



Universitetet  
i Stavanger

**Master's Thesis in Business Law**

**Critically assessing the impact of HR-2020-2472-P on the  
Norwegian Energy transition**

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**Candidate number: 3208**

**Word count: 12 943**

**Supervisor: Aaron Martin Cooper**



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**En kritisk vurdering av virkningen av HR-2020-2472-P på norsk energiomstilling**

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## **Preface**

My master thesis is a result of studying a two year Master in Business Law at the University of Stavanger. The chosen theme stems from my interest and curiosity in energy transition, climate change, and their implications on human rights. With a bachelor's degree in business law and economics, my research will also examine the financial aspect within this theme.

The work has been a challenging process, but above all educational and interesting. After this achievement, I am left with a lot of new knowledge and even more interest in energy transition, particularly its legal implications.

I would like to state my gratitude towards my supervisor Aaron Martin Cooper, who has been a valuable source of motivation and for providing me with good guidance throughout the process. His help and knowledge has been vital in the completion of this work.

At last I want to thank my family and friends for encouragement and support.

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# Chapter 1: Introduction

## 1.1 Introduction

Climate change has been described as a "super wicked problem" based on the factum that there is as the causes and solutions are complex and woven into the fabric of society. Simple put, there is no single path to tackling it.<sup>1</sup> At the nexus of this complex issue are people, nature and society – these topics have been a prominent feature in Human rights and environmental discourse.<sup>2</sup> At the nexus of people, nature and society – Human rights and the environment have long been the subject of academic discussion within the context of climate change.<sup>3</sup> Since the Stockholm Declaration in 1972, there has been a general recognition that enjoyment of human rights protections is contingent on a clean environment in which to do so. But it was not until September 2022, that the United Nation General Assembly (UNGA) recognized the right to a clean environment in a resolution – that the right deserved universal recognition and it was a '*...right for all, not just for some...*'.<sup>4</sup>

Though this was not a first in terms of taking steps to create binding obligations, Norway amended its constitution May 13<sup>th</sup> in 2014, to move environmental protection within the framework of human rights. However, for at state like Norway – reliant on the export of fossil fuels, is faced with a predicament in that it has to balancing human rights, respect for environment and overall state interests which interests is a challenging task.

In 2018, Greenpeace Nordic and Young Friends of the Earth Norway took legal action against the State of Norway regarding the global climate issue.<sup>5</sup> This lawsuit sparked a vigorous political and academic discourse regarding article 112 and the Norwegian Constitution, resulting in significant clarifications through the judgment.<sup>6</sup> The primary focus of their argument was the validity of the Ministry of Oil and Energy's decision to allow petroleum

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<sup>1</sup> Anne Saab, "The super wicked problem of climate change action," updated September 2nd, 2019, accessed March 27th, 2023, <https://www.graduateinstitute.ch/communications/news/super-wicked-problem-climate-change-action>.

<sup>2</sup> Equinor ASA, "Our plan for energy transition and net zero by 2050," n.d., accessed February 13th, 2023, <https://www.equinor.com/magazine/our-plan-the-energy-transition>.

<sup>3</sup> "...change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere, and which is in addition to natural climate variability observed over comparable time periods..." United Nations Framework Convention on Climate Change (UNFCCC) Article 1 (2). [https://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conveng.pdf](https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf)

<sup>4</sup> Resolution A/76/L.75

<sup>5</sup> HR-2020-2472-P

<sup>6</sup> Hans Christian Bugge, *Lærebok i Miljøforvaltningsrett*, 6th ed. (Universitetsforlaget, 2022). p. 163.

activities in parts of the Barents Sea during the 23<sup>rd</sup> licensing round. They invoked Constitution article 112 and the European Convention on Human Rights (ECHR), particularly concerning the potential greenhouse gas emissions resulting from these activities. It is worth noting that although the ministry made the decision, the Norwegian Parliament had previously consented to opening the relevant sea area for oil exploration on multiple occasions.<sup>7</sup> Therefore, the parliamentary decision was the subject of the trial due to concerns about human rights violations in achieving the primary objective of the Paris Agreement.<sup>8</sup>

Following the ruling in HR-2020-2472-P, the interpretation and applicability of article 112 in the Norwegian Constitution have become prominent topics in current academic and professional discussions. How can Norway reconcile the constitutional conflicts, and to what extent will it impact the nations' progress towards a sustainable transition? While Norway actively endeavors to align with the climate objectives outlined in the Paris Agreement, the crucial question remains: Is its current approach sufficient in mitigating climate change and addressing its far-reaching societal consequences?<sup>9</sup>

This research will consider these questions, in terms of how Norway is complying with the objective of the Paris Agreement's climate target in article 2 (1) a):

*«Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;»*

Despite efforts to decrease the use of fossil fuels, the alarming trend of global warming continues to intensify, posing a significant threat to our future. It is therefore crucial to adhere to the objective stated in article 2 (1) a) of achieving net zero emissions by 2050. Presently, Norway faces challenges in meeting this target due to its economic reliance on the petroleum industry, resulting in rising emissions that are far from aligning with the desired reductions.

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<sup>7</sup> Bugge, *Lærebok i Miljøforvaltningsrett*. p. 167.

<sup>8</sup> Paris Agreement. United Nations. December 12<sup>th</sup>, 2015.  
[https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf).

<sup>9</sup> Miljøstatus, "Ekstremvær globalt," n.d., accessed April 25<sup>th</sup>, 2023,  
<https://miljostatus.miljodirektoratet.no/Ekstremvar/>.

The ongoing climate changes are unavoidable, and scientists widely regard them as the most substantial and widespread failure ever attributed to human activity.<sup>10</sup>

Within the topic my research is based on, there is a strong link between national and international legislation as climate change affects the effective enjoyment of various human rights. The primacy of international human rights conventions is emphasized, taking precedence over conflicting provisions within Norwegian law, cf. Menneskerettsloven article 1 and 2.<sup>11</sup> Despite having extensive national environmental legislation, along with numerous agreements and organizations dedicated to environmental protection, the persistence of environmental issues remains unsolved.<sup>12</sup> Incorporation of new international regulations into the Norwegian legal system, addressing specific responsibilities and rights in limited areas, will be examined to understand their practical implementation. The distinction between climate change and human rights, with a primary focus on Norway, will be explored through recent cases, as the world continues to experience alarming new global records in the past few decades. These records highlights the critical state of the world and that changes must be made, quickly.

## 1.2 Background

If the world does not succeed in cutting emissions significantly in the coming years, there will be a very high risk that climate change will have serious and far-reaching consequences. The world experiences more extreme weather where temperature increases, snow and ice is melting, the sea rises, and forests burn.<sup>13</sup> These risks have generated an increased focus on limiting the global temperature to not exceed the target of 1.5°C enshrined in the Paris Agreement. UNEPs emissions gap report from 2022 tells us that unconditional NDCs point to a 2.6°C increase in temperatures by 2100, far beyond the goals of the Paris Agreement.<sup>14</sup> Therefore our response to climate change must be upscaled as it will become stronger in the next years.

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<sup>10</sup> Zeke Hausfather, "Analysis: Why scientists think 100% of global warming is due to humans," updated December 13th, 2017, accessed March 27th, 2023, <https://www.carbonbrief.org/analysis-why-scientists-think-100-of-global-warming-is-due-to-humans/>.

<sup>11</sup> Lov 21. juni 1999 nr. 30 om styrking av menneskerettighetenes stilling i norsk rett [Menneskerettsloven].

<sup>12</sup> Bugge, *Lærebok i Miljøforvaltningsrett*. p. 17.

<sup>13</sup> Prof. Dr. Hasan Koç, "Literature Review: Climate Change & Global Warming," updated n.d., 2021, 2023, <https://www.berlin-international.de/en/projects/business/systematic-literature-review-climate-change-and-global-warming-domain-businessapplied-platform-business/>.

<sup>14</sup> UNEP, *Emissions Gap Report 2022: The Closing Window* (United Nations Environment Programme, October 27th 2022), <https://wedocs.unep.org/bitstream/handle/20.500.11822/40874/EGR2022.pdf?sequence=1&isAllowed=y>. p. 15.

The research considers this context, and looks toward the energy transition in Norway and will be critically assessing HR-2020-2472-P (Klimasøksmålet).<sup>15</sup> Case laws has a major influence in the legal future of climate change and energy transition. Especially will cases from other jurisdictions affect Norwegian judicial practice. The research primarily revolves around climate change, human rights, and transitions. Over the past decade, numerous academic publications and civil-society reports have established the connections between climate change and human rights.<sup>16</sup> This recognition played a vital role in the creation of the Paris Agreement, and the incorporation of human rights in its preamble provides a stronger statement. The literature has developed on the connections between climate change and human rights.<sup>17</sup> However, it presents challenges, particularly in resolving conflicts arising from the use of legal instruments, especially as there can be a lack of synergy between state security and economic priorities and legal obligations. The UNGA resolution (A/76/L.75) connects the right to a clean, healthy, and sustainable environment to existing international human rights law.<sup>18</sup> It confirms its promotion “requires the full implementation” of the multilateral environmental agreements (MEA’s) under the principles of international environmental law.

Toward the energy transition and with an increasing development of renewable energy sources onshore and offshore the last decade, disagreements and conflicts also arises. Given that the energy sector currently serves as the primary contributor to GHG-emissions, it holds the key to mitigating the most severe impacts of climate change. In Norway, HR-2021-1975-S (Fosen) concerns a development of wind turbines threatening the Sami's human rights, sheds light on the inadequacies of the legal framework governing this area.<sup>19</sup> It highlights the adverse consequences of the decisions being made. International regulations in this field are more extensively formalized than what we have done so far in Norwegian law, calling for further attention and action within our national legal framework.

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<sup>15</sup> Klimasøksmålet (HR-2020-2472-P) = The Climate Lawsuit

<sup>16</sup> Benoit Mayer, "Human Rights in the Paris Agreement," (2016).

<https://www.benoitmayer.com/files/Human%20rights%20in%20the%20Paris%20Agreement.pdf>.

<sup>17</sup> United Nations Office of the High Commissioner for Human Rights, "About human rights and the environment: Special Rapporteur on human rights and the environment," Unknown, accessed May 31st, 2023, <https://www.ohchr.org/en/special-procedures/sr-environment/about-human-rights-and-environment>.

<sup>18</sup> Moustapha Kamal Gueye and Tim de Meyer, "UNGA resolution on human rights: UN General Assembly recognizes human right to a clean, healthy, and sustainable environment," updated September 29th, 2022, accessed June 5th, 2023, [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_857164/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_857164/lang--en/index.htm).

<sup>19</sup> Fosen (HR-2021-1975-S) = The Fosen case



Klimasøksmålet exemplifies this relationship and has made a significant impact on other jurisdictions. The case was not an attack on the entire oil industry but rather a challenge to the expansion of an industry that has already exceeded the world's carbon budget and infringed upon human rights.<sup>20</sup>

Dr. Ian Fry, the UN's special rapporteur on human rights and climate change, has highlighted how increasingly extreme weather events undermine the fundamental aspects of human existence.<sup>21</sup> His focus has primarily been on mitigation policies as well as loss and damage associated to the Paris Agreement and related instruments. Ian Fry has contributed with his expertise within international environmental law to United Nations thematic reports on climate change, including the report "A/77/226: *Promotion and protection of human rights in the context of climate change*". This report emphasizes the reference to human rights in the Paris Agreement's preamble and explores the human rights implications of mitigation actions.<sup>22</sup>

### **1.3 The research questions & Methodology**

Legal methodology and the use of doctrine is the core for any legal academic undertaking. Doctrine enables researchers to develop a robust legal analysis by establishing the existing legal framework and critically assessing its adequacy through an examination of its provisions. This research will primarily employ a doctrinal analysis, utilizing a normative framework to examine the current state of positive law and evaluate its effectiveness. As well, a feature-by-future analysis of relevant legal provisions at both the international and domestic levels will be conducted. Additionally, a comparative method will be employed, as it has become essential in doctrinal legal research to compare national laws with the regulations in one or more countries in the same area of study. Overall, this research will use a doctrinal analysis of the law, through the application of a normative framework it will look at the current state of positive law and its operation and critically analyze the effectiveness of the law through a feature by feature analysis of the appropriate legal provisions at the international and domestic levels.

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<sup>20</sup> Marius Gulbranson Nordby, *Det store klimasøksmålet: Saken som tok livet av Grunnlovens miljøbestemmelse* (Cappelen Damm Akademisk, 2021). p. 114.

<sup>21</sup> David Fogarty, "Climate change threatens human rights, opens up governments, corporations to litigation: UN senior official," (April 20th 2023). <https://www.straitstimes.com/world/climate-change-threatens-human-rights-opens-up-governments-corporations-to-litigation-un-senior-official>.

<sup>22</sup> Ian Fry, *Promotion and protection of human rights in the context of climate change* (United Nations Office of the High Commissioner for Human Rights, July 26th 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/438/51/PDF/N2243851.pdf?OpenElement>.

