

## **Analysis of the International Responsibility System of Climate Change**

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### **Abstract**

International state responsibility is one of the most attractive and most important and, at the same time, the most complex area of international law, and its precise explanation, as well as its commitment, plays a great role in the development of international law enforcement. Today, climate change is one of the common and significant concerns of the international community. Despite the sensitivity and importance of the issue, there has been no significant correlation to solve this problem. With regard to the international law approach, this study seeks to use the subject of international responsibility as an effective mechanism for combating climate change. Moreover, it tries to address Kyoto Protocol and the Paris Consensus in addition to brief look at the past, focusing on recent developments on climate change, and relying on the United Nations Framework Convention on Climate Change in order to summarize the latest achievements of international law in this field. Besides, it also discusses the effective liability of the states that can prevent and compensate for these changes.



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### **Introduction**


Climate change has been one of the major issues and international debates before, as well as during the International Conference on Environment and

Development. Achieving an acceptable international mechanism for reducing and controlling the use of fossil fuels in global development activities is a major effort in recent years. With the onset of the industrial

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revolution in the early nineteenth century and the rise of human need for energy, the consumption of various fossil fuels such as coal, oil, and natural gas has increased the emissions of gases such as carbon dioxide, methane, nitrogen oxides, carbon monoxide, and ozone-depleting substances in the atmosphere. The increase in the earth's population has led to changes in land use, forest degradation, increased demand for energy carriers, increased agricultural and livestock activities, and increased global average temperature as well as solid and liquid waste production. The phenomenon of climate change is also one of the consequences of the greenhouse gas emissions in the atmosphere<sup>1</sup>. The main cause of climate change is human activity and this is not a change in the direction of improvement or progress, but these changes result in the destruction of the environment. This issue raises a general political, economic, and legal consensus; moreover, its motivations for environmental communities have added to this importance.

For the first time, the amount of carbon dioxide gas was measured in 1958; measurements indicated that carbon dioxide density was 315 ppm this year and it had increased to 353 ppm in 1990. Later that year, it increased to 360 ppm. In 2005, the average carbon dioxide concentration was 380 ppm in the atmosphere, accounting for 2.6% increase since 2004. It is expected that concentration of these gases will increase to 600 ppm by 2026 and 800 ppm by 2100. This will increase the temperature by about 1.4-5.8°C compared to current time. Currently, the Earth is 6°C warmer than 1900; this will have important consequences for the health of the planet. According to research findings, human activities affect climate change; the main reason for these increases has been industrial development during this period. In fact, an important part of atmospheric carbon dioxide results from human use of fossil fuels, oil, coal, and gas. These gases are generally liable to extremely absorb and maintain heat within themselves and operate exactly like glass; that is, heat passes through them and radiates to the surface; due to excessive density, the heat is prevented from reflecting from the surface to outside of the atmosphere, and in fact, the heat of the earth is held on the surface. Against overheating, the surface increases water vapor and cloud in the atmosphere, which causes less heat to reach the earth's surface,

temperature drop and climate change (Park, Chris, 2001).

Accordingly, it is necessary to consider this issue in the perspective of international law because the transboundary nature of the consequences has led the international community to look for an effective way to confront these changes.

### **Development of International Responsibility System in International Environmental Law**

At the international level as well as the conditions and contractual rules, an institution with the title of international responsibility of governments was formed to deal with states that violate international rules of law<sup>2</sup>. The concept of state responsibility is one of the most complex issues in the general theory of international law. The principle of international responsibility is one of the most fundamental international legal institutions that date back to the principle of equality of countries<sup>3</sup>. International responsibility finds a special place in flagrant violation of the fundamental rules of international law, which threatens the security and future of humankind. Of course, since all international rules are universally applicable to international environmental law, we also have the status of international responsibility in international environmental law. State responsibility for environmental damage lies within the scope of the rules of state responsibility under international law and contract law<sup>4</sup>. In that sense, liability for environmental damages results from a violation of customary or contractual international law. Although international treaties play an important role in protecting the environment, customary rights, as secondary rules, have paramount importance. The specific obligations arising from the treaties require the contracting states to take the necessary measures to prevent such damages either through the prohibition or through the regulation of such activities<sup>5</sup>. Thus, it can be said that international responsibility is an effective and efficient means of strengthening the protection of the environment in the field of international law. The framework of the international liability system is a mechanism that obliges governments to fulfill their obligations and prevent them from violating the obligations.

