



THE LAW SOCIETY  
OF SINGAPORE

# PUBLIC INTERNATIONAL LAW CONFERENCE 2024

**CLIMATE CHANGE AND SINGAPORE'S ROLE IN THE DEVELOPMENT OF  
INTERNATIONAL ENVIRONMENTAL LAW**

**15 NOVEMBER 2024, FRIDAY**

**9.30am – 4.45pm**

**Session 2:  
Climate Change Litigation and Its  
Implication on Businesses in  
Singapore**



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# State Of Climate Change / Environmental Litigation In Singapore

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# INTRODUCTION

# State Of Climate Change / Environmental Litigation In Singapore

## INTRODUCTION

- ❖ 2024 is set to be [the hottest on record](#) with evidence showing global warming
- ❖ Its impacts are unfolding faster than expected and the world may already have hit 1.5 deg C of warming above the average pre-industrial temperature - a critical threshold beyond which it is at risk of irreversible and extreme climate change
- ❖ [United Nations Secretary-General Antonio Guterres told world leaders at the COP29](#) summit in Baku, Azerbaijan, on Nov 12:

*"We are in the final countdown to limit global temperature rise to 1.5 degrees Celsius (2.7 degrees Fahrenheit), and time is not on our side."*

*"The world must pay up, or humanity will pay the price,"*



# State Of Climate Change / Environmental Litigation In Singapore

## INTRODUCTION

The [Honourable Justice Philip Jeyaretnam, Judge of the High Court and President of Singapore International Commercial Courts](#)

in his speech on the [Courts In The Climate Crisis : Accountability and Action](#) on 17<sup>th</sup> October 2024



*“Climate change is the most significant and urgent challenge humanity has ever faced.  
Unlike any other crisis in history,  
it threatens the very foundation of our collective existence.”*

@ NUS Asia-Pacific Centre for Environmental Law, EW Barker Centre for Law & Business,  
[Commonwealth Climate and Law Initiative - Towards Net Zero: Legal Aspects Of Corporate Climate Action In Asia](#)

# CLIMATE CHANGE & ENVIRONMENTAL RELATED LITIGATION INTERNATIONALLY

## CLIMATE CHANGE & ENVIRONMENTAL RELATED LITIGATION INTERNATIONALLY

- **Growing recognition of the urgency of addressing climate related challenges** and a shift towards integrating environmental considerations into the legal framework
- **Increasingly diverse**, encompassing a **wide range of legal theories and actions**, seeking to hold governments, corporations, and individuals accountable for their role in contributing to environmental harm or failing to mitigate or adapt to the impacts of climate change
- **Rapidly expanding** as individuals, organizations, and governments seek legal avenues to hold entities accountable for their role in causing or exacerbating climate change - covering a broad spectrum of issues, from environmental harm to human rights violations and corporate responsibility



## CLIMATE CHANGE & ENVIRONMENTAL RELATED LITIGATION INTERNATIONALLY

- **Often arise under international treaties or agreements**, such as the [Paris Agreement](#) or other multilateral environmental agreements
- **evolving global standards on environmental accountability** are influencing growing number of climate change lawsuits around the world, especially in jurisdictions like the European Union, the United States, and Australia
- **Sometimes involving complex scientific, economic, and technical issues** that require specialized expertise, broad and multifaceted, touching on everything from government accountability and corporate responsibility to human rights and financial transparency





# LEGAL ISSUES ARISING



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## State Of Climate Change / Environmental Litigation In Singapore

### LEGAL ISSUES ARISING



- ❑ **Can include** Green House Gas emissions (level of CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O and CO and air quality), transition to low carbon, waste management (recycling, toxic waste, reduction, output), water and land use (including deforestation), renewable energy sources, sustainable development, biodiversity and raw material sourcing and compliance with environmental regulation
- ❑ **A range of legal theories**, including constitutional violations, administrative law failures, human rights breaches, contractual obligations, regulatory violations, and international treaties, reflecting the complexity and broad scope of the climate crisis,
- ❑ **Involving not just Damages and Accountability** but also the need for systemic policy reform and enforcement of international commitments to combat climate change

## LEGAL ISSUES ARISING

**Torts** - wrongful acts causing harm to people or property—can serve as the basis for climate change-related lawsuits. Climate-related tort claims can involve a range of issues, including property damage, personal injury, and loss of livelihood

- ❑ **Negligence:** Businesses that fail to take appropriate action to prevent environmental harm or mitigate their contributions to climate change may face claims of negligence. For instance, failing to account for environmental risks in business operations could result in lawsuits for failing to meet standard environmental protections or for failing to disclose climate risks to investors
- ❑ **Nuisance:** A tort claim of public (against corporations or governments) or private nuisance may arise when actions (e.g., emissions, deforestation) interfere with public or private rights - such as the right to clean air, safe water, or the use of land., harmful environmental conditions like rising sea levels, flooding, and severe weather events that interfere with property rights or public resources

