| . 1.19   | · · · · · ·                                 |
|--|---|
| accountability   | offset or compensation for emissions, 179,  |
| carbon majors, 247–48, 319–20  | 358   |
| attributing emissions, 248–53  | tax credits, 32                             |
| deforestation, 263   | airport expansion, 2, 124, 130              |
| lack of damaging narratives, 297–300                                     | judicial deference, 309                     |
| private parties, 246–47  | Alaska Inter-Tribal Council (AITC)          |
| supply-side accountability gap, 321–22, 334<br>common but differentiated | global warming, impact on Indigenous        |
|  | peoples, 282                                |
| responsibilities principle, 332–33                                       | Alston, Philip, 267–68                      |
| Gloucester Resources case, 328   | Amazon (corporation)                        |
| Gray case, 328   | corporate liability for climate change, 139 |
| no-harm principle, 332   | Amazon rainforest                           |
| People v. Arctic Oil, 324-27, 334  | deforestation, 2, 12–13, 99, 350            |
| perfect substitution principle, 329-31                                   | Kichwa Indigenous People of Sarayaku case,  |
| visual evidence, importance of, 273, 284                                 | 276–80                                      |
| adequacy of efforts to reduce emissions. See                             | assessment of climate change policies       |
| assessment of climate change   | "all appropriate measures", 171             |
| policies; failure to adequately mitigate                                 | consistency, 173                            |
| administrative due process claims, 127                                   | due diligence obligation. See due diligence |
| administrative law cases, 120, 122–24                                    | obligation                                  |
| airport expansion, 124   | due process, 173                            |
| climate litigation currents, 126–27                                      | good faith, 173                             |
| coal power stations, development of, 124                                 | "highest possible ambition", 171            |
| precedents, 117–29   | "maximum available resources", 172          |
| Africa   | proportionality, 173                        |
| balancing development and environmental                                  | attribution research, 223–24, 238           |
| rights, 377–79   | failure-to-adapt claims, 234–38             |
| failures of legal systems, 379–80  | failure-to-mitigate claims, 231–34          |
| Indigenous peoples' movements,   | individual versus collective rights, 224–30 |
| 380-81   | source attribution, 232–34                  |
| inequalities and injustices, 376-77                                      | Australia, 328–29                           |
| exacerbation through climate change, 377                                 | administrative climate litigation           |
| See also Kenya; South Africa   | Bushfire Survivors case. See Bushfire       |
| air travel   | Survivors for Climate Action                |
| balancing impact of emissions and rights of                              | Incorporated v. Environment                 |
| others, 179–80   | Protection Authority                        |

| Gloucester Resources Limited case, 328            | carbon majors, 2                               |
|---|--|
| Gray case, 328                                    | accountability, 319–20                         |
| Greenpeace Australia case, 124                    | attribution, 250–53, 251                       |
| National Environmental Policy Act, 124            | supply-side accountability gap, 321–22         |
| Torres Strait. See Torres Strait islanders        | advancements in climate science, 209           |
| wildfires, 227                                    | aims of litigation, 210                        |
| visual evidence, importance of, 285–87            | attributing source emissions, 250              |
| . 1   | attribution                                    |
| balancing competing priorities, 32, 257, 340, 343 | accountability, 250–53, 251                    |
| Africa, 377–79                                    | direct financial impacts of litigation         |
| Amazon rainforest, 360                            | defendants, 215                                |
| India, 364, 370–75                                | direct regulatory impacts of litigation, 214   |
| Bangladesh  | impacts of litigation, 207, 218–19             |
| climate change inequalities, 134-35, 144          | financial impacts, 215–18                      |
| baseline rights and duties                        | regulatory impacts, 214–15                     |
| common ground doctrine, 25–27                     | indirect financial impacts of litigation       |
| bioenergy with carbon capture and storage         | devaluation of shares, 216–18                  |
| (BECSS), 185                                      | increasing capital costs, 216                  |
| Brazil  | investors, 216                                 |
| challenges to environmental policy, 359-61        | liability insurance, 216                       |
| "direct" climate actions, 355                     | indirect regulatory impacts                    |
| environmental and climate crisis                  | of litigation, 215                             |
| criminalization of environmental                  | land lost to sea level rises, 251              |
| activism, 349                                     | negligence, 119, 211                           |
| fires and deforestation, 349-50                   | number of cases, 209                           |
| illegal logging, 350                              | private nuisance, 119, 211                     |
| weakening of institutional framework,             | production gap, 321                            |
| 350–52, 361–62                                    | public nuisance, 211                           |
| human rights defenders, 350-52                    | responsibility for emissions, 239, 242, 247–50 |
| illegal drainage of mangrove forests, 357-58      | strategic litigation, 208                      |
| illegal use of fire, 358                          | tort law, 211                                  |
| "indirect" climate actions, 355, 357-58           | causality and human rights-based climate       |
| "isolated" court actions, 355                     | litigation, 15, 36, 308                        |
| public civil actions, 358-59                      | asbestos litigation, 314                       |
| racial inequalities                               | attribution research, 224                      |
| disproportionate impacts of climate               | failure-to-adapt claims, 234–38                |
| change, 352–53, 363                               | Fairchild principle, 339-41                    |