United Nations International Law Commission is the complete document that has been devoted to

the international responsibility of the international community as well as its international obligations to other commitments<sup>6</sup>. It should be noted that in most cases, the draft International Commission on International Law reflects the customary rules. Despite the fact that the plan is not within the framework of an international treaty, it contains international conventions that can be found in the International Court of Justice judiciary. However, it has played an important role in helping to develop gradually the rights of international responsibility; it is also very important to maintain stability in international relations<sup>7</sup>. Of course, it should be noted that this draft has not yet been adopted as an international treaty although it speaks of the development and formulation of international liability law. Today, international liability law consists of customary international rules and includes international judicial procedures.

As understood from this basis for diplomatic support, the right to diplomatic protection is considered a public right, and the government has a degree of discretion in exercising this right. Statement of diplomatic support has also led a government to raise its national lawsuit against another government only when there is a fundamental legal and spiritual connection (nationality) between the individual and the law-enforcement authority, at first, and the injured person has been charged with a violation of all domestic remedies before the state has been transferred from the domestic to the international level, secondly. In often bi-directional view, international law (in which multilateral commitments are seen as a set of bilateral relations) is regarded as the international community, which is a community of bilateral commitments. Diplomatic support is typically a mechanism relied on bilateral commitments between governments. Governments have committed themselves to complying with certain standards with other citizens. Only the government of an injured individual can take responsibility for violating such standards<sup>8</sup>. The draft can be considered as a positive and effective step towards developing a system of international accountability of governments. However, there is a large gap between the implementation of an efficient system based on international accountability of governments, especially environmental damage.

### **Dual Systems of International Responsibility for Environmental Damage**

Regarding environmental damage, international law has foreseen a dual system of international responsibility. According to international law, the responsibility and liability characteristics of environmental damage play an important role in accessing and achieving deterrence as well as restoring the previous status or compensation in accordance with the circumstances of the ruling case. From the perspective of the International Law Institute, the conceptual difference between the two terms is that state responsibility refers to effects of a country's failure to exercise its powers and authority properly to control activities that are within its jurisdiction in line with the fulfillment of its international obligations while international state liability is a general mechanism that is designed to amend damages and other ways to compensate for damage caused by countries and other actors, regardless of the source of damage, whether due to a violation of an international obligation or non-violation of international law. There are different legal differences between these two concepts including the burden of proof of state responsibility for environmental damage based on the existence of areas agreed in international law that a country is liable for its international offense. The base for such a difference between state responsibility and state liability is the issue that prerequisite for the first type is the commissions of an act violating international law while the second type relates to harmful effects caused by activities that do not in themselves violate international law<sup>9</sup>. For many reasons, liability for the environmental obligations is not a good tool for cases where the damage caused by breaches of pre-existing obligations. An additional aspect of state responsibility for environmental damage is that this type of responsibility is based on the principle of proper effort, which is based on a mental criterion. In order to meet the necessities of compensation for damage caused by environmental damage, and considering the inherent limitations that exist to compensate for this type of damage in the sense of state responsibility, the International Law Institute has claimed responsibility for mere damage, which requires an absolute responsibility scheme. However, this system is somewhat controversial and it has not been recognized as a general criterion in

environmental law. Absolute responsibility can be a joint or separate liability. Forgiveness can include those who engage in hazardous activities. The division of rules, with regard to the discussion of state responsibility to primary and secondary rules, has been widely supported by the International Law Commission. In this division, the primary rules refer to the substantive obligations, and while the secondary rules talk about government's responsibility that raises from breaches basic rules. The International Law Institute's resolution relates to secondary rules. The secondary responsibility has been chosen as a reliable mechanism in cases where the source of the damage is not identified or the manager is unable to pay the financial compensation. The differences between these two systems are overlapping, especially in cases where the manager complies with all the requirements but a commitment to compensation is fulfilled. It is deduced from the foregoing that both systems of double responsibility must be analyzed and pondered at the same time in order to clarify an international liability system for environmental damage because a review of all aspects of the system of responsibility will play a role in the realization of an efficient system of responsibility.