In addition, it is crucial to not only explore national legislation, but also examine the relevant international legislation within the research theme. The methodology employed will play a significant role in addressing the research questions by exploring the function and operation of the law. Although the doctrinal methodology is effective in identifying issues and assembles the facts, it has received some criticism. The way of analyzing is often criticized for being disconnected with the reality by focusing on legal sources and not question or challenge the application of the law - instead it only analyses the law in terms of internal consistency.<sup>23</sup>

The main research question of this thesis is to “*Critically assessing the impact of HR-2020-2472-P on the Norwegian Energy transition*”. To address this question, there are four underlying sub-question. For question one and two, a doctrinal methodology will be used as it is useful to reveal the gaps in the law and also provide quick answers to practical problems at hand by analyzing legal principles, concepts, and doctrines.<sup>24</sup> However, it is important to acknowledge that this approach has limitations, as it exclusively focuses on legal sources and may overlook non-legal factors that can influence legal outcomes, leading to a narrow scope of analysis.<sup>25</sup> For question 3 and 4, a more comparative methodology will be used to compare legal conflicts between different jurisdictions as well as conduct historical comparisons.<sup>26</sup> Comparative analysis is essential for gaining a comprehensive understanding of challenges and finding solutions within a specific legal system. Furthermore, this research method has expanded its focus to include international law and is therefore used to acquire insight into foreign legal systems.<sup>27</sup>

Chapter 1 of the dissertation provides an overview of the research project and establishes the contextual background. The themes of conflict and climate change can resonate through the dissertation. In chapter 2, the research focuses on identifying the relevant provisions of law and

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<sup>23</sup> Coralieneavecoleshaw, "Research Methods: Doctrinal Methodology," updated January 18th 2017, accessed May 29th, 2023, <https://uweascllmsupport.wordpress.com/2017/01/18/research-methods-doctrinal-methodology/>.

<sup>24</sup> Dr Manish Singh, "Qualitative and doctrinal methods in research," Unknown, accessed May 29th, 2023, [http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/law/09.\\_research\\_methodology/08.\\_qualitative\\_and\\_doctrinal\\_methods\\_in\\_research/et/8155\\_et\\_et.pdf](http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09._research_methodology/08._qualitative_and_doctrinal_methods_in_research/et/8155_et_et.pdf). Section 7.1.

<sup>25</sup> Apurva Neel, "Legal Research: Doctrinal and Non-Doctrinal," (March 31st 2023).

<https://www.legalbites.in/research-methodology/legal-research-doctrinal-and-non-doctrinal-896702>.

<sup>26</sup> Unknown, "Legal Dissertation: Research and Writing Guide," updated October 24th 2019, accessed April 26th, 2023, <https://law.indiana.libguides.com/dissertationguide>.

<sup>27</sup> Ellen Hey and Elaine Mak, "Introduction: The Possibilities of Comparative Law Methods for Research on the Rule of Law in a Global Context," in *Erasmus Law Review* (2009). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1498438](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1498438).

presenting the existing legal framework for climate change. This foundational analysis sets the precise parameters of the legal framework. While chapter 2 includes a specific focus on the Paris Agreement and its adoption, it does not aim to provide an exhaustive overview of the agreement due to the research's scope. Instead, a focused feature-by-feature analysis of key relevant aspects will be conducted. Chapter 3 examines the Norwegian response and explores the conflicts from an environmental and socio-legal perspective. In chapter 4, a deeper analysis of human rights and the Norwegian Constitution will be conducted, with a specific focus on HR-2020-2472-P. By employing a comparative methodology, the research will offer a broader perspective on how this case could potentially influence future climate case laws in Norway and assess the effectiveness of current legislation. The final sub-question in chapter 5 will address future trends in climate legislation and explore how Norway could respond to these challenges through a deeper analysis.

## **Chapter 2: From Rio to Paris – Exploring the International legal framework**

### **2.1 The UNFCCC**

The UN Framework Convention on Climate Change (UNFCCC) constitutes the framework for international climate cooperation.<sup>28</sup> The creating of the framework was made on the basis of a common concern for the climate and humankind by the UN to protect the atmosphere and the global commons.<sup>29</sup> The international legal framework, being the first of its kind, addressed both climate change and adverse changes to the global environment. Every fifth year, all the countries that is committed to UNFCCC, are obliged to draw up national emission targets that must be updated and tightened.<sup>30</sup> These climate targets shall “*be based on the best available scientific knowledge*” and “*as far as possible be quantitative and measurable*”.<sup>31</sup>

The objective of the Climate Convention is formulated in UNFCCC Article 2: “*to achieve...stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*”.<sup>32</sup>

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<sup>28</sup> UNFCCC was adopted in 1992 in Rio de Janeiro. <https://unfccc.int/resource/docs/convkp/conveng.pdf>.

<sup>29</sup> Paris Agreement's preamble paragraph 11.

<sup>30</sup> United Nations Climate Actions, "The Paris Agreement," n.d., accessed March 27th, 2023, <https://www.un.org/en/climatechange/paris-agreement>.

<sup>31</sup> Lov 16. Juni 2017 nr. 60 om klimamål [Klimaloven]. Article 5 (1) a) and b).

<sup>32</sup> UNFCCC Article 2

One of the main principles, and most relevant to this aim of this research is the principle “Common But Differentiated Responsibility” (CBDR).<sup>33</sup> The principle underpins major elements of the UNFCCC. It takes into account that each country has different capabilities that they can in trying to meet their respective emissions reduction commitments. This is clear in the “Annex” section of the convention. Parties to the UNFCCC are categorized as “Annex I” countries, “Annex II” countries and Developing countries. Annex I countries consists of industrialized countries, while Annex II consists of developed countries providing financial support to developing nations. As the industrialized countries should take the lead in combating climate change and its harmful effects,<sup>34</sup> it is most likely that the developing countries will suffer most, due to their vulnerable geographics and economies.<sup>35</sup> The first landmark protocol under the auspices of the UNFCCC was the Kyoto protocol which states that developing countries are not required to reduce emissions unless developed countries supply funding and technology.<sup>36</sup>

Coordination of Law and policy is achieved through the Conference of the Parties (COP). The UN has arranged the meetings where the finer details within the convention can be developed and expanded.<sup>37</sup> During these meetings, parties have the opportunity to adopt protocols to the Convention.<sup>38</sup> One example is the Kyoto Protocol with an Annex-based structure, applying emission reduction requirements only to industrialized countries.<sup>39</sup> While considered innovative and a first step in combating climate change, two of the largest economies in the world, and largest GHG emitters did not fully implement the requirements of the protocol.<sup>40</sup> The protocol received criticism for not being ambitious enough and its unequal distribution of emission reductions between countries.

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<sup>33</sup> Hans Christian Bugge, "FNs rammekonvensjon om klimaendringer og Kyotoprotokollen," in *Klimarett: internasjonal, europeisk og norsk klimarett mot 2030*, ed. Hans Christian Bugge (Universitetsforlaget, 2021). p. 106.

<sup>34</sup> UNFCCC Article 3 (1)

<sup>35</sup> UNFCCC Article 3 (1)

<sup>36</sup> Climate Change Connection, "UNFCCC," n.d., accessed February 20th, 2023, <https://climatechangeconnection.org/solutions/international-solutions/unfccc/>.

<sup>37</sup> United Nations Association of Norway, "FNs klimakonvensjon," updated September 30th, 2021, accessed February 6th, 2023, <https://www.fn.no/om-fn/avtaler/miljoe-og-klima/fns-klimakonvensjon>.

<sup>38</sup> UNFCCC Article 17 (1)

<sup>39</sup> United Nations Association of Norway, "Kyotoprotokollen," updated December 22nd, 2020, accessed February 7th, 2023, <https://www.fn.no/om-fn/avtaler/miljoe-og-klima/kyotoprotokollen>.

<sup>40</sup> Bugge, "FNs rammekonvensjon om klimaendringer og Kyotoprotokollen." p. 119.

## 2.2 The Paris Agreement

The next milestone came in 2015, with the Paris Agreement as a binding treaty under international law containing different types of provisions of different legal character. The agreement contains provisions that are both legally binding obligations and political guidelines, and the parties shall increase their effort over time. This meaning that their domestic climate plans made by the parliament will be updated from time to time. Serving as the first universal and legally binding global climate change agreement, it builds upon the 1992 climate convention. It replaced the Kyoto Protocol after several disagreements at the conferences over the terms of a new agreement. Each country is responsible for determining, planning, and periodically reporting on its own contributions within the framework of the agreement.

Of particular note, is that it is the first climate change treaty to that specifically outlined a human rights dimension. By incorporating human rights in a binding treaty, the agreement carries greater weight than a decision made at a COP meeting.<sup>41</sup> Human dimensions of global change concerns human activities such as the consequences of environmental change for societies and economies, and the research of this is essential to understand global change.<sup>42</sup> However, the Paris agreement does not specifies any concrete measures on the protection of human rights in climate action and its direct impact could remain limited.<sup>43</sup> As economic priorities, climate and human rights can clash. Climate change have significant human impacts as it demands human responses by using regulations and policies. But the focus on human rights based approaches to regulation would be beneficial for the development of climate protection and in case of conflicts.

The Paris Agreement provides a framework for financial, technical, and capacity building support of those countries that needs it.<sup>44</sup> Its primary objective is to limit the global average temperature increase to well below 2°C above pre-industrial levels, with efforts to achieve a temperature increase of 1.5°C, recognizing the significant benefits of doing so in mitigating climate change impacts.<sup>45</sup> This target aligns with the goal of achieving net zero emissions by

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<sup>41</sup> Mayer, "Human Rights in the Paris Agreement." p. 109.

<sup>42</sup> National Research Council, "Human Dimensions of Global Environmental Change ", *Global Environmental Change: Research Pathways for the Next Decade* (The National Academies Press, 1999), <https://nap.nationalacademies.org/read/5992/chapter/8>. p. 293.

<sup>43</sup> Mayer, "Human Rights in the Paris Agreement."

<sup>44</sup> United Nations Climate Change, "The Paris Agreement," n.d., accessed February 7th, 2023, <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>.

<sup>45</sup> Paris Agreement Article 2 (1) a)

2050. Together with the Climate Convention, the agreement provides a solid framework for global climate action, signifying a milestone in international cooperation and reinforcing the implementation of the UNFCCC. It combines legally binding obligations and political guidelines, requiring parties to enhance their efforts progressively. This entails periodic updates to their domestic climate plans, determined by their respective parliaments.

### **2.3 The Implementation of Climate and Environmental Responsibility in Norway**

But how has this been implemented in Norway and what is its significance for the Norwegian state? Norway has a significant responsibility and plays a crucial role in addressing the climate crisis. As one of the largest oil and gas producers globally, with extensive oil reserves in western Europe, Norway's implementation strategy is influenced by this responsibility. Despite being an oil-exporting nation, Norway demonstrated a sense of environmental responsibility by early participation in the Paris Agreement. It is somewhat paradoxical, but it underscores the country's commitment. As well as joining the Paris agreement, Norway also entered into a legally binding collaboration with the European Union (EU) with a common objective in emissions reductions.<sup>46</sup> Under this agreement, each member state, including Norway, is obligated to regularly strengthen their climate targets. In 2017, Norway enacted "Klimaloven" (the Climate Act), a law that promotes the nations climate targets as part of the transition towards a low-emission society by 2050, in alignment with the Paris Agreements objective, cf. Klimaloven article 1.<sup>47</sup> The law differs from most other Norwegian laws in terms of its form and content, reflecting the goals of the international agreement.

Klimaloven was adopted after the Parliament of Norway in 2016 reported a national conditional goal of reduce the emissions of greenhouse gases with at least 40% in 2030 compared to the level in 1990.<sup>48</sup> Subsequently, the parliament presented a climate report outlining a strategy to meet the emission budget assigned by the EU for 2021-2030.<sup>49</sup> Since then, Norway's legal status has had an ambitious development. As well as the targets for 2030, achieving a net-zero society by 2050 is as important. In 2019, a government declaration raised the ambition for

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<sup>46</sup> European Commission, "European Green Deal: New EU-Norway Green Alliance to deepen cooperation on climate, environment, energy and clean industry," news release, April 24th, 2023, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2391](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2391).

<sup>47</sup> Drivkraft Norge, "Hvilke klimaavtaler har vi i Norge?," n.d., accessed February 8th, 2023, <https://www.drivkraftnorge.no/klimabevissthet/overordnede-klimamal/>.

<sup>48</sup> Meld. St. 13 (2014–2015) Ny utslippsforpliktelse for 2030 – en felles løsning med EU

<sup>49</sup> Meld. St. 41 (2016–2017) Klimastrategi for 2030 – norsk omstilling i europeisk samarbeid

GHG-emissions reduction from 80-95% by 2050 (compared to 1990 levels) to 90-95%.<sup>50</sup> Annual reports will provide a status of how Norway is prepared to achieve the 2030 climate target, offering insights into potential legal adjustments as the government actively works to fulfill its commitments under the Paris Agreement in collaboration with the EU.

The Norwegian Constitution holds significant importance in addressing climate issues, particularly through the environmental decision in the former article 110b, now article 112. As the climate crisis develops in the wrong direction, case laws becomes increasingly crucial in resolving climate-related conflicts. *Klimasøksmålet*, the first significant lawsuit against the State of Norway in this context, represents a major change for the future. This case will be further examined in chapter 4.

### **2.3.1 The Role of Legal rules in Norway's International Commitments**

Legal rules play a crucial role in addressing climate change as they authorizes and sets a framework for the exercise of public authority with this as its purpose. This can be associated to the idea of global concerns where each countries collaborate to reach a clean and safe environment for everyone. As Norway has joined the most important regional and global agreements, international law is of great importance to Norwegian environmental law.<sup>51</sup>

Norway is directly connected to EU's environmental regulations through the Agreement on the European Economic Area (EEA).<sup>52</sup> Since 2008, in cooperation with the EU, Norway shall fulfill the Paris Agreement goal by using their most important climate policy instrument, the quota system (ETS).<sup>53</sup> Ensuring global emissions reductions is essential, whether within Norway or in other countries. Over time, the number of quotas will decrease, resulting in reduced GHG-emissions overall. To meet the agreements requirements, Norway has implemented various national instruments, such as increasing the CO<sub>2</sub>-tax and reducing taxes associated with climate-friendly alternatives.