| release of carbon dioxide, 358                    | liability model of responsibility, 36          |
| "structural" court actions, 355                   | wildfire litigation, 227                       |
| Bushfire Survivors for Climate Action             | Center for Climate Crime Analysis (CCCA),      |
| Incorporated v. Environment                       | 256, 260                                       |
| Protection Authority, 285–87                      | cooperation, 265                               |
|   | core principles, 261–62                        |
| Canada  | illegal logging and deforestation, 265         |
| forced displacement as a result of climate        | Children's Investment Fund Foundation          |
| change, 226                                       | (CIFF), 196, 201                               |
| public interest standing, 316                     | children's rights, 142, 224. See also Future   |
| wildfires, 227                                    | Generations v. Colombia; Juliana               |
| carbon dioxide (CO2), 240-41                      | v. United States; ICCPR complaint;             |
| oil and gas extraction, impact of, 241, 248,      | UN Committee on the Rights of the              |
| 320   | Child; UN Convention on the                    |
| sources, 241–44, 242                              | Rights of the Child                            |
|   |  |

| civil law cases, 119–20                          | common but differentiated responsibility         |
|--|--|
| claims against corporations, 16, 35, 120, 246-47 | (CBDR) principle, 151, 245, 332, 337             |
| Amazon (corporation), 139                        | ambiguity, 344                                   |
| corporate veil, 362                              | common ground as a baseline for human rights     |
| strategic litigation, 99                         | claims, 25–27                                    |
| ClientEarth, 201–2, 212                          | community rights versus individual rights,       |
| Climate Accountability Institute, 249            | 224–30. See also collective rights;              |
| Climate Action and Low Carbon                    | individual rights                                |
| Development Act 2015 (Ireland),                  | construction of new airport runways. See         |
| 305–6  | airport expansion                                |
| Climate Action Tracker (CAT), 341                | corporate responsibility for emissions. See      |
| Climate Change Act 2016 (Kenya), 382             | claims against corporations                      |
| Climate Change Act 2017 (Pakistan), 393–94       | corporate veil, 362                              |
| Climate Change Advisory Council (Ireland),       | courts. See judicial proceedings                 |
| 305  | COVID-19 pandemic                                |
| climate change science, 240                      | impact of, 180, 219, 333, 352, 359, 376, 381     |
| sources of greenhouse gases,                     | criminal and corporate liability law cases, 120  |
| 241-44   |  |
| climate justice                                  | dam construction                                 |
| disproportionate impacts of global warming,      | Narmada Bachao Andolan case, 370                 |
| 132–33   | dam disasters, 236, 350–51                       |
| political inequalities, 137-38, 374-75           | deforestation, 13, 99                            |
| racial inequalities, 136-37, 352-53, 363         | cattle ranching, impact of, 2                    |
| wealth versus poverty, 133-35, 138-40, 371-72    | Center for Climate Crime Analysis,               |
| women, 135–36                                    | 265  |
| ethics and moral responsibility,                 | foreign enforcement targeting illegal            |
| 140-41   | commodities, 263–64                              |
| Climate Litigation Accelerator (CLX), 5          | foreign enforcement, lack of information         |
| climate refugees. See Teitiota v. New Zealand    | for, 264   |
| Climate Warrior Campaign (India), 374            | illegal logging, 262, 350                        |
| coal mining, 2, 17, 164                          | Intergovernmental Panel on Climate               |
| India, 364, 371, 375                             | Change, 262                                      |
| Urgenda case. See Urgenda v. the                 | link to other illegal activities, 263            |
| Netherlands see also oil and gas                 | local enforcement, lack of, 263. See also        |
| extraction                                       | illegal logging,                                 |
| coal-fired power stations, 17, 22, 37            | delay enacting national climate change law, 12,  |
| Australia, 328                                   | 37–38, 111, 186, 239, 247–48, 334, 337,          |
| Kenya, 381–82                                    | 394  |
| South Africa, 382–83                             | democratic legitimacy                            |
| collective rights, 226–27                        | open standing, 315–18                            |
| Indigenous communities, 226, 280, 379            | subsidiarity principle, 343                      |
| self-determination, right to, 226–27             | "direct" climate actions, 355                    |
| Colombia   | Brazil, 355, 360                                 |
| deforestation in the Amazon region, 350          | disillusionment with multilateral processes, 101 |
| incorporation of human rights arguments,         | diversity of legal actions                       |
| 102. See also deforestation; Future              | range of acts, policies, and practices, 98       |
| Generations v. Colombia                          | range of legal principles, 98                    |
| Committee on the Elimination of                  | range of parties, g98                            |
| Discrimination against Women                     | drug dealer defense                              |
| (CEDAW)  | market substitution assumption, 329–30           |
| climate change as a human rights duty,           | Duarte Agostinho v. Portugal                     |
| 153–54. See also women,                          | minimum fair share norm, 31                      |
|  |  |

| 1 10 11 1                                     | 1. 11  |
|---|--|
| due diligence obligation                      | challenges                                     |
| climate change policies, 173–75, 341          | mitigation targets, 18                         |
| compliance, 175                               | rights-based challenges, 19                    |
| consistency, 175–76                           | rulings, 22–24                                 |
| methodology, 176                              | specific projects and policies, 19             |
| policy gaps, 176                              | challenges to corporations, 16                 |