#### **Invocation of Responsibility by an Injured and Non-Injured State**

Articles 42 and 48 of Responsibility of States for Internationally Wrongful Acts refers to the states have the right to invoke the responsibility of another state. However, these two articles have not presented a definition of invocation<sup>10</sup>. This concept means that if a State wishes to protest against another State's violation of international law or its international responsibility in relation to a treaty or any other commitment that is in force, it does not need to prove any right or interest in doing so<sup>8</sup>. According to this definition, invoking international responsibility requires some types of claims from the injured state, the terms of which are specified in these two articles of the International Law Commission. In this way, the injured State has the right to claim damages. A plurality of injured State is related to compensation for an internationally wrongful act. The main condition is primary obligations that are breached. Therefore, if the state wants to claim compensation for the breach, it should have been injured. In this regard, the form and amount of

damage play an important role. Regarding the international relations that the government agreed on a particular behavior, the failure of each state causes a breach of the obligation and, in the same way, it will cause the other government to obtain the right to claim damages for that breach. In most cases, this violation may be minor, contingent, and difficult to deal with. To detect the injured State, it is enough to determine which state has been injured from another state; if a person is afflicted, which state has citizenship? According to traditional international law, the injured State has the right to seek redress for the offending international offense. The concept of damage is a standard for recognizing the injured party. If the right is breached and a state's action comes from a bilateral treaty, another party to the treaty is the injured State. If this right is violated by the operation of a government to a third state, the third-party state is considered an injured state. If this right stems from a violation of a multilateral treaty or a general international law rule, any state party to the multilateral treaty or the law of general international law are considered the injured state. The purpose of the traditional international law is to protect the interests of governments and regulate their relations. The draft law of the International Law Commission, based on Articles 42 and 48, distinguishes between the injured states and the non-injured states. Declaration of claim, the acceptability of claims and loss of the right to invocation are issues considered in the context of the invocation of responsibility by an injured state. Acceptability of the injured State's claim is one of the important issues regarding invocation of responsibility by an injured state. Article 44 of the law of the International Law Commission addresses this issue. This article specifies the conditions for proving the responsibility of a state. This article indicates that the responsibility of a state cannot be invoked by another state if the claim is not brought in accordance with any applicable rule relating to the nationality of claims<sup>9</sup>. The claim is not acceptable when the claim is one to which the rule of exhaustion of local remedies applies and any available and effective local remedy has not been exhausted.

Moreover, Article 4 of this act explains the responsibility of a non-injured state. This article can be considered a positive step in the development of international law. Thus, classification of the injured State from non-injured States is the first point. This

article addresses invocation of responsibility by a State other than an injured State that acts for collective gain. Article 48 deals with some forms of the issue. However, it talks about problems such as notice of claim by an injured state, admissibility of claims, and loss of the right to invoke responsibility. Of course, here it is necessary to refer to the circumstances precluding wrongfulness. The responsibility of States for Internationally Wrongful Acts<sup>11</sup> counts conditions that could justify a violation of a practice that is normally in violation of an obligation. In this way, the presence of one circumstance including consent, self-defense, countermeasures in respect of an internationally, force majeure, distress, and necessity can be circumstances precluding wrongfulness.