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<sup>50</sup> Meld. St. 13 (2020–2021) Klimaplan for 2021-2030. p. 37.

<sup>51</sup> Bugge, *Lærebok i Miljøforvaltningsrett*. p. 76.

<sup>52</sup> Lov 27. november 1992 nr. 109 om gjennomføring i norsk rett av hoveddelen i avtale om Det europeiske økonomiske samarbeidsområde (EØS) m.v. (EØS-loven) <https://lovdata.no/dokument/NL/lov/1992-11-27-109?q=eøs>

<sup>53</sup> EU ETS includes 40% of the unions GHG-emissions and consists of climate quotas and the permission to release a certain amount of CO<sub>2</sub>. An increase in the quota price the last years has contributed to major emission cuts.

As an Annex-2 country, Norway provides financial assistance for various climate initiatives in other countries, particularly in developing nations it is one of the largest contributors to the UNREDD+ programme.<sup>54</sup> During COP21 in Paris in 2015, it was agreed on a commitment where the industrialized countries should contribute \$100 billion USD annually in climate finance to developing countries by 2020 and maintain this level in the future. Environmental issues require active public effort and special instruments to achieve the goals, which is set by the Parliament and the government. Norway's climate financing involves public funds beyond the assistance budget, mobilizations of private capital, and the establishment of a new climate investment fund.

As a result of EU having strengthened their climate target for 2030, they will also revise the climate regulations to ensure that they reach the new climate target. With the goal of limiting global warming to 1.5 degrees Celsius seems currently unreachable, the focus now is holding the temperature increase well below 2 degrees Celsius. Given the current global situation, achieving this target is already challenging. Norway reinforced its national 2030 target just before the COP27 meeting in Egypt, aiming to reduce emissions by at least 55% below 1990 levels. During COP26, all countries were encouraged to reassess and strengthen their climate targets, which motivated Norway's decision to reinforce its targets.

Despite the increasing production of oil and gas in Norway, as well as in other major oil-producing countries, the majority of these resources are exported. Additionally, larger oil companies, including the Norwegian company Equinor, contribute to sustainability as they supports the Paris agreement and striving for a net-zero future. As an oil-producing nation, Norway acknowledges the challenges posed by climate change and is committed to achieve the established targets by adhering to existing climate regulations. However, transitioning from fossil fuels to renewable energy remains a complicated process, and potential conflicts may arise along the way. While Norway has made progress, there is still a considerable journey ahead in the pursuit of renewable energy solutions.

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<sup>54</sup> Bruno Guay, "National REDD+ funding mechanisms: lessons learned and success factors," updated February 28th, 2022, accessed June 5th, 2023, <https://www.un-redd.org/post/national-redd-funding-mechanisms-lessons-learned-and-success-factors>.



## Chapter 3: A transition away from fossil fuels

### 3.1 Introduction

Changes in the law are being driven by a need to transition away from fossil fuels, but this does not come without a cost. A major global transition to using more renewable energy is taking place. This transition refers to a shift from fossil-based system of energy production, a major contributor to the climate crisis, towards using more of renewable energy sources like wind (as in the Fosen Wind Park), and solar. This transition is not without risks, particularly in terms of potential conflicts. There are strong connections between climate change and conflict in both developed and developing countries as the effects of climate change increases the likelihood for more disputes.<sup>55</sup> This can be seen in the case “Anton Foley and others V Sweden” (Aurora) where a group of over 600 young people sued the Swedish state, arguing that Sweden’s action on mitigating climate change is inadequate and in possible violation of human rights protected by the ECHR.<sup>56</sup> When transitioning from fossil fuels, it is crucial to consider the financial aspects within environmental law as these trends also can facilitate conflicts.

### 3.2 Legal and Financial trends

Energy transition carries a significant cost and with energy production being a major challenge, the market alone cannot manage an emission cut of 50% by 2030, highlighting the urgent need for adaption and mitigation actions to reduce its impact.<sup>57</sup> While mitigation consists of measures to limit climate change by preventing or reducing the GHG emissions, adaption refers to preventive measures to make our infrastructure and economy more resilient to the adverse effects of climate change.<sup>58</sup> Mitigation strategies includes adopting renewable energy sources, but also helping cities to develop more sustainable transport and promote more sustainable uses of land and forests.<sup>59</sup> Norway is at the forefront of zero-emission transport, witnessing a surge in electric vehicle adoption. For global change, these strategies are important to achieve mitigation. Despite ongoing mitigation and adaptions efforts, economic losses from climate-

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<sup>55</sup> Emilie Yam, "Does climate change cause conflict?," (June 2nd 2021). <https://www.theigc.org/blogs/does-climate-change-cause-conflict>.

<sup>56</sup> Unknown, "Anton Foley and others v Sweden (Aurora Case)," 2022, accessed May 31st, 2023, <http://climatecasechart.com/non-us-case/anton-foley-and-others-v-sweden-aurora-case/>.

<sup>57</sup> Unknown, "Assessing the costs and benefits of climate change adaptation," European Environment Agency, updated April 25th, 2023, accessed May 1st, 2023, <https://www.eea.europa.eu/publications/assessing-the-costs-and-benefits-of>.

<sup>58</sup> Unknown, "Enterprise Explains: Mitigation vs. Adaptation," updated December 6th, 2022, accessed May 1st, 2023, <https://enterprise.press/greeneconomys/enterprise-explains-mitigation-vs-adaptation/>.

<sup>59</sup> Global Environment Facility, "Climate Change Mitigation," Unknown, accessed May 25th, 2023, <https://www.thegef.org/what-we-do/topics/climate-change-mitigation>.

related extremes increased exponentially.<sup>60</sup> But because of difficulties with calculating the costs and benefits of adaptations, better understanding is needed as the climate change develops in the wrong direction.

In 2019, the European Commission presented “The European Green Deal” as a roadmap with actions to improve the efficient use of resources.<sup>61</sup> This to boost the efficient use of resources by moving to a clean, circular economy and stop climate change, revert biodiversity loss and cut pollution.<sup>62</sup> With Europe leading the way, the use of wind power has increased over the last decade both offshore and onshore.<sup>63</sup> Before 2050, renewable energy has the possibility to cover all our energy supply needs.<sup>64</sup> This is important in the transition as two-thirds of the climate problem is the way we produce and consume energy.<sup>65</sup> However, both in terms of time and finances there has not been required investment that is needed to achieve the climate targets.

For the green shift to succeed, what is needed is production capacity at a global level as well as industrial and financial strength.<sup>66</sup> Financial requirements has been implemented in international regulations and the financial mechanisms is directly regulated in UNFCCC article 11. In this article the relationship between law and finance is highlighted and the law facilitate transactions. It states that the operation of the financial mechanism is entrusted to one or more existing international entities.<sup>67</sup> Since UNFCCC entered into force, the Global Environment Facility (GEF) has served as an operating entity of the financial mechanism.<sup>68</sup> Later on, in 2011, the Green Climate Fund (GCF) was also designated as an operating entity of the financial mechanism and is accountable to the COP.<sup>69</sup> It was agreed on at COP15 that both mechanisms

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<sup>60</sup> Unknown, "Assessing the costs and benefits of climate change adaptation."

<sup>61</sup> The European Green Deal. The European Commission. Brussels, December 11<sup>th</sup>, 2019. [https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC_1&format=PDF)

<sup>62</sup> The European Commission, "The European Green Deal sets out how to make Europe the first climate-neutral continent by 2050, boosting the economy, improving people's health and quality of life, caring for nature, and leaving no one behind," news release, December 11<sup>th</sup> 2019, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6691](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6691).

<sup>63</sup> Spectra, "What is the Energy Transition and why does it matter?," updated September 23<sup>rd</sup>, 2021, accessed February 9<sup>th</sup>, 2023, <https://spectra.mhi.com/what-is-the-energy-transition-and-why-does-it-matter>.

<sup>64</sup> Anne Ringgaard, "Fornybar energi kan forsyne hele verden før 2050," (2022). <https://forskning.no/energi-fornybar-energi-klima/fornybar-energi-kan-forsyne-hele-verden-for-2050/2065804>.

<sup>65</sup> Fortum, "Electri-fi-cation – the biggest climate action?," n.d., accessed April 26<sup>th</sup>, 2023, <https://www.fortum.com/about-us/cleaner-world/electrification-biggest-climate-action>.

<sup>66</sup> Equinor, "Offshore wind," Unknown, accessed May 25<sup>th</sup>, 2023, <https://www.equinor.com/energy/offshore-wind>.

<sup>67</sup> United Nations Climate Change, "Climate Finance in the negotiations," n.d., accessed May 2<sup>nd</sup>, 2023, <https://unfccc.int/topics/climate-finance/the-big-picture/climate-finance-in-the-negotiations>.

<sup>68</sup> United Nations Climate Change, "Introduction to Climate Finance," Unknown, accessed May 25<sup>th</sup> 2023, <https://unfccc.int/topics/introduction-to-climate-finance>.

<sup>69</sup> United Nations Climate Change, "Introduction to Climate Finance."

shall serve the Paris Agreement as well.<sup>70</sup> Article 9 of the Paris Agreement stipulates that developed country parties must provide financial resources to assist developing country parties with regard to both mitigation and adaptation in continuation of their existing obligations under the convention.<sup>71</sup>

Energy transition will have a significant impact on the world in the coming decades, following a gradual process and promising legal trends. Recently, the trends in legal cases brought against fossil fuel companies, especially in the larger oil and gas producing countries outside United States, has increased.<sup>72</sup> In value creation, government revenues, investments and expert value, the petroleum business is Norway's largest industry, and it creates large repercussions locally and regionally.<sup>73</sup> A decline in oil- and gas production would have implications on the Norwegian economy, meaning that developments will continue in the future and legal cases increase. The importance of a legal system that works with a clearer set of rules will be even more necessary. To mitigate vulnerability in the Norwegian economy, the Norwegian Climate Change Committee has decided to limit future license allocations to extensions where production is already established. This means that the future decline in demand for oil will not be as sudden and large, providing greater stability.

As energy systems and markets are complex, all national energy transitions are unfolding within regional transitions, shaped in turn by global events and trends.<sup>74</sup> Post-lockdown, while it has accelerated the transition – fossil fuels are still driving the covid economic recovery. Further, because of the ongoing war in Ukraine, imports of Russian natural gas have been halted. To make up for the shortfall in generation, states like Germany have replaced sources of power generation with coal, which increases emissions by 2 or 3 times. Russia's invasion of Ukraine has raised Norwegian energy exports in the short term, but will lead to a steeper decline in natural gas demand in the long term.<sup>75</sup> It is not given that the targets and ambitions for energy

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<sup>70</sup> United Nations Climate Change, "Introduction to Climate Finance."

<sup>71</sup> United Nations Climate Change, "Climate Finance in the negotiations."

<sup>72</sup> The London School of Economics and Political Science, "Global trends in climate change litigation: 2022 snapshot," updated June 30th, 2022, accessed February 14th, 2023, <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2022/>.

<sup>73</sup> NITO, "Energi, klima og miljø," n.d., accessed March 31st, 2023, [https://www.nito.no/politikk/politikk/energi\\_og\\_klima/](https://www.nito.no/politikk/politikk/energi_og_klima/).

<sup>74</sup> DNV, *Energy Transition Norway 2022: A national forecast to 2050* (Norsk Industri, November 22nd 2022), [https://www.norskindustri.no/siteassets/dokumenter/rapporter-og-brosjyrer/energy-transition-norway/2022/energy-transition-norway-2022\\_web.pdf](https://www.norskindustri.no/siteassets/dokumenter/rapporter-og-brosjyrer/energy-transition-norway/2022/energy-transition-norway-2022_web.pdf).

<sup>75</sup> DNV, "Energy Transition Norway 2022 – Is Norway on track?," n.d., accessed March 23rd, 2023, <https://www.dnv.com/Publications/energy-transition-norway-2022-235535>.

and climate will be met, but still, progress is being made as technological transitions happens fast. Likewise, with growing support from governments and large companies, advances in wind and solar technologies have drastically accelerated the energy transition.<sup>76</sup> The central bank of Norway “Norges Bank” is strongly focusing and investing in renewable energy infrastructures in Europe and North America to maintain their legal obligations to combat climate change.<sup>77</sup> The legally binding target of net zero GHG-emissions by 2050 set by The European Climate Law, bounds the member states to take the necessary measures at EU and national level to meet the target.<sup>78</sup> Together with the emissions quotas, the taxes on GHG-emissions including the CO<sub>2</sub>-tax, is the Norwegian authority’s most important means of ensuring lower emissions.<sup>79</sup> The most economic instruments must have a formal normative foundation through more detailed rules set out in law and regulations, and an administration to manage the arrangement.<sup>80</sup> The economic instruments used to combat the climate change in Norway is simply not effective as wanted when looking at the slow trend in emissions.<sup>81</sup>

### 3.3 Environmental

In March 2023, the Intergovernmental Panel on Climate Change (IPCC) published their AR6 Synthesis Report, which summarize the state of knowledge of climate change, its impacts and risks, and climate change mitigation and adaptation.<sup>82</sup> The main findings in the 6<sup>th</sup> report addresses that: we have the possibility to act, the pace must drastically increase and the choices we make this decade will affect the planet for thousands of years.<sup>83</sup> IPCC states that the risk is bigger than previously concluded and the negative consequences will occur at a lower temperature than previously thought. These reports created by the UN climate panel serve as the essential academic foundation for international climate negotiations under the UNFCCC.

