

Abstract

Climate change has proven to be a real threat to human rights over the past years. The complex and layered link has been acknowledged, explored and nowadays it represents a justly feared aspect of climate change. Intentions of not only scientific, but also scholarly society has been therefore spinning around the question, how to stop the dangers stemming from the climate change and prevent further human rights violations. A climate litigation, born in the USA, and having spread the idea around the world seems to be one of the options to (partly) resolve the situation. The trend has been expanding over the past years and has become a phenomenon. Elderly, children and farmers take not only states, but also the biggest private emitters of GHGs known as Carbon Majors to court. The main objective of this thesis has been to discover the way to success in climate litigation cases based on human rights argumentation. The aim has been to generate an exemplary set of advices for drafters aiming at filing a climate lawsuit. Together with this question, the author had a particular interest in assessing the capability of human rights arguments to succeed on its own without additional support from other legal areas, such as tort law. The leading methodology used in this thesis was a comparison of legal arguments across the selected case law, including successful, unsuccessful and pending cases to cover the widest spectrum possible. The author decided to examine the topic on the level of national authorities, with the exception of one EU case, and incorporate both types of defendants, public and private ones. The study is opened by explanation of the link between climate change and human rights, introduction to the history of climate litigation, and finally, how these have intertwined over the time. The second chapter has an objective to outline the main legal hurdles concerning drafting a climate lawsuit. Finally, the last chapter's outcome are lessons from selected case law. The research findings indicate that success of the lawsuit based on human rights is possible, nonetheless, it is advisable to combine those with other legal resources. The victory depends on many factors. The most evident being overcoming legal obstacles regarding the procedural stage of proceedings, among others the question of justiciability, standing, separation of powers etc. Furthermore, the result might be influenced by legal tradition, provisions a drafter can rely on national level and international treaties which have been ratified. Finally, an attitude of the judge will play a substantial role. Due to limitations in the extent of this research, especially the number of assessed cases, and thanks to the fact that the environment of climate litigation has been changing depending on societal, scientific and legislative advancement, there is still space for further research, especially in the area of cases against the private actors. Those cases still lack clear obligations on the side of companies stemming from international law.