#### **Foundations of Theory of International Responsibility in Environmental Damage**

Responsibility is based on one of the two bases of fault or risk. An international liability based on fault is a state's obligation due to non-fulfillment of its international obligations towards the state or other states for compensation. In other words, the rules of liability relate to the occurrence of unlawful acts and the legal effects of these acts. According to this theory, the existence of international responsibility is the result of the practice of errors in an international law function. That is, action or the abandonment of an act contrary to international regulations is not sufficient to establish responsibility; but there must also be a mistake or negligence to enforce the responsibility. This theory of responsibility has always been regarded as a fundamental principle, although risk theory has also been discussed along with it in order to analyze efficiency and effectiveness of each of the theories. Fault-based responsibility is commitment by a state to non-performance of its obligations towards other state or other states for compensation. In other words, the rules of responsibility are related to the occurrence of illegal acts and the legal effects of these acts<sup>12</sup>. According to risk responsibility or objective responsibility theory, if a government causes damage to another state, the government will be responsible if it is wrong or negligent for itself or its agents. In this theory, international liability is solely based on the causal relationship between the activities of a state and an act contrary to international law as the source of the damage<sup>13</sup>. Today, we see the attention of the international community of law to this theory

since system of international responsibility is being developed due to these developments. Of course, in addition to accepting two theories of fault and risk, a new theory is also found in the law of international responsibility; it is called theory of non-prohibited acts. International responsibility for violations of environmental obligations complies with the general principles of responsibility rights; the plan of responsibility for unforeseen actions has raised new issues in this regard. In accordance with the liability arising from authorized or legitimate and non-prohibited acts, there is no need to realize an international offensive act. This kind of responsibility applies to more environmental damage, because the responsible government cannot, based on its legitimacy, release itself from burden of responsibility. In addition to international law, the three mentioned theories are universally applicable in international environmental law. It is also necessary to refer to the appropriate effort. This criterion is specific to the field of international environmental law. There is a rule called appropriate effort that is rooted in traditional rules. The principle emphasizes the need for governments to take permanent measures to prevent and protect the environment. The commitment to appropriate efforts requires that governments take the necessary legal, administrative, and executive measures to prevent the introduction of environmental damage. According to this principle, it is necessary to clarify the principle of the threshold for environmental obligations and liability arising from the damage caused to it. Accordingly, any fault in accordance with this statement is not recognized as a breach of the state obligations and it is a violation only when it proves that the government has not taken the necessary steps in fulfilling its obligations with regard to the appropriate effort criterion<sup>14</sup>. The procedure of countries in relation to environmental activities, the International Commission on Law, and Doctrine confirms this view<sup>15</sup>. Commitment to appropriate efforts requires that governments take effective legislative, administrative, and judicial measures to prevent third-party benefits arising from public or private actions being taken into account<sup>16</sup>.

In examining the basis of government responsibility for violating environmental obligations, existing theories (fault theory, risk theory, and appropriate effort criteria) should be discussed. In short, in

traditional international law, international liability was largely based on fault theory. However, inadequacy and accountability of this theory in the field of environmental issues have been fully revealed gradually. To compensate for the damage caused by such actions, the risk-based liability was gradually phased out. In the regulations on pollution prevention and environmental protection, the principle of risk-based liability has been accepted<sup>17</sup>.

A thorough examination of the psychological factors of the perpetrator is difficult and makes ambiguities in the international arena. In comparison to the fault theory, the point of the risk theory is that risk theory is more consistent with the true basis of international responsibility, which is the guarantee of international relations<sup>18</sup>. However, this theory is also faced with some problems since it gives an absolute assurance to the applicant and does not conform to the international practice. In relation to appropriate effort criteria, it needs to be explained in the case of environmental damage that the application of the appropriate effort criterion can be breach of failure. The element of appropriate effort proposes specific threshold for environmental obligations as well as liability for damages caused by it. Therefore, all the deficiencies in protecting the environment clearly do not constitute a breach of the obligation to environmental protection action and do not constitute a violation of the law in this regard. A wrongful act can be affiliated to a state only when it is proved that the state did not take into account all the steps necessary to fulfill the obligations of the appropriate effort criteria. In this manner, applying appropriate effort criteria in the case of the majority of the basic concepts of environmental law requires a variety of distinctions that often makes difficult the unit meaning and the proper meaning of the concept of appropriate effort criteria, which imposes on governments in various texts and documents as well as subordinate obligations. Hence, the formulation of this article both in international conventions and in documents that are difficult in law will be ambiguous and misleading<sup>13</sup>.