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<sup>76</sup> Petro, "Which Countries Are Leading the Energy Transition?," updated July 25th, 2022, accessed March 28th, 2023, <https://www.petro-online.com/news/biofuel-industry-news/22/breaking-news/which-countries-are-leading-the-energy-transition/58337>.

<sup>77</sup> Norges Bank Investment Management, "Renewable energy infrastructure management," updated March 31st, 2023, accessed April 29th, 2023, <https://www.nbim.no/en/the-fund/how-we-invest/infrastructure-management/>.

<sup>78</sup> European Commission, "European Climate Law," n.d., accessed May 1st, 2023, [https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law\\_en](https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law_en).

<sup>79</sup> Finansdepartementet, "CO<sub>2</sub>-avgiften," Regjeringen.no, updated January 10th, 2020, accessed April 3rd, 2023, <https://www.regjeringen.no/no/tema/okonomi-og-budsjett/skatter-og-avgifter/veibruksavgift-pa-drivstoff/co2-avgiften/id2603484/>.

<sup>80</sup> Hans Christian Bugge, *Lærebok i Miljøforvaltningsrett*, 5th ed. (Universitetsforlaget, 2015). p. 44.

<sup>81</sup> DNV, *Energy Transition Norway 2022: A national forecast to 2050*. p. 2.

<sup>82</sup> The Intergovernmental Panel on Climate Change, *Synthesis Report of the IPCC Sixth Assessment Report (AR6)* (March 19th 2023), [https://report.ipcc.ch/ar6syr/pdf/IPCC\\_AR6\\_SYR\\_SPM.pdf](https://report.ipcc.ch/ar6syr/pdf/IPCC_AR6_SYR_SPM.pdf).

<sup>83</sup> Miljødirektoratet, "Hovedfunn i synteserapporten i sjetten hovedrapport," 2023, accessed March 24th, 2023, <https://www.miljodirektoratet.no/ansvarsomrader/klima/fns-klimapanel-ipcc/dette-sier-fns-klimapanel/sjetten-hovedrapport/hovedfunn-syr-sjetten-hovedrapport/>.

One key finding from the reports indicates that if GHG emissions continue without reduction, the objective outlined in article 2 (1) a) of the Paris Agreement is unlikely to be achieved. There are indications that with every additional increment of global warming, there is an increased likelihood that changes in extremes continue to be larger and more powerful.<sup>84</sup> In order to achieve the climate goal in the Paris Agreement by 2050, one of the tools will be the energy transition.<sup>85</sup> There have been commitments from economies to reduce their GHG emissions and transitions away from fossil fuels. For Norway, this does pose somewhat of a dilemma, as it is an oil and gas economy – but it has made commitments to the “green shift”. The green shift will come as the fossil energy will be phased in favor of renewable energy. As a member of the EEA, Norway shares internal market legislation with the EU and has therefore implemented several EU directives and regulations related to energy.<sup>86</sup>

With much responsibility in the energy sector, environmental security is crucial. Conflicts arise if this is not being followed. This is not only critical regarding human rights, but the new ways of producing energy and the development of these can also interfere with indigenous people's cultural practices as in the Fosen case. The environmental conflict between the Sámi-people and the State of Norway, highlights the obligation of national authorities to ensure that legislation and practices align with human rights during the transition to cleaner energy sources.<sup>87</sup> Litigation cannot solve the global issue of climate change on its own, but it may raise awareness, increase social mobilization, and encourage policymakers to act.<sup>88</sup>

In the middle of a climate crisis and an increasing energy revolution, a transition is essential. Increasing the use of renewable energy sources, one major source of the climate problem will sharply reduce. The UN climate panel states that to reach the wanted targets, the oil exploration must stop as well as the demand for oil and gas have to be reduced. To meet the increasing global energy demand and within the framework of the Paris Agreement, there will still be a

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<sup>84</sup> The Intergovernmental Panel on Climate Change, *Synthesis Report of the IPCC Sixth Assessment Report (AR6)*, p. 12.

<sup>85</sup> Enel Green Power, "The Energy Transition," n.d., accessed February 9th, 2023, <https://www.enelgreenpower.com/learning-hub/energy-transition>.

<sup>86</sup> International Energy Agency, *Norway 2022 Energy Policy Review (2022)*, <https://iea.blob.core.windows.net/assets/de28c6a6-8240-41d9-9082-a5dd65d9f3eb/NORWAY2022.pdf>, p.15.

<sup>87</sup> Norges institusjon for menneskerettigheter, "Hva betyr menneskerettslig reparasjonsplikt?," updated March 2nd 2023, 2021, <https://www.nhri.no/2021/menneskerettslig-reparasjonsplikt/>.

<sup>88</sup> Heather Colby et al., "Judging Climate Change: The Role of the Judiciary in the Fight Against Climate Change," *Oslo Law Review* 7, no. 3 (2020), <https://juridika.no/tidsskrifter/oslo-law-review/2020/3/artikkel/colby>.

need for oil and gas. What then becomes important is to produce this in a more environmentally responsible manner as most of the EU's emissions comes from energy consumption.

What Norway does absolutely make a difference as they have both the finances and the responsibility to change the directions being a significant international supplier with nearly 90% of its energy production being exported.<sup>89</sup> To accelerate the energy transition, they have set new climate targets and goals regularly. By providing policies and framework, the Norwegian government has a big role in the future of sustainability, which is made by looking at resources, trends, and the environment. As a part of the global energy system and the demand and supply of energy, Norway is affected by the global trends, and similarly, what happens in Norway can affect other parts of the world.<sup>90</sup>

### **3.4 Human rights considerations and conflicts**

In addition to international climate change regulations and energy transition, Norwegian domestic politics and law plays a significant role. Incorporating a human rights approach can give greater force to the Paris Agreement, and states are under obligations of taking appropriate steps to reduce the risk to life.<sup>91</sup>

Human rights of individual people need to be protected against the impacts of climate change, and we must take into account environmental protection when applying all the competition provisions.<sup>92</sup> Relevant is article 101 (3) in the Treaty on the Functioning of the European Union (TFEU), which prohibits any agreements between undertakings decisions made by associations of undertakings, or concerted practices affecting trade between EU countries which could prevent, restrict or distort competition.<sup>93</sup> Law facilitates trends and these can cause conflicts and affect the common goal of reaching a net-zero community in 2050.

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<sup>89</sup> International Energy Agency, *Norway 2022 Energy Policy Review*. p. 3.

<sup>90</sup> DNV, *Energy Transition Norway 2022: A national forecast to 2050*. p. 8.

<sup>91</sup> The Office of the High Commissioner for Human Rights, "Understanding Human Rights and Climate Change," (n.d.). <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>. p. 2.

<sup>92</sup> *Climate Change and Competition Law: Hearing on Sustainability and Competition*, Organisation for Economic Co-operation and Development (December 1st 2020), [https://one.oecd.org/document/DAF/COMP/WD\(2020\)94/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)94/en/pdf). p. 4.

<sup>93</sup> EUR-Lex, "Guidelines on the application of Article 101(3) TFEU (formerly Article 81(3) TEC)," updated May 29th, 2020, accessed May 2nd, 2023, <https://eur-lex.europa.eu/EN/legal-content/summary/guidelines-on-the-application-of-article-101-3-tfeu-formerly-article-81-3-tec.html>.

The adverse impacts of climate change clearly qualify as “environmental harms” that can interfere with the exercise of human rights.<sup>94</sup> An example of this can be seen in the KlimaSeniorinnen case which is the first climate case that will be heard at the European Court of Human Rights (ECtHR), pending this year.<sup>95</sup> An association of senior women argued that increasing temperatures owed to climate change result in threatening their lives and health referring to ECHR article 2 and 8. The applicants is also claiming that Switzerland is failing to take the necessary measures to meet the 2030 goal set by the Paris Agreement to limit global warming.<sup>96</sup> To protect against and respond to the impacts of climate change, legal and institutional frameworks must be ratified by the States. In this context, there are five types of obligations that may arise. Firstly, adaption obligations that requires states to enact frameworks for protecting people against the effects of climate change. Secondly, to regulate the sources of GHG-emissions, states are required to implement domestic mitigation obligations. Additionally, the states has to participate in international cooperation obligations and negotiations for an effective global climate agreement. Moreover, the States has to mitigate the effect of their activities on the human rights of persons outside of their jurisdiction. Lastly, States are obligated to ensure that mitigation and adaptation activities do not themselves contribute to human rights violations.<sup>97</sup>

Klimaloven was created to promote the implementation of Norway’s climate goals, but it has received a lot of criticism from several politicians as well as environmental organisations.<sup>98</sup> This because of its missing requirements of national cuts and demands for the individual sectors as well as not being binding enough. Additionally it only target public authorities and relies on a joint implementation with the EU. A trustworthy and effective national framework is crucial to ensure the populations confidence and the successful attainment of goals. To make it work on a higher level as the case laws within climate and environmental law increases, the law should point out what works, what is missing and what needs to be done. The main weakness

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<sup>94</sup> United Nations Environment Programme, *Climate Change and Human Rights* (2015), [https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate\\_Change\\_and\\_Human\\_Rights%20human-rights-climate-change.pdf.pdf?sequence=2&isAllowed=1](https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate_Change_and_Human_Rights%20human-rights-climate-change.pdf.pdf?sequence=2&isAllowed=1). p.19.

<sup>95</sup> Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, Application no. 53600/20

<sup>96</sup> Helen Arling and Hani Taghavi, "KlimaSeniorinnen v. Switzerland – A New Era for Climate Change Protection or Proceeding with the Status Quo?," updated April 6th, 2023, accessed June 1st, 2023, <https://www.ejiltalk.org/klimaseniorinnen-v-switzerland-a-new-era-for-climate-change-protection-or-proceeding-with-the-status-quo/>.

<sup>97</sup> United Nations Environment Programme, *Climate Change and Human Rights*.

<sup>98</sup> The environmental organizations: WWF-Norway, Naturvernforbundet, Zero, Framtiden i Våre hender, Greenpeace and Nature and Youth.

of the law is its lower ambition level on certain aspects compared to Norway's international obligations.

The Fosen case, HR-2021-1975-S is an example of a land used conflict in Norway. This case illustrates the gap in the judicial regulation, especially in the national legislation, as the court did not reach a clear and final decision. This was a historic decision because it was the first time a case concerning a development project in the Sámi populations traditional areas won in the Supreme Court through reference to human rights.<sup>99</sup> Central to the case law and the consideration concerning the development of wind power plants on the Fosen Peninsula, was the International Covenant on Civil and Political Rights (ICCPR) article 27.<sup>100</sup> The court concluded that the wind farms would lead to a violation of article 27 that provides the Sámi the right to practise their own culture, religion, and language.<sup>101</sup>

*“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”*

With a reference to this, it was stated that the license and expropriation decisions were invalid.<sup>102</sup> Despite the judgement, the operation of the wind turbines at Fosen continued unchanged.<sup>103</sup> This spring, the case have received a lot of attention as Fosen-activists have demonstrated outside several relevant ministries pushing for a decision to be made. It still remains to see how the case will be resolved.

When discussing and examining the gaps in environmental regulations, the Fosen case plays a substantial role. It shows us, not only that courts may disagree with the ministry’s assessments, but also that the courts have a long way to go when it comes to manage environmental cases.

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<sup>99</sup> Norwegian National Human Rights Institution, "About the wind farms on Fosen and the Supreme Court judgment," (2023). <https://www.nhri.no/en/2023/about-the-wind-farms-on-fosen-and-the-supreme-court-judgment/>.

<sup>100</sup> International Covenant on Civil and Political Rights (ICCPR).  
<https://www.ohchr.org/sites/default/files/ccpr.pdf>

<sup>101</sup> Norwegian National Human Rights Institution, "About the wind farms on Fosen and the Supreme Court judgment."

<sup>102</sup> Norwegian National Human Rights Institution, "About the wind farms on Fosen and the Supreme Court judgment."

<sup>103</sup> Bugge, *Lærebok i Miljøforvaltningsrett*. p. 112.



In future processes, it is essential to allow courts to clarify the relationship to human rights before establishing wind power plants in central herding areas. This will help protecting the rights of the indigenous population while balancing the need for sustainable energy solutions.<sup>104</sup> In addition to avoiding taking the case to court after the developer has received permission to build the wind farm and spent a lot of resources on it. Human rights and considerations also clearly emerges in *Klimasøksmålet* where Article 110b and 112 of the Constitution is being discussed. This is the first climate case that focuses on new oil and gas exploration and has now been taken to the European Court of Human Rights (ECtHR). *Klimasøksmålet* and the conflicts this case raises will be further analyzed in the next chapter.

## **Chapter 4: How does Norway balance the potential conflict between Article 110b (*Natural Resources*) and 112 (*Environmental + Human Rights*) of the Norwegian Constitution?**

### **4.1 Introduction**

The same year as the climate convention was adopted, article 110b in the Norwegian Constitution was introduced as the national environmental decision. Article 110b was rarely used as a fundamental starting point or decisive argument for a concrete solution.<sup>105</sup> In 2014, at the 200 years anniversary for the Constitution, article 110b got improved and made into a new and strengthened environmental decision in article 112. As other articles in The Constitution, article 112 take precedence over common law in case of conflict.

Globally, the cumulative number of climate change-related cases has more than doubled since 2015.<sup>106</sup> Law has a protective role as human rights of individual people need to be protected against the impacts of climate change. This also applies against the adverse side effects of mitigation measures, such as the construction of large wind turbines that violated the right of the Sámi reindeer herding to practice culture.<sup>107</sup> The human rights chapter in The Constitution

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<sup>104</sup> Gullik-André Fjordbo, "Balancing wind power expansion and indigenous rights: Lessons from Norway's Fosen case," (2023). <https://www.northwindresearch.no/news/balancing-wind-power-expansion-and-indigenous-rights-lessons-from-norways-fosen-case/>.