## State Of Climate Change / Environmental Litigation In Singapore

### LEGAL ISSUES ARISING

- ❑ **Greenwashing and Misrepresentation:** Legal claims can target companies for misleading investors or the public about their environmental practices (greenwashing), falsely claiming to be environmentally responsible while continuing harmful practices
- ❑ **Breach of contract - failure to fulfil Sustainability agreements** - when one party alleges that the other has failed to uphold obligations related to environmental protection, sustainability commitments, or climate-related targets in contracts or agreements. Companies may sue governments or other parties for breaching contracts related to environmental commitments, such as emissions reductions, renewable energy investments, or pollution control measures



# State Of Climate Change / Environmental Litigation In Singapore

## LEGAL ISSUES ARISING

**Constitutional challenges** - often arise from arguments that government action or inaction violates constitutional rights, such as the **right to**

- life
- health
- safe environment
- citizens' constitutional right to a safe and healthy environment
- extreme weather events
- air pollution
- sea-level rise

**Administrative Law challenges** can arise when individuals or organizations claim that government agencies have failed to properly enforce environmental regulations or have acted unlawfully in implementing policies related to climate change



## State Of Climate Change / Environmental Litigation In Singapore

### LEGAL ISSUES ARISING

- ❖ **Governments/Financial Institutions – can be held responsible** for failure to adequately address climate change or protect natural resources can give rise to legal claims against governments, alleging violation of constitutional or environmental obligations
- ❖ **Companies can be held accountable** - especially in industries like fossil fuels, deforestation, and agriculture, for their role in driving climate change or causing environmental harm. Legal claims can include negligence, tort claims, fraud, or breach of fiduciary duties related to environmental impacts

# SINGAPORE ON CLIMATE CHANGE



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## SINGAPORE ON CLIMATE CHANGE

Singapore continues to prioritize climate action through its policy framework, which has been evolving in response to both domestic needs and international obligations. Key Developments

- [Net-Zero Emissions Goal by 2050](#): Singapore remains committed to achieving net-zero greenhouse gas emissions by 2050. The government has enacted policies like the Carbon Pricing Act, which imposes a carbon tax on emissions from industrial facilities. Began in 2019, is expected to rise progressively, reaching S\$50-S\$80 per ton by 2030.
- In 2024, the country is further refining its emissions targets and carbon tax mechanisms to align with international climate goals





## SINGAPORE ON CLIMATE CHANGE

- [Green Plan 2030](#) lays out the nation's strategy for sustainable development across multiple sectors, including energy, transportation, and waste management, underpins many regulatory initiatives, including the promotion of green building standards, electric vehicles, and renewable energy
- **Corporate Accountability - Singapore Exchange (SGX)**
  - [Climate reporting will become mandatory](#) for all companies listed on the SGX from financial year 2025, under an enhanced reporting regime announced on Sep 23 by the stock exchange's regulatory arm
  - Also [recommends a list of 27 core ESG metrics](#) for issuers to use as a starting point for sustainability reporting - intended as a common and standardised, which in turn will help better align users and reporters of ESG information



# SINGAPORE'S DISPUTE RESOLUTION PLATFORMS



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## SINGAPORE'S DISPUTE RESOLUTION PLATFORMS

The Honourable Justice Philip Jeyaretnam when speaking at the sixth instalment of the Singapore Courts' (SG Courts) engagement series, "Conversations with the Community" –

in his [opening address on the 26<sup>th</sup> July 2024](#)

on the topic of "[Advancing the Environmental Rule of Law – Roles and Responsibilities of the Community](#)",

- ✓ said that the " .... ***the environmental rule of law operates by the consistent and logical application of laws meant to safeguard the environment, with a clear appreciation of the environmental purpose behind them***"

## SINGAPORE'S DISPUTE RESOLUTION PLATFORMS

- The Honourable Justice Philip Jeyaretnam in his speech on the [Courts In The Climate Crisis : Accountability and Action](#) (17<sup>th</sup> October 2024) also highlighted that
  - ✓ while the **legislative and executive branches of the government** are politically accountable to their citizens, responding to issues of collective significance including problems that are multi dimensional and polycentric like Climate Change,
  - ✓ the **Judicial branch's role is a secondary or facilitative one**, that is “ *increasing seen as the last line of defence against the planet* ” but that “ *problem with treating the courts as the vanguard against climate change is the fact that the judicial process only gets one to a limited range of remedies* ”



