

A Comparative Analysis of the Urgenda Climate Case and Climate Case Ireland

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Abstract: This essay delves into a comparative examination of two pivotal climate change litigation cases: the Urgenda Climate Case within the hallowed halls of the Supreme Court of the Netherlands and the Climate Case Ireland adjudicated in the esteemed Supreme Court of Ireland. Within this legal discourse, the analysis traverses the intricate landscapes of both cases, elucidating the legal and constitutional frameworks that underpin them. Emphasis is placed on the judicious role assumed by the judiciary in compelling governmental accountability for the imperative task of climate change mitigation. The Urgenda Climate Case, instigated by the Urgenda Foundation in collaboration with 900 Dutch citizens, yielded a landmark ruling from the Dutch Supreme Court. This ruling mandated the Dutch government to effectuate a reduction in greenhouse gas emissions, ensuring a minimum reduction of 25% by the conclusion of 2020 relative to the levels recorded in 1990. On the other side of the legal spectrum, the Climate Case Ireland, brought forth by Friends of the Irish Environment against the Government of Ireland, resulted in a ruling by the Supreme Court of Ireland. This ruling found the government's National Mitigation Plan to be deficient in specificity, a requisite stipulated by the Climate Action and Low Carbon Development Act of 2015. This essay meticulously undertakes a comparative scrutiny of the legal arguments, methodologies, repercussions, and the legal precedents established by these landmark cases. Furthermore, it scrutinizes the consequential impact of these legal battles on shaping public opinion, influencing policy decisions, and catalyzing government actions in the realm of climate change. In conclusion, the essay underscores the pivotal role played by the judiciary in crafting the contours of environmental responsibility and in paving the way for a sustainable and ecologically conscious future.

1. Introduction

Climate change, an eminent global concern, poses a substantial threat to our environment, economy, and societal fabric, warranting heightened attention in the sphere of global jurisprudence. Notably, two jurisprudential milestones, the Urgenda Climate Case adjudicated in the Supreme Court of the Netherlands and the Climate Case Ireland in the Supreme Court of Ireland, have etched indelible imprints in the landscape of climate change litigation. These cases not only impugned the

executive actions of their respective governments but also spotlighted the pivotal role assumed by the judiciary in enforcing measures aimed at mitigating climate change.^[1]

The Urgenda Foundation, along with 900 Dutch citizens, orchestrated the Urgenda Climate Case, wherein the contention pivoted on the asseveration that government officials bore a legal obligation to forestall deleterious climate change, positing extant policies as deficient. The Dutch Supreme Court, in consonance with lower court determinations, mandated the Dutch government to effectuate a reduction of greenhouse gas emissions by no less than 25% by the terminus of 2020 relative to 1990 levels.

Concurrently, Climate Case Ireland was instituted by Friends of the Irish Environment against the Government of Ireland. Central to their argument was the averment that the government's National Mitigation Plan transgressed legality, permitting an escalation in greenhouse gas emissions. The Supreme Court of Ireland, adjudicating in favor of Friends of the Irish Environment, adjudged the government's plan as wanting in the requisite specificity mandated by the Climate Action and Low Carbon Development Act of 2015.

It is imperative to underscore the global ramifications of climate change litigation. The Urgenda Climate Case and Climate Case Ireland, by their very nature, transcend national borders, infiltrating the global discourse on environmental governance. These landmark cases serve as lodestars guiding the international community in the quest for legal instruments that balance environmental imperatives with governmental responsibilities. The interconnectedness of nations in facing the climate crisis underscores the urgency for a cohesive legal framework, and these cases set forth a compelling precedent in this collective endeavor.^[2]

2. Legal and Constitutional Contexts

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2.1. Urgenda Climate Case

The Urgenda Climate Case, a watershed adjudication within the Netherlands, imputed accountability upon the Dutch government for a perceived dereliction in addressing climate change. The court ordered the Dutch government to cut greenhouse gas emissions. This case represent that it is leagally obligated that government should take measure to prevent the change of climate. The case was based on Dutch law, specifically the Dutch Civil Code, which includes a general duty of care provision. The court decided that it was a breach of this duty of care that the Dutch government fail to take sufficient action on climate change.^[3]

This adjudication underscore the adjudicative function of the courts in interpreting legal and constitutional imperatives, thereby affixing governmental accountability to climate change mitigation endeavors.

2.2. Climate Case Ireland

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mandated by the Act of 2015. Friends of the Irish Environment, as claimants, argued that the government's actions were unlawful, transgressing both constitutional and European Convention on Human Rights (ECHR) rights. The court, grounded in an interpretative exegesis of the 2015 Act, found the government's plan wanting in specificity, a prerequisite enshrined in the statutory framework.