<sup>105</sup> Ole Kristian Fauchald, "Forfatning og miljøvern – en analyse av Grunnloven § 110 B," 120, no. 1-2 (2007), <https://doi.org/https://doi.org/10.18261/ISSN1504-3096-2007-01-02-01>.

<sup>106</sup> The London School of Economics and Political Science, "Global trends in climate change litigation: 2022 snapshot."

<sup>107</sup> Cf. HR-2021-1975-S "Fosen case".

expresses that the authorities have an invariable and a general duty to respect and secure alle human rights that can be anchored in a legal basis that is binding for Norway.<sup>108</sup> The state is fully responsible for ensuring that, through the constitution, there are good enough laws, guidelines, and routines to ensure that human rights are not violated. In Norway, human rights enjoy great respect and are well protected in the legislation, but that still does not mean that the laws and rules are always followed.<sup>109</sup>

The meaning of having an environmental decision in The Constitution means that the authorities must take measures to implement the provision through legislation and parliamentary resolution. The Norwegian Climate Change Act, Klimaloven, must be interpreted in accordance with article 112's principles and rights. It has been suggested that Klimaloven should be strengthened to protect the goals that the government itself has set.<sup>110</sup> This by establishing a direct link between Klimaloven and the Constitution article 112 where the act must be interpreted strictly as a follow-up to article 112.<sup>111</sup> This will help to safeguard the state's obligations to avert climate change that may affect the right to a healthy environment according to article 112 of the Constitution.<sup>112</sup> If we did not have a national climate change act, the provision would have gained importance as an independent legal basis for the citizens. Because of the regulation within this legal area, individuals has a right to take a case to court where one believes that a human rights violation is being committed, for example when developing new oil fields as in HR-2020-2472-P. The purpose is to stop the activity and postpone the consequences of climate footprints until a decision is being made by the courts.

#### **4.2 HR-2020-2472-P**

HR-2020-2472-P (Klimasøksmålet) raises questions regarding the principle of divided powers and the relationship between the legislative and judicial powers in our governance system. This as it questioned if the court should be able to set aside the Parliament and the administrations

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<sup>108</sup> Ragna Aarli, "Grunnloven: Historisk kommentarutgave 1814-2020," (Universitetsforlaget, 2021).

<sup>109</sup> Unknown, "Norge og menneskerettighetene," updated January 12th, 2023, accessed May 2nd, 2023, <https://www.fn.no/tema/menneskerettigheter/norge-og-menneskerettighetene>.

<sup>110</sup> Jenny Sandvig and Hannah Cecilie Bränden, "Styrk klimaloven," DN.no, 2023, accessed May 10th, 2023, <https://www.nhri.no/2023/styrk-klimaloven/>.

<sup>111</sup> Klima- og miljødepartementet, "Innstilling fra energi- og miljøkomiteen om Lov om klimamål (klimaloven)," (2017). <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Stortinget/2016-2017/inns-201617-3291/?all=true>.

<sup>112</sup> Sandvig and Bränden, "Styrk klimaloven."

discretion and decision on the basis of article 112 being violated or not. Article 112 do not only discuss the citizens' rights, but also encompasses the governments obligations.

The environmental organizations appealed the case to the Supreme Court, where it was heard in November 2020 after the district court and the court of appeal considered that the lawsuit could not proceed as the limit for violations that must be interpreted in article 112 had not been exceeded. The assessment of whether the provision includes responsibility for GHG-emissions outside its own territory, must in line with the legal method the Supreme Court sets out when interpreting the Constitution, be made on the basis of the provision's wording, drafting, case law and real considerations.

A comparison between article 110b and 112 shows us that not much change was made. Other than changing the article number, the decisions first and second paragraph remained unchanged. The largest change was made in article 112 third paragraph because of its reformulation to strengthen the decision. Paragraph three in article 110b stated that "*The State authorities shall issue further provisions for the implementation of these principles*". The new environmental decision, article 112 (3) states: "*The Authorities of the state shall take measures for the implementation of these principles*". By using the word "shall", the authorities is given a duty to take action and take the necessary precautions to achieve article 112 (1) and (2) through laws and regulations. Additionally, there was important and a need for a decision of rights with a clear formulation that in a greater extent signaled an obligation for the state authorities. The change in third paragraph provides evidence that the Parliament wanted to clarify the independent legal significance of the decision. However, how far the obligations according to the first and second paragraphs reaches, still depends on an interpretation.<sup>113</sup>

The right to a healthy environment has gained constitutional recognition and protection in more than 100 states, which is the strongest form of legal protection available.<sup>114</sup> In Norway, the amendment of the Constitution in 2014, moved the environmental provision into existing framework of human rights. This affects environmental protection cases to be more actionable,

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<sup>113</sup> Justis- og beredskapsdepartementet, "§ 112 - Vedrørende Prop. 35 L (2014-2015) Endringer i lov om motorferdsel i utmark og vassdrag mv.," Regjeringen.no, updated May 12th, 2015, accessed April 18th, 2023, <https://www.regjeringen.no/no/dokumenter/vedrorende-prop.-35-l-2014-2015-endringer-i-lov-om-motorferdsel-i-utmark-og-vassdrag-mv/id2411735/>.

<sup>114</sup> Unknown, "What are your environmental rights?," UN Environment programme, n.d., accessed May 9th, 2023, <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what-0>.

even though it does not provide absolute protection. Ultimately, most of the conflicts come from the procedural element of the law. *Klimasøksmålet* is a good indication that the Norwegian State does not manage the conflicts very well and the relevant article 112 obliges the authorities of the state to take measures to implement the principles set out in the provision. Several legislative and other measures have been undertaken for this purpose.<sup>115</sup> Not every encroachment is a conflict with article 112 in the Constitution, but the question is "when" does the environment insults constitute a violation? This was one of the main issues discussed in the case where the court was uncertain about the legal content and meaning of the environmental decision in the constitution, and more generally what role it has in climate issues.

In the treatment of the legal sources in the case, critics stated that it was placed too much emphasis on the motives in the original article 110b from 1992. The legal development within national and especially international environmental law that has occurred in the last decades, was therefore taken into account to a small extent. Even though article 112 is relatively new, its content and application area is discussed. Critics think that "it is the parliament and not the supreme court that shall have a saying in the Norwegian oil politics". On the other side, others saw the seriousness of the climate crisis and the democracy's weak ability to meet it, believing that the courts has an important role in supplementing the parliaments decisions.<sup>116</sup>

The human rights decisions in the Constitution must be seen in connection with international human rights. This follows from the human rights chapter in the Constitution and article 92 which states that "*The authorities of the State shall respect and secure human rights*". The connection between international agreements and the Constitutions article 112 third paragraph strengthens the importance of the international agreements as points of interpretation for the provision.

After the judgment in the Supreme Court in 2020 where the State won, the organizations and the individual applicants is taking *Klimasøksmålet* (the "People vs. Arctic Oil" case) to the European Court of Human Rights and claims that Norwegian oil policy is in breach with the

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<sup>115</sup> OHCHR, "Input from Norway to the thematic report focusing on good practices in the implementation of the right to a safe, clean, healthy and sustainable environment from the special rapporteur on human rights and the environment," n.d., accessed May 9th, 2023, <https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/SREnvironment/SafeClean/State/Norway.pdf>.

<sup>116</sup> Bugge, *Lærebok i Miljøforvaltningsrett*. p. 168.

European Human Rights Convention.<sup>117</sup> The main reason for doing this is because the judgment was not clearly agreed as four of the fifteen judges voted that the oil expansion was invalid. This due to Norway not undertaking sufficient assessment of climate impacts when issuing licenses for oil and gas extraction. Article 2 and 8 in the ECHR is relevant to the case to protect citizens against harmful environmental effects.<sup>118</sup> This is consistent with previous case laws in the European Court of Human Rights within environmental law and these decisions is clearly connected to the Norwegian Constitution article 93 and 102. ECHR article 2 protects you the right to life and shall be protected by law.<sup>119</sup> So the Government should take appropriate measures to safeguard life by making laws to protect you and, in some circumstances, by taking steps to protect you if your life is at risk.<sup>120</sup> Article 8 protects your right to respect for private life, family life, home, and your correspondence without interference from Government. According to its wording, like article 2, this decision does not directly protect the right to the environment either. Still, the European Court of Human Rights has interpreted the right to include environmental pollution.

If the European Court of Human Rights issues the Supreme Court judgment, it will create significant pressure for Norway to change its oil and gas policy, which will continue to give criticism against their exploration.<sup>121</sup> This will have an important influence for environmental disputes and regulations of these in the future. In this case, it was not only disagreements about the development of this particular oil field the environmental organisations wanted to illuminate. They also wanted to express their concerns and take a stand against the Norwegian state and the expansion of an industry which already exceeds the world's carbon budget.

The supreme court have received a lot of criticism of their way handling the case. One of the reasons of this is based on the idea that the legal field and framework for environmental law is quite new and the case laws is few. Generally, too much power in the courts can be risky, and the case shows that words on paper seems less worth than action. Norway's previous prime minister Erna Solberg stated in 2021 that there is no need for Norway to update its climate

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<sup>117</sup> Greenpeace Norge, "People vs. Arctic Oil – Summary of the case," (2021).

<https://www.greenpeace.org/norway/nyheter/klimaendringer/people-vs-arctic-oil-summary-of-the-case/>.

<sup>118</sup> Bugge, *Lærebok i Miljøforvaltningsrett*. p. 118 and 145.

<sup>119</sup> European Convention on Human Rights. 1953. Article 2.

[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>120</sup> Equality and Human Rights Commission, "Article 2: Right to life," updated June 3rd, 2021, accessed April 18th, 2023, <https://www.equalityhumanrights.com/en/human-rights-act/article-2-right-life>.

<sup>121</sup> Greenpeace Norge, "People vs. Arctic Oil – Summary of the case."

pledges and changing the oil policy does not help.<sup>122</sup> This creates an uncertain attitude to the parliament and explains why Norway is one of the countries with the highest proportion of climate deniers in the world. The author of the book “Det Store Klimasøksmålet” states that:

*«We have to increase the level of knowledge about the climate crisis, and we have to talk more about the importance of negative power, because without boundaries there is nothing that will stop us from destroying the nature peace by peace».*<sup>123</sup>

Nationally, the need of a clearer climate legislation is definitely needed as well as a court system that uses this right to perform the task they are set for, to judge in the last instance. Norway's inability to act can be a violation of the right to life and without a critically and a critical view of the climate and the way in which it develops, climate cases and dissatisfaction within the population will increase drastically in the future.

## **Chapter 5: Future trends in climate legislation and conclusion**

### **5.1 Introduction**

The Supreme court's decision in Klimasøksmålet illustrates the need of a further legal clarification of the applicable law in this area and has subsequently been criticized for being reticent. Article 112 of the Norwegian Constitution, which the plaintiffs addressed in the lawsuit, is the only human rights provision in the Constitution that expressly mentions the consideration of future generations.<sup>124</sup> This as it states that nature's resources must be managed so that the right to the environment is safeguarded for posterity as well.<sup>125</sup> However, this did not emerge when the Supreme Court considered this, although other courts have approached this directly. As human rights cases connected to climate change increases within several jurisdictions, we will continue to see legal action addressing issues of climate change or so

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<sup>122</sup> Nordby, *Det store klimasøksmålet: Saken som tok livet av Grunnlovens miljøbestemmelse*. p. 129.

<sup>123</sup> Nordby, *Det store klimasøksmålet: Saken som tok livet av Grunnlovens miljøbestemmelse*. p. 130.

<sup>124</sup> Norges Institusjon for menneskerettigheter, *Menneskerettighetene i Norge 2021: NIMs årsmelding, Dokument 6 (2021-2022)* (March 29th 2022), [https://www.nhri.no/wp-content/uploads/2022/02/NIM\\_Årsmelding\\_2021\\_web.pdf](https://www.nhri.no/wp-content/uploads/2022/02/NIM_Årsmelding_2021_web.pdf). p. 8.

<sup>125</sup> Norges Institusjon for menneskerettigheter, *Menneskerettighetene i Norge 2021: NIMs årsmelding, Dokument 6 (2021-2022)*. p. 8.

called “climate litigation”. This is used against governments and businesses as a tool to accelerate the energy transition.<sup>126</sup> It looks like climate change litigation is set to expand further into new areas of liability, and we will more likely see more cases in areas like climate change adaptation, environmental, social and governance (ESG), and the transition to a low carbon economy.<sup>127</sup>

For the future trends in climate legislation, case laws has an important role and constitutes one of the most central legal source factors within Norwegian law. In particular, this applies to the Supreme Court's decisions as they are considered precedents and are given weight in the application of the law.<sup>128</sup> The laws, regulations and international agreements attack environmental problems from different angles and with different objectives.<sup>129</sup>

The “European Climate Law” deals with Europe’s economy and aims to ensure that all EU policies contribute to this goal and that all sectors of the economy and society play their part.<sup>130</sup> To reach the goal, the 2030 target needs to be more ambitious and if needed, further action has to be done. As proposals from the Parliament, new EU rules etc. is to be implemented in practice, there will also be changes to the current legal rules and new rules will be introduced within environmental law.<sup>131</sup>

In Norway, the number of wind turbines has increased severely in the past decade in the shift from fossil fuel to more renewable energy sources. Many of these onshore projects is built in the northern part of the country where the largest numbers of Sámi people live.<sup>132</sup> Similarities can be drawn between the already mentioned Fosen-case and the Øyfjellet-case, which

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<sup>126</sup> Holly Stebbing and Charlie Bevis, "Is climate litigation driving the energy transition?," (2023). <https://www.nortonrosefulbright.com/en/knowledge/publications/f3cce7dd/is-climate-litigation-driving-the-energy-transition>.