| policy implementation/effectiveness, 176      | challenges to states, 16, 166–70               |
| progression, 176                              | Family Farmers and Greenpeace Germany          |
| targets and monitoring, 175                   | case, 168                                      |
| timelines, 176                                | Juliana case, 166–67                           |
| transparency, 176                             | Neubauer case, 9                               |
| Milieudefensie case, 212                      | Norwegian Constitution, 167–68                 |
| no-harm principle, 332                        | reasonable minimum obligation, 339–40          |
| Notre Affaire à Tous case, 213                | Urgenda case, 9, 167                           |
| due process, 34, 127, 173                     | enforcement lawsuits, 193–94                   |
| duty of care                                  | balancing competing priorities, 257            |
| Milieudefensie case, 212                      | evidence, 257                                  |
| Notre Affaire à Tous case, 213                | inadequate enforcement, 257                    |
| Urgenda case, 128, 142                        | lack of coordination, 257                      |
| duty to take precautionary measures, 127.     | legal competence of courts, 27–28, 255–56      |
| See also precautionary principle              | technological advancements                     |
|   | information sharing, 258–60                    |
| Earthlife Africa Johannesburg v. Minister of  | environmental impact assessments               |
| Environmental Affairs & Others,               | licenses granted by local planning             |
| 382-83  | authorities, 123, 125, 355, 381                |
| Ecuador                                       | obligations of States, 165                     |
| illegal mining operations, 274–76. See also   | omission of climate impacts, 29, 123, 193,     |
| Kofan Indigenous People of Sinangoe           | 328, 382, 384                                  |
| v. Ecuador Ministry of Mining                 | People v. Arctic Oil, 326–27                   |
| illegal oil exploration, 277–80. See also     | strategic litigation, 374                      |
| Kichwa Indigenous People of                   | equality-focused climate litigation, 140–41    |
| Sarayaku v. Ecuador                           | benefits, 141–42                               |
| emissions reduction plans                     | proliferation, 142–44                          |
| assessment of state human rights obligations, | Europe   |
| 178   | human rights-based climate litigation, 9-11    |
| CESCR assessment of state human rights        | European Convention on Human Rights            |
| obligations                                   | (ECHR) claims, 305, 309-11                     |
| whether avoiding regression, 182-83           | prohibition on inhuman or degrading            |
| whether climate plan appropriately            | treatment, 336                                 |
| ambitious, 181–82                             | respect for private and family life, 236, 336, |
| whether emissions reductions consistent       | 343  |
| with human rights, 185                        | right to life, 236, 336. See also European     |
| whether progressive increase in ambition,     | Court of Human Rights (ECtHR)                  |
| 182-83  | European Court of Human Rights (ECtHR)         |
| whether state giving adequate priority to     | Budayeva and Others v. Russia, 236             |
| human rights, 181                             | common ground doctrine, 25                     |
| whether state has taken/is taking all rights- | Duarte Agostinho v. Portugal, 31–32            |
| respecting steps, 178–80                      | failure-to-adapt claims, 235–36                |
| whether state planning to reduce              | Family Farmers and Greenpeace Germany          |
| emissions in line with global target,         | v. Germany, 168                                |
| 183–85  | Kolyadenko v. Russia, 236                      |
|   | ,        |
|   |  |

| European Court of Human Rights (ECtHR)           | fraud and misrepresentation                        |
|--|--|
| (cont.)  | misleading public opinion and investors,           |
| Öneryildiz v. Turkey, 236                        | 120, 208, 210–12, 217                              |
| Six Portuguese Youth v. 33 Governments of        | #FridaysforFuture, 1, 205. See also social justice |
| Europe, 335–38, 347–48                           | movements  |
| state's positive obligations in respect of       | Friends of the Irish Environment v. Government     |
| natural disasters, 236                           | of Ireland & Ors, 168, 305, 318                    |
| Urgenda case. See Urgenda v. the Netherlands     | deference, 308–12                                  |
| European Court of Justice (CJEU)                 | judicial deference, 306                            |
| duty to carry out environmental impact           | justiciability arguments, 307–8                    |
| assessments, 326                                 | policy discretion, 306–7                           |
| European Union                                   | retrogressive steps, 314                           |
| mitigation targets, 29, 37                       | right to a healthy environment, 305, 312–15        |
| evidence   | right to bodily integrity, 305, 312                |
| enforcement lawsuits, 257                        | separation of powers, 306–7                        |
| See also visual evidence, importance of          | Future Generations v. Colombia, 191, 299           |
|  |  |
| Extinction Rebellion, 1. See also social justice | attribution science, 232, 237                      |
| movements  | government responsibility for adequate             |
| extraction and development projects              | mitigation, 128                                    |
| economic considerations, primacy of, 125         | state and non-state collaboration, 148             |
| See also balancing competing priorities          |  |
|  | Germany, 9   |
| failure to adapt                                 | domestic climate litigation                        |
| attribution science,                             | incorporation of human rights arguments,           |
| 223, 234–38                                      | 102  |
| causation analysis, 235                          | lawyer-activists, 200                              |
| source attribution, 235                          | standing, 37                                       |
| human rights-based climate litigation, lack      | See also Neubauer v. Germany                       |
| of, 34   | Global South                                       |
| Sacchi case, 225                                 | common but differentiated responsibility           |
| Shehla Zia case, 391                             | principle, 151                                     |
