, ontological and axiological problem (Schapper et al., 2025, p. 2). The reason is that it draws a critical demarcation between present and future, between the existing rights of the current generation and the legal responsibility towards what is not yet fully realised, namely future generations. The stakes of climate justice lie in establishing a fair balance between the needs and rights of those living today and those of the not-yet-born, in the context of an unprecedented climate threat. This perspective compels international law – particularly at the confluence of human rights law, environmental law and sustainable development law – to transcend the traditional reactive paradigm and to embrace an ethics of anticipation, as Hans Jonas foreshadowed in his famous work *Das Prinzip Verantwortung* (1979). Jonas argued that technological progress has enormously extended the scope of human actions, generating global and potentially irreversible effects, which is why moral norms (and, by extension, legal norms) must be adapted to prevent future catastrophes. His well-known and categorical imperative for the technological age stipulates: 'Act so that the effects of your action are compatible with the permanence of genuine human life' (Jonas, 1979, Chapter 1/V). This has become a postulate formulated as a duty not to act destructively towards future generations and the totality of the conditions of their lives. The ethics of responsibility towards the future thus requires a redesign of the current legal framework so that we move from post-factum reparation of damage to its proactive prevention in the name of those yet to come.

Article 1 of the Universal Declaration of Human Rights (1948) explicitly proclaims that 'all human beings are born free and equal in dignity and rights'. This inherent dignity is not a static concept limited to the present; on the contrary, it is implicitly projected into the future, which means guaranteeing a dignified life for those not yet born. Extending further out of respect for all forms of life, the concept naturally encompasses their benefit as well (Popa Tache, 2022, pp. 14–25). Climate change, however, calls into question the very possibility of a dignified life for future generations, given the risk of bequeathing them a severely degraded environment marked by disasters, food insecurity and loss of biodiversity. Consequently, the respect for human dignity obliges states and the international community to protect current human rights and to anticipate and prevent future violations of these rights caused by the climate crisis.

Recent developments confirm that international judicial bodies are beginning to recognise the intrinsic link between present rights and future climate impacts. A pertinent example for this analysis is the historic judgment delivered by the Grand Chamber of the European Court of Human Rights (ECtHR) on 9 April 2024 in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*. In this case, the Court held that climate change constitutes one of the most pressing issues of our time and represents a threat to human rights. At the same time, it confirmed that states have a positive obligation to adopt concrete measures to mitigate climate change under Article 8 of the European Convention on Human Rights (the right to respect for private and family life). On that occasion, the Court found that Switzerland had breached this obligation by failing to meet its own greenhouse gas emission reduction targets and by leaving critical gaps in its regulatory climate framework. It also found a violation of the right of access

to justice (Article 6 ECHR) due to the lack of responsiveness of national courts to the applicants' claims. Jurisprudence from other international and national courts – from UN committees to constitutional courts – likewise moves towards recognising present responsibility for future climate harm, signalling a paradigmatic shift in the way intergenerational justice is conceived.

2.2. Human Dignity as the Foundation of Climate Justice

Human dignity represents the primordial starting point for constructing any normative endeavour in the field of climate justice. In Kantian philosophy, dignity (*Würde*) belongs to every human being by virtue of their reason and moral freedom, which grants them the status of an end in themselves, never to be treated merely as a means (Brassington, 2006). Kant emphasised that everything that has a price can be replaced with an equivalent, whereas that which is beyond price – namely, the dignity of the person – has no equivalent and commands absolute respect (Kant, 1996, 4:434 – 435/pp. 84–85). This idea, taken up and secularised in modern legal doctrine, was inscribed in the foundational documents adopted after 1945. The *Universal Declaration of Human Rights* affirms, as shown above, the equality in dignity of all human beings from birth, thereby consecrating dignity as the source of all inalienable rights.