<sup>127</sup> Lisa Williams and Steve Bauer, "Thinking ahead: How climate change litigation will shape future liabilities," (2022). <https://www.zurich.com/en/products-and-services/protect-your-business/commercial-insurance-risk-insights/thinking-ahead-how-climate-change-litigation-will-shape-future-liabilities>.

<sup>128</sup> Eirik Teigstad, "Rettspraksis som retningslinje i foreldretvister," n.d., accessed April 21st, 2023, <https://www.foreldretvist.no/rettspraksis-retningslinje-foreldretvister/>.

<sup>129</sup> Anne Bahr Christophersen, *På vei mot en grønn rett?*, 1st ed. (Ad Notam Gyldendal, 1997). p. 44.

<sup>130</sup> European Commission, "European Climate Law." And Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (“European Climate Law”). <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1119>.

<sup>131</sup> Bugge, "Hva er klimarett? Introduksjon til et nytt rettsfelt." p. 51.

<sup>132</sup> Weronika Strzyżyńska, "Sámi reindeer herders file lawsuit against Norway windfarm," (January 18th 2021). <https://www.theguardian.com/world/2021/jan/18/sami-reindeer-herders-file-lawsuit-against-oyfjellet-norway-windfarm-project>.

originally was supposed to appear in the Norwegian district court this May, but has been postponed until 2024. The proposed Øyfjellet windfarm violates the reindeer herding act, by disturbing migration routes.<sup>133</sup> The Norwegian State is not a part of the case, but will but will participate to defend its licensing decision.<sup>134</sup> Just as in the Fosen case, there may be a continuing violation of human rights until mitigation measures are introduced or these wind turbines are removed.<sup>135</sup> In both cases, permission for developing the wind farms has been granted before a final decision has been made up in the system of justice. Even though the Fosen-case has strengthened the legal basis for the reindeer herders, one fears that the outcome of the trial in the Øyfjellet-case may be similar. If this is the outcome, the criticism against the state of Norway and the courts way of handling climate change cases will increase. It will prove once again that the climate politics and legislation needs to be improved.

## 5.2 Challenges to the conflicts and the law

Before and during the climate negotiations, analyzes are often being made about where the global temperature is headed. This helps with developing changes in the law and to get an overview of which measures must be initiated so appropriate actions can be taken. Some of the main environmental regulations in Norway is the Climate Change Act and the Constitution, as well as these being supplemented by international commitments such as the Paris Agreement and UNFCCC. Some of the national regulations applies across all industries, while some of them are industry specific. As a member of the European Economic Area and not EU, Norway has still transposed EU Directives into national law and its environmental policies are now fully aligned with the requirements of EU legislation.<sup>136</sup> In some areas, Norwegian requirements are even more stringent than required by EU policies.<sup>137</sup>

Norway is also responding to the future trends in law by creating climate actions plan for a period of time. For now the Climate Action Plan for 2021-2030 reports on work done in this

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<sup>133</sup> Strzyżyńska, "Sámi reindeer herders file lawsuit against Norway windfarm."

<sup>134</sup> Olje- og energidepartementet, "Staten vil forsvare sitt konsesjonsvedtak i ekspropriasjonssaken om Øyfjellet vindkraftverk," Regjeringen.no, updated April 27th, 2022, accessed May 8th, 2023, <https://www.regjeringen.no/no/aktuelt/staten-vil-forsvare-sitt-konsesjonsvedtak-i-ekspropriasjonssaken-om-oyfjellet-vindkraftverk/id2910381/>.

<sup>135</sup> Sunniva Grimstad Hestenes et al., "Kjempar mot vindkraftanlegg: – I verste tilfelle endar det som i Fosen-saka," (March 6th 2023). <https://www.nrk.no/nordland/skal-i-rettssak-mot-vindkraftanlegg-i-nord-noreg--meiner-saka-liknar-pa-fosen-1.16323509>.

<sup>136</sup> OECD, "Policies for the Future of Farming and Food in Norway," (2021), <https://doi.org/https://doi.org/10.1787/f061e50b-en>. p. 110.

<sup>137</sup> OECD, "Policies for the Future of Farming and Food in Norway." p. 110.



field and have proposals for future policy this decade to reach the first goal of a 55% reduction in emissions by 2030.<sup>138</sup> As mentioned, with an ongoing climate crisis, more and more conflicts arises. This raises a challenge to jurisdictions and their environmental legislations. In addition to the previously mentioned climate lawsuits, there are many judgments from other jurisdictions which has left a mark and can help solving challenges in the future. A relevant judgement based on the ECHR are *The State of the Netherlands v. Urgenda Foundation* (Urgenda) which led to a historic victory for climate justice.<sup>139</sup> The case, which started in the district court in 2015, is based on the opinion that the Dutch state have not been doing enough to reduce the GHG-emissions. It was the first in the world in which citizens established that their government has a legal duty to prevent dangerous climate change.<sup>140</sup> The Dutch Supreme Court determined that the country's climate targets were inadequate in light of the scientific consensus on the potential harm caused by climate change. This decision, as seen in HR-2020-2472-P, emphasized the central role ECHR article 2 and 8 in the case.

There will be future conflicts and challenges, and the outcomes in earlier cases within environmental law will be helpful in solving similar challenges. Based on this, the developing of the legal foundation is extremely important. The process of the Fosen case have received much attention and criticism, and after the judgment was rendered, the government stated that "International law is a state responsibility".<sup>141</sup> This statement proves that international cooperation is crucial when solving climate and environmental challenges.<sup>142</sup> A development of renewable energy sources onshore is a risk to indigenous people and their areas. This issue is represented in the Fosen-case, and a similar case from another jurisdiction raising the same question is the Lake Turkana Wind Project in Kenya. Both cases deal with the construction of large wind parks in relatively remote areas, which traditionally are used by local nomadic tribes or indigenous peoples who migrate with their animals.<sup>143</sup> It is noteworthy that the violation of the Sámi's cultural rights in the Fosen-case had to be established by judgment in the court

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<sup>138</sup> Meld. St. 13 (2020 - 2021)

<sup>139</sup> ECLI:NL:HR:2019:2007 – State of the Netherlands v. Urgenda Foundation

<sup>140</sup> Urgenda, "Landmark Decision by Dutch Supreme Court ", n.d., accessed April 24th, 2023, <https://www.urgenda.nl/en/themas/climate-case/>.

<sup>141</sup> Carola Lingaas, "Wind Farms in Indigenous Areas: The Fosen (Norway) and the Lake Turkana Wind Project (Kenya) Cases," (December 15th 2021). <https://opiniojuris.org/2021/12/15/wind-farms-in-indigenous-areas-the-fosen-norway-and-the-lake-turkana-wind-project-kenya-cases/>.

<sup>142</sup> Klima- og miljødepartementet, "Internasjonalt klima- og miljøsamarbeid," Regjeringen.no, updated October 5th 2021, accessed May 8th, 2023, <https://www.regjeringen.no/no/tema/klima-og-miljo/innsiktsartikler-klima-miljo/internasjonalt-klima-og-miljoarbeid/id2339820/>.

<sup>143</sup> Lingaas, "Wind Farms in Indigenous Areas: The Fosen (Norway) and the Lake Turkana Wind Project (Kenya) Cases."

system, as the Constitution in article 108 imposes an obligation on the state authorities to “create conditions enabling the Sámi people to preserve and develop its language, culture and way of life”.

Such historical and groundbreaking cases raised against states is very helpful for the climate negotiations in the future as it puts more pressure on the policymakers and regulations. Still, it seems like the progress is not as rapid as expected based on how the world is tackling the climate crisis.<sup>144</sup> International law and institutions serve as the principal framework for international cooperation and collaboration between members of the international community in their efforts to protect the local, regional, and global environment.<sup>145</sup> Not only is this extremely relevant to public actors, but also the private ones. Private actors have increased their focus on climate change and sustainability the last years. This can be explained from the CBDR principle at national level where all actors in the community are responsible for the environment and the future. Among other things, the larger companies focus on helping other businesses to adapt to the framework climate change has given us, which involves strategy, reporting and risk management. Businesses are increasingly being held to account for their supply chains, and future legislation could extend responsibility to include environmental and human rights.<sup>146</sup>

Norway is one of the largest oil and gas-producer in the world, and therefore they have a great responsibility in the energy transition. The oil and gas industry is facing demands to clarify the implications of energy transitions for their operations and business models, and to explain the contributions that they can make to reducing GHG-emissions and to achieving the goals of the Paris Agreement.<sup>147</sup> Sustainability is one of the main focuses in the larger oil-companies, which is very much needed and according to government regulations. Still, in relation to global environmental challenges such as the ongoing climate crisis, the energy sector needs an immediate transition from fossil energy sources to energy sources with no or low emissions. In line with the global harm of climate change and as the potential for future rights conflicts increases to reach the ambitious climate goals, IPCC states that international collaboration is

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<sup>144</sup> Jayashree Nandi, "1.5°C warming in next 10-20 years, world fails to meet key climate goal: IPCC," *Hindustan Times*, August 9th 2021, <https://www.hindustantimes.com/environment/15c-warming-in-next-10-20-years-world-fails-to-meet-key-climate-goal-ipcc-101628497574745.html>.

<sup>145</sup> Philippe Sands et al., *Principles of International Environmental Law*, 4th ed. (Cambridge University Press, 2018). p. 11.

<sup>146</sup> Williams and Bauer, "Thinking ahead: How climate change litigation will shape future liabilities."

<sup>147</sup> IEA, *The Oil and Gas Industry in Energy Transitions: Insights from IEA analysis* (Januarys 2020), [https://iea.blob.core.windows.net/assets/4315f4ed-5cb2-4264-b0ee-2054fd34c118/The\\_Oil\\_and\\_Gas\\_Industry\\_in\\_Energy\\_Transitions.pdf](https://iea.blob.core.windows.net/assets/4315f4ed-5cb2-4264-b0ee-2054fd34c118/The_Oil_and_Gas_Industry_in_Energy_Transitions.pdf). p. 3.

crucial.<sup>148</sup> If the extraction of petroleum on the Norwegian continental shelf is continuing, today's welfare considerations will have to be weighed against the future generations right to a healthy environment in accordance with the European Convention on Human Rights.

### 5.3 Conclusion

António Guterres, the secretary general of the United Nations stated in 2021 that the climate crisis is a “code red for humanity” and that urgent action is needed before it's too late.<sup>149</sup> Due to growing environmental problems and the earth's resources being limited, environmental awareness will increase. Nature is simply not unaffected by human activity, and the rapid development of technology in the 20<sup>th</sup> century may have affected this.<sup>150</sup> The fact that climate change is a common, global problem shows the importance of studying legal developments in the climate area from an international perspective. The global trend of climate lawsuits in recent years has clearly been showing how arguments and attitudes is spreading across borders and influencing the development of national law. As proposals from the Parliament, new EU rules is to be implemented in practice. There will also be changes to the current legal rules as well as new rules will be introduced within environmental law. With a deeper understanding of climate change and its importance, a recent and rapid increase in climate-related laws is caused.

The United Nations Framework Convention on Climate Change (UNFCCC) sets out the basic legal framework and principle for international climate change cooperation with the aim of stabilizing emissions of GHG-gases and to combat dangerous human interference with the climate system. Annually at COP-meetings, the member states of the UNFCCC meets to discuss the current climate situation by negotiating and debating, as well as to assess progress to limit climate change. In order to control the ongoing global warming, the Paris Agreement, which is an international legally binding treaty, was established in 2014. This important agreement is a global cooperation based on the Common But Differentiated Responsibility principle that brings all nations together to combat climate change and adapt to its effects. The main goal in the agreement article 2 (1) a) requires all the parties to determine, plan, and regularly report on

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<sup>148</sup> Anthony Patt et al., *Climate Change 2022: Mitigation of Climate Change. Working Group III contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (IPCC, 2022), [https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_FullReport.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf). p. 1467.

<sup>149</sup> Unknown, "IPCC report: 'Code red' for human driven global heating, warns UN chief," (August 9th 2021). <https://news.un.org/en/story/2021/08/1097362>.

<sup>150</sup> Christophersen, *På vei mot en grønn rett?*. p. 40.

the nationally determined contribution that it undertakes to mitigate climate change.<sup>151</sup> Parties also submit aggregate progress on mitigation, adaptation, and means of implementation, which are reviewed every five years.<sup>152</sup>

International, regional, and national courts worldwide are increasingly accepting a link between the right to life and climate change through their use of European Convention on Human Rights. This is shown in several case laws where especially ECHR article 2 and 8 is used as legal basis. In addition to laws and regulations, the reports from IPCC offer the best available science on climate change.<sup>153</sup> The latest and 6<sup>th</sup> IPCC Assessment report found that we are now at a crossroad where there is a very little remaining chance of limiting warming to the crucial threshold of 1.5°C, barring dramatic emissions reductions. However, the evidence of climate action is positive. Even though it's a long way left, the progresses made wouldn't been there without the helpful creation and development of legislation and policymaking the latest decades.