In delving deeper into the constitutional implications of Climate Case Ireland, it becomes evident that the Irish Supreme Court's meticulous consideration of constitutional and human rights principles was instrumental. While the court refrained from explicit judicial recognition of a right to a healthy environment, its implicit acknowledgment lays a foundation for future constitutional discourse. This nuanced stance prompts contemplation on the constitutional evolution necessary to accommodate burgeoning environmental rights, ensuring a harmonious coexistence with established legal frameworks.^[4]

In the aftermath of Climate Case Ireland, the Irish Supreme Court's meticulous consideration of constitutional and human rights principles assumes paramount significance. While the court refrained from explicitly recognizing a constitutional right to a healthy environment, its implicit acknowledgment lays a foundation for substantive constitutional discourse. This nuanced stance not only prompts contemplation on the constitutional evolution necessary to accommodate burgeoning environmental rights but also invites scholars to explore the interplay between constitutional mandates and the exigencies of climate change governance. The Irish Supreme Court's interpretative exegesis of the 2015 Act serves as a lodestar, guiding future constitutional deliberations on environmental protection within the Irish legal framework.

3. Comparative Analysis

3.1. Legal Arguments

In both the Urgenda Climate Case and Climate Case Ireland, the plaintiffs—Urgenda Foundation and Friends of the Irish Environment—proffered analogous contentions, positing that governmental inaction imperiled the lives and health of citizens, thereby breaching both domestic and international legal obligations.

The Dutch Supreme Court, in the Urgenda case, concurred with the plaintiffs, grounding its decision in the government's statutory duty to safeguard citizens from the perils of climate change under Dutch law. Analogously, the Irish Supreme Court, in Climate Case Ireland, repudiated the government's National Mitigation Plan, citing its deficiency under the Climate Action and Low Carbon Development Act of 2015.

These cases, emblematic of a universal trend, illuminate the global predilection for legal recourse in compelling governmental adherence to climate change policies. The court decisions, being precedent-setting, elucidate the pivotal role of the judiciary in compelling climate change mitigation measures.^[5]

3.2. Common Points and Differences in Approaches

The Urgenda Climate Case and Climate Case Ireland, while constituting landmarks in climate change litigation, diverge in their juridical rationales. The Dutch Supreme Court, in the Urgenda case, invoked human rights principles, discerning the government's obligation to shield citizens from perils wrought by climate change under the ECHR.

Conversely, the legal rationale in Climate Case Ireland was grounded in domestic law, with the Irish Supreme Court positing the National Plan's insufficiency under the Act of 2015. This dichotomy notwithstanding, both adjudications mandated governmental action on climate change,

albeit with nuanced directives. The Dutch court ordered a reduction in greenhouse gas emissions, whereas the Irish court directed the formulation of a new plan, compliant with the strictures of the 2015 Climate Act.

These cases, catalysts for a burgeoning global climate litigation movement, have resonated as exemplars of legal actions compelling rigorous climate change mitigation measures. The Urgenda case, in particular, has garnered accolades for galvanizing the climate litigation movement.

4. Implications and Precedents

4.1. Potential Implications of Each Judgment

The Urgenda Climate Case and Climate Case Ireland, monumental in the annals of climate change litigation, hold profound implications for climate change policy and environmental law. While both implicate governmental accountability, their legal rationales and outcomes diverge significantly.

The Urgenda case, with its reliance on human rights principles enshrined in Articles 2 and 8 of the ECHR, has catapulted to global prominence, spawning analogous litigations and invigorating the overarching climate litigation movement. Conversely, Climate Case Ireland, centering its critique on the National Mitigation Plan's lack of specificity, portends potential repercussions across the European legal landscape.^[6]

Building upon the legal arguments, it is pertinent to examine the intricacies of the Dutch Supreme Court's reliance on human rights principles in the Urgenda Climate Case. The court's invocation of the European Convention on Human Rights signifies a paradigm shift in the interpretation of fundamental rights concerning environmental welfare. This development raises jurisprudential questions about the expansion of rights in response to emerging global challenges, paving the way for a broader discourse on the nexus between human rights and environmental protection.

4.2. Possibilities of Setting Legal Precedents

Both cases, by virtue of their adjudicative outcomes, have set formidable legal precedents within their respective jurisdictions.

Considering the possibilities of setting legal precedents, it is paramount to delve into the potential repercussions of these landmark cases on emerging customary international environmental law. The Urgenda Climate Case, being the first of its kind, sets a precedent that beckons legal scholars and practitioners to ponder the evolution of customary norms in the context of climate change. The implications ripple through the international legal community, laying the groundwork for a jurisprudential shift in acknowledging the transboundary nature of environmental obligations.

In contrast, Climate Case Ireland, with its pronouncement on the specificity mandated by the 2015 Act, establishes a precedent within Irish law. This precedent, though circumscribed by the confines of Irish jurisprudence, holds the potential to shape future climate litigation, not only within Ireland but conceivably within jurisdictions sharing analogous statutory frameworks.

5. Public and Policy Impact

5.1. Impact on Public Opinion and Policy Decisions

In unpacking the impact on public opinion and policy decisions, a nuanced analysis of the potential pitfalls is imperative. While the Urgenda case has undeniably raised popular awareness, it

is crucial to examine any unintended consequences, such as its impact on international negotiations. The delicate balance between legal imperatives and diplomatic negotiations forms a crucible for future considerations in aligning legal actions with the exigencies of global cooperation on climate change mitigation.