Another development in the area of international responsibility caused by environmental damage is the attempt to institutionalize this type of responsibility. It may be argued that customary law was the most important source of international environmental law

until many years ago. The international community by the rules and regulations of this branch of rights has been working on a variety of goals, including more efficient environmental protection rules such as Responsibility for environmental damages and, consequently, compensation for the damage<sup>17</sup>. In accordance with traditional international law, responsibility for environmental damage was the responsibility of the countries. Since some of the environmental damage is due to private sector activity, the extension of this type of responsibility to the private sector is one of the very positive developments in the international arena. For instance, in the discussion of liability arising from transboundary pollutions, international law also assigns the activities of private persons to states. Fundamentally, international responsibility has two types: international civil responsibility and international criminal responsibility. Civil responsibility is indeed a response to violations of obligations that only cause damage to a committed state while criminal liability is a response to violations of obligations that have higher degree of credibility and importance and that their violation is not negligible as they are criminal in nature. The environmental conventions contain very few criminal provisions. Therefore, attempts to accept criminal responsibility for environmental damage is another development in this field. The international community's attention to preventive measures is another positive change that has occurred in international responsibility for environmental damage in recent years. This is inconsistent with the traditional attitude of which the responsibility is attributed to an injured state. The efforts to expand the implementation guarantee and develop it into national rights systems can be added to positive developments in this regard.

Despite the developments noted above, International responsibility is one of the most complex and uncertainties of international law; this complexity is seen more in international responsibility due to the violation of environmental obligations. Nonetheless, international responsibility is considered as an institution forming the pillars of the international system. Failure to respect its rules will undermine human rights as well as instability in the international environment. The lack of effective implementation guarantees, the international system's discretion, the slow development of the international responsibility



system, the ineffectiveness of the system of accountability in national systems and economic look to the issue of international responsibility are weaknesses of the system of international responsibility of governments in environmental damages.

### **Analysis of Climate Change International Responsibility**

In the study of the basis of state responsibility for climate change, based on the principles of the theory of international responsibility, it is implied that the phenomenon of climate change, like other environmental issues, is mainly discussed under the traditional responsibility system and the frameworks of the traditional system are overwhelming it. Since over time, the inadequacy of this system was understood in response to the issues surrounding it, climate damage has remained the same as environmental damage without any compensation. Since the scope of international responsibility in the field of environmental law has expanded, and as time goes on, with the advancement of industrial progress and development, the need to create an effective framework for responsibility for this issue is felt more. The first point discussed is whether a country is responsible for releasing or increasing its greenhouse gas emissions. Another important question is in what circumstances a country can be considered responsible in this regard. In order to answer these questions, we need to explain an effective response system that can cover all aspects, challenges, and gaps. It should be noted that each of the existing challenges to the international responsibility of States in the field of the environment could be fully extended to climate change. In fact, no clear responses have been made so far on the responsibility of states in climate change, which could provide a general legal framework. It is proposed with delving into the theoretical foundations of responsibility that each of the theories of fault and risk regarding the climate responsibility system should be considered in parallel. Of course, in the case of this particular type of damages, the application of the appropriate effort criterion can have the role of fault because this element could play a key role in the area of climate damage.