| failure to adequately mitigate, 177              | constitutional and human rights arguments,         |
| attribution science, 223, 231–34                 | 147–48   |
| Sacchi case, 225                                 | development of climate litigation, 146,            |
| Shehla Zia case, 391                             | 189–91   |
| Fairchild v. Glenhaven Funeral Services, 339–40  | enforcement of existing laws, 193-94               |
| causation, 339-41                                | rights-based claims, prevalence of,                |
| Family Farmers and Greenpeace Germany            | 191–93   |
| v. Germany, 168                                  | stealthy climate litigation, 194–95                |
| Ferrão Carvalho v. Europe, 29, 37                | implement mitigation projects, 155-56              |
| foreseeability of climate impacts, 232, 235,     | implementation of climate law frameworks,          |
| 237–38   | 146–47   |
| forest-dwelling communities                      | modes of legal action, 187–89, 195–205             |
| stewardship rights, 366-67, 369, 372-75          | remedies in climate cases, 148–49                  |
| fossil fuel companies. See carbon majors         | polluter pays principle, 151                       |
| Framework for Implementation of Climate          | reparations for climate-related harms, 149         |
| Change Policy 2014-2030 (Pakistan),              | restitutio in integrum, 150                        |
| 390  | Gloucester Resources Limited v. Minister for       |
| France   | Planning   |
| climate change inequalities, 140                 | market substitution assumption, 330                |
| failure to adequately mitigate, 226              | Golder v. United Kingdom, 344                      |
| 1 / <del>0</del> ,                               | 70-г. 711  |
|  |  |

| governmental responsibility for adequate                               | import embargoes, 264, See also                                    |
|--|--|
| mitigation, 128  | deforestation  |
| source attribution, 232, 238   | illegal mining operations  |
| See also states' responsibilities to guarantee                         | Kofan Indigenous People of Sinangoe case,                          |
| protection from climate change-  | 274-76   |
| related harms  | impacts of global warming  |
| grassroots activism, 197-99  | climate litigation, 145–48   |
| greenhouse gas (GHG) emissions   | disproportionate nature, 132-33                                    |
| climate change science, 241–44   | gender inequality, 135–36  |
| Neubauer case  | Global South, 155–56   |
| insufficient pledges, 9  | political inequality, 137–38                                       |
| Urgenda case   | poor and marginalized people, 133-35, 371-72                       |
| insufficient pledges, 9  | racial inequality, 136–37  |
| Greenpeace Australia Ltd v. Redbank Power                              | See also climate justice   |
| Co, 124  | international cooperation, 152-55                                  |
| Greenpeace Germany v. Germany, 26, 32, 169                             | remedies, 148–51   |
| greenwashing, 208, 217, 239  | India  |
| violations of OECD guidelines, 212                                     | development policies   |
| Guiding Principles on Shared Responsibility                            | balancing environmental protection, 370-71                         |
| indivisible injury, 338–39   | emissions, 364   |
| , 1, 35, 37  | exclusionary conservation, 371-73                                  |
| human rights-based climate change (HRCC)                               | international environmental law, 373                               |
| litigation, 1–2  | judicial proceedings, 365–66                                       |
| baseline rights and duties. See baseline rights                        | environmental jurisprudence, 366–67                                |
| and duties   | land acquisition, 365  |
| cases (2005–2021), 11–12, 22, 40–83                                    | non-implementation of environmental laws,                          |
| failure to adapt. See failure to adapt                                 | 368  |
| failure to adequately mitigate. See failure to                         | public trust doctrine, 365, 368, 373                               |
| adequately mitigate  | standing, 364  |
| legal mobilization theory. See legal                                   | strategic litigation   |
| mobilization theory  | balancing development with   |
| limitations  | environmental protection, 372–75                                   |
| geographic reach, 34   | Indigenous peoples' movements, 1, 226                              |
| not an end in and of itself, 34  | Baleni case, 385   |
| "new wave"/"next generation" cases, 99–101                             | constitutional obligation to manage shared                         |
| post-Paris Agreement, 10–18  | natural resources, 280–83  |
| common ground doctrine, 25–27  | granting mining rights, 385  |
| compatibility of government policies with                              | illegal mining operations, 274–76                                  |
| climate rights and duties, 29–33                                       | illegal oil exploration, 276–80                                    |
| establishing baseline rights and duties,                               | land grabs, 375  |
| 25–27  | public international law cases, 121                                |
| justiciability of legal obligations,                                   | rights of forest-dwellers, 372                                     |
| 27–29  | Torres Strait islanders, 158–65                                    |
| pre-Paris Agreement, 10  | "indirect" climate actions, 355, 357–58                            |
| procedure, 24–25   | Brazil, 355  |
| proliferation, 3, 10–14  | individual rights, 227   |
| recent key legal challenges, 2–3                                       |  |
| recent key regai chancinges, 2–3                                       | insufficient pledges, 2, 32, 180<br>greenhouse gas (GHG) emissions |
| ICT See technological advancements                                     |  |
| ICT. See technological advancements                                    | Neubauer case, 9   |
| illegal logging, 262–64, 350<br>Center for Climate Crime Analysis, 265 | <i>Urgenda</i> case, 9 reducing deforestation, 12                  |
| Senier for Similare Offine Analysis, 205                               | reducing deforestation, 12   |
|  |  |

| Inter-American Court of Human Rights (IACtHR)                        | judicial proceedings, 255                       |
|--|---|
| ,  | enforcement concerns, 255–56                    |
| Advisory Opinion on Human Rights and the<br>Environment, 22, 88, 192 | Friends of the Irish Environment case,          |
|  | 305-7   |
| failure-to-adapt claims, 237   | deference, 308–12                               |
| forms of evidence, 278   | justiciability arguments, 306–8                 |