In the face of the climate crisis, human dignity acquires heightened and complex relevance. Climate change threatens the vital elements of a dignified life: access to clean water, food, shelter, a safe and healthy environment, as well as the protection of life and health. Unchecked global warming risks generating situations of indignity on a global scale: entire communities forcibly displaced by rising sea levels or desertification, populations deprived of subsistence means, and intensified natural disasters that endanger human life and physical integrity. Such consequences would seriously undermine the fundamental premise that every human being has the right to 'a standard of living adequate for the health and well-being of himself and of his family' (as stipulated in Article 25 of the UDHR) within an environment that allows them to live in dignity.

Dignity is not limited to human beings existing in the present. If we accept, as suggested both by moral reason and by visionary legal instruments, that every member of the human species – including those not yet born – possesses inherent value, then it becomes a moral and legal imperative to act in ways that do not compromise the dignity of these future people through our present actions (or inactions) (Dafermos, 2025). In this regard, the famous *Stockholm Declaration on the Human Environment* (1972) articulated, five decades ago, a direct link between environment and dignity, proclaiming in Principle 1 that 'man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.' The same principle also underlines that humanity bears a solemn responsibility to protect and improve the environment for present and future generations. Thus, from the very beginnings of international environmental law, human dignity has been recognised as providing both a right to a life-conducive environment and a responsibility towards the future.

The connection between dignity and climate justice can also be examined through the lens of the concept of the ‘good life’ (*vivir bien*) or ‘flourishing’ (in the Aristotelian sense), developed in contemporary capability theories. Philosopher Martha Nussbaum, within the capabilities approach, explicitly includes among the essential components of a dignified human life the capability to live in a harmonious relationship with nature. In her list of central human capabilities, Nussbaum lists at point 8 ‘Other Species’, defined as the ability ‘to be able to live with concern for and in relation to animals, plants, and the world of nature’ (Nussbaum, 2006, pp. 41–42). Respect for human dignity therefore includes ensuring the environmental conditions in which human beings can realise themselves in relation to nature.

The present generation, as the beneficiary of inherent dignity, has an obligation to treat future generations not as expendable means for immediate interests, but as ends in themselves, worthy of an environment conducive to life. This intergenerational obligation to respect human dignity manifests itself, in legal terms, through the necessity of recognising rights in favour of future generations (at least in collective form) and corresponding obligations for present actors.

2.3. Future Generations and Intergenerational Equity in International Environmental Law and Sustainable Development

The issue of intergenerational equity has become increasingly visible in international legal discourse alongside the evolution of concerns regarding sustainable development and the protection of the global environment. The concept of intergenerational equity starts from the premise that all past, present and future generations hold the Earth in common, and that the present generation acts both as a beneficiary of the heritage received from its ancestors and as a trustee charged with transmitting this heritage, in good condition, to the generations that will follow (Spijkers, 2018). The principle was influentially articulated by the American jurist Edith Brown Weiss, who, in the 1980s, developed a theory of intergenerational equity applied to environmental law. The principle of intergenerational equity, as proposed by Brown Weiss, goes beyond mere political rhetoric and seeks incorporation into the legal mechanism. One innovative idea was to recognise intergenerational rights – namely, rights belonging to generations as a group (not necessarily to unborn individuals but to future generational collectivities) – which correspond to the obligations of the present generation.

Although the notion of rights of future generations raises philosophical and legal in fact, international law already recognises other collective rights, such as the right of peoples to self-determination, so extending this logic to the group of future generations is not entirely alien to the legal order. Naturally, counterarguments persist, ranging from uncertainty about future needs – since we do not know exactly what future generations will desire or prioritise – to the dilemma that future people depend on our actions in the sense that they cannot claim a better quality of life without our having ensured their very existence. Paradoxically, then, they might be seen as owing us gratitude rather than blame. Another criticism of Brown Weiss’s theory is its anthropocentric character: it places the relationship between generations at the centre of attention but does not

explicitly address the intrinsic value of nature. Some authors have suggested that the duty not to destroy the Earth could also be viewed as a direct obligation towards nature itself, and not only towards other human beings (Spijkers, 2018). Brown Weiss has partly responded to this critique by stressing that our relationship with nature is an integral part of intergenerational equity, since the degradation of nature affects future generations. Conceptually, however, this relationship with nature can also be seen as transcending the strict framework of equity between generations, reflecting an ecocentric rather than a purely anthropocentric perspective (Collins, 2007, p. 79).

