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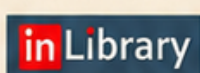
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Original research article

INTERNATIONAL LEGAL ASPECTS OF CLIMATE CHANGE AND THE FACTORS OF ITS FORMATION

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ABSTRACT

This article analyzes the role of climate change in international law, its natural and anthropogenic factors, as well as its economic, cultural, and psychological aspects. Global climate change requires international cooperation and legal regulation. The study examines international legal mechanisms for climate protection and substantiates the predominance of the anthropogenic factor..

МЕЖДУНАРОДНО-ПРАВОВЫЕ АСПЕКТЫ ИЗМЕНЕНИЯ КЛИМАТА И ФАКТОРЫ ЕГО ФОРМИРОВАНИЯ

ИНФОРМАЦИЯ СТАТЬИ

Ключевые слова:

климат,
международное право,
экология,
антропогенный фактор,
глобальное потепление,
устойчивое развитие.

АННОТАЦИЯ

В данной статье анализируется роль изменения климата в международном праве, его природные и антропогенные факторы, а также экономические, культурные и психологические аспекты. Глобальное изменение климата требует международного сотрудничества и правового регулирования. В исследовании рассматриваются международно-правовые механизмы защиты климата и обосновывается преобладание антропогенного фактора.

IQLM O'ZGARISHINING XALQARO-HUQUQIY JIHATLARI VA UNING SHAKLLANISH OMILLARI

MAQOLA MA'LUMOTI

Kalit so'zlar:

*iqlim,
xalqaro huquq,
ekologiya,
antropogen omil,
global isish,
barqaror rivojlanish.*

ANNOTATSIYA

Ushbu maqolada iqlim o'zgarishining xalqaro huquqdagi o'rni, uning tabiiy va antropogen omillari, iqtisodiy, madaniy va psixologik jihatlari tahlil qilinadi. Global iqlim o'zgarishi xalqaro hamkorlik va huquqiy tartibga solishni talab etadi. Tadqiqot iqlimni saqlash bo'yicha xalqaro huquqiy mexanizmlarni ko'rib chiqadi va antropogen omilning ustuvorligini asoslaydi.

INTRODUCTION

In 1988, United Nations General Assembly Resolution 43/53 recognized global climate change as a “common concern of humankind,” since climate is a fundamental condition ensuring the preservation of life on Earth [1]. The term “common concern of humankind” had rarely been used in earlier international legal documents [2]. The choice of this term was associated with the growing concern of states regarding climate change and the necessity of taking concrete steps to address this issue. The concept of “common concern of humankind” includes issues of mutual interest to the international community that transcend the scope of a single state and require collective action and the development of new legal norms in response [3]. Considering the importance of this issue, the continuation of anthropogenic influence on climate change, the mitigation of its effects, and adaptation to the consequences of global warming, the obligations of states to address this “common concern of humankind” may be regarded as *erga omnes* obligations (i.e., obligations owed to the international community as a whole).

Thus, the development of effective legal measures to ensure the preservation of the Earth's climate requires not only an understanding of the physical causes of climate change but also other components. For example, in addition to the factors described above, climate change is also associated with various economic, cultural, and psychological factors.

First, economic factors include the choice of production type for future development. Since the mid-nineteenth century, industrialization has led to the dominance of industrial production in economic life. States have sought to use all possible means to ensure economic

growth, the cheapest and fastest of which was the use of coal and other fossil fuels. In other words, states prioritized extensive development over intensive development.

Of course, significant economic results were achieved; however, this had a negative impact on the environment, including the Earth's climate. Thus, global industrialization, as well as economic competition between states and private corporations, became specific factors influencing the climate changes currently observed.

It should also be noted that the main participants in this process were developed countries, which gained advantages through long-term exploitation of natural resources, and therefore contributed significantly to climate change. Developing countries, on the other hand, remain economically dependent on natural resources such as agriculture, fisheries, and forestry, which reduces their resilience to the negative consequences of climate change.

As a result, it is logical that developed countries should share their technologies and provide technical and financial assistance to developing countries, as this would ensure the repayment of the "environmental debt" to the international community. This fact later became the basis for the principle of common but differentiated responsibilities.

Second, cultural factors also have a certain impact on climate change. Some scholars, such as M. Hulme, link climate change with spiritual beliefs. According to him, religion influences how individuals think about climate change, that is, how people perceive their moral obligations toward others, nature, and God [4].

Human habits and lifestyles are also among the factors influencing global climate change. According to scientists, the "consumerist" culture dominating modern society is an example of improper environmental behavior and may potentially contribute to climate change [5].

Other scholars, such as J. Williams, associate climate change with societal perceptions and valuation of time. For example, in present-oriented cultures, priority is given to solving today's problems, while addressing climate change requires an understanding of the value of the future [6].

Therefore, issues such as poverty eradication, improvement of education quality, and reduction of unemployment are, in some countries, examples of current challenges that compete with efforts to address climate change.

Finally, to some extent, public awareness of the state of the climate system and current problems also affects climate preservation. Research conducted by Tien Ming Lee

demonstrates how socio-demographic characteristics, geography, and wealth influence awareness of climate change and the perception of its negative consequences [7].

Third, psychological factors influencing climate change include cognitive characteristics of human thinking. For example, since the late 1960s, Forrester considered certain systems with specific characteristics to be too complex for the human mind. According to the scientist, system understanding becomes particularly difficult when causes and effects are separated in time (i.e., when effects appear years after causes) or geographically (i.e., when effects of causes in one country appear in another country or even on another continent) [8]. All these characteristics are typical of climate change as a phenomenon. Other researchers (Bostrom and others) have confirmed this theory, finding that people tend to systematically confuse concepts such as “climate change” and “ozone depletion” [9]. Thus, the inherent complexity of the phenomenon makes it difficult for the human mind to fully comprehend it, which in turn leads to weak emotional engagement and a lack of motivation to take action to address it [10].