Gap in the legislations is being more and more visible, especially through the Fosen-case where the decision is not clear enough and the plaintiffs is still waiting for some action to be made after the trial in 2021. In addition to this case, HR-2020-2472-P is also a good example of the court's lack of knowledge in climate change and energy transition where they have received a lot of criticism for their proceedings. With the climate crisis being a global crisis and collaboration, it is within legal trends essential to look at relevant cases from other jurisdictions to develop the environmental laws and regulations. Both national and international case laws is used in treatment of new legal disputes as case laws is one of the most important sources of law in Norwegian jurisdiction. HR-2020-2472-P is a historical case for Norway and the future of the energy transition. This as it raises complicated questions about the boundaries between law and politics and about the distribution of power between the judicial and legislative powers in the Norwegian constitutional system.<sup>154</sup>

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<sup>151</sup> Unknown, "UN Framework Convention on Climate Change – UNFCCC," IISD Earth Negotiations Bulletin, n.d., accessed May 10th 2023, <https://enb.iisd.org/negotiations/un-framework-convention-climate-change-unfccc>.

<sup>152</sup> Unknown, "UN Framework Convention on Climate Change – UNFCCC."

<sup>153</sup> HR-2020-2472-P. Premiss 50.

<sup>154</sup> Ingvild Ulrikke Jakobsen, "Klimasøksmålet," updated December 30th, 2022, accessed May 10th, 2023, <https://snl.no/Klimasøksmålet>.

A decline in the world's GHG-emissions is closely connected to the energy transition. To reach the goal of a 55% emission cut by 2030, and becoming a net zero community by 2050, the way of consumption and producing energy is a key to a solution. To achieve this, we have to switch from fossil fuels to more renewable energy. Especially is this very important to focus on for Norway as an oil state. Based on statistics in recent years, it is very unlikely that the goals for 2030 and 2050 will be met without drastic measures and actions in the next few years. Unfortunately, the focus on emission targets has been too narrow and the regulations have not been as effective as wanted and expected. To match the climate laws with climate reality, more must be done, and stronger policies will be needed as we now have more scientific evidence to be able to combat and manage the climate threat than before. This to try to save the world for future generations.

## Chapter 6: Bibliography

### 6.1 Norwegian legal Sources

#### 6.1.1 Laws

- 1814 Kongeriket Norges Grunnlov 17. mai 1814
- 1992 Lov 27. November nr. 109 om gjennomføring i norsk rett av hoveddelen i avtale om Det europeiske økonomiske samarbeidsområde (EØS) [EØS-loven]
- 1999 Lov 21. juni 1999 nr. 30 om styrking av menneskerettighetenes stilling i norsk rett [Menneskerettsloven]
- 2017 Lov 16. Juni 2017 nr. 60 om klimamål [Klimaloven]

#### 6.1.2 Parliament documents

- Meld. St. 13 (2014–2015) Ny utslippsforpliktelse for 2030 – en felles løsning med EU
- Meld. St. 41 (2016–2017) Klimastrategi for 2030 – norsk omstilling i europeisk samarbeid
- Meld. St. 13 (2020–2021) Klimaplan for 2021-2030
- NOU 2018: 17. *Klimarisiko og norsk økonomi*. Oslo: Finansdepartementet.
- Innst. 329 L (2016-2017) Innstilling til Stortinget fra energi- og miljøkomiteen (Prop. 77 L (2016–2017))

### 6.2 International legal sources

- ECHR European Convention on Human Rights – November 4<sup>th</sup>, 1950
- EU's Climate Law European Climate Law – April 30<sup>th</sup>, 2021
- EU's Green Deal The European Green Deal – December 11<sup>th</sup>, 2019
- ICCPR International Covenant on Civil and Political Rights – December 16<sup>th</sup>, 1966
- Kyoto Protocol Kyoto Protocol to the United Nations Framework Convention on Climate Change - December 11<sup>th</sup>, 1997
- Montreal Protocol Montreal Protocol on Substances that Deplete the Ozone Layer (with annex) – September 16<sup>th</sup>, 1987
- Paris Agreement Paris Agreement – December 12<sup>th</sup>, 2015
- TFEU Treaty on the Functioning of the European Union (Consolidated version) - October 26<sup>th</sup>, 2012

UNFCCC

United Nations Framework Convention on Climate Change - May 9<sup>th</sup>,  
1992

### 6.3 Judgments

Anton Foley and others V Sweden (Aurora Case)

ECLI:NL:HR:2019:2007 – State of the Netherlands v. Urgenda Foundation (Urgenda)

HR-2020-2472-P (Klimasøksmålet)

HR-2021-1975-S (Fosen)

Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, Application no. 53600/20

### 6.4 Others

Image on the front side is borrowed from the World Economic Forum:

<https://www.weforum.org/communities/gfc-on-energy-transition>

### 6.5 Literature

Arling, Helen, and Hani Taghavi, "Klimaseniorinnen V. Switzerland – a New Era for Climate Change Protection or Proceeding with the Status Quo?", Updated April 6th, 2023, accessed June 1st, 2023, <https://www.ejiltalk.org/klimaseniorinnen-v-switzerland-a-new-era-for-climate-change-protection-or-proceeding-with-the-status-quo/>.

ASA, Equinor, "Our Plan for Energy Transition and Net Zero by 2050." n.d., accessed February 13th, 2023, <https://www.equinor.com/magazine/our-plan-the-energy-transition>.

Bugge, Hans Christian. "Fns Rammekonvensjon Om Klimaendringer Og Kyotoprotokollen." In *Klimarett: Internasjonal, Europeisk Og Norsk Klimarett Mot 2030*, edited by Hans Christian Bugge: Universitetsforlaget, 2021.

———. "Hva Er Klimarett? Introduksjon Til Et Nytt Rettsfelt." In *Klimarett: Internasjonal, Europeisk Og Norsk Klimarett Mot 2030*, edited by Hans Christian Bugge: Universitetsforlaget, 2021.

———. *Lærebok I Miljøforvaltningsrett*. 6th ed.: Universitetsforlaget, 2022.

———. *Lærebok I Miljøforvaltningsrett*. 5th ed.: Universitetsforlaget, 2015.

Christophersen, Anne Bahr. *På Vei Mot En Grønn Rett?* 1st ed.: Ad Notam Gyldendal, 1997.

Climate Change Connection, "Unfccc." n.d., accessed February 20th, 2023, <https://climatechangeconnection.org/solutions/international-solutions/unfccc/>.

Colby, Heather, Ana Stella Ebbesmeyer, Lisa Marie Heim, and Marthe Kielland Røssaak. "Judging Climate Change: The Role of the Judiciary in the Fight against Climate Change." *Oslo Law Review* 7, no. 3 (2020): 168-85. <https://juridika.no/tidsskrifter/oslo-law-review/2020/3/artikkel/colby>.

Coralieavecoleshaw, "Research Methods: Doctrinal Methodology." Updated January 18th 2017, accessed May 29th, 2023, <https://uweascllmsupport.wordpress.com/2017/01/18/research-methods-doctrinal-methodology/>.

- DNV, "Energy Transition Norway 2022 – Is Norway on Track?", n.d., accessed March 23rd, 2023, <https://www.dnv.com/Publications/energy-transition-norway-2022-235535>.
- . *Energy Transition Norway 2022: A National Forecast to 2050*. (Norsk Industri, November 22nd 2022). [https://www.norskindustri.no/siteassets/dokumenter/rapporter-og-brosjyrer/energy-transition-norway/2022/energy-transition-norway-2022\\_web.pdf](https://www.norskindustri.no/siteassets/dokumenter/rapporter-og-brosjyrer/energy-transition-norway/2022/energy-transition-norway-2022_web.pdf).
- Drivkraft Norge, "Hvilke Klimaavtaler Har Vi I Norge?", n.d., accessed February 8th, 2023, <https://www.drivkraftnorge.no/klimabevissthet/overordnede-klimamal/>.
- Enel Green Power, "The Energy Transition." n.d., accessed February 9th, 2023, <https://www.enelgreenpower.com/learning-hub/energy-transition>.
- Equality and Human Rights Commission, "Article 2: Right to Life." Updated June 3rd, 2021, accessed April 18th, 2023, <https://www.equalityhumanrights.com/en/human-rights-act/article-2-right-life>.
- Equinor, "Offshore Wind." Unknown, accessed May 25th, 2023, <https://www.equinor.com/energy/offshore-wind>.
- EUR-Lex, "Guidelines on the Application of Article 101(3) Tfeu (Formerly Article 81(3) Tec)." Updated May 29th, 2020, accessed May 2nd, 2023, <https://eur-lex.europa.eu/EN/legal-content/summary/guidelines-on-the-application-of-article-101-3-tfeu-formerly-article-81-3-tec.html>.
- European Commission, "European Climate Law." n.d., accessed May 1st, 2023, [https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law\\_en](https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law_en).
- , "European Climate Law." n.d., accessed April 24th, 2023, [https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law\\_en](https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law_en).
- . "European Green Deal: New Eu-Norway Green Alliance to Deepen Cooperation on Climate, Environment, Energy and Clean Industry." news release, April 24th, 2023, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2391](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2391).
- Fauchald, Ole Kristian. "Forfatning Og Miljøvern – En Analyse Av Grunnloven § 110 B." 120, no. 1-2. (2007): 1-84. <https://doi.org/https://doi.org/10.18261/ISSN1504-3096-2007-01-02-01>.
- Finansdepartementet, "Co2-Avgiften." Regjeringen.no, Updated January 10th, 2020, accessed April 3rd, 2023, <https://www.regjeringen.no/no/tema/okonomi-og-budsjett/skatter-og-avgifter/veibruksavgift-pa-drivstoff/co2-avgiften/id2603484/>.
- Fjordbo, Gullik-André. "Balancing Wind Power Expansion and Indigenous Rights: Lessons from Norway's Fosen Case." (2023). <https://www.northwindresearch.no/news/balancing-wind-power-expansion-and-indigenous-rights-lessons-from-norways-fosen-case/>.
- Fogarty, David. "Climate Change Threatens Human Rights, Opens up Governments, Corporations to Litigation: Un Senior Official." (April 20th 2023). <https://www.straitstimes.com/world/climate-change-threatens-human-rights-opens-up-governments-corporations-to-litigation-un-senior-official>.
- Fortum, "Electri-Fi-Cation – the Biggest Climate Action?", n.d., accessed April 26th, 2023, <https://www.fortum.com/about-us/cleaner-world/electrification-biggest-climate-action>.
- Fry, Ian. *Promotion and Protection of Human Rights in the Context of Climate Change*. (United Nations Office of the High Commissioner for Human Rights, July 26th 2022). <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/438/51/PDF/N2243851.pdf?OpenElement>.
- Global Environment Facility, "Climate Change Mitigation." Unknown, accessed May 25th, 2023, <https://www.thegef.org/what-we-do/topics/climate-change-mitigation>.
- Greenpeace Norge. "People Vs. Arctic Oil – Summary of the Case." (2021). Accessed April 17th. <https://www.greenpeace.org/norway/nyheter/klimaendringer/people-vs-arctic-oil-summary-of-the-case/>.



- Guay, Bruno, "National Redd+ Funding Mechanisms: Lessons Learned and Success Factors." Updated February 28th, 2022, accessed June 5th, 2023, <https://www.un-redd.org/post/national-redd-funding-mechanisms-lessons-learned-and-success-factors>.
- Gueye, Moustapha Kamal, and Tim de Meyer, "Unga Resolution on Human Rights: Un General Assembly Recognizes Human Right to a Clean, Healthy, and Sustainable Environment." Updated September 29th, 2022, accessed June 5th, 2023, [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_857164/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_857164/lang--en/index.htm).
- Hausfather, Zeke, "Analysis: Why Scientists Think 100% of Global Warming Is Due to Humans." Updated December 13th, 2017, accessed March 27th, 2023, <https://www.carbonbrief.org/analysis-why-scientists-think-100-of-global-warming-is-due-to-humans/>.
- Hestenes, Sunniva Grimstad, Monica White Martinsen, Lars-Petter Kalkenberg, and Ingrid G. Årdal. "Kjempar Mot Vindkraftanlegg: – I Verste Tilfelle Endar Det Som I Fosen-Saka." (March 6th 2023). <https://www.nrk.no/nordland/skal-i-rettssak-mot-vindkraftanlegg-i-nord-noreg--meiner-saka-liknar-pa-fosen-1.16323509>.
- Hey, Ellen, and Elaine Mak. "Introduction: The Possibilities of Comparative Law Methods for Research on the Rule of Law in a Global Context." In *Erasmus Law Review*, 2009. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1498438](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1498438).
- Holmes, Simon. *Climate Change and Competition Law: Hearing on Sustainability and Competition*. Organisation for Economic Co-operation and Development (December 1st 2020). [https://one.oecd.org/document/DAF/COMP/WD\(2020\)94/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)94/en/pdf).
- IEA. *The Oil and Gas Industry in Energy Transitions: Insights from Iea Analysis*. (Januarys 2020). [https://iea.blob.core.windows.net/assets/4315f4ed-5cb2-4264-b0ee-2054fd34c118/The\\_Oil\\_and\\_Gas\\_Industry\\_in\\_Energy\\_Transitions.pdf](https://iea.blob.core.windows.net/assets/4315f4ed-5cb2-4264-b0ee-2054fd34c118/The_Oil_and_Gas_Industry_in_Energy_Transitions.pdf).
- International Energy Agency. *Norway 2022 Energy Policy Review*. (2022). <https://iea.blob.core.windows.net/assets/de28c6a6-8240-41d9-9082-a5dd65d9f3eb/NORWAY2022.pdf>.
- Jakobsen, Ingvild Ulrikke, "Klimasøksmålet." Updated December 30th, 2022, accessed May 10th, 2023, <https://snl.no/Klimasøksmålet>.
- Justis- og beredskapsdepartementet, "§ 112 - Vedrørende Prop. 35 L (2014-2015) Endringer I Lov Om Motorferdsel I Utmark Og Vassdrag Mv." Regjeringen.no, Updated May 12th, 2015, accessed April 18th, 2023, <https://www.regjeringen.no/no/dokumenter/vedrorende-prop.-35-l-2014-2015-endringer-i-lov-om-motorferdsel-i-utmark-og-vassdrag-mv/id2411735/>.
- Klima- og miljødepartementet. "Innstilling Fra Energi- Og Miljøkomiteen Om Lov Om Klimamål (Klimaloven)." (2017): 18. <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Stortinget/2016-2017/inns-201617-3291/?all=true>.
- , "Internasjonalt Klima- Og Miljøsamarbeid." Regjeringen.no, Updated October 5th 2021, accessed May 8th, 2023, <https://www.regjeringen.no/no/tema/klima-og-miljo/innsiktsartikler-klima-miljo/internasjonalt-klima--og-miljoarbeid/id2339820/>.
- Koç, Prof. Dr. Hasan, "Literature Review: Climate Change & Global Warming." Updated n.d., 2021, 2023, <https://www.berlin-international.de/en/projects/business/systematic-literature-review-climate-change-and-global-warming-domain-businessapplied-platform-business/>.
- Lingaas, Carola. "Wind Farms in Indigenous Areas: The Fosen (Norway) and the Lake Turkana Wind Project (Kenya) Cases." (December 15th 2021). <https://opiniojuris.org/2021/12/15/wind-farms-in-indigenous-areas-the-fosen-norway-and-the-lake-turkana-wind-project-kenya-cases/>.