Of course, the initiatives of the International Commission on International Law cannot be

ignored, especially the clarification of the system of international responsibility. However, the need for special attention to this can be helpful and constructive. The deterrent perspective of climate treaties suggests that international law thinkers consider prevention as a better action than any form of compensation. The instances for this subject are the preventive commitments contained in the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Consensus. They argued that execution and enforcement of the commitments ahead would enable governments to counteract climate change and its negative consequences through a cooperative system. The manifestation of this can be seen in commitments such as reporting, information, and technology transfer commitments in these three key climate documents. Of course, given the voluntary nature and lack of a guarantee of the implementation of these documents, we cannot expect any positive developments to take place. As stated, international responsibility is one of the areas of international law with many uncertainties. This complexity and ambiguity will increase regarding the issue of climate change according to the nature and nature of the damage caused by it. The important point is the fact that can be called a major challenge in clarifying the climate responsibility system; they are sovereignty and the interests of countries that have been blocking this issue. Finally, the unwillingness of governments to lose their sovereignty and their interests, the voluntary nature of the commitments and the lack of effective implementation guarantees, both internationally and nationally, have led us not to face an effective system of international responsibility for climate damage and its negative consequences. This should be considered and appropriate solutions to address these existing challenges and gaps should be presented. Therefore, efforts have been made to address the barriers and difficulties of clarifying the international climate responsibility system in isolation. As stated, the commitment to reduce greenhouse gas emissions by governments are included in the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Consensus. The main issue is whether the failure to comply with the above obligations creates international responsibility. The means required for realization of the effective response system on climate change is not secret. In this regard, it is possible to create an effective

framework coupled with a guarantee of effective implementation of the problem. As mentioned, one of the areas in which fault-based responsibility is used is the issue of cross-border pollution that the issue of climate change and its negative consequences are a clear indication of this kind of pollution. In order to explain an efficient system of responsibility, all the opinions should be considered in parallel; moreover, it should also be acknowledged regarding the appropriate effort criterion that focusing on this criterion could prevent many of the damage caused by climate change. An important point in the context of climate change-related documents is that the sustainability and fulfillment of obligations in each of them requires a guarantee of effective implementation. This implementation guarantee can lead to a legal system on climate change as well as its negative consequences.

#### **Elements for Explanation of Legal System Responsible for Climate Change**

Early legal rules on climate change along with secondary rules of responsibility can fulfill the international order. The primary rules of responsibility are among the secondary rules that deal with wide-ranging issues. Given the fact that breach of any obligation entails international responsibility and international liability law related to a number of obligations among governments, it covers a wide range of international law issues. The issue of climate change and its negative consequences is not an exception, given the transboundary nature and extent of this type of damage. The issue poses a serious threat to human society in such a way that it can be admitted that no country will be immune from this overwhelming threat.

The amount, process, and conditions of gas emissions that bring international responsibility for a State should be investigated. Moreover, the time of beginning prevention from such an omission as well as its duration is one of the challenging topics in this regard. Determining the threshold and permission for the release of these gases as well as the conditions on which basis government or the contributing governments are responsible for behaving contrary to their international obligations are other important issues that require investigation and analysis. In addition, determining the content of the responsibility of the government or governments, stopping the

offending conduct, and compensating for damages are issues that require special attention and attention of the international community. Explaining formal and substantive preliminary provisions of reference to the responsibility of the government for emissions of greenhouse gases as well as the conditions for the decline of the right to invoke responsibility should be determined in a precise manner in order to clarify the system of responsibility for climate change. These issues should be included in the framework of the secondary rules of state responsibility within the framework of the legal regime for climate change. The function of these materials will be a determination of the content and the nature of the basic rules included in the context of the treaties relating to climate change. The three documents related to climate change lack any obligations that relate to the responsibility of the state to determine the responsible state as well as to compensate for the damage caused by these changes. This issue should be added to the lack of a binding treaty on the responsibility of States in breach of international obligations. Under the law of treaties, the initial rules should provide a framework for determining whether international obligations have been breached regarding emissions of greenhouse gases, or what the consequences of this breach would be. Depending on the nature and type of damage caused by climate change, the effects of the violation should include the continuity and sustainability of these actions. The provisions of the draft law of the International Law Commission apply to the entire scope of the international obligations of the State, whether it is a commitment to one or more governments or to the entire international community. The situation of the responsible state, as well as the injured state from greenhouse gas, should focus on the materials of the draft. International liability for breach of obligations to climate change has a particular importance in relation to the various dimensions in addition to interaction with other areas of environmental law as well as international law. This importance is increasing due to the international community's interest in protecting the environment. Despite legal efforts, which are largely based on economic interests, and due to the introduction of irreparable losses and damages caused by the phenomenon of climate change, it should be taken into consideration seriously and urgently by the international community. Given the nature of the



environmental commitments and thematic scope, any violations can put international peace and security at serious risk.