| Kichwa Indigenous People of Sarayakur case,                          | right to a healthy environment, 312–15          |
| 277–80<br>V. I   | standing, 315–18                                |
| Velasquez Rodriguez case, 150  | India, 365–66                                   |
| Intergovernmental Panel on Climate Change                            | balancing development with                      |
| (IPCC), 1–2, 130, 244  | environmental protection, 370–71                |
| common ground doctrine, 26   | environmental jurisprudence, 366–67             |
| GHG emissions reduction targets, 10                                  | right to a healthy environment, 312–15          |
| impacts of global warming, 132, 320                                  | technological advancements, impact of,          |
| international cooperation  | 256   |
| international law as persuasive authority, 153                       | Juliana v. United States, 84, 99, 143, 166–67,  |
| judicial and quasi-judicial bodies, 152–55                           | 228, 299  |
| teleological or purposive method of                                  | justiciability                                  |
| interpretation, 152  | Friends of the Irish Environment case, 306–8    |
| International Covenant on Civil and Political                        | justiciable right to government climate action, |
| Rights (ICCPR)   | 27–29   |
| right to life, 143   | non-justiciability doctrine, 93, 194, 307       |
| rights of Indigenous peoples   |   |
| Torres Strait islanders, 158–65                                      | Kanuk v. State of Alaska                        |
| Adaptation Claim, 162–63   | constitutional obligation to manage shared      |
| Australia's human rights obligations,                                | natural resources, 280–83                       |
| 164–65   | Public Trust doctrine, 280                      |
| Mitigation Claim, 163–64   | Kenya   |
| International Covenant on Economic,                                  | coal-fired power stations, 381–82               |
| Social and Cultural Rights   | Kichwa Indigenous People of Sarayaku            |
| (ICESCR)   | v. Ecuador, 276–80                              |
| adequacy of efforts to reduce emissions, 177                         | Kofan Indigenous People of Sinangoe             |
| international cooperation, 153                                       | v. Ecuador Ministry of Mining,                  |
| international treaties, importance of, 131                           | 274–76  |
| Ireland  | Kyoto Protocol, 16, 164                         |
| Climate Action and Low Carbon  | India, 373                                      |
| Development Act, 305–6   | Netherlands, 346                                |
| National Mitigation Plan, 305-6                                      |   |
| See also Friends of the Irish Environment                            | land acquisition                                |
| v. Government of Ireland & Ors                                       | India, 365, 375                                 |
| "isolated" court actions, 355, 362                                   | lawyer-activists, 199-201                       |
| Brazil, 355  | legal certainty, 313–14                         |
| Israel   | legal challenges, nature of                     |
| climate change inequalities, 137-38                                  | coal mining, 2                                  |
|  | fossil fuel companies, 2                        |
| judicial activism, 192, 307, 311, 393-95                             | high-emission economic activities, 2            |
| judicial and quasi-judicial bodies                                   | insufficient government pledges, 2              |
| international cooperation, 152-55                                    | Neubauer case, 9                                |
| judicial deference, 27, 32   | Urgenda case, 9, 32                             |
| Friends of the Irish Environment case, 306,                          | UN Committee on the Right of the Child, 3       |
| 308–10   | young plaintiffs and future generations, 2, 12  |
|  |   |

| legal mobilization theory, 85-86, 93-94                 | "The Engineer", 197, 203–4                  |
|---|---|
| group dynamics and collective mobilization,             | "The Farmer", 197, 201–3                    |
| 89–92   | "Grassroots Activist", 197–99               |
| institutional and structural incentives and             | "Hero Litigators", 197, 199–201             |
| disincentives, 86-89                                    | , , ,,                                      |
| micro-politics of disputing behaviour, 92-93            | Narmada Bachao Andolan v. Union of India,   |
| legal transplant litigation, 203-4                      | 370-71                                      |
| Leghari v. Pakistan, 2, 11, 99, 191, 236                | narrative change strategies, 290–93         |
| attribution science, 232                                | climate litigation, 296–97, 300–1           |
| Climate Change Commission, 389–91                       | negative/damaging narratives, 297–300       |
| continuing mandamus, 391                                | Even it Up campaign, 294                    |
| failure to implement climate change policy,             | human stories, use of, 295–96               |
| 390   | Ley Pulpin, Peru, 293–94                    |
| state and non-state collaboration, 148                  | National Climate Change Fund (Brazil), 356  |
| links between human activity and climate                | National Climate Change Policy 2012         |
|   |   |
| impact, 1, 320–22. <i>See also</i> attribution research | (Pakistan), 390                             |
|   | National Environmental Policy Act (NEPA)    |
| locus standi. See standing                              | (Australia), 124                            |
| low-profile climate litigation, 117                     | National Environmental Policy Act (NEPA)    |
| administrative law cases, 120–21                        | (USA), 124                                  |
| civil law cases, 119–20                                 | National Green Tribunal (India), 365        |
| criminal and corporate liability law cases,             | National Policy on Climate Change (Brazil), |
| 120   | 356   |
| public international law cases, 121                     | nationally determined contributions (NDC)   |
|   | assessment of emissions reductions,         |
| major fossil fuel companies. See carbon majors          | See assessment of climate change            |
| Manushi Sangathan v. Government of Delhi,               | policies; emissions reduction plans         |
| 367   | Australia and Torres Strait, 163            |
| margin of appreciation, 28–29, 173                      | Global South, 195                           |
| ECtHR, 310, 342–44                                      | Paris Climate Agreement,                    |