The above-mentioned factors affecting climate, the role of humans in climate change, and issues related to the scale and cyclicity of changes in the Earth’s climate system are the subject of non-legal sciences. However, the answers to these questions form the scientific basis for legal regulation. Legal norms in the field of climate preservation are based on scientific knowledge about natural and socio-economic processes of humanity [11]. The task of legal science is to find, justify, and determine the most effective ways to implement ambitious proposals derived from other scientific fields, such as natural science recommendations aimed at reducing global greenhouse gas emissions. Thus, law plays an important role in addressing current climate challenges by systematizing state actions aimed at stabilizing and reducing anthropogenic impacts on the climate system.

Law has significant regulatory potential, enabling the creation of an international legal climate protection regime, the adoption of conventions, the conduct of climate negotiations, and the establishment of national regulatory mechanisms in the field of climate preservation [12].

As rightly noted by D. S. Boklan, solving environmental protection issues (including climate) is directly related to human survival and can only be successfully achieved through active cooperation between states. In fact, national environmental components form a “single global ecological system,” and the protection of this system must be one of the main goals of international cooperation [13].

The International Court of Justice, in its advisory opinion, noted that “the environment is not an abstraction; it is the living space, determining the quality of life and health of people, including future generations” [14].

Thus, each state should contribute to solving this issue within its capabilities and be interested in fulfilling climate protection obligations.

Another perspective on climate change is presented by supporters of the theory of “intergenerational equity” [15]. According to this doctrine, international law imposes certain obligations to preserve the climate aimed at ensuring justice and equality between present and future generations, as well as among different communities within future generations.

This concept was first reflected in the 1972 Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), which stated: “The natural resources of the Earth, including air, water, land, flora and fauna, must be safeguarded for the benefit of present and future generations” [16].

The consequences of global climate change for the well-being of future generations will depend on its speed: the faster climate change occurs, the more severe the consequences for future generations will be [17]. In this regard, in order to ensure the principle of intergenerational equity and the human right to a favorable environment, the international community, individual states, and every individual must contribute to combating climate change [18].

From an economic perspective, climate change may lead to enormous losses. According to the Stern Review on the Economics of Climate Change, if no action is taken by the international community, the total costs of climate change could amount to at least 5% of global GDP annually. If a broader range of risks and impacts is considered, this figure could rise to 20% [19]. At the same time, there is a certain economic imbalance in terms of the “distribution of negative risks of climate impacts”: in some regions of the world (for example, island states), these effects are felt much more severely than in others [20].

The growing interest of the international community in climate change and in legal mechanisms regulating this issue has led to proposals to establish a branch of international environmental law known as “international climate law” (international climate change law). This idea was primarily developed by representatives of American and Australian schools of international law [21]. Over time, the scope of international climate law has expanded: while initially focused on mitigation of climate change, it now increasingly addresses adaptation mechanisms, technology transfer, and financial support. At the same time, issues of justice,

equality, and human rights have become crucial in the context of legal responses to climate change.

Why does the regulation of climate change appear to be a difficult issue in international law? This is due to several factors.

First, as noted above, climate is a global public good; therefore, the results of actions aimed at mitigating climate change benefit all countries regardless of the extent of their contribution. In other words, the benefits of actions by some actors (states, private companies) are distributed to others. Thus, from a pragmatic perspective, the main difficulty in regulating climate change lies in the lack of sufficient motivation and incentives among actors.

Second, measures such as reducing greenhouse gas emissions require a relatively long time before their effects become visible. Therefore, states, and especially private organizations, are often reluctant to engage in long-term projects and prefer to address immediate short-term issues.

Third, measures aimed at reducing greenhouse gas emissions and maintaining the stability of the Earth's climate system are often extremely costly at the scale required to have a significant impact on the current state of the planet.

Finally, the “asymmetrical” nature of climate change makes its regulation more difficult. States differ significantly in terms of socio-economic conditions, historical contribution to climate change, geographical vulnerability, and adaptive capacity.

In conclusion, two main approaches to climate change currently exist:

a) climate change is an uncontrollable natural process and therefore does not require regulation (usually supported by natural scientists);

b) climate change is a process caused by human economic activity and therefore requires urgent international and national legal regulation.

The second view is more factually accurate, as there is strong evidence supporting the anthropogenic nature of climate change. Accordingly, the author of this work adopts the position that human activity is one of the main (though not the only) factors contributing to current global climate change.

Based on reports by the UN Secretary-General and expert opinions, it is evident that without effective international cooperation, including in the legal sphere, the negative consequences of climate change pose a threat to the world, global economic development, future generations, and even the survival of humanity.

Despite existing difficulties, there are currently three main international legal instruments directly related to state obligations in preserving the Earth's climate:

- 1992 United Nations Framework Convention on Climate Change (UNFCCC);
- 1997 Kyoto Protocol;
- 2015 Paris Agreement.

In addition, international instruments related to climate preservation include declarations of international conferences (such as the 1972 Stockholm Declaration, 1992 Rio Declaration, 2012 Johannesburg Declaration, etc.), UN General Assembly resolutions, acts of specialized organizations such as the United Nations Environment Programme (UNEP), the World Meteorological Organization (WMO), reports of the Intergovernmental Panel on Climate Change (IPCC), and annual decisions of Conferences of the Parties to the UNFCCC and Meetings of the Parties to the Kyoto Protocol.

However, there is a risk that the pace of resolving climate change issues within existing international agreements and legal frameworks may lag behind the accelerating rate of climate-related risks.

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