## SINGAPORE'S DISPUTE RESOLUTION PLATFORMS

- **Singapore's established infrastructure, efficient legal frameworks**, and reputation for neutrality and respected dispute resolution platforms could well handle disputes between countries or states and international organizations over compliance with climate commitments
- Considering that Singapore has in the last decade **established itself as a global hub for dispute resolution**, including in areas such as arbitration and mediation, it could act as a neutral venue for resolving disagreements over the interpretation or enforcement of climate-related international agreements

making it an **increasingly attractive jurisdiction for resolving complex international disputes**, including those related to climate change and environmental issues

## SINGAPORE'S DISPUTE RESOLUTION PLATFORMS

### Singapore International Commercial Court

- ❑ division of the General Division of the Singapore High Court and part of the Supreme Court of Singapore seeks to provide parties in transnational business with one more option among a suite of viable alternatives to **resolve transnational commercial disputes**
- ❑ On the 14<sup>th</sup> October 2024, the Singapore International Commercial Court (International Committee) Bill was introduced for First Reading in Parliament - seeking to establish an International Committee in Singapore to hear prescribed civil appeals and related proceedings from prescribed foreign jurisdictions

**further enhance Singapore's offerings as an international dispute resolution hub, providing parties with a transnational commercial dispute resolution option to hear their cases and appeals**

## SINGAPORE'S DISPUTE RESOLUTION PLATFORMS

**Arbitration** - [Singapore International Arbitration Centre](#) - being one of the top arbitral institutions globally, with its arbitration framework highly respected for its neutrality, efficiency, and fairness, making it an attractive option for resolving complex international disputes, including those concerning climate change

**Mediation** - offering a non adversarial, more flexible process that could be particularly suitable for resolving complex climate-related disputes. The [Singapore Convention on Mediation](#) (that allows for international mediated settlement agreements to be internationally enforced or invoked in a signatory jurisdiction) encourages cross boarder mediation that would be well suited to climate change and sustainability issues that transcend beyond borders

# CONCLUDING REMARKS



## CONCLUDING REMARKS

The Honourable Justice Philip Jeyaretnam in his [Advancing the Environmental Rule of Law – Roles and Responsibilities of the Community](#) 26<sup>th</sup> July 2024, in addressing a question raised in dialogue highlighted the following in relation to the Singapore system

*“The Singapore context is quite different. The approach taken by the government has been to sign up to international treaties only when it is ready to implement them. Once signed up, however, there will be legislation in place to put Singapore’s treaty obligations in play.*”

*This leads me to what our Chief Justice has described as “**judicial modesty**”. In the context of climate change policy, **many of the “how” questions** – how can we tackle a climate problem; how do we reduce emissions; how do we adapt as climate change occurs – **are multifactorial and polycentric**. There are **all kinds of considerations to be accounted for, and many stakeholders will have to be heard in order to come up with an answer. That is a natural role for the executive. It is not a natural role for the courts**, because the courts adjudicate upon issues on a bilateral basis: one side complains, and the other side will perhaps be asked to do something about it.”*

## CONCLUDING REMARKS

The Honourable Justice Philip Jeyaretnam on the [Courts In The Climate Crisis : Accountability and Action](#) (17<sup>th</sup> October 2024) also highlighted that

*“Effective law and policymaking remains the single most effective means of climate mitigation.*

*Where governments have been ready to act, climate litigation becomes a salutary indication of the system at work, rather than a despairing response to its failure.*

*There is no doubt that courts and judges have an important role to play. The courts are the keepers not only of the law, but also protectors of the dialogic processes that allow us to create meaningful law and policy solutions”*



## CONCLUDING REMARKS

- As the **effects of climate change become more pronounced, appropriate dispute resolution is likely to become an increasingly important tool** for addressing the gap between policy promises and action, as well as for ensuring that those responsible for contributing to the crisis are held accountable
- As **international pressure to address climate change intensifies**, Singapore's role as a global appropriate dispute resolution hub for climate litigation is likely to grow, supporting both private and public stakeholders in seeking effective and fair resolutions to climate-related challenges



## CONCLUDING REMARKS

- Climate change litigation represents an important and growing avenue for climate accountability
- Legal action can act as both a tool for enforcing climate laws and a mechanism for driving more aggressive policy responses, ultimately playing a key role in addressing the existential threat of climate change
- Courts may be asked to interpret and enforce ambitious climate goals, setting important precedents for future global action
- As the science of climate change becomes increasingly precise, and as public and political pressure grows, it is likely that climate litigation will continue to expand in scope invoking greater environmental justice and equity