Over time, elements of the principle of intergenerational equity have gradually been incorporated into key international documents. The Rio Declaration on Environment and Development (1992) states in Principle 3 that 'the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.' This formulation enshrines the idea of solidarity between generations as part of the concept of sustainable development. The classic definition of sustainable development in the Brundtland Report (World Commission on Environment and Development, 1987) is 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs.' This has become a motto of global policies and is implicitly reflected in the Paris Agreement and the Sustainable Development Goals (SDGs). In the preamble to the 2015 Paris Agreement, the term *intergenerational equity* is explicitly mentioned as a principle that Parties should respect in their climate actions.

In this context, the initiative for a Global Pact for the Environment, launched in 2017 by a group of experts and supported by France, should be recalled. It aimed to codify within a single instrument the main principles of environmental law. The draft Pact – although not formally adopted to date but generating significant discussion – included an article dedicated to intergenerational equity. Article 4 of the draft stipulated that intergenerational equity should guide decisions that may have an impact on the environment, obliging states to take measures to ensure that their present actions do not compromise the ability of future generations to meet their own needs. Even though the Global Pact remains at the proposal stage, the UN General Assembly adopted Resolution 72/277 in 2018, which launched discussions on gaps in international environmental law and possible avenues for strengthening it, implicitly recognising the need for a more coherent approach to principles, including those concerning future generations.

Beyond instruments of varying legal force, the international community has also adopted solemn declarations concerning responsibility towards the future. UNESCO's *Declaration on the Responsibilities of the Present Generations Towards Future Generations* (adopted on 12 November 1997) is emblematic in this regard. It clearly states that 'the present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded,' and of transmitting to future generations a planet not irreversibly damaged by human activity. Interestingly, in Article 3, the UNESCO text explicitly links the perpetuation of the human species to respect for human dignity, stating that the present generations must ensure the maintenance and perpetuation of humanity 'with due respect for the dignity of the

human being,' so that nature and form of human life are not undermined in any way. Through such formulations, it is effectively recognised that environmental protection and consideration of the future are closely linked to the safeguarding of human dignity as a perennial value.

The principle of intergenerational equity has thus gradually entered international legal consciousness, evolving from general policy declarations to treaties and emerging jurisprudence. Sustainable development law has enshrined the concept as a defining element, while international environmental law and human rights law are beginning to operationalise it. Practically speaking, however, the question remains: how can the rights and interests of those who are not yet born be effectively protected?

2.4. State and Non-State Actors' Responsibility in the Context of Climate Justice

Traditionally, public international law places the state at the centre of the responsibility regime, where states are the primary subjects obliged to prevent and remedy harm, including environmental damage. However, the global and diffuse character of climate change, as well as the massive involvement of private actors—particularly oil and fossil fuel corporations—in generating emissions, has led to an expansion of the concept of responsibility. We are witnessing the emergence of a pluralistic vision of legal responsibility, in which both states and non-state entities bear obligations, whether legal or moral, towards the protection of the climate and, implicitly, towards future generations.

2.4.1. States' Obligations: From No Harm to Positive and *Erga Omnes* Obligations

In classical international environmental law, the principal obligation of states was to prevent significant transboundary environmental harm to other states or to the global commons, i.e. the *no harm* principle, crystallised in the 1941 *Trail Smelter* arbitration and reiterated in Principle 21 of the 1972 Stockholm Declaration. Climate change, however, raises the issue of responsibility even when the harm is not yet actual but future and global. A state's actions or omissions have the potential to contribute to a diffuse, collective harm (global warming) that will materialise fully only years or decades later and will affect the entire international community.