| emissions reductions                                    | 170–75, 178, 245                            |
| choice of means, 342-43                                 | negative emissions, 184–85, 337             |
| Hatton case, 342–44                                     | negligence                                  |
| respect for private and family life, 343-44             | cases against carbon majors, 119, 211       |
| Taşkin case, 342  | Netherlands, 9                              |
| <i>Urgenda</i> case, 346–47                             | domestic climate litigation                 |
| use of its resources and rights obligations,            | incorporation of human rights arguments,    |
| 179   | 102   |
| margin of discretion, 155, 167, 173                     | See also Urgenda v. the Netherlands         |
| market incentives                                       | Neubauer v. Germany, 2, 9–10                |
| illegal deforestation, 264                              | failure to mitigate, 18                     |
| renewable energy projects, 125, 130                     | justiciability, 27                          |
| market substitution assumption, 329-30. See             | material incentives, 33                     |
| also perfect substitution argument                      | standing, 37                                |
| Massachusetts v. EPA, 189, 193                          | temporal dimensions of climate change, 38   |
| air pollutant, concept of, 128                          | "new wave"/"next generation" cases, 99–101  |
| minimum fair share norm, 30-33, 37                      | strategic litigation, 101-3                 |
| nationally determined contributions, 170-75             | New Zealand, 13. See also Teitiota v. New   |
| Urgenda case, 167, 175                                  | Zealand                                     |
| modes of litigation, 205                                | no-harm principle, 175, 332                 |
| "The Enforcer", 197, 204–5                              | non-justiciability doctrine, 93, 194, 307   |
| 7 777 1 7   | , , , , , , , , , , , , , , , , , , ,       |

| non-profit organization litigants, 188, 195, | People v. Arctic Oil, 320                       |
|--|---|
| 201–3, 205                                   | oil drilling licenses, 324                      |
| Norway                                       | Paris Agreement, 333                            |
| carbon emissions, 323, 333                   | perfect substitution argument, 331              |
| regulation of petroleum activities, 324      | right to a healthy environment, 324-25          |
| See also People v. Arctic Oil                | Supreme Court judgment                          |
| ,  | supply-side accountability, 325–27              |
| OECD Guidelines for Multinational            | See also market substitution assumption         |
| Enterprises, 35, 212, 264                    | Philippi Horticultural Area v. MEC for Local    |
| oil and gas extraction, 122–25, 212–13, 322  | Government, Environmental Affairs               |
| CO <sub>2</sub> impact of, 241, 248, 320     | and Development Planning, 383–84                |
| enforcement concerns, 255                    | Philippines' Human Rights Commission            |
| Norwegian Constitution, 167–68, 324          | impact of climate change on human rights,       |
| People v. Arctic Oil, 324–27                 | 17, 35, 99, 101, 213, 298–99                    |
| See also carbon majors; coal mining;         | Planning Act (UK)                               |
| extraction and development projects          | airport expansion, 309                          |
| oil exploration, 2                           | environmental assessments, 326                  |
| Kichwa Indigenous People of Sarayaku case,   | policy discretion, 27–29, 166, 168, 174, 179    |
| 276–80                                       | Friends of the Irish Environment case, 306–7    |
| People v. Arctic Oil, 323, 324–27            | People v. Arctic Oil, 325–27                    |
| See also coal mining; Kichwa Indigenous      | Urgenda case, 346                               |
| People of Sarayaku v. Ecuador;               | political inequalities                          |
| People v. Arctic Oil                         | disproportionate impacts of climate change,     |
| open standing regime, 315–18                 | 137–38  |
| Oslo Principles on Global Climate Change     | polluter pays principle, 151, 156, 368          |
| (2015), 125                                  | Portillo Cáceres v. Paraguay, 149–50, 171       |
| "others do it too" defense, 234              | Portugal, 31. See also Duarte Agostinho         |
| , ,,,  | v. Portugal; Six Portuguese Youth               |
| Pakistan, 11, 387                            | v. 33 Governments of Europe                     |
| environmental justice, 391                   | precautionary principle, 90, 125, 128, 165, 174 |
| environmental protection provisions, 387,    | Kofan Indigenous People of Sinangoe case,       |
| 393-94                                       | 276   |
| identity of polluters, 391                   | Pandey case, 368                                |
| judicial activism, 393–95                    | Save Lamu case, 382                             |
| judicially enforceable rights, 387           | precedent and legal certainty, 313-15           |
| public interest litigation, 388-89           | private nuisance                                |
| Palestine                                    | cases against carbon majors, 119, 211           |
| climate change inequalities,                 | prohibition on inhuman or degrading             |
| 137–38                                       | treatment, 336                                  |
| Pandey v. Union of India, 193, 368, 373      | prosecutor/enforcement authority initiated      |
| Paris Climate Agreement (2015), 1-2, 15-30,  | litigation, 204–5                               |
| 373  | public activism, 110-11                         |
| adoption and implementation, 14, 245         | public interest litigation (Pakistan)           |
| Africa, 380                                  | limitations                                     |
| common but differentiated responsibilities,  | lack of substantive action, 392                 |
| 332  | reluctance to appoint climate change            |
| common ground doctrine, 26                   | experts, 392                                    |
| GHG emissions reduction targets, 10, 332     | statutory appeals, 392                          |
| human rights impacts, recognition of, 2      | right to a clean and healthy environment, 389   |
| international cooperation, 153, 333          | right to life, 388                              |
| People v. Arctic Oil, 333                    | Shehla Zia case, 389                            |
|  |   |

| standing requirements, 388                               | Friends of the Irish Environment case, 305, 312                       |