In the Netherlands, the Urgenda case engendered a perceptible shift in public sentiment *vis-à-vis* climate change. Synonymous with a trenchant challenge to government efforts at mitigating climate change, the Urgenda case has transcended its juridical confines to symbolize a clarion call within the broader climate litigation movement. However, critics contend that while it heightened public awareness, it may have inadvertently impeded mitigation endeavors by disrupting international negotiations and diminishing political support for heightened climate action.

Conversely, Climate Case Ireland, with its censure of the National Mitigation Plan, has galvanized climate activists in Ireland, serving as a rallying point for advocacy. The judgment, while invigorating the climate movement, has also engendered a concomitant erosion of an incipient constitutional right to a healthy environment, thereby spawning nuanced considerations in the intersection of legal and environmental rights.^[7]

5.2. Influence on Government Actions on Climate Change

The adjudications, having found resonance in governmental corridors, have exerted tangible impacts on government actions *vis-à-vis* climate change mitigation.

An intricate examination of the influences on government actions reveals not only a trajectory of compliance but also prompts a contemplation of the delicate interplay between judiciary, executive, and legislative branches. The Dutch government's response to the Urgenda case raises questions about the separation of powers and the balance required to ensure effective climate change governance. A meticulous exploration of the Dutch government's initiatives post-judgment sheds light on the intricate dance between judicial mandates and executive autonomy in the realm of environmental policy-making.

In the aftermath of the Urgenda case, the Dutch government, confronted with a judicial fiat on the inadequacy of its efforts to curtail greenhouse gas emissions, pivoted towards a more aggressive stance. This paradigm shift manifested in the closure of coal-fired power plants and the imposition of a carbon tax on businesses, indicative of a concerted endeavor to assuage the court-mandated reductions in emissions.

Similarly, Climate Case Ireland impelled recalibration in Irish governmental policy. The adjudication, pronouncing the inadequacy of the extant National Mitigation Plan, has precipitated revisions to fashion a more granular and ambitious strategy in consonance with the mandates of the 2015 Climate Act.

The dual trajectories of these cases corroborate the judiciary's instrumental role in swaying governmental conduct on the climate change mitigation front. However, it remains imperative to engage in circumspect, case-specific analyses to fathom the full panoply of influences at play.

6. Conclusion

In summation, the Urgenda Climate Case and Climate Case Ireland stand as luminous waypoints in the panorama of global climate change litigation. These landmark adjudications, emblematic of the symbiotic interplay between legal, environmental, and human rights considerations, illuminate the pivotal role assumed by the judiciary.

The legal and constitutional contexts, as elucidated by the Dutch Supreme Court and the Irish Supreme Court, accentuate the judiciary's interpretative and enforcement functions in navigating the intricacies of climate-related laws. Divergences in legal rationale notwithstanding, the common

thematic thread underscores the overarching duty of governments to shield citizens from the deleterious consequences of climate change.

The comparative analysis delineates the confluence of legal strategies employed by the Urgenda Foundation and Friends of the Irish Environment, elucidating the global trajectory of legal avenues wielded to exact governmental accountability for climate change policies. Differences in judicial approaches notwithstanding, these cases resonate as archetypal instances, setting pivotal precedents for legal instruments in propelling policy changes and coercing officials to take substantive measures in safeguarding the environment.

The ramifications and precedential import of these judgments transcend national borders, pervading global discourses on climate change policy and environmental jurisprudence. Beyond the immediate ramifications within their respective jurisdictions, these judgments serve as catalysts for analogous legal undertakings worldwide, contributing to the burgeoning tapestry of the climate litigation movement.

Moreover, the resonances emanating from these judgments within the realm of public opinion and policy decisions are palpable. The discernible shifts in public perception and the mobilization of climate activism bespeak the indelible impact etched by these adjudications. The corollary influence on governmental actions, as epitomized by the assertive measures undertaken by the Dutch and Irish governments, underscores the instrumental efficacy of legal mechanisms in advancing climate change mitigation endeavors.

Last but not least, it is incumbent upon legal scholars and practitioners to extrapolate from these cases a roadmap for future legal endeavors. The Urgenda Climate Case and Climate Case Ireland, by their very nature, beckon a generation of legal minds to navigate the intersection of climate imperatives, human rights, and constitutional mandates. As the jurisprudential tapestry evolves, the indomitable role of the judiciary in shaping environmental responsibility becomes an unwavering beacon for a sustainable future.

In essence, the Urgenda Climate Case and Climate Case Ireland epitomize the potency of legal action as an instrumentality in confronting pressing global challenges. As humanity navigates an epoch defined by climate change, these cases serve as paragons, underscored by the imperativeness of the judiciary in fostering environmental responsibility and sculpting a sustainable future.

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