The importance of carefully addressing the issue of international responsibility resulting from breaches of climate change commitments is confirmed by the international community; it requires addressing important issues such as determining the permitted emission limit, determining the responsible state or states, the capability to assign and establish a causal relationship between the damage caused by climate change and its occurrence. These issues make it difficult to explain the government's responsibility for climate change. These complexities have led to different views on this issue. The responsibility of the state for the introduction of environmental damage and its effects are general rules of international law. In that sense, the same general international legal principles will also be applied to environmental damages. It is a matter of the responsibility of the relevant legal system to determine under which conditions greenhouse gas emissions will lead to compensation for damage to the government or responsible governments. Therefore, while the international community still does not have an efficient organ of international responsibility for environmental damage, it needs to prioritize its approach.

The main question here is whether there is an enforcement warranty if governments do not comply with any of the obligations contained in these three treaties and violate them. In this section, it is necessary to emphasize, with reference to any of these obligations, the necessity of a guarantee of effective implementation of the obligations of each State. As stated, the United Nations Framework Convention on Climate Change contains important commitments for governments. Promotion of continuous management, national and regional development, periodic development, and review of the national emissions of greenhouse gases, information exchange and ... are the obligations. All of these obligations are in line with the ultimate goal of a structural convention, which is the reduction of greenhouse gas emissions and, consequently, the reduction of its consequences and the resulting

damage. In the event that the government fails to fulfill its obligations in this direction or to refrain from fulfilling its obligations, it is important to ascertain the driving force behind the government's statement to the relevant obligations as well as the guarantee of fulfilling this breach of obligation. Accordingly, The Kyoto Protocol also contains preventive commitments that governments are required to implement. In addition to these commitments, flexible mechanisms are foreseen for governments. However, the provisions of the protocol also do not state that if any of the obligations are violated by the government or the governments, what would be the guarantee of the implementation of this breach of obligation? Despite the realization of this challenge and the vacuum in the climate change regime, it is noteworthy to state that This agreement was also repeated in the Paris Consensus, with no special attention to climate change compensations though measures have been taken to address the issue of compensation in the coming years. Success has not been achieved so far. The emphasis on the continuation of the International Warsaw Mechanism is among these international efforts at the twenty-first meeting of the Paris Conference. Since the obligations of governments require the existence of basic rules requiring governments to enforce and enforce them so that any violation of obligations can be prevented through the application of secondary rules of international responsibility. Since the obligations of governments require the existence of basic rules requiring governments to enforce and enforce them, any violation of obligations can be prevented through the application of secondary rules of international responsibility. The international community's approach to climate change was merely a preventive approach. Despite the positive steps taken to reduce greenhouse gas emissions and consequently the phenomenon of climate change, the legal regime of climate change has become an inefficient and weak system because the main condition for the implementation of the international system of government is the existence of a sufficient and effective enforcement guarantee. Given the importance of the issue of climate change and its negative consequences, it is necessary to eliminate existing gaps and apply the necessary considerations to strengthen this legal regime.

### **Strengths and Weaknesses in System of Compensation for Climate Change Damage**

As noted, there are some obstacles in the way of clarifying the system of effective international responsibility for climate change due to the mentioned difficulties and complexities; they should be addressed first. By studying the treaties related to climate change, it is indicated that there has not been a special and specific look at the issue of clarifying the system of international responsibility for climate change. Although this issue was reviewed and approved by the Paris Consensus, it did not succeed. The issue of climate change and damage caused by this phenomenon should be discussed within the context of the concept of responsibility for environmental damage. According to the United Nations Framework Convention on Climate Change, the Kyoto Protocol, as well as the Paris Consensus, there is no framework designed to address the issue of climate compensation and provide a solution to it.