|--|---|
| public international law cases, 121                      | IACtHR, 311   |
| public nuisance  | ICCPR, 143, 158   |
| cases against carbon majors, 211                         | Portillo Cáceres case, 149  |
| public trust doctrine, 284                               | Shehla Zia case, 389  |
| India, 365, 368, 373                                     | Subhash Kumar case, 369   |
| Kanuk case, 280–83                                       | Teitiota case, 149  |
| Punjab Environmental Protection Act 1997                 | Rio Declaration (1992), 2   |
| (Pakistan), 394  | risks associated with litigation, 113-15                              |
|  |   |
| racial inequalities                                      | Sacchi v. Argentina   |
| disproportionate impacts of climate change,              | children's rights, 225  |
| 136–37, 143–44   | failure to adapt, 225   |
| Brazil, 352–53, 363                                      | failure to adequately mitigate, 225                                   |
| regulation-forcing litigation, 193–94                    | UN Convention on the Rights of the Child,                             |
| remedies   | 225, 228–29   |
| balancing competing priorities, 32                       | Save Lamu & Five Others v. National                                   |
| duty to cooperate as a judicial remedy, 152-55           | Environmental Management  |
| Global South   | Authority & Another, 381–82   |
| polluter-pays principle, 150                             | separation of powers doctrine, 28, 155, 168, 232,                     |
| Portillo Cáceres case, 149                               | 307, 309, 317, 347  |
| reparations, 149   | shared responsibility   |
| restitutio in integrum, 150                              | causation, 340–41   |
| Teitiota case, 149                                       | common but differentiated responsibilities,                           |
| Velasquez Rodriguez case, 150                            | 337 See also common but   |
| injunctive relief, 211                                   | differentiated responsibility (CBDR)                                  |
| international law, 153–55                                | principle   |
| strategic litigation, 111–13                             | ECHR obligations, 338–41  |
| resource allocation                                      | fair share, 337–38, 341   |
| comparison to peer states, 181–82                        | Guiding Principles on Shared  |
| margin of appreciation, 179                              | Responsibility, 338–39  |
| emissions reduction, 178–80                              | indivisible injury, 338–39  |
| state subsidies, 181                                     | reasonable minimum obligation, 339–40                                 |
| respect for private and family life, 224                 | Urgenda case, 347   |
| ECHR, 236, 336, 343                                      | Shehla Zia and Others v. WAPDA, 389, 391                              |
| retrogressive steps, 182–83                              | Six Portuguese Youth v. 33 Governments of                             |
| Friends of Irish Environment case, 314                   | Europe, 335–36  |
| right to a healthy environment, 27, 319, 378             | ECHR claims, 336–38, 347–48   |
| Friends of the Irish Environment case, 305–6,            | social inequalities. See climate justice                              |
| 312–15, 318  | social justice movements, 1   |
| IACtHR, 22   | India, 365  |
| Norwegian Constitution, 324–25                           | South Africa  |
| Pakistan, 389  | coal-fired power stations, 383  |
| People v. Arctic Oil, 324                                | development impacts on aquifers, 383–84                               |
| right to bodily integrity, 305                           | international agreements, 381   |
| Friends of the Irish Environment case, 305,              | See also Earthlife Africa Johannesburg                                |
| 312<br>right to health, 224, 319                         | v. Minister of Environmental Affairs                                  |
|  | & Others; Philippi Horticultural Area<br>v. MEC for Local Government, |
| right to life, 38, 88, 165, 192, 224, 319<br>Africa, 378 | Environmental Affairs and   |
| ECHR, 236, 336   | Development Planning  |
| 10111, 250, 550  | Development Liuming   |

| standing, 37                                     | subsidiarity principle                              |
|--|---|
| applicable standing rules, 315                   | margin of appreciation, 342                         |
| Friends of the Irish Environment case, 315       | subsidies   |
| India, 364                                       | clean enery suppliers, 19, 181, 185                 |
| liberal approach                                 | fossil fuels, 181, 186, 248, 332                    |
| government decision-making, 317                  | resource allocation, 181                            |
| rule of law, 315–16                              | supply-side accountability. See accountability      |
| trend, 316                                       | carbon majors                                       |
| rule of law, relationship with, 315–16           | 1 0   |
| separation of powers argument, 317               | taxation and tax exemption measures, 181            |
| traditional approach, 316                        | air travel, 32                                      |
| states' responsibilities to guarantee protection | carbon taxes, 185                                   |
| from climate change-related harms,               | technological advancements                          |
| 149–51, 156, 158–60. <i>See also</i> shared      | bioenergy with carbon capture and storage           |
| responsibility                                   | indicial proceedings impost on 276                  |
| stealthy climate litigation                      | judicial proceedings, impact on, 256                |
| Global South, 194–95                             | law enforcement, 258–60, 266                        |
| strategic ambitions of climate change            | Teitiota v. New Zealand, 2, 13, 143, 149            |
| litigation, 97–98                                | temporal dimensions of climate change, 125          |
| climate change in human rights terms, 101–3      | temporality of human rights law, 37–39              |
| Juliana case, 99                                 | Thunberg, Greta, 2, 13, 247                         |
| Leghari case, 99                                 | Torres Strait islanders, 158–60                     |
| targeting corporations, 99                       | ICCPR complaint, 160–65                             |
| Urgenda case, 99                                 | Adaptation Claim, 162–63                            |
| young plaintiffs and future generations, 99      | Australia's human rights obligations,               |
| See also Juliana v. United States; Leghari       | 164–65<br>Mitigation Claim, 162, 64                 |