Consequently, legal discourse has evolved towards recognising climate change as a *common concern of humankind*, as set out in the 1992 United Nations Framework Convention on Climate Change (UNFCCC). This status indicates that all states have a legal interest in protecting the climate and, therefore, that climate obligations have acquired an *erga omnes* character—owed to the international community as a whole. An example is the resolution through which the United Nations General Assembly requested an advisory opinion from the International Court of Justice (ICJ) in 2023, describing climate change as an unprecedented challenge of civilisational proportions, affecting the well-being of present and future generations (United Nations General Assembly, 2023), thereby underscoring the *erga omnes* nature of the obligation to combat this threat.

In 2025, the International Court of Justice issued a historic advisory opinion on states'

obligations with respect to climate change, establishing that international law imposes on states both obligations to prevent and reduce greenhouse gas emissions and responsibilities towards future generations, thereby strengthening the principles of intergenerational equity and *no harm* in the climate context.

2.4.2. *The Responsibility of Corporations and other Private Actors*

This paper has demonstrated that the climate crisis cannot be separated from the contribution of major industrial companies, particularly those in the fossil fuel sector. Recent studies show that a relatively small number of companies – the so-called ‘carbon majors’ – are responsible for a significant proportion of historical CO₂ emissions. This has raised the question: can private actors be held accountable for climate change? Although classical international law does not directly regulate corporate obligations, there are significant trends in domestic law and soft law initiatives that impose standards of corporate conduct in relation to the environment and human rights.

An important path was opened by national courts in *Milieudefensie (Friends of the Earth Netherlands) v. Royal Dutch Shell* (2021), where the Hague District Court ruled that the oil giant Shell is obliged to reduce its carbon emissions from its operations and products by 45% by 2030 compared to 2019 levels, in line with the objectives of the Paris Agreement.

In recent years, there has been intense debate about the proposal to introduce *ecocide* – that is, severe environmental destruction – as an international crime, so that state and corporate leaders and decision-makers could be held accountable before the International Criminal Court for actions or omissions causing severe and long-term harm to the global environment.

Finally, the potential role of international organisations and subnational entities such as cities and regions in climate justice deserves mention. International financial organisations, such as development banks, are adjusting their policies to avoid financing highly polluting projects, thus responding to an institutional responsibility towards climate goals. Cities, which are on the front line of climate impacts, cooperate in global networks and adopt commitments that sometimes surpass those of their own states, thereby assuming a form of direct public responsibility towards their citizens.

3. Conclusions

An ethics of anticipation in law would concretely mean the systematic integration of long-term impact into all major legal decisions. Parliaments could establish special mechanisms such as a guardian or advocate for future generations – an Ombudsman for the Future – already experimented with in countries like Hungary in the past, to ensure that legislation is not short-sighted when it comes to long-term interests.

At the *Summit of the Future*, held in New York on 18–19 September 2024, UN Member States negotiated and adopted the *Pact for the Future* in the form of a United Nations General Assembly resolution – A/RES/78/1, adopted by consensus on 20 September 2024. Although it is soft law, it acts as an incubator for future hard law developments.

The role of education and public awareness should not be overlooked as part of this

legal ethic, for the law also has an expressive and pedagogical function. By recognising future dignity and the rights of the environment, it is meant to educate society in the spirit of responsibility. Practitioners, theorists, and educators have a duty to promote this anticipatory vision and to incorporate into contemporary legal thinking an assessment of the impact on those who cannot be present in the courtroom today but will feel the consequences tomorrow.

Climate change now places international law before one of the greatest challenges in its history: that of expanding its vision and effectiveness beyond the urgencies of the present towards the protection of humanity's common future. This analysis has highlighted that this paradigmatic adaptation is already unfolding on multiple fronts. An innovative aspect brought to light is the broadening of the spectrum of responsibility to include non-state actors.

Only through such mobilisation will we be able, metaphorically speaking, to look future generations in the eye and tell them that we have preserved for them what they too, in turn, have the fundamental right to possess and to pass on: a world in which they can live free and equal in dignity and rights, in harmony with the entire planet.

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