- Mayer, Benoit. "Human Rights in the Paris Agreement." (2016): 109-17.  
<https://www.benoitmayer.com/files/Human%20rights%20in%20the%20Paris%20Agreement.pdf>.
- Miljødirektoratet, "Hovedfunn I Synteserapporten I Sjette Hovedrapport." 2023, accessed March 24th, 2023, <https://www.miljodirektoratet.no/ansvarsomrader/klima/fns-klimapanel-ipcc/dette-sier-fns-klimapanel/sjette-hovedrapport/hovedfunn-syr-sjette-hovedrapport/>.
- Miljøstatus, "Ekstremvær Globalt." n.d., accessed April 25th, 2023, <https://miljostatus.miljodirektoratet.no/Ekstremvar/>.
- Nandi, Jayashree. "1.5°C Warming in Next 10-20 Years, World Fails to Meet Key Climate Goal: Ipc." *Hindustan Times*, August 9th 2021.  
<https://www.hindustantimes.com/environment/15c-warming-in-next-10-20-years-world-fails-to-meet-key-climate-goal-ipcc-101628497574745.html>.
- National Research Council. "Human Dimensions of Global Environmental Change " In *Global Environmental Change: Research Pathways for the Next Decade*The National Academies Press, 1999<https://nap.nationalacademies.org/read/5992/chapter/8>.
- Neel, Apurva. "Legal Research: Doctrinal and Non-Doctrinal." (March 31st 2023).  
<https://www.legalbites.in/research-methodology/legal-research-doctrinal-and-non-doctrinal-896702>.
- NITO, "Energi, Klima Og Miljø." n.d., accessed March 31st, 2023,  
[https://www.nito.no/politikk/politikk/energi\\_og\\_klima/](https://www.nito.no/politikk/politikk/energi_og_klima/).
- Nordby, Marius Gulbranson. *Det Store Klimasøksmålet: Saken Som Tok Livet Av Grunnlovens Miljøbestemmelse*. Cappelen Damm Akademisk, 2021.
- Norges Bank Investment Management, "Renewable Energy Infrastructure Management." Updated March 31st, 2023, accessed April 29th, 2023, <https://www.nbim.no/en/the-fund/how-we-invest/infrastructure-management/>.
- Norges institusjon for menneskerettigheter, "Hva Betyr Menneskerettslig Reparasjonsplikt?", Updated March 2nd 2023, 2021, <https://www.nhri.no/2021/menneskerettslig-reparasjonsplikt/>.
- . *Menneskerettighetene I Norge 2021: Nims Årsmelding, Dokument 6 (2021-2022)* (March 29th 2022). [https://www.nhri.no/wp-content/uploads/2022/02/NIM\\_Årsmelding\\_2021\\_web.pdf](https://www.nhri.no/wp-content/uploads/2022/02/NIM_Årsmelding_2021_web.pdf).
- Norwegian National Human Rights Institution. "About the Wind Farms on Fosen and the Supreme Court Judgment." (2023). Accessed March 31st 2023.  
<https://www.nhri.no/en/2023/about-the-wind-farms-on-fosen-and-the-supreme-court-judgment/>.
- OECD. "Policies for the Future of Farming and Food in Norway." (2021).  
<https://doi.org/https://doi.org/10.1787/f061e50b-en>.
- OHCHR, "Input from Norway to the Thematic Report Focusing on Good Practices in the Implementation of the Right to a Safe, Clean, Healthy and Sustainable Environment from the Special Rapporteur on Human Rights and the Environment." n.d., accessed May 9th, 2023,  
<https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/SREnvironment/SafeClean/State/Norway.pdf>.
- Olje- og energidepartementet, "Staten Vil Forsvare Sitt Konsesjonsvedtak I Ekspropriasjonssaken Om Øyfjellet Vindkraftverk." Regjeringen.no, Updated April 27th, 2022, accessed May 8th, 2023, <https://www.regjeringen.no/no/aktuelt/staten-vil-forsvare-sitt-konsesjonsvedtak-i-ekspropriasjonssaken-om-oyfjellet-vindkraftverk/id2910381/>.

- Patt, Anthony, Lavanya Rajamani, Preety Bhandari, Antonina Ivanova Boncheva, Alejandro Caparrós, Kamal Djemouai, Izumi Kubota, *et al.* *Climate Change 2022: Mitigation of Climate Change. Working Group III Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change.* (IPCC, 2022).  
[https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_FullReport.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf).
- Petro, "Which Countries Are Leading the Energy Transition?", Updated July 25th, 2022, accessed March 28th, 2023, <https://www.petro-online.com/news/biofuel-industry-news/22/breaking-news/which-countries-are-leading-the-energy-transition/58337>.
- Ringgaard, Anne. "Fornybar Energi Kan Forsyne Hele Verden Før 2050." (2022).  
<https://forskning.no/energi-fornybar-energi-klima/fornybar-energi-kan-forsyne-hele-verden-for-2050/2065804>.
- Sands, Philippe, Jacqueline Peel, Adriana Fabra, and Ruth MacKenzie. *Principles of International Environmental Law*. 4th ed.: Cambridge University Press, 2018.
- Sandvig, Jenny, and Hannah Cecilie Bränden, "Styrk Klimaloven." DN.no, 2023, accessed May 10th, 2023, <https://www.nhri.no/2023/styrk-klimaloven/>.
- Singh, Dr Manish, "Qualitative and Doctrinal Methods in Research." Unknown, accessed May 29th, 2023,  
[http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/law/09\\_research\\_methodology/08\\_qualitative\\_and\\_doctrinal\\_methods\\_in\\_research/et/8155\\_et\\_et.pdf](http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09_research_methodology/08_qualitative_and_doctrinal_methods_in_research/et/8155_et_et.pdf).
- Spectra, "What Is the Energy Transition and Why Does It Matter?", Updated September 23rd, 2021, accessed February 9th, 2023, <https://spectra.mhi.com/what-is-the-energy-transition-and-why-does-it-matter>.
- Stebbing, Holly, and Charlie Bevis. "Is Climate Litigation Driving the Energy Transition?". (2023). <https://www.nortonrosefulbright.com/en/knowledge/publications/f3cce7dd/is-climate-litigation-driving-the-energy-transition>.
- Strzyżyńska, Weronika. "Sámi Reindeer Herders File Lawsuit against Norway Windfarm." (January 18th 2021). <https://www.theguardian.com/world/2021/jan/18/sami-reindeer-herders-file-lawsuit-against-oyfjellet-norway-windfarm-project>.
- Saab, Anne, "The Super Wicked Problem of Climate Change Action." Updated September 2nd, 2019, accessed March 27th, 2023,  
<https://www.graduateinstitute.ch/communications/news/super-wicked-problem-climate-change-action>.
- Teigstad, Eirik, "Rettspraksis Som Retningslinje I Foreldretvister." n.d., accessed April 21st, 2023, <https://www.foreldretvist.no/rettspraksis-retningslinje-foreldretvister/>.
- The European Commission. "The European Green Deal Sets out How to Make Europe the First Climate-Neutral Continent by 2050, Boosting the Economy, Improving People's Health and Quality of Life, Caring for Nature, and Leaving No One Behind." news release, December 11th 2019,  
[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6691](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6691).
- The Intergovernmental Panel on Climate Change. *Synthesis Report of the Ipcc Sixth Assessment Report (Ar6)*. (March 19th 2023).  
[https://report.ipcc.ch/ar6syr/pdf/IPCC\\_AR6\\_SYR\\_SPM.pdf](https://report.ipcc.ch/ar6syr/pdf/IPCC_AR6_SYR_SPM.pdf).
- The London School of Economics and Political Science, "Global Trends in Climate Change Litigation: 2022 Snapshot." Updated June 30th, 2022, accessed February 14th, 2023,  
<https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2022/>.
- The Office of the High Commissioner for Human Rights. "Understanding Human Rights and Climate Change." (n.d.).

- <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>.
- UNEP. *Emissions Gap Report 2022: The Closing Window*. (United Nations Environment Programme, October 27th 2022).  
<https://wedocs.unep.org/bitstream/handle/20.500.11822/40874/EGR2022.pdf?sequence=1&isAllowed=y>.
- United Nations Association of Norway, "Fns Klimakonvensjon." Updated September 30th, 2021, accessed February 6th, 2023, <https://www.fn.no/om-fn/avtaler/miljoe-og-klima/fns-klimakonvensjon>.
- , "Kyotoprotokollen." Updated December 22nd, 2020, accessed February 7th, 2023, <https://www.fn.no/om-fn/avtaler/miljoe-og-klima/kyotoprotokollen>.
- United Nations Climate Actions, "The Paris Agreement." n.d., accessed March 27th, 2023, <https://www.un.org/en/climatechange/paris-agreement>.
- United Nations Climate Change, "Climate Finance in the Negotiations." n.d., accessed May 2nd, 2023, <https://unfccc.int/topics/climate-finance/the-big-picture/climate-finance-in-the-negotiations>.
- , "Introduction to Climate Finance." Unknown, accessed May 25th 2023, <https://unfccc.int/topics/introduction-to-climate-finance>.
- , "The Paris Agreement." n.d., accessed February 7th, 2023, <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>.
- United Nations Environment Programme. *Climate Change and Human Rights*. (2015).  
[https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate Change and Human Rights-human-rights-climate-change.pdf?sequence=2&isAllowed=y](https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate%20Change%20and%20Human%20Rights-human-rights-climate-change.pdf?sequence=2&isAllowed=y).
- United Nations Office of the High Commissioner for Human Rights, "About Human Rights and the Environment: Special Rapporteur on Human Rights and the Environment." Unknown, accessed May 31st, 2023, <https://www.ohchr.org/en/special-procedures/sr-environment/about-human-rights-and-environment>.
- Unknown, "Anton Foley and Others V Sweden (Aurora Case)." 2022, accessed May 31st, 2023, <http://climatecasechart.com/non-us-case/anton-foley-and-others-v-sweden-aurora-case/>.
- , "Assessing the Costs and Benefits of Climate Change Adaptation." European Environment Agency, Updated April 25th, 2023, accessed May 1st, 2023, <https://www.eea.europa.eu/publications/assessing-the-costs-and-benefits-of>.
- , "Enterprise Explains: Mitigation Vs. Adaptation." Updated December 6th, 2022, accessed May 1st, 2023, <https://enterprise.press/greeneconomys/enterprise-explains-mitigation-vs-adaptation/>.
- . "Ipcce Report: 'Code Red' for Human Driven Global Heating, Warns Un Chief." (August 9th 2021). <https://news.un.org/en/story/2021/08/1097362>.
- , "Legal Dissertation: Research and Writing Guide." Updated October 24th 2019, accessed April 26th, 2023, <https://law.indiana.libguides.com/dissertationguide>.
- , "Norge Og Menneskerettighetene." Updated January 12th, 2023, accessed May 2nd, 2023, <https://www.fn.no/tema/menneskerettigheter/norge-og-menneskerettighetene>.
- , "Un Framework Convention on Climate Change – Unfccc." IISD Earth Negotiations Bulletin, n.d., accessed May 10th 2023, <https://enb.iisd.org/negotiations/un-framework-convention-climate-change-unfccc>.
- , "What Are Your Environmental Rights?" UN Environment programme, n.d., accessed May 9th, 2023, <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what-0>.

- Urgenda, "Landmark Decision by Dutch Supreme Court ", n.d., accessed April 24th, 2023, <https://www.urgenda.nl/en/themas/climate-case/>.
- Williams, Lisa, and Steve Bauer. "Thinking Ahead: How Climate Change Litigation Will Shape Future Liabilities." (2022). <https://www.zurich.com/en/products-and-services/protect-your-business/commercial-insurance-risk-insights/thinking-ahead-how-climate-change-litigation-will-shape-future-liabilities>.
- Yam, Emilie. "Does Climate Change Cause Conflict?". (June 2nd 2021). <https://www.theigc.org/blogs/does-climate-change-cause-conflict>.
- Aarli, Ragna. "Grunnloven: Historisk Kommentarutgave 1814-2020." 897 - 908Universitetsforlaget, 2021.