Reviewing each of the documents related to legal regime of climate change will uncover that the commitments required by governments are pivotal commitments and they are based on a preventive approach, precautionary principle, and prevention. Moreover, less compensation has been considered in this regard.

The important point in examining the three documents of climate change has no emphasis on the obligations of governments in all three instruments are based on the principle of prevention, the prevention of climate damages, and the issue of the defining an international system of responsibility in addition to a compensation system for this damage; unfortunately, it can be described as a dysfunctional legal system, like other environmental areas. Despite the many efforts, the issue of accountability resulting from violent acts, the discontinuity of causality, the problem of determining the extent of government activity and the sustainability of damage caused by the phenomenon of climate change, determining the scope and threshold of these damages, etc. has led to the lack of an effective system of international responsibility and the lack of a compensation system in this regard. Since international efforts have so far failed to produce any fruitful results, it is worth noting that the lack of this system is a very important issue

that should be prioritized to international policies and international cooperation.

### **Conclusion**

Studies on the system of international responsibility have a special place in flagrant violation of the fundamental rules of international law since it threatens human security and future. However, there are two turning points in this regard. First, it contains extending the scope of the consequences of environmental violations; second, it includes extending the national legal systems of governments. In this regard, the existence of principles and rules, as well as the necessary incentives for the realization of these principles, is necessary. Given the importance of this matter, any breach of international obligation should not be ignored by international law enforcement. Acceptance of international responsibility is the first step in the discipline of the international system. In spite of the efforts made on international responsibility for environmental damage, it should be acknowledged that the necessary changes in this direction are very slow. The most important institution that has succeeded in taking positive steps is the International Law Commission. Although the documents provided by this commission are not binding, they have clarified many of the elements and foundations of the international responsibility of States in committing an offensive international act and its dimensions. Indeed, attempting to contract international responsibility for compensation of environmental damage is seen as a positive development. The existence of a proper and effective implementation guarantee is a most important principle in the implementation of an effective liability system for compensation of environmental damages. In an analysis of the elements of liability for environmental damage, the harmful practice, environmental damage, and ways to compensate for such damage have particular importance. Given the difficulty of proving the causal relationship between damages and harmful practices, the assessment of environmental damage and the identification of victims of changes in the system of effective compensation can be considered as the primary objective of the system of responsibility. Moreover, the level and criterion for determining the responsible state for compensation are ambiguous.

It should be considered that none of the proposed theory of responsibility could be appropriate responses to environmental damage and, of course, climate change. Hence, the development of laws, the attitude of the climate change prevention system, and the explanation of the compensation system resulting from these changes are vital. It should be noted that actions such as material and moral damages, classification of injured states, acceptance of the claim, loss of the right to invoke responsibility, the plurality of injured and responsible states, the obligations arising from the right of invocation, and the claims of non-government states from the responsible states as well as reasons for breaching the international responsibility of states should be considered in examining the issue of compensation for climate change. It should be pointed out to the effective step taken by Paris Consensus to clarify the system of compensation. In this agreement, an objective was pursued despite numerous discussions to prevent damage and compensation from climate change, and this resulted in the establishment of a committee to examine displacements and issues related to this phenomenon. However, no law has been issued to compensate for climate damage in

the Paris agreement. This agreement refers to the damage associated with climate change and its effects, but it has clearly stated that the original text does not constitute the basis for a legal order and compensation. Available solutions are the creation of compensation funds combined with the executive mechanism, the need for international cooperation, and establishing a powerful organ or body in the form of a convention to clarify the ways of compensating for the phenomenon of climate change with specific government commitments. With regard to issues that arise following the definition of an international system of climate change, compensation for climate damage has a particular importance because effective and efficient implementation guarantee is the first condition for the implementation of the international response system and the obligation to compensate for damages is considered as the main content of international responsibility.

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