| v. Pakistan; Urgenda v. the<br>Netherlands       | Mitigation Claim, 163–64<br>loss of culture, 161–62 |
| Strategic Environmental Assessment Directive     | tort law  |
| (EU)   | cases against carbon majors, 211                    |
| airport expansion, 309                           | trends in climate litigation                        |
| environmental assessments, 326                   | strategic cases, 99–101                             |
| strategic litigation, 115–16, 386                | strategie cases, 99 101                             |
| balancing development with environmental         | UN Committee on Economic, Social and                |
| protection, 372–75                               | Cultural Rights (CESCR)                             |
| broader plan for change, 108–10                  | adequacy of efforts to reduce emissions,            |
| carbon majors, 208                               | 186   |
| definition, 104–5                                | whether a state has taken/is taking all             |
| history, 105–6                                   | rights-respecting steps, 178–80                     |
| impact assessment processes, 374                 | whether avoiding regression, 182-83                 |
| implementation challenges, 111–13                | whether climate plan appropriately                  |
| legal context, 108                               | ambitious, 181–82                                   |
| political context, 108                           | whether emissions reductions consistent             |
| public activism, 110–11                          | with human rights, 185                              |
| risk assessment, importance of, 113–15           | whether progressive increase in ambition            |
| social change, relationship with,                | 182–83  |
| 105–6  | whether state giving adequate priority to           |
| social context, 108, 353-55                      | human rights, 181                                   |
| "structural" court actions, 355, 362             | whether state planning to reduce                    |
| Brazil, 355, 360                                 | emissions in line with global target                |
| Subhash Kumar v. State of Bihar, 369             | 183–85  |
|  |   |

| UN Committee on the Rights of the Child                           | Urgenda v. the Netherlands, 2, 9, 84, 189,                       |
|---|--|
| (CRC), 3, 13, 228–29, 234   | 191, 193, 203–4, 207, 227  |
| climate change as a human rights duty,                            | duty of care, 128, 142   |
| 153-54  | ECHR claims, 311, 345-47   |
| UN Convention on Biological Diversity's                           | emissions reduction plans, 9, 167                                |
| (CBD), 380  | insufficient government pledges, 9, 32                           |
| UN Convention on the Rights of the Child                          | margin of appreciation, 346                                      |
| (CRC)   | minimum fair share norm, 30, 167                                 |
| Sacchi v. Argentina, 225, 228–29                                  | separation of powers argument, 155                               |
| UN Declaration on the Rights of Indigenous                        | shared responsibility, 347                                       |
| Peoples (UNDRIP), 380   | strategic ambitions of climate change, 99                        |
| UN Declaration on the Rights of Peasants and                      | temporal dimensions of climate change, 38                        |
| Other People Working in Rural                                     | V.1  |
| Areas (2018), 380   | Velasquez Rodriguez v. Honduras, 150                             |
| UN Framework Convention on Climate                                | visual evidence, importance of, 287–88                           |
| Change (UNFCCC 1992), 30,   | Feather River Lumber Co. case, 273                               |
| 244–45, 332<br>Africa, 380  | Kanuk case, 280–83<br>Kichwa Indigenous People of Sarayaku case, |
| Brazil, 356   | 276–80   |
| good faith, 173   | Kofan Indigenous People of Sinangoe case,                        |
| India, 373  | 274–76   |
| international cooperation, 153                                    | public opinion, impact on, 270–73, 284–85                        |
| Kenya, 382  | Bushfire Survivors case, 285–87                                  |
| no-harm principle, 332  | Volkswagen   |
| South Africa, 381   | Dieselgate scandal, 217  |
| Torres Strait case, 163-64  |  |
| Urgenda case, 345   | We the People v. Union of India, 368                             |
| UN Guiding Principles on Business and                             | WildEarth Guardians v. United States Forest                      |
| Human Rights, 35, 213   | Service et al.   |
| UN Human Rights Committee   | perfect substitution argument, 330                               |
| harmonization of international law, 149-50                        | wildfires  |
| physical integrity and climate harms, 2, 13                       | Australia, 227, 285–87   |
| Portillo Cáceres case, 149–50                                     | Canada, 227  |
| right to life, 311  | causality and human rights-based climate                         |
| Teitiota case, 2, 13, 143, 149                                    | litigation, 227  |
| Torres Strait islanders, 160–65<br>UNEP Emissions Gap Report, 321 | visual evidence, importance of<br>Australia, 285–87              |
| United Nations Charter  | Wildlife First and Others v. Ministry of                         |
| international cooperation, 153                                    | Environment and Forests, 369                                     |
| United States   | women  |
| administrative climate litigation                                 | African patriarchy, 379  |
| National Environmental Policy Act                                 | disproportionate impacts of climate change,                      |
| (NEPA), 124   | 135–36 See also climate justice:                                 |
| civil law cases, 119–20   | disproportionate impacts of global                               |
| climate change inequalities, 133-37, 143                          | warming; Committee on the  |
| climate forced displacement, 235                                  | Elimination of Discrimination                                    |
| criminal and corporate liability law cases, 120                   | against Women (CEDAW)  |
| Juliana case. See Juliana v. United States                        |  |
| Kanuk case. See Kanuk v. State of Alaska                          | Youth Climate Movement, 299                                      |

 $Downloaded \ from \ https://www.cambridge.org/core.\ IP\ address: 216.73.216.37, on 13\ Aug\ 2025\ at\ 17:34:17, subject to\ the\ Cambridge\ Core\ terms\ of\ use,\ available\ at\ https://www.cambridge.org/core/terms.\ https://doi.org/10.1017/9781009106214.028$